

## **Kelly Ridge Estates Owners' Association**

### **DELINQUENT ASSESSMENT COLLECTION POLICY STATEMENT**

1. Regular (Annual) assessments are due, in advance, on the first (1<sup>st</sup>) day of each assessment period (generally on July 1) and delinquent if not received, in full, by the Association within sixty (60) days after the due date, August 31<sup>st</sup> thereof. Special Assessments are due on the date(s) specified upon imposition and each installment thereof shall be delinquent if not received by the Association within fifteen (15) days after it is due. A late charge of ten dollars (\$10.00) or 10% whichever is greater, shall be due on any such delinquent assessment.
2. At the option of the Association, interest shall be due on all such amounts, once due and unpaid for thirty (30) days, at the rate of twelve percent (12%) per annum or 1.2% per month for 10 months starting on September 30<sup>th</sup>.
3. If any portion of any such assessment, late charge, interest or cost of collection remains unpaid ninety (90) days after the original due date thereof, a letter of intent to file a Notice of Delinquent Assessment ("Lien") may be prepared and sent to the record owner(s). Please be advised that the Association has the right to collect all reasonable costs of collection.
4. All such amounts, and all other assessments and related charges thereafter due to the Association until all such amounts are paid, must be paid.
5. If all such amounts have not been received one hundred twenty (120) days after the original due date thereof, a lien may be prepared and recorded as to the delinquent property and the owner(s) thereof, and all resulting collection fees and costs will be added to the total delinquent amount.
6. 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.
7. The Association may not use judicial or nonjudicial foreclosure to enforce that lien if the amount of the delinquent assessments, exclusive of any accelerated assessments, late charges, fees, attorney fees, interest, and costs of collection, is less than one thousand eight hundred dollars (\$1,800), or less than 12 months' delinquent.
8. For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1,800) or more than 12 months' delinquent, the Association may use judicial or

nonjudicial foreclosure subject to the conditions set forth in sections 5700-5740 of the civil code.

9. 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 5600-5740 of the civil code)
10. In a judicial or nonjudicial foreclosure, the Association may recover assessments, reasonable costs of collection, reasonable attorneys' fees, late charges, and interest. The Association may not use nonjudicial foreclosure to collect the 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. (Section 5725 of the Civil Code)
11. The Association must comply with the requirements of Section 5650-5675 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 corrections in order to satisfy the requirements are the responsibility of the Association. (Section 5690 of the Civil Code).
12. 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, a notice that the owner is entitled to ask to meet with the Board of Directors or its representative pursuant to the Association's internal dispute resolution "meet and confer" program, a notice that the owner may request alternative dispute resolution, and all information required by the Civil Code. It must also provide an itemized statement of charges owed by the owner. An owner has a right to review the Association's records to verify the debt. (Section 5650-5675 of the Civil Code)
13. The decision to record a lien for delinquent assessments shall be made only by the Board of Directors in open meeting by majority vote and recorded in the meeting minutes.
14. The decision to initiate foreclosure of a lien for delinquent assessments shall be made only by the Board of Directors. The Board shall approve the decision by a majority vote of the Board members in an executive session. The Board shall record the vote in the minutes of the next Board meeting of the Board, open to all members. The Board shall maintain the confidentiality of the owner's by identifying the matter in the minutes by the parcel number of the property or account number, rather than by the name of the owner(s). A Board vote to approve foreclosure of a lien shall take place at least 30 days prior to any public sale. At some point in time prior to initiating foreclosure, the Board of Directors 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 decision to pursue 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.

15. If the Board of Directors votes to foreclose, the Board of Directors shall provide notice of its decision by personal service to an owner who occupies the separate interest or to the owner's legal representative. If the owner does not occupy the separate interest, said notice will be sent by first-class mail, postage prepaid, to the most current address shown on the books of the Association. In the absence of written notification by the owner to the Association, the address of the owner's separate interest may be treated as the owner's mailing address. In addition, statutory procedures including recorded notices regarding foreclosure and sale will be accomplished.
16. A non-judicial foreclosure shall be subject to a right of redemption. The redemption period shall end 90 days after the sale.
17. 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).
18. The collection practices of the Association may be governed by state and federal laws regarding fair debit collection. Penalties can be imposed for debt collection practices that violate these laws.
19. All payments received by the Association, regardless of the amount paid, will be directed to the oldest assessment balances first, until which time all assessment balances are paid, and then to late charges, interests and costs of collection unless otherwise specified by written agreement.
20. The Association shall charge a "returned check charge" of twenty-five dollars (\$25.00) for all checks returned as "non-negotiable," "insufficient funds," or any other reason.
21. All above referenced notices will be mailed to the record owner(s) at the last mailing address provided in writing to the Association by such owner(s).
22. A member may provide written notice to the Association of a secondary address. If a secondary address is provided, the Association shall send all correspondence and legal notices to both the primary and secondary addresses.
23. The mailing address for overnight payment of assessments is K.R.E.O.A. 5263 Royal Oaks Drive, Oroville CA 95966
24. The Board of Directors of the Association may revise this policy, either generally or on a case by case basis, if it finds good cause to do so.

## PAYMENTS

1. 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 (see above). (Section 5655 of the Civil Code).
2. 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.
3. 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 a 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.
4. 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 5865 of the Civil Code)

## MEETINGS AND PAYMENT PLANS

1. An owner of a separate 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).
2. The Association must inform owners of the standards for payment plans, if any exist. (Section 5665 of the Civil Code)
3. The Board of Directors must meet with an owner who makes a proper written request or a meeting to discuss a payment plan when the owner has received a notice of delinquent assessment. These payment plans must conform to the payment plan standards of the Association, if they exist. (Section 5665 of the Civil Code)

6/16/2017