



# TIERRA GRANDE

IMPROVEMENT ASSOCIATION, INC.

## GUIDELINES: Foreclosures and/or Liens VACANT Lots

**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:** November 10, 2020 – Amended: September 7, 2021 – **Amendment Effective June 16, 2023**

**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 Directors 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 the 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 entering the 3<sup>rd</sup> year of non-payment of Assessments by January 1<sup>st</sup>.

#### A. Procedures

- Tierra Grande mails statements of accounts to ALL Tierra Grande owners in October of each year with payment being due by December 31<sup>st</sup>.
- Applicable properties are measured to proceed with foreclosures and/or liens
- 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

#### B. Billing Time Frames

- October – Annual billing
- April – Rebill unpaid accounts, years 1, 2, 3
- May – Unpaid properties are measured for foreclosures and/or liens
- July – Liens are prepared, and a final warning letter is sent
- August – Liens are filed and/or foreclosure proceedings forwarded to our attorney.

**LIENS:** While the Protective Covenants / Indenture are automatic liens on a property, the Board of Directors may 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
- **Per NM HB 179, effective June 13, 2023 a person/entity filing a claim for a lien is to provide a copy of the recorded lien to the landowner within fifteen days of filing the claim with the County Clerk by mail, email, or hand delivery.**
- The lien will be removed when payment in full has been received and cleared the bank

B. FEE Scale

- Filing Fee: \$25 per filing and per renewal
- Administrative Fee: \$100 per filing and renewal
- Fees are cumulative and renew every two (2) years

C. FINE Scale

- 1<sup>st</sup> Lien – No Charge
- 2<sup>nd</sup> Lien - \$250
- 3<sup>rd</sup> Lien - \$500
- 4<sup>th</sup> Lien - \$1,000
- Fines are cumulative and renewable with the lien every two (2) years

**II. HISTORY**

Original:

Board Approved to submit to Members: July 2020

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

Comment Period Closes: 11/9/2020 – NO Comments Received by EOD 11/9/20 – Policy Implemented 11/10/20

Amended:

Board Approved to submit to Members: August 25, 2021

Draft to Members: Web Site: 08/27/21 and via Emailed: 08/27/21

Comment Period Closes: 08/31/21 – NO Comments Received by EOD 08/31/21 – Policy Implemented 09/07/21

**Amended:**

- **Board Approved to submit to Members: April 27, 2023**
- **Draft to Members: Web Site: Monday, May 1, 2023 and via Emailed: Friday, April 28, 2023**
- **Comment Period Closes: May 15, 2023 – NO Comments Received by EOD May 18, 2023 –**
- **Policy Implemented June 16, 2023**