

The Farm Property Owners Association

Assessment Delinquency Collection Policy Effective November 10, 2016

The following policy has been adopted by the Board of Directors of The Farm, Property Owners Association (hereinafter, the "Association") to ensure timely payment of assessments by all owners. Assessments, late charges, interest and collection costs, including any attorneys' fees, are the personal obligation of the owner of the property at the time the assessment or other sums are levied (Civil Code Section 5650).

This policy will be used by the Association, pursuant to the CC&Rs and Civil Code Section **5310(a)(7)**, for the prompt enforcement of each owner's assessment payment obligation. Your full understanding and compliance is appreciated.

1. Regular monthly assessments are due and payable on the first day of each month. **It is the owner's responsibility to pay each assessment in full each month.** All other assessments, including special assessments, are due and payable on the date specified by the Board on the Notice of Assessment, which date is **at least** thirty (30) days after the date of notice of the special assessment.
2. Assessments not received within fifteen (15) days of the stated due date are delinquent and shall be subject to a late charge of \$10, or ten percent (10%) of the delinquent assessment, whichever is greater.
3. An interest charge at the rate of twelve percent (12%) per annum will be assessed against any outstanding balance, including delinquent assessments, late charges and cost of collection, which may include attorneys' fees. Such interest charges shall accrue thirty (30) days after the assessment becomes due and shall continue to be assessed each month until the account is brought current.
4. If a special assessment is payable in installments and an installment payment of that special assessment is delinquent for more than thirty (30) days, installments may be accelerated and the entire unpaid balance of the special assessment may become immediately due and payable. The remaining balance shall be subject to a late charge and interest as provided above.
5. A first notice of past due assessment ("late letter") will be prepared and mailed once an assessment becomes delinquent. Any charge for the late letter will be made against the delinquent owner's account.
6. Pursuant to **Civil Code Section 5655**, any payments made are first applied to assessments owed, and only after the assessments owed are paid in full, shall such payments be applied to late charges, interest, and collection expenses, including attorneys' fees.

7. If an assessment is not received within fifteen (15) days after the assessment becomes delinquent, the Association or its designee, in the event the account is turned over to a collection agent, may send a pre-lien letter to the owner as required by Civil Code Section 5660. The pre-lien letter will be delivered by certified and first class mail to the owner's mailing address of record and will advise the owner of the delinquent status of the account and impending collection action. The owner will be charged a fee for the pre-lien letter. Notwithstanding the provisions of this Paragraph, the Association may (i) send a pre-lien letter to a delinquent owner at any time when there is an open escrow involving the owner's Unit, and/or (ii) issue a pre-lien letter immediately if any special assessment becomes delinquent. The owner will be charged all fees and costs of preparing the pre-lien letter.
8. **Pursuant to Civil Code Section 5670, prior to recording a lien for delinquent assessments, the Association shall offer the owner, and if so requested by the owner, participate in dispute resolution pursuant to the Association's "meet and confer" program.**
9. If an owner fails to pay the amounts set forth in the pre-lien letter within thirty (30) days of the date of that letter, the Association will proceed to cause a lien to be recorded for the amount of any delinquent assessments, late charges, interest and/or costs of collection, including attorneys' fees, against the owner's property. The owner will be charged all fees and costs of preparing and recording the lien. Thirty (30) days following recordation of the lien, 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 Section 2934a (Civil Code Section 5700).
10. In the event the lien is foreclosed judicially, additional costs secured by the lien shall include reasonable attorney's fees and court costs, title search fees, interest at the maximum legal rate allowed by law from the delinquency date, late charges, and all other fees, costs and expenses incurred in such action, and shall be allowed to the extent permitted by law.
11. **Pursuant to Civil Code Section 5705, prior to initiating foreclosure for delinquent assessments, the Association 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 or a particular type of alternative dispute resolution shall be the choice of the owner, except that binding arbitration shall not be available if the Association intends to pursue judicial foreclosure.**
12. An owner is entitled to inspect the Association's accounting books and records to verify the amounts owed pursuant to Corporations Code Section 8333.

13. In the event it is determined that the owner has paid the assessments on time, the owner will not be liable to pay the charges, interests, and costs of collection associated with collection of those assessments.
14. Any owner who is unable to pay assessments will be entitled to make a written request for a payment plan, within fifteen (15) days of the pre-lien letter postmark date. **Payment plan requests that are mailed within fifteen (15) days of the pre-lien letter postmark date will be considered by the Association's Board of Directors within forty-five (45) days, 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. (Civil Code Section 5665)**
15. **Any written request for a payment plan must set forth the proposed terms of the plan including the date on which each payment in the proposed plan will be due and the amount of each payment. The proposed payments must be sufficient to cover the amount of the current monthly assessment and pay a portion of the past due balance. Additional late fees shall not accrue during the payment plan period if the owner is in compliance with the terms of the payment plan.**
16. Nothing herein limits or otherwise affects the Association's right to proceed in any lawful manner to collect any delinquent sums owed to the Association.
17. Prior to the release of any lien, or dismissal of any legal action, all assessments, late charges, interest, and costs of collection, including attorneys' fees, must be paid in full to the Association. **Within twenty-one (21) days of the payment of all past due sums, the Association shall record or cause to be 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.**
18. The Association shall charge the owner a twenty-five dollars (\$25.00) fee for the first check tendered to the Association that is returned unpaid by the owner's bank and thirty-five dollars (\$35.00) for each subsequent check passed on insufficient funds. If the check cannot be negotiated, the Association may also seek to recover damages of at least one hundred dollars (\$100.00), or, if higher, three (3) times the amount of the check up to one thousand five hundred dollars (\$1,500.00) pursuant to Civil Code Section 1719.
19. All charges listed herein are subject to change upon thirty (30) days' prior written notice.
20. Until the owner has paid all amounts due, including delinquent assessments, late charges, interest and costs of collection, including attorneys' fees, the Board of Directors may suspend the owner's right to vote, and suspend the owner's right to use the Association's recreational facilities after providing the owner with a duly noticed hearing pursuant to Civil Code Section 5855. However, any suspension

imposed shall not prevent the delinquent owner from the use, benefit and pleasure of the owner's unit.

21. There is no right of offset. An owner may not withhold assessments owed to the Association, including under claims that the owner is entitled to recover money or damages from the Association for some other obligation.
22. Owners have the right to provide a secondary address for mailing for purposes of collection to the Association. The owner's request shall be in writing and shall be mailed to the Association in a way that shall indicate that the Association has received it. An owner may identify or change a secondary address at any time, provided that, if a secondary address is identified or changed during the collection process, the Association shall only be required to send notices to the indicated secondary address from the point the Association receives the request.
23. **In accordance with Civil Code Section 5655**, the following mailing address is provided for overnight payment of assessments:

The Farm Property Owners Association
c/o Accounting Department
33430 Harvest Way
Wildomar, California, 92595

24. **Notice of Assessments and Foreclosure.** The Notice of Assessments and Foreclosure **required by Civil Code Sections 5730** is contained in Attachment "A" to this Policy.
25. **Fair Debt Collection Practices Act.** The disclosures required by the State Rosenthal Fair Debt Collection Practices Act and the Federal Fair Debt Collection Practices Act are contained in Attachment "B" to this Policy.

ATTACHMENT "A"
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.

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.

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.

ATTACHMENT "B"

The following Disclosure is made pursuant to Civil Code Section 1812.700-1812.703

“The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.”