HARRISON MILL

"What are you prepared to do?"

Harrison Mill Homeowners Association, Inc.
Collections Process Frequently Asked Questions

.

RESPONDING TO COLLECTION LETTERS

Any number of things can happen to cause a homeowner to fall behind on his assessment payments. Like any other obligation there are ways to handle delinquencies that produce a win-win situation. That, however, places the burden on the homeowner to take this obligation seriously and to respond promptly to letters from the Association and it's agents who are charged with the responsibility to collect assessments.

Frequently Asked Questions:

Q: What establishes my responsibility to pay dues to the HOA?

A: The governing documents are the primary authority that regulates not only your responsibility to pay but how much. Virtually all governing documents require the board of directors to fund the Association at necessary levels to meet its obligations. These obligations normally include common area maintenance, reserves, insurance, and in many cases, security, landscape and other items. The Board of Directors has a fiduciary duty outlined in the documents as well as in the civil codes to properly fund to meet obligations. The Georgia Property Owners Act and our covenants, which helps to regulate how Associations function, also has very strict requirements not only to fund, but also to collect the assessments from homeowner members of the Association.

Q: How do I know how much my assessments are, and how is that determined?

A: The association is required to develop an annual budget and to distribute it to the members. The annual dues are outlined in this document. The Board of Directors, because of its duty to fund the Association properly, has the authority under the law to raise assessments each year to fund proper HOA operations. This law was designed to give the board sufficient authority to fund operations without having to appeal to homeowners to raise assessments. In addition the Board also has authority to levy special assessments not to exceed 5% of the operating budget without owner approval. This is generally done meet obligations of an emergency or unforeseeable nature.

Q: Is my obligation to pay assessments enforceable?

A: Not only is it enforceable, but people have lost their homes over failure to pay their assessments. Virtually all governing documents, which are recorded as part of your property ownership, have provision for the Association to use whatever means possible to collect your assessments. That includes foreclosing on your home if you don't pay them, and in a relatively short time - as early 90 days to 180 days. That means that if you are five months behind on your assessments of $125 you can lose your $250,000 home over $500.00 of delinquencies. The law is very strict on this topic and the Association has almost as much authority to put you in foreclosure as does your mortgage holder.

Q: Are there procedures for collecting assessments?

A: Absolutely, and the Association is required to follow them. The law protects you against capricious actions by the Association and it requires each homeowner to be treated the same way regarding collections. Most Associations publish their Assessment Collection Policy each year to the members as part of their annual disclosure responsibility. Whether you saw or read these documents doesn't excuse your responsibility to pay your dues. If you want a copy of any Association policy you need to simply ask. Most delinquency policies are published along with the annual budget.

Q: Is there a penalty for not paying my assessments?

A: Yes. The Association assesses a late payment fee much like your credit cards. Some even add interest in addition to the fee. These fees are outlined in the Delinquency Policy.

Q: Am I turned over to a collection agency if I don't pay my dues?

A: Yes. Generally, the Treasurer will assess a late penalty or interest depending on what the Board of Directors requires per policy. We will give members the benefit of the doubt for up to ninety days. Perhaps you are out of town, didn't have the money, forgot or simply just didn't write the check. We make no inquiries why you don't pay your dues. However, late fees and penalties are assessed each month, per policy. If your dues go farther behind than 90 days you are generally referred to the collection agency under contract with the HOA.

Q: How does the process change once it's turned over to a collection agency?

A: Once your account is turned over to the collection agency you will need to direct all calls, correspondence and payments to the collection agency until your account is at a zero balance again. It is important that you follow this procedure because if you don't it will cause delays which can cost you more money for collection activities that could have been avoided.

During collection you will not receive your normal billing statement, rather all communications and balance information will be sent or communicated to you by the collection agency. So again we stress that it is important that you contact them directly and immediately, they are there to help you resolve your delinquency.

The collection agency is subject to the Fair Debt Collection Practices Act and applicable Georgia law. It has parameters to use to collect your delinquent dues. It can check your credit, determine your assets, run title searches on your property and even foreclose on your home by forcing it to public sale through non-judicial foreclosure.

The collection agency also has fees for their service all of which are added to your account. This can be very expensive and cause a $130 delinquency to turn into a $410 delinquency instantly. The law recognizes and supports these fees as legitimate and you are obligated to pay them.

Q: What if I get a notice from the collection agency or an attorney and I simply can't pay?

A: Call them immediately and explain your situation. We don't want to foreclose on anyone's home. If you cooperate the collection representatives can work out a payment plan to help you get back on track. We encourage these plans because we realize that people's lives go through cycles of job loss, financial setbacks, etc. This is life. But to ignore collection activity regarding past due assessments is really bad judgment because you can lose your home over it. This is serious business and you need to recognize it as such. The collection people our Association uses are very knowledgeable and helpful. They don't start the process by making you feel like a deadbeat. They assume you aren't and make no judgments as long as you respond to their inquiries and, if an agreement is made with you for payment, that you in fact honor the agreement.

Q: What if I can't make an arrangement with the collection agency that meets my ability to pay?

A: The ball remains in your court to make the initial call to discuss your situation. If your financial situation requires a payment plan that will exceed the authority granted to the collection agency they will facilitate the process to get your written appeal to the Board of Directors so that the Board can consider your proposal. Then they will provide the Board's decision to you in writing and will work with you in resolving the account. Late fees and expenses will continue to be charged to your account until all fees are paid. The Association may also suspend your right to use common areas and to vote on Association matters.

Q: What if I simply refuse to pay in dispute of the process?

A: The law is very clear on this matter. Basically it states that you need to pay the account in full under protest and then challenge the assessment. For a copy of the law and the procedure in which disputes are handled, you can contact the collection agency and they will be happy to provide it to you at no charge.

Q: Can I withhold my assessments because of something like an enforcement issue or disagreement about a maintenance item or other policy matter?

A: Again, the law is very clear on this matter and states that an owner may not withhold assessments owed to the association on the grounds that the owner is entitled to recover money or damages from the association for some other obligation. Regardless of your dispute, even if you were current on your assessment when you started the dispute you will be assessed late penalties and fines during all months you do not pay and eventually sent to collections. You are then subject to all the collection avenues identified above.

Q: What if I lose my home in foreclosure and unpaid assessments remain due?

A: If you lose your home through foreclosure by the mortgage company, the debt then becomes a personal obligation subject to collection against you personally, including a judgment against you and garnishment of wages.