

# Estates at Bromley Homeowners Association



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## Collection Policy and Procedure

### 1. Due Dates, Late Charges, Interest and Lien:

- a. **Due Dates:** Quarterly dues (regular annual assessments) are due on the 1st day of each Quarter of each year (January, April, July and October). Special assessments are due on specified date.
  - i. Payments will be deemed received on the date the payment is received.
  - ii. Any assessment not paid in full when due will be considered past due and delinquent.
    1. Payments received after the 1<sup>st</sup> of the quarter even if they are received before the 15<sup>th</sup> day late payment grace period are considered past due and could accrue interest.
- b. **Late Charge:** A \$45 late charge will be imposed for any assessment, fine or other charge not paid within 15 days of the due date without further notice to the Owner.
- c. **Interest:** Interest at the rate of 18% per annum will accrue on any delinquent assessment, fine or other charge from the due date without further notice to the Owner.
  - i. Interest may be added to the Owner's account 30 days following the due date.
- d. **Lien:** Under Colorado law and the terms of the Master Declaration of Covenants, Conditions and Restrictions for Estates and Bromley Subdivision ("Declaration"), there is a lien for any unpaid assessment.
  - i. The Association reserves the right to record a notice of lien in the county records at any time after an assessment becomes delinquent.
  - ii. The Board delegates authority to the Association's attorney to sign and acknowledge the notice of assessment lien.
  - iii. This delegation may be withdrawn at any time by sending written notice to the Association's attorney of the withdrawal.

### 2. Return Check Charges:

- a. If any check (or other Instrument payable to or for the benefit of the Association) is not honored by the bank or is returned by the bank for any reason, including, but not limited to Insufficient funds, the Owner is liable to the Association for one of the following amounts, at the option of the Association:
  - i. An amount equal to the face amount of the check, draft, or money order and a return check charge of \$20,00 or an amount equal to the actual charges incurred by the Association levied by the party returning the check, whichever is greater; or
  - ii. If notice has been sent as provided in C.R.S. § 13-21-109 and the total amount due as set forth in the notice is not paid within 15 days after such notice is given, the person Issuing the check, draft or money order will be liable to the Association for three times the face amount of the check, but not less than \$100.00.
- b. If two or more of an Owner's checks are returned within any fiscal year, the Association may require that future payments, for a period of one year, be made by certified check or money order.

3. **Attorney Fees and Collection Costs:** The Association is entitled to recover its reasonable attorney fees and collection costs incurred in collecting assessments or other charges due the Association from a delinquent Owner pursuant to the terms of the Declaration and Colorado law. Attorney fees Incurred by the Association is considered part of the assessments and due and payable immediately upon demand.

4. **Application of Payments.** All payments received on account of any Owner or the Owner's property, may be applied:
  - a. first to post-Judgment attorney's fees, costs and expense;
  - b. then to costs and attorney's fees not reduced to a judgment;
  - c. then to interest;
  - d. then to late charges;
  - e. then to return check charges;
  - f. then to fines and other amounts levied pursuant to the Declaration;
  - g. then to delinquent assessments;
  - h. then to current assessments not reduced to judgment;
  - i. and finally to amounts reduced to judgment.
  
5. **Notice.** The Association may send delinquency notices to Owners. However, before the Association turns over a delinquent account of an Owner to a collection agency or refers it to an attorney for legal action, the Association must send the Owner a notice of delinquency specifying:
  - a. The total amount due, with an accounting of how the total was determined;
  - b. Whether the opportunity to enter into a payment plan exists as provided in this collection policy, and instructions for contacting the Association to enter into a payment plan, if available;
  - c. The name and contact information for the individual the Owner may contact to request a copy of the Owner's ledger to verify the amount of the debt; and
  - d. A statement that action is required to cure the delinquency and that failure to do so within 30 days may result in the Owner's delinquent account being turned over to a collection agency, a lawsuit being filed against the Owner, the filing and foreclosure of a lien against the Owner's property, or other remedies available under Colorado law.
  
6. **Payment Plans.** The Association will make a good faith effort to coordinate with the Owner to set up a payment plan. An Owner may enter into a payment plan to pay off a deficiency in equal installments over a minimum period of six months or such other period as authorized by the Board.
  - a. If the Owner fails to comply with the terms of the payment plan (fails to remit payment of an agreed-upon installment or fails to remain current with regular assessments as they come due during the payment plan term), the Association may pursue legal action subject to the notice requirements above.
  - b. The Association is not obligated to negotiate a payment plan with:
    - i. an Owner who has previously entered into a payment plan pursuant to this policy, or
    - ii. an Owner who does not occupy the Lot and acquired the Lot because of a default of a security interest encumbering the Lot or a foreclosure of the Association's lien.
  - c. All payment plans involving accounts referred to an attorney for collection will be set up and monitored through the attorney in consultation with the President of the Board or other person designated by the Board.
  
7. **Notices: Use of Certified Mail/Regular Mail:** Notices will be sent to the Owner's registered mailing address. If the Association sends a collection or demand letter or notice to a delinquent Owner by regular mail, the Association may, but is not required to, send an additional copy of that letter or notice by certified mail.
  
8. **Referral of Delinquent Accounts to Attorneys:** After an account has been referred to the Association's attorney, the account remains with the attorney until it is settled, has a zero balance or is otherwise resolved.
  - a. Owners will make payments to the Association at the attorney's address.
  - b. The Association's attorney is authorized to take whatever action is necessary, in consultation with the Board President or other person designated by the Board, believed to be in the Association's best interest.
  - c. After a delinquent account has been referred to the Association's attorney, all communication with the delinquent Owner will be handled through the Association's attorney.

- d. Action by the Association's attorney may include the following:
  - i. **Notice of Lien:** If not already recorded, a notice of lien may be recorded against the delinquent Owner's property to provide record notice of the Association's claim against the property.
  - ii. **Filing Lawsuit:** The Association may file a lawsuit against the delinquent Owner seeking a money Judgment.
    - 1. If a personal judgment is entered against the delinquent Owner, the Association may pursue remedies such as garnishing the Owner's wages or bank account to collect Judgment amounts.
  - iii. **Judicial Foreclosure:** The Association may foreclose on its lien in lieu of or in addition to suing an Owner for a money Judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or in other circumstances that may favor such action.
    - 1. If the Association forecloses on its lien, the Owner will lose the Owner's Lot, having the same effect as if a first mortgagee institutes a foreclosure action against the property (though the procedure is different).
    - 2. The Association will not commence a judicial foreclosure action unless the balance of the assessments and charges secured by its lien (which may include late fees, fines and other charges as well as other assessments) equals or exceeds six months of common expense assessments based on the Association's periodic budget.
    - 3. Prior to filing a foreclosure action, the Board will resolve by a recorded vote to authorize the filing of the foreclosure action against the particular Lot against which the foreclosure action will be filed.
  - iv. **Receivership:** A receiver is a disinterested person, appointed by the court, who manages rental of the Owner's property, and collects the rents according to the court's order. The purpose of a receivership for the Association is to obtain payment of current assessments, reduce past due assessments, and prevent waste deterioration of the property.
  - v. **Bankruptcy Filings:** Filing necessary claims, documents, and motions in Bankruptcy Court to protect the Association's claim.
- 9. **Certificate of Status of Assessment/Estoppel Letter:** The Association will furnish to an Owner or such Owner's designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against the Owner's Lot.
  - a. The statement will be delivered within 14 calendar days after receipt of the request personally or by certified mail, first-class postage prepaid, return receipt requested for a reasonable fee not to exceed \$25.
  - b. If the Owner's account has been turned over to the Association's attorney, the statement will include any attorney fees incurred in providing the statement.
- 10. **Bankruptcies and Public Trustee Foreclosures:** Upon receipt of any bankruptcy notice or a foreclosure notice by any holder of an encumbrance against any Lot within the Association, the Association may advise the Association's attorney of the same and turn the account over to the Association's attorney.
- 11. **Waivers:** The Association may modify these procedures as the Association determines appropriate under the particular circumstances. Any accommodation may be documented in the Association's files. Failure to require strict compliance with this policy is not deemed a waiver of the Association's right to require strict compliance and will not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this policy.