

DIABLO WEST HOMEOWNERS ASSOCIATION
2016 DELINQUENT ASSESSMENT COLLECTION POLICY

1. It is the fiduciary responsibility of the Board of Directors to collect all assessments for the maintenance and replacement of common area property and other Association expenses in a timely fashion. The Association is entitled to recover assessments, reasonable collection costs, reasonable attorney's fees, late fees and interest. The Association will not use non-judicial foreclosure to collect fines or penalties, but other remedies are available to collect these and any sums not suitable for collection by non-judicial foreclosure. The Association shall comply with requirements of §5740(b) or 5650(a) of the Civil Code when collecting delinquent assessments. If an error is made that requires termination of any collection proceeding or beginning a collection process over, the Association shall bear the costs; otherwise, the owner is responsible for all costs as identified above. (Note: Civil Code §5740(b) applies to the collection of liens recorded before January 1, 2003, and 5650(a) through 5740 apply to liens recorded on or after that date.)

2. Assessments are due on the first day of each quarter and are delinquent at 5:00 p.m. on the 30th of the month, at which time a late charge of \$10.00 or 10% of the assessment (or special assessment), whichever is greater will be charged [per the governing documents]. All balances due as of 5:00 p.m. on the 30th day of the month will be subject to interest of 12% per annum. All such amounts must be paid in full and the Association shall not be required to accept partial payments absent a written agreement.

3. IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.

4. On or about the 46th day after a payment is due, a 30-day Pre-Lien Notice will be prepared and sent, by certified mail, to the delinquent record owner(s) at the owners' last mailing address provided to the Association. If the delinquent record owner(s) have provided a written notice of a secondary address, all notices shall be sent to that address also. Such notice will include an itemized statement of the total amounts delinquent, including but not limited to, assessments, late charges, interest and costs of collection, if any, and a notice that the owner is entitled to ask to meet with the Board or Board representative(s) pursuant to the Association's internal dispute resolution "meet and confer" program.

5. The decision to record a lien shall be made by the Board of Directors, approved by a majority vote in an open meeting. The Board shall record the vote in the minutes of that meeting referring to the property by parcel number, and not name of the owner. Likewise, the decision to file in small claims shall be made by the Board and not the Association's agent.

6. On or about the 30th day after the Pre-Lien Notice is sent, the Association may record a lien on the property to secure the debt; however, there are limitations that may preclude foreclosure of the lien at this time (see paragraph 7).

7. If all sums secured by the lien are not paid in full within thirty (30) days after recordation, and the amount of delinquent regular or special assessments reaches \$1,800.00, not including any accelerated assessments, late charges, fees and costs of collection, attorney's fees or interest, or has been delinquent more than 12 months, the Board may make the decision to foreclose the lien.

DIABLO WEST HOMEOWNERS ASSOCIATION

All resulting collection fees and costs will be added to the total delinquent amount. At some point in time prior to initiating foreclosure, the Board shall offer the owner and, if so requested by the owner, shall participate in dispute resolution pursuant to the Association's "meet and confer" program or alternative dispute resolution with a neutral third party. The decision to pursue dispute resolution shall be the choice of the owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

8. The decision to initiate foreclosure shall be made only by the Board of Directors, by majority approval, and while the discussion may be held in executive session, the decision shall be recorded in the minutes of an open meeting in the same form as the decision to record a lien was made (by parcel number only). A Board vote to approve foreclosure of a lien must take place at least 30 days prior to any public sale

9. If the Board votes to foreclose, the Board shall provide notice of its decision by personal service to an owner who occupies the separate interest or to the owner's legal representative. If the owner does not occupy the separate interest, said notice will be sent by first-class mail, postage prepaid, to the most current address shown on the books of the Association. In the absence of written notification by the owner to the Association, the address of the owner's separate interest may be treated as the owner's mailing address. In addition, statutory procedures including recorded notices regarding foreclosure and sale will be accomplished.

10. A non-judicial foreclosure by an Association shall be subject to the owner's right to redeem the property up to 90 days after the sale..

11. All charges assessed to the assessment account must be paid in full as a condition to curing and releasing a recorded Lien and other documents of foreclosure. The Association is not required to accept any partial or installment payments, except with execution of a mutually agreeable payment agreement. Arrangements for such an agreement must be made with the Association's Agent assigned to the collection of the account or the Board or Board representative, at a meeting arranged under the "meet and confer" process of the Association.

12. When a payment is made, the owner may request a receipt and the Association will provide it. On the receipt, the Association shall indicate the date of payment and person who received it.

13. Each payment from an owner shall be applied first to the principal sum owed, then, in descending order, to interest, late and collection expenses, unless an alternate agreement is entered into between the Association and the owner.

14. An owner may request the Association to consider a payment plan to satisfy a delinquent assessment. The Board will inform the owners of the standards for payment plans, to the extent standards have been adopted by the Board. Certain timelines apply as follows: If an owner's request is mailed within 15 days of the date of the postmark of the notice of delinquency (lien), the Board will meet with the owner in executive session within 45 days of the postmark of that request. However, if there is no regularly scheduled Board meeting during that period, the Board may designate one or more Directors to meet with the owner. Payment plans may incorporate any assessments that accrue during the payment plan period, however they shall not

DIABLO WEST HOMEOWNERS ASSOCIATION

impede an Association's ability to record a lien to secure payment of delinquent assessments. Additional late fees shall not accrue during the payment plan period if the owner is in

compliance with the terms of the payment plan. In the event of a default on any payment plan, the Association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

15. Any check returned by the bank for insufficient funds, stop payment or any other reasons will be charged back to the unit and a \$25 administrative fee plus any bank fees will be assessed to the account. If the account has been turned over to the Association's agent for collection and a check is returned, the account will be assessed whatever administrative fees as the Agent provides.

16. The mailing address for overnight payment of assessments is:

Diablo West Homeowners Association
c/o HOA Accounting Services
3100 Clayton Road
Concord, CA 94519

17. An owner of a separate interest has the right to inspect the Association's financial books and records to verify the delinquency, per laws related to inspection of HOA records.

18. Except where prohibited by law, the Board of Directors of the Association may revise this policy, either generally or on a case-by-case basis, if it finds good cause to do so. To the extent there are any general discretionary changes (rather than compliance related to the law or governing documents); the Board shall circulate the policy to owners at least 30 days before the meeting at which the revisions will be considered.

DIABLO WEST HOMEOWNERS ASSOCIATION NOTICE ASSESSMENTS AND FORECLOSURE

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the Associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

ASSESSMENTS AND FORECLOSURE

Assessments become delinquent 30 days after they are due, unless the governing documents provide for a longer time. The failure to pay Association assessments may result in the loss of an owner's property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure or without court action, often referred to as non-judicial foreclosure. For liens recorded on and after January 1, 2006, an Association may not use judicial or non-judicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than one thousand eight hundred dollars (\$1,800). For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1,800) or more than 12 months delinquent, an Association may use judicial or non-judicial foreclosure subject to the conditions set forth in Section 5720(b) of the Civil Code. When using judicial or non-judicial foreclosure, the Association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Sections 5660(a)-(f), and 5720(b) of the Civil Code)

In a judicial or non-judicial foreclosure, the Association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The Association may not use non-judicial foreclosure to collect fines or penalties, except for costs to repair common areas damaged by a member or a member's guests, if the governing documents provide for this. (Sections 5725 and 5620 of the Civil Code)

The Association must comply with the requirements of the foreclosure notification procedures (Section 5690 of the Civil Code) when collecting delinquent assessments. If the Association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the Association. (Section 5690 of the Civil Code)

At least 30 days prior to recording a lien on an owner's separate interest, the Association must provide the owner of record with certain documents by certified mail, including a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the Association's records to verify the debt. (Section 5660(a)-(f) of the Civil Code)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard (Section 5685 of the Civil Code). The collection practices of the Association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

DIABLO WEST HOMEOWNERS ASSOCIATION

PAYMENTS

When an owner makes a payment, he or she may request a receipt, and the Association is required to provide it. On the receipt, the Association must indicate the date of payment and the person who received it. The Association must inform owners of a mailing address for overnight payments. (Section 5655 of the Civil Code)

An owner may, but is not obligated to, pay under protest any disputed charge or sum levied by the association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the Association as set forth in Article 5 (commencing with Section 5900) of Chapter 4 of Title 6 of Division 2 of the Civil Code. In addition, an Association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 2 (commencing with Section 5925) of Chapter 7 of Title 6 of Division 2 of the Civil Code, if so requested by the owner. Binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. (Section 5660 of the Civil Code)

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a timeshare may request the Association to consider a payment plan to satisfy a delinquent assessment. The Association must inform owners of the standards for payment plans, if any exist (Section 5665 of the Civil Code).

The board of directors must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform to the payment plan standards of the Association, if they exist. (Section 5665 of the Civil Code)"