

# MEMORANDUM

**TO: LWBC**  
**FROM: ABS**  
**RE: Tropical Bay Estates Homeowners Association**  
**DATE: 4/28/14**

---

Controlling statute is: **Title 40 Real and Personal Property  
Chapter 720 Homeowners' Associations  
Part I General Provisions Section 3085**

- 1) HOA has a lien on each parcel to secure payment of assessments and other amounts when authorized by the governing documents
- 2) Lien is effective as to first mortgages of record after a **claim of lien** has been **recorded in the public records** of the county in which the parcel is located

3) HOA may not file a **record of lien** against a parcel unless a **written notice of demand** has been made by the association. The demand must include:

- Sub letter to owner*
- a. Past due assessment amount
  - b. Interest owed (pursuant to governing documents)
  - c. Reasonable costs and attorney's fees *if any*
  - d. Provide owners with 45 days following the date of the notice to make payment for all amounts due
  - e. Notice must be sent by registered certified mail; return receipt requested

4) A **claim of lien** may be filed 45 days following the notice described in 3) above

5) To be a valid, the **claim of lien** must state:

- file not send*
- a. The description of the parcel
  - b. The name of the record owner
  - c. The name of the address of the association
  - d. The assessment amount due
  - e. The due date

6) The **claim of lien** secures all unpaid assessments that are due and that may accrue subsequent to the **recording of the claim of lien** and before **entry of a certificate of title**, as well as interest, late charges, reasonable costs and attorney's fees

7) A parcel owner may require the association to enforce a recorded claim of lien against his or her parcel by recording a **notice of contest of lien**.

8) After service of the **notice of contest of lien**, the association has 90 days in

*Don  
Campbell*

which to file an action to enforce the lien and if the action is not filed in 90 days the lien is void.

9) The HOA may bring an action in its name to foreclose a lien for assessments in the same manner in which a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien.

10) The HOA may bring an action in its name to foreclose a lien for unpaid assessments secured by a lien in the same manner that a mortgage or real property is foreclosed so long as the action is not brought until 45 days after the parcel owner has been provided **notice of the HOA's intent to foreclose and collect the unpaid amount.**