

HOA Homefront

The Homeowner Association Residence: Do You Know What You Have?

By: Kelly G. Richardson

Reader's Questions

Dear Mr. Richardson:

Thanks for the explanation. I have been in the insurance business for far too many years and have never known where to turn to find concise definitions of terms and delineations of intent as your article. Would there be any use in asking for explanations of Condo, Townhouse, PUD, Patio Homes?

Thanks for a great article.

Yours,

D. F., Huntington Beach

Dear Mr. Richardson:

Re your HOA Homefront article:

As a President of an Orange County HOA, I'm always interested in articles like yours — it was very informative. Question — How can I get a concise explanation of the difference between a Condominium and a PUD?

Thanks,

E.S., San Juan Capistrano

Dear D.F. and E.S.:

By some estimates, one third of all California homes are in some kind of common interest development ("CID"), and that number is growing.

There are four distinct types of common interest developments recognized by California law — community apartment, stock cooperative, condominium, and planned development. The real estate interest owned is completely different in each, and involves different considerations relevant to home-buyers.

To ascertain a CID is, don't look at the buildings — look at the paperwork. Look closely at the covenants, and you should be able to see what type of home with which you are dealing.

Civil Code Section 1353(a) (1) requires that any CC&R's recorded in 1986 or later contain a statement identifying which kind of CID a project is.

Community Apartment. Also often known as the "own-your-own," the community apartment is the simplest form of common interest development. In a community apartment each owner receives a deed not for a given residence, but as a tenant in common sharing ownership on the entire property. The owner receives an easement or license with that deed, specifying the dwelling which that owner will occupy. Community apartments are normally older projects, and usually unincorporated.

Stock Cooperative. Often referred to in short as a "co-op," the stock cooperative is usually incorporated, and the CID holds the title to the entire property. Each member owns a share of stock in the Association, coupled with the right to occupy a given residence. Co-ops are less common, and normally older.

Condominium. In a condominium, the property is split into two conceptual parts. There are the residences, called "units," which the law refers to as the "separate interests". Then there is everything other than the units, which is referred to as "common area".

Condominiums are not always attached housing. Detached housing can be a condominium only by checking the deed and the CC&Rs can one be sure.

Planned Development. If a project is not a condominium, stock cooperative, or community apartment, and it has common area and the power to assess members, it is a "planned development." "Planned Unit Development" is misleading, since "unit" is a condominium term. When one thinks of planned developments, normally tract houses come to mind. However,

planned developments are not always detached housing. Townhome or patio home projects can also be planned developments, so don't be fooled by the project's appearance. What do the CC&Rs and grant deed say? The law requires the CC&Rs identify which type of CID it is. The real property interest in a planned development is called a "lot." [If doubt persists, check with legal counsel.]

It's Not Just a Label. The type of CID project determines more than just the technical label of the type of property purchased. Condominium, co-op or community apartment associations have much greater maintenance and repair responsibilities than do planned developments, and planned developments leave most of the

maintenance and repairs to members. Community apartments and stock co-operatives are far less common, and most lenders are uncomfortable financing them. This affects their desirability and value, so most community apartment and stock cooperative projects will over time enter the conversion process to become condominiums.

Know what you have – it does make a difference.
Kelly G. Richardson, Esq.

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