

Assessment Delinquency Checklist

- Review/Update Collection Policy (review by legal counsel)
- Continue to send delinquency notices
- Record assessment liens timely
- Offer to meet with the member to discuss their situation
- Offer/work out a payment plan – consider the individual circumstances
- Consider waiving late fees and/or interest
- Consult with legal counsel

Financial Review Checklist

- Review financials on a monthly basis
- Identify cost saving areas
- Determine if any projects can be postponed
- Determine if any maintenance items can be deferred (not related to health or safety)
- Determine if any contracts can be renegotiated – identify contracts that are up for renewal
- Review the reserve funding plan to determine if any adjustments are needed (consult with reserve study company)

To Meet Short-term Cash Needs, Consider the following:

- Temporarily reduce reserve contributions
- Temporarily stop reserve contributions
- Borrow from reserves (need to repay within 1 year; consult with legal counsel for exception)
- Apply for a loan
- Obtain a line of credit
- Revise the budget accordingly

Monthly Review of Financial Statements Required

The Board can choose to review the financial statements monthly or form a sub-committee consisting of the treasurer and one additional board member to review the financial statements monthly. If the sub-committee is reviewing the financial statements, the review must be ratified at the following Board meeting.

The items that must be reviewed are:

- Check register
- Bank statements
- Reconciliation of operating and reserves accounts
- Income and expense report
- Actual expenses against the budget
- General ledger
- Delinquent Assessment Accounts

The Civil Code references follow.

Civil Code §5500. Board Review of Finances Required.

Unless the governing documents impose more stringent standards, the board shall do all of the following:

- (a) Review, on a monthly basis, a current reconciliation of the association's operating accounts.
- (b) Review, on a monthly basis, a current reconciliation of the association's reserve accounts.
- (c) Review, on a monthly basis, the current year's actual operating revenues and expenses compared to the current year's budget.
- (d) Review, on a monthly basis, the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts.
- (e) Review, on a monthly basis, an income and expense statement for the association's operating and reserve accounts.
- (f) Review, on a monthly basis, the check register, monthly general ledger, and delinquent assessment receivable reports.

Civil Code §5501. Meeting Financial Review Requirements.

The review requirements of Section 5500 may be met when every individual member of the board, or a subcommittee of the board consisting of the treasurer and at least one other board member, reviews the documents and statements described in Section 5500 independent of a board meeting, so long as the review is ratified at the board meeting subsequent to the review and that ratification is reflected in the minutes of that meeting.

Borrowing From Reserves

If a board decides to borrow money from reserves, the following criteria must be met.

Notice of Intent to Borrow

The board must notice the membership of the intent to consider a transfer of reserve funds to the operating fund in a regular meeting notice, which will include:

- Reasons the transfer is needed
- Options for repayment
- If a special assessment will be considered

When the Board Approves Borrowing from Reserves

The Board must issue a written finding in the Board's minutes, which will include:

- An explanation of the reasons the transfer is needed
- Description of when and how the money will be repaid

Requirements for Repayment

- The board must repay the borrowed funds within one year.
- If this does not occur, the board must again notice the owners as above, and
- Issue a finding with supportive documentation regarding why a delay is in the best interest of the association.

The Civil Code references follow.

Civil Code §5515. Temporary Transfer of Reserve Funds.

(a) Notwithstanding Section 5510, the board may authorize the temporary transfer of moneys from a reserve fund to the association's general operating fund to meet short-term cashflow requirements or other expenses, if the board has provided notice of the intent to consider the transfer in a board meeting notice provided pursuant to Section 4920.

(b) The notice shall include the reasons the transfer is needed, some of the options for repayment, and whether a special assessment may be considered.

(c) If the board authorizes the transfer, the board shall issue a written finding, recorded in the board's minutes, explaining the reasons that the transfer is needed, and describing when and how the moneys will be repaid to the reserve fund.

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(d) The transferred funds shall be restored 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 common interest development, temporarily delay the restoration.

(e) The board shall exercise prudent fiscal management in maintaining the integrity of the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required by this section. This special assessment is subject to the limitation imposed by Section 5605. The board may, at its discretion, extend the date the payment on the special assessment is due. Any extension shall not prevent the board from pursuing any legal remedy to enforce the collection of an unpaid special assessment.

The ABC's of IDRs

If a member is in arrears, an invitation to an IDR may offer them the opportunity to discuss a payment plan or ask for an extension.

- The board should decide on what parameters are allowed for negotiation by the board liaison
- Choose a Director to act as the liaison with the member
- Send an invitation to the member to meet with a single director
- Ensure that the meeting is relaxed, giving both sides the opportunity to work out an agreement
- Be sure that any agreement is captured in writing and signed by both parties

The Civil Code references follow.

Civil Code §5915. Default Meet and Confer Procedure.

(a) This section applies to an association that does not otherwise provide a fair, reasonable, and expeditious dispute resolution procedure. The procedure provided in this section is fair, reasonable, and expeditious within the meaning of this article.

(b) Either party to a dispute within the scope of this article 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) A member of an association may refuse a request to meet and confer. The association shall not refuse a request to meet and confer.

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(3) The board shall designate a director 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. The parties may be assisted by an attorney or another person at their own cost when conferring.

(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.

(c) A written agreement reached under this section binds the parties and is judicially enforceable if it is signed by both parties and both of the following conditions are satisfied:

(1) The agreement is not in conflict with law or the governing documents of the common interest development or association.

(2) The agreement is either consistent with the authority granted by the board to its designee or the agreement is ratified by the board.

(d) A member shall not be charged a fee to participate in the process