

HOA Homefront

What About The Paperwork? The Documents Every HOA Should Have

By: Kelly G. Richardson

CALIFORNIA LAW, AT CIVIL CODE SECTION 1368, REQUIRES THAT CERTAIN DOCUMENTS AND INFORMATION BE PROVIDED TO MEMBERS UPON THEIR REQUEST, TO GIVE TO PROSPECTIVE BUYERS. HERE IS BRIEF CHECKLIST OF THE MANDATORY DISCLOSURES, TO ASSIST THE HOMEOWNER, MANAGER, REALTOR®, OR PROSPECTIVE BUYER.

CHECKLIST

Governing documents:

CC&R's
ByLaws
Articles of Incorporation (or statement of non-incorporation)
Condominium Plan or Subdivision Map (not mandatory, but should be)
Rules/Regulations

Financial Documents:

Budget
Accountant Review of financial statements
Assessment collection policies
Assessment and Reserve Funding Disclosure Summary

Assessments Information:

Assessment (regular and special)
Assessments – future (if known)

Insurance Information:

Summary of insurance policies

Problems Information:

Assessment arrearages
Unpaid fines or penalties
Unresolved violations

Unique Issues

Disclosures regarding age-restricted communities
Construction defect case information

1. The Governing Documents

The association must provide a copy of its governing documents, and if the association is unincorporated, there must be a written

statement disclosing that fact. The Condominium Plan or Subdivision Map is not required by law, but should also be provided.

2. Financial Documents

The financial documents listed above will tell you much about the association's financial condition.

Pay close attention to the reserves information. The Assessment and Reserve Funding Disclosure Summary is a newer requirement in the law, added in July 2006. Is the association following the recommendations of its reserve study preparer? Or is it leaving little in the reserve fund account, exposing it to future major borrowing and therefore its members to future major special assessments? Does the association have a plan to try to become more adequately funded in the future? The plan must be written and disclosed by January 1, 2009.

3. Insurance Information

How completely is the association protected by insurance? The association must list for each of its insurance policies the:

- A) Name of the insurer;
- B) Type of insurance;
- C) Policy limits; and
- D) Amount of deductible

4. Assessments Information

What are your assessment obligations when you buy a residence within the association? The association must state in writing the current regular assessments and any special assessments, as well as any assessment increases or new special assessments approved but not yet due.

5. Problems/Violations Information

Are you buying into a residence which has not been a good member of the association? The association must disclose any arrearages or fines owed on the residence in question, and any other unresolved violations by the member of the association governing documents.

6. Unique issues

Some associations are age-restricted communities, specially established for senior living. Such restrictions must be disclosed.

Some associations have sued a builder for construction defects. You have the right to a copy of the defect list, or, if the case is resolved, the association's plan to deal with the defects on the list.

7. Difficulties

The association can only charge its actual cost to make the copies, which must be provided within ten days of written request. Difficulties in obtaining these aforementioned documents are common, but not because anyone is trying to sabotage your transaction. This law has changed in recent years and the list of required disclosures has grown, so they may not know what the law requires. Also, you may simply be dealing an overloaded manager or with volunteers struggling to take care of association paperwork in addition to their daytime jobs.

Other Helpful Documents

In addition to the specifically required documents, prospective buyers may wish to request the —

- Latest quarterly or monthly financial report;
- Last three board meeting minutes; and
- Latest reserve study.

These are not mandatory disclosures, but will provide further helpful information and insight into the association.

You can read Civil Code §1368 on the State Legislature's web site at:

<http://www.leginfo.ca.gov/calaw.html>

The law provides much information for common interest development homeowners and prospective buyers. Make good use of it, and be a better buyer and member of your new community.

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