

# **PALISAR HOME OWNERS ASSOCIATION**

## **ANNUAL POLICY STATEMENT**

**11/1/16**

### **1. PERSON DESIGNATED TO RECEIVE OFFICIAL COMMUNICATIONS TO ASSOCIATION**

The name and address of the person designated to receive official communications to the Association is:

Name: Diana Ungerleider, Secretary

P.O. Box 901

Pacific Palisades, CA 90272

palisair@gmail.com

### **2. NOTICE REGARDING SECONDARY ADDRESSES**

Members have the right to submit to the Association a secondary address for purposes of delivering annual reports, annual policy notices and collection notices. A member's request must be in writing and delivered to the person designated by the Association to receive official communications by first-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service center, or (if checked):

(1) By email, facsimile, or other electronic means.

(2) By personal delivery. If the association accepts a document by personal delivery it shall provide a written receipt acknowledging delivery of the document.

Upon the Association's receipt of such notice, the Association will mail any annual reports, annual policy notices and collection notices to both the member's primary and secondary addresses.

### **3. LOCATION FOR POSTING OF GENERAL NOTICES**

The Association has designated the Association website, Palisair.org, as the location for posting of general notices to owners.

**4. NOTICE OF MEMBER'S OPTION TO RECEIVE GENERAL NOTICES BY INDIVIDUAL DELIVERY**

Pursuant to Civil Code Section 4045(b), a member has the right to request to receive general notices by individual delivery. The term "individual delivery" means delivery by one of the following methods:

(a) First-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier. The document shall be addressed to the recipient at the address last shown on the books of the Association.

(b) E-mail, facsimile, or other electronic means, if the recipient has consented, in writing, to that method of delivery. The consent may be revoked, in writing, by the recipient.

**5. NOTICE OF MEMBER'S RIGHT TO RECEIVE COPIES OF MEETING MINUTES**

Please be advised that California Civil Code Section 4950(b) requires that the Association notify all members of their right to have copies of the minutes of meetings of the Association's board of directors. The minutes, minutes proposed for adoption that are marked to indicate draft status or a summary of the minutes, of any meeting of the board of directors of the Association, other than executive session, shall be available to members within 30 days of the meeting. The minutes, proposed minutes, or summary of minutes for the prior 12 months can be downloaded from the Association website, Palisair.org. Minutes older than 12 months shall be distributed to any member of the Association upon request and upon reimbursement of the Association's costs for making that distribution. To obtain a copy of these minutes, proposed minutes or summary of minutes, please contact Diana Ungerleider, PHOA Secretary at palisair@gmail.com or at the postal address specified in section 1 above.

**6. STATEMENT OF ASSESSMENT COLLECTION POLICIES**

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 non-judicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or non-judicial 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 non-judicial 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 non-judicial 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 non-judicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use non-judicial 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. (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 exists. (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)

## **7. SUMMARY OF ASSOCIATION'S DISPUTE RESOLUTION PROCEDURES**

### INTERNAL DISPUTE RESOLUTION

In accordance with Civil Code Section 5900 et seq., the Association has adopted the following internal dispute resolution process to be followed by the Association and owners in connection with disputes relating to the enforcement of the Association's governing documents, the Davis-Stirling Common Interest Development Act (Civil Code Section 4000 et seq.) and Section 7110 et seq. of the Nonprofit Mutual Benefit Corporation Code (collectively, the "Disputes").

Either party to a Dispute may invoke the following procedure:

- (1) The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.
- (2) An owner may refuse a request to meet and confer. The Association may not refuse a request to meet and confer.
- (3) The Association's board of directors shall designate a member of the board to meet and confer.
- (4) The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute.
- (5) A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the Board designee on behalf of the Association.
- (6) The agreement reached binds the parties and is judicially enforceable if both of the following conditions are satisfied: (a) The agreement is not in conflict with law or the governing documents of the common interest development or association; and (b) The agreement is either consistent with the authority granted by the board of directors to its designee or the agreement is ratified by the board of directors.

Please note that a member of the Association may not be charged a fee to participate in the process.

## ALTERNATIVE DISPUTE RESOLUTION (“ADR”)

Civil Code Section 5925 et seq. requires that the Association and owners endeavor to submit certain types of disputes to ADR prior to initiating a lawsuit. This notice merely provides a summary of the statute. If there is a dispute which may require ADR pursuant to Civil Code Section 5925 et seq., please review all of the provisions of the statute or seek your own independent legal counsel.

*Parties Bound By the Statute.* The parties required to comply with the statute are the Association (through the board of directors) and any owners of record.

*Disputes Subject To the Statute (Qualifying Disputes).* Civil Code Section 5939 provides that the Association or owners may not file an enforcement action in the Superior Court unless the parties have endeavored to submit their dispute to ADR. An “enforcement action” is defined as a civil action or other proceeding for any of the following purposes: (1) enforcement of the Davis-Stirling Common Interest Development Act (Civil Code Section 4000 et seq.); (2) enforcement of the California Nonprofit Mutual Benefit Corporation law, commencing with Corporations Code Section 7110 or (3) enforcement of the Association’s governing documents. Where, however, an owner has a private dispute with another owner or a tenant, or the Board has a dispute with a third party such as a landscaper, such a dispute is not within the confines of the statute.

*Disputes Specifically Excluded From The Statute.* The ADR statute applies only to an enforcement action that is solely for declaratory, injunctive or writ relief, or for that relief in conjunction with a claim for monetary damages not in excess of the jurisdictional limits of Small Claims Court. The following types of disputes are specifically excluded from being required to resort to ADR: (1) a Small Claims action; (2) assessment collection, except as otherwise provided by law; (3) claims by the Association for money damages in excess of the jurisdictional limits of Small Claims Court in conjunction with a claim for declaratory, injunctive or writ relief; (4) claims by an owner for money damages in excess of the jurisdictional limits of Small Claims Court in conjunction with a claim for declaratory, injunctive or writ relief; (5) actions for preliminary or temporary injunctive relief; and (6) the filing of a cross-complaint in response to a complaint already filed.

### *Compliance Procedures.*

A. INITIATING PARTY. The party pursuing the dispute, prior to filing any lawsuit, must serve on the other party a "Request for Resolution" including the following information and language: (1) a brief description of the dispute; (2) a request that the matter be submitted to ADR; (3) a notice that the party receiving the Request for Resolution (the “Responding Party”) is required to respond thereto within 30 days of receipt or it will be deemed rejected; (4) if the party on

whom the Request is served is an owner, a copy of Civil Code Section 5925 et seq.

B. SERVICE. A Request for Resolution may be served by personal delivery, first-class mail, express mail, facsimile transmission or other means reasonably calculated to provide the Responding Party actual notice of the Request.

C. RESPONDING PARTY'S OBLIGATION. Upon receipt of a Request for Resolution the Responding Party, whether the Association or an owner, has 30 days in which to either accept or reject the Request. In the event no such response is received, the Request is deemed "rejected."

D. TIME FOR COMPLETION OF ADR. Where the Request is accepted, the parties must complete the ADR within 90 days of receipt of the acceptance. However, the parties can stipulate in writing to extend this period.

E. COST OF ADR. The cost of ADR shall be borne by the parties.

F. TOLLING OF STATUTE OF LIMITATIONS. If a Request for Resolution is served before the end of the applicable statute of limitations, the time limitation is tolled for certain periods specified in Civil Code Section 5945.

G. CERTIFICATE. In the event that a lawsuit is eventually commenced, the party filing must file with the initial pleading a certificate stating that one or more of the following conditions is satisfied: (1) alternative dispute resolution has been completed in compliance with Section 5925 et seq.; (2) one of the parties to the dispute did not accept the terms offered for alternative dispute resolution; or, (3) preliminary or injunctive relief is necessary.

*Consequences for Failure to Comply With the ADR Law*. The failure to file the aforementioned certificate with the Court is grounds for a demurrer or motion to strike unless the Court finds that dismissal of the action for failure to comply would result in substantial prejudice to one of the parties. Additionally, in awarding attorneys' fees and costs, a court may consider whether a party's refusal to participate in ADR before commencement of the enforcement action was reasonable. As a result, it is important to seek independent counsel in the event that you, as an owner have further questions.

Failure of a member of the association to comply with the alternative dispute resolution requirements of Civil Code 5925 et seq. may result in the loss of your right to sue the association or another member of the association regarding enforcement of the governing documents or the applicable law.

**8. SUMMARY OF REQUIREMENTS FOR ASSOCIATION APPROVAL OF A PHYSICAL CHANGE TO PROPERTY**

According to the Association's governing documents, all changes to the exterior of any home/lot by an owner require the prior written approval of the Association's Board of Directors.

Owners must submit a completed Palisair Plans Application to the Board identifying the proposed change(s). A Copy of which can be found on our website, Palisair.org, The Board in its sole discretion will approve or disapprove of the owner's application, in writing as expeditiously as possible, subject to appropriate conditions required by the Board, pursuant to the Association's governing documents.

**9. MAILING ADDRESS FOR OVERNIGHT PAYMENT OF ASSESSMENTS**

The mailing address for overnight payment of assessments is:

PALISAIR HOME OWNERS ASSOCIATION

P.O. BOX 901

PACIFIC PALISADES, CA. 90272

**10. NOTICE TO MEMBERS REGARDING ABILITY TO OPT-OUT OF HAVING NAME ON MEMBERSHIP LIST**

A member may request that the Association provide him or her with a copy of the membership list, including the names, property address, and mailing address of each member. The member's request must be in writing and must set forth the purpose for which the list is requested, which purpose must be reasonably related to the requester's interests as a member of the Association. The Association will be obligated to provide the member with a copy of such membership list unless it reasonably believes that the member will use the information for another purpose.

Pursuant to Civil Code Section 5220, a member can "opt out" of having his or her name and address(es) included on a membership list which must be distributed to members upon request. If you would like to "opt out" of having your name and addresses included on a membership list which may be distributed to another member upon request, please complete the following form and return it to the Association. Please note that your "opt-out" will remain in effect until further written notice from you.

PALISAIR HOME OWNERS ASSOCIATION



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Notice to Association

To Whom It May Concern,

Please remove my name and address(es) from the membership list in accordance with Civil Code Section 5220 until further written notice from me.

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_