

AGENDA
PINE MOUNTAIN CLUB PROPERTY OWNERS' ASSOCIATION, INC
BOARD OF DIRECTORS' – REGULAR MEETING
SATURDAY, MARCH 16, 2024
10:00 AM – CONDOR ROOM

Members in good standing are free to speak on a specific item on today's Agenda when the Chairman calls for discussion. If there is an item that is not on the agenda that an individual wish to present, the appropriate time for the presentation is during the Member Forum. This meeting is being recorded to allow members in good standing who could not attend to view the meeting at a later date and to aid the recording secretary in preparing the minutes of the meeting. Members will observe rules of decorum. The speaker will address the chairman and speak only to the matter under consideration. Members will refrain from being argumentative and making derogatory or personal remarks or gestures. Members will turn off or silence all cell phones or communication devices while attending the meeting.

I. CALL TO ORDER

_____ Cameron Acosta	_____ Jennifer Emett	_____ Brad Hudson
_____ Mark Bailey	_____ Philip Gabriel	_____ Bill Lewis II
_____ Richard Ballard	_____ Carolyn Gilbert	_____ Ellen McClellan

II. ADOPT THE AGENDA

RESOLVE, that the Agenda for the Board of Directors' Meeting of March 16, 2024 be adopted.

Vote to adopt the agenda.

III. CONSENT AGENDA

CONSENT AGENDA/OPPORTUNITY FOR PUBLIC COMMENT: All items listed under III. CONSENT AGENDA are considered to be routine and non-controversial. Consent items will be considered first and may be approved by one motion if no member of the Board wishes to comment or ask questions. If comment or discussion is desired by anyone in the audience, the item may be removed from the consent agenda and will be considered in listed sequence with an opportunity for any member to address the Board concerning the item before action is taken.

1. Dispense with the reading of and approve the draft minutes of the Board of Directors' Regular Board Meeting February 17, 2024 **Page 1.0-1.0.4**
2. Committee applications forwarded for concurrence by the board; Planning, Madison Bottorff
..... **Page 1.1**

IV. OFFICER REPORTS

1. Chair's Report..... **Verbal**
2. General Manager's Report..... **Verbal**
3. Treasurer's Report..... **Verbal**

MOTION to ratify the review of the Association's February 2024 financials in accordance with Civil Code §5500 and §5501.

V. COMMITTEE MINUTES ACCEPTANCE

Committee Minutes: **Environmental Control** – March 2024; **Governing Documents** – March 2024; **Emergency Preparedness** – December 2023, January 2024; **Greens & Grounds** – March 2024 **Page 3.1-3.1.7**

VI. EC RECOMMENDATIONS

Approve Environmental Control Committee Project Recommendations (2) **3.2-3.2.8**
Approve Cottage Industry Permits (1) **3.3**

VII. MEMBER’S OPEN FORUM

This twenty-five-minute open forum is for members to present their comments. Each member is allotted five (5) minutes and will be timed. Members wishing to be recognized should step to the microphone, address the board chair, and state name, tract, and lot number. The board may extend the time limit for this forum to allow additional members to speak or grant additional time to a speaker when appropriate. Members may present questions to the board. If the question cannot be readily answered it may be presented in writing or email to the recording secretary and the question will be responded to within 15 calendar days upon receipt. In addition to the question, the member's name, tract and lot number, and telephone and/or email contact information must be included. Members may not yield time to other speakers. For the consideration of other speakers and the twenty-five-minute time limit, members are requested to speak to the board only once during members open forum. Members will refrain from being argumentative and making derogatory or personal remarks or gestures.

VIII. OLD BUSINESS

None

IX. NEW BUSINESS

I, Director Hudson, move the adoption of the following resolution:

RESOLUTION #01-03-16-2024 to replace current Association Rule Article 22, Rules 22.01 through 22.07 with new Article 22, Rules 22.01 through 22.07.

WHEREAS, current Association Rule Article 22 was amended to prohibit the operation of a transient or short-term rental by an owner on their separate property interest if title to the property was acquired after January 15, 2022; and

WHEREAS, the limit on new short-term rentals was a response to the number of potential short-term rentals within the community that was unregulated and unrestricted in numbers at the time, and thereby assisted efforts to better enforce the governing documents, to more effectively manage association resources, funding, staffing, amenities, and facilities, and to preserve the residential character of the community and provide owners with the opportunity to enjoy their lots or the association property as provided within the CC&R's; and

PINE MOUNTAIN CLUB BOARD REGULAR MEETING AGENDA

MARCH 16, 2024

Page 3 of 5

WHEREAS, the board passing short-term rental restrictions did so recognizing the economic viability potentially related directly or indirectly to short-term rentals with respect to the financial well-being of the commercial businesses operating within Pine Mountain Club and the constantly evolving residential real estate market absent verifiable data and analysis; and, the board acknowledged the possibility of a reduced inventory of short-term rentals through attrition resulting from the restrictions could impact the economic viability or property values in the future; and, consequently, the board anticipated future reconsideration of the policy; and

WHEREAS, this change will allow up to twenty-five percent (25%) of PMCPOA Properties to be leased for short or long-term at any time, regardless of the date ownership is acquired; and

WHEREAS, the short-term rental market within Pine Mountain Club has stabilized and remains consistently under six percent (6%) of Properties within the Association; and rules, regulations, and fines related to short-term rentals have been enhanced; and short-term rentals consistently have a lower citation rate for violation of Association rules than owner occupied and long-term rental properties; and

WHEREAS, Article 22 Rentals was approved in the January 20, 2024 board meeting; and

WHEREAS, Article 22 did not address long-term rentals; and

WHEREAS, Article 22 clarifies the 25% limit; and

WHEREAS, this proposal was posted for thirty (30) days for member input; and

RESOLVED, that the PMCPOA Board of Directors approve **RESOLUTION #01-03-16-2024**, the replacement of Article 22 Rentals, as submitted with the following updates:

22.04 Any owner who intends to lease, or to advertise, promote, or publicize for lease, their property as a short-term rental, must ~~register with the PMCPOA, and~~ additionally submit a certificate of authority from Kern County to collect transient occupancy taxes. Owners must comply with the Transient Occupancy Tax ordinance of Kern County to include registration with Kern County to acquire a certificate of authority to collect transient occupancy taxes.

22.05 ~~Long-term and~~ short-term rental property owners must pay to the Association an annual ~~Short-Term~~ rental registration fee, ~~established by the board of directors ("Short-Term Rental Fee")~~ which shall be based upon a reasonable good faith estimate of the amount necessary to defray the costs to the Association of facilitating, accommodating, and overseeing ~~Short-Term~~ rentals.

22.06 The ~~Short-Term-Rental~~ registration fee covers a period of one (1) calendar year, billed on a prorated basis for partial years. Owners who intend to continue using their property for ~~Short-Term~~ rentals, thereafter, must pay their next ~~Short-Term~~ rental fee not later than thirty (30) days following expiration of their current registration.

PINE MOUNTAIN CLUB BOARD REGULAR MEETING AGENDA

MARCH 16, 2024

Page 4 of 5

22.10 A. While a Short-Term Rental is rented, the owner or local contact person shall be available 24 hours per day, 7 days a week to respond within 60 minutes to complaints or calls to PMC Patrol or the PMCPOA office regarding the operation of or **guest tenant** conduct at the short-term rental property and/or on Association property.

B. A **short term rental** owner will designate a local contact person in writing to the PMCPOA office in advance of a rental to comply with this section if they are unable to fulfill the requirement to respond within 60 minutes to complaints or calls.

C. An owner of a long-term rental will designate a local contact person in writing to the PMCPOA office in advance of a rental if they are not available to address complaints or calls to PMC patrol or the PMCPOA office regarding the operation of or tenant conduct at the rental and/or on Association property.

22.11 Not more than 25% of the aggregate PMCPOA lots may be leased in whole, or in part, at any given time. **Owners who acquire title to their real property after March 16, 2024, may be prohibited from leasing their property once the 25% limit is achieved** Page 4.1-4.1.2

Submitted by: Director Hudson

I, Director Gilbert, move the adoption of the following resolution:

RESOLUTION #02-03-16-2024, Delinquency Policy

WHEREAS, the Delinquency Policy will be part of the Annual Assessment mailing for Fiscal Year 2024-2025; and

RESOLVED that the PMCPOA Board of Directors review and approve **RESOLUTION #02-03-16-2024**, the Delinquency Policy for the Annual Assessment mailing package for the 2024-2025 fiscal year as submitted. Page 4.2-4.2.9

Submitted by: Director Gilbert

MOTION to approve the 2024-2025 Pine Mountain Club User Fee Schedule Page 4.3-4.3.2

X. INFORMATION AND CORRESPONDENCE

1. Environmental Control Recap for the Month of February 2024 Page 5.0
2. Patrol Recap for the Month of February 2024 Page 5.1

The board sent and received thirty-two (32) items of correspondence.

XI. DIRECTORS' FORUM

Committee Liaison Report

Director McClellan - Budget & Finance (3rd Wednesday at 5:00 p.m.)
Director Hudson – Communications (1st Tuesday at 6:00 p.m.)
Director Gabriel - Emergency Preparedness (4th Saturday at 9:00 a.m.)
Director Gilbert - Environmental Control (1st Friday at 2:00 p.m.)
Director Hudson – Fire Safe Council
Director Ballard – Governing Documents (1st Saturday at 9:00 a.m.)
Director Lewis - Greens & Grounds (1st Friday at 9:00 a.m.)
Director Bailey – Planning (1st Saturday at 1:00 p.m.)
Director Acosta – MPMWC (2nd Saturday in April) – **Dark**

XII. MEMBERS' REBUTTAL FORUM

Members' Rebuttal Forum is a ten (10) minute forum following the Directors' Forum. Members may reply to any matter raised by a Director during Directors' Forum. Replies will be limited to one (1) minute per speaker. Members wishing to be recognized should step to the microphone, address the Board Chair, and state name, tract, and lot number. There may not be an immediate verbal answer from the Board to questions or comments from the Members. Members may not yield time to other speakers. Members will refrain from being argumentative and making derogatory or personal remarks or gestures.

XIII. ADJOURNMENT

The next Regular Open Board Meeting will take place on April 20, 2024 at 10 am in the Condor Room.

MOTION by Director _____, **SECOND** by Director _____ to adjourn.
Meeting adjourned at _____ p.m.

NOTICE OF PROPOSED RESOLUTION

TO: PMCPOA Board of Directors
FROM: Director Hudson
SUBJECT: Article 22 (Rentals)
DATE: February 13, 2024
DATE TO BE SUBMITTED: March 16, 2024

THE FOLLOWING RESOLUTION IS PROPOSED FOR SUBMISSION TO THE BOARD ON THE ABOVE DATE. PLEASE REVIEW IT AND NOTIFY THE MAKER OF YOUR COMMENTS, POSSIBLE ALTERNATIVES AND SUGGESTIONS. NOTIFICATION MUST BE AT LEAST 10 DAYS PRIOR TO THE MEETING AT WHICH IT WILL BE SUBMITTED.

ADDRESSED TO: PMCPOA Board of Directors
MAKER: Director Hudson
ACCOMPLISHMENTS: Association Rule Article 22
COST: N/A
DATE OF IMPLEMENTATION: Upon Approval
APPLICABLE POLICY: Association Rules Article 22, Rules 22.01 through 22.07 (Rentals)
ALTERNATIVES: Not revise Article 22 (Rentals)

RESOLUTION #01-03-16-2024 to replace current Association Rule Article 22, Rules 22.01 through 22.07 with new Article 22, Rules 22.01 through 22.07.

WHEREAS, current Association Rule Article 22 was amended to prohibit the operation of a transient or short-term rental by an owner on their separate property interest if title to the property was acquired after January 15, 2022; and

WHEREAS, the limit on new short-term rentals was a response to the number of potential short-term rentals within the community that was unregulated and unrestricted in numbers at the time, and thereby assisted efforts to better enforce the governing documents, to more effectively manage association resources, funding, staffing, amenities, and facilities, and to preserve the residential character of the community and provide owners with the opportunity to enjoy their lots or the association property as provided within the CC&R's; and

WHEREAS, the board passing short-term rental restrictions did so recognizing the economic viability potentially related directly or indirectly to short-term rentals with respect to the financial well-being of the commercial businesses operating within Pine Mountain Club and the constantly evolving residential real estate market absent verifiable data and analysis; and, the board acknowledged the possibility of a reduced inventory of short-term rentals through attrition resulting from the restrictions could impact the economic viability or property values in the future; and, consequently, the board anticipated future reconsideration of the policy; and

WHEREAS, this change will allow up to twenty-five percent (25%) of PMCPOA Properties to be leased for short or long-term at any time, regardless of the date ownership is acquired; and

WHEREAS, the short-term rental market within Pine Mountain Club has stabilized and remains consistently under six percent (6%) of Properties within the Association; and rules, regulations, and fines related to short-term rentals have been enhanced; and short-term rentals consistently have a lower citation rate for violation of Association rules than owner occupied and long-term rental properties; and

WHEREAS, Article 22 Rentals was approved in the January 20, 2024 board meeting; and

WHEREAS, Article 22 did not address long-term rentals; and

WHEREAS, Article 22 clarifies the 25% limit; and

WHEREAS, this proposal was posted for thirty (30) days for member input; and

RESOLVED, that the PMCPOA Board of Directors approve **RESOLUTION #01-03-16-2024**, the replacement of Article 22 Rentals, as follows:

22.01. The general rules of Article 3 also apply to this Article 22.

22.02. For purposes of this Article 22, (i) the term “tenant” shall mean individually and collectively the person(s) who intend to, or occupy, all or a portion of a property, regardless of whether rent is or is not paid; (ii) the term “lease” shall mean any arrangement, in writing or oral, under which a property or any part thereof is occupied by a tenant, for any length of time (iii) the term “property” shall mean all lots on which a home is or may be built and all areas and improvements on that lot; and (iv) the term “Short-Term Rental” shall mean all leases under which an owner agrees to lease property to a tenant for a term of less than thirty (30) days.

22.03. Any owner who leases property to a tenant, or who advertises, promotes, or publicizes the property for lease to a tenant, must complete the PMCPOA rental registration form and provide a copy of their rental agreement for that property that includes the name, phone number and email address of the responsible tenant, as well as the dates of occupancy. These documents must be submitted to the PMCPOA office before each new tenant takes occupancy. This rule applies to long-term and short-term rentals.

22.04 Any owner who intends to lease, or to advertise, promote, or publicize for lease, their property as a short-term rental, must ~~register with the PMCPOA, and~~ additionally submit a certificate of authority from Kern County to collect transient occupancy taxes. Owners must comply with the Transient Occupancy Tax ordinance of Kern County to include registration with Kern County to acquire a certificate of authority to collect transient occupancy taxes.

22.05 ~~Long-term and~~ short-term rental property owners must pay to the Association an annual ~~Short-Term rental registration~~ fee, ~~established by the board of directors (“Short-Term Rental Fee”)~~ which shall be based upon a reasonable good faith estimate of the amount necessary to defray the costs to the Association of facilitating, accommodating, and overseeing ~~Short-Term~~ rentals.

22.06 The ~~Short-Term Rental registration~~ fee covers a period of one (1) calendar year, billed on a prorated basis for partial years. Owners who intend to continue using their property for

22.07. No owner shall rent or otherwise utilize their real property in violation of CC&R Article 5.6.

22.08. Each owner must provide every tenant, lodger, and boarder with a current copy of the Association's Rules and fines prior to or on the date each tenant, lodger, or boarder takes occupancy.

22.09 Each owner must notify every tenant, lodger and boarder in writing prior to the date of occupancy that any violations of the PMCPOA governing documents (including the Rules) may be enforceable by fines imposed on the owner as well as on the applicable tenant, lodger and boarder.

22.10 A. While a Short-Term Rental is rented, the owner or local contact person shall be available 24 hours per day, 7 days a week to respond within 60 minutes to complaints or calls to PMC Patrol or the PMCPOA office regarding the operation of or ~~guest~~ **tenant** conduct at the short-term rental property and/or on Association property.

B. A **short term rental** owner will designate a local contact person in writing to the PMCPOA office in advance of a rental to comply with this section if they are unable to fulfill the requirement to respond within 60 minutes to complaints or calls.

C. An owner of a long-term rental will designate a local contact person in writing to the PMCPOA office in advance of a rental if they are not available to address complaints or calls to PMC patrol or the PMCPOA office regarding the operation of or tenant conduct at the rental and/or on Association property.

22.11 Not more than 25% of the aggregate PMCPOA lots may be leased in whole, or in part, at any given time. **Owners who acquire title to their real property after March 16, 2024, may be prohibited from leasing their property once the 25% limit is achieved.**

NOTICE OF PROPOSED RESOLUTION

TO: PMCPOA Board of Directors
FROM: Director Gilbert
SUBJECT: Review and Approve Delinquency Policy
DATE: March 8, 2024
DATE TO BE SUBMITTED: March 16, 2024

THE FOLLOWING RESOLUTION IS PROPOSED FOR SUBMISSION TO THE BOARD ON THE ABOVE DATE. PLEASE REVIEW IT AND NOTIFY THE MAKER OF YOUR COMMENTS, POSSIBLE ALTERNATIVES AND SUGGESTIONS. NOTIFICATION MUST BE AT LEAST 10 DAYS PRIOR TO THE MEETING AT WHICH IT WILL BE SUBMITTED.

ADDRESSED TO: PMCPOA Board of Directors
MAKER: Director Gilbert
ACCOMPLISHMENTS: Review and Approve Delinquency Policy
COST: N/A
DATE OF IMPLEMENTATION: Upon Approval
APPLICABLE POLICY: N/A
ALTERNATIVES: N/A

RESOLUTION #02-03-16-2024, Delinquency Policy

WHEREAS, the Delinquency Policy will be part of the Annual Assessment mailing for Fiscal Year 2024-2025; and

RESOLVED that the PMCPOA Board of Directors review and approve **RESOLUTION #02-03-16-2024**, the Delinquency Policy for the Annual Assessment mailing package for the 2024-2025 fiscal year.

Submitted by Director Gilbert

**PINE MOUNTAIN CLUB PROPERTY OWNERS'
ASSOCIATION, Inc.**

Delinquency and Collections Policy

The following policies and procedures apply to the collection of all monies due to the Association including, but not limited to, regular assessments, special assessments, late-payment charges, interest, fines, dues, and other charges.

1. Regular, Capital and Special Assessments. The Association imposes and collects regular, capital, and special assessments as permitted by the terms of its CC&Rs and by California law.
2. Personal Obligation. All assessments, late charges, interest, and collection costs, including attorneys' fees, are the personal obligation of the owner of the property at the time the assessment or other sums are levied.
3. Assessment Due Date. Regular assessments are due and payable on the first day of July of each year. A courtesy billing statement will be sent to the billing address on record with the Association. However, it is the owner of record's responsibility to pay for each assessment in full regardless of whether a statement is received. All other assessments, including capital and special assessments are due and payable on the date specified by the Board on the Notice of Assessment, which date will not be less than thirty (30) days after the date of notice on the special assessment.
4. Application of Payments. Any payments made shall be 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, unless the owner and the Association enter into an agreement providing for payments to be applied in a different manner. All checks returned for insufficient funds shall result in a thirty-five-dollar (\$35.00) fee.
5. Late Fees. All regular assessments that are not received within thirty (30) days of the stated due date are delinquent and shall be subject to a late charge of nine percent (9%) for each delinquent assessment per unit. All special assessments not paid by their due date are delinquent and shall be subject to a late charge of nine percent (9%) for each delinquent assessment per unit. The Association shall be entitled to recover all collection costs, including attorneys' fees, that the Association incurs in its efforts to collect the delinquent sums. A first notice of past due assessment ("statement" or "late letter") will be prepared and mailed once an assessment or invoice becomes delinquent.
6. Collection. If an assessment is not received by September 15th the assessment balance will be turned over to a collection agent. The Association or its designee, in the event the account is turned over to a collection agent, will send a pre-lien letter to the owner as required by Civil Code 5660, via certified and first-class mail, to the owner's mailing address of record advising of the delinquent status of the account and impending collection action. The owner will be charged a fee for the pre-lien letter.

7. Collection Fees and Costs Liability. 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 authorize a Trustee to record a lien, as permitted by law, 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 the fees and cost of preparing and recording the lien. Please be advised, costs of collection may include additional fees and costs incurred by a party hired by the association to collect all amounts stated above including but not limited to, file cost, copies, mailers, forms, demands, statements, letters, handling, accounting, default accounting, audits, payment processing, correspondence, Intent to Lien and Lien fees and charges, forbearance agreements, trustee's fees and costs, postponement and postponement notification fees and costs, mailing charges and costs, notary fees, title, title searches and date-down charges, recording and service charges, document preparation, lien resolution and foreclosure resolution package preparation charges, publication/posting/service of process charges, preparation and handling charges, file set up charges, phone/email time and research, all charged on a piece basis or \$250 per hour as may be appropriate. For a complete fee schedule, you may request one from Best Alliance by mail at 16133 Ventura Blvd., Ste 700, Encino, CA 91436 or via email to: info@bestalliance.com.

8. Enforcement. No less than thirty (30) days following the recordation of the lien, the lien may be enforced in any manner permitted by law, including, without limitation, judicial or non-judicial foreclosure. Nothing in this collection policy limits the Association's right to proceed in any lawful manner to collect any delinquent sums owed to the Association.

9. Disputes. As an owner you have the right to dispute **any 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, as long as the amount in dispute does not exceed the jurisdictional limits of the small claims court,** by submitting a written request for dispute resolution to the Association pursuant to the Association's meet and confer program as required in Chapter 10, Article 2, and Article 3 (commencing with Section §5658 of the Civil Code). You are offered and advised that you have the right to request a meeting with the Board as provided in Section §5665 of the Civil Code, **and pay under protest the disputed amount.** You have the right to request that the Association participate in some form of Internal Dispute Resolution ("IDR"). If an owner disputes the amount of any late charge or other charge, the owner may pay all delinquent amounts in full under protest and send the Association, by certified mail, a written notice that the amount is paid under protest. This notice must be given within thirty (30) days of the recordation of the Notice of Delinquent Assessment. The owner has the right to demand that the matter be resolved through Alternative Dispute Resolution (ADR) in accordance with California Civil Code Section §5935.

10. Inspection. An owner is entitled to inspect the Association's accounting books and records to verify the amounts owed pursuant to Corporations Code Section §8333.

11. Mistakes. If 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.

12. Payment Plan Requests. Any owner may make a formal request to the Board for a payment plan. An owner may also request to meet with the Board in executive session to discuss a payment plan. Each request is handled on a case-by-case basis. The Board is under no obligation to grant payment plan requests. Payment plan requests shall be submitted in writing and mailed to the Association at:

Pine Mountain Club Property Owners' Association, Inc.
P.O. Box P
Pine Mountain Club, CA 93222-0016

13. Paid in Full. Prior to recordation of 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.

14. Suspend Privileges. The Board may suspend the common area privileges of any member who is more than seventy-seven (77) days delinquent in their assessment. Common area privileges will remain suspended until the delinquency, including any accumulated penalties, interest, and costs of collection, has been paid in full.

15. Notice of Assessment and Foreclosure. The statutorily-required Notice of Assessment and Foreclosure is incorporated herein as Exhibit "A" to this policy.

16. Affectivity and Changes. The policies and procedures stated herein supersede all previous such versions, whether written or oral, regardless of the medium through which they were communicated. Additionally, these policies and procedures are subject to change upon thirty (30) days written notice.

17. Over-Night Payments. The mailing address for over-night payments pursuant to this collection process is:

Pine Mountain Club Property Owners' Association, Inc.
c/o Best Alliance Foreclosure and Lien Services
16133 Ventura Blvd., Suite 700
Encino, CA 91436

**EXHIBIT "A" To the Delinquency and Collection Policy of
The Pine Mountain Club Property Owners'
Association, Inc.**

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 fifteen (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 twelve (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. (Section §5700 through §5720 of the Civil Code)

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 areas damaged by a member or a member's guests, if the governing documents provide 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 thirty (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 twenty-one (21) days, and to provide 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, he or she 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 for in Article 3 (commencing with Section §5925) of Chapter 10 of Part 5 of Division 4 of the Civil Code, if 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 exist. (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 to the payment plan standards of the Association, if they exist. (Section §5665 of the Civil Code)

SUMMARY OF CALIFORNIA CIVIL CODE SECTION 5975 RELATING TO ENFORCEMENT OF GOVERNING DOCUMENTS THROUGH ALTERNATIVE DISPUTE RESOLUTION

PLEASE TAKE NOTE: *California Civil Code Section §5925 through §5965 addresses your rights to sue the Association or another member of the Association regarding the enforcement of the governing documents. The following is a summary of the provisions of Civil Code §5975 effective January 1, 2014.*

In general, Civil Code §5930 encourages parties to a dispute involving enforcement of an associations governing documents to submit the dispute for an alternative dispute resolution (ADR) such as mediation or arbitration prior to filing a lawsuit. The intent of the statute is to promote speedy and cost-effective resolution of such disputes, to better preserve community cohesiveness, and to channel CC&R disputes away from our states court system.

Under Civil Code Section §5925 through §5965, the form of alternative dispute resolution may be binding or non-binding and the costs will be borne as agreed to by the parties involved.

Any party to a dispute regarding enforcement of the governing documents may initiate the process of ADR by serving a Request for Resolution on another party to the dispute. A Request for Resolution must contain (1) a brief description of the nature of the dispute, (2) a request for ADR, and (3) a notice that the party receiving the Request for Resolution is required to respond within 30 days of receipt or the Request will be deemed rejected.

If the Request is accepted, the ADR must be completed within 90 days of receipt of the acceptance, unless otherwise agreed by the parties. Any Request for Resolution sent to the owner of a separate interest must include a copy of Civil Code §5925 through §5965 in its entirety.

FAILURE BY ANY MEMBER OF THE ASSOCIATION TO COMPLY WITH THE ALTERNATIVE DISPUTE RESOLUTION REQUIREMENTS OF SECTION 5930 OF THE CIVIL CODE MAY RESULT IN THE LOSS OF MEMBER'S RIGHT TO SUE THE ASSOCIATION OR ANOTHER MEMBER OF THE ASSOCIATION REGARDING ENFORCEMENT OF THE GOVERNING DOCUMENTS OR THE APPLICABLE LAW.

Should the Association or an individual member wish to file a lawsuit for enforcement of the Association's governing documents, the law requires the Association or the individual to file a certificate with the court stating that ADR has been completed prior to the filing of the suit. Failure to file this certificate can be grounds for dismissing the lawsuit. There are limited exceptions to the filing of this required certificate when (1) one of the other parties to the dispute refused ADR prior to the filing of the complaint, (2) preliminary or temporary injunctive relief is necessary, or (3) the statute of limitations period for filing the action will expire within 120 days of the lawsuit being filed. Each of these exceptions, however, must also be certified in writing to avoid the courts dismissing the action.

Furthermore, in any lawsuit to enforce the governing documents, while the prevailing party may be awarded attorney's fees and costs, under Civil Code §5960 the court may consider any party's refusal to participate in ADR prior to the lawsuit being filed when it determines the amount of the award.

INTERNAL DISPUTE RESOLUTION

Meet & Confer. Associations must provide a "fair, reasonable and expeditious" procedure for resolving disputes between the association and its members without charging a fee to the member participating in the process. Civil Code §5910.

Default Procedure. If an association does not establish its own procedures, the following procedures automatically apply. Civil Code §5915.

1. Either the association or the member may request that the other side meet and confer in an effort to resolve the dispute. The request must be in writing. The association may not refuse such a request, and the member may not be charged a fee to participate in the process.
2. The association must designate a board member to attend the meet and confer session.
3. The meeting must occur promptly at a mutually convenient time and place. At the meeting, the parties must explain their position to each other and must confer in good faith in an effort to resolve the dispute.
4. If the parties agree on a resolution of the dispute, the agreement must be put in writing and signed by the parties. The agreement is binding and can be enforced by the courts if:
a) it is not in conflict with the law or the governing documents, and b) the association's representative had the authority to enter into the settlement or the settlement is ratified by the board.

Notice. Associations must notify their members of both **ADR** and **IDR** dispute resolution procedures.

Rules Enforcement Appeals. There is no specific appeals procedure described in the Davis-Stirling Act for penalties imposed by the board for violation of the rules and regulations. However, the **IDR** procedures described above can be used to "appeal" a decision of the board.

DAVIS-STIRLING ACT

Summary of Civil Code §5910. Internal Dispute Resolution Procedure Requirements.

A fair, reasonable, and expeditious dispute resolution procedure shall at a minimum satisfy all of the following requirements:

- (a) The procedure may be invoked by either party to the dispute. A request invoking the procedure shall be in writing.
- (b) The procedure shall provide for prompt deadlines. The procedure shall state the maximum time for the association to act on a request invoking the procedure.
- (c) If the procedure is invoked by a member, the association shall participate in the procedure.
- (d) If the procedure is invoked by the association, the member may elect not to participate in the procedure. If the member participates but the dispute is resolved other than by agreement of the member, the member shall have a right of appeal to the association's board of directors.
- (e) A resolution of a dispute pursuant to the procedure, which is not in conflict with the law or the governing documents, binds the association and is judicially enforceable. An agreement reached pursuant to the procedure, which is not in conflict with the law or the governing documents, binds the parties and is judicially enforceable.
- (f) The procedure shall provide a means by which the member and the association may explain their positions.
- (g) A member of the association shall not be charged a fee to participate in the process.

SUMMARY OF ENVIRONMENTAL CONTROL CODE GOVERNING REQUIREMENTS FOR ASSOCIATION APPROVAL OF PHYSICAL CHANGES TO AN OWNER'S PROPERTY

Pursuant to the PMCPOA Environmental Control (EC) Code, each of the following changes or improvements to an Owner's property require the approval of the Association.

No building, mobile home, modular building, prefabricated unit, garage, patio, fence, or other structure shall be constructed, erected, altered, remodeled, placed, maintained, or be permitted to remain on any lot in the tract or any portion thereof until two complete sets of plans and specifications, including all the following, shall have been submitted to and approved in writing by the Environmental Control Committee (ECC). The accuracy of the data provided is the sole responsibility of the property owner.

1. PLOT PLAN – ACCURATE DIMENSIONS TO SCALE SHOWING:
 - a. Construction information also to be shown on plot plan
 - b. Plans of all structures depicting floor plan
 - c. The ECC recommends a new survey be performed in all cases
 - d. Inventory of all trees
2. Prior to the commencement of construction, lot should be cleared of dead trees and dead brush.

3. All brush and limb pruning are to be removed from the lot within 15 days of trimming.
4. Site prep must be ready before construction starts.
5. Each owner, or his/her representative, applying for ECC approval shall appear at a regularly scheduled ECC meeting for plan review and approval. All requests shall be in writing.
6. Property owners are responsible for contractors' actions and violations of the CC&Rs and EC Code.
7. All materials must be stored on the construction site or have special approval in writing by the Pine Mountain Patrol for off-site storage.
8. No type of construction work is to take place from 7:01 p.m. to 6:59 a.m.
9. No alteration of a natural water course or drainage is allowed without a signed plan from a registered Civil Engineer.
10. No deposit will be returned until all EC requirements are met.
11. No construction may be done prior to ECC approval.
12. No live trees or shrubs can be removed without the prior approval of the ECC.
13. Complete plans, deposit, signed and completed Building Permit Information form, signed and completed Agreement to Comply with CC&Rs and EC Regulations form must be submitted to the ECC seven (7) days prior to the ECC meeting at which they will be presented.
14. All plans shall be submitted to the ECC for its approval. The procedure to obtain the Association's approval is summarized, as follows:
 - a. Submission of a plot plan with accurate dimension to scale showing location of all structures, setbacks, landscaping, and hardscape
 - b. Elevations with improvements
 - c. Detail of color scheme

Any owner seeking approval of his or her plan may appear at the regularly scheduled ECC meeting. The right to appeal a decision of the ECC to the Board may be granted a property owner upon receipt of a written appeal request by the Committee or General Manager.

**THIS IS A SUMMARY ONLY. PLEASE READ THE COMPLETE CODE
WHICH IS AVAILABLE ON-LINE OR IN THE ASSOCIATION
MANAGEMENT OFFICE.**

Approved by Resolution # **02-03-15-2024**.