

Earthquake Insurance and Owners Parking in Garages

Court Denies Petition to Amend CC&Rs



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The Petition of Ventana Neighborhood Homeowners Association for approval of a CC&R amendment to mandate the purchase of earthquake insurance and require owners to park in their garages was denied. *Ventana Neighborhood Homeowners Association v. Becker.*, (2003) Cal. App. Unpub. Lexis 4457. Ventana petitioned the Superior Court because it was unable to obtain the 75 percent vote required to change the CC&Rs. Under California law a Court can approve a CC&R amendment if at least a majority of the members approve it and the amendment is reasonable. Although the Association was able to meet the first requirement, it failed, in the Court's opinion, to meet the second as to both amendments.

Earthquake Insurance

The Board petitioned the trial court for approval of an amendment requiring that the project obtain a master

earthquake insurance policy. In the event of an earthquake, it wanted discretion to negotiate an insurance settlement, manage the insurance proceeds, hire contractors, and monitor construction. The policy would cover the exteriors and structure of the homes but not the interior and initially would increase assessments by \$17.00 per month. Seven owners opposed the petition on the basis that the Board was, in effect, forcing them to insure their own property and the property of others and also that there would be no limit on the increased cost of coverage. The Court, in determining that this amendment was unreasonable, felt that the Association failed to answer many important questions. There was no evidence concerning the cost or the coverage of a master earthquake policy. The Court was also concerned that there was no ceiling placed on the amount of the assessment to fund the policy. Since no evidence of the extent of coverage or the deductible was presented, the Court questioned whether a master

insurance policy would benefit the owners in the event of an earthquake.

Garage Parking Amendment

This amendment would have required owners who own two vehicles to park one in their garage. Owners with three or more vehicles would be required to park two in the garage. The amendment did not indicate whether owners could park extra vehicles in their driveways. This amendment was also opposed by several members of the Association. In finding the amendment unreasonable, the Court noted that there was no evidence of serious parking problems. There was no showing of inadequate parking, that cars were towed, or that vehicles blocked owners from reaching their homes or prevented access by emergency vehicles.

Based on these considerations, the Court found that the amendments were not reasonable and denied the Association's Petition to amend its documents. ■

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