
Section V

METHODS OF FILING

A. Minimum Filing Package (MFP)

The Department will accept an application for a final public report *only if* all of the following requirements are met.

- The RE 624 or 628, Part II Index/Quantitative Deficiency Notice is complete.
- The RE 624 or 628, Part III Notice of Intention is complete.
- All documents submitted are hole-punched and tabbed with the appropriate index number.
- The filing fee is submitted.
- All supporting documents are legible.
- The minimum required documents are submitted. The Department requires that all original Notices of Intention include a minimum amount of supporting documentation in order to be accepted. Certain questions are marked with an asterisk (*). If an asterisked question applies to your project, you must submit the documentation indicated.

If the minimum filing package requirements are not met, the Notice of Intention and filing fee will be returned to you.

If MFP requirements are met, the DRE will accept the filing as a Notice of Intention and will continue processing to determine if the filing is substantially complete. (See B. below.)

B. Substantially Complete Application (SCA)

A substantially complete application for a final public report includes:

- A minimum filing package and virtually all other documentation required for the issuance of a final public report. The indexes in RE 624 or 628, Part II show what should be included in a substantially complete application.
- For common interest subdivisions, a duplicate budget package with duplicate copies of materials related to the homeowners association must be submitted.

C. Preliminary Public Report

Department of Real Estate will normally issue the preliminary public report within two weeks of the filing date if the application is complete and in compliance with Department of Real Estate requirements.

- ☞ Preliminary public reports may be applied for on RE 624 or 628 Notice of Intention for a final public report or separately via the RE 603 application. To initiate processing for a final public report you must submit a completed RE 624 or 628, and minimum filing package documentation.

D. Conditional Public Report

The conditional public report may be applied for on RE 624, 628, or 635 when initiating processing for a final or amended public report. Refer to RE 605 to compute filing fee.

The conditional public report will not be issued unless the applicant submits information and documents establishing the material elements of the setup of the offering to be made under authority of the conditional public report which include:

1. A statement designating any requirements, inadequacies or deficiencies in the application which the

applicant expects to remain uncorrected when the conditional public report is issued and setting forth the reasons why the applicant expects unsatisfied requirements or uncorrected inadequacies or deficiencies to remain when the conditional public report is issued.

2. An exemplar sales agreement or lease to be used in any transaction conducted under authority of the conditional public report which provides:
 - a. As a condition of the sale or lease that no escrow will close, funds will not be released from escrow and the interest contracted for will not be conveyed until a current final public report for the subdivision is furnished to the purchaser.
 - b. For the return of the entire sum of money paid or advanced by the purchaser if the final public report for the subdivision has not been issued within six months of the date of issuance of the conditional public report or the purchaser or lessee is dissatisfied with the final public report because of a change pursuant to Section 11012.
3. An exemplar of escrow instructions to be used in any transaction conducted under authority of the conditional public report which includes at least the following:
 - a. The name and address of the escrow depository.
 - b. A description of the nature of the transaction.
 - c. Provisions ensuring compliance with Section 11013.2(a) or 11013.4(a) of the Business and Professions Code.
 - d. Provisions ensuring that no escrow will close, funds will not be released from escrow and the interest contracted for will not be conveyed until a current final public report for the subdivision is furnished to the purchaser or lessee.
4. Information and documents demonstrating that reasonable arrangements have been made to assure completion of the subdivision and all off site improvements included in the offering.
5. Information and documents demonstrating that the applicant has complied with Section 11018.5(a)(2) of the Business and Professions Code for the subdivision.

A conditional public report will not be issued until either one of the two following conditions are met:

1. All deficiencies and substantive inadequacies in the documents which are required to make the application substantially complete have been corrected, the material elements of the setup of the offering have been established, and all requirements for issuance of a final public report set forth in the regulations of the Real Estate Commissioner have been satisfied except for one or more of the following requirements:
 - a. A final map has not been recorded.
 - b. A declaration of covenants, conditions, and restrictions has not been recorded.
 - c. A current preliminary report from a licensed title company issued after filing of the final map and recording of the declaration covering all subdivision interests to be included in the final public report has not been provided.
 - d. A condominium plan has not been recorded.
 - e. A declaration of annexation has not been recorded.
 - f. A recorded subordination of existing liens to the declaration of covenants, conditions, and restrictions or declaration of annexation or escrow instructions to effect recordation prior to the first sale are lacking.
 - g. Filed articles of incorporation are lacking.
2. The application for the final public report for the subdivision is qualitatively complete except for one or more uncorrected deficiencies or inadequacies or unsatisfied requirements which the Commissioner determines are likely to be corrected or satisfied during the term of the conditional public report.

Written notice of the decision to deny issuance of a conditional public report will be mailed to the applicant within five business days after the Department determines that the application for the final public report is complete but for inadequacies, deficiencies or requirements designated by the applicant to remain uncorrected or unsatisfied.

If a project is subject to HUD/OCRA requirements as indicated by the applicant in the Notice of Intention and a conditional public report is being considered, it should be noted that HUD/OCRA has advised the Department of Real Estate that sales of a HUD/OCRA project under the authority of a conditional public report would be unlawful. Also, if a conditional public report is issued, it would be without the HUD/OCRA certification.

E. Master File for Phased/Multiple Map Filings (Common interest only)

1. Phased and Multiple-Map – What’s the Difference?

- A multiple-map project is characterized by groups of lots/units offered on more than one recorded subdivision map. (See Figure “B” Example “1.”)
- A phased project is characterized by groups of lots/units offered within one recorded subdivision map, each group to be covered by a separate final public report. (See Figure “B” Example “2.”)
- Each map of a multiple-map file may itself be developed in phases. (See Figure “B” Example “3.”)

2. What is a Master File

Developers of multiple-map and phased common interest subdivisions are encouraged to follow the DRE “master file” procedure to minimize duplication of documentation when filing the subsequent maps/phases of the project.

The master file procedure allows the SRP to submit a master filing for the initial map/phase which contains all the documents that will also be completely applicable to all proposed maps/phases that will follow.

Master files work best in those cases where subsequent maps/phases are annexed promptly and the construction and sales proceed on schedule. When substantial delays occur between the maps/phases or when the planned annexation schedule is to take place over several years, it is likely that some of the master documents will become obsolete and will need to be replaced or updated. Also, in the event laws and regulations change during this period, the DRE will require that documents which are no longer in compliance be replaced or updated with documents which do comply.

3. How to Apply

Those documents that will serve not only the original file, but all later filings should be designated “master file” documents. The Notice of Intention identifies which documents may be used as master file documents as do the item elements in this guide.

Documents commonly used as “master” documents that may be applicable to multi-phase projects are:

- a. Coastal Zone Permit (if applicable)
- b. Recorded restrictions, bylaws, Articles of Incorporation
- c. Flood and drainage letters
- d. Utility letters
- e. Well driller letters
- f. Financing documents to be used such as note and trust deed.

Those subdividers who apply for an “overall” preliminary public report should do so when making the application for the final public report for the first phase/map. The preliminary public report can cover all proposed phases/maps of the project.

An RE 603 package application for an overall preliminary public report cannot be a master file. Only the

RE 624 application can be a master file.

4. What to Include in the Master File

The master file must include all documents required in Part II of the RE 624 in order to be substantially complete. Always submit a map (or plot plan) of the entire project with proposed maps/phases delineated.

It is important to submit a complete budget package with the master filing which includes those phases/maps which will be annexed during the first three years of operation. If the overall development will be completed within 3-5 years, also, submit the “built-out” budget.

The SRP should review each exhibit carefully before declaring it to be a “master” document that will be suitable for future phases/maps.

In the event that there are some documents submitted with the master file that are found to be not acceptable as master documents, the Department will inform the SRP of this fact in the qualitative review of the file. This means that although the SRP may receive a substantially complete notice from the Department, when a Deputy reviews the master file, he/she may find that some of the documents submitted are suitable for the first phase, but may not be applicable to subsequent phases. The SRP would be notified of this in the qualitative deficiency notice from the Deputy. A corrected document could then be submitted for the master file, or in some cases it may be appropriate to submit that document with the filing for the subsequent phase.

5. How to Submit Subsequent Phases/Maps Filings

Always indicate, in the applications for subsequent phases/maps, the DRE file number of the master file and all other previous filings.

The additional phases may be considered substantially complete by submitting a completed Notice of Intention (RE 624), the fee, and by entering “M. File” in column five, Part II of the Notice of Intention to indicate that applicable master documents are already located in the master file. All documents applicable to that map or phase which are *not* master documents must, of course, be included before the application can qualify as substantially complete. As an example, a new title report would nearly always be required for each map/phase. An updated budget would usually be required if it has been 18 months or longer since the last DRE budget approval for this phase.

Subsequent phase filings must be submitted on RE 624.

F. Overall Preliminary Public Reports

When applying for an “overall” preliminary public report, the SRP must furnish a recorded map(s) or an approved tentative map(s) with the conditions of map approval for the total project and must pay the basic filing fee, the lot/unit fees for the total number of lots/ units in the overall development and the fee for a preliminary public report. With each subsequent phase/map for which the subdivider applies for a final public report, a separate (additional) basic filing fee must be submitted. For example, if the overall preliminary public report covers a five-phase project, you would probably ultimately submit five separate filings for final public reports, five basic filing fees, and one preliminary public report fee (unless the preliminary public report is amended or renewed, thereby requiring another preliminary public report fee) in addition to the lot/unit fees.

It is also possible that a developer could obtain an overall preliminary public report on the same five-phase project and later decide to obtain one final public report covering the total project. In that case, the subdivider would not be required to submit a basic filing fee for each phase. One basic filing fee would suffice if one final public report (covering the entire project) were issued.

FIGURE "B"
PHASED/MULTIPLE MAP

