

!!RED ALERT!!

HUNTINGTON CONTINENTAL

Board members taking away your rights!

Ability to make partial payments at risk!

Lawyer's legal fees - \$100,000!

Read and sign the petition! Cast your vote!

READ THE STORY: www.huntingtoncontinentalvoice.com

My name is Joseph Miner. We are delivering these “free speech” political flyers because of the GREAT importance to YOU! I write this letter, as a fellow HOA member, to inform all owners of major issues that are both of a significant importance and an extreme consequence if we do not act immediately as a unified group. Bad things happen to good people and you may need this one day. Everyone you know that lives in an association in California BENEFITS from this victory!

I got behind on my assessment payments. I then tried to make my assessment payments IN FULL. The lawyers rejected my checks. They sent my money back then sued me because the Board gave them authority to do so. In court they lost, I won. Finally! Orange County Superior Appellate Court states HOA owners can make partial payments! It has been a 17 year legal battle for HOA owners!

The same lawyers are now fighting this ruling trying to take away your legal rights as a homeowner! They will be paid from your HOA money – that you worked so hard to pay! Your Board paying attorneys, with your money, using this HOA as “standing” to fight, to take away your right to make partial payments by law!

Join us! Protect yourself! Sign & Send the petition!

Fax to: 949-646-2794
Email to: josephminer@gmail.com (email me questions or to chat)
Mail to: Joseph Miner, 2576 Newport Blvd, #A, Costa Mesa, CA 92627
Sign online: www.huntingtoncontinentalvoice.com (download from website)
Sign in person: At the Clubhouse on Election Day! (bring your petition!)

Please do not be lazy! One vote makes a difference!

Join us! Protect yourself! Sign & Send the petition!

Petition to demand the Board of Directors to cease all action in the appeal of the JM Trust case.

I sign this petition demanding The Board of Directors of the **HUNTINGTON CONTINENTAL TOWN HOUSE ASSOCIATION, INC.** immediately instruct Feldsott and Lee attorneys to withdraw their appeal that would take away members rights to make partial payments under the law, which is the main issue of the JM Trust case, and allow the JM Trust case to be heard as it was scheduled in Orange County Superior Court only to consider damages, if any.

HUNTINGTON CONTINENTAL TOWN HOUSE ASSOCIATION, INC. Plaintiff and Respondent,
v.
THE JMTRUST, etc. et al., Defendants and Appellants.

Case No. 2013-00623099

Superior Court of California, County of Orange.

Filed January 13, 2014.

My name is [print] _____ I am the legal owner of a property located in the Huntington Continental Town House common area development. I am a member of the association. I sign this petition to demand the Board of Directors to stop all litigation that would prevent me, as a member of this association, from making partial payments per the decision by the Superior Court of Orange County Appellate Division - **Case number 2013-00623099**

I demand, as a member of the association, that the Board of Directors follow the direction of the homeowners who sign this petition and stop and withdraw this appeal by Feldsott and Lee using the HOA as standing for the litigation. **To direct Feldsott and Lee Attorneys to withdraw this appeal, which by withdrawing, will preserve my rights in Orange County, as an owner, to make partial payments and potentially save the HOA \$100,000 in unwarranted attorney fees.**

If you do not follow our direction and demands, we the HOA members, will hold you, the Board, personally accountable and responsible for all court costs and legal fees that may be incurred by the HOA and we will take any steps necessary to force the Board to act per our direction. We will hold you responsible for any and all fees and costs that may be incurred by further proceedings in the JM Trust legal action to further appeal the Superior Courts Appellate Division decision support partial payments; including all attorney fees and costs for any legal action.

Signed: _____ Date: _____

Address: _____

Phone: _____ Email: _____



HUNTINGTON V MINER IMPACTS ASSESSMENT COLLECTION

An Orange County Appeals Court affirmed Monday (Jan 13) that state law "compels" California's 50,000 homeowner associations to accept the partial payments that homeowners try to make in order to pay down assessment debt. "Compel" is the court's word indicating that associations don't have a choice – and that association debt collectors can't interfere in the process.

The opinion declared that homeowners can make payments (1) directly to the association and not the HOA's debt collector (2) at any point during the collection process and (3) payments do not have to include collection costs.

The court acknowledged that it was breaking new legal ground with the ruling.

The partial payments issued has boiled ever since Congresswoman Jackie Speier authored legislation, when she was in the State Assembly, prescribing how homeowner payments are to be applied: FIRST to assessments owed until they are paid in FULL and only afterwards to collection costs.

However, association lawyers and debt collectors have argued, since the 1997 law went into effect, that the law applied only to associations and not to third parties like themselves who collect homeowner dues on behalf of associations.

Mondays' ruling – 17 years later -- clarifies that not only are associations "compelled" to accept partial payments from homeowners but that those payments do not have to include collection costs.

The ruling will have a huge impact on association debt collectors, most of whom are lawyers or subdivisions of law firms. They market their collection services to associations as "no cost" services, meaning that the costs of collection will be borne by the homeowner. The debt collector then uses the association's lien authority to secure not only assessments owed but all the collection costs claimed by the debt collector whether or not the costs are legitimate. California law puts no caps on the collection costs that the company can charge.

The standard contract between the debt collector and the association bars all communication between the homeowner and the association once the account has been turned over to the collection firm. Homeowners who send assessment payments to the association are turned away, their payments rejected, and told to deal only with the collection company.

Paying down the assessment debt is critical to the homeowner, because state law lets the association foreclose on the home if the debt reaches \$1800 or if it has been owed for more than 12 months. The minimum bid at the foreclosure auction is the amount owed the association and the debt collector, typically between \$3500 and \$5000, i.e. the bid bears no relation to the market value of the home.

The Court broke new ground with the ruling, stating that “***This case presents an issue on which this court has found little published authority: whether a homeowner's association must accept and apply partial payments that reduce delinquent assessments owed but not any other amounts due, such as late fees, interest, and attorney's fees and costs. We conclude the Davis-Stirling Common Interest Development Act (the Act) compels a homeowner's association to do so.***”

The Orange County Appeals Court issued its first ruling on ***Huntington v Miner*** in September 2013, finding in favor of Orange County homeowner Joseph Miner. The association's law firm and debt collector, Feldsott & Lee, also of Orange County, challenged the ruling and asked for a second review by the three-judge panel.

CCHAL petitioned the Court with a five-page *amicus* letter asking it to let its opinion stand and to certify it for publication. The letter comprised the legislative history of the assessment collection and foreclosure issue.

On Monday, Jan 13, the Court issued its new – and even stronger – ruling clarifying that state law compels associations to accept homeowner partial payments and that those payments do not have to include collection costs.

The Court's Minute Order also states that it was certifying the opinion for publication “at the request of the Center for California Homeowner Association Law.”

CCHAL is able to monitor court rulings like Huntington and to write petitions, because of the support of our generous Contributors, which is why we are notifying them first of this critical court ruling.

For technical reasons (having to do with our server), we have not been able to post *Huntington v Miner* on the CCHAL website. However, if you are a CCHAL Contributing Member in good standing, send an email to info@calhomelaw.org and we will email the complete ruling to you along with appendices and Minute Order.

Not sure of your membership status? Please go to Manage Your Membership at <http://www.calhomelaw.org/memberedit.asp>

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