

Homeowner Association Laws

California Law Revision Commission Makes Recommendations



BY JOEL M. KRIGER, ESQ.

The California Law Revision Commission is engaged in a general study of the law relating to common interest developments. The objective of the

study is to set a clear, consistent, and unified policy with regard to their formation and management. The study seeks to clarify the law, eliminate unnecessary or obsolete provisions, consolidate existing statutes and determine to what extent a common interest subdivision should be subject to regulation.

The study has been going on for several years. There have been extensive hearings and reports published regarding the state of community association law. The Commission's efforts are now starting to bear fruit and legislation has been proposed and submitted by them for adoption this year. Copies of the Law Revision Commission's reports and recommendations can be obtained on their website at www.clrc.ca.gov.

AB 512 has been submitted to the legislature and will be voted on this year. This Bill addresses several issues in the Davis-Stirling Common Interest Development Act. Its first objective is basically housekeeping. The Law Revision Commission found that the Davis-Stirling Act was poorly organized and difficult for both professionals and laypeople to use. This law will add descriptive chapter and article headings allowing the Act to be more user friendly. This portion of proposed legislation will not change any of the substantive provisions of the law.

The primary focus of the Bill is to add provisions concerning procedural fairness and decision making and rule making by associations. The Bill adds

requirements regarding the adoption of rules and regulations by the Board of Directors. The Board must provide the members with notice and an opportunity to comment before making a rule change. A rule change can be challenged via a special membership meeting requested by ten percent or more of the members. The benefit of the pro-

posed law is to provide more notice and involvement on the part of homeowners prior to the adoption of rules.

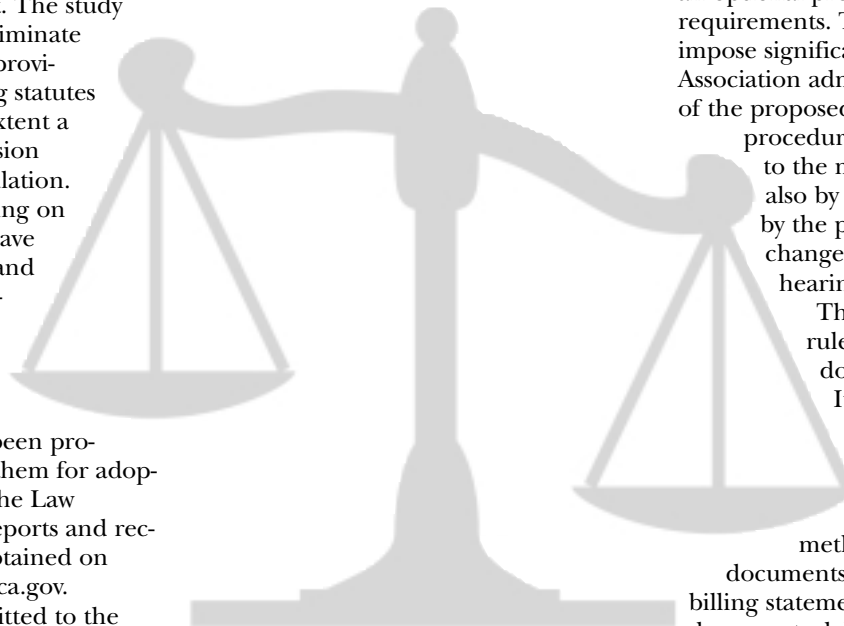
The legislation also addresses procedural fairness in approving or disapproving requests for architectural changes. Decisions in that regard must be made in good faith and in a fair and reasonable manner. This law provides an optional procedure to meet these requirements. These procedures will impose significant new burdens on Association administration. The benefit of the proposed law is to provide more procedural due process not only to the member applicant but also by other members affected by the proposed architectural changes. It provides for notice, hearing and appeal processes.

The Bill also proposes rules regarding delivery of documents to members.

It allows for personal delivery, first-class mail, and e-mail only when a member of the association has agreed to that method of delivery. Further, documents may be included in billing statements, newsletters or other documents delivered to the members.

Historically, legislation proposed by the Law Revision Commission is generally adopted by the legislature. The Commission is a non-partisan body which drafts legislation based upon years of study and comment from those in the industry.

In addition to AB 512, the Commission is also finalizing its recommendations with regard to non-judicial dispute resolution. The Commission hopes that improved dispute resolution mechanisms will help defuse many of the problems that arise between a homeowners association and its members or between the residents. ■



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