

MOUNTAIN VALLEY ASSOCIATION

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RULES AND POLICIES OF MOUNTAIN VALLEY ASSOCIATION

November 2020

1. ASSESSMENT RULES AND POLICIES:

1.1. Policy for Assessment of Late Charges and Penalties: Adopted 8/11/18, Amended 12/14/19

- 1.1.1. Assessment Due Date: Assessments are due on November 1 of each year and are delinquent on November 15 of the same year.
- 1.1.2. Late Fee: A late fee of 10% of the Assessment due will be assessed on payments not received by November 30.
- 1.1.3. Interest: Interest will be assessed on any unpaid Assessment balance remaining after December 1 of each year at a rate of 1% per month (12% per annum).
- 1.1.4. Application of Payments: Any payments received shall be first applied to any remaining Assessment balance, then to any penalties, interest or fees accrued.
- 1.1.5. Notification of Rejected Payment:
Upon receipt of a rejected payment taken as remittance of assessments or any other charges and fees due, the Association will make a reasonable, good faith effort to notify the Member of the rejected payment. The Association will consider the account unpaid and subject to Late Fee as specified in 1.1.2. and Interest as specified in 1.1.3. if the amount of the rejected payment and the Returned Check Charge are not paid within 48 hours of the date of notice.
- 1.1.6. Returned Check Charge:
A charge as set forth in Section 5, Schedule of Monetary Penalties, shall be assessed for any form of payment tendered to District that is rejected by the bank or financial entity upon which it is drawn.
- 1.1.7. De Minimis Balance:
For unpaid Assessment or other fees and charges having a balance of ten dollars (\$10.00) or less, the late fee will not apply. Interest will accrue as specified in 1.1.3. Interest.

1.2. POLICY FOR PAYMENT PLAN FOR DELINQUENT ASSESSMENTS: Adopted 8/11/19

- 1.2.1. Request for Payment Plan: An owner, other than an owner of any interest that is described in Section 11212 of the Business and Professions Code that is not otherwise exempt from this section pursuant to subdivision(a) of Section 11211.7 of the Business and Professions Code, may submit a written request to meet with the board to discuss a payment plan for the delinquent assessments.

1.2.2. Meeting with Board to Discuss Payment Plan: The board shall meet with the owner in executive session within 45 days of the postmark of the request, if the request is mailed within 15 days of the date of the postmark of the notice required pursuant to Section 5660 of the Civil Code, unless there is no regularly scheduled board meeting within that period, in which case the board may designate a committee of one or more directors to meet with the owner.

1.2.3. Amortization of Delinquent Assessments: Solely at the discretion of the Board, and upon approval of the written request of the member, the Board may offer a Member asserting an inability to pay for delinquent assessments, a 12-month amortization payment plan.

1.2.4. Amortization Payment Plan: Upon Board approval of the written request for amortization, a written amortization plan will be entered into between the Association and the Member. Payment plans may incorporate any assessments that accrue during the payment plan period. Additional late fees shall not accrue during the payment plan period if the owner is in compliance with the terms of the payment plan.

1.2.5. Compliance with Plan: The Member must comply with the amortization plan and remain current in subsequent assessments due and any additional charges, fees, fines or penalties incurred during the duration of the plan. The Member may not request further amortization of any subsequent unpaid assessments or other fees while paying delinquent assessments pursuant to an amortization plan. Payment plans shall not impede an association's ability to record a lien on the owner's separate interest to secure payment of delinquent assessments.

In the event of a default on any payment plan, the association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

1.3. DELINQUENT ASSESSMENT COLLECTION POLICY: Adopted

Prompt payment of Assessments by all owners is critical to the financial health of the Association and to the enhancement of the property values of our homes. Your Board of Directors takes very seriously its obligation under the Declaration of Covenants, Conditions and Restrictions (CC&Rs) and the California Civil Code to enforce the members' obligation to pay assessments. The policies and practices outlined shall remain in effect until such time as they may be changed, modified, or amended by a duly adopted resolution of the Board of Directors. Therefore, pursuant to the CC&R's and Civil Code Section 5320, the following are the Associations assessment practices and policies:

- 1.3.1. Assessments are due on the first (1st) day of November of each year and delinquent if not received by the fifteenth (15th) day of November of each year. A statement of account will be mailed to each owner of record by the end of the month preceding the assessment due date. If a special assessment is necessary, each owner of record will be notified in advance of the amount and due date. Payment of all assessments is the responsibility of each member and the failure to receive a statement or notice of fees due does not relieve the member of the responsibility to pay assessments or charges due.
- 1.3.2. In the event an assessment is not received within thirty (30) days after it is due, the member will be required to pay the Association a late charge in an amount equal to ten percent (10%) of the delinquent balance or \$10.00 whichever is greater.
- 1.3.3. Interest at the rate of twelve percent (12%) per annum will be added to the account of the delinquent member beginning thirty (30) days after the original due date.
- 1.3.4. In the event an assessment is not received within thirty (30) days after the original due date, a notice will be mailed to the owner of record reminding payment is past due.
- 1.3.5. Within ninety (90) days of the date of default, a Notice in Claim of Lien letter (Attachment A) will be sent to the owner of record by certified mail.
- 1.3.6. In the event all delinquent assessments, fees, costs, and charges are not paid in full within thirty (30) days of receipt of the Notice of Delinquent Assessment letter, a lien may be recorded with the Kern County Recorder's Office. Within ten (10) days after the lien is recorded the lien will be sent to the owner by certified mail along with a letter stating that if full payment is not made to the Association within thirty (30) days from receipt of the letter a Notice of Default may be recorded against the property to commence the foreclosure proceeding.
- 1.3.7. Once the foreclosure procedure begins, it will continue until the foreclosure sale takes place, unless the total amount due to the Association, including all delinquent regular, special assessments, late charges, lien fees, trustee's fees, attorney's fees, and any other charges against the property are paid in full.
- 1.3.8. In the event a senior lien holder forecloses on the property, the Association will proceed to obtain a personal money judgment against the owner for all amounts which are due and owing to the Association in connection with the Lot.

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- 1.3.9. The Board of Directors reserves its rights, on behalf of the Association, to collect delinquent assessments through Small Claims Court, or any other remedy available at law, or in equity.
- 1.3.10. A copy of the statutorily required "NOTICE ASSESSMENTS AND FORECLOSURE" is provided as Attachment B.

2. GOVERNANCE RULES AND POLICIES:

2.1. Board Meeting Rules of Conduct: Adopted 2/10/18

- 2.1.1. Meetings of the Board of Directors: Meetings of the Board of Directors shall be governed generally by Roberts Rules of Order, and specifically by these rules, all laws, rules and regulations applicable to the Association, and any applicable provisions of the Bylaws.
- 2.1.2. Open Meetings: All Board Meetings shall be open to all members and their guests, except when the Board is convened in closed session as authorized under provisions of the Bylaws and applicable law.
- 2.1.3. Recording of Board Meetings: Board meetings may be recorded and recording may be posted to Association website for a minimum of 90 days from the meeting date.
- 2.1.4. Notice of Board Meetings:
 - 2.1.4.1. Notice of Board meetings shall be posted on Association bulletin board at least 96 hours prior to meetings, except emergency meetings as authorized under provisions of the Bylaws and applicable law.
 - 2.1.4.2. Notice of Board meetings shall be posted on Association website at least 96 hours prior to meetings, except emergency meetings as authorized under provisions of the Bylaws and applicable law. Notice of Meeting shall include an Agenda.
- 2.1.5. Agendas for Board meetings:
 - 2.1.5.1. The President shall prepare the agendas for meetings. Agendas shall include items requested by any Board member, Officer, Committee, or as determined by the President.
 - 2.1.5.2. The Agenda for a regular meeting may provide for a consent calendar for items which the President deems to be of a routine nature.
 - 2.1.5.2.1. All items on the Consent Calendar may be approved without discussion upon motion duly made, seconded and approved by at least three Directors.
 - 2.1.5.2.2. At the request of a Director or a member, an item on the Consent Calendar shall be removed from the Consent Calendar and placed on the Agenda with other items for discussion and consideration.

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2.1.5.3. Each Agenda for a Regular Meeting shall provide an opportunity for any member to comment on any non-agenda item that is within the subject matter of the Board.

2.1.5.3.1. A reasonable time limit for each speaker may be imposed by the Chair.

2.1.6. Board Action:

2.1.6.1. The Board shall act only by resolution or motion.

2.1.6.1.1. All motions, including a motion to adopt a resolution, shall require a second. If a second is not received, the motion shall fail without the requirement for a vote.

2.1.6.1.2. Any member of the Board, including the Chairman, may make or second a motion.

2.1.6.1.2.1. After a motion has been made and seconded, any member of the Board may make any of the following motions:

2.1.6.1.2.1.1. To continue the motion to a specific time.

2.1.6.1.2.1.2. To table the motion, the effect of which defers further discussion and a vote until the majority of the Board again wishes to resume consideration of the motion,

2.1.6.1.2.1.3. To commit or refer the motion to committee, the effect of which is to defer further consideration until the committee has reported its findings to the Board.

2.1.6.1.2.1.4. To amend the motion to modify its wording before adoption, provided the suggested amendment is germane to the original motion.

2.1.6.1.2.1.5. To propose a substitute motion, which has the effect of disposing of the motion before the Board and eliminating the necessity of a vote on the original motion.

2.1.6.1.2.1.6. To call for the question, which in fact is a motion to terminate further debate and requires a second and an affirmative vote of the Board.

2.1.6.1.3. If a motion is not in writing, and if necessary or desired for clarity, the Chairman shall restate the question prior to the vote. Until the Chairman states the question, the maker, with the approval of the second, may modify the motion or withdraw it completely. Once the question has been stated by the Chairman, the motion may be changed only by motion to amend, which is seconded and carried.

2.1.6.1.4. Prior to Board action on a motion, any member so desiring shall be given an opportunity to comment on such action. A

reasonable time limit for each speaker may be imposed by the Chair.

2.1.6.1.5. Motions may be adopted by voice vote. Any member of the Board may demand the motion be decided by roll-call vote, at which time the roll shall be called and the vote recorded.

2.1.6.1.6. The board may not take action on any item of business not appearing on the Agenda except under the following conditions:

2.1.6.1.7. Upon a determination made by a majority of the board present at the meeting that an emergency situation exists. An emergency situation exists if there are circumstances that could not have been reasonably foreseen by the board, that require immediate attention and possible action by the board, and that, of necessity, make it impracticable to provide notice.

2.1.6.1.8. Upon a determination made by the board by a vote of two-thirds of the directors present at the meeting, or, if less than two-thirds of total membership of the board is present at the meeting, by a unanimous vote of the directors present, that there is a need to take immediate action and that the need for action came to the attention of the board after the agenda was posted.

2.1.6.1.9. The item appeared on an agenda that was distributed for a prior meeting of the board that occurred not more than 30 calendar days before the date that action is taken on the item and, at the prior meeting, action on the item was continued to the meeting at which the action is taken. Before discussing any such item, the board shall openly identify the item to the members in attendance at the meeting.

2.1.6.2. Executive Session:

2.1.6.2.1. The board may adjourn to, or meet solely in, executive session to consider litigation, matters relating to the formation of contracts with third parties, member discipline, personnel matters, or to meet with a member, upon the member's request, regarding the member's payment of assessments, as specified in Section 5665 of the California Civil Code.

2.1.6.2.2. The board shall adjourn to, or meet solely in, executive session to discuss member discipline, if requested by the member who is the subject of the discussion. That member shall be entitled to attend the executive session.

2.1.6.2.3. The board shall adjourn to, or meet solely in, executive session to discuss a payment plan pursuant to Section 5665 of the California Civil Code.

2.1.6.2.4. The board shall adjourn to, or meet solely in, executive session to decide whether to foreclose on a lien pursuant to subdivision (b) of Section 5705 of the California Civil Code.

2.1.6.2.5. Any matter discussed in executive session shall be generally noted in the minutes of the immediately following meeting that is open to the entire membership.

2.2. POLICY FOR THE PRESERVATION, PROTECTION, RETENTION AND DISPOSITION OF RECORDS: Adopted 4/13/19

2.2.1. OVERVIEW OF RECORDS MANAGEMENT:

The purpose of records management is to ensure that information is available when it is needed. To do this efficiently and thoroughly, records must be identified, organized, maintained for the requisite time period, and then documented when destroyed. Records management encompasses all of the record-keeping requirements that allow an organization to establish and maintain control over information flow and administrative operations, seeking to control and manage records through the entirety of their life cycle, from creation to disposition.

The benefits of a sound records management program include improved customer service, increased staff efficiency, improved allocation of scarce resources, and providing a legal foundation for how an agency manages records as it conducts its daily mission. A sound record management policy helps identify and justify opportunities for new technology. Other benefits include:

- Providing member access to and protecting the members' rights to inspect Association records in accordance with the California Civil Code, Corporations Code and Association bylaws;
- Preservation of records with long-term or permanent value;
- Protection of records vital to Mountain valley Association in the event of a disaster;
- Protection of records essential to Mountain valley Association, but which are referenced infrequently;
- Demonstration of compliance with legal retention requirements established by federal, state, and local authorities;
- Orderly retirement and destruction of records no longer required by statute to be retained or needed for reference;
- Elimination of duplicate records;
- Ensuring proper administration of records not subject to disclosure;
- Providing protection in litigation, audits, and other disputes;

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- Saving space; and
- Increased efficiency in information retrieval.

Understanding the importance of a good records management program is to establish policies and procedures for the efficient and economical management of the creation, utilization, maintenance, retention, preservation, and disposal of Association records, based on federal and state statutes governing Association records, and, further, insuring that a responsible program of records management is practiced within the Association, serving the best interest of the Association and its members.

2.2.2. DEFINITIONS:

2.2.2.1. **Active Records:**

2.2.2.1.1. As a measure of ACTIVITY: Records that are referred to at least once a month per cubic foot of records.

2.2.2.1.2. As a RETENTION PERIOD: A PERPETUAL RECORD that remains ACTIVE until some event occurs to change its status, at which time it has fulfilled its function. (see also PERPETUAL RECORD)

2.2.2.2. **Administrative Records:** Records commonly found in all offices and typically retained only for short time periods-less than five years. Examples include subject, chronological, budget, and policy files.

2.2.2.3. **Association Records:**

2.2.2.3.1. Any financial document required to be provided to a member in Article 7 (commencing with Section 5300) or in Sections 5565 and 5810 of the California Civil Code.

2.2.2.3.2. Any financial document or statement required to be provided in Article 2 (commencing with Section 4525) of Chapter 4 of the California Civil Code.

2.2.2.3.3. Interim financial statements, periodic or as compiled, containing any of the following:

2.2.2.3.3.1. Balance sheet.

2.2.2.3.3.2. Income and expense statement.

2.2.2.3.3.3. Budget comparison.

2.2.2.3.3.4. General ledger. A "general ledger" is a report that shows all transactions that occurred in an association account over a specified period of time.

2.2.2.3.4. Executed contracts not otherwise privileged under law.

2.2.2.3.5. Written board approval of vendor or contractor proposals or invoices.

2.2.2.3.6. State and federal tax returns.

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- 2.2.2.3.7. Reserve account balances and records of payments made from reserve accounts.
- 2.2.2.3.8. Agendas and minutes of meetings of the members, the board, and any committees appointed by the board pursuant to Section 7212 of the Corporations Code; excluding, however, minutes and other information from executive sessions of the board as described in Article 2 (commencing with Section 4900) of the California Civil Code.
- 2.2.2.3.9. Membership lists, including name, property address, and mailing address, but not including information for members who have opted out pursuant to Section 5220 of the California Civil Code.
- 2.2.2.3.10. Check registers.
- 2.2.2.3.11. The governing documents.
- 2.2.2.3.12. An accounting prepared pursuant to subdivision (b) of Section 5520.
- 2.2.2.4. **Archival Records:** Records with enduring value because they reflect significant historical events, document the history and development of the Association, or provide valuable research data.
- 2.2.2.5. **Discovery:** The pretrial disclosure of pertinent facts or documents by one or both parties to a civil action or proceeding. Anything requested during discovery must be disclosed if it exists – even non-records and records that should have been destroyed earlier. Discovery effectively freezes selected holdings until released by opposing attorney or the court.
- 2.2.2.6. **Enhanced association records:** invoices, receipts and canceled checks for payments made by the association, purchase orders approved by the association, credit card statements for credit cards issued in the name of the association, statements for services rendered, and reimbursement requests submitted to the association.
- 2.2.2.7. **Non-Records:** Material not usually included within the definition of records, such as unofficial copies of documents kept only for convenience or reference, working papers, appointment logs, stocks of publications and processed documents, and library or museum material intended solely for reference or exhibition. Also, documents such as rough notes, calculations or drafts assembled or created and used in the preparation or analysis of other documents. (See also Discovery)
- 2.2.2.8. **Permanent Records:** Records that are required in perpetuity, usually identified by statute or other written guidance. Examples include minutes, etc.

- 2.2.2.9. **Perpetual Records:** Records retained for an indefinite time period and then stored or destroyed after some event takes place. Examples include, policy files kept until the policy is changed, contract files kept until the contract terminates, etc.
- 2.2.2.10. **Program Records:** Records that relate to the primary function of the Association in response to its daily mission. Examples include lien files, member list, election files, etc.
- 2.2.2.11. **Records:** All papers, maps, exhibits, magnetic or paper tapes, photographic films and prints, punched cards, and other documents produced, received, owned or used by the District, regardless of physical form or characteristics.
- 2.2.2.12. **Records Retention Schedule:** A list of all records produced or maintained by the Association and the actions taken with regards to those records. A retention schedule is the Association's legal authority to, create, retain, and dispose of Association records. It assists the Association by documenting which records require office or temporary storage, which records have historic or research value, and which records should be destroyed because they no longer have any administrative, fiscal, or legal value. In the event of litigation, courts accept a retention schedule as establishing the Association's "normal course of doing business".
- 2.2.2.13. **Retention Period:** The length of time a record must be retained to fulfill its administrative, fiscal and/or legal function. Then a record should be disposed of as soon as possible in accordance with an approved Records Retention Schedule.
- 2.2.3. OWNERSHIP OF RECORDS:
All Association records are the property of the Association and shall be delivered by outgoing officials and employees to their successors. Association records are to be maintained in active file areas or in a designated location.
- 2.2.4. RECORDS MANAGEMENT:
2.2.4.1. **Creating Files:** Association personnel are advised to begin new files with an eye to the future disposition of the file being created. For example, by knowing that the information/materials contained within a new file will be retained for a specific number of years, it would be prudent to create the file on a calendar year or perhaps fiscal year basis. Planning ahead avoids separating files later when it comes time for storage and/or destruction. Also, reviewing the Association's retention schedule beforehand can avoid the necessity and time-

consuming activity of separating permanent information/documents from short-term materials prior to time of destruction. Association personnel are also advised to ensure some level of consistency in labeling and identifying files, particularly at the time of creating new ones.

2.2.4.2. Converting Hard Copy to Electronic Formats:

2.2.4.2.1. The Board of Directors of Mountain Valley Association authorizes the conversion of hard copy materials and records onto other electronic mediums (*i.e.*, burning CDs or DVDs or other format reasonably accepted within the industry, as long as the following conditions are met:

2.2.4.2.1.1. The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images, recorded in electronic data processing system, recorded on optical disk, or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document;

2.2.4.2.1.2. The device or method used to reproduce the record, paper, or document reproduces the original in all details and does not permit additions, deletions, or changes to the original document images;

2.2.4.2.1.3. The reproductions are made accessible for member reference as the original records were; and

2.2.4.2.1.4. A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

If the above conditions are met, the Association officer having custody of the records may convert the hard copy to a permissible electronic format and destroy the hard copy.

2.2.4.2.2. Practical Application with Current Technology: Mountain Valley Association has determined that documents scanned and electronically stored in JPEG, JBIG, JPEG 2000, TIFF, or PDF-A image format, and the images/documents are twice duplicated onto a trusted electronic media, such as Archival Grade DVD-R – Said hard copies may be destroyed. Here is an example how this process might work:

2.2.4.2.2.1. Scan a document as a JPEG, JBIG, JPEG 2000, TIFF, or PDF-A image.

2.2.4.2.2.2. Place the original hard copy (now scanned) in a banker box for pending destruction.

2.2.4.2.2.3. Now that several documents have been scanned and are electronically stored;

2.2.4.2.2.3.1. Back-up the scanned documents onto Archival Grade DVD-R.

2.2.4.2.2.3.2. Repeat the process to create a second duplicate copy.

2.2.4.2.2.3.3. Retain one back-up DVD on-site and one back-up DVD off-site.

2.2.4.2.2.4. Now that the original hard copy has been scanned, stored in a local file and twice duplicated onto trusted media – The original hard copy may be destroyed.

2.2.4.3. Inventory: The first step in records management is a records inventory. The Association needs to know what records it has, where the records are kept, the volume, and how the records are used. This information is essential for developing and maintaining a Records Retention Schedule to document the agencies normal course of doing business. The Records Inventory Worksheet, Attachment A, is used to gather the following information needed in a records management program:

2.2.4.3.1. Record Series: A record series is a group of similar records arranged under a single filing system or kept together as a unit. They deal with a particular subject (budget, personnel, etc.), result from the same activity (property assessments, liens, etc.), or have a special form (blueprints, maps, etc.). The title of each record series should be as accurate as possible, since future references to the records will be by the record series name. Avoid vague titles such as "Corporate Papers", "Official Documents", or "Vital Correspondence".

2.2.4.3.2. Media: Determine the media for each record series such as paper, microfilm, etc. Also note if the same record exists in several medium.

2.2.4.3.3. Years covered: Determine the period of years covered by each record series. (Example: 1994-98).

2.2.4.3.4. Activity Level: The amount of activity involving a record determines where the record should be stored. Active records need to be readily available and are generally stored in the office because they are accessed frequently. Inactive records that are still needed but only accessed occasionally should be warehoused in low cost storage.

2.2.4.3.5. Volume: Note the volume of each record series by the cubic feet of space they occupy. This number is a spot count and should represent only those records on hand at the time of inventory. A typical file drawer or archive box contains approximately one cubic foot of actual records. Folders, separators, tab cards, etc. are not considered part of a record.

2.2.4.4. Appraisal and Scheduling: After the inventory, sound records management requires a realistic appraisal of records in relation to their period of usefulness and their value to the agency that owns them. The appraisal will:

- 2.2.4.4.1. Establish reasonable retention periods.
- 2.2.4.4.2. Identify records that can be destroyed immediately.
- 2.2.4.4.3. Identify records that should be transferred to low cost storage.
- 2.2.4.4.4. Identify vital and/or confidential records.
- 2.2.4.4.5. Identify records with historic and/or research value.
- 2.2.4.4.6. Determine the method of disposition.

Once records are inventoried, determine the immediate and future usefulness of the records. In general, records should be retained only as long as they serve the immediate administrative, legal and/or fiscal purposes for which they were created. When records no longer serve these purposes, they should be disposed of or preserved for archival purposes, whichever is appropriate.

2.2.4.5. Retention Schedules: A properly prepared and approved Records Retention Schedule, Attachment B, is the Association's legal authority to do whatever needs to be done with records and documents entrusted to the Association's care. It certifies the life, care, and disposition of all Association records. Schedules must be specific and consistently used. The signature Secretary attests to the completeness and accuracy of the information on the schedule. The Records Retention Schedule is considered current for five years unless amended sooner due to a significant change in the Association's record keeping practices. Regardless of any amendments, a new schedule must be prepared and approved after five years to ensure the schedule accurately and completely reflects the agency's records holdings and disposition.

2.2.4.6. Disposition of Records: Once records have fulfilled their administrative, fiscal, or legal function they should be disposed of as soon as possible in accordance with their Records Retention Schedule.

At least annually, all records in the Association's custody shall be reviewed. Records that have reached the end of their retention period are to be disposed of pursuant to the Records Retention Schedule. All original records to be destroyed must be listed on the Records Destruction Form, Attachment C, and approved by the Board of Directors. Once approved, all forms of that record must be destroyed: paper, microfilm, electronic format. Permanent records are not authorized for destruction.

2.2.4.7. Records Retention Codes:

AC	Active
AD	Adoption
AU	Audit
CU	Current Year
E	Election
CL	Closed/Completed
P	Permanent
S	Superseded
T	Termination

2.3. RIGHTS OF INSPECTION-MEMBERSHIP LIST: Adopted 1/19/20

A member may, upon written demand and for purposes reasonably related to a member's interest as a member, request to inspect, copy, or request a copy of the Association's membership list. Such demand shall state the purpose for which the list is requested.

Mountain Valley Association, in order to protect the privacy of those members who have opted out as set forth in Civil Code § 5220, has adopted the following reasonable alternative under Corporation Code § 8330 (c):

- 2.3.1. Within 10 days after receipt of written demand, the Secretary of the Association shall give written notice that the Association intends to comply with the request by alternative method. The notice shall provide a description of the alternative method proposed. (Attachment 1)
- 2.3.2. The Association shall, once the member has accepted the alternative method, promptly perform its obligations under such alternative method.
- 2.3.3. Any rejection of the offer shall be in writing and shall indicate the reasons the alternative method proposed by the Association does not meet the proper purpose of the demand made.
- 2.3.4. A member that has rejected the offer of the alternative method may request an item to be placed on the agenda for the next regular meeting of

the Board of Directors to be heard. The Board, at its sole discretion, may accept an alternative proposal from the member, may affirm the original offer, or may propose another alternative. The decision of the Board shall be final.

3. PERSONNEL RULES AND POLICIES:

3.1. RULES OF CONDUCT FOR BOARD MEMBERS, OFFICERS, AND

COMMITTEE MEMBERS: Adopted 2/10/18

The Board of Directors has adopted the following rules of conduct for its Board Members, Officers and Committee Members. This policy is intended to provide guidance with ethical and professional conduct issues and a mechanism for addressing inappropriate conduct:

- 3.1.1. BOARD RESPONSIBILITIES: The general duties of Directors are to enforce the Association's governing documents, collect and preserve the Association's financial resources, insure the Association's assets against loss, and keep the common areas in a state of good repair. To fulfill these responsibilities, Directors must:
- 3.1.1.1. Regularly attend and participate in board meetings,
 - 3.1.1.2. Review material provided in preparation for board meetings,
 - 3.1.1.3. Review the Association's financial reports, and
 - 3.1.1.4. Make reasonable inquiry before making decisions.
 - 3.1.1.5. Carry out board actions.
- 3.1.2. RESPONSIBILITY OF COMMITTEE MEMBERS: The general duties of Committee Members are to gather information relating to the committee's appointed oversight, review such information and make recommendations to the Board of Directors of actions to be taken. To fulfill these responsibilities, Committee Members must:
- 3.1.2.1. Regularly attend and participate in committee meetings,
 - 3.1.2.2. Review material provided in preparation for committee meetings,
 - 3.1.2.3. Make reasonable inquiry before making decisions.
 - 3.1.2.4. Follow board direction.
- 3.1.3. RESPONSIBILITY OF OFFICERS: The general duties of Officers are to perform the duties of their respective office as defined in the Bylaws of the Association and perform other duties as may be directed by the Board of Directors, at all times acting in the best interest of the Members and the Association. To fulfill these responsibilities, Officers must:
- 3.1.3.1. Regularly attend and participate in board meetings,
 - 3.1.3.2. Provide relevant reports, material and information to Board members in preparation for board meetings,

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- 3.1.3.3. Make reasonable making decisions in performing assigned duties consistent with Board direction, Association governing documents, and applicable law, rules and regulations.
- 3.1.3.4. Follow board direction.
- 3.1.4. **PROFESSIONAL CONDUCT:** In general, directors, officers and committee members must conduct all dealings with vendors and employees with honesty and fairness, and safeguard information that belongs to the Association.
 - 3.1.4.1. **Self-Dealing:** Self-dealing occurs when directors, officers or committee members make decisions that materially benefit themselves or their relatives at the expense of the Association. Relatives include a person's spouse, parents, siblings, children, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law and anyone who shares the person's residence. Benefits include money, privileges, special benefits, gifts or other items of value. Accordingly, no director, officer or committee member may:
 - 3.1.4.1.1. Solicit or receive any compensation for serving on the board or any committee except as explicitly authorized by the governing documents and/or board action.
 - 3.1.4.1.2. Make promises to vendors unless with prior approval from the board.
 - 3.1.4.1.3. Solicit or receive any gift, gratuity, favor, entertainment, loan, or any other thing of substantive value for themselves or their relatives from a person or company who is seeking a business or financial relationship with the Association. For the purposes of this paragraph, substantive value shall be defined as \$25.00.
 - 3.1.4.1.4. Seek preferential treatment for themselves or their relatives.
 - 3.1.4.1.5. Use Association property, services, equipment or business for the gain or benefit of themselves or their relatives, except as provided for all members of the Association.
 - 3.1.4.2. **Confidential Information:** Directors, officers and committee members are responsible for protecting the Association's confidential information. As such, they may not use confidential information for the benefit of themselves or their relatives. Except when disclosure is duly authorized or legally mandated, no director, officer or committee member may disclose confidential information. Confidential information includes:
 - 3.1.4.2.1. Private personal information of fellow directors, officers and committee members;
 - 3.1.4.2.2. Private personal information of the Association's employees;

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- 3.1.4.2.3. Private personal information of the members of the Association;
- 3.1.4.2.4. Disciplinary actions against members of the Association;
- 3.1.4.2.5. Assessment collection information against members of the Association; and
- 3.1.4.2.6. Legal disputes in which the Association is or may be involved (Directors, officers and committee members may not discuss such matters outside of executive session or with persons other than directors without the prior approval of the Association's legal counsel). Violation of these restrictions could constitute a breach of the attorney-client privilege and loss of confidential information.
- 3.1.4.3. Misrepresentation: Directors, officers and committee members may not knowingly misrepresent facts. All Association data, records and reports must be accurate and truthfully prepared in a proper manner.
- 3.1.4.4. Interaction with Employees: To ensure efficient management, avoid conflicting instructions from the Board to employees and avoid potential liability, Directors and committee members shall observe the following guidelines:
 - 3.1.4.4.1. The President of the Board shall be responsible to give direction to employees and vendors on day to day matters. The President may delegate this authority to subordinates of the President following a clearly established chain of command.
 - 3.1.4.4.1.1. Except for the President, and absent delegation of authority by the President, directors, officers and committee members may not give direction to employees or vendors.
- 3.1.4.5. Directors, officers and committee member made aware of an emergency representing a threat of harm to persons or property shall immediately contact the President or his/her designee.
 - 3.1.4.5.1. Directors, officers or committee member made aware of a complaint by a member, vendor or employee, shall instruct the complainant to make the complaint to the Board as a whole.
 - 3.1.4.5.2. No director, officer or committee member may threaten or retaliate against an employee or vendor who brings information to the board regarding improper actions of a director, officer or committee member.
 - 3.1.4.5.3. Directors, officers and committee members are prohibited from harassing or threatening employees, members, vendors, directors, and committee members, whether verbally, physically or otherwise.

3.1.4.6. Proper Decorum: Directors, officers and committee members are obligated to act with proper decorum. Although they may disagree with the opinions of others on the board or committee, they must act with respect and dignity and not make personal attacks on others. Accordingly, directors, officers and committee members must focus on issues, not personalities and conduct themselves with courtesy toward each other and toward employees, vendors and members. Directors shall act in accordance with board decisions and shall not act unilaterally or contrary to the board's decisions.

3.1.5. CONFLICTS OF INTEREST: Situations may arise that are not expressly covered by this policy or where the proper course of action is unclear. Directors, officers and committee members should immediately raise such situations with the Board. If appropriate, the Board shall seek guidance from the Association's legal counsel.

3.1.5.1. Disclosure: Directors, officers and committee members must immediately disclose the existence of any conflict of interest, whether their own or others. A conflict of interest exists when a director, officer or committee member's decision has a reasonably foreseeable financial effect on a financial interest of the director, officer or committee member, or those of a member of his or her immediate family.

3.1.5.2. Recusal: Directors, officers and committee members must withdraw from participation in decisions in which they have a material interest. A decision is material that affects:

- 3.1.5.2.1. A financial interest in a business entity;
- 3.1.5.2.2. A financial interest in real property;
- 3.1.5.2.3. A financial interest in a source of income;
- 3.1.5.2.4. A financial interest in a source of gifts;
- 3.1.5.2.5. The public official's personal finances, or those of a member of his or her immediate family.

The financial effect is not material if it is nominal, inconsequential, or insignificant; or if it similarly affects 25% or more of the members.

3.1.6. VIOLATIONS OF POLICY: Directors, officers and committee members found to have violated the Mountain Valley Association Rules of Conduct policy are deemed to be acting outside the course and scope of their authority. Anyone in violation of this policy may be subject to disciplinary action, including, but not limited to:

- 3.1.6.1. Censure;
- 3.1.6.2. Removal from committees;
- 3.1.6.3. Removal as an officer of the board;
- 3.1.6.4. Request for resignation from the board;

3.1.6.5. Recall by membership; and

3.1.6.6. Legal action.

Prior to taking any of the above described actions, the board shall appoint an executive committee to investigate the alleged violation. The committee shall review the evidence of violation, endeavor to meet with those believed involved in the alleged violation, confer with the Association's legal counsel, and present its findings and recommendations to the board for appropriate action. The board shall endeavor to meet with the director, officer or committee member in executive session prior to imposing disciplinary action against that person.

3.2. TRAVEL REIMBURSEMENT POLICY: Adopted 10/13/19

Board members, Officers, Employees and Volunteers of Mountain Valley Association may request reimbursement for meals, lodging, mileage, and other incidental travel expenses for Board approved travel based on the following policy:

- 3.2.1. Accountable Plan: Reimbursement for actual expenses are made in accordance with IRS requirements, notably the rules for an "Accountable Plan". An Accountable Plan limits reimbursements to business related expenses substantiated by receipts or other verification.
- 3.2.2. Reimbursable Travel: Travel reimbursement shall only be for travel that is reasonably, actually, and necessarily incurred as a result of conducting Association business. Travel reimbursement shall not be made for meal and lodging expenses incurred within 50 miles of home or office location without Board approval prior to incurred expense.
- 3.2.3. Reimbursement Rates: Reimbursement rates for meals, incidentals and lodging shall be those published by the General Services Administration of the United States (www.gsa.gov) and in effect at the time of travel. Mileage reimbursement rates for use of personal vehicle shall be those established by Internal Revenue Service of the United States and in effect at the time of travel. These reimbursement rates are the maximum rate reimbursable, not allowances. Only the actual expense will be reimbursed and receipts or other satisfactory documentation must be provided.
- 3.2.4. Meals and Incidentals: Trips of 24 hours or more:
- 3.2.5. First Day of Travel:
- 3.2.5.1. Trip begins at or before 6:00 am-Breakfast may be claimed.
- 3.2.5.2. Trip begins at or before 11 am-Lunch may be claimed.
- 3.2.5.3. Trip begins at or before 5 pm-Dinner may be claimed.
- 3.2.6. Remaining Travel Days:
- 3.2.6.1. Trip ends at or after 8 am-Breakfast may be claimed.

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- 3.2.6.2. Trip ends at or after 2 pm-Lunch may be claimed.
- 3.2.6.3. Trip ends at or after 7 pm-Dinner may be claimed.
- 3.2.7. Trips of less than 24 hours:
 - 3.2.7.1. Trip begins at or before 6 am and ends at or after 9 am-Breakfast may be claimed.
 - 3.2.7.2. Trip begins at or before 4 pm and ends after 7 pm, Dinner may be claimed.
 - 3.2.7.3. Lunch or incidentals for trips of less than 24 hours are not subject to reimbursement.
- 3.2.8. Lodging:
 - 3.2.8.1. Approved overnight lodging expenses may be reimbursed. Expense must be for a commercial lodging establishment and a receipt must be provided.
 - 3.2.8.2. If lodging is not available for a rate at or below the maximum allowable rate, prior Board approval may be requested for actual lodging expense.
- 3.2.9. Mileage: Mileage reimbursement covers all operating costs for personal vehicle including fuel, maintenance, insurance, registration depreciation, and all other costs associated with vehicle operation.
- 3.2.10. Method of Travel:
 - 3.2.10.1. Reimbursement will be made only for the method of transportation which is in the best interest of the Association, considering both direct expense as well as travel time.
 - 3.2.10.2. If traveler chooses to use a method of transportation that is not the least costly or not the typical method of travel, reimbursement shall be for the amount that would have been reimbursed for using the least costly method of travel.
- 3.2.11. Rental Vehicle: Travel by rental vehicle may be reimbursed for when travel by rental vehicle is the least costly method of travel. Rental vehicle must be rented from a commercial vehicle rental establishment and a receipt must be provided. No additional mileage may be claimed however fuel cost may be reimbursed and must be substantiated with a receipt.
- 3.2.12. Taxis and other Car Share Services: The actual expense for the ride may be reimbursable and must be supported by a receipt for the service. Tips for taxis and other ride share services are not reimbursable.
- 3.2.13. Parking and Tolls: Parking and tolls may be reimbursed when free parking and alternative routes are not available or are not the least costly travel option. Parking and tolls must be substantiated with receipts or other satisfactory documentation. Parking and toll fines and tickets are not reimbursable and are the responsibility of the traveler.

4. COMMON AREA USE RULES:

4.1. RULE PROHIBITING EXCLUSIVE USE OF COMMON AREAS AND OTHER ASSOCIATION ASSETS: Adopted 2/2/19

The "Common Areas" in Mountain Valley Association include roads and easements and are vital to the well being of Association Members. Roads provide ingress and egress to individual properties. Easements include roads that have been dedicated to public access as well as easements for utilities and equestrian purposes.

"Common Areas" are defined in California Civil Code as:

4095. (a) "Common area" means the entire common interest development except the separate interests therein. The estate in the common area may be a fee, a life estate, an estate for years, or any combination of the foregoing.

(b) Notwithstanding subdivision (a), in a planned development described in subdivision (b) of Section 4175, the common area may consist of mutual or reciprocal easement rights appurtenant to the separate interests.

Exclusive use of Common Areas may be allowed in some limited circumstances. California Civil Code allows for exclusive use subject to the following conditions:

4600. (a) Unless the governing documents specify a different percentage, the affirmative vote of members owning at least 67 percent of the separate interests in the common interest development shall be required before the board may grant exclusive use of any portion of the common area to a member.

(b) Subdivision (a) does not apply to the following actions:

(1) A reconveyance of all or any portion of that common area to the subdivider to enable the continuation of development that is in substantial conformance with a detailed plan of phased development submitted to the Real Estate Commissioner with the application for a public report.

(2) Any grant of exclusive use that is in substantial conformance with a detailed plan of phased development submitted to the Real Estate Commissioner with the application for a public report or in accordance with the governing documents approved by the Real Estate Commissioner.

(3) Any grant of exclusive use that is for any of the following reasons:

(A) To eliminate or correct engineering errors in documents recorded with the county recorder or on file with a public agency or utility company.

(B) To eliminate or correct encroachments due to errors in construction of any improvements.

(C) To permit changes in the plan of development submitted to the Real Estate Commissioner in circumstances where the changes are the result of topography, obstruction, hardship, aesthetic considerations, or environmental conditions.

(D) To fulfill the requirement of a public agency.

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(E) To transfer the burden of management and maintenance of any common area that is generally inaccessible and not of general use to the membership at large of the association.

(F) To accommodate a disability.

(G) To assign a parking space, storage unit, or other amenity, that is designated in the declaration for assignment, but is not assigned by the declaration to a specific separate interest.

(H) To install and use an electric vehicle charging station in an owner's garage or a designated parking space that meets the requirements of Section 4745, where the installation or use of the charging station requires reasonable access through, or across, the common area for utility lines or meters.

(I) To install and use an electric vehicle charging station through a license granted by an association under Section 4745.

(J) To comply with governing law.

(c) Any measure placed before the members requesting that the board grant exclusive use of any portion of the common area shall specify whether the association will receive any monetary consideration for the grant and whether the association or the transferee will be responsible for providing any insurance coverage for exclusive use of the common area.

To insure the ability of the Association to provide use of common areas to all members, the following rules shall apply:

4.1.1. **STRUCTURES**: No structures either above or below grade may be erected in common areas without written permission of the Association. Structures include but are not limited to fences, sheds, buildings, gates, signs, sidewalks, driveways, curbs, gutters, culverts, poles and any other object of a permanent nature.

4.1.2. **PARKING AND STORAGE**: No parking of vehicles or equipment or storage of materials are allowed in common areas without written permission of the Association with the following exceptions:

4.1.2.1. Vehicles registered and insured for highway use may be parked on designated roads outside of the improved and/or surfaced, traveled portion, in such a manner as not to impede the normal flow of traffic or create a hazard to pedestrian or vehicular traffic, for a period not to exceed seventy-two (72) hours.

4.1.2.2. Construction related equipment and materials may be stored on designated roads outside of the improved and/or surfaced, traveled portion, in such a manner as not to impede the normal flow of traffic or create a hazard to pedestrian or vehicular traffic, for a period not to exceed seventy-two (72) hours.

4.1.3. **VIOLATIONS**: Members violating the above rules may be subject to a penalty assessment of up to \$100.00 per occurrence and shall be an assessment upon the offending member's separate interest and may be a

lien against such separate interest. Each twenty-four (24) hour period shall constitute a separate violation.

4.2. TEMPORARY REAL ESTATE SIGNS: Adopted 12/15/19

4.2.1. Temporary real estate signs placed on Association property shall comply with the following standards:

- 4.2.1.1. Not more than one (1) temporary real estate sign may be placed on Association property near the subject lot, provided, however, that an auxiliary rider sign shall be allowed if attached to the same sign support, and further provided that where the lot is bounded by more than one (1) street, one (1) sign with an auxiliary rider sign shall be allowed along each adjacent street frontage.
- 4.2.1.2. Temporary real estate signs shall not be illuminated.
- 4.2.1.3. Temporary real estate signs shall be a minimum of ten (10) feet from any traveled portion of the roadway and shall not impede pedestrian or vehicular travel.
- 4.2.1.4. The temporary real estate sign shall not exceed five (5) feet in height and shall not exceed an overall size of nine (9) square feet, including support.
- 4.2.1.5. Any sign not in compliance with this rule shall be removed within forty-eight (48) hours of notice to the subject property owner that said sign is not in compliance and that removal is ordered. Signs not removed within forty-eight (48) hours of notice may be removed and disposed of by the Association and any cost for such removal and disposal shall become an assessment against the subject property.
- 4.2.1.6. Portable, temporary off-site directional real estate signs may be used in conjunction with open house real estate sales activity provided that each portable directional sign does not exceed an overall size of nine (9) square feet, including support, does not exceed a height of two and one-half (2 1/2) feet, and is not located within the traveled portion of a road. Signs shall be on display only when property is open for inspection.
- 4.2.1.7. Real estate signs located on Association property shall be removed within ten (10) days after sale of the property or immediately upon being rented or leased. Signs not removed within ten (10) days of sale, rental or lease of the property may be removed and disposed of by the Association and any cost for such removal and disposal shall become an assessment against the subject property.

5. SCHEDULE OF MONETARY PENALTIES:

- 5.1. Assessment Late Fee: 10% of Assessment.
- 5.2. Interest: 12% per Annum on unpaid balance.
- 5.3. Violation of Rule 4.1. \$100.00 per occurrence.
- 5.4. Returned Check Charge \$30.00
- 5.5. Charges for certified mail, County Recorders Fees, and other miscellaneous charges and fees will be assessed at Association cost or as allowed by appropriate statute.

6. ATTACHMENTS:

Attachment A
PRE-LIEN NOTICE
(NOTICE IN CLAIM OF LIEN)

<DATE>

<NAME>

<ADDRESS>

NOTICE IN CLAIM OF LIEN

Dear <Member>:

The Board of Directors of Mountain Valley Association hereby notifies you that unless all delinquent assessments, fees and collection costs are paid within thirty (30) days of the postmark of this notice, pursuant to Civil Code § 5650, et. seq., and as set forth in the Declaration of Covenants, Conditions, and Restrictions applicable to your property (Lot <XXX> of Tract 3312, Kern County, CA), a lien may be placed on this property.

You have the right to inspect Association records pursuant to Section 5205 of the Civil Code.

IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.

An itemized statement of all charges owing is attached.

You have the right to request a meeting with the Board of Directors to discuss a payment plan, by sending a written request to the Association within 15 days of the postmark of this notice. The Board or a designated Board member will meet with you in an executive session within 45 days of receipt of your request to discuss a payment plan.

You have the right to dispute the assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Associations "meet and confer" program. An owner shall not be liable to pay charges, interest, and costs of collection, if it is determined the assessment was paid on time to the Association.

You have the right to request an alternative dispute resolution with a neutral third party pursuant to Article 3 (commencing with Section 5925) of Chapter 10, before the Association may initiate foreclosure against your separate interest.

NAME TITLE SIGNATURE DATE

NAME TITLE SIGNATURE DATE

Attachment B

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 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 NONJUDICIAL FORECLOSURE

The failure to pay association assessments may result in the loss of an owner's property without court action, often referred to as a nonjudicial foreclosure. When using nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the lien is not paid. Assessments become delinquent 15 days after they are due, unless the governing documents of the association provide for a longer time. (Sections 1366 and 1367.1 of the Civil Code)

In a nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common areas damaged by a member or a member's guests, if the governing documents provide for this. (Sections 1366 and 1367.1 of the Civil Code)

The association must comply with the requirements of 1367.1 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 1367.1 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. Among these documents, the association must send 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 1367.1 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 1367.1 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, he or she 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 1367.1 of the Civil Code)

An owner may dispute an assessment debt by giving the board of the association a written explanation, and the board must respond within 15 days if certain conditions are met.

An owner may pay assessments that are in dispute in full under protest, and then request alternative dispute resolution. (Sections 1366.3 and 1367.1 of the Civil Code)
An owner is not liable for charges, interests, and costs of collection, if it is established that the assessment was paid properly on time. (Section 1367.1 of the Civil Code)

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share 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 exist. (Section 1367.1 of the Civil Code)

The board of the directors 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 with the payment plan standards of the association, if they exist. (Section 1367.1 of the Civil Code).