

## **DELINQUENT ASSESSMENTS FREQUENTLY ASKED QUESTIONS**

### **Can we expect this pandemic crisis to affect the association's ability to collect assessments?**

Yes. Just as the economic crisis in 2008, this pandemic is already resulting in difficult financial situations for citizens throughout the country. If the crisis is only a few months, the Association would likely be well-served by being flexible with owners, such as waiving late fees or granting payment plans more liberally. If the crisis drags out further, however, other alternate strategies might be considered, including budgeting a larger amount for bad debt. Another "wild card" is whether government stimulus might be available to associations or members during this difficult time – and that has yet to play out definitively.

### **How should an association handle residents who are late or delinquent on assessments?**

Compassionate leniency should be exercised when possible. It is important for boards to review their collections policy from a compassionate place. Associations need to assess if essential services can be provided if the association is late on paying its fees. If possible, associations should try to waive late fees and fines.

### **Should associations be charging late fees for late paid assessments?**

Compassionate leniency should be considered when possible. All collection policies need to be fair, reasonable and consistent and this should not charge during the COVID-19 crisis.

### **Should associations be considering payment plans with residents who have requested leniency on their assessments?**

If an association chooses to allow payment plans, they should create a formal written agreement with an owner including affirmation of the hardship, the precise payment plan details, how many months the association has agreed to delay collections, if late fees are being charged, the right of the association to proceed with collection if the resident breaches the agreement, etc. This written agreement needs to be signed by both the resident and the association. It is important to know your state's statute of limitation for collection practices.

### **How should an association respond to a resident's request for an assessment reduction if they have closed common areas/facilities?**

State laws vary. However, residents need to be reminded that amenities are closing for health and safety concerns outlined by public policy. Associations will incur more cleaning costs during this time. Typically, an assessment reduction only applies to a resident if he or she is not receiving a service other members of the community are receiving. Also, the cost of insurance continues regardless of a facility being opened or closed. Residents need to be reminded that amenities are closing for health and safety concerns outlined by public policy. Associations will incur more cleaning costs during this time. Typically,

an assessment reduction only applies to a resident if he or she is not receiving a service other members of the community are receiving.

**Should a community send out notifications to all residents asking if there are financial hardships and if individual residents can pay their assessments?**

No, there are unintended consequences to announcing these opportunities.

Julie Howard, Esq., CCAL

**What documentation should associations ask for from residents who cannot pay their assessments in a timely manner?**

Associations should require a written statement from residents that includes where they worked and why they are asking for lenience.

Julie Howard, Esq., CCAL and Michael Johnson, CMCA, AMS, PCAM

**Should association' continue to file liens on unpaid assessments?**

Associations should continue to consider compassionate leniency when it comes to collection practices. However, associations should continue to file liens during this national emergency. Some state laws have statutory timeline requirements for lien perfection that are still in place during this pandemic.

Julie Howard, Esq., CCAL

**Now that we are crisis mode, how do we handle owners who are losing their jobs/income? Don't really want to see people losing their homes due to this crisis. What if the HOA can't pay its bills?**

The crisis will end at some point (hopefully soon) and businesses will restart. I recommend boards place a lien on delinquent properties to protect the association's interests, but suspend all foreclosure activity. Once people return to work, you can work out payment plans with delinquent owners.

Permanent Job Loss. The more difficult scenario will be those persons who permanently lose their jobs. They will be looking for new jobs once the economy reengages. How long do you wait for them to find work? What if they can't? When you get to that point, you will need to discuss options with legal counsel and decide how best to proceed.

Drop in HOA Revenue. If delinquencies impact cashflow, associations still need to pay their bills. If boards need to, they can borrow from reserves. Without a vote of the membership, boards are allowed to borrow from reserves to meet short-term cashflow problems. (Civ. Code §5515(a).) Monies borrowed from the reserves must be repaid to the reserve fund within one year of the date of the initial transfer, except that the board may, after giving the same notice required for considering a transfer, and, upon making a finding supported by documentation that a temporary delay would be in the best interests of the association, temporarily delay the repayment. (Civ. Code §5515(d).)

**Industry Experts on COVID-19 Delinquent Assessment FAQs:**

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## **RESOURCES**

Now is a good time to remind community association residents, board leaders, and managers of their [Rights & Responsibilities for Better Communities](#) and the [Community Association Civility Pledge](#).

View the latest COVID-19 resources and guidance from CAI by visiting [www.caionline.org/coronavirus](http://www.caionline.org/coronavirus)

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