

PGA WEST RESIDENTIAL ASSOCIATION, INC.

**SUMMARY OF POLICIES AND PROCEDURES OF LIEN RIGHTS AND OTHER LEGAL
REMEDIES FOR DEFAULT IN PAYMENT OF ASSESSMENTS**

1. **Regular and Special Assessments.** Regular assessments are due and payable, in advance, on the first day of each month. If imposed, special assessments shall be due and payable on the due date specified by the Board. Assessments, interest, late charges, collection costs and reasonable attorney's fees, if any are imposed, are the personal obligation of the person who is the Owner of the subdivision interest at the time when the assessment or other charge fell due.
2. **Late Charges.** Regular and special assessments are delinquent fifteen (15) days after they become due. A late charge of ten percent (10%) of the assessment may be applied if payment in full of any assessment is not received fifteen (15) days after the payment is due.
3. **Interest.** Interest at the annual rate of twelve percent (12%) may be charged on all sums due that are thirty (30) or more days delinquent.
4. **Additional Charges, Costs and Attorneys' Fees.** Pursuant to Civil Code § 5650(b), the Association is entitled to recover reasonable collection costs, including reasonable attorney's fees, incurred in connection with collection of delinquent assessments. Costs may include, but are not limited to, publication, recording, posting, service and mailing.
5. **Application of Payments on Delinquent Assessments.** Payments received on delinquent assessment accounts will be applied first to the regular or special assessments owed, and then applied to interest, late charges, collection costs, administration fees, attorney's fees, reimbursement assessments, and any other amount due to the Association in connection with collection of delinquent assessments.
6. **Pay or Lien Letter.** Any Owner who is more than thirty (30) days delinquent in the payment of his or her assessments will be subject to an action to collect said delinquent assessments, including but not limited to non-judicial foreclosure and/or a personal lawsuit. If the Association elects a non-judicial foreclosure remedy pursuant to a Notice of Delinquent Assessment Lien ("Lien"), the delinquent owner will receive a pay-or-lien demand letter, via certified mail. The letter will be sent at least thirty (30) days prior to a Notice of Delinquent Assessment Lien ("Lien") being recorded against the delinquent Owner's property, and will notify the Owner of record in writing of the following pursuant to Civil Code § 5660(a)-(f):
 - (a) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount;
 - (b) An itemized statement of the amounts owed, including delinquent assessments, fees and reasonable costs of collection, reasonable attorney's fees, late charges and interest charges, if any;
 - (c) The Owner's right to inspect the Association's records to verify the debt;
 - (d) The Owner's right to request a meeting with the Board of Directors, as set forth below.

- (e) That the Owner will not be liable for late charges, interest and costs of collection if it is determined that the assessment was paid on time to the association.
- (f) The Owner's right to dispute the debt by submitting a written request for dispute resolution to the Association pursuant to its meet and confer program (known as Internal Dispute Resolution or IDR) pursuant to Civil Code § 5910;
- (g) The Owner's right to request Alternative Dispute Resolution (ADR) with a neutral third party pursuant to Civil Code § 5935 before the association may initiate foreclosure against the Owner;

7. **Owner's Dispute of Debt/Request for Meeting with Board Prior to Lien/Commencement of Small Claims Lawsuit.** Pursuant to Civil Code §5660 (a)-(f) and 5658, the Owner has the following rights:

- (a) Meet and Confer. Prior to recording a lien, the Association shall offer and, if so requested by the Owner, to participate in dispute resolution pursuant to the Association's meet and confer program (known as Internal Dispute Resolution or IDR) pursuant to Civil Code § 5910;
- (b) Request to Meet with Board to Discuss Payment Plan. The Owner may submit a written request to meet with the Board to discuss a payment plan for the debt owed. The Association will provide any standards it has adopted regarding payment plans to Owners. The Board will meet with the Owner in executive session in conjunction with a regularly scheduled Board meeting, within 45 days of the postmark of the request, if such was mailed no later than 15 days after the postmark of the pay or lien letter. If there is no regularly scheduled Board meeting within that period, the Board may designate a committee of one or more members to meet with the Owner.
- (c) Payment Under Protest and Commencement of Small Claims Action. In addition to pursuing dispute resolution pursuant to Civil Code §§ 5910 and 5658, the Owner may pay under protest the disputed amount and all other amounts levied, including any fees and reasonable costs of collection, reasonable attorney's fees, late charges, and interest, if any, and may thereafter commence an action in Small Claims Court provided the amount in dispute does not exceed the jurisdictional limits of that Court.

8. **Lien/Notice of Delinquent Assessment.** If the delinquent Owner does not bring their account current within thirty (30) days of the pay-or-lien demand Letter, and unless a dispute over such debt has been resolved or a payment plan has been entered into as set forth above, a Lien may be recorded against the Owner's property upon a majority of the Board voting to approve recording the Lien in an open meeting. The Board shall record the vote in the minutes of that meeting. Confidentiality shall be maintained by identifying the property by parcel number in those minutes. The President or other person designated by the Association, including the Association's managing agent, the Association's legal counsel, or a representative of a collection company appointed by the Association to collect any delinquent sums, shall sign the Lien. The Lien shall include an itemized statement of the charges included in the amount of the Lien including the delinquent assessments and all other sums owed, such as late charges, costs and

reasonable attorney's fees, a legal description of the property, the name of the record Owner, and the name and address of the trustee authorized to enforce the Lien by sale. A copy of the itemized statement of charges shall be recorded with the Lien.

A copy of such Lien will be mailed to every person whose name is shown as an Owner of the separate interest in the Association's records within 10 days of the date the Lien is recorded. Upon receipt of a written request by an Owner (mailed in a manner indicating the Association has received the same such as by certified mail) identifying a secondary address to which the Owner wishes collection notices to be sent, the Association shall also send additional copies of any required collection notices to such secondary address. The Lien is subject to non-judicial foreclosure, and the property may ultimately be foreclosed upon and sold without court action to satisfy the debt owed. Reasonable collection costs incurred in connection with preparing and recording the Lien may be included in the amount of the Lien.

9. **Payments After Lien.** Once a delinquent account has been turned over to the Association's law firm or a collection company for collection of the delinquent amounts owed, **THE ASSOCIATION WILL NOT ACCEPT ANY ASSESSMENT PAYMENTS. ANY SUCH PAYMENTS RECEIVED BY THE ASSOCIATION WILL BE FORWARDED TO THE LAW FIRM OR COLLECTION COMPANY, AS APPLICABLE, AND WILL BE APPLIED TO THE DELINQUENT ACCOUNT. HOWEVER, THE ASSOCIATION WILL PROCEED WITH ANY COLLECTION ACTION INITIATED AGAINST THE DELINQUENT OWNER'S SEPARATE INTEREST OR THE DELINQUENT OWNER PERSONALLY ABSENT RECEIPT OF PAYMENT IN FULL OF ALL DELINQUENT ASSESSMENTS, CHARGES AND COSTS OF COLLECTION UNLESS THE DELINQUENT HOMEOWNER ENTERS INTO A WRITTEN PAYMENT PLAN APPROVED BY THE BOARD.**

10. **Dispute of Charges After Lien.** Prior to initiating foreclosure for delinquent assessments, the Association shall offer the Owner and, if so, requested by the Owner, shall participate in the Association's "meet and confer" program (known as Internal Dispute Resolution or IDR) pursuant to Civil Code § 5910 or Alternative Dispute Resolution (ADR) with a neutral third party pursuant to Civil Code § 5935. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner (binding arbitration not available if the Association pursues judicial foreclosure.)

11. **Cable Disconnect Notice and Gate Transponder Deactivation Notice.** Notice will be sent to any Owner who is sixty (60) days delinquent in the payment of his or her assessments, advising that if payment in full is not received within fifteen (15) days of the date of any such notice, the Association may take disciplinary action, after a duly noticed hearing before the Board, and turn off the cable television service to the Owner's separate interest. Please note that disconnecting the Association's bulk cable television services may also result in the disconnection of other cable or internet services individually contracted for by the Owner. In the event an Owner's cable television is disconnected pursuant to this section, a re-connection fee may be assessed against the Owner's account.

Additionally, notice will be sent to any Owner who is sixty (60) days delinquent in the payment of his or her assessments advising that if payment in full is not received within fifteen (15) days of the date of any such notice, the Association may also take disciplinary action, after a duly noticed hearing before the Board, which may result in deactivation of the gate operation transponder which operates entrance gates granting the Owner access to the project. In the event a delinquent homeowner has not previously been issued a transponder, he or she will not be issued a transponder until his or her delinquent account has been

brought current. In the event the Association deactivates any Owner's gate transponder, the Association shall not otherwise deny any delinquent Owner the right of ingress and egress over, through and across Association property to that Owner's separate interest; such access through the community and to the Owner's separate interest would still be available for the delinquent Owner, or his or her guests and invitees, through a manned entry gate, but would require the Owner to first obtain a daily pass granting such access.

The foregoing notice will provide that, prior to actual turn-off of the Owner's cable television or deactivation of the Owner's gate operation transponder, the Owner will be called to a duly noticed hearing before the Board or a designated Committee. The hearing will be held in accordance with the requirements of statute and the Association's standard Notice and Right to Hearing Policy found in the Association's Governing Documents.

12. **Foreclosure.** If the delinquent Owner does not bring their account current after the Lien has been recorded, and after the foregoing offers of dispute resolution have been presented, a majority of the Board may vote to initiate foreclosure on the Lien in an executive session meeting of the Board. The Board may only authorize foreclosure on a Lien for those regular or special assessments which are of an amount equal to or exceeding one thousand eight hundred dollars (\$1,800) exclusive of late charges, fees, costs of collection, attorney's fees and interest, or which are more than twelve (12) months delinquent. The Board shall record the vote in the minutes of the next meeting of the Board open to all members. Confidentiality shall be maintained by identifying the property by parcel number in those minutes. The Board vote to approve foreclosure on a Lien shall occur at least thirty (30) days prior to any public sale of the Owner's separate interest property. The Board shall deliver notice of the decision to foreclose by personal service on the Owner or the Owner's legal representative, and by first class mail, postage pre-paid to non-occupant Owners at the most current address shown on the association's books. These limits do not apply to timeshares or assessments owed by developers.

Non-judicial foreclosure will be commenced by the Association's law firm or collection company, as applicable, pursuant to the CC&Rs, and Civil Code §§ 5700(a), 5710(a), 5735, and 5710(c)(1)-(2), and 2924, et seq. as follows:

(a) Notice of Default and Election to Sell (NOD). A Notice of Default and Election to Sell (NOD) will be recorded with the County Recorder's Office which puts the property into foreclosure. The Association cannot continue with the non-judicial foreclosure on the property for ninety (90) days from the date the NOD is recorded. The delinquent Owner is responsible for all fees and costs associated with the NOD in addition to the delinquent assessments, late charges and interest.

(b) Notice of Sale (NOS). If the delinquency is not cured within ninety (90) days of the NOD being recorded, and upon receipt of approval and authorization of the action by the Board pursuant to a vote, as described above, the attorney or collection company, as applicable, will proceed by recording, publishing and posting a NOS. The delinquent Owner is responsible for all fees and costs incurred to prepare, record, publish and post the NOS, in addition to the delinquent assessments, late charges and interest.

13. **Redemption.** An Owner may redeem the property foreclosed upon by the Association by paying all amounts due and owing within ninety (90) days of the date of the foreclosure sale.
14. **Lawsuit.** The Association may, at any time, determine to file a personal lawsuit against the delinquent Owner to recover all delinquent charges pursuant to relevant law. All costs and attorneys fee in connection with the lawsuit, in addition to the delinquent charges and other collection costs, will be sought from the delinquent Owner.
15. **Release of Liens Upon Payment.** Within twenty-one (21) days of payment in full of all delinquent assessments and charges, or if it is determined that a Lien previously recorded was recorded in error, the Association or its law firm or collection company, as applicable, will prepare a Release of Lien which will be recorded by the County Recorder's Office, and will provide Owner with a copy of such release or notice that the delinquent assessment has been satisfied.
16. **Right to Receipt.** When an Owner makes a payment, the Owner may request a receipt and the Association shall provide same which shall indicate the date of payment and person who received such payment.
17. **Overnight Payments.** Payments may be made by overnight mail to the following address:

PGA WEST Residential Association, Inc.
54-320 Southern Hills
La Quinta, CA 92253
(760) 771-1234

PGA WEST RESIDENTIAL ASSOCIATION, INC.
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 15 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 nonjudicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or nonjudicial 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 nonjudicial foreclosure subject to the conditions set forth in Article 3 (commencing with Section 5700) of Chapter 8 of Part 5 of Division 4 of the Civil Code. When using judicial or nonjudicial 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 5700 through 5720 of the Civil Code, inclusive)

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

The association must comply with the requirements of Article 2 (commencing with Section 5650) of Chapter 8 of Part 5 of Division 4 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 5675 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 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.

PAYMENTS

When an owner makes a payment, the owner 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 2 (commencing with Section 5900) of Chapter 10 of Part 5 of Division 4 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 3 (commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 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 5685 of the Civil Code)

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share interest 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 exists. (Section 5665 of the Civil Code)

The board 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 with the payment plan standards of the association, if they exist. (Section 5665 of the Civil Code)