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Legal Update Newsletter

September 2011

Welcome to the latest edition of **Silldorf & Levine, LLP's Legal Update Newsletter!** In this very important edition, we provide a summary of the four new amendments to the Davis-Stirling Act which will directly affect homeowners associations and community managers.

Silldorf & Levine, LLP
California's Preeminent Construction Defect Law Firm

NEW LEGISLATION AFFECTING HOMEOWNERS ASSOCIATIONS

A.B. 771 (This is an amendment to Section 1368 of Davis Stirling): The new section relates to an association's obligation to produce certain documents to members who wish to provide the same documents to prospective buyers of their properties. Currently, Section 1368 lists a variety of documents that the Association must produce to a member within 10 days of a written request by such a member. The Section also limits what the association can charge the member for producing those documents.

The amendment to the Act first adds another document to the list of documents a member can request. Subsection (a)(10) now allows members to request "a copy of the minutes of the meetings, excluding meetings held in executive session, of the association's board of directors, conducted over the previous 12 months, that were approved by the association's board of directors."

Second, it creates Section 1368.2, which provides a form the association must fill out and electronically send to the member who requested documents under Section 1368. The form must indicate an estimate of the fees that will be charged for providing the requested documents. The amendment prohibits the association from charging additional fees for electronic delivery of the documents requested, and requires that such fees be distinguished from other fines or assessments billed as part of the sales transaction.

Finally, the amendment allows the association to contract with another person (the community management company) to facilitate compliance with the requirements of this Section on behalf of the association.

S.B. 150 (amends Section 1368 and adds Section 1360.2 to the Act): This Senate Bill first adds another item to the list of things a member must disclose to a potential buyer, and therefore adds

another potential document the association must produce to the member. Subsection (a)(9) now requires the member to disclose "if there is a provision in the governing documents that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant, a statement describing the prohibition and its applicability."

Second, the amendment creates Section 1360.2, which would prohibit an owner of a separate interest in a common interest development from being subject to a provision in the governing documents that prohibits the rental or leasing of all or any of the separate interests in that common interest development. The two exceptions to this prohibitions are (1) if the provision of the governing documents or the amendment to the governing documents was effective before the owner acquired title to his or her property, or (2) if the owner expressly consented to being subject to such a prohibition.

S.B. 209 (adds Section 1353.9 to the Act): This new section will provide that any provision in the governing documents that restricts or prohibits the installation or use of an electrical vehicle charging station is void and unenforceable. This section also indicates that if the charging station is placed in the common area, the homeowner will be responsible for maintaining and repairing it, as well as for any costs or damages associated with its installation and maintenance. Finally, the section requires a homeowner who installs a charging station to obtain an umbrella liability coverage policy of \$1,000,000 that would name the association as an additional insured.

S.B. 563 (amends Sections 1363, 1363.05 and 1365.2 of the Act): These amendments relate, for the most part, to meetings of the Board of Directors in Executive Session.

First, the bill adds a notice requirement to executive session meetings. Under 1363.05 as amended, the Association must provide members of the association notice of the time and place of every executive session meeting at least 2 days prior to the meeting. The notice must also include an agenda. The only exception to this rule is for emergency meetings. This notice may be given by mail, newsletter or similar communication, or by electronic means (e-mail) if the member consents. Alternatively, the notice may be given by posting the notice in a prominent place or places within the common area of the development.

The bill also amends 1363.05 to prohibit the board of directors from taking any action that falls under the definition of an "item of business" outside a board meeting. "Items of business" include any actions within the authority of the board, except for those actions that the board has validly delegated.

Next, the bill amends 1363.05 to allow the board to hold meetings through a teleconference call. Such a teleconference call must be conducted in a way that protects the rights of the members. Moreover, except for executive sessions, the notice to such a meeting must include at least one physical location the members can attend, where at least one board member is present.

The bill also amends Section 1363 to delete a provision that generally allows the board of directors to consider any proper matter at meetings. Instead, the board is now only allowed to discuss topics that were included on the agenda.

Finally, the bill amends Section 1365.2 which governs the Association's obligation to produce association records. Prior to the amendment, both the agenda and minutes of executive sessions were excluded from disclosure. However, under the new amendment, while the Association is not obligated to disclose the minutes of executive session meetings, it must disclose the agenda of those meetings.

Upcoming Power Board Seminar in Downtown LA

The Attorneys of Silldorf & Levine Announce the Presentation of their "Power Board" Seminar with special topics for Downtown Highrise and Midrise Community Associations

We Invite You and Your Community Association Board Members to Attend our *FREE* Power Board Seminar followed by a cocktail reception

Friday, October 14th from 12:45 pm - 4:30 pm

*Elevate Lounge
811 Wilshire Boulevard
Los Angeles, CA 90017*

- *Valet Parking located nearby*
- *CCAM-approved for 1 event CEU*
- *Door prizes & giveaways*
- *Hosted appetizers & cocktails, wine and beer*

Reserve your spot for this free seminar today!

RSVP to:

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About Our Law Firm

Silldorf & Levine, LLP is a full service community association law firm with offices in San Diego, Orange County, Los Angeles and San Francisco. Our law practice serves all of Southern California. The attorneys at Silldorf & Levine, LLP have combined legal experience of more than 75 years. During that time, we have successfully represented hundreds of homeowners and community associations in a variety of legal matters.

Free Consultation

If you believe your association or one of your homeowner association clients has a construction defect, our firm is available to help. We are available for a no cost/no obligation site inspection of your property. We also provide a no cost/no obligation follow-up inspection with an expert. If you or your association has a potential construction defect that is approaching a statutory deadline, we can prepare a FREE Calderon or SB 800 Notice to stop the running of your statute of limitations.

We are always available to provide your Association with a proposal for legal services for General Counsel or Construction Defect representation.

We look forward to assisting you!

Please contact: Christina Ciceron, Esq. at (800) 811-5874 or cciceron@sillardorf-levine.com.

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