

NOTICE OF 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 exist. (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)

**WOODLAKE ASSOCIATION
ASSESSMENT LIEN ENFORCEMENT AND COLLECTION
STATEMENT (CIVIL CODE 5310(a)(7))**

This statement is provided pursuant to Civil Code §5310(a)(7), which requires that community associations provide their members with a statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in the payment of assessments.

1. Assessment Due Dates: Assessment Delinquent Dates

The board has established that each regular assessment installment becomes due on the fifth day of each month. All other assessments, including special assessments, are due on the dates specified by the board. Regular and special assessments levied pursuant to the governing documents are delinquent 15 days after they become due. It is each owner's responsibility to timely pay each assessment in full when due regardless of whether a statement is sent or received. If a special assessment is payable in installments and any installment payment of that special assessment is over 60 days delinquent, all installments will be accelerated and the entire unpaid balance of the special assessment shall become immediately due.

2. Recovery of Sums From Owner After An Assessment Becomes Delinquent

Once an assessment becomes delinquent, Woodlake Association is entitled pursuant to the Davis-Stirling Act and the governing documents to recover the following sums from the owner:

- a. The amount of the delinquent assessment;
- b. Reasonable costs incurred to collect the assessment (including reasonable attorney fees);
- c. A late charge not exceeding 5 percent of the amount of the delinquent assessment or \$5.00, whichever is greater; and
- d. Interest on all sums imposed in accordance with Civil Code section 1366, including the delinquent assessments, reasonable fees and costs of collection, and reasonable attorney's fees, at an annual interest rate not to exceed 12 percent, commencing 30 days after the assessment becomes due.

3. Assessments and Certain Monetary Charges Imposed By Woodlake Are Personal Debts of the Owner and May Also Become Liens Against the Owner's Separate Interest Enforceable by Sale of the Owner's Separate Interest.

- A. Regular and special assessments, together with late charges, reasonable fees and costs of collection, reasonable attorney fees, if any, and interest, if any,

determined in accordance with Civil Code §5650, are a debt of the owner of the separate interest at the time that the assessment or other sums are levied.

- B. A monetary charge imposed by the association as a means of reimbursing the association for costs incurred by the association in the repair of damage to common area and facilities caused by a member or the member's guest or tenant may become a lien against the member's separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c, provided the authority to impose a lien is set forth in the governing documents.
- C. After the expiration of 30 days following the recording of a lien created pursuant to the Davis-Stirling Act and subject to the limitations therein, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Section 2934a. Any sale by the trustee shall be conducted in accordance with Sections 2924, 2924b, and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trust. The fees of a trustee may not exceed the amounts prescribed in Sections 2924c and 2924d.
- D. A monetary penalty imposed by the Association as a disciplinary measure for failure of a member to comply with the governing instruments, except for the late payments, may not be characterized nor treated in the governing instruments as an assessment that may become a lien against the member's separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c.
- E. A lien created pursuant to the Davis-Stirling Act and the governing documents shall be prior to all other liens recorded subsequent to the notice of assessment, except that the declaration may provide for the subordination thereof to any other liens and encumbrances.

4. Pre-requisites To Recording A Lien For Delinquent Assessments

- A. For liens recorded on or after January 1, 2006, the decision to record a lien for delinquent assessments shall be made only by the Association board of directors and may not be delegated to an agent of the Association. The board shall approve the decision by a majority vote of the directors in an open meeting. The board shall record the vote in the minutes of that meeting.
- B. Prior to recording a lien for delinquent assessments, Woodlake Association shall offer the owner and, if so requested by the owner, participate in dispute resolution pursuant to the association's "meet and confer" program required by the Davis-Stirling Act; and
- C. At least 30 days prior to recording a lien upon the separate interest of the owner of record to collect a debt that is past due under section 5650, Woodlake Association

will notify the owner of record in writing by certified mail of the following (the Pre-Lien Notice):

(1) A general description of the collection and lien enforcement procedures of the association and the method of calculation of the amount, a statement that the owner of the separate interest has the right to inspect the association records pursuant to Civil Code Section 5205, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."

(2) An itemized statement of the charges owed by the owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney's fees, any late charges, and interest, if any.

(3) A statement that the owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the Association.

(4) The right to request a meeting with the board as provided in Civil Code section 5665.

(5) The right to dispute the assessment debt by submitting a written request for dispute resolution to the Association pursuant to the association's "meet and confer" program required in Civil Code Sections 5900 et. seq.

(6) The right to request alternative dispute resolution with a neutral third party pursuant to the Civil Code Sections 5925 et. seq. before the Association may initiate foreclosure against the owner's separate interest, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

5. Application of Payments Made on Account of Delinquent Assessments.

Any payments made by the owner of a separate interest at Woodlake toward the debt shall, as required in Civil Code section 5655, first be applied to the assessments owed, and, only after the assessments owed are paid in full shall the payments be applied to the fees and costs of collection, attorney's fees, late charges, or interest. When an owner makes a payment, the owner may request a receipt and the association shall provide it. The receipt shall indicate the date of payment and the person who received it.

Woodlake Association's overnight mailing address for the overnight payment of assessments is set forth in its Annual Policy Statement.

6. Payment Plans.

- A. An owner, other than an owner of any interest that is described in Section 11212 of the Business and Professions Code that is not otherwise exempt from this section pursuant to subdivision (a) of Section 11211.7 of the Business and Professions Code, may submit a written request to meet with the board to discuss a payment plan for the debt noticed pursuant to Civil Code Section 5660. The association shall provide the owners the standards for payment plans, if any exists.
- B. The board shall meet with the owner in executive session within 45 days of the postmark of the request, if the request is mailed within 15 days of the date of the postmark of the notice, unless there is no regularly scheduled board meeting within that period, in which case the board may designate a committee of one or more directors to meet with the owner.
- C. Payment plans may incorporate any assessments that accrue during the payment plan period. Additional late fees shall not accrue during the payment plan period if the owner is in compliance with the terms of the payment plan.
- D. Payment plans shall not impede an association's ability to record a lien on the owner's separate interest to secure payment of delinquent assessments.
- E. 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.

7. Dispute Resolution Offer Prior to Recording Lien.

Prior to recording a lien for delinquent assessments, the association shall offer the owner and, if so requested by the owner, participate in dispute resolution pursuant to the association's "meet and confer" program required in Article 2 (commencing with Section 5900) of Chapter 10 of the Davis-Stirling Act.

8. Creation of Lien On Owner's Separate Interest; Notice of Delinquent Assessment; Lien Release and Notice of Satisfaction

- A. The amount of the assessment, plus any costs of collection, late charges, and interest assessed in accordance with subdivision (b) of Section 5650, shall be a lien on the owner's separate interest in the common interest development from and after the time the association causes to be recorded with the county recorder of the county in which the separate interest is located, a notice of delinquent assessment, which shall state the amount of the assessment and other sums

imposed in accordance with subdivision (b) of Section 5650, a legal description of the owner's separate interest in the common interest development against which the assessment and other sums are levied, and the name of the record owner of the separate interest in the common interest development against which the lien is imposed.

- B. The itemized statement of the charges owed by the owner shall be recorded together with the notice of delinquent assessment.
- C. In order for the lien to be enforced by nonjudicial foreclosure as provided in Sections 5700 to 5710, the notice of delinquent assessment shall state the name and address of the trustee authorized by Woodlake Association to enforce the lien by sale.
- D. In order for the lien to be enforced by nonjudicial foreclosure as provided in Sections 5700 to 5710, the notice of delinquent assessment shall state the name and address of the trustee authorized by the association to enforce the lien by sale.
- E. The notice of delinquent assessment shall be signed by the person designated in the declaration or by the Association for that purpose, or if no one is designated, by the president of the Association.
- F. A copy of the recorded notice of delinquent assessment shall be mailed by certified mail to every person whose name is shown as an owner of the separate interest in the Association's records, and the notice shall be mailed no later than 10 calendar days after recordation.
- G. Within 21 days of the payment of the sums specified in the notice of delinquent assessment, the association shall record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the owner of the separate interest a copy of the lien release or notice that the delinquent assessment has been satisfied.

9. Woodlake's Right to Collect Delinquent Assessments of Less Than \$1,800

With regard delinquent regular or special assessments of an amount less than one thousand eight hundred dollars (\$1,800), not including any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, Woodlake Association may not attempt to collect that debt through judicial or nonjudicial foreclosure, but may attempt to collect or secure that debt in any of the following ways:

(1) By a civil action in small claims court. If Woodlake chooses to proceed by an action in small claims court, and prevails, it may enforce the judgment as permitted under the Code of Civil Procedure. The amount that may be recovered in small claims

court to collect upon a debt for delinquent assessments may not exceed the jurisdictional limits of the small claims court and shall be the sum of the following:

(A) The amount owed as of the date of filing the complaint in the small claims court proceeding.

(B) In the discretion of the court, an additional amount to that described in subparagraph (A) equal to the amount owed for the period from the date the complaint is filed until satisfaction of the judgment, which total amount may include accruing unpaid assessments and any reasonable late charges, fees and costs of collection, attorney's fees, and interest, up to the jurisdictional limits of the small claims court.

(2) By recording a lien on the owner's separate interest upon which Woodlake Association may not foreclose until the amount of the delinquent assessments secured by the lien, exclusive of any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, equals or exceeds one thousand eight hundred dollars (\$1,800) or the assessments secured by a lien are more than 12 months delinquent. If Woodlake Association chooses to record a lien under these provisions, prior to recording the lien, it shall offer the owner and, if so requested by the owner, participate in dispute resolution as set forth Civil Code sections 5900 et. seq.

(3) Any other manner provided by law, except for judicial or nonjudicial foreclosure.

10. Woodlake's Right to Collect Delinquent Assessments of \$1800 or More or Assessments Which Are More Than 12 Months Delinquent by Judicial or Non Judicial Foreclosure

A. With regard to delinquent regular or special assessments of one thousand eight hundred dollars (\$1,800) or more, not including any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, or any assessments secured by a lien that are more than 12 months delinquent, Woodlake Association may use judicial or nonjudicial foreclosure, subject to the following conditions:

(1) Prior to initiating a foreclosure on an owner's separate interest, Woodlake Association shall offer the owner and, if so requested by the owner, participate in dispute resolution pursuant to the association's "meet and confer" program required in Civil Code Section 5900 et. seq. or alternative dispute resolution as set forth in Civil Code section 5925 et. seq. The decision to pursue dispute resolution or a particular type of alternative 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.

(2) The decision to initiate foreclosure of a lien for delinquent assessments that has been validly recorded shall be made only by Woodlake Association's board of directors and may not be delegated to an agent of the Association. The board shall approve the decision by a majority vote of the board members in an executive session. The board shall record the vote in the minutes of the next meeting of the board open to all members. The board shall maintain the confidentiality of the owner or owners of the separate interest by identifying the matter in the minutes by the parcel number of the property, rather than the name of the owner or owners. A board vote to approve foreclosure of a lien shall take place at least 30 days prior to any public sale.

(3) The board shall provide notice by personal service to an owner of a separate interest who occupies the separate interest or to the owner's legal representative, if the board votes to foreclose upon the separate interest. The board shall provide written notice to an owner of a separate interest who does not occupy the separate interest by first-class mail, postage prepaid, at 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.

(4) A nonjudicial foreclosure by Woodlake Association to collect upon a debt for delinquent assessments shall be subject to a right of redemption. The redemption period within which the separate interest may be redeemed from a foreclosure sale under this paragraph ends 90 days after the sale. In addition to the requirements of Section 2924f, a notice of sale in connection with an association's foreclosure of a separate interest in a common interest development shall include a statement that the property is being sold subject to the right of redemption created in this section.

- B. Nonjudicial foreclosure is a very detailed process that permits the trustee identified in the Association's Notice of Delinquent Assessment to sell the liened separate interest without the necessity of filing a judicial foreclosure action in the Superior Court.**
- C. In addition to the requirements of Section 2924, the association shall serve a notice of default on the person named as the owner of the separate interest in the association's records or, if that person has designated a legal representative pursuant to this subdivision, on that legal representative. Service shall be in accordance with the manner of service of summons in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. An owner may designate a legal representative in a writing that is mailed to the association in a manner that indicates that the association has received it.**

11. Lien Enforcement Generally

- A. Except as otherwise provided in this article, after the expiration of 30 days following the recording of a lien created pursuant to Section 5675, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Section 2934a. [Old: Civ. Code §1367.1(g)]**
- B. Nothing in Article 2 (commencing with Section 5650) of the Davis-Stirling Act or in subdivision (a) of Section 726 of the Code of Civil Procedure prohibits actions against the owner of a separate interest to recover sums for which a lien is created pursuant to Article 2 (commencing with Section 5650) or prohibits an association from taking a deed in lieu of foreclosure.**

12. Owner's Right to Pay Under Protest and Commence Small Claims Court Action.

- A. If a dispute exists between the owner of a separate interest and the association regarding 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 the amount in dispute does not exceed the jurisdictional limits of the small claims court stated in Sections 116.220 and 116.221 of the Code of Civil Procedure, the owner of the separate interest may, in addition to pursuing dispute resolution pursuant to Article 3 (commencing with Section 5925) of Chapter 10, 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, pursuant to subdivision (b) of Section 5650, and commence an action in small claims court pursuant to Chapter 5.5 (commencing with Section 116.110) of Title 1 of the Code of Civil Procedure.**
- B. Nothing in this section shall impede an association's ability to collect delinquent assessments as provided in this article or Article 3 (commencing with Section 5700).**

13. Lien Recorded In Error.

- A. If it is determined that a lien previously recorded against the separate interest was recorded in error, the party who recorded the lien shall, within 21 calendar days, record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the owner of the separate interest with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission.**

- B. If it is determined that an association has recorded a lien for a delinquent assessment in error, the association shall promptly reverse all late charges, fees, interest, attorney's fees, costs of collection, costs imposed for the notice prescribed in Section 5660, and costs of recordation and release of the lien authorized under subdivision (b) of Section 5720, and pay all costs related to any related dispute resolution or alternative dispute resolution.

14. Suspension of Voting Privileges for Non-Payment of Assessments.

Woodlake's CC&R section 14.01 provides that the Board of Directors may "suspend or condition the right of an Owner to the Owner's voting privileges as an Owner" for the nonpayment of any assessment after the assessment becomes delinquent, and such suspension shall be for so long as the nonpayment of any assessment is delinquent.

15. Notice of Owners' Right to Submit Secondary Addresses to Woodlake.

Civil Code section 4040(b) provides that: "Upon receipt of a request by a member, pursuant to Section 5260, identifying a secondary address for delivery of notices of the following types, the association shall deliver an additional copy of those notices to the secondary address identified in the request: (1) The documents to be delivered to the member pursuant to Article 7 (commencing with Section 5300) of Chapter 6. (2) The documents to be delivered to the member pursuant to Article 2 (commencing with Section 5650) of Chapter 8, and Section 5710."