

1 J. Scott Isherwood (SBN# 178573)
2 LAW OFFICES OF J. SCOTT ISHERWOOD
3 2121 N. California Blvd., Suite 1010
4 Walnut Creek, California 94596
5 Telephone: (925) 956-1408
6 Facsimile: (925) 939-9915
7 scott.isherwood@sbcglobal.net

8 Attorneys for Plaintiff
9 EDGEWATER ISLE NORTH HOMEOWNERS ASSOCIATION

FILED
SAN MATEO COUNTY

MAR 10 2014
Clerk of the Superior Court
By ~~DEPUTY CLERK~~

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF SAN MATEO - LIMITED JURISDICTION

12 EDGEWATER ISLE NORTH
13 HOMEOWNERS ASSOCIATION,
14 Plaintiffs,
15 vs.
16 YAO YEON HUANG, and DOES 1 through
17 100,
18 Defendants.

CASE NO.: **CLJ527232**
COMPLAINT FOR
1) **BREACH OF DUTY TO PAY**
ASSESSMENTS
(CIV. CODE § 5650)
2) **ACCOUNT STATED; AND,**
3) **OPEN BOOK ACCOUNT**
(HOMEOWNERS ASSOCIATION)
DEMAND DOES NOT EXCEED
\$10,000.00

19 Plaintiff alleges:
20 1. At all material times, Plaintiff EDGEWATER ISLE NORTH HOMEOWNERS
21 ASSOCIATION (hereinafter "Plaintiff" or "Association") was and is a California non-profit
22 mutual benefit corporation, organized and existing under the laws of the State of California for
23 the purpose of managing a common interest development pursuant to the provisions of
24 California Civil Code §§ 4000 *et seq.*, known as the Davis-Stirling Common Interest
25 Development Act (hereinafter "Davis-Stirling Act").
26 2. Plaintiff is not certain of the true names and capacities of Defendants DOES 1
27 through 100, inclusive, and therefore, plaintiff sues said Defendants under and by the provisions
28 of Code of Civil Procedure, § 474. Plaintiff will amend this complaint to show the true names

1 and capacities of Defendants DOES 1 through 100 when they have been ascertained.

2 3. Each of the real properties, which is the subject of this lawsuit, is a separate
3 interest of the common interest development managed by the Association and situated in SAN
4 MATEO County, California.

5 4. Each of the Defendants acquired or accepted a separate interest of the common
6 interest development and is and/or was a member of the Association. When the Defendants
7 acquired and accepted their respective separate interests and became members of the
8 Association, they were subject to all of the terms and provisions of that certain Declaration of
9 Covenants, Conditions and Restrictions which was recorded in SAN MATEO County,
10 California on 1/4/1984, as Instrument 84000930 and any subsequent amendments or
11 restatements, as applicable ("Declaration"). Each defendant entered into the purchase and
12 acquisition of their respective real property with both actual and constructive knowledge of all of
13 the provisions of the Declaration and their rights and obligations as owners of separate interests
14 and members of the Association.

15 5. The Declaration provides, among other things, that the Association may levy and
16 collect assessments from each defendant for the maintenance, preservation and repair of the
17 common interest development, in the amounts set forth in the Declaration or established
18 pursuant thereto, as well as fines for violations of the Declaration, interest, late charges, costs of
19 collection, and/or reasonable attorney's fees.

20 6. Each defendant (1) owns or previously owned a separate interest of the common
21 interest development that is subject to the Declaration, (2) became delinquent with respect to
22 assessments, interest, late charges, costs of collection, reasonable attorney's fees and/or fines,
23 and (3) remains personally obligated for such sums. Plaintiff's rights to relief against
24 Defendants arise out of the same series of transactions or occurrences and are subject to the same
25 questions of law; therefore, their joinder in this action is proper pursuant to C.C.P. § 379.

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FIRST CAUSE OF ACTION
(For Breach of Duty to Pay Assessments (Davis-Stirling Act, Civ. § 5650))
Against Defendants YAO YEON HUANG,
and DOES 1 through 5
(Subject Property A)

7. Plaintiff refers to Paragraphs 1 through 6 above and incorporates the same herein by reference as though fully set forth herein.

8. As stated above, plaintiff sues Defendants DOES 1 through 5 herein pursuant to Code of Civil Procedure § 474. Plaintiff is informed and believes and on that basis alleges that at all material times herein, each of DOES 1 through 5 held a legal or equitable right, title, estate, or interest in the real property which is the subject of this lawsuit commonly known as 1632 VISTA DEL SOL, SAN MATEO, CA more particularly described in Exhibit A1 attached hereto and by this reference incorporated herein (Subject Property A). Subject Property A is a separate interest of the common interest development managed by the Association.

9. Subsequent to the recording of the Declaration on 1/4/1984, Defendants YAO YEON HUANG and DOES 1 through 5 took title to Subject Property A and were at all material times bound by said Declaration.

10. Pursuant to Civil Code § 5600 and the Declaration, the Association levied regular and/or special assessments sufficient to perform its obligations under the Declaration and the law. The Association, at all material times, complied with all the obligations to Defendants YAO YEON HUANG and DOES 1 through 5 as to the purpose, amount and notice of any and all assessments levied.

11. Pursuant to Civil Code § 5650, YAO YEON HUANG and DOES 1 through 5 have a duty to pay all regular and/or special assessments at the time that the assessments are levied. Regular and special assessments are delinquent if they are not paid 15 days after they become due, or after a longer time period if provided by the Declaration. If an assessment is delinquent the Association may recover 1) reasonable costs incurred in collecting the delinquent assessment, including attorney's fees as provided by Civil Code § 5650(a), 2) a late charge as provided by Civil Code § 5650(b)(2), and, 3) interest on all sums imposed pursuant to Civil Code § 5650, at an annual interest rate not to exceed 12% (unless the Declaration specifies the

1 recovery of interest at a rate of a lesser amount), commencing 30 days after the assessment
2 becomes due. Within four (4) years past, YAO YEON HUANG and DOES 1 through 5, while
3 they were owners of the separate interest, failed to pay some or all regular and/or special
4 assessments levied against Subject Property A, became delinquent, and are responsible for
5 reasonable collection costs incurred, late charges and interest.

6 12. As of February 28, 2014, there is due and owing and unpaid from Defendant
7 YAO YEON HUANG to plaintiff the sum of \$7,397.44 in unpaid and delinquent assessments,
8 late charges, reasonable costs of collection and interest at 12% as provided by the Declaration
9 and which does not exceed that provided for by Civil Code § 5650(b)(3). Interest continues to
10 accrue at said annual rate until the date of judgment.

11 13. Although a demand has been made, Defendant YAO YEON HUANG has failed
12 to pay the amounts duly levied, and presently owes the amount set forth above.

13 Wherefore, plaintiff prays for judgment as set forth below.

14 **SECOND CAUSE OF ACTION**

15 (Account Stated)
16 Against Defendants YAO YEON HUANG,
17 and DOES 1 through 5
18 (Subject Property A)

19 14. Plaintiff refers to Paragraphs 1 through 6 and 7 through 13 above and
20 incorporates the same herein by reference as though fully set forth herein.

21 15. As stated above, plaintiff sues Defendants DOES 1 through 5 herein pursuant to
22 Code of Civil Procedure § 474. Plaintiff is informed and believes and on that basis alleges that
23 at all material times herein, each of DOES 1 through 5 held a legal or equitable right, title, estate,
24 or interest in Subject Property A, and as such each is jointly and severally obligated for all
25 assessments, interest, late charges, fines, costs of collection, reasonable attorney's fees and/or
26 any such other and further relief as this Court may deem just and proper.

27 16. Subsequent to the recording of the Declaration on 1/4/1984, Defendants YAO
28 YEON HUANG and DOES 1 through 5 took title to Subject Property A, subject to the
Declaration referred to above and were at all material times bound by said Declaration.

17. Within four (4) years past, in SAN MATEO County, California, an account was

1 stated in writing by and between plaintiff and Defendant YAO YEON HUANG. A true and
2 correct copy of such statement is attached hereto as Exhibit A2 and incorporated herein by this
3 reference. The reconciled and contemporaneously updated account, together with ongoing
4 assessments, interest, late charges, fines, as well as costs of collection and reasonable attorney's
5 fees, are reflected in the attached Itemized Statement. A true and correct copy of the Itemized
6 Statement is attached hereto as Exhibit A3 and incorporated herein by this reference.

7 18. As of February 28, 2014, there is due and owing and unpaid from Defendant
8 YAO YEON HUANG to plaintiff the sum of \$7,397.44 in assessments, late charges, fees, costs,
9 and/or fines, and interest at 12% as provided by the Declaration and which does not exceed that
10 provided for by Civil Code § 5650(b)(3). Interest continues to accrue at said annual rate until
11 the date of judgment.

12 19. Plaintiff has not consented to the breach of any terms or provisions of the
13 Declaration and the same have not been cancelled or withdrawn, and each and every one thereof
14 are, and at all material times were, in force and effect.

15 Wherefore, plaintiff prays for judgment as set forth below.

16 **THIRD CAUSE OF ACTION**

17 (Open Book Account)

18 Against Defendants YAO YEON HUANG,
19 and DOES 1 through 5
(Subject Property A)

20 20. Plaintiff refers to Paragraphs 1 through 6 and 7 through 19 above and
21 incorporates the same herein by reference as though fully set forth herein.

22 21. As stated above, plaintiff sues Defendants DOES 1 through 5 herein pursuant to
23 Code of Civil Procedure § 474. Plaintiff is informed and believes and on that basis alleges that
24 at all material times herein, each of DOES 1 through 5 held a legal or equitable right, title, estate,
25 or interest in Subject Property A, and as such each is jointly and severally obligated for all
26 assessments, interest, late charges, fines, costs of collection, reasonable attorney's fees and/or
any such other and further relief as this court may deem just and proper.

27 22. Within four (4) years last past, in SAN MATEO County, California, Defendant
28 YAO YEON HUANG became indebted to plaintiff on an open book account for assessments,

1 interest, late charges, and/or fines due in accordance with the Declaration. The open book
2 account reflects defendant's debits and credits in connection with Subject Property A. It was
3 kept in the ordinary course of plaintiff's business and was kept in a reasonably permanent form
4 and manner. A true and correct copy of the open book account is attached hereto as Exhibit A2
5 and incorporated herein by this reference. The reconciled and contemporaneously updated
6 account, together with ongoing assessments, interest, late charges, fines, as well as costs of
7 collection and reasonable attorney's fees, are reflected in the attached Itemized Statement. A
8 true and correct copy of the Itemized Statement is attached hereto as Exhibit A3 and
9 incorporated herein by this reference.

10 23. As of February 28, 2014, there is due and owing and unpaid from Defendant
11 YAO YEON HUANG to plaintiff the sum of \$7,397.44 in assessments, late charges, fees, costs,
12 and/or fines and interest at 12% as provided by the Declaration and which does not exceed that
13 provided for by Civil Code § 5650(b)(3). Interest continues to accrue at said annual rate until
14 the date of judgment.

15 24. Defendant YAO YEON HUANG has failed to pay for the amounts duly levied
16 and presently owes the amount set forth above, all of which is more than thirty (30) days past
17 due as of the filing date of this Complaint.

18 25. The above sum has not been paid although a demand has been made.

19 WHEREFORE, Plaintiff prays judgment against Defendant YAO YEON HUANG as
20 follows:

- 21 a) Damages in the sum of \$7,397.44;
- 22 b) Reasonable attorney's fees according to proof;
- 23 c) Assessments, late charges and/or interest at the rate of 12% as provided for in the
24 Declaration as they continue to accrue, if applicable, through the time of
25 judgment and according to proof;
- 26 d) Collection fees and costs;
- 27 e) Costs of suit; and
- 28 f) Such other and further relief as this Court may deem just and proper.

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DATED: March 5, 2014

LAW OFFICES OF J. SCOTT ISHERWOOD

By: 

J. SCOTT ISHERWOOD
Attorneys for Plaintiff
EDGEWATER ISLE NORTH
HOMEOWNERS ASSOCIATION

EXHIBIT

A1

T.S. No.: 14-10153
Association: EDGEWATER ISLE NORTH HOMEOWNERS ASSOCIATION
Owner(s): YAO YEON HUANG
Property: 1632 VISTA DEL SOL
SAN MATEO, CA 94404
Short Legal: BUILDING 5, UNIT 7, LOT 2, EDGEWATER ISLE UNIT NO. 1, BOOK 111 OF MAPS, PAGES 2
AND 3.

EXHIBIT

A2

14-10153

01/15/2014

Homeowner Account Statement

Page 1

Account: 151-15116320
Edgewater Isle North HOA

Owner: Yao-Yeon Huang
1632 Vista Del Sol
San Mateo, CA 94404-2407

Closing Date: 07/06/2012

Balance		Last Payment		Status		
5681.30		01/31/2011 431.16		AT	02/10/2011	Allied/FC 3/28/12
Date	Invoice #	Description	\$ Charges	\$ Payments	\$ Balance	
12/01/2009	125258	Assessment	237.83		237.83	
01/01/2010	125572	Assessment	243.05		480.88	
01/04/2010	125715	Late Charge: LATE	10.00		490.88	
01/04/2010	125716	Interest Charge: LATE	2.38		493.26	
01/06/2010		Check # 513		237.22	256.04	
01/08/2010		*RETN* Check # 513		-237.22	493.26	
01/14/2010	125753	Returned check fee	25.00		518.26	
01/14/2010		Check # 1262		480.88	37.38	
02/01/2010	125866	Assessment	243.05		280.43	
02/17/2010		Check # 521		280.43	0.00	
02/19/2010		*RETN* Check # 521		-280.43	280.43	
02/25/2010	126050	Returned check fee	25.00		305.43	
03/01/2010	126151	Assessment	243.05		548.48	
03/02/2010	126298	Late Charge: LATE	10.00		558.48	
03/02/2010	126299	Interest Charge: LATE	2.43		560.91	
04/01/2010	126439	Assessment	243.05		803.96	
04/01/2010	126593	Late Charge: LATE	10.00		813.96	
04/01/2010	126594	Interest Charge: LATE	4.86		818.82	
04/09/2010		Check # 556		548.84	269.98	
05/01/2010	126748	Assessment	243.05		513.03	
05/03/2010	126896	Late Charge: LATE	10.00		523.03	
05/03/2010	126897	Interest Charge: LATE	1.80		524.83	
05/04/2010		Check # 104		243.05	281.78	
06/01/2010	127133	Assessment	243.05		524.83	
06/01/2010	127134	Special Assessments	300.00		824.83	
06/01/2010	127593	Special Assessments	-300.00		524.83	
06/02/2010	127398	Late Charge: LATE	10.00		534.83	
06/02/2010	127399	Interest Charge: LATE	1.80		536.63	
06/08/2010		Check # 113		243.05	293.58	
06/10/2010		*RETN* Check # 113		-243.05	536.63	
06/18/2010		Check # 122		486.10	50.53	
06/22/2010	127463	reimbursement of dues	300.00		350.53	
07/01/2010	127871	Assessment	243.05		593.58	
07/08/2010	128067	Returned check fee	25.00		618.58	
08/01/2010	128205	Assessment	243.05		861.63	
08/03/2010	128349	Late Charge: LATE	10.00		871.63	
08/03/2010	128350	Interest Charge: LATE	4.86		876.49	
08/03/2010		Check # 179		243.05	633.44	
08/09/2010		*RETN* Check # 179		-243.05	876.49	
08/30/2010	128386	Returned check fee	25.00		901.49	

01/15/2014

Homeowner Account Statement

Page 2

Account: 151-15116320
Edgewater Isle North HOA

Owner: Yao-Yeon Huang
1632 Vista Del Sol
San Mateo, CA 94404-2407

Closing Date: 07/06/2012

Balance		Last Payment		Status		
5681.30		01/31/2011 431.16		AT	02/10/2011	Allied/FC 3/28/12
Date	Invoice #	Description	\$ Charges	\$ Payments	\$ Balance	
08/31/2010		Check # 185		243.05	658.44	
09/01/2010	128491	Assessment	243.05		901.49	
09/01/2010	128629	Late Charge: LATE	10.00		911.49	
09/01/2010	128630	Interest Charge: LATE	4.86		916.35	
09/15/2010		Check # 191		350.53	565.82	
09/20/2010		*RETN* Check # 191		-350.53	916.35	
09/23/2010	128675	Returned check fee	25.00		941.35	
09/30/2010		Check # 93998972		658.58	282.77	
10/01/2010	128781	Assessment	243.05		525.82	
10/01/2010	128934	Late Charge: LATE	10.00		535.82	
10/01/2010	128935	Interest Charge: LATE	0.71		536.53	
11/01/2010	129084	Assessment	243.05		779.58	
11/02/2010	129230	Late Charge: LATE	10.00		789.58	
11/02/2010	129231	Interest Charge: LATE	3.14		792.72	
12/01/2010	129375	Assessment	243.05		1,035.77	
12/01/2010	129531	Late Charge: LATE	10.00		1,045.77	
12/01/2010	129532	Interest Charge: LATE	5.57		1,051.34	
01/01/2011	129690	Assessment	242.14		1,293.48	
01/05/2011	129842	Late Charge: LATE	10.00		1,303.48	
01/05/2011	129843	Interest Charge: LATE	8.00		1,311.48	
01/19/2011		Check # 516		536.53	774.95	
01/21/2011		*RETN* Check # 516		-536.53	1,311.48	
01/28/2011	129888	Returned check fee	25.00		1,336.48	
01/31/2011		Check # 522		431.16	905.32	
02/01/2011	129990	Assessment	242.14		1,147.46	
02/01/2011	130118	Late Charge: LATE	10.00		1,157.46	
02/01/2011	130119	Interest Charge: LATE	6.11		1,163.57	
02/02/2011		*RETN* Check # 522		-431.16	1,594.73	
02/07/2011	130151	Returned check fee	25.00		1,619.73	
03/01/2011	130275	Assessment	242.14		1,861.87	
03/01/2011	130423	Late Charge: LATE	10.00		1,871.87	
03/01/2011	130424	Interest Charge: LATE	12.84		1,884.71	
04/01/2011	130576	Assessment	242.14		2,126.85	
04/01/2011	130719	Late Charge: LATE	10.00		2,136.85	
04/01/2011	130720	Interest Charge: LATE	15.26		2,152.11	
05/01/2011	130873	Assessment	242.14		2,394.25	
05/03/2011	131019	Late Charge: LATE	10.00		2,404.25	
05/03/2011	131020	Interest Charge: LATE	17.68		2,421.93	
06/01/2011	131161	Assessment	242.14		2,664.07	
06/01/2011	131311	Late Charge: LATE	10.00		2,674.07	

01/15/2014

Homeowner Account Statement

Page 3

Account: 151-15116320
Edgewater Isle North HOA

Owner: Yao-Yeon Huang
1632 Vista Del Sol
San Mateo, CA 94404-2407

Closing Date: 07/06/2012

Balance		Last Payment		Status		
5681.30		01/31/2011	431.16	AT	02/10/2011	Allied/FC 3/28/12
Date	Invoice #	Description	\$ Charges	\$ Payments	\$ Balance	
06/01/2011	131312	Interest Charge: LATE	20.10		2,694.17	
07/01/2011	131462	Assessment	242.14		2,936.31	
07/01/2011	131610	Late Charge: LATE	10.00		2,946.31	
07/01/2011	131611	Interest Charge: LATE	22.53		2,968.84	
08/01/2011	131758	Assessment	242.14		3,210.98	
08/01/2011	131901	Late Charge: LATE	10.00		3,220.98	
08/01/2011	131902	Interest Charge: LATE	24.95		3,245.93	
08/31/2011	131948	Legal-BK Monitor	400.00		3,645.93	
09/01/2011	132049	Assessment	242.14		3,888.07	
09/01/2011	132188	Late Charge: LATE	10.00		3,898.07	
09/01/2011	132189	Interest Charge: LATE	27.37		3,925.44	
10/01/2011	132349	Assessment	242.14		4,167.58	
10/03/2011	132496	Late Charge: LATE	10.00		4,177.58	
10/03/2011	132497	Interest Charge: LATE	29.79		4,207.37	
11/01/2011	132648	Assessment	242.14		4,449.51	
11/01/2011	132786	Late Charge: LATE	10.00		4,459.51	
11/01/2011	132787	Interest Charge: LATE	32.21		4,491.72	
12/01/2011	132928	Assessment	242.14		4,733.86	
12/01/2011	133071	Late Charge: LATE	10.00		4,743.86	
12/01/2011	133072	Interest Charge: LATE	34.63		4,778.49	
01/01/2012	133205	Assessment	251.37		5,029.86	
01/04/2012	133355	Late Charge: LATE	10.00		5,039.86	
01/04/2012	133356	Interest Charge: LATE	37.05		5,076.91	
02/01/2012	133499	Assessment	251.37		5,328.28	
02/01/2012	133637	Late Charge: LATE	10.00		5,338.28	
02/01/2012	133638	Interest Charge: LATE	39.57		5,377.85	
03/01/2012	133768	Assessment	251.37		5,629.22	
03/01/2012	133913	Late Charge: LATE	10.00		5,639.22	
03/01/2012	133914	Interest Charge: LATE	42.08		5,681.30	

EXHIBIT

A3

