



2020 EDITION

THE COMMERCIAL AND INDUSTRIAL COMMON INTEREST DEVELOPMENT ACT

FIORE RACOBS & POWERS

— A PROFESSIONAL LAW CORPORATION —

THE RECOGNIZED AUTHORITY IN COMMUNITY ASSOCIATION LAW

THE RECOGNIZED AUTHORITY IN COMMERCIAL/INDUSTRIAL CID LAW SINCE 1973



For the past 28 years Fiore Racobs & Powers has published and distributed the Firm's Davis-Stirling Common Interest Development Act booklets, on a complimentary basis, to our community association clients and managers. The Firm also began publishing the Commercial and Industrial Common Interest Development Act ("Commercial CID Act") in 2014, after the Commercial CID Act became law.

We are pleased to provide these complimentary booklets of the Commercial CID Act to managers and directors of commercial and industrial common interest developments to refer to as needed.

The Firm sincerely hopes you find this booklet of the Commercial CID Act useful.

Janet L.S. Powers, Esq., CCAL[®]
Managing Editor

December 2019

THE COMMERCIAL AND INDUSTRIAL COMMON INTEREST DEVELOPMENT ACT

2020 EDITION

COMPLIMENTS OF

FIORE RACOBS & POWERS
— A PROFESSIONAL LAW CORPORATION —

TABLE OF CONTENTS

CIVIL CODE	SUBJECT MATTER	PAGE
CHAPTER 1.	GENERAL PROVISIONS	6
Article 1.	Preliminary Provisions	6
§ 6500.	Short Title	6
§ 6502.	Effect of Headings	6
§ 6505.	Application of Act	6
§ 6510.	Construction of Zoning Ordinance	6
§ 6512.	Delivered to an Association	6
§ 6514.	Individual Notice/Delivery	6
§ 6518.	Time and Proof of Delivery	7
§ 6520.	Electronic Delivery	7
§ 6522.	Approved by Majority of all Members	7
§ 6524.	Approved by Majority of Quorum of Members	7
Article 2.	Definitions	7
§ 6526.	Application of Definitions	7
§ 6528.	“Association”	7
§ 6530.	“Board”	7
§ 6531.	“Commercial or Industrial Common Interest Development”	8
§ 6532.	“Common Area”	8
§ 6534.	“Common Interest Development”	8
§ 6540.	“Condominium Plan”	8
§ 6542.	“Condominium Project”	8
§ 6544.	“Declarant”	9
§ 6546.	“Declaration”	9
§ 6548.	“Director”	9
§ 6550.	“Exclusive Use Common Area”	9
§ 6552.	“Governing Documents”	9
§ 6553.	“Individual Notice”	9
§ 6554.	“Member”	9
§ 6560.	“Person”	9
§ 6562.	“Planned Development”	9
§ 6564.	“Separate Interest”	10
§ 6566.	“Stock Cooperative”	10
CHAPTER 2.	APPLICATION OF ACT	10

TABLE OF CONTENTS

CIVIL CODE	SUBJECT MATTER	PAGE
§ 6580.	Creation of Common Interest Development	10
§ 6582.	Application of Act	10
CHAPTER 3.	GOVERNING DOCUMENTS	11
Article 1.	General Provisions	11
§ 6600.	Document Authority	11
§ 6602.	Liberal Construction of Instruments	11
§ 6604.	Boundaries of Units	11
§ 6606.	Deletion of Unlawful Restrictive Covenants	11
§ 6608.	Deletion of Declarant Provisions in Governing Documents	12
§ 6610.	Correction of Statutory Cross-Reference	12
Article 2.	Declaration	13
§ 6614.	Content of Declaration	13
§ 6616.	Amendment Authorized	13
§ 6618.	Amendment to Extend Term of Declaration	13
§ 6620.	Amendment Procedure	13
Article 3.	Content of Articles of Incorporation	14
§ 6622.	Content of Articles	14
Article 4.	Condominium Plan	14
§ 6624.	“Condominium Plan”	14
§ 6626.	Recordation of Condominium Plan	14
§ 6628.	Amendment or Revocation of Condominium Plan	15
Article 5.	Operating Rules	15
§ 6630.	“Operating Rule”	15
§ 6632.	Requirements for Validity and Enforceability	15
CHAPTER 4.	OWNERSHIP AND TRANSFER OF INTERESTS	15
Article 1.	Ownership Rights and Interests	15
§ 6650.	Ownership of Common Area	15
§ 6652.	Appurtenant Rights and Easements	15
§ 6654.	Access to Separate Interest Property	16
Article 2.	Restrictions on Transfers	16
§ 6656.	Partition of Condominium Project	16
§ 6658.	Lien for Work Performed in Common Interest Development	16
§ 6660.	Notice of Lien to Members	17

TABLE OF CONTENTS

CIVIL CODE	SUBJECT MATTER	PAGE
Article 3.	Transfer of Separate Interest	17
§ 6662.	Condominium Project	17
§ 6664.	Planned Development	17
§ 6666.	Stock Cooperative	17
§ 6668.	Transfer of Exclusive Use Common Area	17
§ 6670.	Severability of Interests	17
CHAPTER 5.	PROPERTY USE AND MAINTENANCE	18
Article 1.	Protected Uses	18
§ 6700.	Application of Article	18
§ 6702.	Display of U.S. Flag	18
§ 6704.	Noncommercial Signs	18
§ 6706.	Pets	19
§ 6708.	Television Antenna or Satellite Dish	19
§ 6710.	Marketing Restriction	19
§ 6712.	Low Water-Using Plants	20
§ 6713.	Electric Vehicle Charging Stations	20
Article 2.	Modification of Separate Interest	22
§ 6714.	Improvements to Separate Interest	22
Article 3.	Maintenance	22
§ 6716.	Maintenance Responsibility Generally	22
§ 6718.	Wood-Destroying Pests or Organisms	23
§ 6720.	Temporary Removal of Occupant to Perform Treatment of Wood-Destroying Pests	23
§ 6722.	Exclusive use Access	23
CHAPTER 6.	ASSOCIATION GOVERNANCE	23
Article 1.	Association Existence and Powers	23
§ 6750.	Association	23
§ 6752.	Association Powers	24
Article 2.	Record Keeping	24
§ 6756.	Change of Member Information	24
Article 3.	Conflict of Interest	24
§ 6758.	Interested Director/Executive Committee Member	24
Article 4.	Government Assistance	24

TABLE OF CONTENTS

CIVIL CODE	SUBJECT MATTER	PAGE
§ 6760.	State CID Registry	24
CHAPTER 7.	ASSESSMENTS AND ASSESSMENT COLLECTION	26
Article 1.	Establishment and Imposition of Assessments	26
§ 6800.	Levy of Assessments	26
§ 6804.	Exemption from Execution	26
Article 2.	Assessment Payment and Delinquency	26
§ 6808.	Assessment Debt and Delinquency	26
§ 6810.	Payments	26
§ 6812.	Pre-Lien Notice	27
§ 6814.	Notice of Delinquent Assessment	27
§ 6816.	Lien Priority	28
§ 6818.	Lien Release	28
§ 6819.	Procedural Noncompliance	28
Article 3.	Assessment Collection	28
§ 6820.	Collection Generally	28
§ 6822.	Foreclosure	28
§ 6824.	Limitations on Authority to Foreclose	29
§ 6826.	Assignment or Pledge by Association	29
§ 6828.	Application of Article	29
CHAPTER 8.	INSURANCE AND LIABILITY	29
§ 6840.	Limitation of Member Liability	29
CHAPTER 9.	DISPUTE RESOLUTION AND ENFORCEMENT	30
Article 1.	Disciplinary Action	30
§ 6850.	Schedule of Monetary Penalties	30
§ 6854.	Authority of Board	30
Article 2.	Civil Actions	30
§ 6856.	Enforcement of Governing Documents	30
§ 6858.	Standing	30
§ 6860.	Comparative Fault	31
CHAPTER 10.	CONSTRUCTION DEFECT LITIGATION	31
§ 6874.	Notice of Resolution	31
§ 6876.	Notice of Civil Action	32

PART 5.3.

COMMERCIAL AND INDUSTRIAL COMMON INTEREST DEVELOPMENTS

CHAPTER 1. GENERAL PROVISIONS

Article 1. Preliminary Provisions

§ 6500. Short Title

This part shall be known, and may be cited, as the Commercial and Industrial Common Interest Development Act. In a provision of this part, the part may be referred to as the act.

§ 6502. Effect of Headings

Division, part, title, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of this act.

§ 6505. Application of Act

Nothing in the act that added this part shall be construed to invalidate a document prepared or action taken before January 1, 2014, if the document or action was proper under the law governing common interest developments at the time that the document was prepared or the action was taken. For the purposes of this section, “document” does not include a governing document.

§ 6510. Construction of Zoning Ordinance

Unless a contrary intent is clearly expressed, a local zoning ordinance is construed to treat like structures, lots, parcels, areas, or spaces in like manner regardless of the form of the common interest development.

§ 6512. Delivered to an Association

(a) If a provision of this act requires that a document be delivered to an association, the document shall be delivered to the person designated to receive documents on behalf of the association, in a written notice delivered by the association to members by individual delivery. If notice of this designation has not been given, the document shall be delivered to the president or secretary of the association.

(b) A document delivered pursuant to this section may be delivered by any of the following methods:

(1) First-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier.

(2) By email, facsimile, or other electronic means, if the association has assented to that method of delivery.

(3) By personal delivery, if the association has assented to that method of delivery. If the association accepts a document by personal delivery it shall provide a written receipt acknowledging delivery of the document.

§ 6514. Individual Notice/Delivery

(a) If a provision of this act requires that an association deliver a document by “individual delivery” or “individual notice,” the document shall be delivered by one of the following methods:

(1) First-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier. The document shall be addressed to the recipient at the address last shown on the books of the association.

(2) Email, facsimile, or other electronic means, if the recipient has consented, in writing, to that method of delivery. The consent may be revoked, in writing, by the recipient.

(b) For the purposes of this section, an unrecorded provision of the governing documents providing for a particular method of delivery does not constitute agreement by a member to that method of delivery.

§ 6518. Time and Proof of Delivery

(a) This section governs the delivery of a document pursuant to this act.

(b) If a document is delivered by mail, delivery is deemed to be complete on deposit into the United States mail.

(c) If a document is delivered by electronic means, delivery is complete at the time of transmission.

§ 6520. Electronic Delivery

If the association or a member has consented to receive information by electronic delivery, and a provision of this act requires that the information be in writing, that requirement is satisfied if the information is provided in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

§ 6522. Approved by Majority of all Members

If a provision of this act requires that an action be approved by a majority of all members, the action shall be approved or ratified by an affirmative vote of a majority of the votes entitled to be cast.

§ 6524. Approved by Majority of Quorum of Members

If a provision of this act requires that an action be approved by a majority of a quorum of the members, the action shall be approved or ratified by an affirmative vote of a majority of the votes represented and voting in a duly held election in which a quorum is represented, which affirmative votes also constitute a majority of the required quorum.

Article 2. Definitions

§ 6526. Application of Definitions

The definitions in this article govern the construction of this act.

§ 6528. “Association”

“Association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

§ 6530. “Board”

“Board” means the board of directors of the association.

§ 6531. “Commercial or Industrial Common Interest Development”

A “commercial or industrial common interest development” means a common interest development that is limited to industrial or commercial uses by law or by a declaration of covenants, conditions, and restrictions that has been recorded in the official records of each county in which the common interest development is located. For the purposes of this section, “commercial use” includes, but is not limited to, the operation of a business that provides facilities for the overnight stay of its customers, employees, or agents.

§ 6532. “Common Area”

(a) “Common area” means the entire common interest development except the separate interests therein. The estate in the common area may be a fee, a life estate, an estate for years, or any combination of the foregoing.

(b) Notwithstanding subdivision (a), in a planned development described in subdivision (b) of Section 6562, the common area may consist of mutual or reciprocal easement rights appurtenant to the separate interests.

§ 6534. “Common Interest Development”

“Common interest development” means any of the following:

- (a) A condominium project.
- (b) A planned development.
- (c) A stock cooperative.

§ 6540. “Condominium Plan”

“Condominium plan” means a plan described in Section 6624.

§ 6542. “Condominium Project”

(a) A “condominium project” means a real property development consisting of condominiums.

(b) A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof. The area within these boundaries may be filled with air, earth, water, or fixtures, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support. The description of the unit may refer to (1) boundaries described in the recorded final map, parcel map, or condominium plan, (2) physical boundaries, either in existence, or to be constructed, such as walls, floors, and ceilings of a structure or any portion thereof, (3) an entire structure containing one or more units, or (4) any combination thereof.

(c) The portion or portions of the real property held in undivided interest may be all of the real property, except for the separate interests, or may include a particular three-dimensional portion thereof, the boundaries of which are described on a recorded final map, parcel map, or condominium plan. The area within these boundaries may be filled with air, earth, water, or fixtures, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support.

(d) An individual condominium within a condominium project may include, in addition, a separate interest in other portions of the real property.

§ 6544. “Declarant”

“Declarant” means the person or group of persons designated in the declaration as declarant, or if no declarant is designated, the person or group of persons who sign the original declaration or who succeed to special rights, preferences, or privileges designated in the declaration as belonging to the signator of the original declaration.

§ 6546. “Declaration”

“Declaration” means the document, however denominated, that contains the information required by Section 6614.

§ 6548. “Director”

“Director” means a natural person who serves on the board.

§ 6550. “Exclusive use Common Area”

(a) “Exclusive use common area” means a portion of the common area designated by the declaration for the exclusive use of one or more, but fewer than all, of the owners of the separate interests and which is or will be appurtenant to the separate interest or interests.

(b) Unless the declaration otherwise provides, any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, exterior doors, doorframes, and hardware incident thereto, screens and windows or other fixtures designed to serve a single separate interest, but located outside the boundaries of the separate interest, are exclusive use common area allocated exclusively to that separate interest.

(c) Notwithstanding the provisions of the declaration, internal and external telephone wiring designed to serve a single separate interest, but located outside the boundaries of the separate interest, is exclusive use common area allocated exclusively to that separate interest.

§ 6552. “Governing Documents”

“Governing documents” means the declaration and any other documents, such as bylaws, operating rules, articles of incorporation, or articles of association, which govern the operation of the common interest development or association.

§ 6553. “Individual Notice”

“Individual notice” means the delivery of a document pursuant to Section 6514.

§ 6554. “Member”

“Member” means an owner of a separate interest.

§ 6560. “Person”

“Person” means a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, or other entity.

§ 6562. “Planned Development”

“Planned development” means a real property development other than a condominium project, or a stock cooperative, having either or both of the following features:

FIORE RACOBS & POWERS

(a) Common area that is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.

(b) Common area and an association that maintains the common area with the power to levy assessments that may become a lien upon the separate interests in accordance with Article 2 (commencing with Section 6808) of Chapter 7.

§ 6564. “Separate Interest”

(a) “Separate interest” has the following meanings:

(1) In a condominium project, “separate interest” means a separately owned unit, as specified in Section 6542.

(2) In a planned development, “separate interest” means a separately owned lot, parcel, area, or space.

(3) In a stock cooperative, “separate interest” means the exclusive right to occupy a portion of the real property, as specified in Section 6566.

(b) Unless the declaration or condominium plan, if any exists, otherwise provides, if walls, floors, or ceilings are designated as boundaries of a separate interest, the interior surfaces of the perimeter walls, floors, ceilings, windows, doors, and outlets located within the separate interest are part of the separate interest and any other portions of the walls, floors, or ceilings are part of the common area.

(c) The estate in a separate interest may be a fee, a life estate, an estate for years, or any combination of the foregoing.

§ 6566. “Stock Cooperative”

“Stock cooperative” means a development in which a corporation is formed or availed of, primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, and all or substantially all of the shareholders of the corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation. The owners’ interest in the corporation, whether evidenced by a share of stock, a certificate of membership, or otherwise, shall be deemed to be an interest in a common interest development and a real estate development for purposes of subdivision (f) of Section 25100 of the Corporations Code.

CHAPTER 2. APPLICATION OF ACT

§ 6580. Creation of Common Interest Development

Subject to Section 6582, this act applies and a common interest development is created whenever a separate interest coupled with an interest in the common area or membership in the association is, or has been, conveyed, provided all of the following are recorded:

(a) A declaration.

(b) A condominium plan, if any exists.

(c) A final map or parcel map, if Division 2 (commencing with Section 66410) of Title 7 of the Government Code requires the recording of either a final map or parcel map for the common interest development.

§ 6582. Application of Act

(a) This act applies only to a commercial or industrial common interest development.

(b) Nothing in this act may be construed to apply to a real property development that does not contain common area. This subdivision is declaratory of existing law.

CHAPTER 3. GOVERNING DOCUMENTS

Article 1. General Provisions

§ 6600. Document Authority

(a) To the extent of any conflict between the governing documents and the law, the law shall prevail.

(b) To the extent of any conflict between the articles of incorporation and the declaration, the declaration shall prevail.

(c) To the extent of any conflict between the bylaws and the articles of incorporation or declaration, the articles of incorporation or declaration shall prevail.

(d) To the extent of any conflict between the operating rules and the bylaws, articles of incorporation, or declaration, the bylaws, articles of incorporation, or declaration shall prevail.

§ 6602. Liberal Construction of Instruments

Any deed, declaration, or condominium plan for a common interest development shall be liberally construed to facilitate the operation of the common interest development, and its provisions shall be presumed to be independent and severable. Nothing in Article 3 (commencing with Section 715) of Chapter 2 of Title 2 of Part 1 of Division 2 shall operate to invalidate any provisions of the governing documents.

§ 6604. Boundaries of Units

In interpreting deeds and condominium plans, the existing physical boundaries of a unit in a condominium project, when the boundaries of the unit are contained within a building, or of a unit reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed or condominium plan, if any exists, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or in the deed and those of the building.

§ 6606. Deletion of Unlawful Restrictive Covenants

(a) No declaration or other governing document shall include a restrictive covenant in violation of Section 12955 of the Government Code.

(b) Notwithstanding any other provision of law or provision of the governing documents, the board, without approval of the members, shall amend any declaration or other governing document that includes a restrictive covenant prohibited by this section to delete the restrictive covenant, and shall restate the declaration or other governing document without the restrictive covenant but with no other change to the declaration or governing document.

(c) If the declaration is amended under this section, the board shall record the restated declaration in each county in which the common interest development is located. If the articles of incorporation are amended under this section, the board shall file a certificate of amendment with the Secretary of State pursuant to Section 7814 of the Corporations Code.

FIORE RACOBS & POWERS

(d) If after providing written notice to an association, pursuant to Section 6512, requesting that the association delete a restrictive covenant that violates subdivision (a), and the association fails to delete the restrictive covenant within 30 days of receiving the notice, the Department of Fair Employment and Housing, a city or county in which a common interest development is located, or any person may bring an action against the association for injunctive relief to enforce subdivision (a). The court may award attorney's fees to the prevailing party.

§ 6608. Deletion of Declarant Provisions in Governing Documents

(a) Notwithstanding any provision of the governing documents to the contrary, the board may, after the developer has completed construction of the development, has terminated construction activities, and has terminated marketing activities for the sale, lease, or other disposition of separate interests within the development, adopt an amendment deleting from any of the governing documents any provision which is unequivocally designed and intended, or which by its nature can only have been designed or intended, to facilitate the developer in completing the construction or marketing of the development. However, provisions of the governing documents relative to a particular construction or marketing phase of the development may not be deleted under the authorization of this subdivision until that construction or marketing phase has been completed.

(b) The provisions which may be deleted by action of the board shall be limited to those which provide for access by the developer over or across the common area for the purposes of (1) completion of construction of the development, and (2) the erection, construction, or maintenance of structures or other facilities designed to facilitate the completion of construction or marketing of separate interests.

(c) At least 30 days prior to taking action pursuant to subdivision (a), the board shall deliver to all members, by individual delivery pursuant to Section 6514, (1) a copy of all amendments to the governing documents proposed to be adopted under subdivision (a), and (2) a notice of the time, date, and place the board will consider adoption of the amendments.

The board may consider adoption of amendments to the governing documents pursuant to subdivision (a) only at a meeting that is open to all members, who shall be given opportunity to make comments thereon. All deliberations of the board on any action proposed under subdivision (a) shall only be conducted in an open meeting.

(d) The board may not amend the governing documents pursuant to this section without the approval of a majority of a quorum of the members, pursuant to Section 6524. For the purposes of this section, "quorum" means more than 50 percent of the members who own no more than two separate interests in the development.

§ 6610. Correction of Statutory Cross-Reference

(a) Notwithstanding any other law or provision of the governing documents, if the governing documents include a reference to a provision of the Davis-Stirling Common Interest Development Act that was continued in a new provision by the act that added this section, the board may amend the governing documents, solely to correct the cross-reference, by adopting a board resolution that shows the correction. Member approval is not required in order to adopt a resolution pursuant to this section.

(b) A declaration that is corrected under this section may be restated in corrected form and recorded, provided that a copy of the board resolution authorizing the corrections is recorded along with the restated declaration.

Article 2. Declaration

§ 6614. Content of Declaration

(a) A declaration, recorded on or after January 1, 1986, shall contain a legal description of the common interest development, and a statement that the common interest development is a condominium project, planned development, stock cooperative, or combination thereof. The declaration shall additionally set forth the name of the association and the restrictions on the use or enjoyment of any portion of the common interest development that are intended to be enforceable equitable servitudes.

(b) The declaration may contain any other matters the declarant or the members consider appropriate.

§ 6616. Amendment Authorized

Except to the extent that a declaration provides by its express terms that it is not amendable, in whole or in part, a declaration that fails to include provisions permitting its amendment at all times during its existence may be amended at any time.

§ 6618. Amendment to Extend Term of Declaration

(a) The Legislature finds that there are common interest developments that have been created with deed restrictions that do not provide a means for the members to extend the term of the declaration. The Legislature further finds that covenants and restrictions, contained in the declaration, are an appropriate method for protecting the common plan of developments and to provide for a mechanism for financial support for the upkeep of common area including, but not limited to, roofs, roads, heating systems, and recreational facilities. If declarations terminate prematurely, common interest developments may deteriorate and the supply of affordable units could be impacted adversely. The Legislature further finds and declares that it is in the public interest to provide a vehicle for extending the term of the declaration if the extension is approved by a majority of all members, pursuant to Section 6522.

(b) A declaration that specifies a termination date, but that contains no provision for extension of the termination date, may be extended, before its termination date, by the approval of members pursuant to Section 6620.

(c) No single extension of the terms of the declaration made pursuant to this section shall exceed the initial term of the declaration or 20 years, whichever is less. However, more than one extension may occur pursuant to this section.

§ 6620. Amendment Procedure

(a) A declaration may be amended pursuant to the declaration or this act. An amendment is effective after all of the following requirements have been met:

(1) The proposed amendment has been delivered by individual notice to all members not less than 15 days and not more than 60 days prior to any approval being solicited.

(2) The amendment has been approved by the percentage of members required by the declaration and any other person whose approval is required by the declaration.

(3) That fact has been certified in a writing executed and acknowledged by the officer designated in the declaration or by the association for that purpose, or if no one is designated, by the president of the association.

(4) The amendment has been recorded in each county in which a portion of the common interest development is located.

FIORE RACOBS & POWERS

(b) If the declaration does not specify the percentage of members who must approve an amendment of the declaration, an amendment may be approved by a majority of all members, pursuant to Section 6522.

Article 3. Articles of Incorporation

§ 6622. Content of Articles of Incorporation

(a) The articles of incorporation of an association filed with the Secretary of State shall include a statement, which shall be in addition to the statement of purposes of the corporation, that does all of the following:

(1) Identifies the corporation as an association formed to manage a common interest development under the Commercial and Industrial Common Interest Development Act.

(2) States the business or corporate office of the association, if any, and, if the office is not on the site of the common interest development, states the front street and nearest cross street for the physical location of the common interest development.

(3) States the name and address of the association’s managing agent, if any.

(b) The statement filed by an incorporated association with the Secretary of State pursuant to Section 8210 of the Corporations Code shall also contain a statement identifying the corporation as an association formed to manage a common interest development under the Commercial and Industrial Common Interest Development Act.

(c) Documents filed prior to January 1, 2014, in compliance with former Section 1363.5, as it read on January 1, 2013, are deemed to be in compliance with this section.

Article 4. Condominium Plan

§ 6624. “Condominium Plan”

A condominium plan shall contain all of the following:

(a) A description or survey map of a condominium project, which shall refer to or show monumentation on the ground.

(b) A three-dimensional description of a condominium project, one or more dimensions of which may extend for an indefinite distance upwards or downwards, in sufficient detail to identify the common area and each separate interest.

(c) A certificate consenting to the recordation of the condominium plan pursuant to this act that is signed and acknowledged as provided in Section 6626.

§ 6626. Recordation of Condominium Plan

(a) The certificate consenting to the recordation of a condominium plan that is required by subdivision (c) of Section 6624 shall be signed and acknowledged by all of the following persons:

(1) The record owner of fee title to that property included in the condominium project.

(2) In the case of a condominium project that will terminate upon the termination of an estate for years, by all lessors and lessees of the estate for years.

(3) In the case of a condominium project subject to a life estate, by all life tenants and remainder interests.

(4) The trustee or the beneficiary of each recorded deed of trust, and the mortgagee of each recorded mortgage encumbering the property.

(b) Owners of mineral rights, easements, rights-of-way, and other nonpossessory interests do not need to sign the certificate.

(c) In the event a conversion to condominiums of a stock cooperative has been approved by the required number of owners, trustees, beneficiaries, and mortgagees pursuant to Section 66452.10 of the Government Code, the certificate need only be signed by those owners, trustees, beneficiaries, and mortgagees approving the conversion.

§ 6628. Amendment or Revocation of Condominium Plan

A condominium plan may be amended or revoked by a recorded instrument that is acknowledged and signed by all the persons who, at the time of amendment or revocation, are persons whose signatures are required under Section 6626.

Article 5. Operating Rules

§ 6630. “Operating Rule”

For the purposes of this article, “operating rule” means a regulation adopted by the board that applies generally to the management and operation of the common interest development or the conduct of the business and affairs of the association.

§ 6632. Requirements for Validity and Enforceability

An operating rule is valid and enforceable only if all of the following requirements are satisfied:

- (a) The rule is in writing.
- (b) The rule is within the authority of the board conferred by law or by the declaration, articles of incorporation or association, or bylaws of the association.
- (c) The rule is not in conflict with governing law and the declaration, articles of incorporation or association, or bylaws of the association.
- (d) The rule is reasonable, and is adopted, amended, or repealed in good faith.

CHAPTER 4. OWNERSHIP AND TRANSFER OF INTERESTS

Article 1. Ownership Rights and Interests

§ 6650. Ownership of Common Area

Unless the declaration otherwise provides, in a condominium project, or in a planned development in which the common area is owned by the owners of the separate interests, the common area is owned as tenants in common, in equal shares, one for each separate interest.

§ 6652. Appurtenant Rights and Easements

Unless the declaration otherwise provides:

(a) In a condominium project, and in those planned developments with common area owned in common by the owners of the separate interests, there are appurtenant to each separate interest nonexclusive rights of ingress, egress, and support, if necessary, through the common area. The common area is subject to these rights.

(b) In a stock cooperative, and in a planned development with common area owned by the association, there is an easement for ingress, egress, and support, if

necessary, appurtenant to each separate interest. The common area is subject to these easements.

§ 6654. Access to Separate Interest Property

Except as otherwise provided in law, an order of the court, or an order pursuant to a final and binding arbitration decision, an association may not deny a member or occupant physical access to the member’s or occupant’s separate interest, either by restricting access through the common area to the separate interest, or by restricting access solely to the separate interest.

Article 2. Restrictions on Transfers

§ 6656. Partition of Condominium Project

(a) Except as provided in this section, the common area in a condominium project shall remain undivided, and there shall be no judicial partition thereof. Nothing in this section shall be deemed to prohibit partition of a cotenancy in a condominium.

(b) The owner of a separate interest in a condominium project may maintain a partition action as to the entire project as if the owners of all of the separate interests in the project were tenants in common in the entire project in the same proportion as their interests in the common area. The court shall order partition under this subdivision only by sale of the entire condominium project and only upon a showing of one of the following:

(1) More than three years before the filing of the action, the condominium project was damaged or destroyed, so that a material part was rendered unfit for its prior use, and the condominium project has not been rebuilt or repaired substantially to its state prior to the damage or destruction.

(2) Three-fourths or more of the project is destroyed or substantially damaged and owners of separate interests holding in the aggregate more than a 50-percent interest in the common area oppose repair or restoration of the project.

(3) The project has been in existence more than 50 years, is obsolete and uneconomic, and owners of separate interests holding in the aggregate more than a 50-percent interest in the common area oppose repair or restoration of the project.

(4) Any conditions in the declaration for sale under the circumstances described in this subdivision have been met.

§ 6658. Lien for work performed in Common Interest Development

(a) In a common interest development, no labor performed or services or materials furnished with the consent of, or at the request of, an owner in the common interest development or the owners’ agent or contractor shall be the basis for the filing of a lien against any other property of any other owner in the common interest development unless that other owner has expressly consented to or requested the performance of the labor or furnishing of the materials or services. However, express consent shall be deemed to have been given by the owner of any separate interest in the case of emergency repairs thereto.

(b) Labor performed or services or materials furnished for the common area, if duly authorized by the association, shall be deemed to be performed or furnished with the express consent of each separate interest owner.

(c) The owner of any separate interest may remove that owner’s separate

interest from a lien against two or more separate interests or any part thereof by doing either of the following:

(1) Pay to the holder of the lien the fraction of the total sum secured by the lien that is attributable to the owner's separate interest.

(2) Record a lien release bond, pursuant to Section 8424, in an amount equal to 125 percent of the sum secured by the lien that is attributable to the owner's separate interest.

§ 6660. Notice of Lien to Members

If the association is served with a claim of lien pursuant to Part 6 (commencing with Section 8000) for a work of improvement on a common area, the association shall, within 60 days of service, give individual notice to the members, pursuant to Section 6514.

Article 3. Transfer of Separate Interest

§ 6662. Condominium Project

In a condominium project the common area is not subject to partition, except as provided in Section 6656. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the common area. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner's entire estate also includes the owner's membership interest in the association.

§ 6664. Planned Development

In a planned development, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the common area, if any exists. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner's entire estate also includes the owner's membership interest in the association.

§ 6666. Stock cooperative

In a stock cooperative, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the ownership interest in the corporation, however evidenced. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner's entire estate also includes the owner's membership interest in the association.

§ 6668. Transfer of Exclusive use Common Area

Nothing in this article prohibits the transfer of exclusive use areas, independent of any other interest in a common interest subdivision, if authorization to separately transfer exclusive use areas is expressly stated in the declaration and the transfer occurs in accordance with the terms of the declaration.

§ 6670. Severability of Interests

Any restrictions upon the severability of the component interests in real property which are contained in the declaration shall not be deemed conditions repugnant to the interest created within the meaning of Section 711. However, these

FIORE RACOBS & POWERS

restrictions shall not extend beyond the period in which the right to partition a project is suspended under Section 6656.

CHAPTER 5. PROPERTY USE AND MAINTENANCE

Article 1. Protected Uses

§ 6700. Application of Article

This article includes provisions that limit the authority of an association or the governing documents to regulate the use of a member’s separate interest. Nothing in this article is intended to affect the application of any other provision that limits the authority of an association to regulate the use of a member’s separate interest, including, but not limited to, the following provisions:

- (a) Sections 712 and 713, relating to the display of signs.
- (b) Sections 714 and 714.1, relating to solar energy systems.
- (c) Section 714.5, relating to structures that are constructed offsite and moved to the property in sections or modules.
- (d) Sections 782, 782.5, and 6150 of this code and Section 12956.1 of the Government Code, relating to racial restrictions.

§ 6702. Display of U.S. Flag

- (a) Except as required for the protection of the public health or safety, no governing document shall limit or prohibit, or be construed to limit or prohibit, the display of the flag of the United States by a member on or in the member’s separate interest or within the member’s exclusive use common area.
- (b) For purposes of this section, “display of the flag of the United States” means a flag of the United States made of fabric, cloth, or paper displayed from a staff or pole or in a window, and does not mean a depiction or emblem of the flag of the United States made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.
- (c) In any action to enforce this section, the prevailing party shall be awarded reasonable attorney’s fees and costs.

§ 6704. Noncommercial Signs

- (a) The governing documents may not prohibit posting or displaying of noncommercial signs, posters, flags, or banners on or in a member’s separate interest, except as required for the protection of public health or safety or if the posting or display would violate a local, state, or federal law.
- (b) For purposes of this section, a noncommercial sign, poster, flag, or banner may be made of paper, cardboard, cloth, plastic, or fabric, and may be posted or displayed from the yard, window, door, balcony, or outside wall of the separate interest, but may not be made of lights, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component, or include the painting of architectural surfaces.
- (c) An association may prohibit noncommercial signs and posters that are more than nine square feet in size and noncommercial flags or banners that are more than 15 square feet in size.

§ 6706. Pets

Notwithstanding Section 4202, Section 4715 applies to an owner of a separate interest in a common interest development who kept a pet in that common interest development before January 1, 2014.

§ 6708. Television Antenna or Satellite Dish

(a) Any covenant, condition, or restriction contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, a common interest development that effectively prohibits or restricts the installation or use of a video or television antenna, including a satellite dish, or that effectively prohibits or restricts the attachment of that antenna to a structure within that development where the antenna is not visible from any street or common area, except as otherwise prohibited or restricted by law, is void and unenforceable as to its application to the installation or use of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less.

(b) This section shall not apply to any covenant, condition, or restriction, as described in subdivision (a), that imposes reasonable restrictions on the installation or use of a video or television antenna, including a satellite dish, that has a diameter or diagonal measurement of 36 inches or less. For purposes of this section, “reasonable restrictions” means those restrictions that do not significantly increase the cost of the video or television antenna system, including all related equipment, or significantly decrease its efficiency or performance and include all of the following:

(1) Requirements for application and notice to the association prior to the installation.

(2) Requirement of a member to obtain the approval of the association for the installation of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less on a separate interest owned by another.

(3) Provision for the maintenance, repair, or replacement of roofs or other building components.

(4) Requirements for installers of a video or television antenna to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less.

(c) Whenever approval is required for the installation or use of a video or television antenna, including a satellite dish, the application for approval shall be processed by the appropriate approving entity for the common interest development in the same manner as an application for approval of an architectural modification to the property, and the issuance of a decision on the application shall not be willfully delayed.

(d) In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable attorney’s fees.

§ 6710. Marketing Restriction

(a) Any provision of a governing document that arbitrarily or unreasonably restricts an owner’s ability to market the owner’s interest in a common interest development is void.

(b) No association may adopt, enforce, or otherwise impose any governing document that does either of the following:

FIORE RACOBS & POWERS

(1) Imposes an assessment or fee in connection with the marketing of an owner's interest in an amount that exceeds the association's actual or direct costs.

(2) Establishes an exclusive relationship with a real estate broker through which the sale or marketing of interests in the development is required to occur. The limitation set forth in this paragraph does not apply to the sale or marketing of separate interests owned by the association or to the sale or marketing of common area by the association.

(c) For purposes of this section, "market" and "marketing" mean listing, advertising, or obtaining or providing access to show the owner's interest in the development.

(d) This section does not apply to rules or regulations made pursuant to Section 712 or 713 regarding real estate signs.

§ 6712. Low Water-using Plants

(a) Notwithstanding any other law, a provision of the governing documents shall be void and unenforceable if it does any of the following:

(1) Prohibits, or includes conditions that have the effect of prohibiting, the use of low water-using plants as a group.

(2) Has the effect of prohibiting or restricting compliance with either of the following:

(A) A water-efficient landscape ordinance adopted or in effect pursuant to subdivision (c) of Section 65595 of the Government Code.

(B) Any regulation or restriction on the use of water adopted pursuant to Section 353 or 375 of the Water Code.

(b) This section shall not prohibit an association from applying landscaping rules established in the governing documents, to the extent the rules fully conform with the requirements of subdivision (a).

§ 6713. Electric Vehicle Charging Stations

(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest development, and any provision of a governing document, as defined in Section 6552, that either effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in an owner's designated parking space, including, but not limited to, a deeded parking space, a parking space in an owner's exclusive use common area, or a parking space that is specifically designated for use by a particular owner, or is in conflict with the provisions of this section is void and unenforceable.

(b) (1) This section does not apply to provisions that impose reasonable restrictions on electric vehicle charging stations. However, it is the policy of the state to promote, encourage, and remove obstacles to the use of electric vehicle charging stations.

(2) For purposes of this section, "reasonable restrictions" are restrictions that do not significantly increase the cost of the station or significantly decrease its efficiency or specified performance.

(c) An electric vehicle charging station shall meet applicable health and safety standards and requirements imposed by state and local authorities, and all other applicable zoning, land use or other ordinances, or land use permits.

(d) For purposes of this section, "electric vehicle charging station" means a station that is designed in compliance with the California Building Standards Code and delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging station may include several charge points

simultaneously connecting several electric vehicles to the station and any related equipment needed to facilitate charging plug-in electric vehicles.

(e) If approval is required for the installation or use of an electric vehicle charging station, the application for approval shall be processed and approved by the association in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed. The approval or denial of an application shall be in writing. If an application is not denied in writing within 60 days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information.

(f) If the electric vehicle charging station is to be placed in a common area or an exclusive use common area, as designated in the common interest development's declaration, the following provisions apply:

(1) The owner first shall obtain approval from the association to install the electric vehicle charging station and the association shall approve the installation if the owner agrees in writing to do all of the following:

(A) Comply with the association's architectural standards for the installation of the charging station.

(B) Engage a licensed contractor to install the charging station.

(C) Within 14 days of approval, provide a certificate of insurance that names the association as an additional insured under the owner's insurance policy in the amount set forth in paragraph (3).

(D) Pay for the electricity usage associated with the charging station.

(2) The owner and each successive owner of the charging station shall be responsible for all of the following:

(A) Costs for damage to the charging station, common area, exclusive use common area, or separate interests resulting from the installation, maintenance, repair, removal, or replacement of the charging station.

(B) Costs for the maintenance, repair, and replacement of the charging station until it has been removed and for the restoration of the common area after removal.

(C) The cost of electricity associated with the charging station.

(D) Disclosing to prospective buyers the existence of any charging station of the owner and the related responsibilities of the owner under this section.

(3) The owner and each successive owner of the charging station, at all times, shall maintain a liability coverage policy in the amount of one million dollars (\$1,000,000), and shall name the association as a named additional insured under the policy with a right to notice of cancellation.

(4) An owner shall not be required to maintain a liability coverage policy for an existing National Electrical Manufacturers Association standard alternating current power plug.

(g) Except as provided in subdivision (h), installation of an electric vehicle charging station for the exclusive use of an owner in a common area, that is not an exclusive use common area, shall be authorized by the association only if installation in the owner's designated parking space is impossible or unreasonably expensive. In such cases, the association shall enter into a license agreement with the owner for the use of the space in a common area, and the owner shall comply with all of the requirements in subdivision (f).

(h) The association or owners may install an electric vehicle charging station in the common area for the use of all members of the association and, in that case, the association shall develop appropriate terms of use for the charging station.

FIORE RACOBS & POWERS

- (i) An association may create a new parking space where one did not previously exist to facilitate the installation of an electric vehicle charging station.
- (j) An association that willfully violates this section shall be liable to the applicant or other party for actual damages, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).
- (k) In any action to enforce compliance with this section, the prevailing plaintiff shall be awarded reasonable attorney’s fees.

Article 2. Modification of Separate Interest

§ 6714. Improvements to Separate Interest

- (a) Subject to the governing documents and applicable law, a member may do the following:
 - (1) Make any improvement or alteration within the boundaries of the member’s separate interest that does not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.
 - (2) Modify the member’s separate interest, at the member’s expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications may also include modifications of the route from the public way to the door of the separate interest for the purposes of this paragraph if the separate interest is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:
 - (A) The modifications shall be consistent with applicable building code requirements.
 - (B) The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.
 - (C) Modifications external to the separate interest shall not prevent reasonable passage by other residents, and shall be removed by the member when the separate interest is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf, or physically disabled.
 - (D) Any member who intends to modify a separate interest pursuant to this paragraph shall submit plans and specifications to the association for review to determine whether the modifications will comply with the provisions of this paragraph. The association shall not deny approval of the proposed modifications under this paragraph without good cause.
- (b) Any change in the exterior appearance of a separate interest shall be in accordance with the governing documents and applicable provisions of law.

Article 3. Maintenance

§ 6716. Maintenance Responsibility Generally

- (a) Unless otherwise provided in the declaration of a common interest development, the association is responsible for repairing, replacing, or maintaining the common area, other than exclusive use common area, and the owner of each separate interest is responsible for maintaining that separate interest and any exclusive use common area appurtenant to the separate interest.
- (b) The costs of temporary relocation during the repair and maintenance of the areas within the responsibility of the association shall be borne by the owner

of the separate interest affected.

§ 6718. Wood-Destroying Pests or Organisms

(a) In a condominium project or stock cooperative, unless otherwise provided in the declaration, the association is responsible for the repair and maintenance of the common area occasioned by the presence of wood-destroying pests or organisms.

(b) In a planned development, unless a different maintenance scheme is provided in the declaration, each owner of a separate interest is responsible for the repair and maintenance of that separate interest as may be occasioned by the presence of wood-destroying pests or organisms. Upon approval of the majority of all members of the association, pursuant to Section 6522, that responsibility may be delegated to the association, which shall be entitled to recover the cost thereof as a special assessment.

§ 6720. Temporary Removal of Occupant to Perform Treatment of Wood-Destroying Pests

(a) The association may cause the temporary, summary removal of any occupant of a common interest development for such periods and at such times as may be necessary for prompt, effective treatment of wood-destroying pests or organisms.

(b) The association shall give notice of the need to temporarily vacate a separate interest to the occupants and to the owners, not less than 15 days nor more than 30 days prior to the date of the temporary relocation. The notice shall state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation.

(c) Notice by the association shall be deemed complete upon either:

(1) Personal delivery of a copy of the notice to the occupants, and, if an occupant is not the owner, individual delivery pursuant to Section 6514 of a copy of the notice to the owner.

(2) Individual delivery pursuant to Section 6514 to the occupant at the address of the separate interest, and, if the occupant is not the owner, individual delivery pursuant to Section 6514 of a copy of the notice to the owner.

(d) For purposes of this section, "occupant" means an owner, resident, guest, invitee, tenant, lessee, sublessee, or other person in possession of the separate interest.

§ 6722. Exclusive use Access

Notwithstanding the provisions of the declaration, a member is entitled to reasonable access to the common area for the purpose of maintaining the internal and external telephone wiring made part of the exclusive use common area of the member's separate interest pursuant to subdivision (c) of Section 6550. The access shall be subject to the consent of the association, whose approval shall not be unreasonably withheld, and which may include the association's approval of telephone wiring upon the exterior of the common area, and other conditions as the association determines reasonable.

CHAPTER 6. ASSOCIATION GOVERNANCE

Article 1. Association Existence and Powers

§ 6750. Association

A common interest development shall be managed by an association that may

FIORE RACOBS & POWERS

be incorporated or unincorporated. The association may be referred to as an owners’ association or a community association.

§ 6752. Association Powers

(a) Unless the governing documents provide otherwise, and regardless of whether the association is incorporated or unincorporated, the association may exercise the powers granted to a nonprofit mutual benefit corporation, as enumerated in Section 7140 of the Corporations Code, except that an unincorporated association may not adopt or use a corporate seal or issue membership certificates in accordance with Section 7313 of the Corporations Code.

(b) The association, whether incorporated or unincorporated, may exercise the powers granted to an association in this act.

Article 2. Record Keeping

§ 6756. Change of Member Information

To be effective, a request to change the member’s information in the association membership list shall be delivered in writing to the association, pursuant to Section 6512.

Article 3. Conflict of Interest

§ 6758. Interested Director/Executive Committee Member

(a) Notwithstanding any other law, and regardless of whether an association is incorporated or unincorporated, the provisions of Sections 7233 and 7234 of the Corporations Code shall apply to any contract or other transaction authorized, approved, or ratified by the board or a committee of the board.

(b) A director or member of a committee shall not vote on any of the following matters:

- (1) Discipline of the director or committee member.
 - (2) An assessment against the director or committee member for damage to the common area or facilities.
 - (3) A request, by the director or committee member, for a payment plan for overdue assessments.
 - (4) A decision whether to foreclose on a lien on the separate interest of the director or committee member.
 - (5) Review of a proposed physical change to the separate interest of the director or committee member.
 - (6) A grant of exclusive use common area to the director or committee member.
- (c) Nothing in this section limits any other provision of law or the governing documents that govern a decision in which a director may have an interest.

Article 4. Government Assistance

§ 6760. State CID Registry

(a) To assist with the identification of commercial or industrial common interest developments, each association, whether incorporated or unincorporated, shall submit to the Secretary of State, on a form and for a fee, to cover the reasonable

cost to the Secretary of State of processing the form, not to exceed thirty dollars (\$30), that the Secretary of State shall prescribe, the following information concerning the association and the development that it manages:

(1) A statement that the association is formed to manage a common interest development under the Commercial and Industrial Common Interest Development Act.

(2) The name of the association.

(3) The street address of the business or corporate office of the association, if any.

(4) The street address of the association's onsite office, if different from the street address of the business or corporate office, or if there is no onsite office, the street address of the responsible officer or managing agent of the association.

(5) The name, address, and either the daytime telephone number or email address of the association's onsite office or managing agent.

(6) The name, street address, and daytime telephone number of the association's managing agent, if any.

(7) The county, and, if in an incorporated area, the city in which the development is physically located. If the boundaries of the development are physically located in more than one county, each of the counties in which it is located.

(8) If the development is in an unincorporated area, the city closest in proximity to the development.

(9) The front street and nearest cross street of the physical location of the development.

(10) The type of common interest development managed by the association.

(11) The number of separate interests in the development.

(b) The association shall submit the information required by this section as follows:

(1) By incorporated associations, within 90 days after the filing of its original articles of incorporation, and thereafter at the time the association files its statement of principal business activity with the Secretary of State pursuant to Section 8210 of the Corporations Code.

(2) By unincorporated associations, in July of 2003, and in that same month biennially thereafter. Upon changing its status to that of a corporation, the association shall comply with the filing deadlines in paragraph (1).

(c) The association shall notify the Secretary of State of any change in the street address of the association's onsite office or of the responsible officer or managing agent of the association in the form and for a fee, to cover the reasonable cost to the Secretary of State of processing the form, prescribed by the Secretary of State, within 60 days of the change.

(d) The penalty for an incorporated association's noncompliance with the initial or biennial filing requirements of this section shall be suspension of the association's rights, privileges, and powers as a corporation and monetary penalties, to the same extent and in the same manner as suspension and monetary penalties imposed pursuant to Section 8810 of the Corporations Code.

(e) The statement required by this section may be filed, notwithstanding suspension of the corporate powers, rights, and privileges under this section or under provisions of the Revenue and Taxation Code. Upon the filing of a statement under this section by a corporation that has suffered suspension under this section, the Secretary of State shall certify that fact to the Franchise Tax Board and the corporation may thereupon be relieved from suspension, unless the corporation is held in suspension by the

FIORE RACOBS & POWERS

Franchise Tax Board by reason of Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code.

(f) The Secretary of State shall make the information submitted pursuant to paragraph (5) of subdivision (a) available only for governmental purposes and only to Members of the Legislature and the Business, Consumer Services, and Housing Agency, upon written request. All other information submitted pursuant to this section shall be subject to public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The information submitted pursuant to this section shall be made available for governmental or public inspection.

(g) Whenever any form is filed pursuant to this section, it supersedes any previously filed form.

(h) The Secretary of State may destroy or otherwise dispose of any form filed pursuant to this section after it has been superseded by the filing of a new form.

CHAPTER 7. ASSESSMENTS AND ASSESSMENT COLLECTION

Article 1. Establishment and Imposition of Assessments

§ 6800. Levy of Assessments

The association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this act.

§ 6804. Exemption from Execution

(a) Regular assessments imposed or collected to perform the obligations of an association under the governing documents or this act shall be exempt from execution by a judgment creditor of the association only to the extent necessary for the association to perform essential services, such as paying for utilities and insurance. In determining the appropriateness of an exemption, a court shall ensure that only essential services are protected under this subdivision.

(b) This exemption shall not apply to any consensual pledges, liens, or encumbrances that have been approved by a majority of a quorum of members, pursuant to Section 6524, at a member meeting or election, or to any state tax lien, or to any lien for labor or materials supplied to the common area.

Article 2. Assessment Payment and Delinquency

§ 6808. Assessment Debt and Delinquency

A regular or special assessment and any late charges, reasonable fees and costs of collection, reasonable attorney’s fees, if any, and interest, if any, shall be a debt of the owner of the separate interest at the time the assessment or other sums are levied.

§ 6810. Payments

(a) When an owner of a separate interest makes a payment toward an assessment, the owner may request a receipt and the association shall provide it. The receipt shall indicate the date of payment and the person who received it.

(b) The association shall provide a mailing address for overnight payment of assessments.

(c) An owner shall not be liable for any charges, interest, or costs of collection for an assessment payment that is asserted to be delinquent, if it is determined the assessment was paid on time to the association.

§ 6812. Pre-Lien Notice

At least 30 days prior to recording a lien upon the separate interest of the owner of record to collect a debt that is past due under Section 6808, the association shall notify the owner of record in writing by certified mail of the following:

(a) A general description of the collection and lien enforcement procedures of the association and the method of calculation of the amount, a statement that the owner of the separate interest has the right to inspect the association records pursuant to Section 8333 of the Corporations Code, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed:

“IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.”

(b) An itemized statement of the charges owed by the owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney’s fees, any late charges, and interest, if any.

(c) A statement that the owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the association.

§ 6814. Notice of Delinquent Assessment

(a) The amount of the assessment, plus any costs of collection, late charges, and interest assessed in accordance with Section 6808, shall be a lien on the owner’s separate interest in the common interest development from and after the time the association causes to be recorded with the county recorder of the county in which the separate interest is located, a notice of delinquent assessment, which shall state the amount of the assessment and other sums imposed in accordance with Section 6808, a legal description of the owner’s separate interest in the common interest development against which the assessment and other sums are levied, and the name of the record owner of the separate interest in the common interest development against which the lien is imposed.

(b) The itemized statement of the charges owed by the owner described in subdivision (b) of Section 6812 shall be recorded together with the notice of delinquent assessment.

(c) In order for the lien to be enforced by nonjudicial foreclosure as provided in Sections 6820 and 6822, the notice of delinquent assessment shall state the name and address of the trustee authorized by the association to enforce the lien by sale.

(d) The notice of delinquent assessment shall be signed by the person designated in the declaration or by the association for that purpose, or if no one is designated, by the president of the association.

(e) A copy of the recorded notice of delinquent assessment shall be mailed by certified mail to every person whose name is shown as an owner of the separate interest in the association’s records, and the notice shall be mailed no later than 10 calendar days after recordation.

FIGRE RACOB5 & POWERS

§ 6816. Lien Priority

A lien created pursuant to Section 6814 shall be prior to all other liens recorded subsequent to the notice of delinquent assessment, except that the declaration may provide for the subordination thereof to any other liens and encumbrances.

§ 6818. Lien Release

(a) Within 21 days of the payment of the sums specified in the notice of delinquent assessment, the association shall record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the owner of the separate interest a copy of the lien release or notice that the delinquent assessment has been satisfied.

(b) If it is determined that a lien previously recorded against the separate interest was recorded in error, the party who recorded the lien shall, within 21 calendar days, record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the owner of the separate interest with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission.

§ 6819. Procedural Noncompliance

An association that fails to comply with the procedures set forth in this section shall, prior to recording a lien, recommence the required notice process. Any costs associated with recommencing the notice process shall be borne by the association and not by the owner of a separate interest.

Article 3. Assessment Collection

§ 6820. Collection Generally

(a) Except as otherwise provided in this article, after the expiration of 30 days following the recording of a lien created pursuant to Section 6814, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Section 2934a.

(b) Nothing in Article 2 (commencing with Section 6808) or in subdivision (a) of Section 726 of the Code of Civil Procedure prohibits actions against the owner of a separate interest to recover sums for which a lien is created pursuant to Article 2 (commencing with Section 6808) or prohibits an association from taking a deed in lieu of foreclosure.

§ 6822. Foreclosure

(a) Any sale by the trustee shall be conducted in accordance with Sections 2924, 2924b, and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trust.

(b) In addition to the requirements of Section 2924, the association shall serve a notice of default on the person named as the owner of the separate interest in the association's records or, if that person has designated a legal representative pursuant to this subdivision, on that legal representative. Service shall be in accordance with the manner of service of summons in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. An owner may

designate a legal representative in a writing that is mailed to the association in a manner that indicates that the association has received it.

(c) The fees of a trustee may not exceed the amounts prescribed in Sections 2924c and 2924d, plus the cost of service for the notice of default pursuant to subdivision (b).

§ 6824. Limitations on Authority to Foreclose Liens

(a) A monetary charge imposed by the association as a means of reimbursing the association for costs incurred by the association in the repair of damage to common areas and facilities caused by a member or the member's guest or tenant may become a lien against the member's separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c, provided the authority to impose a lien is set forth in the governing documents.

(b) A monetary penalty imposed by the association as a disciplinary measure for failure of a member to comply with the governing documents, except for the late payments, may not be characterized nor treated in the governing documents as an assessment that may become a lien against the member's separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c.

§ 6826. Assignment or Pledge by Association

(a) An association may not voluntarily assign or pledge the association's right to collect payments or assessments, or to enforce or foreclose a lien to a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within the scope of that charter or license, as security for a loan obtained by the association.

(b) Nothing in subdivision (a) restricts the right or ability of an association to assign any unpaid obligations of a former member to a third party for purposes of collection.

§ 6828. Application of Article

(a) Except as otherwise provided, this article applies to a lien created on or after January 1, 2014.

(b) A lien created before January 1, 2014, is governed by the law in existence at the time the lien was created.

CHAPTER 8. INSURANCE AND LIABILITY

§ 6840. Limitation of Member Liability

(a) It is the intent of the Legislature to offer civil liability protection to owners of the separate interests in a common interest development that have common area owned in tenancy in common if the association carries a certain level of prescribed insurance that covers a cause of action in tort.

(b) Any cause of action in tort against any owner of a separate interest arising solely by reason of an ownership interest as a tenant in common in the common area of a common interest development shall be brought only against the association and not against the individual owners of the separate interests, if both of the insurance requirements in paragraphs (1) and (2) are met:

(1) The association maintained and has in effect for this cause of action, one or more policies of insurance that include coverage for general liability of the association.

FIORE RACOBS & POWERS

(2) The coverage described in paragraph (1) is in the following minimum amounts:

(A) At least two million dollars (\$2,000,000) if the common interest development consists of 100 or fewer separate interests.

(B) At least three million dollars (\$3,000,000) if the common interest development consists of more than 100 separate interests.

CHAPTER 9. DISPUTE RESOLUTION AND ENFORCEMENT

Article 1. Disciplinary Action

§ 6850. Schedule of Monetary Penalties

(a) If an association adopts or has adopted a policy imposing any monetary penalty, including any fee, on any association member for a violation of the governing documents, including any monetary penalty relating to the activities of a guest or tenant of the member, the board shall adopt and distribute to each member, by individual notice, a schedule of the monetary penalties that may be assessed for those violations, which shall be in accordance with authorization for member discipline contained in the governing documents.

(b) Any new or revised monetary penalty that is adopted after complying with subdivision (a) may be included in a supplement that is delivered to the members individually, pursuant to Section 6553.

(c) A monetary penalty for a violation of the governing documents shall not exceed the monetary penalty stated in the schedule of monetary penalties or supplement that is in effect at the time of the violation.

(d) An association shall provide a copy of the most recently distributed schedule of monetary penalties, along with any applicable supplements to that schedule, to any member on request.

§ 6854. Authority of Board

Nothing in Section 6850 shall be construed to create, expand, or reduce the authority of the board to impose monetary penalties on a member for a violation of the governing documents.

Article 2. Civil Actions

§ 6856. Enforcement of Governing Documents

(a) The covenants and restrictions in the declaration shall be enforceable equitable servitudes, unless unreasonable, and shall inure to the benefit of and bind all owners of separate interests in the development. Unless the declaration states otherwise, these servitudes may be enforced by any owner of a separate interest or by the association, or by both.

(b) A governing document other than the declaration may be enforced by the association against an owner of a separate interest or by an owner of a separate interest against the association.

§ 6858. Standing

An association has standing to institute, defend, settle, or intervene in litigation,

arbitration, mediation, or administrative proceedings in its own name as the real

party in interest and without joining with it, the members, in matters pertaining to the following:

- (a) Enforcement of the governing documents.
- (b) Damage to the common area.
- (c) Damage to a separate interest that the association is obligated to maintain or repair.
- (d) Damage to a separate interest that arises out of, or is integrally related to, damage to the common area or a separate interest that the association is obligated to maintain or repair.

§ 6860. Comparative Fault

(a) In an action maintained by an association pursuant to subdivision (b), (c), or (d) of Section 6858, the amount of damages recovered by the association shall be reduced by the amount of damages allocated to the association or its managing agents in direct proportion to their percentage of fault based upon principles of comparative fault. The comparative fault of the association or its managing agents may be raised by way of defense, but shall not be the basis for a cross-action or separate action against the association or its managing agents for contribution or implied indemnity, where the only damage was sustained by the association or its members. It is the intent of the Legislature in enacting this subdivision to require that comparative fault be pleaded as an affirmative defense, rather than a separate cause of action, where the only damage was sustained by the association or its members.

(b) In an action involving damages described in subdivision (b), (c), or (d) of Section 6858, the defendant or cross-defendant may allege and prove the comparative fault of the association or its managing agents as a setoff to the liability of the defendant or cross-defendant even if the association is not a party to the litigation or is no longer a party whether by reason of settlement, dismissal, or otherwise.

(c) Subdivisions (a) and (b) apply to actions commenced on or after January 1, 1993.

(d) Nothing in this section affects a person's liability under Section 1431, or the liability of the association or its managing agent for an act or omission that causes damages to another.

CHAPTER 10. CONSTRUCTION DEFECT LITIGATION

§ 6874. Notice of Resolution

(a) As soon as is reasonably practicable after the association and the builder have entered into a settlement agreement or the matter has otherwise been resolved regarding alleged defects in the common areas, alleged defects in the separate interests that the association is obligated to maintain or repair, or alleged defects in the separate interests that arise out of, or are integrally related to, defects in the common areas or separate interests that the association is obligated to maintain or repair, where the defects giving rise to the dispute have not been corrected, the association shall, in writing, inform only the members of the association whose names appear on the records of the association that the matter has been resolved, by settlement agreement or other means, and disclose all of the following:

(1) A general description of the defects that the association reasonably believes, as of the date of the disclosure, will be corrected or replaced.

FIORE RACOBS & POWERS

(2) A good faith estimate, as of the date of the disclosure, of when the association believes that the defects identified in paragraph (1) will be corrected or replaced. The association may state that the estimate may be modified.

(3) The status of the claims for defects in the design or construction of the common interest development that were not identified in paragraph (1) whether expressed in a preliminary list of defects sent to each member of the association or otherwise claimed and disclosed to the members of the association.

(b) Nothing in this section shall preclude an association from amending the disclosures required pursuant to subdivision (a), and any amendments shall supersede any prior conflicting information disclosed to the members of the association and shall retain any privilege attached to the original disclosures.

(c) Disclosure of the information required pursuant to subdivision (a) or authorized by subdivision (b) shall not waive any privilege attached to the information.

(d) For the purposes of the disclosures required pursuant to this section, the term “defects” shall be defined to include any damage resulting from defects.

§ 6876. Notice of Civil Action

(a) Not later than 30 days prior to the filing of any civil action by the association against the declarant or other developer of a common interest development for alleged damage to the common areas, alleged damage to the separate interests that the association is obligated to maintain or repair, or alleged damage to the separate interests that arises out of, or is integrally related to, damage to the common areas or separate interests that the association is obligated to maintain or repair, the board shall provide a written notice to each member of the association who appears on the records of the association when the notice is provided. This notice shall specify all of the following:

(1) That a meeting will take place to discuss problems that may lead to the filing of a civil action.

(2) The options, including civil actions, that are available to address the problems.

(3) The time and place of this meeting.

(b) Notwithstanding subdivision (a), if the association has reason to believe that the applicable statute of limitations will expire before the association files the civil action, the association may give the notice, as described above, within 30 days after the filing of the action.

Copyright 2019-2020 by Fiore Racobs & Powers, A PLC

FIORE RACOBS & POWERS

— A PROFESSIONAL LAW CORPORATION —

Established in 1973, Fiore Racobs & Powers celebrates over 46 years as The Recognized Authority In Community Association Law. We are a full-service law firm, providing complete representation of common interest developments including: CC&R and Architectural Enforcement, Document Amendment, Elections/Votes, Corporate Counsel, Legal Opinions, Assessment Collection, Litigation, Appeals & General Legal Services.

Our Firm's ongoing mission is to "Provide quality legal services to our clients while setting the example for others to follow in the legal community. We are dedicated to the success of community associations through the practice of law, the education of our clients and industry professionals, and the advancement of public policy."

Fiore Racobs & Powers is the Recognized Authority in Community Association Law and Commercial/Industrial Association Law.



> The Firm's Common Interest Development Mini-Legal Dictionary is now available for download on our website at FIORELAW.COM/Resources.

FioreLaw.com

877-31-FIORE

**CELEBRATING OVER 46 YEARS AS
THE RECOGNIZED AUTHORITY IN
COMMERCIAL/INDUSTRIAL AND
COMMUNITY ASSOCIATION LAW**

**FIORELAW.COM
877-31-FIORE**

> ORANGE COUNTY OFFICE

6440 Oak Canyon
Suite 250
Irvine, CA 92618
949-727-3111
Fax 949-727-3311

> INLAND EMPIRE OFFICE

6820 Indiana Avenue
Suite 140
Riverside, CA 92506
951-369-6300
Fax 951-369-6355

> COACHELLA VALLEY OFFICE

74-130 Country Club Drive
Suite 102
Palm Desert, CA 92260
760-776-6511
Fax 760-776-6517

> SAN DIEGO COUNTY OFFICE

380 S. Melrose Drive
Suite 330
Vista, CA 92081
760-707-1988
Fax 760-776-6517

FIORE RACOBS & POWERS
— A PROFESSIONAL LAW CORPORATION —