

THE PROPERTY LINE

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New Laws Affecting Homeowner Associations in 2013

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The adoption of a new version of the Davis-Stirling Act to become effective in 2014 had a dampening effect on the passage of any significant amendments to the current version of Davis-Stirling this year. Following is a summary of the bills affecting homeowner association signed into law this year. Most of these changes have been discussed in previous editions of the Property Line.

Board Meetings by Teleconference. Civil Code Section 1363.05 was amended to provide that when a board is to conduct an open meeting by teleconference (audio video or both) the meeting notice must specify at least one physical location where members of the association may attend and a board member or a person designated by the board must be present at the location. ***Previous wording required that a member of the board be present at the location.***

Lease Restrictions. Civil Code Section 1368 currently requires an association to provide an owner or person designated by the owner certain documents including a statement describing any restriction in the governing documents which prohibits the rental or leasing of separate interests to renters, lessees or tenants and its applicability. The reference to the restriction's applicability has been deleted. ***This revision may change the statement required to be provided by associations to owners and prospective purchasers; contact us if you have any questions concerning this issue.***

Cancellation Fees for Requested Documents. A further amendment to Civil Code Section 1368 adds a new subsection (b) (3), limiting cancellation fees which can be charged to an owner who requests documents pursuant to the statute and subsequently cancels the order. If no work has been done on the order, then no fee can be charged. If payment was made in advance, the fee must be refunded in full. If some work has been done on the order before cancellation, then only the amount of the fee representing the work actually done may be charged or retained. ***The bottom line for this change is that fees assessed purely as a penalty for cancelling an order for association documents are not allowed; fees must reflect actual out-of-pocket costs of the association.***

Form for Disclosing Fees for Providing Requested Documents. Civil Code Section 1368.2 specifies the form to be used in itemizing the fees which will be charged for documents requested under Civil Code 1368. The new amendment requires that the form be in at least 10-point type. ***The required form can be obtained from our website at angius-terry.com.***

Electric Vehicle Charging Stations. Civil Code Section 1353.9, which became effective January 1 of this year, makes any restriction which prohibits or unreasonably restricts the installation of electric vehicle charging stations by an owner unenforceable. The new Code Section was amended shortly after it became law to clarify that an owner's right to install such devices was limited to the owner's designated parking space unless it can be demonstrated that installation of such a device

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Electric Vehicle Charging Stations, continued

within the parking space is impossible or unreasonably expensive. The amendment also provides that an association can install such devices anywhere within the general common area for the use of all members, subject to appropriate terms of use. Civil Code Section 1363.07 states that, with some exceptions, any grant by an association to a member of exclusive use of a portion of the common area requires approval of 67% of the members. An amendment to this section makes it clear that authority to install an electric vehicle charging station will not require a member vote under this section. ***Reasonable rules and policies relating to installation and maintenance of these devices are still permitted: contact us if you would like assistance in drafting such a policy or set of rules.***

Notice of Foreclosure Sales. AB 2273 (Wieckowski) was signed into law by Governor Brown on September 7, 2012. The bill adds Civil Code Section 2924.1, which provides that any transfer of title to property in a common interest development resulting from a foreclosure sale must be recorded within thirty days after the date of sale. The bill also amends Civil Code 2924b to provide that a lender, trustee or other qualified person must send a copy of a the trustee's deed from a foreclosure sale within fifteen days of the sale to any homeowners association which has filed with the county recorder a request for such information pertaining to any separate interest within the association. These changes should allow associations to more quickly identify the new owner of residences foreclosed upon by a lender. ***We recommend that every association file the required request for notice with the county recorder; let us know if we can be of assistance in preparing the notice.***

Residential Heating System Standards. Civil Code Section 896 provides minimum standards for residential construction which are relevant in construction defect disputes. The minimum requirements for residential heating systems were amended. ***If you are working with a development which was constructed within the last ten years, contact us if there are heating issues or any other potential construction defects.***

Thank You,



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