

ASSEMBLY BILL

No. 2376

Introduced by Assembly Member Bates

February 19, 2004

An act to amend Section 1373 of, and to add Section 1378 to, the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2376, as introduced, Bates. Common interest developments: architectural review.

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, and the act defines governing documents as the declaration, and any other documents, such as the bylaws, operating rules, and articles of incorporation, which govern the operation of the development. The governing documents may regulate the physical features of the development. Existing law exempts common interest developments that are limited to industrial or commercial uses, as specified, from the application of certain provisions of the act.

This bill would revise the definition of a common interest development that is limited to industrial or commercial use for purposes of exempting that development from certain provisions of the act.

The bill would provide that, if a common interest development association's governing documents require association approval before an owner may make a physical change to the owner's separate interest or to the common area, the association must satisfy specified requirements in reviewing a proposed change, including providing a fair, reasonable, and expeditious procedure for making its decision, as

specified, and making a decision on a proposed change in writing. The bill would provide that an applicant whose proposal is denied is entitled to reconsideration at an open meeting of the board of directors of the association, except as specified. The bill would provide that its provisions do not authorize a change to the common area that is inconsistent with the association’s governing documents or governing law. The provisions of the bill would not apply to common interest developments that are limited to industrial or commercial uses, as 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. Section 1373 of the Civil Code is amended to
2 read:

3 1373. (a) The following provisions do not apply to a common
4 interest development ~~that is limited to industrial or commercial~~
5 ~~uses by zoning or by its declaration in which lots or other interests~~
6 *are limited to industrial or commercial uses by zoning or are*
7 *limited to industrial or commercial uses by a declaration of*
8 *covenants, conditions, and restrictions that has been recorded in*
9 *the official records of each county in which the common interest*
10 *development is located:*

- 11 (1) Section 1356.
- 12 (2) Article 4 (commencing with Section 1357.100) of Chapter
- 13 2 of Title 6 of Part 4 of Division 2.
- 14 (3) Subdivision (b) of Section 1363.
- 15 (4) Section 1365.
- 16 (5) Section 1365.5.
- 17 (6) Subdivision (b) of Section 1366.
- 18 (7) Section 1366.1.
- 19 (8) Section 1368.
- 20 (9) *Section 1378.*

21 (b) The Legislature finds that the provisions listed in
22 subdivision (a) are appropriate to protect purchasers in residential
23 common interest developments, however, the provisions may not
24 be necessary to protect purchasers in commercial or industrial
25 developments since the application of those provisions could



1 result in unnecessary burdens and costs for these types of
2 developments.

3 SEC. 2. Section 1378 is added to the Civil Code, to read:

4 1378. (a) This section applies if an association's governing
5 documents require association approval before an owner of a
6 separate interest may make a physical change to the owner's
7 separate interest or to the common area. In reviewing and
8 approving or disapproving a proposed change, the association
9 shall satisfy the following requirements:

10 (1) The association shall provide a fair, reasonable, and
11 expeditious procedure for making its decision. The procedure
12 shall be included in the association's governing documents.

13 (2) A decision on a proposed change shall be made in good faith
14 and may not be unreasonable, arbitrary, or capricious.

15 (3) A decision on a proposed change shall be in writing. If a
16 proposed change is disapproved, the written decision shall include
17 both an explanation of why the proposed change is disapproved
18 and a description of the procedure for reconsideration of the
19 decision by the board of directors.

20 (4) If a proposed change is disapproved, the applicant is
21 entitled to reconsideration by the board of directors of the
22 association that made the decision, at an open meeting of the
23 board. This paragraph does not require reconsideration of a
24 decision that is made by the board of directors at an open meeting
25 of the board.

26 (b) Nothing in this section authorizes a physical change to the
27 common area in a manner that is inconsistent with an association's
28 governing documents or governing law.

