KENTWOOD HOME GUARDIANS ASSOCIATION
ASSESSMENT COLLECTION POLICY

The effective and prompt collection of assessments is vital to the existence, maintenance and operation of our Association. In compliance with the law, this Collection Policy ("Policy") is distributed to the members of our Association to inform you of our policies and practices in enforcing our legal right to collect assessments from members.

1. Assessments. There is an annual assessment which is due on the first Monday of November each year. Special assessments, if any, will be due according to the terms of the special assessment notice which is governed by the Davis-Stirling Common and the Association's Governing Documents.

2. Delinquent Assessments. Assessments are delinquent 30 days after they are due, or if not received by the first Monday of December each year. A late charge of not to exceed 10% of the delinquent assessment or $10.00, whichever is greater, will be charged for each delinquent assessment, i.e., if payment is not received within 30 days of the due date. In addition, delinquent assessments are subject to interest at the rate of six percent (6%) per annum. Interest on all sums, including assessments, late charges, fees and costs of collection, and attorneys' fees shall accrue from the time the delinquent assessment is 30 days past due, and shall continue to accrue on the unpaid balances until the account is paid in full.

3. Owner's Obligation to Pay Assessments and Charges. Regular and special assessments, together with late charges, fees and costs of collection, attorneys' fees, and interest, as determined in accordance with Civil Code §5650(b), are a debt of the owner of the separate interest at the time that the assessment or other sums are levied. (Civil Code §5650(a).) Because these assessments and related charges constitute a personal obligation of each owner, the Association has a right to look to the owner, personally, to pay the debt and may pursue collection of that debt in a court action. If you become delinquent in the payment of your assessment obligations and a lien is recorded against your property, the Association may seek recovery of the delinquent assessment from the sale of your unit in foreclosure.

a) *Address for Overnight Payment.* The Association's address for overnight payments of assessments is the mailing address of the Association as may be established by the Board of Directors from time to time. Please make payments payable to Kentwood Home Guardians Association and mail overnight payments to:

C/O Action Property Management
P.O BOX 25013
Santa Ana, CA 92799

b) *Receipt of Payment*. When an owner makes a payment, the Association shall provide a receipt upon an owner's request.

c) *Returned Checks*. Returned checks are subject to a service fee.

4. Notice of Assessment Lien. When assessments become delinquent by more than 30 days, the Association may send the owner a pre-lien letter advising the owner of the delinquency and requesting immediate payment.

a) *Cost to Prepare and Send Notice*. The owner will be charged the actual cost charged by the Association's manager or attorney for preparing and sending this letter. The amount charged will be specified in the pre-lien letter.

b) *Service of Notice*. The pre-lien letter shall be sent by certified mail to the owner's last known mailing address provided to the Association. If the delinquent owner has provided a written notice to the Association of a secondary address, all notices shall be sent to that address also. Otherwise, the unit address shall be deemed the correct address for all purposes.

c) *Contents of Notice*. The pre-lien letter will include the following information as well as any other or different information as required by the law:

i. A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount that is claimed to be owed;

ii. A statement that the notified owner has the right to inspect the Association's records pursuant to Civil Code §5205;

iii. A statement in 14-point boldface type (or capital letters if typed): "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."

iv. An itemized statement of the charges owed by the owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorneys' fees, any late charges, and interest, if any;

v. A statement that the owner shall not be liable to pay the charges, interest and costs of collection, if it is determined that the assessment was paid on time to the Association;

vi. A statement that the notified owner has a right to meet with the board as provided in Civil Code §5665 and as more fully described in paragraph 6, below;

vii. A statement that the owner has the 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 by Civil Code §5900 et seq.; and

viii. A statement that the owner has the right to request alternative dispute resolution with a neutral third party pursuant to Civil Code §5925 et seq. before the Association may initiate foreclosure against the owner's separate interest, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

5. Application of Payments. Any payments made by the owner of a separate interest toward a debt for a regular or special assessment and any late charges, reasonable fees and costs of collection, reasonable attorney's fees, if any, and interest, if any, shall first be applied to the assessments owed, and, only after the assessments owed are paid in full shall the payments be applied to the fees and costs of collection, attorney's fees, late charges, or interest. (Civil Code §5655.)

6. Owner's Rights. On receipt of the pre-lien letter described in paragraph 4, the noticed owner has the following rights:

a) *Payment Plan*. The noticed owner may submit a written request to meet with the board to discuss a payment plan for the debt noticed. (Civil Code §5665.)

i. 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 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 directors to meet with the owner.

ii. Payment plan requests shall be considered on a case-by-case basis. The board reserves the right to decline an owner's request.

iii. Payment plans may incorporate any assessments that accrue during the payment plan period. Additional late fees shall not accrue during the payment plan period if the owner is in compliance with the terms of the payment plan.

iv. In the event of a default on any payment plan, the association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

v. Payment plans shall not impede an association's ability to record a lien on the owner's separate interest to secure payment of delinquent assessments.

b) *Meet and Confer Program*. The noticed owner may dispute the assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Association's "meet and confer" program. If none exists, then the following shall apply pursuant to Civil Code §5915:

i. The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.

ii. A member of the Association may refuse a request to meet and confer. The Association may not refuse a request to meet and confer.

iii. The Association's Board shall designate a Director to meet and confer.

iv. The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute.

v. A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the board designee on behalf of the Association.

vi. An agreement reached by the parties in the meet and confer process shall bind the parties and is judicially enforceable if both the following conditions are satisfied:

1. The agreement is not in conflict with law or the governing documents of the common interest development or Association

2. The agreement is either consistent with the authority granted by the board of directors to its designee or the agreement is ratified by the board of directors.

vii. A member of the Association may not be charged a fee to participate in the process.

c) *Alternative Dispute Resolution*. The noticed owner has the right to request alternative dispute resolution with a neutral third party pursuant to Civil Code §5925 et seq.

7. Payment under Protest. If a dispute exists between the owner of a separate interest 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 cost, or monetary penalty imposed as a disciplinary measure, and the amount in dispute does not exceed the jurisdictional limits of the small claims court stated in Sections 116.220 and 116.221 of the Code of Civil Procedure, the owner of the separate interest may, in addition to pursuing dispute resolution pursuant to Civil Code §5925, et seq., 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, pursuant to Civil Code §5650(b), and commence an action in small claims court pursuant to Code of Civil Procedure §116.110, et seq.

8. Association's Collection Rights. The Association's debt collection procedures are as follows:

a) *Assessments Less Than $1,800 and 12 Months Delinquent or Less*. If the amount of the unpaid regular or special assessments is both less than one thousand eight hundred dollars ($1,800), not including any accelerated

assessments, late charges, fees and costs of collection, attorney's fees, or interest, and twelve (12) months delinquent or less, the Association may attempt to collect or secure that debt in any of the following ways:

i. If the delinquent assessments, late charges, interest, and all costs of collection, including attorney's fees, are not paid in full within thirty (30) days of the pre-lien notice, by recording a lien on the owner's separate interest, but may not initiate judicial or nonjudicial foreclosure on the lien until (1) 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 one thousand eight hundred dollars ($1,800) or the assessments secured by the lien are more than twelve (12) months delinquent.

ii. By filing a civil action in small claims court. If the Association chooses to proceed by an action in small claims court, and prevails, it may enforce the judgment as permitted by law as provided in Code of Civil Procedure, §116.810, et seq. The amount that may be recovered in small claims court to collect upon a debt for delinquent assessments may not exceed the jurisdictional limits of the small claims court and shall be the sum of the following:

    1. The amount owed as of the date of filing the complaint in the small claims court proceeding.

    2. In the discretion of the court, an additional amount to that described in subparagraph (1) equal to the amount owed for the period from the date the complaint is filed until satisfaction of the judgment, which total amount may include accruing unpaid assessments and any reasonable late charges, fees and costs of collection, attorney's fees, and interest, up to the jurisdictional limits of the small claims court.

iii. By any other manner provided by law, except for judicial or nonjudicial foreclosure.

b) *Assessment of at Least $1,800 or More Than 12 Months Delinquent*. If the amount of the unpaid regular or special assessments is one thousand either hundred dollars ($1,800) or more, not including any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, the Association may attempt to collect or secure that debt in any of the following ways:

i. If the delinquent assessments, late charges, interest, and all costs of collection, including attorney's fees are not paid in full within thirty (30) days of the pre-lien notice, by recording a lien on the owner's separate

interest and, if desired, initiating either judicial or nonjudicial foreclosure on the lien.

ii. Collect the delinquent assessments, late fees, interest, and all costs of collection, by filing a legal action in small claims court or superior court. An abstract of any judgment in favor of the Association may be recorded and may affect the owner's credit.

iii. By any other manner provided by law.

c) *Board Decision to Record Lien*. The decision to record a lien for delinquent assessments shall be made only by the board and may not be delegated to an agent of the association. The Board shall approve the decision by a majority vote of the directors in an open meeting. The Board shall record the vote in the minutes of that meeting. In voting and recoding the vote in the minutes, the Board shall referring to the property by lot/tract or parcel number, not the owner's name. (Civil Code §5673.)

d) *Fee Incurred to Prepare and Record Lien*. The Owner will be charged the actual cost the Association incurs for the preparation and recording of the lien. This amount includes the cost of releasing the lien upon verification of payment in full.

e) *Lien Contents*. The recorded copy of the lien (notice of delinquent assessment) must include the following information:

i. The amount of the assessment and other sums imposed in accordance with Civil Code §5650(b);

ii. A legal description of the owner's separate interest in the common interest development against which the assessment and other sums are levied;

iii. The name of the record owner of that separate interest in the common interest development against which the lien is imposed;

iv. If the lien is to be enforced by nonjudicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale.

The itemized statement of the charges owed by the owner, as described in Civil Code §5660(b) shall be recorded together with the notice of delinquent assessment.

The notice of delinquent assessment shall be signed by the person designated in the Declaration or by the Association for that purpose, or if no one is designated, by the president of the Association.

A copy of the recorded notice of delinquent assessment shall be mailed by certified mail to every person whose name is shown as an owner of the separate interest in the Association's records, and the notice shall be mailed no later than 10 calendar days after recordation.

9. Release of Lien upon Payment. Within 21 days of the payment of the sums specified in the notice of delinquent assessment, the association shall record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the owner of the separate interest a copy of the lien release or notice that the delinquent assessment has been satisfied.

10. Pursuit of Nonjudicial Foreclosure to Collect Assessments. After the expiration of 30 days following the recording of a lien created pursuant to Civil Code §5675, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Civil Code §2934a. (Civil Code §5700(a).) Any sale by a trustee in a nonjudicial foreclosure must be conducted in accordance with Civil Code §§5710, 2924, 2924b, and 2924c, applicable to the exercise of powers of sale in mortgages or deed of trusts, and the fees of the trustee may not exceed the amounts prescribed in Civil Code §§ 2924c and 2924d. (Civil Code §5910.)

11. Alternative of Pursuing Collection in a Small Claims Court Proceeding. Instead of pursuing lien and foreclosure remedies, the Association may sue delinquent owners personally, or to take a deed in lieu of foreclosure on account of delinquent assessments. (Civil Code §§ 5700(b) and 5720(b)(1) and (3).)

12. Annual Notice to Members of Assessment and Assessment Collection Rules. The Association shall distribute its collection policy to each member no less than 30 days or more than 90 days immediately preceding the beginning of the Association's fiscal year.

13. Notice Required by Civil Code §5730. This notice is intended to comply with the Association's obligation to provide an annual policy statement to the members. It is in 12-point font as required by the code.

"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 Article 3 (commencing with Section 5700) of Chapter 8 of Part 5 of Division 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 5700 through 5720 of the Civil Code, inclusive)

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 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's 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 payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Section 5655 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 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.

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. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 5665 of the Civil Code)"

14. Fair Debt Collection Statutes. 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.