

## **PALOMINO LAKES PROPERTY OWNERS ASSOCIATION**

### **A RESOLUTION OF THE BOARD OF DIRECTORS OF THE PALOMINO LAKES PROPERTY OWNERS ASSOCIATION TO AMEND ITS DELINQUENT ASSESSMENT COLLECTON AND LIEN ENFORCEMENT POLICIES.**

**WHEREAS** the Board of Directors of the Palomino Lakes Property Owners Association has heretofore adopted assessment collection and lien enforcement policies, and,

**WHEREAS** the Davis Stirling Common Interest Development Act requires certain provisions to be included in the assessment collection policy of common interest developments, and,

**WHEREAS** the Palomino Lakes Property Owners Association is a common interest development subject to the provisions of the Davis Stirling Common Interest Development Act,

**NOW THEREFORE, BE IT RESOLVED** that the Palomino Lakes Property Owners Association hereby amends its assessment collection and lien enforcement policies as set forth below.

**BE IT FURTHER RESOLVED** that all delinquent assessment and lien enforcement policies previously enacted by the Board of Directors of the Palomino Lakes Property Owners Association are hereby superseded by the Assessment Collection & Lien Enforcement Policy.

#### **DELINQUENT ASSESSMENT COLLECTION & LIEN ENFORCEMENT POLICY**

Timely payment of regular and special assessments is critically important to the Association's financial well being. Any member's failure to pay assessments when due can create a cash-flow problem for the Association and cause Owners who make timely payment to bear a disproportionate share of the community's financial obligations. Therefore, the Board of Directors has enacted the following policies and procedures concerning collection of delinquent assessment accounts and enforcement of assessment liens in accordance with the Davis-Stirling Act and the Association's governing documents:

- 1. ASSESSMENTS.** All regular assessments shall be due and payable on the first day of each quarter - January 1, April 1, July 1, October 1. 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 the special assessment is duly imposed and notice given to the members.
- 2. DELINQUENCY.** Regular and special assessments shall be delinquent if not paid within fifteen (15) days after they become due. A courtesy reminder notice may, but is not required to, be sent to the delinquent Owner.
- 3. COLLECTION COSTS.** If an assessment is delinquent, the Association is entitled, by law (Civil Code section 1366) and by the Association's governing documents, to recover:
  - a. All reasonable costs incurred in collecting the delinquent assessment including but not limited to reasonable attorney's fees, title company charges, asset investigation fees, administrative fees, returned check fees.
  - b. A late fee equal to the greater of 10% of the past due assessment or \$10.

**PALOMINO LAKES PROPERTY OWNERS ASSOCIATION  
DELINQUENT ASSESSMENT COLLECTION POLICY**

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- c. Interest on all sums imposed in accordance with this policy, including the delinquent assessments, reasonable fees and costs of collection and reasonable attorney's fees, at an annual rate of twelve percent (12%). Interest shall commence 30 days after the assessment becomes due or the cost is incurred.
4. **PRE-LIEN NOTICE.** If the assessment remains delinquent for thirty (30) days after it becomes due, the Association may send notice to the delinquent Owner, via certified mail, of the Association's intention to record a lien ("Pre-Lien Notice") against the Owner's property. The notice will include:
  - a. An itemized statement of the charges owed by the Owner, including the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney's fees, any late charges, and interest, if any.
  - b. A general description of the Association's collection and lien enforcement procedures and the method of calculation of the amount.
  - c. A statement that the Owner has the right to inspect the Association's records.
  - d. 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.
  - e. The following statement:

**IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN  
FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS,  
IT MAY BE SOLD WITHOUT COURT ACTION.**
  - f. A statement that the Owner has a right to request a meeting with the Board to discuss a payment plan.
  - g. A statement that the Owner has the right to dispute the assessment by requesting Internal Dispute Resolution under the Association Internal Dispute Resolution Policy and Civil Code section 1363.810 et seq.
  - h. A statement that the Owner has the right to engage in Internal Dispute Resolution under the Association's Internal Dispute Resolution Policy and/or Alternative Dispute Resolution (as set forth in Civil Code section 1369.510 et seq.).
5. **ASSESSMENT LIEN.** If the delinquency continues 30 days after mailing the notice of intention to record a lien, the Association may record a Notice of Delinquent Assessment in the Sonoma County Recorder's Office. The Notice of Delinquent Assessment shall include all amounts due including, but not limited to, the delinquent assessments, late charges, costs, administrative charges, reasonable attorney fees, etc. Recording a Notice of Delinquent Assessment will create a lien against the delinquent Owner's property and subject that property to foreclosure. A copy of the Notice of Delinquent Assessment with the recording information will be sent via certified mail to all Owners of the subject property within ten (10) days of recording. The decision to record a lien shall be made only by the Board by a majority vote in an open meeting and the vote shall be recorded in the minutes of that meeting.
6. **FORECLOSURE.** If an assessment is not paid in full within thirty (30) days of the date the Notice of Delinquent Assessment is recorded, the Association may pursue foreclosure of the lien if delinquent assessments are \$1,800 or more or for any amount of assessments that have been delinquent for at least 12 months. The Association may file a lawsuit against the delinquent Owner personally to collect the delinquent assessments and all costs, including reasonable attorney's fees and foreclose its lien against the Owner's property. In no event will such actions be taken for at least thirty (30) days after Notice of Delinquent Assessment is recorded and mailed to the Owner. The decision to initiate foreclosure of a lien for delinquent assessments shall be made only by the Board by a majority vote in an executive session and the vote shall be recorded in the minutes of the next meeting of the Board open to all members.

**PALOMINO LAKES PROPERTY OWNERS ASSOCIATION  
DELINQUENT ASSESSMENT COLLECTION POLICY**

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7. **COLLECTION AGENCIES.** The Association may retain or employ a collection agency to prosecute collection of past due assessments and may tender any delinquent account to such collection agency.
8. **PAYMENTS.** Payments received on delinquent assessments will be applied to the Owner's account first against the principal balance of assessments, then against costs of collection, interest or late charges.
9. **DISPUTE RESOLUTION.** Prior to initiating foreclosure, the Association shall offer the Owner and, if so requested by the Owner, shall participate in dispute resolution pursuant to the association's "meet and confer" program or alternative dispute resolution with a neutral third party. 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 Pre-Lien 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 members to meet with the Owner. 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.
10. **SUSPENSION OF RIGHTS.** Subject to the foregoing, the Association may suspend the delinquent Owner's right to vote or hold office.

The foregoing is intended as a general description of the collection policies and practices of the Association and is not intended in any way to limit the Association's authority to engage in appropriate collection activities pursuant to the applicable provisions of the governing documents and state and federal law.

**CERTIFICATE OF SECRETARY**

I certify that I am the duly qualified and acting secretary of PALOMINO LAKES PROPERTY OWNERS ASSOCIATION, a California Nonprofit Mutual Benefit Corporation. The foregoing is a true and correct copy of the Resolution duly adopted by the Board of Directors of the corporation at a meeting held on August 16, 2008, and entered in the minutes of such meeting in the records of the corporation. The Resolution is in conformity with the *Corporations Code*, the Articles of Incorporation and the Bylaws of the corporation and has never been modified or appealed and is, as of now, in full force and effect.  
DATED: August 18, 2008. PALOMINO LAKES PROPERTY OWNERS ASSOCIATION  
*A California Nonprofit Mutual Benefit Corporation*

By:



Richard M. Corriea  
Secretary/Treasurer

Ayes: Lamb, Corriea  
Noes  
Abstain  
Absent: Forchini