

Board Duties, Miscellaneous Checklist

CC&R Expiration

Know if and when your declaration (CC&Rs) expires. Older CC&Rs may terminate on a specified date if not extended. Some are doing so now. Calendar the expiration and any deadline to act. Some deadlines occur months before the expiration date. ONLY IF the CC&Rs contain no method to extend the term, CC §4265 provides for an extension approved by more than 50% of the owner votes. Otherwise, follow the amendment requirements in the CC&Rs. Allow at least a year lead time, preferably more, before any expiration deadline.

Rule Change Notices

The Board must give at least 28 days prior written notice of most proposed rule changes, consider comments from the members and adopt the rules at an open meeting. Consult the statute for many detailed definitions and requirements. [CC §§4340-4370]

Board Member Education

An on-line education course for boards may become available, although there is no funding for the program as yet. [CC §5400]

Granting Exclusive Use of Common Area

Associations must obtain approval from at least 67% of the owners before the board may grant exclusive use of any portion of the common area to any member with limited exceptions. [CC §4600] The vote must comply with the strict, technical voting requirements in the Civil Code.

Phone/Contact Information

For floods, other emergencies and even contacting owners to vote on document amendments, it is extremely helpful to keep a list of home and work phone numbers and email addresses for owners. This can be requested and updated in a database for any owners who contact the association. Consult with your attorneys for the extent to which this information may be required to be included when a member requests a membership list and contact information. For additional information, see "Membership Rights Checklist".

Recorded Assessment Information Statement

To assist in collecting assessments, the association may record an information statement containing the name of the association; the recording information on the declaration; the name and phone number of the treasurer, managing agent or other person authorized to collect assessments; and a list of the assessor's parcel numbers of the separate interests subject to assessments. [CC §4210]

Towing Signs

The Board must have the appropriate signs and follow the appropriate procedures if it wishes to tow vehicles that are improperly parked. [CVC §22658]

Gambling or Raffles for Fundraising

Any nonprofit organization that uses gambling, lotteries or games of chance, including bingo, for fundraising must register annually with the state's Division of Gambling Control, obtain prior approval for the event and comply with all the requirements of the law, including limits on the number of fundraisers allowed, their duration, value and types of prizes, percentage of proceeds going to the organization, etc. [B&P §§19985-19987 on the electronic version only; also see Penal Code §§319-329 & 300-337z] **NOTE TO TIFFANY:** THESE PENAL CODE SECTIONS ARE NOT INCLUDED IN THE ELECTRONIC VERSION.

Fair Housing Accommodations and Unit or Common Area Modifications

HUD and the Department of Justice have published joint statements concerning "Reasonable Accommodations under the Fair Housing Act" dated May 17, 2004 and "Reasonable Modifications under the Fair Housing Act" dated March 5, 2008. These have valuable information for any association that may be asked to make a reasonable accommodation or allow reasonable modifications for persons who have disabilities. The internet link is too large to include here. The easiest way to find them is to use a search engine and search for the quoted language. [CC §4760 and W&I Code §9105.1]

Request for Governing Documents for Owner to Provide to Prospective Purchaser

See the relevant statutes for additional requirements and details than those merely summarized below. Upon written request, within 10 days, an association must provide to an owner: (1) a copy of the governing documents and, if the association is not incorporated, a statement to that effect; (2) a statement that any age restriction in the governing documents is enforceable only to the extent permitted by the Unruh Civil Rights Act in the Civil Code and including the applicable provisions of CC §§51.3 & 51.3.5, (or CC §51.11 in Riverside County); (3) a copy of the documents required by CC §§5300-5320; (4) a statement of the current regular and special assessments and fees, including a statement of any unpaid assessments and fees plus any unpaid monetary fines or penalties, late charges, interest and costs of collection on

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the unit in question including any which are or may be a lien on the unit; (5) a copy or summary of any notice of violation sent to the owner alleging any violation of the governing documents that remains unresolved at the time of the request; (6) information about defects and/or repairs as required by CC §6000; (7) the latest information related to construction defect settlements as required under CC §6100; (8) information on approved changes in regular and special assessments that have been approved but are not yet payable, (9) the effect of provisions in the governing documents that prohibit leasing [CC §§4740 & 4741], and (10) copies of board minutes from the prior 12 months, if requested by the purchaser. [CC §4525] The information must be provided to the owner or someone the owner designates to receive it. If an association maintains this data in electronic form, it must give the owner the option of receiving the information in electronic form or machine readable storage media and may also put the information on a website, but it may not charge an additional fee for electronic delivery in lieu of a hard copy. [CC §4530] The billing costs and documents requested are to be listed on a form as specified in CC §4528. The seller must provide any documents listed in the CC §4528 form that the seller has in its possession and at no cost to the buyer. A seller may request to purchase some or all of the documents, but shall not be required to purchase ALL of the documents listed on the CC §4528 form. Any forms provided by seller may not be listed in the form or charged for by the association. Any association that provides a copy of a declaration or any governing document or a deed to any other person shall place a cover page over the document or a stamp on the first page of the document stating, in at least 14-point boldface type the following:

"If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a "Restrictive Covenant Modification" form, together with a copy of the attached document with the unlawful provision redacted to the county recorder's office. The "Restrictive Covenant Modification" form can be obtained from the county recorder's office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status." [Govt. Code §12956.1]

High Rises and Mobile home and RV Parks – Evacuation Plans

With very limited exceptions, various requirements apply to residential buildings taller than 75 ft. above the ground floor. These include annual Fire Marshal certifications; providing emergency evacuation plans and procedures posted in appropriate locations, including procedures for handicapped and non-ambulatory persons; and other requirements established by the State Fire Marshal or more stringent requirements set by local governmental agencies. [H&S §§13210-13234 (high rises); §§18603 & 18871.8 (mobile home and RV parks)]

Playgrounds

All playgrounds built between 1/1/94 and 12/31/99 must comply with applicable safety regulations by the time they are 15 years old. See statute for other requirements. [H&S §115725]

Periodic Maintenance Inspections

In addition to requiring owners and/or an association to perform reasonable and necessary maintenance, CC §§5550 and 5551, in addition to some governing documents, also require performance of specified maintenance inspections and tasks. Such specified inspections and tasks are found in CC §§5550 and 5551, and additionally, may often be found in maintenance manuals prepared and provided by an association's developer.