CALIFORNIA ASSOCIATION of REALTORS®

A BASIC GUIDE to OWNING a HOME in, and the ADMINISTRATION of, a COMMON INTEREST DEVELOPMENT (CID)

Basic information for CID homeowners and board members

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Preface

The *Common Interest Development ("CID") Guide to Owning, Operating and Administering CIDs* is designed to provide general information regarding

owning a unit in a CID, as well as operating and managing residency in a CID. This guide does not contain legal advice or guidance. For additional information, you may wish to consult with an attorney, accountant, or other appropriate professional.

INTRODUCTION

CIDs have become a popular type of home ownership, providing an alternative to the traditional single family dwelling. At the end of 2006 there were an estimated 41,000 homeowner associations in the state with over 9 million Californians residing in them. CIDs can have as few as two units in a duplex or hundreds of units in a downtown high-rise. Generally speaking, CIDs provide a framework for owners to own their own unit and share ownership of common areas.

Most of the laws governing CIDs are found in the following state codes:
California Civil Code Sections 1350 - 1378 (the Davis-Stirling Act), California Business and Professions Code Sections 11000 *et seq*. (Subdivided Lands Law) and "SB 800" (California Civil Code Sections 895 *et seq*.) In particular, for disclosure requirements see California Civil Code Section 1368 (resale) and California Business and Professions Code Section 11018.6 (new subdivision), and California Civil Code Section 1134 (conversions). Certain other federal, state and municipal laws may also apply, as well as judicial decisions interpreting the laws governing CIDs. Each CID is managed pursuant to specific rules and regulations contained in documents commonly referred to as "the governing documents," which include the Covenants, Conditions and Restrictions ("CC&Rs") and Rules and Regulations of the particular CID.

THE COMMON INTEREST DEVELOPMENT

What is a Common Interest Development?

A CID exists where land is divided into separate ownership interests and where the separate owners have the right to use commonly owned property and/or facilities. CIDs also provide for a means for the owners to manage the CID through an association.

Does an owner have to join the CID's association?

An owner becomes a member of the CID's association by virtue of his or her ownership interest in the CID.

Why buy into a CID?

A CID provides different benefits to individual owners made possible through common ownership. Owners can co-own community

facilities, such as swimming pools, parks, recreational facilities and even lakes. Costs are shared, allowing a CID to provide amenities that an individual owner might otherwise be unable to afford on his or her own. The CID may also take on some of the burdens of ownership which might otherwise be an individual owner's responsibility in a non-CID property, such as gardening services, maintenance, and/or utilities expenses.

As a CID home owner, the homeowner becomes a member of a community with rules (CC&Rs) that he/she must adhere to while living in the CID. Some CIDs may provide a more affordable option for the purchase of housing due to increased density and economies of scale in maintenance. Additionally CIDs may, if operated in a fiscally prudent manner and due to sharing of costs, help ensure that properties are properly maintained and thus offer some protection for property values.

Other Considerations of CID Living.

CID's take on much of the responsibility that would ordinarily be handled by the homeowner in a non-CID home. This also means that the CID member agrees not to make unilateral decisions regarding the appearance, maintenance and improvement of the home. For example, a CID member might have to seek authorization to change the exterior appearance of the home or make certain other remodel changes. By living in a CID community, the homeowner must cooperate with the community to maximize the benefits to all of CID living.

CID versus living in an apartment

A home in a CID may be attached or detached. The lifestyle of attached living is often similar to living in an apartment. An attached home may be very similar to an apartment in its physical layout and the buildings may be indistinguishable from an apartment complex. However, as noted above, owners in an attached home CID have substantially different responsibilities than renters or non-CID unit owners.

What is a condominium conversion?

Since the CID is a legal form of ownership, rather than a type of structure, a CID can be created from an existing development. Conversion can be from a non-CID, such as a rental apartment complex, to a condominium complex. It may also be from one form of CID to another. The conversion of a CID to another type of CID is principally a change of legal title, often with no physical changes to the complex.

TYPES OF CIDs

Four Types of CIDs

There are four basic types of common interest developments in California. A prospective purchaser cannot tell the type of CID he/she is purchasing simply by looking at the building or complex. The four types of CIDs in California are: *planned developments (PDs)*, *condominiums, stock cooperatives*, and *community apartments*:

Planned Development (PD)

A planned development consists of real property which is split into different pieces commonly called "lots" that are often individual plots of land with a dwelling on them. The PD usually has a common area which is owned by the CID association. The lots are individually owned under common CC&Rs

Condominiums

A condominium consists of an undivided interest in the CID's common area coupled with a separate interest in the airspace defined as a specific unit. The precise description of the unit will be found in a recorded document called the "Condominium Plan" or "Subdivision Map". The owner receives a deed of ownership in the particular unit as well as an equal undivided ownership in the CID's common area. For example, in a 48-unit development on Main Street, the owner of Unit 8 would have a deed showing the ownership of an individual interest in Unit 8 plus a 1/48th undivided ownership interest in the common area.

Stock Cooperative

A stock cooperative is usually referred to as a "co-op". In a stock cooperative, a corporation owns the entire real property. The homeowner does not receive a deed, but a share of stock in the corporation tied to the right to a specific home on the property. The stock co-op will normally have one share per unit.

Community Apartment

Community Apartments are often referred to as "own-your- owns" or "tenancies in common" (TICs). The building is owned in a "common tenancy" fashion. The deed the community apartment owner receives may not mention any specific dwelling, but may simply state that the owner owns one individual equal share of the property. In the example of 48 homes at #1 Main Street, the deed may state that the homeowner owns a 1/48th interest in the property at #1 Main Street. The deed provides a homeowner the right to occupy a specific home in the community apartment project, or the right to occupy a unit and use the common area, as may be set out in a management agreement between all of the joint owners.

How does a purchaser know what kind of CID home he or she has?

The type of CID a person has purchased an interest in should be identified on the deed and on the first page of the CID's CC&Rs.

Is one type of CID better than another?

Generally, the answer is no. The various forms of CIDs are similar as to the use, occupancy and restrictions. However, the ability to obtain financing may differ depending on the type of CID.

DISCLOSURE

What information or documentation is a CID required to give to a seller?

(1) Under Civil Code Section 1368 if an owner (and hence a member of the CID's association) makes a request in writing, the association is required to provide to the member the following documents:

* A summary of the association's property, general liability, and earthquake and flood insurance policies in effect-Including any changes in policies or deductibles.
* A statement describing any restrictions in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age, including a statement that the restriction is only enforceable to the extent permitted by California Civil Code Section 51.3.
* A statement from a representative of the association regarding current regular and special assessments and fees levied upon the seller's interest, including any unpaid assessments.
* A summary of any notice previously sent to the owner alleging violations of the governing documents that remain unresolved at the time of request.
* A copy of the latest information regarding any settlement agreement involving construction defect litigation.
*Any change in the association's current regular and special assessments and fees which have been approved by the board of directors but have not yet become due and payable.

Please note this is not meant to be a complete list of disclosures; an association may be required to provide additional documentation.

(2) Under amended Civil Code Sections 1350 and 1365.2.5 , and newly added Section 1363.005 (AB 899, Chapter 484, 2009 Statutes), an HOA to is required to include in the Assessment and Reserve Funding Disclosure Summary a specified statement regarding the interest rate earned on reserve funds and the assumed inflation rate applied to major component repair and replacement costs. The HOA must also provide annually, at an owner's request, a new Disclosure Document Index. Furthermore, all the disclosure documents on this Index can be provided electronically (e-mail, fax, etc.).

Does a CID association have an obligation to provide an owner of a

separate interest within the CID with the necessary documentation to give to a buyer?

Yes. Upon written request, an association must, within 10 days of the mailing or delivery of the request, provide the owner (seller, not buyer) of a separate interest with a copy of the items listed in the section above and other disclosures required by law. The association may charge a fee for this service, but the fee may not exceed the association's reasonable costs to prepare and reproduce the requested information. If the association refuses to comply (i.e., "willful" violation), the Civil Code provides a civil penalty not to exceed $500, plus actual damages incurred by the buyer, plus reasonable attorney's fees.

Is there a limit to association transfer fees?

Yes. An association can only charge its actual costs for changing its records as a transfer fee. However, there are often fees charged by the association in connection with lender certifications and other tasks in connection with an escrow.

CID GOVERNANCE DOCUMENTS

What are governing documents?

The governing documents of the association include the CC&Rs, as well as the Rules and Regulations which govern the CID's association and the obligations of membership in the CID.

Articles of Incorporation

If the CID is incorporated (which is common), the CID must have Articles of Incorporation containing a statement that does all of the following:

- Identifies the corporation as an association formed under the Davis-Stirling CID Act;
- States the location of the business or corporate office of the association; and
- States the name and address of the association's managing agent, and if the manager is Certified.

Subdivision Map or Condominium Plan

The document that divides the land into lots is usually referred to as a "Subdivision Map." The document which divides the property into individual units is usually referred to as a "Condominium plan." The map or plan is filed (i.e., "recorded") with the county recorder and is therefore a public document. It defines the "common area" or "exclusive use common area" as well as the "separate interest." This document can be very important in case there are disputes between homeowners, or between the homeowner and the association, over the use of certain parts of the property.

Covenants, Conditions and Restrictions (CC&Rs)

These are the recorded documents which contain, among other things, a legal description of the common interest development, the nature of the

development (i.e., planned development, condominium project, stock cooperative or other type), the name of the association, and any restrictions on the use or enjoyment of any portion of the development. The CC&Rs usually also contain the basic rights and obligations of the owners and the association with respect to dues, assessments, maintenance, and other basic items. They can be amended by a vote of the membership.

> **[Note - Use Restrictions -** CC&Rs affect the homeowners' life in the CID. There usually will be a section in the CC&Rs called "use restrictions" which list a number of prohibited activities or uses. Those restrictions can range from limits on pets to parking restrictions or even rental restrictions.]

Bylaws

Bylaws usually do not address issues regarding the property, but generally contain the CID's governance procedures such as annual meetings guidelines, voting procedures, and election procedures for the board of directors. Bylaws are typically not recorded and are not deemed public documents. They can only be amended by a vote of the membership at a general membership meeting that has been announced to the members for such a purpose.

Rules/Regulations

In addition to the requirements contained within the CC&Rs, CID associations also adopt rules and regulations for the CID regarding such activities as allocation of parking, architectural guidelines and landscaping standards. These rules and regulations must be consistent with the CC&Rs and not conflict with state law or other governing documents. They are passed and amended by the CID's board of directors after notice to the members and do not require a membership vote. They are not effective until distributed to the membership in written form.

Can governing documents be changed?

Yes, the governing documents can be changed by the homeowners' association on a membership vote (except for rules which are changed by a board vote). They can also be changed as a result of changes in the law which restrict the ability of an association to have certain rules.

What if there are contradictions between the governing documents?

Sometimes, as governing documents are amended, contradictions can be created. Generally speaking, CC&Rs take precedence over bylaws and rules. Bylaws take precedence over rules.

What if I do not like certain provisions in the governing documents?

When a homeowner acquires ownership of a home in a CID the homeowner thereby legally accepts the terms of the governing

documents and agrees to abide by their terms. As a member of the CID, a homeowner has the right to seek a revision to the governing documents. Until a change is actually made, however, the homeowner must comply with the governing documents.

DISPUTE RESOLUTION

What if a homeowner has a dispute with his or her Homeowners' Association or one of his or her neighbors?

CIDs are required to have in place procedures to help homeowners resolve disputes between each other and/or with the HOA. There should be in place an Internal Dispute Resolution (IDR) procedure which designates someone to help resolve such disputes. In the event IDR does not succeed, members and the association are required to offer Alternative Dispute Resolution ("ADR") to the other side in the majority of cases involving disputes between a member and the association (there are some exceptions such as a dispute over assessments). There are two basic methods of ADR, *mediation and arbitration*:

Mediation

Mediation is a discussion between the parties conducted in order to try to find a resolution to the dispute, aided by a mediator who is a facilitator of that discussion. Mediation is not designed to determine who is right and who is wrong, but a skilled mediator will try to help the parties reach a mutually acceptable resolution. If an agreement is not reached, the parties will need to go to court or arbitration.

Arbitration

Arbitration is a hearing, similar to a private trial, in which both sides present evidence in front of a neutral person called an arbitrator. The arbitrator may be a lawyer, retired judge, or any other person agreed upon by the parties or defined by the governing documents. The arbitrator, after hearing the evidence, will render a decision. The decision can be binding or non-binding, depending on what the parties have agreed to at the commencement of the proceeding.

CID FINANCES

All CIDs incur expenses maintaining, repairing, replacing, and operating the development. The expenses are typically shared by all members pursuant to a formula set forth in the CC&Rs. To meet those expenses, the CID will levy assessments upon all owners.

Bank accounts

CIDs should have two basic bank accounts, holding two different types of funds:

The *"operating account"* is used to pay for day-to-day expenses such as gardening, utilities, painting, and management fees.

The *"reserve account"* is designed to help the CID pay for major repairs and replacement of CID common area items. At least every three years, the CID is required to have a reserve study performed to project how long major components of the CID building or complex (for example, elevators, roofs, etc) will last and how much it should cost to repair or replace them.

Assessments

(1) There are four basic types of assessments: *regular, special, emergency and penalty:*

Regular

A *regular assessment* is usually imposed on a monthly or quarterly basis. Regular assessments are often referred to as "dues". These assessments are used to pay the CID's operating account needs and meet its reserve account requirements. Regular assessments cannot be increased by more than 20% per year without a membership vote. Increases of less than 20% can be made by the board of directors without a full membership vote, but not without notice to membership of the meeting during which such a decision will be made.

Special

A *special assessment* is separately imposed and is limited to a specific amount of money over a specific period of time. Special assessments in excess of 5% of the CID's annual gross budgeted expenses may not be set by the board without the approval of a majority of the homeowners.

Emergency

Emergency assessments may be imposed by the board of directors under extraordinary circumstances such as repairs needed for safety or required by court order.

Penalty

A *penalty assessment* is commonly referred to as a "fine" and is imposed by the board of directors due to a violation of the governing documents. The fine cannot be imposed unless the board has first given the member a chance to discuss the matter with the board.

(2) Calculation of Assessments

AB 313 (Chapter 431, 2009 Statutes), adds Civil Code Section 1366.4 which prohibits an HOA from making assessments on separate interests within the common interest development based on the taxable value of the separate interests according to the local assessor's office, unless the association was already doing so on or before December 31, 2009 in accordance with its governing documents.

An association that is responsible for paying taxes on the separate interests within the common interest development is not subject to this prohibition.

Budgets

CIDs are required to annually prepare, adopt and distribute a budget to all members. As described below, the budget provides key information about a CID association for a prospective buyer.

Pro Forma Operating Budget
Unless the CC&Rs impose more stringent standards, the association must prepare and distribute to its members a formal operating budget not less than 30 days or more than 90 days before the beginning of the fiscal year. This "pro forma operating budget" should contain such information as estimated revenue and expenses; a summary of the association's reserves; a statement as to whether the board of directors has determined to defer or not undertake repairs or replacement of any major component, or has determined to levy any regular or special assessments for the major components; a general statement addressing procedures used for the calculation and establishment of reserves sufficient to defray future repair, replacement, or additions to those major components that the association must maintain; and such other information as may be required by the association's governing documents.

Summary of the Pro Forma Operating Budget (Alternative)

Instead of the "formal operating budget", an association may instead distribute a summary of the pro forma operating budget accompanied by a written notice in at least 10-point bold-face type that the complete statement is available at the business office of the association, or other location, and copies can be made, if requested, at the association's expense. If a member requests a copy of the budget by mail, the association must send it by first-class mail within 5 days after receipt of the request.

Member access to Financial Information

Members have the right to inspect and even copy most CID records, including financial records. There are some exceptions, such as records of member discipline, or other confidential matters. Member access to financial records is obtained through a written request to the board of directors or the CID's management company (if any).

Audits and Reviews

An *audit* is a very involved and expensive verification by a certified public accountant of the CID's income and expenses. Due to the cost, most CIDs do not obtain audits.

More commonly, CIDs hire accountants to perform a *review*, in which the accountant confirms that the records are in good order and being kept in accordance with generally accepted accounting principles ("GAAP"). In a review, the accountant does not verify the accuracy of the numbers.

What happens if a member does not pay their assessment?

When members fail to pay their assessments in a timely manner, the CID may impose late fees, penalties and collection fees on the

member. If payment remains unpaid, the CID may place a lien on the home until the obligation is paid - including attorney fees. State law has strict requirements for this process.

CID MEETINGS

Membership Meetings

Membership meetings are meetings in which decisions are to be made by all of the members as opposed to the board of directors. Votes at membership meetings are conducted by secret ballot on most issues. CID's must conduct at least one membership meeting per year, at which directors are elected. Usually, these "**Annual Meetings**" include a financial report and such other business as has been announced in advance to all of the membership. Membership meetings held in between Annual Meetings are called "**Special Membership Meetings."** These meetings can be called for many reasons, usually to vote upon items which the Board may not decide but which require a membership vote. These meetings can be called by the board or by a petition of members, pursuant to the governing documents.

Voting at membership meetings

Voting in a CID membership meeting may be accomplished in three basic ways: By *attending and voting*, *by ballot in lieu of attendance* (also known as an "absentee ballot") and by *proxy.* Additionally, a *quorum* of members, as defined by the governing documents must be present to conduct business at a meeting of members, and *secret ballots* are required for specific votes.

Voting in lieu of attendance

Many CID's offer the members the option of voting without having to attend the membership meeting. This process is usually referred to as "voting by absentee ballot" since the member is not personally attending the meeting. CID's are required to send all members absentee ballots for most votes at least 30 days prior to the date of voting.

Proxy

A proxy is a written statement that one member is granting to another member the right to vote that member's ballot at a meeting of the CID. A proxy is signed by the member granting it, designates who is the recipient of the proxy, and grants the recipient the right to vote the member's ballot.

Quorum

A quorum is the minimum number of members who are required to be participate (in person, by proxy or by absentee ballot) in order to conduct business during a membership meeting. The quorum is normally defined in the governing documents. If not enough members participate to achieve a quorum, the CID cannot conduct any business at the membership meeting.

Secret Ballots

CID associations are required to use secret ballots for elections regarding assessments, selection of members of the board of directors, amendments to the governing documents, or the grant of exclusive use of common area property. The law also requires an independent third party serve as inspector of elections.

Board Meetings

A CID makes its normal business decisions through a governing board of directors. The board meets pursuant to the requirements of the governing documents, and at least quarterly

Board of director meetings must be open to all owners. In the meetings, a time must be set aside for members to speak, subject to a reasonable time limit. A member's right to access minutes from meetings may not be limited by contract or the articles or bylaws. The board of directors may restrict attendance only when it meets in an "executive session". All matters discussed in the closed meeting must be generally noted in the minutes of the subsequent open meeting and made available to the unit owners.

Required Notice for Board Meetings

Notice of a pending board meeting, except an emergency meeting, must be given to association members 4 days prior to the scheduled meeting and must include an agenda.

Meeting Guidelines

The board of directors may not discuss, or take any action on, an item at a non-emergency meeting of the board that was not included in the circulated agenda. This restriction does NOT prohibit an association member from speaking on issues not specifically on the agenda, and board members responding to such comments or statements.

This requirement restricting board discussions to agendized items only does not prevent the board of directors from taking action on any item of business not appearing on the posted and distributed agenda if :

1) a majority of the board of directors present at the meeting determines that an emergency situation exists; or
2) the board determines by a majority vote that there is a need to take immediate action and the need for such action came to the attention of the board after the agenda was posted and distributed; or
3) the item appeared on an agenda that was posted and distributed for a prior meeting that occurred not more than 30 calendar days before the date that action is taken on the item and, at the prior meeting, action on the item was continued to the meeting at which the action is taken.

Types of Board Meetings

The three types of board meetings are *regular, special and emergency*:

Regular
Regular meetings occur on a regular schedule at a designated meeting place.

Special
Special meetings are meetings which must address an urgent matter that cannot wait for the next scheduled regular meeting.

Emergency
Emergency meetings are meetings of the board of directors called without the required minimum 4-day notice to members, to address circumstances not reasonably foreseen and which require immediate attention and possible board action that cannot wait for the notice required of a regular or special meeting.

What is an "executive session", and why can't the homeowners attend?

The board of directors may restrict attendance only when it meets in an "executive session". This is a session called to consider litigation, matters that relate to the formation of contracts with third parties, member discipline, personnel matters, or to meet with a member at the member's request regarding the member's payment of assessments. However, all matters discussed in such a closed meeting must be generally noted in the minutes of the subsequent open meeting and made available to the unit owners.

Minutes

A CID must keep minutes of its membership meetings and board meetings. These minutes are not transcripts of the entire meeting, but only a recitation of the actions taken. Draft minutes should be available to all members within thirty days after a meeting. The Board or the manager is to keep custody of the CID-approved minutes, which are official records of the corporation.

THE BOARD of DIRECTORS

According to state law, a CID must have a board of directors. Most governing, policy and operational decisions are made by the board of directors.

Powers and Limits

Powers of the board of directors, length of a director's term, number of directors, nominating procedures, and the limitations on board authority, should be found in the CC&Rs and/or bylaws. Decisions which are outside the power of the board must be submitted to the membership for vote.

Selection

Normally directors are elected by the membership at a meeting of all the members. However, in the event of a vacancy due to resignation, the board usually has the power to appoint a replacement director.

Qualifications

The qualifications to serve on the CID board are normally found in the CID bylaws. However, in addition to the legal requirements, one should remember that board service is a commitment. Service on a board of directors requires a dedication to the interests of the CID as a whole.

Officers

Officers are normally directors, are elected by vote of the directors, and serve at the pleasure of the board. Officers can be elected or removed by the board of directors at any time.

President

The *President* normally is the chair of all association meetings and is the chief officer of the association. The President's power is limited to that granted by the Bylaws.

Vice President

The *Vice President* fills in for the President to chair meetings if the President is not available. Depending upon the Bylaws, the Vice President may also have other duties.

Secretary

The *Secretary* normally keeps the minutes of all CID meetings (board of directors and membership meetings), and co-signs with the President important documents such as board of directors resolutions or other legal documents.

Treasurer

The *Treasurer* normally is charged with overseeing the CID finances and making sure that proper reports are provided to the board of directors at each regular meeting. The Treasurer should be someone who understands finances, budgets and basic recordkeeping.

MAINTENANCE AND REPAIR OF THE CID

Normally the governing documents, subject to state law parameters, will provide guidance as to what the CID maintains or repairs and what activities are homeowner responsibilities. Maintenance obligations generally fall into the following categories:

Unit or Lot

Repair and maintenance of the member's lot or unit is the responsibility of the member.

Common Area (1) The Common area is maintained and repaired by the CID. The description of common area is found normally in the governing documents, usually in the condominium plan or subdivision map.

(2) Water Efficient landscapes

AB 1061 (Chapter 503, 2009 Statutes) modified Civil Code Section 1353.8 to make any provision of the governing documents of a common interest development void and unenforceable if it prohibits the use of low water-using plants as a group, or if it has the effect of prohibiting or restricting compliance with a local water-efficient landscape ordinance or water conservation measure. In other words, HOAs can no longer force homeowners to maintain lush green lawns if the homeowners prefer other low water-using plants.

(3) Public Swimming Pool Drain Requirements

In 2007 Congress enacted the Virginia Graeme Baker Pool and Spa Safety Act, which became effective in December of 2008. AB 1020 (Chapter 267, 2009 Statutes) amends Section 18942 and adds Sections 116064.1 and 116064.2 to the CA Health and Safety Code. It enables state and local agencies to enforce the provisions of "Virginia Graeme" relating to drain requirements for public swimming pools. This law requires an existing public swimming pool (defined below) to be equipped with anti-entrapment devices or systems that meet ASME/ANSI or ASTM performance standards. It also requires an existing public swimming pool with a single main drain that is not an unblockable drain to meet at least one of several specified standards. The bill imposes timeframes by which its requirements must be met.

The law also requires that every newly constructed public swimming pool have at least 2 main drains per pump that are hydraulically balanced and symmetrically plumbed through one or more "T" fittings, and that are separated by a distance of at least 3 feet in any dimension between the drains. The law requires the State Department of Public Health to develop, and a public swimming pool owner to file, a form to indicate compliance with the requirements of this law.

"Public swimming pool" is defined as an outdoor or indoor structure, whether in-ground or above-ground, intended for swimming or recreational bathing, including a swimming pool, hot tub, spa, or nonportable wading pool, that is any of the following:

(A) Open to the public generally, whether for a fee or free of charge.
(B) Open exclusively to members of an organization and their guests, residents of a multi-unit apartment building, apartment complex, residential real estate development, or other multifamily residential area, or patrons of a hotel or other public accommodations facility.

(C) Located on the premises of an athletic club, or public or private school.

Exclusive Use Common Area

Under state law, exclusive use common areas are areas normally maintained by the member and repaired by the CID. Exclusive use areas may be specified in the governing documents, and also by state law. An exclusive use common area is used only by the member, but is not owned separately. The CID may control how the exclusive use area is used and how it is maintained.

MANAGEMENT

To manage a CID, one must have a working knowledge of building and property management, finances and CID law. One managing a CID should have good interpersonal skills, be organized and a good record-keeper.

Self - Management

A self-managed CID will use volunteers within the CID to fulfill the various functions required to manage the property. While much less expensive than professional management, self-management places a heavy burden on the volunteer board of directors.

Professional Management

There are a number of ways to use professional managers. Some CIDs hire their own manager as an employee of the CID, while others hire a management company that will designate a particular individual to manage the CID.

Full Management

Full management services may be provided pursuant to a contract between the CID and a management company. Such services often include management of the CID's finances and buildings. Managers will often attend meetings of the board of directors or membership.

Financial Management

Due to the higher cost of full management services, many CIDs choose to retain a management company only to handle the finances. The board of directors and committees handle issues regarding the buildings and grounds.

Are Managers required to be licensed or credentialed?

Managers are not required to hold any license, education or credential in order to manage a CID.

What is a Certified Common Interest Development Manager?

State law now provides that managers may qualify for the title of Certified Common Interest Development Manager ("CCIDM"). To attain this certification, a manager must complete at least thirty hours of specified course work in topics including California CID law and pass an examination. Providers of this education must be certified by the Department of Real Estate. While the CCIDM

designation is not mandatory, it is mandatory for a manager to disclose to the CID whether or not the manager is a Certified Common Interest Development Manager and whether or not the manager has other relevant licenses, such as a real estate license.

Are there other indicators of a manager's qualifications?

There are a number of organizations which offer credentials to CID managers. Among those are the Community Associations Institute and the California Association of Community Managers. The CID association's board of directors should ask prospective managers what credentials they have.

INSURANCE

Protecting the CID in effect helps protect each owner. Prospective owners are encouraged to confirm insurance coverage with the CID's management. As noted below, a variety of insurance policies are to be considered:

General liability insurance

General liability coverage is insurance protecting the CID from claims or lawsuits against it. State law also provides protection for the members of CIDs from personal liability arising out of lawsuits against the CID, as long as the CID maintains certain minimum levels of insurance: For CIDs with one hundred homes or less, that minimum is two million dollars ($2,000,000); for CIDs consisting of more than one hundred homes, that minimum is three million dollars ($3,000,000).

Property insurance

Property insurance protects against damage to the CID property caused by certain defined perils. The extent of property insurance depends upon how the insurance contract is written. Some items including mold, dry rot and earthquake damage are normally excluded from property damage insurance policies.

Individual homeowner insurance

A CID homeowner may obtain their own insurance coverage, apart from that of the CID. Such insurance might cover damage to the interior of the home, replacement housing if the home is damaged, or even special assessments imposed for major repairs. Some CIDs require their members to have such coverage.

Earthquake insurance

Earthquake insurance is usually purchased separately, but may be shown as an addendum or amendment to the property insurance policy. Such insurance is expensive and has a high deductible (usually at least 10% of the policy coverage). Many CIDs do not carry such insurance.

Directors and Officers Insurance

Directors and officers coverage (also known as "D&O" insurance) protects board members and officers from lawsuits alleging negligent exercise of their duties. State law provides personal immunity for volunteer officers and directors

of CIDs with one hundred or fewer homes that carry minimum coverage of five hundred thousand dollars ($500,000). For CIDs consisting of more than one hundred homes that minimum is one million dollars ($1,000,000).

Fidelity Insurance

Fidelity coverage protects the CID from dishonesty of employees or fiduciaries. Such coverage is sometimes called a fidelity bond. Lenders sometimes require proof of such insurance prior to closing of an escrow.

Payment Bond

CIDs initiating construction projects may purchase this bond in which the bonding company agrees to guarantee that the subcontractors and material suppliers will be paid.

Performance Bond

CIDs initiating construction projects may purchase this bond which guarantees that the contractor will finish the project.

Workers Compensation Insurance

State law requires employers to carry workers compensation insurance to protect employees from injuries sustained in the course of their work. CID's with employees must carry this type of insurance and so should the CID's vendors.

END

GLOSSARY OF TERMS

Alternative Dispute Resolution- (Also known as "ADR") - Dispute resolution without court trial. Most common methods are *arbitration* and *mediation*.
Amendment — Changes to the governing documents.
Annual Meeting — Membership meeting CIDs are required to have once each year for financial reporting and election of directors.
Arbitration — Alternative dispute resolution method, similar to a trial but done outside the court and the decision is made by one or more arbitrators instead of a judge. Arbitrators may be retired judges, lawyers, or other persons accepted by both sides. Arbitration may be binding or non - binding.
Articles of Incorporation — Document filed with the Secretary of State which establishes the corporation.
Assessment- A required payment by a member of a CID.
Board of Directors (also referred to as "Board") — The governing body of a CID. The Board is normally elected, although replacements can be appointed. Number and qualifications are set by the governing documents.
Budget — Estimated income and expenses of a CID for the coming year.
Bylaws — Governing document that establishes the CID operating procedures.
Certified Common Interest Development Manager (CCIDM) – An individual managing a CID who has met the education requirements for the CCIDM designation, issued by a private trade organization as authorized under state law.

Committees — An advisory group formed by board motion to assist the board.
Common Area — Property interests owned in common by all owners in the CID as defined by a subdivision map or condominium plan.
Common Interest Development- A real property development in which multiple owners have an undivided interest in real property, couple with the right to a separate interest in the property.
Condominium Map- A governing document filed with the County Recorder that lays out locations and boundaries of the units and common areas.
Covenants, Conditions & Restrictions (also know as **CC&Rs**) - A governing document filed with the County Recorder that provides guidance for the property's use and maintenance
Conversion — Process in which a development is legally changed from one form of real estate ownership to another.
Director — A member of the board of directors elected at a membership meeting; may be appointed in the event of a vacancy.
Disclosures— Documents informing a prospective buyer about the CID.
Emergency Assessment- A membership payment imposed by the board of directors to deal with a need of the CID which cannot wait for membership approval through the normal budget process.
Emergency Meeting — A meeting of the board of directors, called due to an emergency that cannot wait for a normal meeting notice.
Exclusive Use Common Area — Common area for use of one dwelling.
Executive Session — Closed session of a board of directors meeting, during which only certain topics maybe discussed.
Financial Management – Arrangement for administrative services in which the management vendor oversees only the CID's financial matters and does not manage the property.
Fines - (Also called penalty assessments) – A financial penalty imposed upon a member, after a board of directors hearing, assessed in response to a violation of provisions within the governing documents.
Full Management – Arrangement for administrative services in which the management vendor oversees both the CID's financial and operations/property management activities.
Governing Documents — the Articles of Incorporation, Condominium Plan or Subdivision Map, CC&Rs, Bylaws, and Rules.
Internal Dispute Resolution — Method of alternative dispute resolution in which a member of the CID acts as a representative of the association to attempt to resolve conflict with a member.
Lien — a claim made directly against property. A common method of enforcing assessment obligations is the recording by the CID of a lien against a member's property in the CID.
Lot — Separate interest owned by the member in a Planned Development, as defined by a subdivision map.
Mediation — Alternative dispute resolution technique involving a disinterested third party, selected by agreement of the disputing parties, who attempts to persuade the parties to resolve their differences.
Minutes — Written record of CID meetings conducted and actions taken.
Notice — Advance announcement of an act, event, or meeting.

Officers — Elected by the board of directors, officers normally include a *president, vice president, secretary* and *treasurer*.
Open Forum — Required portion of every board meeting providing members an opportunity to address the board of directors on items on or off the agenda.
Open Meeting Act — 1996 addition to the Davis-Stirling Act that requires board of directors meetings to be held with notice to members, open to members, and with minutes promptly distributed.
Operating Account — Bank account in which the CID receives assessment payments and from which it pays its bills.
Penalty Assessment (Also known as a "fine") - Financial discipline.
President-The chief officer of a CID, usually calls and chairs meetings of the board and sets agendas. Normally elected by vote of the board, and, as any officer, serves until the board votes to replace the officer.
Quorum – The minimum number of members required to participate in a member or board of directors meeting in order to conduct business.
Regular Assessment (Often called "Dues") - Allocation of the CID's operating income needs among the membership via periodic payments.
Review — Verification by an accountant that the client's books and records are in good order; not a verification the books and records are accurate.
Reserve Account—Account maintained by the CID to accumulate in advance funds needed for major repair and replacement items.
Reserve Study — The review of the CID's need for major replacement and repair items, with a projection of the anticipated life of those items and the projected cost of replacement or restoration of those items.
Rules (also often known as rules and regulations, or "house rules") — only governing document passed solely by vote of the board. Rules normally govern conduct of members in the community, and may cover many topics.
Secretary — Corporate officer who is responsible for minutes.
Secret Ballot — Ballots which do not identify the voter.
Self-management — Management services are provided by CID volunteers.
Separate Interest — In a condominium, means an individual "unit"; in a planned development, means a separately owned "lot"; in a stock cooperative or community apartment, means the right to occupy a given dwelling.
Subdivision Map — Recorded document defining boundaries of the property interest for a planned development.
Transfer Fees — Fees charged by the CID connected to the transfer of ownership of a property interest in a CID.
Treasurer — Officer charged with monitoring the CID's finances.
Unit — Property interest separately owned by a condominium owner.
Use Restriction — Limitation upon specific uses of a CID property interest.
Vice President—Officer normally charged with chairing the CID board meetings in the absence of the president.

PUBLIC INTERNET INFORMATION SOURCES

Corporations Listings-
Secretary of State web site http://kepler.ss.ca.gov/list.html

Licensing information-
Architects http://www.cab.ca.gov/querylic.htm
Attorneys http://members.calbar.ca.gov/search/member.aspx
Contractors http://www2.cslb.ca.gov/CSLB_LIBRARY/Name+Request.asp
Engineers http://www.dca.ca.gov/pels/l_lookup.htm
Real Estate Licensees http://www2.dre.ca.gov/publicasp/pplinfo.asp

Megan's Law information- http://www.meganslaw.ca.gov/

Davis-Stirling Act — Civil Code Sections 1350 - 1378
(legislative site for Civil Code) http://www.leginfo.ca.gov/calaw.html

CONTACT INFORMATION FOR CID-RELATED ORGANIZATIONS:
California Association of REALTORS (CAR) ® http://CAR.ORG
Community Associations Institute (CAI) http://CAIONLINE.ORG
California Association of Certified Managers (CACM) http://CACM.ORG
Congress of California Seniors http://www.seniors.org
Executive Council of Homeowners (ECHO) www.echo-ca.org
Institute of Real Estate Management (IREM) www.irem.org

C.A.R. LINKS
Q&A: Condominium or Other Common Interest Development Disclosures
http://www.car.org/index.php?id=MTM1Mw==

Q&A: Homeowners' Associations: A Guide for REALTORS®
http://www.car.org/index.php?id=MTUyMw==#

CAR CID Guide to Homeownership
http://new.car.org/governmentalaffairs/policybriefings/cid/

DRE LINKS
Living in a California Common Interest Development
http://www.dre.ca.gov/pdf_docs/cid.pdf

Reserve Study Guidelines for Homeowner Association Budgets
http://www.dre.ca.gov/pdf_docs/re25.pdf

FAQs: Common Interest Developments
http://www.dre.ca.gov/sub_faq_cid.html

Operating Cost Manual for Homeowner Associations
http://www.dre.ca.gov/pdf_docs/OCM_final_2007.pdf

Approved DRE Course Listing
http://secure.dre.ca.gov/publicasp/CEContinue.asp

DRE-APPROVED CID EDUCATION COURSES

Sponsor ID - 4193
BETH A. GRIMM, A PROFESSIONAL LAW CORPORATION
3478 BUSKIRK AVENUE, #1000
PLEASANT HILL, CA 94523
(925) 746-7177:

Cat.	Offering Title	Hours
CP	THE DAVIS STIRLING ACT IN PLAIN ENGLISH	8

Sponsor ID - 0468
BUILDING OWNERS & MANAGERS INSTITUTE INTERNATIONAL
ONE PARK PLACE, SUITE 475
ANNAPOLIS, MD 21401
(410) 974-1410:

Cat.	Offering Title	Hours
CP	ASSET MANAGEMENT	30
CP	BUDGETING AND ACCOUNTING	30
CP	ENVIRONMENTAL HEALTH AND SAFETY ISSUES	30
CP	FACILITIES PLANNING AND PROJECT MANAGEMENT	30
CP	FUNDAMENTALS OF REAL PROPERTY ADMINISTRATION	30
CP	LAW AND RISK MANAGEMENT	30
CP	TECHNOLOGIES FOR FACILITIES MANAGEMENT	30
CP	THE DESIGN, OPERATION, AND MAINTENANCE OF BUILDING SYSTEMS, PART I	30
CP	THE DESIGN, OPERATION & MAINTENANCE OF BUILDING SYSTEMS II	30

Sponsor ID - 3012
CALIFORNIA ASSOCIATION OF COMMUNITY MANAGERS, INC.
23461 SOUTH POINTE DRIVE, SUITE 200
LAGUNA HILLS, CA 92653
(949) 916-2226:

Cat.	Offering Title	Hours
CS	CALIFORNIA LAW FOR CALIFORNIA COMMUNITY ASSOCIATIONS - COMMUNITY MANAGEMENT	4
CP	CALIFORNIA LAW FOR CALIFORNIA COMMUNITY ASSOCIATIONS - FINANCIAL MANAGEMENT	4
CP	CALIFORNIA LAW FOR CALIFORNIA COMMUNITY ASSOCIATIONS - MEETINGS & RECORDS RETENTION	4
CP	CALIFORNIA LAW FOR CALIFORNIA COMMUNITY ASSOCIATIONS - PRINCIPLES OF CALIFORNIA LAW	4
CP	CALIFORNIA LAW SEMINAR FOR COMMUNITY ASSOCIATIONS	7
CP	COURSE V - ETHICS FOR CALIFORNIA COMMUNITY ASSOCIATION MANAGERS	4
CS	BAM: THE BASICS OF ASSOCIATION MANAGEMENT	16

Sponsor ID - 1927
COMMUNITY ASSOCIATIONS INSTITUTE
225 REINEKERS LANE, SUITE 300
ALEXANDRIA, VA 22314
(703) 548-8600:

Cat.	Offering Title	Hours
CP	M-100: THE ESSENTIALS OF COMMUNITY ASSOCIATION MANAGEMENT (HOME STUDY)	16
CS	CALIFORNIA COMMON INTEREST DEVELOPMENT LAW COURSE	8
CP	M-100: THE ESSENTIALS OF COMMUNITY ASSOCIATION MANAGEMENT	16
CP	M-201: FACILITIES MANAGEMENT	9
CP	M-202: ASSOCIATION COMMUNICATIONS	9
CS	M-203: COMMUNITY LEADERSHIP	9
CP	M-204: COMMUNITY GOVERNANCE	14
CP	M-205: RISK MANAGEMENT	14
CP	M-206: FINANCIAL MANAGEMENT	14
CP	M-310: MANAGEMENT OFFICE MANAGEMENT	14
CP	M-320: ADVANCED PHYSICAL MAINTENANCE	14
CP	M-330: ADVANCED INSURANCE & RISK MANAGEMENT	14
CP	M-350: MANAGER AND THE LAW	14
CP	M-360: LEADERSHIP PRACTICES IN BUILDING COMMUNITY	14

Sponsor ID - 0307
INSTITUTE OF REAL ESTATE MANAGEMENT OF THE NATIONAL ASSOCIATION OF REALTORS
430 N MICHIGAN AVE - 7TH FLOOR
CHICAGO, IL 60611-4090
(312) 329-6079:

Cat.	Offering Title	Hours
CP	800 - ETHICS FOR THE REAL ESTATE MANAGER	5
CS	BDM601 MAXIMIZING PROFIT: GROWTH STRATEGIES FOR REAL ESTATE MANAGEMENT COMPANIES	7
CP	BDM602 - PROPERTY MANAGEMENT PLANS: THE IREM MODEL	16
CP	CID201: COMMON INTEREST DEVELOPMENTS: MANAGING CONDOMINIUM ASSOCIATION PROPERTIES	37
CP	FIN 201: ACCOUNTING AND BUDGETING: FUNDAMENTALS	14
CS	HRS603 - LEADERSHIP FOR TODAY'S REAL ESTATE MANAGERS	8
CP	MNT402: PROPERTY MAINTENANCE AND RISK MANAGEMENT	14
CP	RES201 - SUCCESSFUL SITE MANAGEMENT	39

Sponsor ID - 4434
GOLD STAR SEMINARS
9280 W. STOCKTON BLVD., #111
ELK GROVE, CA 95758
(916) 216-1941:

Cat.	Offering Title	Hours
CP	CREATING LEGALLY BINDING CONTRACTS	3

Sponsor ID - 3523
LORMAN EDUCATION SERVICES
P.O. BOX 509
2510 ALPINE ROAD
EAU CLAIRE, WI 54702-0509
(715) 833-3940:

Cat.	Offering Title	Hours
CP	"CONDOMINIUM AND PLANNED COMMUNITY PRACTICE" IN BAKERSFIELD, CA	7
CP	"CONDOMINIUM AND PLANNED COMMUNITY PRACTICE" IN OAKLAND, CA	7
CP	"ESTABLISHING AND OPERATING HOMEOWNERS' ASSOCIATIONS: UNDERSTANDING THE LEGAL ISSUES" IN SACRAMENTO, CA	7

Sponsor ID - 2643
QUEST EDUCATIONAL SERVICES
1299 EAST AVENUE, UNIT B
CHICO, CA 95926
(530) 514-6730:

Cat.	Offering Title	Hours
CP	HOW TO WRITE A LEGALLY BINDING AGREEMENT	18

Sponsor ID - 3254
SOLANO ASSOCIATION OF REALTORS
1302 SPRINGS ROAD
VALLEJO, CA 94591
(707) 644-5525:

Cat.	Offering Title	Hours
CP	COMMON INTEREST DEVELOPMENT	4