



MADRID AT TUSTIN HOMEOWNERS ASSOCIATION

ASSESSMENT COLLECTION POLICY (Exhibit A)

Adopted: December 12, 2005

Revised: March 13, 2008

Revised and effective January 1, 2014 (civil code changes only)

Prompt payment of assessments by all owners is critical to the financial health of the Association. Accordingly, the Board of Directors takes its obligations under the Declaration of Covenants, Conditions and Restrictions (“CC&R’s”) and the California Civil Code to enforce the members’ obligation to pay assessments very seriously. The Board has adopted this Collection Policy in an effort to discharge that obligation in a fair, consistent and effective manner. All policies and practices outlined below 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 applicable sections of the California Civil Code, the following is the Association’s Assessment Collection Policy:

1. Regular monthly assessments are due and payable on the first day of each month. It is the responsibility of the owner of record to pay each assessment in full each month regardless of receipt of a statement. All other assessments, including special assessments, are due and payable on the date specified by the Board in the notice of assessment.

2. Assessments, late charges, interest and reasonable fees and collection costs, including 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 Sections 5650 (a), 5660 and 5660 (a-f)).

3. Payments are posted as of the date received at the Association’s business office. Assessments are delinquent **fifteen (15) days** after they become due. Delinquent assessments shall be subject to a late charge equal to ten percent (10%) of the unpaid assessment or ten dollars whichever is greater. Interest on all sums imposed in accordance with this Assessment Collection Policy including the delinquent assessments, reasonable fees and cost of collection and reasonable attorneys fees shall be at a rate of 12% per year, commencing thirty (30) days after the assessment becomes due (Civil Code Sections 5650(b)(1-3)) .

4. Any payments made shall be first applied to the assessments owed, and only after the assessments owed are paid in full, shall the payments be applied to late charges, interest, or collection expenses. (Civil Code Sections 5655).

5. If the assessment is not paid within **fifteen(15) days** of the due date, the Association will send a certified letter (“Notice of Intent to Lien”) to the delinquent homeowner’s address of record informing the owner of the following:

- (a) a general description of the Association’s lien enforcement procedures and the method of calculation of the amount;
- (b) a statement that the homeowner has the right to inspect Association records pursuant to California Corporations Code Section 8333;
- (c) The following statement in 14-point boldface type: “IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT

COURT ACTION.”;

- (d) an itemized statement of the charges owed by the homeowner, including items on the statement indicating the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorneys’ fees, any late charges, and interest, if any;
- (e) a statement that the homeowner will not be liable to pay charges, interest, and collection costs, if it is determined the assessment was paid on time to the Association;
- (f) the homeowner’s right to request a meeting with the board of directors to discuss a payment plan;
- (g) the homeowner’s 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 pursuant to Civil Code Section 5900; and
- (h) the homeowner’s right to request alternative dispute resolution with a neutral third party pursuant to Civil Code Sections 5925 through 5965 before the Association may initiate foreclosure against the homeowner’s separate interest, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

The letter described in this Paragraph 5 will be sent to the delinquent homeowner at least 30 days prior to recording a lien against the delinquent homeowner’s separate interest. The cost of the letter will be billed to the delinquent homeowner’s account. All further costs, including reasonable attorneys’ fees, are also the delinquent homeowner’s responsibility. (Civil Code Section 5650 (a), 5660 and 5660 (a-f)).

6. Within ***fifteen (15) days*** from the date of the postmark of the Notice of Intent to Lien, a delinquent homeowner may submit a written request to the Association to meet with the Board to discuss a payment plan for the amount set forth in the Notice of Intent to Lien. The Board shall meet with the delinquent homeowner in executive session within ***forty-five (45) days*** of the date of the postmark of the request. (Civil Code Section 5665).

7. If the delinquent homeowner fails to pay the amount set forth in the Notice of Intent to Lien (a) within ***thirty (30) days*** of the date of the postmark of the Notice of Intent to Lien, or (b) in the event the delinquent homeowner submits a request to meet, as set forth in No. 6 above, within ***sixty (60) days*** of the date of the postmark of the Notice of Intent to Lien, then the Board may decide that a lien will be recorded against the homeowner’s separate interest. Such decision must be made by the Board and may not be delegated to an agent of the Association. The Board’s decision to record a lien must be by a majority vote of the Board members in an open meeting, and the Board’s vote shall be recorded in the minutes of that meeting. (Civil Code Section 5673). The delinquent homeowner will be charged for the lien costs associated with preparation and recordation of the lien. (Civil Code Sections 5675, 5685(a) and 5725(a)).

8. A copy of the recorded lien shall be sent via certified mail to every person who is shown as an owner of the separate interest in the Association’s records no later than ***ten (10) calendar days*** after recordation. (Civil Code Section 5675, 5685(a) and 5725(a)).

9. After recordation of the lien, payment must be made in cash, money order or cashiers check.

10. No assessment lien may be foreclosed until (a) 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 \$1,800.00, or (b) the assessments are more than twelve (12) months delinquent. If the Association chooses to record a lien under these circumstances, it shall, prior to recording the lien, offer the homeowner an opportunity to "meet and confer" regarding the delinquency, in accordance with (Civil Code Section 5900).

11. The decision to initiate foreclosure of a lien must be made by the Board and may not be delegated to an agent of the Association. The Board's decision to foreclose a lien must be by a majority vote of the Board members in executive session, and the Board's vote shall be recorded in the minutes of the next meeting of the Board that is open to all members. The Board shall maintain the confidentiality of the homeowners by identifying the matter in the minutes by the parcel number of the separate interest, rather than the name of the homeowners. A Board vote to approve foreclosure of a lien shall take place at least **thirty (30) days** prior to any public sale. (Civil Code Section 5705(c)).

12. The Board shall provide notice of its decision to foreclose on an assessment lien by (a) personal service to the homeowner if the homeowner occupies the separate interest, or to the homeowner's legal representative, or (b) first class mail, postage prepaid, at the most current address for the homeowner shown on the books of the Association, if the homeowner does not occupy the separate interest. (Civil Code Section 5705(d)).

13. A nonjudicial foreclosure is subject to a **ninety (90) day** right of redemption. (Civil Code Section 5715(b)).

14. 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 and the Association may turn the matter over to legal counsel at any time.

15. Homeowner's have the right to submit secondary addresses to the Association for purposes of collection notices. Homeowner's request must be in writing and mailed to the Association in a manner that shall indicate the Association has received it. Homeowner's may identify or change a secondary address at anytime, provided that if a secondary address is identified or changed during the collection process, the Association shall only be required to send notices to the indicated secondary address from the point the Association receives the request.

16. The mailing address for overnight payment of assessments is:

Madrid At Tustin Homeowners Association
c/o Encore Property Management
526 Queensland Circle
Corona, CA 92879-1381