

Diamond Point Club HOA Assessment Collection Policy

Resolution 2017 01 Assessment Collection Policy

(March 20, 2017)

A Resolution of the Diamond Point Club Board of Directors to amend its assessment collection policy.

WHEREAS, the Board of Directors of Diamond Point Club has heretofore adopted an Assessment Collection Policy, and

WHEREAS, the Davis-Stirling Common Interest Development Act (Civil Code §4000 et seq.) requires certain provisions to be included in the Assessment Collection Policy of common interest developments, and

WHEREAS Diamond Point Club is a common interest planned development subject to the provisions of the Davis-Stirling Common Interest Development Act,

NOW THEREFORE, BE IT RESOLVED that Diamond Point Club hereby amends its Assessment Collection Policy as set forth below.

BE IT FURTHER RESOLVED that the Policy for Handling Disputed Accounts adopted November 9, 2002 is hereby superseded by the Assessment Collection Policy.

The Board of Directors of Diamond Point Club adopted the Assessment Collection Policy by the following vote

AYES..... Block, Evans, Kretschmar, Kunze-Fahrney, Torres.

NOES.....none

Abstain none

Absent.....none

Dated March 20, 2017

Teruni Evans, Association Secretary

ASSESSMENT COLLECTION POLICY Civil Code § 5310(a)(7) Association Policies and Practices in Enforcing Lien Rights or Other Legal Remedies for Default in Payment of Assessments

DIAMOND POINT CLUB

ASSESSMENT COLLECTION POLICY

Effective April 1, 2017

The Diamond Point Club Homeowners' Association (hereinafter referred to as Club or Association) is responsible for managing and operating the common areas of the community, and for collecting homeowner assessments. 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&Rs) 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&Rs and Civil Code §§ 5319(a)(7), 5660(a) and 5730(a), the following are the Association's assessment practices and policies:

1. **PERSONAL OBLIGATION OF OWNER.** Assessments, late charges, interest and collection costs, including any attorney's fees, are the personal obligation of the owner of the property at the time the assessment or other sums are levied (Civil Code §5650(a)).
2. **RESPONSIBILITY TO PAY.** 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 whether a statement is received. 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 on which notice of the assessment is given.
3. **ORDER OF APPLYING PAYMENTS.** 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 attorney's fees, unless the owner and the Association enter into an agreement providing for payments to be applied in a different manner.
4. **LATE CHARGE.** Assessments not received by the Association within fifteen (15) days of the stated due date are delinquent and shall be subject to a late charge of ten dollars (\$10.00) or ten percent (10%) of the amount of the assessment, whichever is greater, for each delinquent assessment per unit. Civil Code ~~§5650(b)~~. Received by the Association means that the payment is physically received at the Association Management Office located at 536 Navajo Springs Drive, Diamond Bar, CA, 91765, or designated association management agent. Postmarks are not considered.
5. **INTEREST.** An interest charge at the rate permitted by law will be assessed against any outstanding balance, including delinquent assessments, late charges, and cost of collection, which may include attorney's fees. Such interest charges shall accrue thirty (30) days after the assessment becomes due and shall continue to be assessed each month until the account is brought current. Civil Code §5650(b)(3).
6. **CHECKS WITHOUT SUFFICIENT FUNDS, POSTDATED CHECKS.** If a check in payment of any amounts due by an Association property owner is returned for insufficient funds or for any other reason is not honored by the bank on which it is drawn, the property owner will be charged a \$25.00 fee. Post-dated checks will not be accepted.
7. **ACCELERATION.** . If a special assessment is payable in installments and an installment payment of that special assessment is delinquent for more than thirty (30) days, all installments will be accelerated and the entire unpaid balance of the special assessment shall become immediately due and payable. The remaining

balance shall be subject to a late charge and interest as provided above.

8. LATE LETTER. A first notice of past due assessment ("late letter") will be prepared and mailed once an assessment becomes delinquent. The appropriate ten dollar (\$10.00) late fee charge will be made against the delinquent member's account.

9. SIXTY (60) DAY DELINQUENT COLLECTION LETTER. A second notice of past due assessment ("60 day Collection letter") will be prepared and mailed once one or more assessments becomes delinquent after 60 days. A thirty dollar (\$30.00) collection fee will be made against the delinquent member's account.

10. NINETY (90) DAY DELINQUENT COLLECTION LETTER. A third notice of past due assessment ("90 day Collection letter") will be prepared and mailed once one or more assessments becomes delinquent after 90 days. A fifty dollar (\$50.00) collection fee will be made against the delinquent member's account.

11. ONE HUNDRED-TWENTY (120) DAY DELINQUENT COLLECTION LETTER. A fourth notice of past due assessment ("120 day Collection letter") will be prepared and mailed once one or more assessments becomes delinquent after 120 days. A fifty dollar (\$50.00) collection fee will be made against the delinquent member's account.

12. PRE LIEN LETTER. If an assessment is not received within fifteen (15) days after the assessment becomes delinquent, the Association or its designee, in the event the account is turned over to a collection agent, will send a pre lien letter to the owner as required by Civil Code §5660 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 fee for the pre lien letter.

13. FAILURE TO PAY. 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, the Association will authorize the Association's attorney to commence further collection of debt and to record a lien for the amount of any delinquent assessments, late charges, interest and/or costs of collection, including attorney's fees against the owner's property. The owner will be charged for the fees and costs of preparing and recording the lien. 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 §5660).

14. PAYMENT UNDER PROTEST. If a dispute exists between an owner 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 costs, or monetary penalty imposed as a disciplinary measure, and the amount in dispute does not exceed the jurisdictional limits of the small claims court, the owner may, in addition to pursuing Alternative Dispute Resolution (ADR), 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 commence an action in small claims court. (Civil Code §5658).

15. VERIFICATION OF AMOUNTS OWED. An owner is entitled to inspect the Association's accounting books and records to verify the amounts owed pursuant to Civil Code §5205.

16. TIMELY PAYMENT. 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, interests, and costs of collection associated with collection of those assessments.

18. REQUEST FOR PAYMENT PLAN. 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. Any such requests shall be made, in writing, to the Association's management office at the address stated in paragraph 21. Individual Board Members shall refrain from discussing resolution options regarding a disputed account with the disputing member, and shall refer the member to the Association's management office. Notwithstanding this, any discussion or representation by an individual Board member to a member who is disputing an account shall not be binding upon the Board and shall have no effect to delay any proceedings to enforce payment of

amounts owed.

19. ASSOCIATION'S RIGHT TO PROCEED. Nothing herein limits or otherwise affects the Association's right to proceed in any lawful manner to collect any delinquent sums owed to the Association.

20. RELEASE OF LIEN OR DISMISSAL OF LEGAL ACTION. Prior to the release of any lien, or dismissal of any legal action, all assessments, late charges, interest, and costs of collection, including attorney's fees, must be paid in full to the Association, or otherwise satisfied pursuant to settlement agreement approved by the Board.

21. NOTICE OF CHANGES. All charges listed herein are subject to change upon thirty (30) days prior written notice. The mailing address for overnight payment of assessments is Association Management Office located at 536 Navajo Springs Road, Diamond Bar, CA, 91765

22. COMPLIANCE WITH LAWS. All collection action will comply with the applicable provisions of the Davis-Stirling Common Interest Development Act, California Civil Code-§4000, et seq.

23. SUSPENSION OF PRIVILEGES. As provided in Article V, Section 1 (g) and (h) of the By-laws the Board may suspend the right of an owner to vote, the right to use the recreational facilities, and the right to serve on the Board or any committee until the owner pays the entire delinquency. The Association may implement a suspension following notice to the owner and an opportunity for a hearing that satisfies the minimum requirements of California Corporations Code §7341.

24. ASSOCIATION'S AGENTS. The Association reserves the right to hire a separate agent (i.e. management or collection company), and/or the law firm of Feldsott, Lee, Pagano and Canfield, Attorneys at Law, 23161 Mill Creek Drive, Suite 300, Laguna Hills, CA 92653 as its agent for all matters concerning the collection of delinquent accounts. The Association has selected Feldsott, Lee, Pagano and Canfield, Attorneys at Law as trustee for the purposes of foreclosing and selling any property that is subject to a delinquent assessment lien.

25. DISTRIBUTION OF POLICY. A copy of this collection policy shall be sent annually to all owners within the sixty (60) day period immediately preceding the beginning of the Association's fiscal year pursuant to California Civil Code-§5310(a)(7).

26. NON WAIVER OF ASSOCIATION'S RIGHTS. In general, the Association Board intends to take whatever actions are authorized by law and the Association's governing documents to collect assessments. If the Board elects to use practices, procedures or notices that exceed those required by law or under the governing documents, it does so without waiving the Association's right to exercise collection remedies to the fullest extent permissible. Any additional notices or time periods the Association might use are extended solely as a courtesy. No owner shall be entitled to expect longer time limits or notices other than those that are required by law or the governing documents.

27. PUBLIC RECORD. An owner of record at Diamond Point Club has a legal obligation to pay assessment dues. This fact is set forth in the Covenants, Conditions & Restrictions (CC&Rs) and is a matter of public record in the Los Angeles County Recorder's Office. Said CC&Rs are a part of the title for any property subject to said CC&Rs. The Association is not liable for an owner's ignorance of these facts nor for any failure to pay assessments when due by reason of such ignorance. Any owner who claims to be unaware of these facts should contact the parties responsible, which may be any or all of the following the seller of the property, the issuer of a policy of title insurance on the property, the realtors and brokers, if any, involved in the transaction by which the owner acquired title to the property.

28. STATUTORY DISCLOSURE: Pursuant to Civil Code §5730, the association is required to provide the following notice to members on an annual basis:

"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 non-judicial foreclosure. For liens recorded on or 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 Article 3 (commencing with Section 5700) of Chapter 8 Part 5 of Division 4 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 5700 through 5720 of the Civil Code, inclusive)

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 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 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 the payment and the person who received it. The Association must inform owners of a mailing address for overnight payments. (Section 5455 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 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. The payment plans must conform with the payment plan standards of the Association, if they exist. (Section 5665 of the Civil Code).”