

AMENDED IN ASSEMBLY APRIL 30, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 512

Introduced by Assembly Member Bates
(Coauthors: Assembly Members Maze and Pacheco)

February 18, 2003

An act to amend Sections 1363 and 1368 of, to add Sections 1350.5 and 1350.7 to, to add Article 4 (commencing with Section 1357.100) and Article 2 (commencing with 1378.010) to, and to add chapter and article headings to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of, the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 512, as amended, Bates. Common interest developments.

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments. The act requires that a common interest development have a recorded declaration, as specified, and permits the declaration to be amended according to the act's provisions or those of the governing documents, as defined. The act requires that a common interest development be managed by an association, and that a member of the association may attend meetings of the board of directors of the association, except when they meet in executive session to consider specified matters.

This bill would revise the Davis-Stirling Common Interest Development Act to add chapter and article headings to its provisions. The bill would specify that these headings do not change the scope, meaning, or intent of the bill.

This bill would also add provisions concerning procedural fairness in decisionmaking and rulemaking by associations. The bill would add requirements regarding operating rules relating to the use of the common area, the use of a separate interest, member discipline, and assessment collection, as specified. Among other things, the bill would establish criteria for valid operating rules, require that members have notice and an opportunity to comment, provide an optional rulemaking procedure and an optional emergency rulemaking procedure, and establish a procedure for reversing a rule. The bill would also require that a decision on a proposed alteration of a separate interest, exclusive use common area, or a common area, by an owner of a separate interest, be made in good faith and in a fair and reasonable manner, and would establish an optional decisionmaking procedure for these alterations that would satisfy this requirement. The bill would further provide general document delivery rules, to be applicable when specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. A chapter heading is added to Title 6
2 (commencing with Section 1350) of Part 4 of Division 2 of the
3 Civil Code, immediately preceding Section 1350, to read:

4
5 CHAPTER 1. GENERAL PROVISIONS
6

7 SEC. 2. An article heading is added to Title 6 (commencing
8 with Section 1350) of Part 4 of Division 2 of the Civil Code,
9 immediately preceding Section 1350, to read:

10
11 Article 1. Preliminary Provisions
12

13 SEC. 3. Section 1350.5 is added to the Civil Code, to read:

14 1350.5. Division, part, title, chapter, and section headings do
15 not in any manner affect the scope, meaning, or intent of this title.

16 SEC. 4. Section 1350.7 is added to the Civil Code, to read:

17 1350.7. (a) This section applies to delivery of a document to
18 the extent the section is made applicable by another provision of
19 this title.



(b) A document shall be delivered by one of the following methods:

(1) Personal delivery.

(2) First class mail, postage prepaid, addressed to a member at the address last shown on the books of the association or otherwise provided by the member. Delivery is deemed to be complete on the fifth day after deposit into the United States Mail.

(3) E-mail, facsimile, or other electronic means, if the sender and recipient have agreed to that method of delivery. A provision of the governing documents providing for electronic delivery does not constitute agreement by a member of an association to that form of delivery. If a document is delivered by electronic means, delivery is complete at the time of transmission.

(c) A document may be included in or delivered with a billing statement, newsletter, or other document that is delivered by one of the methods provided in subdivision (b).

SEC. 5. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1351, to read:

Article 2. Definitions

SEC. 6. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1352, to read:

CHAPTER 2. GOVERNING DOCUMENTS

SEC. 7. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1352, to read:

Article 1. Creation

SEC. 8. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1354, to read:

Article 2. Enforcement

SEC. 9. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1355, to read:

Article 3. Amendment

SEC. 10. Article 4 (commencing with Section 1357.100) is added to Title 6 of Part 4 of Division 2 of the Civil Code, immediately following Section 1357, to read:

Article 4. Operating Rules

1357.100. As used in this article, “rule change” means the adoption, amendment, or repeal of an operating rule by the board of directors of the association.

1357.110. This article applies to an operating rule relating to any of the following subjects:

(a) Use of the common area or of an exclusive use common area.

(b) Use of a separate interest, including any aesthetic or architectural standards that govern alteration of a separate interest.

(c) Member discipline, including any schedule of monetary penalties for violation of the governing documents and any procedure for the imposition of penalties.

(d) Assessment collection procedures.

1357.120. This article does not apply to the following actions by the board of directors of an association:

(a) A decision in a specific case that is not intended to apply generally.

(b) A decision setting the amount of a regular or special assessment.

(c) A rule change that is required by law, if the board of directors has no discretion as to the substantive effect of the rule change.

(d) Issuance of a document that merely repeats existing law or the governing documents.

1357.130. An operating rule is valid and enforceable only if all of the following requirements are satisfied:

1 (a) The rule is in writing.

2 (b) The rule is within the authority of the board of directors of
3 the association conferred by law or by the declaration, articles of
4 incorporation or association, or bylaws of the association.

5 (c) The rule is consistent with governing law and the
6 declaration, articles of incorporation or association, and bylaws of
7 the association.

8 (d) The rule is adopted, amended, or repealed in good faith and
9 in substantial compliance with the requirements of this article.

10 1357.140. The board of directors of an association shall
11 provide members with notice and an opportunity to comment
12 before making a rule change.

13 1357.150. (a) Use of the procedure described in ~~subdivision~~
14 ~~(b)~~ *this section* satisfies the requirements of Section 1357.140. An
15 association is not required to use this procedure.

16 (b) The board of directors of the association shall deliver notice
17 of a proposed rule change to every association member. The notice
18 shall include all of the following information:

19 (1) The text of the proposed rule change.

20 (2) A description of the purpose and effect of the proposed rule
21 change.

22 (3) The deadline for submission of a comment on the proposed
23 rule change.

24 (c) For a period of not less than ~~15~~ 30 days following delivery
25 of a notice of a proposed rule change, the board of directors shall
26 accept written comments from association members on the
27 proposed rule change.

28 (d) The board of directors shall consider any comments it
29 receives and shall make a decision on a proposed rule change at a
30 board meeting. A decision shall not be made until after the
31 comment submission deadline.

32 (e) The board of directors shall deliver notice of a rule change
33 to every association member. The notice shall set out the text of the
34 rule change and state the date the rule change takes effect. The date
35 the rule change takes effect shall be not less than 15 days after
36 notice of the rule change is delivered.

37 (f) A document that is required to be delivered pursuant to this
38 section is subject to Section 1350.7.

1 1357.160. (a) Use of the procedure described in ~~subdivision~~
2 ~~(b)~~ *this section* satisfies the requirements of Section 1357.140. An
3 association is not required to use this procedure.

4 (b) If the board of directors of an association determines that an
5 immediate rule change is necessary to address an imminent threat
6 to public health or safety, or an imminent risk of substantial
7 economic loss to the association, it may make the rule change
8 immediately.

9 (c) As soon as possible after making a rule change under this
10 section, but not more than 15 days after making the rule change,
11 the board of directors shall deliver notice of the rule change to
12 every association member. The notice shall include the text of the
13 rule change and an explanation of why an immediate rule change
14 is required to address an imminent threat to public health or safety,
15 or an imminent risk of substantial economic loss to the association.

16 (d) A rule change made under this section is effective for 120
17 days, unless the rule change provides for a shorter effective period.

18 (e) A rule change made under this section may not be readopted
19 under this section.

20 (f) A document that is required to be delivered pursuant to this
21 section is subject to Section 1350.7.

22 1357.170. (a) Members of an association owning ~~10~~ 5
23 percent or more of the separate interests may call a special meeting
24 to reverse a rule change.

25 (b) A special meeting may be called by delivering a written
26 request on the chair or secretary of the board of directors. The
27 written request may not be delivered more than 30 days after the
28 members of the association are notified of the rule change.
29 Members are deemed to have been notified of a rule change on
30 delivery of notice of the rule change, or on enforcement of the
31 resulting rule, whichever is sooner. *For the purposes of Section*
32 *8330 of the Corporations Code, collection of signatures to call a*
33 *special meeting under this section is a purpose reasonably related*
34 *to the interests of the members of the association. A member*
35 *request to copy or inspect the membership list for that purpose may*
36 *not be denied.*

37 (c) The rule change may be reversed by the affirmative vote of
38 a majority of the votes represented and voting at a duly held
39 meeting at which a quorum is present (which affirmative votes also
40 constitute a majority of the required quorum) or by written ballot

1 in conformity with Section 7513 of the Corporations Code, or if
2 the declaration or bylaws require a greater proportion, by the
3 affirmative vote or written ballot of the proportion required.

4 (d) Unless otherwise provided in the declaration or bylaws, for
5 the purposes of this section, a member may cast one vote per
6 separate interest owned.

7 (e) A meeting called under this section is governed by Chapter
8 5 (commencing with Section 7510) of Part 3 of Division 2 of Title
9 1 of, and Sections 7612 and 7613 of, the Corporations Code.

10 (f) A rule change reversed under this section may not be
11 readopted for one year after the date of the meeting reversing the
12 rule change.

13 1357.180. (a) This article applies to a rule change made on or
14 after January 1, 2004.

15 (b) Nothing in this article affects the validity of a rule change
16 made before January 1, 2004.

17 SEC. 11. A chapter heading is added to Title 6 (commencing
18 with Section 1350) of Part 4 of Division 2 of the Civil Code,
19 immediately preceding Section 1358, to read:

20
21 CHAPTER 3. OWNERSHIP RIGHTS AND INTERESTS
22

23 SEC. 12. A chapter heading is added to Title 6 (commencing
24 with Section 1350) of Part 4 of Division 2 of the Civil Code,
25 immediately preceding Section 1363, to read:

26
27 CHAPTER 4. GOVERNANCE
28

29 SEC. 13. An article heading is added to Title 6 (commencing
30 with Section 1350) of Part 4 of Division 2 of the Civil Code,
31 immediately preceding Section 1363, to read:

32
33 Article 1. Association
34

35 SEC. 14. Section 1363 of the Civil Code is amended to read:

36 1363. (a) A common interest development shall be managed
37 by an association which may be incorporated or unincorporated.
38 The association may be referred to as a community association.

1 (b) An association, whether incorporated or unincorporated,
2 shall prepare a budget pursuant to Section 1365 and disclose
3 information, if requested, in accordance with Section 1368.

4 (c) Unless the governing documents provide otherwise, and
5 regardless of whether the association is incorporated or
6 unincorporated, the association may exercise the powers granted
7 to a nonprofit mutual benefit corporation, as enumerated in
8 Section 7140 of the Corporations Code, except that an
9 unincorporated association may not adopt or use a corporate seal
10 or issue membership certificates in accordance with Section 7313
11 of the Corporations Code.

12 The association, whether incorporated or unincorporated, may
13 exercise the powers granted to an association by Section 383 of the
14 Code of Civil Procedure and the powers granted to the association
15 in this title.

16 (d) Meetings of the membership of the association shall be
17 conducted in accordance with a recognized system of
18 parliamentary procedure or any parliamentary procedures the
19 association may adopt.

20 (e) Notwithstanding any other provision of law, notice of
21 meetings of the members shall specify those matters the board
22 intends to present for action by the members, but, except as
23 otherwise provided by law, any proper matter may be presented at
24 the meeting for action.

25 (f) Members of the association shall have access to association
26 records and operating rules in accordance with Article 3
27 (commencing with Section 8330) of Chapter 13 of Part 3 of
28 Division 2 of Title 1 of the Corporations Code.

29 (g) If an association adopts or has adopted a policy imposing
30 any monetary penalty, including any fee, on any association
31 member for a violation of the governing documents or rules of the
32 association, including any monetary penalty relating to the
33 activities of a guest or invitee of a member, the board of directors
34 shall adopt and distribute to each member, by personal delivery or
35 first-class mail, a schedule of the monetary penalties that may be
36 assessed for those violations, which shall be in accordance with
37 authorization for member discipline contained in the governing
38 documents. The board of directors shall not be required to
39 distribute any additional schedules of monetary penalties unless

1 there are changes from the schedule that was adopted and
2 distributed to the members pursuant to this subdivision.

3 (h) When the board of directors is to meet to consider or impose
4 discipline upon a member, the board shall notify the member in
5 writing, by either personal delivery or first-class mail, at least 10
6 days prior to the meeting. The notification shall contain, at a
7 minimum, the date, time, and place of the meeting, the nature of
8 the alleged violation for which a member may be disciplined, and
9 a statement that the member has a right to attend and may address
10 the board at the meeting. The board of directors of the association
11 shall meet in executive session if requested by the member being
12 disciplined.

13 If the board imposes discipline on a member, the board shall
14 provide the member a written notification of the disciplinary
15 action, by either personal delivery or first-class mail, within 15
16 days following the action. A disciplinary action shall not be
17 effective against a member unless the board fulfills the
18 requirements of this subdivision.

19 (i) Whenever two or more associations have consolidated any
20 of their functions under a joint neighborhood association or similar
21 organization, members of each participating association shall be
22 entitled to attend all meetings of the joint association other than
23 executive sessions, (1) shall be given reasonable opportunity for
24 participation in those meetings and (2) shall be entitled to the same
25 access to the joint association's records as they are to the
26 participating association's records.

27 (j) Nothing in this section shall be construed to create, expand,
28 or reduce the authority of the board of directors of an association
29 to impose monetary penalties on an association member for a
30 violation of the governing documents or rules of the association.

31 SEC. 15. An article heading is added to Title 6 (commencing
32 with Section 1350) of Part 4 of Division 2 of the Civil Code,
33 immediately preceding Section 1363.05, to read:

34
35 Article 2. Common Interest Development Open Meeting Act
36

37 SEC. 16. An article heading is added to Title 6 (commencing
38 with Section 1350) of Part 4 of Division 2 of the Civil Code,
39 immediately preceding Section 1363.1, to read:
40

Article 3. Managing Agents

SEC. 17. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1363.5, to read:

Article 4. Public Information

SEC. 18. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1364, to read:

CHAPTER 5. OPERATIONS

SEC. 19. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1364, to read:

Article 1. Common Areas

SEC. 20. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1365, to read:

Article 2. Fiscal Matters

SEC. 21. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1365.7, to read:

Article 3. Insurance

SEC. 22. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1366, to read:

Article 4. Assessments

SEC. 23. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1368, to read:

CHAPTER 6. TRANSFER OF OWNERSHIP INTERESTS

SEC. 24. Section 1368 of the Civil Code is amended to read:

1368. (a) The owner of a separate interest, other than an owner subject to the requirements of Section 11018.6 of the Business and Professions Code, shall, as soon as practicable before transfer of title to the separate interest or execution of a real property sales contract therefor, as defined in Section 2985, provide the following to the prospective purchaser:

(1) A copy of the governing documents of the common interest development, including any operating rules, and including a copy of the association's articles of incorporation, or, if not incorporated, a statement in writing from an authorized representative of the association that the association is not incorporated.

(2) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.

(3) A copy of the most recent documents distributed pursuant to Section 1365.

(4) A true statement in writing obtained from an authorized representative of the association as to the amount of the association's current regular and special assessments and fees, any assessments levied upon the owner's interest in the common interest development that are unpaid on the date of the statement, and any monetary fines or penalties levied upon the owner's interest and unpaid on the date of the statement. The statement obtained from an authorized representative shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the

1 owner's interest in a common interest development pursuant to
2 Section 1367 or 1367.1.

3 (5) A copy or a summary of any notice previously sent to the
4 owner pursuant to subdivision (h) of Section 1363 that sets forth
5 any alleged violation of the governing documents that remains
6 unresolved at the time of the request. The notice shall not be
7 deemed a waiver of the association's right to enforce the governing
8 documents against the owner or the prospective purchaser of the
9 separate interest with respect to any violation. This paragraph shall
10 not be construed to require an association to inspect an owner's
11 separate interest.

12 (6) A copy of the preliminary list of defects provided to each
13 member of the association pursuant to Section 1375, unless the
14 association and the builder subsequently enter into a settlement
15 agreement or otherwise resolve the matter and the association
16 complies with Section 1375.1. Disclosure of the preliminary list
17 of defects pursuant to this paragraph shall not waive any privilege
18 attached to the document. The preliminary list of defects shall also
19 include a statement that a final determination as to whether the list
20 of defects is accurate and complete has not been made.

21 (7) A copy of the latest information provided for in Section
22 1375.1.

23 (8) Any change in the association's current regular and special
24 assessments and fees which have been approved by the
25 association's board of directors, but have not become due and
26 payable as of the date disclosure is provided pursuant to this
27 subdivision.

28 (b) Upon written request, an association shall, within 10 days
29 of the mailing or delivery of the request, provide the owner of a
30 separate interest with a copy of the requested items specified in
31 paragraphs (1) to (8), inclusive, of subdivision (a). The association
32 may charge a fee for this service, which shall not exceed the
33 association's reasonable cost to prepare and reproduce the
34 requested items.

35 (c) An association shall not impose or collect any assessment,
36 penalty, or fee in connection with a transfer of title or any other
37 interest except the association's actual costs to change its records
38 and that authorized by subdivision (b).

39 (d) Any person or entity who willfully violates this section
40 shall be liable to the purchaser of a separate interest which is

1 subject to this section for actual damages occasioned thereby and,
2 in addition, shall pay a civil penalty in an amount not to exceed five
3 hundred dollars (\$500). In an action to enforce this liability, the
4 prevailing party shall be awarded reasonable attorneys' fees.

5 (e) Nothing in this section affects the validity of title to real
6 property transferred in violation of this section.

7 (f) In addition to the requirements of this section, an owner
8 transferring title to a separate interest shall comply with applicable
9 requirements of Sections 1133 and 1134.

10 SEC. 25. A chapter heading is added to Title 6 (commencing
11 with Section 1350) of Part 4 of Division 2 of the Civil Code,
12 immediately preceding Section 1368.4, to read:

13
14 CHAPTER 7. CIVIL ACTIONS AND LIENS
15

16 SEC. 26. A chapter heading is added to Title 6 (commencing
17 with Section 1350) of Part 4 of Division 2 of the Civil Code,
18 immediately preceding Section 1370, to read:

19
20 CHAPTER 8. CONSTRUCTION OF INSTRUMENTS AND ZONING
21

22 SEC. 27. A chapter heading is added to Title 6 (commencing
23 with Section 1350) of Part 4 of Division 2 of the Civil Code,
24 immediately preceding Section 1375, to read:

25
26 CHAPTER 9. CONSTRUCTION DEFECT LITIGATION
27

28 SEC. 28. A chapter heading is added to Title 6 (commencing
29 with Section 1350) of Part 4 of Division 2 of the Civil Code,
30 immediately preceding Section 1376, to read:

31
32 CHAPTER 10. IMPROVEMENTS
33

34 SEC. 29. An article heading is added immediately preceding
35 Section 1376 of the Civil Code, to read:

36
37 Article 1. Video or Television Antenna
38

39 SEC. 30. Article 2 (commencing with Section 1378.010) is
40 added to Title 6 of Part 4 of Division 2 of the Civil Code, to read:

1 Article 2. Review of Proposed Alteration of Separate Interest

2
3 1378.010. If an association's governing documents require
4 that an owner of a separate interest obtain association approval
5 before altering a separate interest, exclusive use common area, or
6 part of the common area, this article governs the association's
7 decisionmaking process.

8 1378.020. (a) A decision to approve or disapprove a
9 proposed alteration of a member's separate interest, an exclusive
10 use common area, or part of the common area, shall be made in
11 good faith and in a fair and reasonable manner.

12 (b) The procedure provided in Article 3 (commencing with
13 Section 1378.050) is fair and reasonable. Other procedures may
14 also be fair and reasonable under the circumstances.

15 1378.030. A writ proceeding for review of a decision to
16 approve or disapprove a proposed alteration of a member's
17 separate interest, an exclusive use common area, or part of the
18 common area, is subject to Section 1354.

19 SEC. 31. Article 3 (commencing with Section 1378.050) is
20 added to Title 6 of Part 4 of Division 2 of the Civil Code, to read:

21
22 Article 3. Optional Procedure

23
24 1378.050. This article provides a fair and reasonable
25 procedure that an association may use in reviewing a member's
26 proposed alteration of a separate interest, an exclusive use
27 common area, or part of the common area. Use of the procedure
28 is not mandatory.

29 1378.060. (a) The definitions in this section govern the
30 construction of this article.

31 (b) "Participating member" means an association member
32 who, before the reviewing body makes its decision on the proposed
33 alteration, submits to the reviewing body a comment opposed to
34 a proposed alteration of a separate interest, exclusive use common
35 area, or part of the common area.

36 (c) "Reviewing body" means the person or group authorized
37 by an association's governing documents to approve or disapprove
38 the alteration of a separate interest, exclusive use common area, or
39 part of the common area.

1 1378.070. (a) An association member who proposes to alter
2 a separate interest shall submit a written application to the
3 reviewing body. The application shall be in the form specified by
4 the association. An incomplete application may be returned to the
5 applicant with an explanation of why the application is
6 incomplete. No further action is required on an application that is
7 returned as incomplete.

8 (b) Within 30 days after receipt of the application, the
9 reviewing body shall deliver notice of the application to the
10 following persons:

11 (1) If the proposed alteration would affect the common area, to
12 all members.

13 (2) If the association delivers a newsletter, billing statement, or
14 other document to all members at least once a month, to all
15 members.

16 (3) If the proposed alteration would not affect the common area
17 and the association does not deliver a newsletter, billing statement,
18 or other document to all members at least once a month, to
19 members owning separate interests within 500 feet of, or located
20 within the same building as, the separate interest that is the subject
21 of the proposed alteration.

22 (c) The notice shall include the address or location of the
23 separate interest, exclusive use common area, or part of the
24 common area, that is the subject of the application, a description
25 of the proposed alteration adequate to inform other members of its
26 nature, and the date after which the reviewing body may make its
27 decision.

28 (d) Not less than 20 days nor more than 45 days after delivery
29 of the notice of the application, the reviewing body shall deliver
30 a written decision to the applicant and to any participating
31 member. If the reviewing body does not deliver a written decision
32 to the applicant within 45 days after delivery of the notice of
33 application, the application is deemed disapproved on the 45th
34 day.

35 (e) A written decision approving a proposed alteration of a
36 separate interest, exclusive use common area, or part of the
37 common area, shall state whether the reviewing body received any
38 comments opposing the alteration.

39 1378.080. (a) Except as provided in subdivision (b), an
40 applicant may not commence work on an approved alteration of

1 a separate interest, exclusive use common area, or part of the
2 common area, until either the period for appeal passes without an
3 appeal being filed or the approval is upheld on appeal.

4 (b) If a written decision approving alteration of a separate
5 interest, exclusive use common area, or part of the common area,
6 states that no member comments opposing the alteration were
7 received by the reviewing body before it made its decision, the
8 applicant may commence work on the approved alteration
9 immediately.

10 1378.090. (a) An applicant or participating member may
11 appeal the approval or disapproval of a proposed alteration of a
12 separate interest, exclusive use common area, or part of the
13 common area, to the board of directors of the association. The
14 appeal shall be in writing and shall be delivered to the board of
15 directors within 30 days after the reviewing body's decision is
16 delivered or the proposed alteration is deemed disapproved.

17 (b) Within 30 days after receipt of a timely request for appeal,
18 the board of directors shall deliver notice of the appeal to the
19 following persons:

20 (1) If the proposed alteration would affect the common area, to
21 all members.

22 (2) If the association delivers a newsletter, billing statement, or
23 other document to all members at least once a month, to all
24 members.

25 (3) If the proposed alteration would not affect the common area
26 and the association does not deliver a newsletter, billing statement,
27 or other document to all members at least once a month, to
28 members owning separate interests within 500 feet of, or located
29 within the same building as, the separate interest that is the subject
30 of the proposed alteration.

31 (c) The notice of appeal shall state the time and place where the
32 appeal will be heard.

33 (d) Within 45 days after notice of the appeal is delivered, the
34 board of directors shall meet and review de novo the proposed
35 alteration that is the subject of the appeal. Any association member
36 may testify at the appeal and may submit written materials in
37 support of or in opposition to the proposed alteration.

38 (e) Within 15 days after hearing the appeal, the board of
39 directors shall deliver its decision to the applicant and, if the appeal
40 is by a person other than the applicant, to that person. The decision

1 shall be in writing and shall include a statement explaining the
2 basis for the decision, including reference to facts, standards, or
3 provisions of the governing documents that support the decision.

4 1378.100. (a) A decision of the reviewing body made under
5 Section 1378.070 is not subject to judicial review.

6 (b) Any member may seek judicial review of a decision of the
7 board of directors of the association made under Section 1378.090.
8 Judicial review may be by writ of administrative mandamus,
9 pursuant to Section 1094.5 of the Code of Civil Procedure.

10 1378.110. In making a decision to approve or disapprove a
11 proposed alteration of a member's separate interest, an exclusive
12 use common area, or part of the common area, the reviewing body
13 or board of directors may consider any relevant information. The
14 reviewing body or board of directors is not required to consider
15 information other than that provided to the reviewing body or
16 board of directors.

17 1378.120. A document that is required to be delivered
18 pursuant to this article is subject to Section 1350.7.

