OCEANA MARIN ASSOCIATION
ASSESSMENT COLLECTION POLICY ©
Effective January 1, 2006

Prompt payment of assessments by every member is critical to the Association's ability to provide necessary services. Among your Board's most important responsibilities, therefore, is the collection of assessments which are not paid on time. The Association's CC&R's and the California Davis-Stirling Act provide the Board with strong procedural tools to collect delinquent assessments. It is our hope that by reminding all Owners of the collection procedures, we will all make the prompt payment of assessments a priority.

The assessment collection policy for Oceana Marin Association is as follows:

I. TYPES OF ASSESSMENTS

A. REGULAR ASSESSMENTS: Regular assessments are due and payable annually on the first day of August and delinquent if not received by the 5 p.m. on August 31st.

B. SPECIAL ASSESSMENTS: Special Assessments are due on the date specified in the Notice of Special Assessment, which shall be at least 30 days after the Notice is mailed, and are delinquent if not received within 15 days of the due date.

C. REIMBURSEMENT ASSESSMENTS: The Association can levy a Reimbursement Assessment against an Owner to (a) reimburse the Association for the costs of repairing damage caused by that Owner or that Owner's Invitee including but not limited to family, tenants, guests, pets or (b) if a failure to comply with the Governing Documents has necessitated an expenditure of monies, including attorneys' fees, by the Association to bring the Owner or the Owner's Lot into compliance. Reimbursement Assessments shall not be levied by the Association until Notice and Hearing has been given in accordance with the Association's Governing Documents and a determination of responsibility has been made by the Board. Reimbursement Assessments are due and payable when levied or at such later time as may be set.

II. DELINQUENCY

A. REMINDER NOTICE: When the Association has not received an assessment payment within 15 days of the due date (with the exception of regular Assessments which are allowed 31 days after the due date) it is Past Due, and the Owner may be sent a Reminder Notice.

B. LATE CHARGE: A Late Charge on any past due amount shall be levied 15 days after the due date (with the exception of regular Assessments which are allowed 31 days after the due date). The Late Charge shall be the greater of $10.00 or 10% of the Past Due assessment.

C. INTEREST: The Association has the right to collect Interest at an annual interest rate not to exceed 12% on all sums imposed, including the delinquent assessment, reasonable fees and costs of collection, and reasonable attorney's fees, commencing 60 days after the Due Date. In addition to any other costs, the Association may also charge for each past due assessment a flat Collection Fee to cover the manager's administrative costs of collection which shall be established by the Board of Directors.

D. COLLECTION AGENT: At any time after the assessment or charges are not received within 30 days of the Due Date, the delinquent account may be turned over to a Collection Agent, which may be the Association's attorney or a collection agency. Notice will be provided to the owner(s) by First Class Mail, and once the account is turned over to a Collection Agent, the Owner must make payments directly to the Collection Agent. Delays and additional charges may be incurred if payments are directed elsewhere. This requirement will continue until all assessments, costs, fees, and interest have been paid by the Owner and the Owner is current.

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E. PERSONAL DEBT AND LAWSUIT OPTION: The Association may opt to proceed with collection of the delinquency by civil action against the Owner(s) and not the property. If the Association decides to file an action which does not seek foreclosure, it may do so without further notice at any time after the assessment or charges are not received within 30 days of the due date.

III. PRE-LIEN NOTICE

When an assessment (or any portion) remains unpaid 30 days or more after the Due Date, the Association may send the owner a written Pre-Lien Notice, by certified and first class mail, and enclose an itemization of charges and a copy of this Policy. The Pre-Lien Notice shall also include notice of an Owner's right to dispute the debt under Civil Code Sections 1363.810 et seq. and the right to alternative dispute resolution with a neutral third party under Civil Code Sections 1369.510 et seq. The Pre-Lien Notice shall be sent no less than 30 days prior to the filing of a Notice of Delinquent Assessment.

IV. PROBLEM RESOLUTION

A. ASSOCIATION SENDS NOTICE OF RIGHT TO"MEET AND CONFER" (IDR):

There are two window periods during which an Owner will be offered and/or an Owner may request an opportunity to participate in the Association's "meet and confer" process as set forth beginning with Civil Code Section 1363.810. This process is also known as Internal Dispute Resolution or "IDR". Those opportunities are as follows:

1. As described in the pre-lien notice;

2. As described in the notice sent before the Association can initiate foreclosure (i.e. record a Notice of Sale)

B. OWNER REQUEST TO MEET ABOUT A PAYMENT PLAN:

1. Within 15 days of the postmark on the Pre-Lien Notice, an Owner may submit a written request to the Board to meet with the Board to discuss a payment plan. When a payment plan meeting is requested, an Owner will be provided with payment plan standards if those standards exist. The Board shall meet with the Owner in executive session within 45 days of the postmark on that request.

2. If an Owner enters into a Payment Plan and stays in compliance with that plan, late fees will not accrue during the plan period. Interest may continue to accrue at the discretion of the Association. The existence of a payment plan does not impede the Association's right to record a lien to secure the indebtedness.

C. ALTERNATIVE DISPUTE RESOLUTION (ADR):

There are also two times when an Owner will be advised of the window period to request alternative dispute resolution with a neutral third party pursuant to California Civil Code Sections 1368.10 et seq. (ADR) before the Association may initiate foreclosure. Those opportunities are:

1. Set forth in the Pre-Lien Notice;

2. Before the Association initiates foreclosure (records a Notice of Sale) the Owner will be offered the opportunity to participate in ADR and if requested by the Owner, the

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Association shall participate. The decision to pursue dispute resolution and which type (ADR or IDR) is the choice of the Owner. If the Association intends to pursue judicial foreclosure, binding arbitration is not an option.

D. BOARD AUTHORITY. Neither the Management Company nor individual Board Members have the authority to waive any of the late penalties or fees listed above, nor to negotiate a payment schedule different from that stated above. Any deviation to the stated policy must be approved at a duly called Board of Directors meeting with a quorum present.

V. THE LIEN & FORECLOSURE

A. BOARD AUTHORIZATION REQUIRED: If full payment is not received within 30 days after the Pre-Lien Notice, the Association may authorize the recording of a Notice of Delinquent Assessment. The decision to record a Notice of Delinquent Assessment must be made by a majority vote of the Board members in an open meeting. The vote shall be recorded in the minutes of that meeting.

B. NOTICE OF DELINQUENT ASSESSMENT: If the Board authorizes the recording of a Notice of Delinquent Assessment, the Association or its Collection Agent may cause a Notice of Delinquent Assessment to be recorded. Upon recordation, a lien is created. Within 10 calendar days following recordation of the Notice of Delinquent Assessment, a copy shall be mailed by certified and first class mail to all record Owners of the residence, including to any secondary addresses if so provided by the Owner.

C. COLLECTION PROCEEDINGS: If full payment is not received within 30 days of the recordation of the Notice of Delinquent Assessment and the amount of delinquent assessments totals $1,800 or more or the assessments are more than 12 months delinquent, the Association may initiate Foreclosure proceedings or a Lawsuit for damages or undertake any other action allowed by law or equity. Unless otherwise decided by the Board, the collection will be handled as a non-judicial foreclosure, which means that your home could be sold at a foreclosure sale without court action.

While the amount of delinquent assessments totals less than $1,800 or the assessments are less than 12 months delinquent, the Association may attempt to secure or collect the debt by filing a small claims action or by any other manner provided by law, except for judicial or nonjudicial foreclosure.

D. DECISION TO FORECLOSE: The decision to initiate foreclosure will be made only by the Board of Directors. The decision shall be approved by a majority vote taken in executive session and the vote shall be recorded in the minutes of the next meeting of the Board open to all members. The confidentiality of the Owner shall be maintained by identifying the property by the parcel number rather than by the name of the Owner. The vote to approve foreclosure shall take place at least 30 days prior to any public sale. Notice of the Board's decision to foreclose will be provided by personal service to a resident Owner or to the Owner's legal representative. Notice of the decision to foreclose will be mailed by first class mail to a non-resident Owner at the last address provided in writing to the Association.

VI. PAYMENTS

A. OVERNIGHT PAYMENTS: The address for the mailing of ***overnight*** payment of assessments is: Oceana Marin Association c/o Eugene Burger Management Company, 1100 Larkspur Landing Circle, #180, Greenbrae, CA 94904.

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B. APPLICATION OF PAYMENTS: Payments received by the Association shall first be applied to the principal owed, and after the principal owed is paid in full, such payments shall be applied to interest and collection expenses.

C. RETURNED CHECK: An Owner who issues a check to the Association which is returned for any reason, shall pay a $25 charge for processing such check. If the check cannot be negotiated, payment shall be demanded in accordance with California Civil Code Section 1719, which entitles the Association to **treble damages for failure to pay amount of dishonored check.** An Owner shall reimburse the Association for any insufficient funds or other costs incurred in Automated Clearing House (ACH) transactions.

VII. OWNER'S ADDRESS AND MAILING OF NOTICES:

A. OWNER'S SECONDARY ADDRESS: An Owner may notify the Association of a secondary address where collection notices should be sent (in addition to the Owner's primary address). The notification must be in writing and must be mailed to the Association in a manner that will indicate that the Association has received it (i.e., return receipt requested).

B. MAILING OF NOTICES: All notices will be mailed to the Owner(s) of record at the last mailing address provided in writing to the Association by such Owner(s) and any secondary address the Owner has submitted.

It is the intent of the Association to send courtesy late notices as mentioned above. The Association accepts no responsibility for courtesy notices not received by the homeowner. Required notices will be sent as provided by law.

In many ways the failure to pay an assessment is similar to skipping a mortgage payment. The result can be a tedious and expensive exercise. Please make timely payment a priority!

Date: November 2005

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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 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)

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a timeshare 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)

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