

BIXBY VILLAGE COMMUNITY ASSOCIATION
Assessment and Billing Collection Policy

Prompt payment of Assessments by all owners is critical to the financial health of the Association, and to the enhancement of the property values of our homes. Your Board of Directors takes very seriously its obligation under the Declaration of Covenants, Conditions and Restrictions (CC&R's) and the California Civil Code to enforce the members' obligation to pay assessments. The policies and practices outlined shall remain in effect until such time as they may be changed, modified, or amended by a duly adopted resolution of the Board of Directors. Therefore, pursuant to the CC&R's and Civil Code Section 1365 (d), the following are the Association's assessment practices and policies:

1. **Regular monthly assessments are due and payable on the first day of each month.** A courtesy billing statement is sent each month to the billing address on record with the Association. **However, it is the owner of record's responsibility to pay each assessment in full each month regardless of the receipt of a statement.** All other assessments, including special assessments, are due and payable on the date specified by the Board on the Notice of Assessment which date will not be less than thirty (30) days after the date of notice of the special assessment.
2. Assessments, late charges, interest and collection costs, including any attorney fees, are the personal obligation of the owner of the property at the time the assessment or other sums are levied (Civil Code Section 1367(a); Civil Code Section 1367.1(a).
3. Assessments not received within **thirty (30) days** of the stated due date are delinquent and shall be subject to a late charge of **ten dollars (\$10.00)** for each delinquent assessment per unit.
4. Any payments made shall be first applied to assessments owed, and only after the assessments owed are paid in full, shall such payments be applied to late charges, interest, and collection expenses, including attorneys' fees, unless the owner and the Association enter into an agreement providing for payments to be applied in a different manner.
5. A **first notice of past due assessment** will be prepared and mailed on assessments not received within **thirty (30) days** of the stated due date. A **twenty five-dollar (\$25.00)** charge for the late letter will be made against the delinquent member's account. Additionally, an interest charge at the rate of **10% per annum** will be assessed against any outstanding balance including delinquent assessments, late charges, and cost of collection, which may include attorney fees. Such interest charges shall continue to be assessed each month until the account is brought current.
6. If an assessment is not received within **forty-five (45) days** of the stated due date, the Association will send a **pre-lien letter** to the owner as required by Civil Code Section 1367.1(a), by certified and first class mail, to the owner's mailing address of record advising of the delinquent status of the account and impending collection action. The owner will be charged a one-hundred dollar (\$100.00) fee for the pre-lien letter. In addition, the owner will also be charged a thirty-five dollar (\$35.00) fee for each title check requested and a fifty-dollar (\$50.00) fee for the resolution.
7. If an owner fails to pay the amounts set forth in the pre-lien letter within **thirty (30) days** of the date of that letter, a **lien** for the amount of any delinquent assessments, late charges, interest and/or costs of collection including attorneys' fees may be assessed against the owner's property. The owner will be charged a two-hundred dollars (\$200.00) fee for the preparation and recordation of the lien. After the expiration of thirty (30) days following recordation of the lien, the lien may be enforced in any manner permitted by law, including, without limitation, judicial or non-judicial foreclosure (Civil Code Section 1367 (e); Civil Code Section 1367.1(g)), subject to the limitations set forth below under "Additional Provisions to Conform to Law" and as otherwise provided by law.
8. If the balance due is not paid within **thirty (30) days of recordation of the lien, the matter may be turned over to an attorney for legal action, including an action to foreclose the assessment lien**

and/or for a money judgment. The owner will be charged two-hundred fifty dollars (\$250.00) for preparing the matter to be sent to counsel.

9. An owner is entitled to inspect the Association's accounting books and records to verify the amounts owed pursuant to Corporations Code Section 8333.
10. In the event it is determined that the owner has paid the assessments on time, the owner will not be liable to pay the charges, interest, and costs of collection associated with the collection of those assessments.
11. Any owner who is unable to pay assessments will be entitled to make a written request for a payment plan to be considered by the Board of Directors. An owner may also request to meet with the Board in executive session to discuss a payment plan. The Board will consider payment plan requests on a case-by-case basis and is under no obligation to grant payment plan requests.
12. Nothing herein limits or otherwise affects the Association's rights to proceed in any lawful manner to collect any delinquent sums owed to the Association.
13. Prior to the release of any lien, or dismissal of any legal action, all assessments, late charges, interest, and legal fees must be paid in full to the Association.
14. The delinquent owner will be responsible for all costs of collection, including attorneys' fees, incurred by the Association to collect any delinquent sums (Civil Code Section 1366 (e)).
15. All charges listed herein are subject to change without notice.

Additional Provisions to Conform to Law

Prior to the recording of a lien, homeowners that are delinquent will be sent a "pre-lien" letter. The pre-lien letter will include an offer by the association to engage in informal dispute resolution upon receipt of a written request within thirty (30) days of the pre-lien letter, pursuant to the association's meet and confer program required by Civil Code Section 1363.810, et seq.

Prior to recording of a lien, the Board of Directors will approve the recording of the lien in open session at a regular or special board meeting.

The association may not foreclose unless delinquent assessments are greater than \$1,800 or greater than one year in arrears.

Prior to commencing foreclosure, the association will offer to engage in informal dispute resolution upon receipt of a written request within thirty (30) days of the offer of such informal dispute resolution, pursuant to the association's meet and confer program required by Civil Code Section 1363.810, et seq. and will also offer to engage in formal alternative dispute resolution with a neutral third party pursuant to Civil code section 1369.510, et seq.

Prior to commencement of foreclosure, the Board of Directors will approve the foreclosure in executive session and note the approval in the regular minutes of the association without identification of the name of the individual.

All foreclosures shall be subject to a ninety (90) day right of redemption.

Fee and Penalty Procedures

The following charges may be assessed in accordance with the Association's Assessment and Billing Collection Policy:

Late Charge	\$10.00
Late Letter Fee	\$25.00
Pre-Lien Letter	\$100.00
Additional Pre-Lien Letters	\$50.00 each
Title Check Fee	\$35.00 each
Resolution to Record Lien	\$50.00
Lien Fee	\$200.00
Additional Lien mailings	\$50.00 each
Lien Release	\$85.00
Monthly Payment Plan Admin. Fee	\$25.00
Attorney Package Preparation & Monthly Monitoring	\$250.00
Returned Check Fee	\$25.00

In addition to the above, if a matter is sent to counsel for legal action, or to a collection service for foreclosure or other action, the owner will be responsible for any attorneys' fees and costs incurred by such action.

The mailing address for overnight payment of assessments is:

**C/O PCM
23726 Birtcher Dr.
Lake Forest, Ca 92630**

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 Section 1367.4 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 1366, 1367.1, and 1367.4 of the Civil Code.)

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 areas damaged by a member or a member's guests, if the governing documents provide for this.

(Sections 1366 and 1367.1 of the Civil Code.)

The association must comply with the requirements of Section 1367.1 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 1367.1 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 1367.1 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 1367.1 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, 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 1367.1 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 1368.810) 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 1369.510) 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 1367.1 of the Civil Code.)*

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 1367.1 of the Civil Code.)*

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share 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 1367.1 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 with the payment plan standards of the association, if they exist. *(Section 1367.1 of the Civil Code.)*