

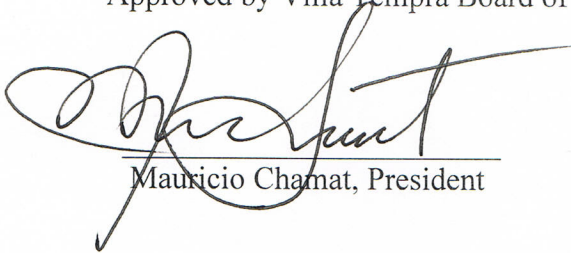
VILLA TEMPRA HOMEOWNERS ASSOCIATION

RULES GOVERNING ELECTIONS MAY BE FOUND ON WWW.VILLATEMPRA.ORG

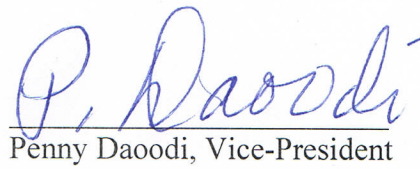
- 1-Elections shall be held at the end of a director's term and at least once every 4 years, CC §5100(a)(2). Villa Tempra Directors serve 2-year terms.
- 2-Voter lists must include the name, voting power, and address/parcel number or both and mailing address for the ballot if different than physical address or if only a parcel number is used. Members may review the accuracy of the information on either the candidate registration or voter list at least 30 days before the ballots are distributed. Any errors must be corrected within 2 days of receipt of notice of error.
- 3-Candidates must be members of Villa Tempra HOA when nominated, CC §5105(b) and CC&R's Article 1.1.22 record owner(s) of fee simple title. If title is held by a non-natural person such as LLC, or similar entity, the entity may appoint a natural person by written notice for purposes of an election.
- 4-Villa Tempra HOA may disqualify a candidate if the candidate is delinquent in regular and special assessments (unless is making payments under an approved payment agreement). Nominee and directors must be current, CC §5105 (c) (1). No joint owners can serve on the board at the same time, CC §5105 (c) (2). Nominee has been a member for less than 1 year, CC §5105 (c) (3). Member has a criminal conviction that would prevent or terminate the purchase of a fidelity bond coverage, CC §5105 (c) (4). No disqualification if it is for non-payment of fines, late charges, or costs levied by a third party, CC §5105 (d), or candidate has not been provided opportunity for internal dispute resolution pursuant to CC §5105 (e).
- 5-Villa Tempra is prohibited from denying a member's right to vote, prohibit denial of a ballot to a person with general power of attorney for a member, the ballot of a person with general power of attorney must be counted if returned in a timely manner. The only reason a ballot can be denied is if the person is not an owner of title, pursuant to CC §5105 (g) (1).
- 6-The election must be conducted under the supervision of an INSPECTOR OF ELECTIONS, who must deliver ballots and copy of election rules to each owner at least 30 days before election, CC §5105 (G) (4).
- 7-The inspector of elections must not have any contractual relationship with the HOA such as attorney, manager, or similar connection, other than being an owner who is not on the ballot, CC §5110 (b).
- 8-Villa Tempra will provide notice of the election, and requirements for candidate nomination at least 30 days before annual election. Subsequently Villa Tempra will provide a list of candidates that will appear on ballot and the deadline for returning ballots. The annual meetings are conducted in the "old playground". The ballots may be deposited in the mail slot labeled "Villa Tempra" or mailed to 1300 Villa Tempra HOA, Chula Vista, CA 91911, pursuant to CC §5115(b).
- 9-Notice of nominations and elections may be delivered via email, or US Mail, as requested by each owner, pursuant to CC §4040. All election materials, including nominating forms, signed and returned

ballots, and proxies, must be retained by the Inspector of Elections for at least 1 year, then transferred to the HOA. All signed election materials may be inspected but not copied. Privacy of information shall be protected as required pursuant to CC §5200(a)(b).

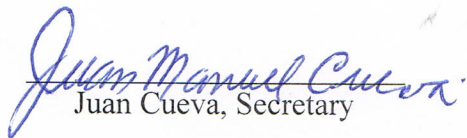
Approved by Villa Tempra Board of Directors on October 27, 2020.



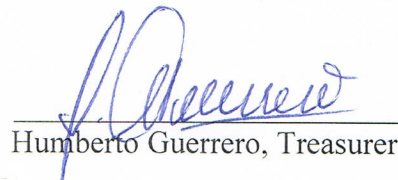
Mauricio Chamat, President



Penny Daoodi, Vice-President



Juan Cueva, Secretary

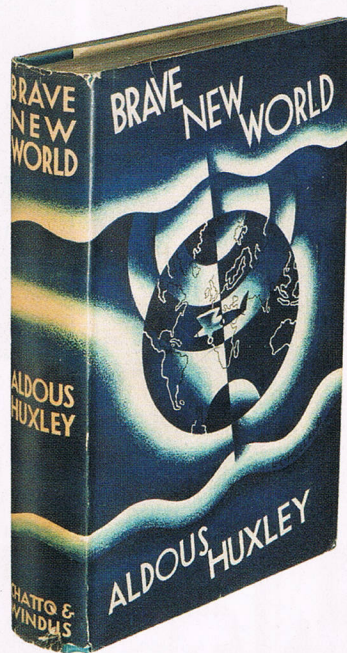


Humberto Guerrero, Treasurer

A BRAVE NEW WORLD FOR HOA ELECTIONS

By: Jonathan D. Massie, Esq.

Aldous Huxley's novel entitled "Brave New World" describes a society shaped through rapid scientific advancement intended to create a new and better civilization free of pain and suffering. However, as Huxley writes, despite well-intentioned efforts of social planners, there were unintended negative consequences resulting from this new fast-paced, futuristic world.



We are now entering a brave new world of election laws. Senate Bills 323 (SB 323) and 754 (SB 754) were signed by the Governor on October 12, 2019 and took effect on January 1, 2020. These Bills substantially impact existing Election Rules. Accordingly, Elections Rules must be amended to comply with the new statutory provisions. The following is a summary of some of the more important required changes:

CIVIL CODE SECTION 5100:

- Elections. Elections shall be held at the expiration of a director's term and at least once every four (4) years. CC §5100(a)(2).
- Election by Acclamation. Directors may be elected by acclamation only for Associations that include 6,000+ units. CC §5100(g).

CIVIL CODE SECTION 5105:

- Retention of Election Materials. Election rules must require retention of candidate registration/ voter lists. Voter lists must include the name, voting power, and address/parcel number or both and mailing address for the ballot if it differs from physical address or if only parcel number is used. Members may review the accuracy of individual information on either lists at least 30

days before ballots are distributed. Any error must be corrected within two business days of receipt of notice of error.

- Limitations on Candidate Qualifications. Candidates must be Members of the Association when nominated. CC §5105(b). Exceptions exist for the developer candidates. If title is held by legal entity that is not a natural person (i.e., an LLC, Corporation), the governing authority of the entity may appoint a natural person for purposes of an election.
- An Association may disqualify a candidate (assuming such disqualification is included within its election rules) if:
 - A candidate is delinquent in regular and special assessments unless the candidate entered into a payment plan or paid assessment under protest. If an Association requires a nominee to be current in regular and special assessments, the directors must also be required to be current. CC §5105(c)(1).
 - A joint owner would be serving on the Board at same time. CC §5105 (c)(2).
 - He/she has been a Member for less than one (1) year. CC §5105(c)(3).
 - He/she has a past criminal conviction that would terminate or prevent the purchase of fidelity bond coverage. CC §5105(c)(4).
- A nominee shall not be disqualified for:
 - Nonpayment of fines, collection charges, late charges, or costs levied by a third party. CC §5105(d).
 - If he/she has not been provided an opportunity for internal dispute resolution. CC §5105(e).
 - If the delinquent candidate entered into a payment plan or paid delinquent assessments under protest.

- Voting. Associations are prohibited from suspending a member's right to vote. CC §5105(g)(1) Associations cannot prohibit denial of a ballot to a person with general power of attorney for a member. The ballot of a person with general power of attorney must be counted if returned in a timely manner. The only reason a ballot can be denied is if the person is not an Owner.
- The inspector must deliver ballots and copy of election rules to each Member at least thirty (30) days before an election. CC §5105(g)(4). Election rules can be posted to an internet website provided that the address of the website is listed on the ballot with the phrase in at least 12-point font: "The rules governing the election may be found here."
- Election operating rules cannot be amended less than 90 days before an election. CC §5105(g)(h).

CIVIL CODE SECTION 5110:

- Inspector of Elections. The inspector of elections must be an entity/individual with no other contractual relationship with the Association. CC §5110(b). This disqualifies an Association's existing manager, attorney, etc. from serving as the Association's inspector of elections.

CIVIL CODE SECTION 5115:

- General Notice of Election Procedures and Materials. The requirements for submitting nominations must be posted at least thirty (30) days before nomination deadline. CC §5115(a). The Board must provide individual notice if requested.
- Associations are required to post list of candidates that will appear on the ballot,

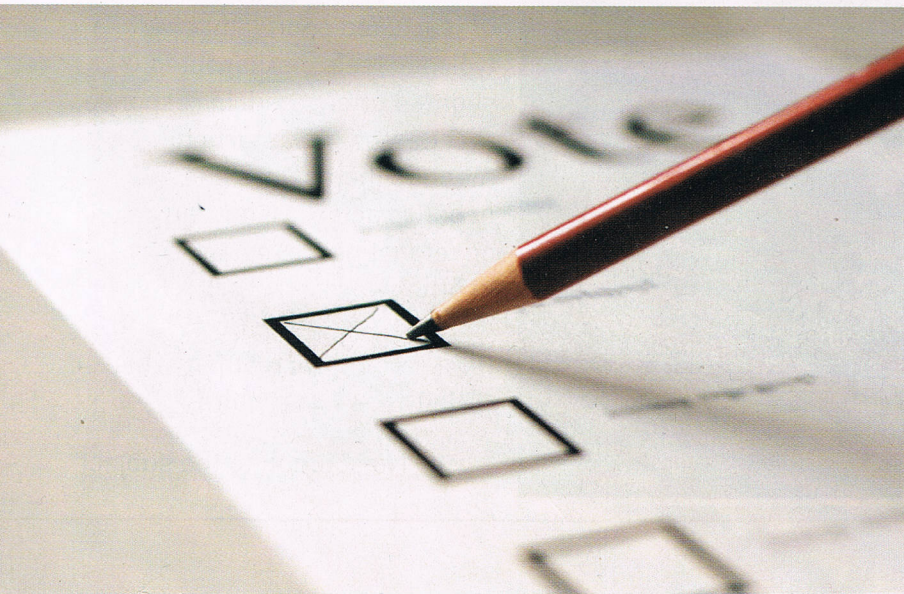
deadline for returning ballots, physical address where ballots are to be delivered in person and by mail and the date, time and place of the annual meeting, all thirty (30) days before ballots are distributed. CC §5115(b).

- Individual notice of the above listed information shall be delivered pursuant to CC Section 4040 if individual notice is requested by a member. CC Section 4040 allows for service via First Class U.S. Mail or e-mail (if owner has previously consented to e-mail notice).
- Association "election materials" means returned ballots, signed voter envelopes, list of names, parcel numbers, and voters to whom ballots were sent, proxies, and candidate registration list which must be retained by inspector for at least one year and then transferred to Association.
- Signed voter envelopes may be inspected by members but not copied.

CIVIL CODE SECTION 5200:

- Privacy. Member e-mail addresses are part of membership list. Members may opt out of having e-mail addresses included. CC §5200(a) (9).

Given the complexity and breadth of required changes, boards are encouraged to seek guidance from their association's legal counsel. As with most legislation, the devil is in the details and associations will need to craft election rules to meet the new guidelines in a manner that is practical and consistent with the law. 🙏



Jonathan D. Massie is a principal of Massie Berman, APC, a full-service law firm, specializing exclusively in representation of homeowners' associations. Mr. Massie can be reached at (619) 260-9010 or jmassie@massieberman.com.

PROPOSED VillaTempra Budget effective 7/1/2020

BUDGET

Income

	Per Unit	Month*36Units	Yearly
Monthly HOA Fee **	\$142.00	\$5,112.00	61,344
Interest on checking	\$0.51	\$18.36	220
Total Income	\$142.51	\$5,130.36	61,564

Expenses

Administration	\$2.00	\$72.00	\$864.00
Mgt&Bookkeep	\$10.75	\$387.00	\$4,644.00
Office Supplies	\$1.00	\$36.00	\$432.00
APS Total	\$13.75		\$5,940
Taxes&Permit	\$2.00	\$72.00	\$800.00
Insurance	\$20.00	\$720.00	\$8,640.00
Termite Insurance	\$4.76	\$171.36	\$2,056.00
Gas&Electric	\$3.00	\$108.00	\$1,296.00
Water&Sewer	\$60.00	\$2,160.00	\$25,920.00
Gardening	\$7.00	\$252.00	\$3,024.00
Refuse/Garbage	\$17.74	\$638.50	\$7,661.95
Operations total	\$114.50		\$49,398

Reserves

Repairs	\$3.00	\$108.00	\$1,296
Maintenance	\$3.00	\$108.00	\$1,296
Improvements	\$3.00	\$108.00	\$1,296
Miscellaneous/Contingenci	\$5.26	\$189.36	\$2,272
Total Reserves	\$14.26		\$6,160
Total HOA Budget	\$142.51	\$5,130	\$61,498

** Proposed that Effective 7/1/2020 monthly dues are \$142 per month
Late fees \$12 plus \$5 administrative charge total late fee \$159 - AS PROPOSED

CIVIL CODE LINKS https://en.wikipedia.org/wiki/Davis%E2%80%93Stirling_Common_Interest_Development
<https://www.echo-ca.org/the-law/civil-code-new-davis-stirling-act>

To be submitted for approval at next annual meeting
Certified by Mauricio Chamat, President

Villa Tempra Annual Disclosures

BUDGET

Income

	Per Unit	Month*36Units	Yearly
Monthly HOA Fee **	\$130.00	\$4,680.00	\$56,160.00
Interest on checking	\$0.51	\$18.36	\$220.32
Total Income	\$130.51	\$4,698.36	\$56,380.32

Expenses

Administration	\$2.00	\$72.00	\$864.00
Mgt&Bookkeep	\$9.75	\$351.00	\$4,212.00
Office Supplies	\$1.00	\$36.00	\$432.00
APS Total	\$12.75		\$5,508.00
Taxes&Permit	\$2.00	\$72.00	\$864.00
Insurance	\$18.52	\$666.67	\$8,000.00
Termite Insurance	\$4.76	\$171.36	\$2,056.00
Gas&Electric	\$2.00	\$72.00	\$864.00
Water&Sewer	\$54.00	\$1,944.00	\$23,328.00
Gardening	\$7.00	\$252.00	\$3,024.00
Refuse/Garbage	\$18.00	\$648.00	\$7,776.00
Miscellaneous/Contingenci	\$2.48	\$89.28	\$1,071
Operations total	\$108.76		\$46,983.36

Reserves

Repairs	\$3.00	\$108.00	\$1,296.00
Maintenance	\$3.00	\$108.00	\$1,296.00
Improvements	\$3.00	\$108.00	\$1,296.00
Total Reserves	\$9.00		\$3,888.00
Total HOA Budget	\$130.51	\$4,698	\$56,381
			\$56,379.4

** Effective 7/1/2018 monthly dues are \$130 per month
Late fees \$12 plus \$5 administrative charge total late fee \$147

CIVIL CODE LINKS

https://en.wikipedia.org/wiki/Davis%E2%80%93Stirling_Common_Interest_Development

<https://www.echo-ca.org/the-law/civil-code-new-davis-stirling-act>

	A	B	C	D	E	F	G	H	I	J	K
1	<i>Item</i>	<i>Size/Quantity</i>	<i>Age</i>	<i>Estimated life</i>	<i>Last replaced</i>	<i>Last cost</i>	<i>Total cost to</i>	<i>Amount</i>	<i>Additional amount</i>		<i>Recommended</i>
2				<i>in years</i>		<i>to replace</i>	<i>replace as of</i>	<i>currently in</i>	<i>needed in reserve</i>	<i>Remaining</i>	<i>Budget allocation</i>
3							<i>7/2020</i>	<i>reserve</i>	<i>by end of</i>	<i>life (years)</i>	<i>per year</i>
4									<i>life remain</i>		<i>10% of budget</i>
5								117,750			
6											
7											
8	PAINTING		0	15	3/1/2004	\$31,000.00	44,000	44,000	0	10	\$0
9		stucco - 27,000 sq ft				see file					
10		trim - 3,000 sq ft									
11											
12											
13	ROOFING										
14		fiberglass shingle	10	20	1994	\$41,000.00	50,000	50,000	0	10	\$0
15		23,500 sq ft									
16											
17											
18	ASPHALT DRIVEWAYS		3								
19	resurface & reseal	22,500 sq ft			2016	\$6,293.00	7,500	7,500	0	6	\$0
20											
21											
22	SKYLIGHTS	36 * 2x2 sq ft @\$200	18	25	1984	\$4,000.00	3,800	3,800		15	\$0
23											
24											
25	MISCELLANEOUS	varies									
26	light fixtures, refuse bins,		varies	varies	varies		3,500	3,500	0	varies	\$0
27	sprinklers, garden fences,										
28	entrance gates										
29											
30	CONTINGENCIES						8,950	8,950	0	as needed	\$6,160
31											
32											
33							117,750	117,750	0		\$6,160
34											
35	Current Allocation Amount										\$6,160
36	Allocation Percentage										100%
37	Additional Amount Needed										\$0.00
38											
39											
40	Historical information was used to calculate the total cost to replace each item, taking into account the last time it was replaced, current market costs, estimated life and first hand experience.										
41	The figures for the total amount currently in reserve were taking from the December 2018 APS reports										
42	Roofs were repaired March 2018, extending life by 10 years per contractor. Roofs are repaired on a per unit basis, as needed, not entire complex at once										
43	Exterior stucco at entrance of each unit was repaired March 2016. Only maintenance to paint is necessary, as needed, done periodically on a per unit basis.										
44											

Senate Bill No. 323

CHAPTER 848

An act to amend Sections 5100, 5105, 5110, 5115, 5125, 5145, and 5200 of, and to add Section 5910.1 to, the Civil Code, relating to common interest developments.

[Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 323, Wieckowski. Common interest developments: elections.

(1) The Davis-Stirling Common Interest Development Act governs the creation and management of common interest developments. The act requires a homeowner's association to adopt rules that, among other things, specify the qualifications for candidates for the board of directors of the association and any other elected position, qualifications for voting, the voting power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections, including the times at which polls will open and close, consistent with the governing documents. The act requires the sealed ballots to be at all times in the custody of the inspector or inspectors of elections or at a designated location until after the tabulation of the vote.

This bill would, among other things, require an association to provide general notice of the procedure and deadline for submitting a nomination as a candidate at least 30 days before any deadline for submitting a nomination. The bill would require an association to disqualify a person from nomination as a candidate for not being a member at the time of the nomination. The bill would authorize an association to disqualify a person from being nominated or from serving on the board for specified reasons, including the failure to pay regular and special assessments. The bill would require the rules to require retention of, as association elections materials, both a candidate registration list and a voter list, which would be required to be made available to members to verify the accuracy of their individual information, in accordance with specified timeframes. The bill would require these rules to prohibit the denial of a ballot to a member and to a person with general power of attorney for an owner. This bill would require the sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list to be in the custody of the inspector of elections or at a designated location until after vote tabulation and would, with certain exceptions, require these association election materials to be considered association records, as defined, subject to inspection.

(2) Existing law requires an independent third party to be selected by the association as the inspector of elections and prohibits a person, business entity, or subdivision of a business entity that is employed or under contract to the association for any compensable services from being an independent third party unless otherwise expressly authorized by the rules of the association.

This bill would delete the exception made by rules of the association.

(3) Existing law authorizes a member of an association to bring a civil action for declaratory or equitable relief for a violation of the above-described provisions by the association within one year

Assembly Bill No. 670
CHAPTER 178

An act to add Section 4751 to the Civil Code, relating to common interest developments.

[Approved by Governor August 30, 2019. Filed with Secretary of
State August 30, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 670, Friedman. Common interest developments: accessory dwelling units.

The Planning and Zoning Law authorizes a local agency to provide for the creation of accessory dwelling units in single-family and multifamily residential zones by ordinance, and sets forth standards the ordinance is required to impose with respect to certain matters, including, among others, maximum unit size, parking, and height standards. Existing law authorizes a local agency to provide by ordinance for the creation of junior accessory dwelling units, as defined, in single-family residential zones and requires the ordinance to include, among other things, standards for the creation of a junior accessory dwelling unit, required deed restrictions, and occupancy requirements.

Existing law, the Davis-Stirling Common Interest Development Act, governs the management and operation of common interest developments. Existing law prohibits the governing document of a common interest development from prohibiting the rental or leasing of any separate interest in the common interest development, unless that governing document was effective prior to the date the owner acquired title to their separate interest.

This bill would make void and unenforceable 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 planned development, and any provision of a governing document, that effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the above-described minimum standards established for those units. However, the bill would permit reasonable restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with those aforementioned minimum standards provisions.

DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

BILL TEXT

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS
FOLLOWS:**

Senate Bill No. 326 **CHAPTER 207**

An act to amend Section 6150 of, and to add Sections 5551 and 5986 to, the Civil Code, relating to civil law.

[Approved by Governor August 30, 2019. Filed with Secretary of State August 30, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 326, Hill. Common interest developments.

The Davis-Stirling Common Interest Development Act governs the management and operation of common interest developments. Existing law also sets forth the duties and responsibilities of the association and the owners of the separate interests with regard to maintenance and repair of common and exclusive use areas, as defined. Unless otherwise provided in the common interest development declaration, the association is generally responsible for maintaining, repairing, and replacing the common area, and the owner of each separate interest is responsible for maintaining that separate interest and any exclusive use common area appurtenant to that interest.

This bill would require the association of a condominium project to cause a reasonably competent and diligent visual inspection of exterior elevated elements, defined as the load-bearing components and associated waterproofing systems, as specified, to determine whether the exterior elevated elements are in a generally safe condition and performing in compliance with applicable standards. The bill would require the inspector to submit a report to the board of the association providing specified information, including the current physical condition and remaining useful life of the load-bearing components and associated waterproofing systems. The bill would require the inspector to provide a copy of the inspection report to the association immediately upon completion of the report, and to the local code enforcement agency within 15 days of completion of the report, if, after inspection of any exterior elevated element, the inspector advises that the exterior elevated element poses an immediate threat to the safety of the occupants. The bill would require the association to take preventive measures immediately upon receiving the report, including preventing occupant access to the exterior elevated element until repairs have been inspected and approved by the local enforcement agency. The bill would authorize local enforcement agencies to recover enforcement costs associated with these requirements from the association. The bill would authorize the association board to enact rules or bylaws imposing requirements greater than those imposed by these provisions.

The act provides that 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 its members in specified matters, including enforcement of the governing documents.

The bill would provide that, subject to compliance with other specified provisions described below, and notwithstanding any provision to the contrary in the governing documents, a board has the

YOU CAN THANK YOUR LEGISLATURE —

2018 LEGISLATIVE AND CASE LAW REVIEW

By: Laurie S. Poole, Esq., CCAL

Legislative Update

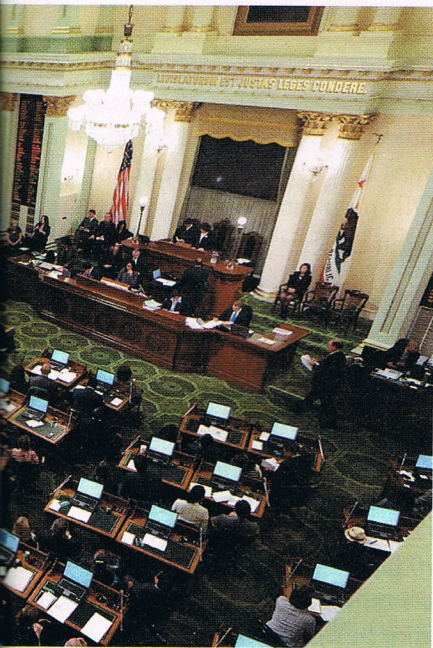
This past year was an active one for legislative activity in Sacramento. Several proposed bills that would have affected homeowners' associations were defeated, including by last minute vetoes issued by Governor Brown. The efforts of CAI's California Legislative Action Committee (CLAC), CAI San Diego's Legislative Support Committee, advocate Louie Brown and those of you who communicated with legislators and the governor all contributed to shaping the results of this year's session. Now that the dust has settled, the following are some of the laws that were adopted and will be effective on **January 1, 2019**.

1. AB 2912. Association Financial Security – Changes the Davis-Stirling Common Interest Development Act (Act) by amending Sections 5380 and 5500 and adding new Sections 5501, 5502, and 5806. According to the author, Assembly member Jacqui Irwin, this bill was introduced due to an increase in fraudulent activities related to associations' finances. "More regular review of an association's financial records by the board and requiring fidelity insurance to cover potential liability, will help protect associations from financial mismanagement." What you need to know:
 - On a *monthly* basis, boards will need to review their association's operating accounts, reserve accounts, actual operating revenues and expenses compared to budget, account statements prepared by financial institutions, income and expense statements, check register, monthly general ledger, and delinquent assessment receivable reports. For boards that do not meet on a monthly basis, this review can be accomplished outside of a meeting



either independently by each director *or* by a subcommittee of the board consisting of the treasurer and at least one other board member. The review will then need to be ratified at the next board meeting and reflected in the minutes. Before January 1, 2019, boards that do not meet on a monthly basis should determine who will be performing the monthly review.

- Associations are required to purchase fidelity bond insurance, for its directors, officers, and employees in an amount equal to or exceeding current reserves, plus three months of assessments. The fidelity bond shall also include coverage for computer fraud and funds transfer fraud. If the association uses a managing agent or management company, the fidelity bond coverage must also include dishonest acts by that person or entity.
 - Transfers from the association's reserve or operating accounts in an amount greater than ten thousand dollars (\$10,000) or 5 percent of the association's total combine reserve and operating account deposits (whichever is lower) cannot be made without prior written board approval. This requirement is in addition to Civil Code section 5510's requirement, that reserve withdrawals in any amount need to be signed by two directors.
2. SB 261. Governance – amends Act Sections 4040 and 4360. According to the legislative history, the



bill was intended to let associations achieve efficiencies and save costs. What you need to know:

- Under current Section 4040 (individual notice/individual delivery), associations can email members with notices and information if the member consents in writing to receiving email. As of January 1, 2019, association members can use email to provide (and revoke) their consent to receiving association notices and information by email.
- Under current Section 4360, proposed changes to operating rules need to be provided to the members at least 30 days before the board adopts those changes. Under the new law, the member notice timeframe changes from 30 to 28 days.


3. SB 1016. Electric Vehicle Charging Stations (EVCS) – amends Act, Section 4745 and adds section 4745.1. In January, 2018, Governor Brown issued an executive order that calls for 5 million zero emission vehicles (ZEVs) to be on California roads by 2030. To reach that objective the Governor established a goal of installing 250,000 ZEV chargers by 2025. According to the author, this bill will help meet the climate and clean transportation goals by eliminating obstacles that could prevent

condo owners from accessing EV charging stations. What you need to know:

- The changes to existing Section 4745 make it clear that owners are responsible to pay for the costs associated with installing and electricity for EVCS.
- New Section 4745.1 states that associations may require reasonable restrictions on the installation of EVCS. However, associations must attempt to find a reasonable way to accommodate the EVCS installation request, unless the association would need to incur an expense.
- Architectural applications must be approved or denied within 60 days or will be deemed approved. If your association's governing documents call for a shorter time period for deciding architectural applications, consult with legal counsel.
- Owners who prevail in an action to enforce the provisions of Sections 4745 and 4745.1 will be awarded reasonable attorney's fees.

Notable 2018 Cases

The California Courts of Appeal were busy this year deciding cases that affect homeowners associations, including these two notable cases.

1. *Greenfield v. Mandalay Shores Community Association*, 21 Cal.App.5th 896. The beachfront association adopted a rule requiring rentals be for a minimum of 30 days. The California Coastal Commission demanded the association cease enforcement of the restriction alleging the requirement constituted a “development” affecting the density and intensity of the use of the coastal area, which required a coastal permit. The trial court disagreed and found that a 30-day minimum was not a “development.” The court of appeal reversed stating, “The decision to ban or regulate short term rentals must be made by the City and Coastal Commission, not a homeowner’s association.”
2. *Goudelock v. Sixty-01 Association*, 895 F.3d 633. Debtors who successfully complete their Chapter 13 bankruptcy plans and earn a discharge are freed permanently from the personal obligation to pay homeowner association dues, including post-petition dues. The owner’s property may still be liened and foreclosed on by the association for non-payment of post-petition assessments. 



Laurie S. Poole, Esq., CCAL is a partner with the firm of Adams|Stirling, PLC with offices in Carlsbad and Mission Valley. Laurie can be reached at Lpoole@adamsstirling.com.

DAVIS-STIRLING ACT

DAVIS-STIRLING ACT
Effective January 1, 2014

CHAPTER 1.
GENERAL PROVISIONS

Article 1. Preliminary Provisions

- 4000 Title
- 4005 Effect of Headings
- 4010 Application of Act
- 4020 Construction of Zoning Ordinance
- 4035 Delivery to Association
- 4040 Individual Delivery or Notice
- 4041 Member Contact Information
- 4045 General Delivery or Notice
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Managing Partner
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Effective January 1, 2019 In 2018, the California state legislature was in session from

January 3rd to August 31st. At the end of the session, the legislature, through both the Assembly (AB) and Senate (SB) had approved about 900 bills. When the legislature approves a bill, then it goes to the Governor to sign into law or veto. Of the 900 bills, a whopping 8 were signed into law that have an impact on homeowners' associations. The following is what you need to know about these new laws.

Member Notice & Rules Changes This bill amends the following existing civil codes: ·
§4040 (Individual Notice) to allow an individual owner to permit/revoke consent to allow individual notice by email.
§4360 (Approval of Rule Change by Board) so that board has to provide general notice no less than 28 days before making a rule change (previously was 30 days).

Fidelity Bonds & Financial Review

Amends Civil Code §5380 (Management of Association Funds): o Prohibits managing agents from making transfers greater than \$10,000 or 5% of the association's total combined reserve and operation account deposits (whichever is lower) without the prior written authorization of the board.

Amends Civil Code §5500 (Quarterly Financial Review by Board): o Boards are now required to perform reviews of financial statements on a monthly, as opposed to quarterly basis (unless-as before-governing documents impose more stringent standards). o Also, boards must now review the check register, monthly general ledger, and delinquent assessment receivable reports on a monthly basis.

Adds Civil Code §5501 (Satisfaction of Review Requirements): o "The review requirements of §5500 may be met when every individual member of the board, or a subcommittee of the board consisting of the treasurer and at least one other board member, reviews the documents and statements described in §5500 independent of a board meeting, so long as the review is ratified at the board meeting subsequent to the review and that ratification is reflected in the minutes of that meeting."

Adds Civil Code §5502 (Transfers Requiring Board Approval): o "Notwithstanding any other law, transfers of greater than ten thousand dollars (\$10,000) or 5 percent of an association's total combined reserve and operating account deposits, whichever is lower, shall not be authorized from the association's reserve or operating accounts without prior written board approval. This section shall apply in addition to any other applicable requirements of this part."

Add Civil Code §5806 (Fidelity Bond Coverage Requirements): o "Unless the governing documents require greater coverage amounts, the association shall maintain fidelity bond coverage

for its directors, officers, and employees in an amount that is equal to or more than the combined amount of the reserves of the association and total assessments for three months. The association's fidelity bond shall also include computer fraud and funds transfer fraud. If the association uses a managing agent or management company, the association's fidelity bond coverage shall additionally include dishonest acts by that person or entity and its employees."

Electrical Vehicle Charging Stations

SB 1016 was approved and amended the existing Electric Vehicle (EV) Charging Station code (§4745)

as it pertains to both an owner's separate interest and the common areas as follows:

Adds that any restriction in governing documents prohibiting or unreasonably restricting installation or use of an EV charging station in an owner unit is void (previously only prohibited restrictions on EV charging station's in an owner's designated parking space).

If association agrees at owner's request to place EV charging station in common area/exclusive use common area, owner must now pay for cost of installation and electricity usage (previously only had to pay for electricity usage).

Now the owner of the charging station is required to maintain liability coverage and provide the association with the certificate of insurance within 14 days of it approving the application, and the

owner & each successor owner must provide the certificate of insurance annually thereafter. Also removed minimum \$1,000,000 coverage amount and requirement to name association as additional insured.

Adds Civil Code §4745.1 (EV-Dedicated Time of Use (TOU) Meters; Restrictions unenforceable):

EV-dedicated TOU meter: an electric meter supplied and installed by an electric utility that is separate from, and in addition to, any other electric meter; is devoted exclusively to the charging of electric vehicles; and tracks the time of use when charging occurs, including any wiring or conduit

necessary to connect the electric meter to an EV charging station. Restrictions in governing documents that prohibit or unreasonably restrict the installation or use of an EV-dedicated TOU

meter are void and unenforceable. However, "reasonable restrictions" (based on space, aesthetics, structural integrity, and equal access for all homeowners) are allowed, unless the association would need to incur an expense.

If approval needed, processed same way as an application for an architectural modification.

If to be placed in common area/exclusive use common area, owner must obtain prior approval from the association, and is responsible for cost of damage to common area and maintenance, repair and replacement of EV-dedicated TOU.

We strongly encourage condominium associations to reach out to legal counsel to adopt guidelines and procedures for the installation of electrical vehicle charging stations and/or to update prior

guidelines (rules) to be compliant with the new law.

Manufactured / Mobile Home Foundation Systems In an effort to help those that lost their manufactured or mobile homes in the Lilac Fire obtain financing to rebuild, the state approved AB 1943 as an urgency statute, making it effective September 5, 2018.

The existing law required owners of manufactured / mobile homes to obtain a permit from the local enforcement agency prior to placing the home on a foundation to convert it into a real property

improvement. To obtain such permit they must provide written evidence acceptable to the enforcement agency that they have title to the home or will be purchasing the underlying real property. This bill clarifies that owners, as part of the requirement to provide this written evidence, may, in a mobile home park that is to be converted into a resident-owned subdivision / stock co-op / condo, submit written evidence of their ownership in the mobile home park. (Lending requirements for real property are easier to obtain than mobile home financing.)

Unlawful Employment Practices: Discrimination and Harassment California Fair Employment and Housing Act (FEHA) prohibits harassment, discrimination, sexual harassment, etc. in the workplace.

Adds Government Code §12923: o In workplace harassment "the plaintiff need not prove that his or her tangible productivity declined as a result of the harassment. It suffices to prove that a reasonable person subjected to the discriminatory conduct would find, as the plaintiff did, that the harassment so altered working conditions as to make it more difficult to do the job."

Adds Government Code §12950.2: o An employer may provide "bystander intervention training," including information & practical guidance on how to enable bystanders to recognize potentially problematic behaviors and motivate them to take action. ·

Adds Government Code §12964.5: o Prohibits employers from requiring employees to sign a release or non-disparagement agreement in exchange for a raise or bonus or as a condition of employment or continued employment.

Privileged Communications: Communications by Former Employer: Sexual Harassment

The State of California approved AB 2770, which amends Civil Code §47. This new law makes complaints and communications between employee and employer regarding sexual harassment, when made without malice, privileged communications and therefore not defamatory.

Employers: Sexual Harassment Training: Requirements

SB 1343 is about reducing sexual harassment in the work place. This bill amends Government Code §12950 as follows: By January 1, 2020: o Employers with 5 or more (used to be 50 or more) employees must provide at least 2 hours of classroom or other effective interactive training and education regarding sexual harassment and (new) at least 1 hour to all nonsupervisory employees.

Owner Addresses in Mixed Use w/Time Share Plan

The legislature approved another efficiency bill with SB1173. The Vacation Ownership and Time Share Plan Act of 2004 requires that time share plans seek to update their owner addresses twice a year.

This bill amends Civil Code §4041, to require a time-share plan to provide the membership list to the association at least annually.