

ASSESSMENT COLLECTIONS: OVERVIEW OF ADDITIONAL PROCEDURES AND NOTIFICATIONS AS OF JANUARY 1, 2006

A.S.A.P. Collection Services is ready to bring your association(s) into compliance
with all the new collection laws – *no cost and no case required!*

DISCLOSURE REQUIREMENTS

- **REVISED** Civil Code § 1365.1 **REQUIRED NOTICE** Regarding Assessments and Foreclosure, Annual Disclosure. **[Included with the 2006 A.S.A.P. Assessment Collection Policy Package]**
- Association **MUST COMPLY** with **REQUIREMENTS** of §1367.1, a lien cannot be recorded until the requirements are satisfied. **[Most of the requirements fulfilled in the 2006 A.S.A.P. Assessment Collection Policy]**
- Requires the **ASSOCIATION** to **NOTIFY** the owner through the Annual Budget Disclosures of their right to submit a **SECONDARY** address. **[This requirement is met in the 2006 A.S.A.P. Assessment Collection Policy]**
- Requires the Association to send any and all correspondence and specified legal notices to both a **PRIMARY AND SECONDARY** address, if the owner provides written notice of a secondary address.

DISPUTE RESOLUTION, MEET AND CONFER AND ADR

- Dispute Resolution, Meet and Confer, and ADR replaces § 1366.3 Resolution Of Assessment Dispute By Alternative Dispute Resolution “pay under protest” which was repealed effective January 1, 2006. It is important to note that the **BOARD MUST DESIGNATE A MEMBER OF THE BOARD TO MEET AND CONFER** with the disputing owner and then **MEET** with the entire **BOARD IF** the owner **APPEALS** the decision. **[A.S.A.P. has available for clients an overview “How To Conduct A Meet And Confer” and has established procedures and guidelines for the board to adopt and provide to the designated board member to follow when conducting a meet and confer.]**

LIENS

- **BEFORE** a **LIEN CAN BE RECORDED** for delinquent assessments, the **BOARD SHALL** approve the decision by a majority vote in an open meeting and record the vote in the minutes of the meeting. **[If a lien has not been pre-approved by the board before the account has been sent to collection, A.S.A.P. will email a Resolution To Record A Lien for signature.]**
- Prior to recording a **LIEN** 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” or ADR program. **[Included as an Addendum to the 2006 A.S.A.P. Assessment Collection Policy is a Meet and Confer Program. This addendum is provided to the owner as a disclosure item included with the Notice of Intent to Record a Lien letter a.k.a. Pre-Lien Letter]**

PAYMENT PLANS

- Payment Plans must conform to the **PAYMENT PLAN STANDARDS**, if they exist. **[A.S.A.P.’s Collection Service Agreement establishes the pre authorized Payment Plan Standards that will be followed. Only requests outside of the pre authorized guidelines will be directed to the Board for approval.]**
- Board of Directors **MUST MEET** with an owner who requests a meeting to discuss a **PAYMENT PLAN** within 45 days of the written request. Payment plans shall not impede the Association’s ability to record a lien and cannot include late fees if owner complies with the plan. If a default occurs, collection activities can resume from the time prior to entering into the payment plan. **[A.S.A.P. facilitates, prepares and administers all payment plans. Only requests outside of the pre authorized guidelines will be directed to the Board for approval.]**

FORECLOSURE

- **FORECLOSURE** of assessment liens are prohibited UNTIL the amount equals or exceeds \$1,800 or assessments are more than 12 months delinquent; this does not include accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest. **[A.S.A.P. will monitor the regular assessment and special assessment amounts until they equal either the \$1,800 or are more than 12 months delinquent. In the meantime, A.S.A.P. will continue to attempt collection until one of those requirements are met.]**
- Prior to initiating a **FORECLOSURE** 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" or ADR program. **[Included as an Addendum to the 2006 A.S.A.P. Assessment Collection Policy is a Meet and Confer Program. This addendum is provided to the owner as a disclosure item included with the Notice of Intent to Foreclose.]**
- **NOTICE of DECISION to FORECLOSE SHALL** be provided by personal service if the owner **occupies the property** [does not state in the manner of service of summons, therefore it is presumed that it means hand delivery to the owner] or by written notice, by first-class mail, postage pre-paid, to the most current address shown on the books of the Association to an owner that **does not occupy** the property. **[A.S.A.P. will email a Resolution To Initiate Foreclosure for signature. This resolution will then be included with the Notice Of Default as described below.]**
- **NOTICE OF DEFAULT** shall be sent by certified mail and shall be served in accordance with the manner of service of summons e.g. personal service as provided by a process server. **[Included with the Notice of Default will be a copy of the signed Resolution To Initiate Foreclosure.]**
- **NOTICE OF SALE** 30 days prior to any public sale, the Board is required to meet in executive session, by majority vote, and record the results of the vote identifying the property by the assessor's parcel number ("APN") in the minutes of the next meeting of the board open to all members. **[A.S.A.P. will email a Resolution To Proceed With The Sale for signature. The resolution includes the APN as required by law. To assist the Board in this difficult decision, A.S.A.P. also includes a total of the liens and encumbrances as stated on the Trustee Sale Guarantee ("TSG") Report, a current account history and a full detailed status report of all collection activities performed to date.]**
- Ninety (90) Day REDEMPTION period after a foreclosure sale by the Association.

GENERAL INFORMATION

- If it is determined through Dispute Resolution that a **LIEN RECORDED** was **IN ERROR**, the Association would be required to reverse specified charges and take other corrective actions.
- Management company representative, or a bookkeeper can appear and participate in a **SMALL CLAIMS** hearing on behalf of the Association.
- **ON-LINE EDUCATION** Course for Board of Directors To Be Developed by Department of Consumer Affairs and the Department of Real Estate – if funds are available.

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WE UNDERSTAND IT'S NOT ABOUT FORECLOSURE...
IT'S ABOUT PAYMENT IN FULL!