

***COLLECTION POLICY FOR
DELINQUENT ASSESSMENTS***

PGA WEST MASTER ASSOCIATION

IF THIS DOCUMENT CONTAINS ANY RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, NATIONAL ORIGIN, SOURCE OF INCOME AS DEFINED IN SUBDIVISION (P) OF SECTION 12955, OR ANCESTRY, THAT RESTRICTION VIOLATES STATE AND FEDERAL FAIR HOUSING LAWS AND IS VOID, AND MAY BE REMOVED PURSUANT TO SECTION 12956.1 OF THE GOVERNMENT CODE. LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER PERSONS SHALL NOT BE CONSTRUCTED AS RESTRICTIONS BASED ON FAMILIAL STATUS.

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1. DUE DATES: All Regular Assessments shall be due and payable, in advance, in equal monthly installments, on the first (1st) day of each month. Special Assessments shall be due and payable on the due date specified by the Board in the notice imposing the assessment or in the ballot presenting the special assessment to the members for approval. In no event shall a Special Assessment be due and payable earlier than thirty (30) days after it is imposed.

2. PAYMENT RECEIPTS / OVERNIGHT PAYMENT LOCATION: Owners can request a receipt from the Association which shall indicate the date of payment and the person who received it. Any request for a receipt of payment must be submitted directly to the Association's business address (separately from any actual payment). Overnight payment of assessments may be sent/delivered to the following addresses:

If account is being handled by Association:

**PGA WEST Master Association
c/o Monarch Management Group
39-755 Berkey Drive, Suite A
Palm Desert, CA 92211-1106**

If account is being handled by Attorney:

**Peters & Freedman, L.L.P.
43100 Cook Street, Suite 202
Palm Desert, CA 92211**

3. APPLICATION: Payments on delinquent assessments shall be applied to the Owner's account as follows: payment should be applied to the principal owed first. Payments on principal shall be applied to the Owner's account by the "balance forward payment" method, *i.e.*, in reverse order so that the oldest arrearages of the principal are retired first. Only after the principal owed is paid in full shall such payments be applied to interest, late charges, collection expenses, administration fees, attorneys' fees, or any other amount due to the Association. Costs may include, but are not limited to, publication, recording, posting, service and mailing.

4. LATE CHARGE: All assessments shall be delinquent if not paid within **fifteen (15) days** after they become due and will result in the imposition of a late charge in the amount of ten dollars (\$10.00) or ten percent (10%) whichever is greater. Furthermore, pursuant to *Civil Code* §5650(b)(3), the Association shall be entitled to recover any reasonable collections cost, including attorneys' fees, that the Association then incurs in its efforts to collect the delinquent sums.

5. INTEREST: If an assessment payment is not paid within thirty (30) days of its original due date, interest may be imposed on all sums due, including the delinquent assessment, collection costs, and late charges, at an annual percentage rate of twelve percent (12%).

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6. SECONDARY ADDRESS: Upon receipt of a written request by an Owner identifying a secondary address for the purposes of assessment collection notices, the Association shall send additional copies of any collection notices required by this Collection Policy to the secondary address provided. The Owner's notice of a secondary address must be in writing and mailed to the Association in a manner that shall indicate that the Association has received it. The Association shall only send notices to the indicated secondary address at the point in time the Association receives such written request.

7. PAY OR LIEN LETTER: Any Owner who is more than thirty (30) days delinquent in the payment of his or her assessments may be referred to the Association's management company or the Association's attorney for collection and 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;

8. 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:

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(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.

9. SHOW CAUSE HEARING: Association may send a delinquent Owner a written notice (either in the Pay or Lien Letter or in a separate written document, as determined by the Board of Directors) of a hearing before the Board of Directors, wherein the Owner shall be invited to show good cause why (a) the Owner's voting privileges (b) the operation of the cable television services to the Owner's [Lot/Unit]; and/or (c) the gate transponder privileges and/or (d) the Owner's privileges for use of the common area/recreational facilities (hereinafter collectively "**Membership Privileges**") should not be suspended for non-payment of assessments ("**Show Cause Hearing**").

The notice and hearing procedures shall be in accordance with *Civil Code* §5855 or successor statute. In the event good cause is not shown and the Owner's account has not been brought current, then the Board may suspend any of the Owner's Membership Privileges. Suspended cable television services shall be reinstated upon the Owner's account being brought current including cable disconnect/reconnect fees.

10. ASSESSMENT LIEN:

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 will be recorded against the Owner's property

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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 or the Association's legal counsel, 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 sum 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 the 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.

11. 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).

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 shall also vote to approve foreclosure on a Lien which vote shall occur at least thirty (30) days prior to any public sale of the Owner's separate interest property. The Board shall

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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 then be commenced by the Association's law firm 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) "Initiate Foreclosure"-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 incurred to initiate foreclosure in addition to the delinquent assessments, late charges and interest.
- (b) "Approve Foreclosure"- 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, the attorney 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. PARTIAL PAYMENTS: Any assessment payments received from a delinquent homeowner will be applied to that homeowner's account. If the delinquent homeowner's account has been turned over to the Association's legal counsel, any such payments will be forwarded to that office for processing. However, absent receipt of payment in full of all amounts due, the Association will proceed with any collection action initiated against the homeowner's separate interest or the delinquent homeowner personally pursuant to and consistent with the requirements of California statutory and case law unless the payments are remitted pursuant to a written payment plan approved by the Board.

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. RIGHT OF REDEMPTION: An owner may redeem the property foreclosed upon within ninety (90) days after the sale, by paying all charges owed.

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16. RELEASE OF LIEN: When a delinquent Owner has paid in full all delinquent assessments and charges, the attorney shall prepare a Release of Lien which shall be recorded in the County Recorder's Office of Riverside County California within 21 days of receipt of the sums necessary to satisfy the delinquent amount and mail a copy of the lien release to the Owner of the residential Lot/Unit.