



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

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Over one third of the homes in California are in some kind of common interest development ("CID"), and that number is growing. Almost all new housing developments in California are in CID's. While often referred to as "homeowner associations", there are many CIDs which are in fact not residential in nature, such as some office buildings and industrial parks.

In California, there are four distinct types of common interest developments recognized by 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 homebuyers.

The first rule of ascertaining what type is a CID: don't look at the buildings, look at the paperwork. You cannot tell what it is by looking at it, but by reviewing the recorded covenants on the property. Look closely at the covenants, and you should be able to see what type of home with which you are dealing.

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, the property is undivided legally, but is one piece of real estate that has multiple residences on it. Each owner receives a deed, but it is not a deed for a given residence. Rather, the owner receives a deed as a tenant in common 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.

The stock cooperative is often referred to in short as a "coop". In a stock cooperative, the Association is usually incorporated, and it holds the title to the entire property. Co-ops are less common in California. Each member owns a share of stock in the Association, which share is coupled with the right to occupy a given residence. The Association owns the property.

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". The separate interests, or units, are normally defined by another recorded document, the Condominium Plan (in an older property sometimes called a "Subdivision Map"). The exact contours of the unit will often vary. The unit may be only the airspace inside the walls of the home, or it may be the building, but not the land under it. Balconies or patios may or may not be part of the unit.

Condominiums are not always attached housing. Detached housing can be a condominium, so one must always check the deed and the CC&Rs to make sure. A condominium is also distinguished by the name of the separate real property interest conveyed. If the deed conveys a "unit" and an undivided equal interest in the common area, it is a condominium.

Planned Unit Development, or 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". 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 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 cooperatives 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.

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