

# **San Juan Vista Landowner's Association**

## **Policy for Collection of Delinquent Assessments**

**(Effective January 1, 2014)**

### **Policy Background:**

New Colorado legislation (House Bill HB 13-1276) became effective January 1, 2014 that established additional requirements to be followed by Home Owner's Associations (HOA's) regarding the subject of debt collection. The new requirements center around requiring the HOA's to establish a policy for the collection of assessments and to communicate that policy to the HOA members.

It is vital to the effective administration of the Association that assessments and other charges to members be paid in a timely manner. Late or non-paying members place an unfair burden on members who pay on time. The Association must collect past due assessments in order to continue to serve the community well and efficiently.

In response to HB 13-1276, the SJVLOA Board has adopted the policy shown below ... and is now providing this information to all Landowners.

### **Policy Procedures & Requirements:**

**Definitions:** "Assessments" include Dues and Road Impact Fees as defined in the Covenants, other Association governing documents, and as defined under Colorado statute, as well as any special assessments imposed by the Association, other associated fees, charges, late charges, attorney fees, fines, penalties and interest. Without limiting the generality of the foregoing definition, Assessments also include items such as costs for snowplowing and filing of Water Rights that were paid by the Association and to be reimbursed to the Association by the requesting member. All Assessments are due within 60 days from the date of billing, unless otherwise stated in the billing. An Assessment is "delinquent" or "past-due" if it remains unpaid after said 60 day time frame or after the date specified in the billing.

**Collecting Delinquent Assessments:** The Association, through the Board of Directors, may initiate collection proceedings at any time after any Assessment payment becomes delinquent, subject to the following policy. The Board, in its sole discretion, consistent with state law, and in light of the relevant facts and circumstances, may choose to employ any one or more of the following means in seeking collection, at any time after a payment is past due.

1. For all Assessments that are delinquent for thirty days or more: A one-time late fee will be charged on each Assessment once it becomes past due. The late fee is \$25 for the first delinquency, increasing by \$25 for each delinquency in subsequent years. The Board, in its sole discretion, may waive the late fee if the facts and circumstances so justify a waiver. A fee of \$45 will be charged for returned checks. The amount of the delinquent Assessment will incur interest at the rate as set under Colorado statutes, currently 8% per annum from the date of delinquency. The late fees, returned check fees and accrued interest shall be added to the total delinquent

Assessment amount and shall become a continuing lien upon the land as provided in the Covenants, or as provided under Colorado law. At this stage, the Board will send a late-notice letter to the delinquent member explaining all the following:

- a. Total amounts owed, with an accounting of how the total was determined.
  - b. A one-time offer of the opportunity for the delinquent member to enter into a payment plan, under which the total delinquent amount is fully paid off in equal installments over a six-month period. The payment plan option is not available to a member who has previously been in a delinquent status or who has previously entered into a payment plan with the Association. Failure to comply with the terms of the payment plan shall immediately trigger the next step of the collections process described in (c), below. A fee of \$50 will be charged and become part of the total delinquent amount to cover the accounting expenses of the payment plan.
  - c. The late-notice letter will specify that if a delinquent member fails to cure the entire delinquency or does not enter into a payment plan, within 30 days of the date of the late-notice letter, or at anytime fails to comply with the terms of the payment plan, the Association's Board, by recorded vote, will consider initiating collection action as stated in Section 2, below.
  - d. The late-notice letter will give the contact information of the association representative that the member may contact to verify the amount of the debt and to inform as to the member's acceptance or rejection of the payment plan option.
  - e. The late-notice letter will be the only written notice from the Association prior to undertaking collection action.
2. Upon the failure of a delinquent member to cure the entire delinquency, to enter into a payment plan or to comply with the terms of a payment plan, the Association Board, by recorded vote, may refer the delinquent account to its attorney for further actions as necessary. These actions may include, but are not limited to; filing a lien on the property, filing a lawsuit against the delinquent member, foreclosure of the Assessment lien, or other such actions as may be recommended by the Association's attorney and approved by recorded vote of the Board. Additional penalties and fees will be no less than \$150 to cover the Association's cost, and the delinquent member will additionally be responsible for all legal fees and costs involved in the collections process. Should the Association initiate collection action under this policy, all further communication regarding the delinquent account will be between the delinquent member and the Association's attorney or designated representative only until resolution. Also, at the discretion of the Board, the voting privileges of the delinquent member may be suspended by recorded vote of the Board.

END OF POLICY