

AMENDED IN SENATE JUNE 23, 2003

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~~, 1368, and 1373 of, to add Sections 1350.5 and 1350.7 to, to add Article 4 (commencing with Section 1357.100) and Article 2 (commencing with Section 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. *The act excepts certain common interest developments expressly zoned as industrial or*

commercial developments, as specified, from certain of its requirements.

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 revise the provisions regarding common interest development that are zoned as industrial or commercial developments, as described above, and would except certain of its provisions from application to these developments.*

The bill, *with specified exceptions*, 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



Article 1. Preliminary Provisions

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

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

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

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

(b) A document shall be delivered by one *or more* 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~~ *recipient has* 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.

(4) *By publication in a periodical that is circulated primarily to members of the association.*

(5) *If the association broadcasts television programming for the purpose of distributing information on association business to its members, by inclusion in the programming.*

(6) *A method of delivery provided in a recorded provision of the governing documents.*

(7) *Any other method of delivery, provided that the recipient has agreed to that method of delivery.*

(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).

(d) *For the purposes of this section, an unrecorded provision of the governing documents providing for a particular method of delivery does not constitute agreement by a member of the association to that method of delivery.*

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

4
5 Article 2. Definitions
6

7 SEC. 6. A chapter 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 1352, to read:

10
11 CHAPTER 2. GOVERNING DOCUMENTS
12

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

16
17 Article 1. Creation
18

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

22
23 Article 2. Enforcement
24

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

28
29 Article 3. Amendment
30

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

34
35 Article 4. Operating Rules
36

37 1357.100. As used in this article, “rule change” means the
38 adoption, amendment, or repeal of an operating rule by the board
39 of directors of the association.



1 1357.110. This article *only* applies to an operating rule
2 relating to ~~any~~ *one or more* of the following subjects:

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

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

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

10 (d) Assessment collection procedures.

11 1357.120. This article does not apply to the following actions
12 by the board of directors of an association:

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

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

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

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

22 (e) *A decision regarding maintenance of the common area.*

23 1357.130. An operating rule is valid and enforceable only if
24 all of the following requirements are satisfied:

25 (a) The rule is in writing.

26 (b) The rule is within the authority of the board of directors of
27 the association conferred by law or by the declaration, articles of
28 incorporation or association, or bylaws of the association.

29 (c) The rule is ~~consistent~~ *not inconsistent* with governing law
30 and the declaration, articles of incorporation or association, and
31 bylaws of the association.

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

34 (e) *The rule is reasonable.*

35 1357.140. The board of directors of an association shall
36 provide members with notice and an opportunity to comment
37 before making a rule change.

38 1357.150. (a) Use of the procedure described in this section
39 satisfies the requirements of Section 1357.140. An association is
40 not required to use this procedure.

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

(1) The text of the proposed rule change.

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

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

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

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

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

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

1357.160. (a) Use of the procedure described in this section satisfies the requirements of Section 1357.140. An association is not required to use this procedure.

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

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

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

1 (e) A rule change made under this section may not be readopted
2 under this section.

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

5 1357.170. (a) Members of an association owning 5 percent or
6 more of the separate interests may call a special meeting to reverse
7 a rule change.

8 (b) A special meeting may be called by delivering a written
9 request ~~on~~ to the chair or secretary of the board of directors. The
10 written request may not be delivered more than 30 days after the
11 members of the association are notified of the rule change.
12 Members are deemed to have been notified of a rule change on
13 delivery of notice of the rule change, or on enforcement of the
14 resulting rule, whichever is sooner. For the purposes of Section
15 8330 of the Corporations Code, collection of signatures to call a
16 special meeting under this section is a purpose reasonably related
17 to the interests of the members of the association. A member
18 request to copy or inspect the membership list *solely* for that
19 purpose may not be denied *on the grounds that the purpose is not*
20 *reasonably related to the member's interests as a member.*

21 (c) The rule change may be reversed by the affirmative vote of
22 a majority of the votes represented and voting at a duly held
23 meeting at which a quorum is present (which affirmative votes also
24 constitute a majority of the required quorum) or by written ballot
25 in conformity with Section 7513 of the Corporations Code, or if
26 the declaration or bylaws require a greater proportion, by the
27 affirmative vote or written ballot of the proportion required.

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

31 (e) A meeting called under this section is governed by Chapter
32 5 (commencing with Section 7510) of Part 3 of Division 2 of Title
33 1 of, and Sections 7612 and 7613 of, the Corporations Code.

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

37 (g) *The board of directors shall provide notice of the results of*
38 *a member vote held pursuant to this section to every association*
39 *member. Delivery of notice under this subdivision is subject to*
40 *Section 1350.7.*

1 *(h) This section does not apply to an emergency rule change*
2 *made under Section 1357.160.*

3 1357.180. (a) This article applies to a rule change—made
4 commenced on or after January 1, 2004.

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

7 *(c) For the purposes of this section, a rule change is*
8 *commenced when the board of directors of the association takes its*
9 *first official action leading to adoption of the rule change.*

10 SEC. 11. 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 1358, to read:

13
14 CHAPTER 3. OWNERSHIP RIGHTS AND INTERESTS

15
16 SEC. 12. 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 1363, to read:

19
20 CHAPTER 4. GOVERNANCE

21
22 SEC. 13. An article 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 1363, to read:

25
26 Article 1. Association

27
28 SEC. 14. Section 1363 of the Civil Code is amended to read:

29 1363. (a) A common interest development shall be managed
30 by an association which may be incorporated or unincorporated.
31 The association may be referred to as a community association.

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

35 (c) Unless the governing documents provide otherwise, and
36 regardless of whether the association is incorporated or
37 unincorporated, the association may exercise the powers granted
38 to a nonprofit mutual benefit corporation, as enumerated in
39 Section 7140 of the Corporations Code, except that an
40 unincorporated association may not adopt or use a corporate seal

1 or issue membership certificates in accordance with Section 7313
2 of the Corporations Code.

3 The association, whether incorporated or unincorporated, may
4 exercise the powers granted to an association by Section 383 of the
5 Code of Civil Procedure and the powers granted to the association
6 in this title.

7 (d) Meetings of the membership of the association shall be
8 conducted in accordance with a recognized system of
9 parliamentary procedure or any parliamentary procedures the
10 association may adopt.

11 (e) Notwithstanding any other provision of law, notice of
12 meetings of the members shall specify those matters the board
13 intends to present for action by the members, but, except as
14 otherwise provided by law, any proper matter may be presented at
15 the meeting for action.

16 (f) Members of the association shall have access to association
17 records ~~and operating rules~~, *including accounting books and*
18 *records and membership lists*, in accordance with Article 3
19 (commencing with Section 8330) of Chapter 13 of Part 3 of
20 Division 2 of Title 1 of the Corporations Code. *The members of the*
21 *association shall have the same access to the operating rules of the*
22 *association as they have to the accounting books and records of the*
23 *association.*

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

37 (h) When the board of directors is to meet to consider or impose
38 discipline upon a member, the board shall notify the member in
39 writing, by either personal delivery or first-class mail, at least 10
40 days prior to the meeting. The notification shall contain, at a

1 minimum, the date, time, and place of the meeting, the nature of
2 the alleged violation for which a member may be disciplined, and
3 a statement that the member has a right to attend and may address
4 the board at the meeting. The board of directors of the association
5 shall meet in executive session if requested by the member being
6 disciplined.

7 If the board imposes discipline on a member, the board shall
8 provide the member a written notification of the disciplinary
9 action, by either personal delivery or first-class mail, within 15
10 days following the action. A disciplinary action shall not be
11 effective against a member unless the board fulfills the
12 requirements of this subdivision.

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

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

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

28
29 Article 2. Common Interest Development Open Meeting Act
30

31 SEC. 16. 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 1363.1, to read:

34
35 Article 3. Managing Agents
36

37 SEC. 17. 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 1363.5, to read:
40



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:

1 1368. (a) The owner of a separate interest, other than an
2 owner subject to the requirements of Section 11018.6 of the
3 Business and Professions Code, shall, as soon as practicable before
4 transfer of title to the separate interest or execution of a real
5 property sales contract therefor, as defined in Section 2985,
6 provide the following to the prospective purchaser:

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

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

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

21 (4) A true statement in writing obtained from an authorized
22 representative of the association as to the amount of the
23 association's current regular and special assessments and fees, any
24 assessments levied upon the owner's interest in the common
25 interest development that are unpaid on the date of the statement,
26 and any monetary fines or penalties levied upon the owner's
27 interest and unpaid on the date of the statement. The statement
28 obtained from an authorized representative shall also include true
29 information on late charges, interest, and costs of collection which,
30 as of the date of the statement, are or may be made a lien upon the
31 owner's interest in a common interest development pursuant to
32 Section 1367 or 1367.1.

33 (5) A copy or a summary of any notice previously sent to the
34 owner pursuant to subdivision (h) of Section 1363 that sets forth
35 any alleged violation of the governing documents that remains
36 unresolved at the time of the request. The notice shall not be
37 deemed a waiver of the association's right to enforce the governing
38 documents against the owner or the prospective purchaser of the
39 separate interest with respect to any violation. This paragraph shall



1 not be construed to require an association to inspect an owner's
2 separate interest.

3 (6) A copy of the preliminary list of defects provided to each
4 member of the association pursuant to Section 1375, unless the
5 association and the builder subsequently enter into a settlement
6 agreement or otherwise resolve the matter and the association
7 complies with Section 1375.1. Disclosure of the preliminary list
8 of defects pursuant to this paragraph shall not waive any privilege
9 attached to the document. The preliminary list of defects shall also
10 include a statement that a final determination as to whether the list
11 of defects is accurate and complete has not been made.

12 (7) A copy of the latest information provided for in Section
13 1375.1.

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

19 (b) Upon written request, an association shall, within 10 days
20 of the mailing or delivery of the request, provide the owner of a
21 separate interest with a copy of the requested items specified in
22 paragraphs (1) to (8), inclusive, of subdivision (a). The association
23 may charge a fee for this service, which shall not exceed the
24 association's reasonable cost to prepare and reproduce the
25 requested items.

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

30 (d) Any person or entity who willfully violates this section
31 shall be liable to the purchaser of a separate interest which is
32 subject to this section for actual damages occasioned thereby and,
33 in addition, shall pay a civil penalty in an amount not to exceed five
34 hundred dollars (\$500). In an action to enforce this liability, the
35 prevailing party shall be awarded reasonable attorneys' fees.

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

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

SEC. 25. 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 1368.4, to read:

CHAPTER 7. CIVIL ACTIONS AND LIENS

SEC. 26. 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 1370, to read:

CHAPTER 8. CONSTRUCTION OF INSTRUMENTS AND ZONING

SEC. 27. 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 1375, to read:

CHAPTER 9. CONSTRUCTION DEFECT LITIGATION

SEC. 28. 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 1376, to read:

CHAPTER 10. IMPROVEMENTS

SEC. 29. *Section 1373 of the Civil Code is amended to read:*
~~1373. Sections 1356, 1365, 1365.5, 1366.1, and 1368, and subdivision (b) of Section 1363, and subdivision (b) of Section 1366 are not applicable to common interest developments that are expressly zoned as industrial developments and limited in use to industrial purposes or expressly zoned as commercial developments and limited in use to commercial purposes.~~

(a) The following provisions do not apply to a common interest development that is limited to industrial or commercial uses by zoning or by its declaration:

(1) Section 1356.

(2) Article 4 (commencing with Section 1357.100) of Chapter 2 of Title 6 of Part 4 of Division 2 of the Civil Code.

(3) Subdivision (b) of Section 1363.

(4) Section 1365.

(5) Section 1365.5.

SEC. 30. An article heading is added immediately preceding Section 1376 of the Civil Code, to read:

1378.020. (a) A decision to approve or disapprove a proposed alteration of a member's separate interest, an exclusive

1 use common area, or part of the common area, shall be made in
2 good faith and in a fair and reasonable manner.

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

6 1378.030. A writ proceeding for review of a decision to
7 approve or disapprove a proposed alteration of a member's
8 separate interest, an exclusive use common area, or part of the
9 common area, is subject to Section 1354.

10 ~~SEC. 31.~~

11 SEC. 32. Article 3 (commencing with Section 1378.050) is
12 added to Title 6 of Part 4 of Division 2 of the Civil Code, to read:

13

14 Article 3. Optional Procedure

15

16 1378.050. ~~This~~ *Notwithstanding any contrary provision of an*
17 *association's governing documents, this* article provides a fair and
18 reasonable procedure that an association may use in reviewing a
19 member's proposed alteration of a separate interest, an exclusive
20 use common area, or part of the common area. Use of the
21 procedure is not mandatory.

22 1378.060. (a) The definitions in this section govern the
23 construction of this article.

24 (b) "Participating member" means an association member
25 who, before the reviewing body makes its decision on the proposed
26 alteration, submits to the reviewing body a comment opposed to
27 a proposed alteration of a separate interest, exclusive use common
28 area, or part of the common area.

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

33 1378.070. (a) An association member who proposes to alter
34 a separate interest shall submit a written application to the
35 reviewing body. The application shall be in the form specified by
36 the association. An incomplete application may be returned to the
37 applicant with an explanation of why the application is
38 incomplete. No further action is required on an application that is
39 returned as incomplete.



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

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

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

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

(1) If the proposed alteration would only alter separate interest or exclusive use common area property, to members owning separate interests within 300 feet of, or located within the same building as, the property that is the subject of the proposed alteration, and to members having a right to use any exclusive use common area property that is the subject of the proposed alteration.

(2) If the proposed alteration would alter common area property other than exclusive use common area property, to all members.

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

~~(d) Not less than 20 15 days nor more than 45 30 days after delivery of the notice of the application, the reviewing body shall deliver a written decision to the applicant and to any participating member. If the reviewing body does not deliver a written decision to the applicant within 45 30 days after delivery of the notice of application, the application is deemed disapproved on the 45th 30th day.~~

(e) A written decision approving a proposed alteration of a separate interest, exclusive use common area, or part of the common area, shall ~~state~~ *include an explanation of the reason for*

1 *the decision, a description of the procedure for appealing the*
2 *decision, and a statement indicating whether the reviewing body*
3 *received any comments opposing the alteration.*

4 1378.080. (a) Except as provided in subdivision (b), an
5 applicant may not commence work on an approved alteration of
6 a separate interest, exclusive use common area, or part of the
7 common area, until either the period for appeal passes without an
8 appeal being filed or the approval is upheld on appeal.

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

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

22 (b) ~~Within 30 days after receipt of a timely request for~~ *At least*
23 *15 days before hearing the appeal,* the board of directors shall
24 deliver notice of the appeal to the following persons:

25 ~~(1) If the proposed alteration would affect the common area, to~~
26 ~~all members.~~

27 ~~(2) If the association delivers a newsletter, billing statement, or~~
28 ~~other document to all members at least once a month, to all~~
29 ~~members.~~

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

36 *(1) If the proposed alteration would only alter separate interest*
37 *or exclusive use common area property, to members owning*
38 *separate interests within 300 feet of, or located within the same*
39 *building as, the property that is the subject of the proposed*
40 *alteration, and to members having a right to use any exclusive use*

1 *common area property that is the subject of the proposed*
2 *alteration.*

3 (2) *If the proposed alteration would alter common area*
4 *property other than exclusive use common area property, to all*
5 *members.*

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

8 (d) Within 45 days after ~~notice of the appeal is delivered~~ receipt
9 *of a timely appeal*, the board of directors shall meet and review de
10 novo the proposed alteration that is the subject of the appeal. Any
11 association member may testify at the appeal and may submit
12 written materials in support of or in opposition to the proposed
13 alteration.

14 (e) Within 15 days after hearing the appeal, the board of
15 directors shall deliver its decision to the applicant and, if the appeal
16 is by a person other than the applicant, to that person. The decision
17 shall be in writing and shall include a statement explaining the
18 basis for the decision, including reference to facts, standards, or
19 provisions of the governing documents that support the decision.

20 1378.100. (a) A decision of the reviewing body made under
21 Section 1378.070 is not subject to judicial review.

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

26 1378.110. In making a decision to approve or disapprove a
27 proposed alteration of a member's separate interest, an exclusive
28 use common area, or part of the common area, the reviewing body
29 or board of directors may consider any relevant information. The
30 reviewing body or board of directors is not required to consider
31 information other than that provided to the reviewing body or
32 board of directors.

33 1378.120. A document that is required to be delivered
34 pursuant to this article is subject to Section 1350.7.

