



# TIERRA GRANDE

IMPROVEMENT ASSOCIATION, INC.

## GUIDELINES: Foreclosures and/or Liens Of Privately Owned VACANT Lots in Tierra Grande

**Brief Description:** This purpose of this document is to articulate guidelines regarding the enforcement of Section 4.04 of the Indenture contained in the Amendment to the Protective Covenants recorded in 2013.

“If the owner of any Lot or Living Unit subject to the Annual charge shall fail to pay the Annual Charge by January 1 of each following year, TGIA shall have the right to enforce the lien which is hereby imposed in its favor, to the same extent, including a foreclosure sale and deficiency decree, and subject to the same procedures as in the case of mortgages under the applicable law, and the amount due by such Owner shall include the Annual charges, as well as the cost of such proceedings, including a reasonable attorney’s fee, and aforesaid interest.”

**Effective:** DRAFT – For Members Review and Comment

**Approved by:** TGIA Board of Directors

**Responsible Administrator:** Susan Moran

**Policy Contact:** TGIA PO Box 1388, Rio Communities, NM 87002  
505-864-2345 or info@TierraGrande.org

**Applies to:** Tierra Grande Members

**Reason for Guidelines:** To implement a process for identifying properties in Tierra Grande that meet the definition of Section 4.04 of the Indenture to pursue foreclosure proceedings AND that best meet the Board of Director’s fiduciary responsibility to recover costs associated with those foreclosure proceedings.

### I. INTRODUCTION

The Board of Director’s has the fiduciary responsibility of expending funds that serve the best interest of its members. In that vein it is important to attempt to identify applicable properties where the probability of recovering the expended funds is likely. Because the cost to foreclose has been expensive, the TGIA annual financial budget, limits the number of owners in arrears that Association pursues in any given year.

### II. DEFINITION

It has been the practice of the Tierra Grande Improvement Association to begin foreclosure proceedings on any property in Tierra Grande is three (3) to four (4) years in arrears on payment of Assessments.

#### A. Procedures

- Tierra Grande mails statements of accounts to ALL TG owners in October of each year with payment being due by December 31<sup>st</sup>.
- Owners of properties that are one (1) previous year in arrears receive a “reminder” stamped on the statement that payment is due.
- Owners of properties that are two (2) previous years in arrears received a “past due” stamped on the statement that payment is past due along with a letter (sample attached) reminding the owner that TGIA has the right to foreclose on properties due to non-payment of the Assessment.
- Owners of properties that are three (3) previous years in arrears receive a “pre-foreclosure” letter (sample attached) reminding the owner that TGIA has the right to foreclose and referencing additional charges that may be applied should the foreclosure process move forward.

- Owners of properties that are four (4) years in arrears receive a semi-final letter (see attached sample letters) that if payment is not made by a specific date, foreclosure proceedings may begin.
- Owners of certain properties that are over four (4) years in arrears receive a letter (see attached) informing them that their property is now in the hands of our attorney.
- All expenses related to foreclosure cost or lien costs are tracked in the TGIA billing system and additional charges are reflected on the billing statement (see attached samples)
- In April of each year, outstanding accounts are re-billed following the same process above EXCEPT for those accounts that are in the hands of the attorney.

#### B. Letters/Forms

- October/April - Year 2 Past Due
- October/April - Year 3 Pre-Foreclosure
- October/April - Year 4 Pre-Attorney (Title Search or Non-Title Search)
- October/April - Year 4 Plus - Foreclosure – Attorney – Title Search
- October Only - Those In Foreclosure with Attorney
- October Only – Those with Liens
- April - Reminder – Past Due – April late billing
- April - Year 4 Plus – Submission to Attorney

#### C. Property Guidelines for Recovering Expenses

- 3 - 4 Plus Years Past Due
- Living Owners
- Correct Mailing Address
- Property Taxes – Paid or Low
- Owners of Multiple Properties
- Likely to Recover Expenses

**LIENS:** While the Protective Covenants / Indenture are automatic liens on a property, the Board of Directors may, under special circumstances decide that it is in the best interest and/or cost effective for Tierra Grande to place a lien on vacant properties.

**Indenture: Article IV. Section 4.04:** If the Owner of any Lot or Living Unit subject to the Annual Charge shall fail to pay the Annual Charge by January 1 of each following year, TGIA shall have the right to enforce the lien which is hereby imposed in its favor, to the same extent, including a foreclosure sale and deficiency decree, and subject to the same procedures as in the case of mortgages under the applicable law, and the amount due by such Owner shall include the Annual Charge, as well as the cost of such proceedings, including a reasonable attorney's fee and the aforesaid interest.

#### A. Procedures

- Liens will be filed against a property on which there is a structure(s) and that is in arrears on payment of Assessments to TGIA
- TGIA has notified the property owner several times that foreclosure and/or lien proceedings will move forward if payment on the debt is not paid
- TGIA will notify the property owner that a lien is being placed on the property if the payment is not submitted to TGIA within the ten (10) days as stipulated in the final notice to the owner
- The lien will be removed when payment in full has been received and the payment has cleared the bank

#### B. FINE Scale

- 1<sup>st</sup> Notice – No Charge
- 2<sup>nd</sup> Notice - \$250
- 3<sup>rd</sup> Notice - \$500
- 4<sup>th</sup> Notice - \$1,000
- Placing a Lien on the property for failure to pay TGIA the fees/fines - \$100
- Fees/fines are cumulative and liens renewable every two (2) years for an additional - \$500

### III. HISTORY

Board Approved to submit to Members: July 2020

Draft to Members: Web Site: 11/3/2020 - Emailed: 11/6/2020

Comment Period Closes: 11/9/2020