



Living in a Common Interest Development

(The excerpts below are found in the Department of Real Estate's (DRE) "Living in a Common Interest Development" publication. You may view and download the entire publication at: www.dre.ca.gov/Publications/CompleteListPublications.html)

What is a common interest development (CID)?

A CID is descriptive not only of a certain type of real estate and form of home ownership, but also of a lifestyle that has become more and more common to the American way of life. To understand the concept, it is important to know that there is no one structural type, architectural style, or standard size for CIDs. They come in a variety of types and styles, such as single-family detached houses, two-story townhouses, garden-style units with shared "party walls," and apartment-like, multistory high rises.

In California, there are tens of thousands of CIDs that range in size from a simple two-unit development to a large complex having thousands of homes, many commonly owned facilities, and multiple associations under the auspices of one overall master association.

However, despite the wide range of differences that may exist among CIDs, all CIDs are similar in that they allow individual owners the use of common property and facilities and provide for a system of self-governance through an association of the homeowners within the CID. The most common type of association of homeowners is the nonprofit mutual benefit corporation. This is a corporation in which the members of the corporation vote for a board of directors that run the affairs of the corporation. However, some associations, usually the older ones, are unincorporated associations. In many ways, unincorporated associations are treated the same as mutual benefit corporations under California law.

Does a property owner have to join the association?

Membership in the association(s) is automatic. When a person buys a lot, home, townhouse, or condominium in a common interest development, he/she automatically becomes a member of the association(s).

What are Covenants, Conditions and Restrictions (CC&Rs)?

The Declaration of the Covenants, Conditions and Restrictions, or CC&Rs, contains the ground rules for the operation of the association. This governing

document identifies the association's common area and responsibilities, explains the obligation of the association to collect assessments, as well as the obligation of the owners to pay assessments. It also states that the association may sue owners for violations of the rules or failure to pay assessments, and explains what happens if there is any destruction of property in the development as a result of fire or earthquake. The CC&Rs will also state the duties and obligations of the association to its members, insurance requirements, and architectural control issues.

How are the CC&Rs enforced?

California laws allow that either the association or an owner in a common interest development may file a lawsuit asking the court to enforce the CC&Rs. The law currently requires, with some exceptions, that either the owner or the association must offer to engage in some form of alternative dispute resolution process before filing a lawsuit. You may wish to consult with an attorney who specializes in this type of law if you are faced with or contemplating an enforcement matter.

Does DRE assist with the enforcement of the bylaws and CC&Rs?

CIDs are subject to the Davis-Stirling Common Interest Development Act (California Civil Code sections 4000 et seq.). This Act is intended to provide homeowners with a system of self-government and dispute resolution. As part of the required public report application processes needed before home are offered for sale to the public, DRE reviews the legal framework of new CIDs to ensure they comply with the Subdivided Lands Law. Once sales begin, DRE's jurisdiction is limited to the subdivider's obligations under the public report, which does not include intervention in association disputes. Presently, there is no State or local agency that directly regulates associations or their members.

Who is in charge of the association?

The homeowners are in charge of the association. Often, homeowners will elect a board of directors to operate the

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LIVING IN A COMMON INTEREST DEVELOPMENT (CONTINUED FROM PAGE 4)

association and preserve, enhance, and protect the value of the CID, but the board answers to the homeowners. It should be noted that it is not unusual for the board to contract with a professional management company to run the day-to-day affairs of the association. Ultimately, however, it is the board that is responsible for the oversight of the homeowner association.

and regulations of the association. Some associations' rules and regulations also require that a property owner provide the association with a copy of the rental agreement. In most associations, the CC&Rs state that the owner of the property being rented is responsible for the conduct of the tenant. Naturally, it is in the best interest of all parties to prevent problem situations between tenants and owners of other units. If a tenant does damage to the common area or creates a nuisance (e.g., loud music or pet problems), the disturbance could become the property owner's problem and the association may fine them.



While governing documents help establish a foundation, involved owners build the CID and make it a community



How does the association pay its bills?

Each association has a budget that is prepared based on the common area obligations of the CID, and distributed to all members. The budget determines how much money the association is going to need to operate for the following year. The association has the right to bill members for their fair share of the budgeted amount. This billing is known as an assessment, which may be paid via monthly invoices, coupons supplied by the association, or some alternative method. Ideally, the association collects sufficient money through these assessments and pays the bills for the services and goods contemplated in the budget.

What are a property owner's individual responsibilities for living in a CID?

Primarily, a property owner is responsible for paying assessments on-time and abiding by the CC&Rs and all other rules and regulations that exist for community harmony.

What are a property owner's individual rights for living in a CID?

A property owner's individual rights when living in a CID are based upon the laws of California and the documents you signed at the time of purchase. Prior to making a purchase, it is advisable that a potential owner thoroughly review the CC&Rs and any other governing documents applicable to the CID (California Civil Code section 4150). The potential owner also may wish to attend a board meeting and obtain copies of minutes from previous board meetings. The CID should be able to demonstrate that it has adequate insurance coverage, a solvent budget, and a sufficient reserve account.

If the assessments collected are insufficient to pay the bills, the board of directors is allowed to levy what is known as a special assessment. Without member approval, the total of special assessments in any fiscal year cannot exceed 5% of the gross budgeted expenses for that year. By paying the fair share of the obligations of the association, through the budget and assessment process, all property owners are proportionally paying for the current and long-term maintenance obligations of the association.

Generally, the rights of owners include:

- The right to participate in meetings of the board of directors and to be heard
- The right to enter into dialogue with your association board of directors with regard to any problem perceived in the development
- The right, with some exceptions, to utilize an alternative dispute resolution process, if a dispute arises between the property owner and the association prior to the involvement of the court system.

Can owners rent to someone else?

Some CIDs restrict the number of units that may be rented by owners. Some CC&Rs require that a rental agreement acknowledge that the tenancy is subject to all of the rules

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