

**LANDYE BENNETT BLUMSTEIN LLP**  
**ASSESSMENT COLLECTION CHRONOLOGY & PROCEDURES**

Revised January 2012

In our effort to better serve our Association clients, we have standardized our collection procedures into this Assessment Collection Chronology & Procedures. Unless we are instructed otherwise by the Board of Directors or Association manager, or unless the documents mandate other processes, we generally follow these steps and procedures. This procedure assumes that the Association will elect the money judgment option once a lawsuit is filed and not foreclosure. If the Association wishes to foreclose the lien, we ask that our clients contact our office for further information. On occasion we will recommend foreclosure, but we always discuss details with the Association before we initiate foreclosure. The normal process of our collection activities is as follows:

1. Delinquent account referred to attorney by Management Company/Board of Directors for the Association ("Association").

2. Set up file, run conflict check and obtain deed (existing files do not require this service). For new and repeat files, we check for a Notice of Default/Trustee's Notice of Sale from lender and whether the owner has filed bankruptcy.

If a Notice of Default/Trustee's Notice of Sale is obtained for new or repeat debtors, we will prepare a letter to the Association advising it of the effect on collection. We will docket the file for the foreclosure date to determine if the sale has occurred, been cancelled, or been postponed. If a bankruptcy is found and it affects the Association's ability to collect some or all of the delinquent account, we will advise the Association accordingly.

3. Send initial Demand Letter by regular and certified mail ("First Contact Letter"). Letter must include the statutory language required under the Fair Debt Collection Practices Act ("Act"), which allows the debtor thirty (30) days to dispute the amount owed. Calendar review for thirty (30) days from date of letter, plus an additional three days for mailing.

4. Handle any response from delinquent homeowner. Communicate settlement offers, questions or verification documents to Association. If there is a dispute, Association will be required to provide an accounting of the amount due and any other verification documents required.

5. If no response from homeowner in 33 days, contact Association for status.

(A) If no payment has been received by LBB, determine if any payments have been received by Association. Then we prepare and file a notice of lien.

(B) If payment in full is received, close file.

6. Upon receipt of verification from County that notice of lien has been recorded, mail a lien notification letter by regular and certified mail. Calendar for follow-up in thirty (30) days.

7. Review file in thirty (30) days for payment to us or Association.
  - (A) If payment has not been received, send ten (10) day demand letter by certified and regular mail of the Association's intent to file suit.
  - (B) If payment has been made, file Satisfaction of Lien.
8. After approximately 15 days, if payment has not been received, contact Association for authority to file Complaint for Foreclosure and/or Money Judgment (we file a lawsuit). If Association Collection Resolution authorizes us to proceed with a lawsuit, no contact with the Association is required. Filing a lawsuit requires us to prepare a Summons and Complaint.
9. Send Summons and Complaint for service on defendant(s). Once service is effected on the defendant(s), the file is calendared for review in thirty (30) days (the statutory time allowed for the defendant(s) to answer the Complaint). If defendant(s) cannot be located, we will investigate other possible locations for service. An investigator may be needed to locate defendant(s). The investigator charges a fee for this service.
10. Review file in thirty (30) days for payment.
  - (A) If payment has been made, record Satisfaction of Lien and file General Judgment of Dismissal without Prejudice.
  - (B) If payment has not been made, file Default Judgment with Court.
11. Upon confirmation from Court that Default Judgment has been entered, send ten (10) day demand letter for payment of judgment in full. Calendar file for review in fifteen (15) days.
12. If payment still has not been tendered, try to collect money judgment by a debtor's examination, garnishment of paycheck, rents, bank accounts, etc.
13. Upon payment in full of money judgment, file Satisfaction of Judgment with the Court.
14. Any time after we record a notice of lien with the county we may prepare and record a Notice to Lender. This applies to Condominium projects only. If the owner is in default on their first mortgage principal and interest and the mortgage holder does not start its foreclosure proceedings within 90 days of our Notice to Lender, the Association's lien will obtain priority over ("jumps ahead") of the first mortgage's lien.

NOTES:

A. Additional Legal Work. In about half of our collection cases, we are contacted by delinquent owners or their attorneys to discuss payment proposals, etc., and/or to negotiate settlement agreements or stipulated judgments, etc. At any time during the process, we may complete a DMV, Merlin or Accurant check. (These are done in an effort to locate an owner or other information to assist with collection).

When we are unable to locate a defendant for service of the summons and complaint or we are looking for assets to satisfy a money judgment, we periodically use the services of a private investigator.

During the collection process, we often receive a Trustee's Notice of Sale or Notice of Default indicating that the lender is in the process of foreclosing its mortgage on the property. We will then notify the Association upon receipt of the date of the foreclosure sale and, if possible, the effect on collectability of the assessments. We will monitor the progress of the foreclosure sale and advise the Association of the result.

B. Updated Statements of Account/Ledger Cards. During the collection process, we may receive updated statements of account/ledger cards from the Association. If so, we will consider the effect of that information on our collection efforts.

C. Filing of Complaint for Money Judgment and/or Foreclosure (aka "Lawsuit"). Typically, we will not file a lawsuit until we have obtained direction from the Association. If the collection resolution for the Association allows us to file the lawsuit without contacting the Manager or Board for permission, we will then proceed on that basis.

D. Title Company Demand. We often receive telephone calls from title companies requesting the amount required to satisfy a lien or judgment. We then will prepare and send a demand letter or escrow instructions and enclose a Satisfaction of Lien to be recorded by the title company when it holds in collected funds the amount due to the Association.

E. Payments Directly to Association. Once we have initiated collection proceedings, we ask our association clients to notify us if payment is sent to them directly from the owner/debtor. In addition, we ask our association clients to instruct their employees and Board members not to enter into agreements, mail statements, or discuss accounts with delinquent owners. The delinquent owner should be directed to contact our office with questions or comments. This will prevent the Association from incurring additional legal fees and costs on an account that has been paid current.

F. Bankruptcy Counsel. On occasion owner(s) file Bankruptcy, usually a Chapter 7 or 13. If the Association receives notification of a bankruptcy directly from the debtor or debtor's attorney, we ask that you notify us immediately. There are deadlines that, if missed, could compromise the Association's ability to collect. We may use the assistance of outside Bankruptcy counsel to file a proof of claim, object to a Chapter 13 plan or get the Bankruptcy dismissed.

G. Cash Flow. Although all of the fees and charges may be billed to the delinquent owner's account and added to the Association's lien, there is usually a time gap between the time the fees are payable by the Association to our firm (30 days after billing) and the time the Association receives payment from the delinquent owner. In addition, some association boards of directors choose, in the ordinary compromises that occur in conducting association business, to accept less than the full amount owed, or to accept a payment plan from an owner. Also, of course, some unpaid assessments are simply not collectible.

The collection process is not without cost to the Association, at least in terms of cash flow timing, and it is likely that the Association will not always recover all of its expenditures in collection actions.

H. Change in Ownership. Often we receive information of a change in ownership of the property. Change in ownership may happen with a sale or a foreclosure. If that occurs, we will send a copy of any newly recorded deed to the Association.

#### LIST OF ATTORNEYS\*

\*Nearly all collection work will be done by Karna Gustafson and her paralegals, Elaine Hirth, Kirsten Gustafson and Jennifer Cristofolo. Most litigation work will be done by Stuart Cohen and Pat Foran.

Listed below are the attorneys and staff involved in homeowner association collection matters.

J. David Bennett  
P. Stephen Russell III  
David N. Goulder  
Karna R. Gustafson  
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