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2024 Year-End Review of California Legislation and Cases which affect Homeowners' Associations and Common Interest Developments

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NEW LAWS EFFECTIVE JANUARY 1, 2025

PUBLISHED CASES:

Colyear v. Rolling Hills Community Association of Rancho Palos Verdes (3/1/2024) 100 Cal.App.5th 110

Significance: Associations should ensure that when a property is annexed in a new phase of a development, the newly annexed property should contain language expressly incorporating clauses that reference and bind the new phase to the original Declaration. Further, the Court emphasized that deeds are analyzed as contracts, including CC&Rs and thus are subject to Contract Law.

Facts: Rolling Hills Community Association of Rancho Palos Verdes is a development that was built in multiple phases. The original phase began in 1936, when the first CC&Rs ("Dec. 150") were recorded for the first phase. One of the Covenants in Dec. 150 allowed the Association to enter lots to maintain and trim trees to preserve views and protect adjoining properties, if owners did not comply. Colyear's property was not part of the original development and was in a separate phase that was not governed by Dec. 150. The set of CC&R's that bound Colyears property was recorded on May 29, 1944 ("Dec. 150M") and did not contain the Tree trimming covenant as Dec. 150 did. Colyear owned two parcels outside the original tract with a large garden containing many mature trees, thus he preemptively initiated the action to obtain a declaration and injunction that the trees on his property could not be cut by the Association. The trial court granted Colyear's request for declaratory relief and an injunction, declaring that Dec. 150 was not binding on Colyear's property except to the extent any restrictions were restated in Dec. 150M. Colyear was further seeking damages of attorney's fees for his breach of fiduciary duty claim which the trial court ruled was moot because Colyear preemptively was protecting his property.

Disposition: The Court found that Dec. 150M does not sufficiently incorporate the tree trimming covenant or the original CC&Rs, Dec. 150. Due to Dec. 150M not including the tree trimming provision or expressly incorporating Dec. 150, the tree trimming provisions cannot be enforced on Colyear's property, absent consent. Further, the Court found that attorneys fees do not constitute damages for purposes of Colyear's breach of fiduciary duty claim, as Colyear needed to be damaged to recover for breach of fiduciary duty.

Doskocz v. ALS Lien Services (5/20/2024) 102 Cal.App.5th 107

Significance: The Fair Debt Collection Practices Act prohibits a debt collector from engaging in certain practices to collect or attempt to collect a debt, including threatening to take action that cannot be legally taken and threatening to effect dispossession of property where there is no present right to possession of the property. Civil Code Section 5720's prohibition on collection through foreclosure of delinquent assessments that are less than $1,800 or less than a minimum of 12 months old means not only foreclosure sale, but also the commencement and perfection of the foreclosure process leading up to the sale, including recording a Notice of Default. Lastly, Civil Code Section 5655a serves the primary purpose of protecting homeowner rights by forcing the delinquent assessment, which is the original debt that opens the door to collection costs and ultimately foreclosure, is paid down as a first priority and that this principle cannot be waived as a matter of public policy, based on Civil Code Section 3513 which bars the waiver of a statutory right when the public benefit of the statute is one of the primary purposes.

Facts: Teresa Doskocz filed a class action lawsuit against ALS Lien Services (ALS) in federal court, alleging violations of the Fair Debt Collection Practices Act (FDCPA) and California's Unfair Competition Law (UCL) related to ALS's collection of unpaid homeowner association (HOA) assessments. Doskocz owed $1,239.08 in assessments to the Danville Green Homeowners Association. The Association hired ALS to collect the unpaid assessments. Section 5655(a) of the Civil Code explains that payments must first be applied to the original assessments, after the original assessments have been fully paid down, then payments can be applied to fees and costs of collection. ALS's standard payment plan included a waiver of Section 5655(a).

After the case was dismissed and refiled in state court, Doskocz amended her complaint to include alter ego claims against the law firm, SwedelsonGottlieb (SG) and individuals Sandra Gottlieb and David Swedelson, who were alleged to be alter egos of ALS. The Court stated that Doskocz was not adding a new cause of action when alleging the alter ego theory, but rather it was a new theory of recovery.

The trial court found that ALS violated the FDCPA and awarded Doskocz restitution under the UCL, holding ALS and SG jointly liable. ALS and the SG defendants appealed, arguing errors in the trial court's rulings, including the adoption of a federal court decision, the FDCPA violation, and the bifurcation of the trial. The SG defendants also challenged the lack of evidence for alter ego findings and the awarding of attorney fees.

Disposition: The court rejected ALS's argument that the plaintiff waived protections under Section 5655a, emphasizing the public policy of protecting homeowner equity. The court also upheld bifurcation of claims and applied the alter ego doctrine, holding SG and the individuals, Sandra Gottlieb and David Swedelson, accountable for ALS's actions. The appellate court affirmed the trial court's decision, concluding that ALS's waiver of payment application priorities was invalid under public policy, and the evidence supported the alter ego findings. It also upheld the bifurcation of the trial and the award of attorney fees.

Morris v. West Hayden Estates First Addition Homeowners Association, Inc.
(6/17/2024) 104 F..4th 1128

Significance: This case underscores the complexities at the intersection of homeowners associations' enforcement of community rules and residents' rights to religious expression. It highlights the legal challenges in determining when enforcement actions may constitute discrimination under the Fair Housing Act.

Facts: In 2014, Jeremy and Kristy Morris hosted a Christmas event at their home in Grouse Meadows, Idaho, attracting large crowds with Christmas lights, a live nativity, and other festivities. They later moved to West Hayden Estates and planned a similar event, but the Homeowners Association (HOA) raised concerns that it violated community rules. The HOA cited potential issues such as traffic, excessive lighting, and non-residential use of the property. The Morrises accused the HOA of religious discrimination, alleging violations of the Fair Housing Act (FHA). The case went to trial, and a jury found the HOA had discriminated against the Morrises, awarding them damages.

Despite the jury's verdict, the district court ruled in favor of the HOA, granting a judgment as a matter of law (JMOL) and ordering an injunction against the Morrises' event. The court stated that the HOA had legitimate concerns about violating community rules. The Morrises appealed the decision, and the appellate court affirmed some aspects, reversed others, and remanded the case for further proceedings, including a new trial.

This case involves the Morrises' allegations that the Homeowners' Association (HOA) violated several provisions of the Fair Housing Act (FHA), specifically Section 3604(b), 3604(c), and 3617. The Morrises claim that the HOA discriminated against them because of

their Christian faith, including opposing their Christmas program, discouraging their home purchase, and selectively enforcing rules.

Disposition: The Morrises argue the HOA's actions amounted to religious discrimination. However, the court found no adverse effect on the Morrises' rights, as they were neither prevented from purchasing their home nor from holding the Christmas program. Despite some contentious letters and meetings, there was no legal action taken against them. The court held that the Morrises failed to demonstrate a concrete adverse impact, and thus their claim under Section 3604(b) did not succeed.

The Morrises also alleged interference with their right to enjoy their home without religious discrimination. The court found that evidence, such as the HOA's letters threatening legal action and statements implying that the Morrises' religious practices were unwelcome, supported a claim under Section 3617. Specifically, statements made by HOA officials that indicated religious animus towards Christmas and the Morrises' beliefs contributed to the jury's finding that the HOA's actions interfered with the Morrises' enjoyment of their rights under the FHA.

Overall, the court affirmed the jury's finding of interference but rejected the claim of discriminatory treatment. The evidence suggested the HOA's actions were driven by religious animus, which warranted the jury's conclusion under Section 3617, even though no concrete legal action was taken against the Morrises.

The Morrises claim that the HOA allowed harassment and threats from other residents of West Hayden Estates, violating the Fair Housing Act (FHA). While the FHA prohibits harassment based on protected characteristics like religion, the court found that the HOA could not be held responsible for the harassment in this case.

The Morrises challenged the HOA Board's January 2015 letter under § 3604(c) of the Fair Housing Act (FHA), which prohibits discriminatory statements regarding the sale or rental of a dwelling based on protected characteristics, such as religion.

The court concluded that the HOA's letter did not indicate a preference for non-religious homebuyers. While the letter expressed concern about potential disruptions from the event, including its religious context, it did not suggest that prospective homebuyers' religion or lack thereof was a factor in the sale of the Morrises' home. Therefore, the court granted Judgment as a Matter of Law (JMOL) for the HOA on the § 3604(c) claim.

The district court issued an injunction preventing the Morrises from hosting a Christmas program that violated HOA rules. However, the court vacated this injunction because it determined that the Morrises' discrimination claim still warranted a new trial. If the jury

finds that the HOA's actions were motivated by religious animus, the injunction could unfairly endorse discriminatory enforcement of the HOA rules.

UNPUBLISHED CASES

United States of America v. Aqua 388 Community Association (10/6/2023) 2023 WL 6890753

Significance: A homeowners association must make reasonable accommodations for disabled individuals if the homeowners association is aware of their needs, otherwise the association runs the risk of violating the Fair Housing Act.

Facts: The court granted partial summary judgment in favor of Emma Adams, finding that the defendants violated the Fair Housing Act (FHA) by failing to accommodate her disability-related parking needs. Adams, a paraplegic, requested a designated handicap accessible parking space for her modified minivan, which requires 8 feet of clearance for her to enter and exit. Despite numerous requests, the defendants did not provide an assigned space until years later, resulting in Adams receiving citations due to the Association's rules about unassigned spaces.

The court ruled that the failure to grant Adams' request for an accommodation was discriminatory under FHA Section 3604(f)(3)(B), which mandates reasonable accommodations for disabled individuals. The court emphasized that the requested accommodation was reasonable, as the FHA design manual requires reserved parking spaces for disabled residents, and the defendants should have known of Adams' needs. Additionally, the defendants' offer to provide access to additional spaces on a first-come, first-served basis was inadequate.

Disposition: The court also cited legal precedents, such as the *Astralis* case, which confirmed that housing providers must make accommodations even if they conflict with local laws, and that FHA protections for disabled individuals take precedence. The government's motion for partial summary judgment was granted, holding the defendants liable for failing to accommodate Adams from the time of her first request in January 2017 until her assigned space in 2021.

Miller v. San Luis Bay Estate Homeowners Association, Inc., (7/31/2024) 2024 WL 3589633

Significance: A Court can look at the historical information and interpret the CC&Rs to help determine an easements existence. The court interpreted the CC&Rs in a way that favors easement rights for unannexed parcels, aligning with California's Civil Code, which favors such easements in planned developments. The court also found that easements for ingress and egress automatically transfer with the property, even if not explicitly mentioned in the deed.

Facts: Miller sued the Association for access to a private road that provides access to her undeveloped parcel within the San Luis Bay Estate Homeowners Association (Association), arguing various theories for an easement. The parcel is undeveloped, and Miller's property was not annexed to the Development's CC&Rs, but the CC&Rs suggest that property owners within the Development can use the private roads, and Miller's property falls within this category.

Miller's application for a permanent pass to the private road was denied by the Association, despite past practices where other property owners, including those with unannexed parcels, had been granted access. The Association's past actions, such as granting access to other property owners (including the Rossi Trust, the previous owners of Miller's property), supported Miller's claim.

Disposition: The court granted Miller a preliminary injunction, recognizing that without access to the private road, Miller has no legal way to access her property. The court found that Miller is likely to succeed in establishing an easement over the road, citing Civil Code Section 4505(b), which supports easements for ingress and egress in planned developments. The court also noted that Miller's right to access the road likely existed prior to her purchase, meaning she automatically has the right to use the road, and the CC&Rs should be interpreted in favor of that policy.

The court determined that Miller had a high likelihood of success in establishing the easement and granted her temporary use of the private road pending further resolution of the case.

Woolard v. Regent Real Estate Services, Inc. (12/3/2024) 2024 WL 4965439

Significance: This case involves an appeal following a summary judgment in favor of the cross-defendants, Regent Real Estate Services, Inc. (Regent), a property management company, and Greenhouse Community Association (Greenhouse), a homeowners association. The dispute arose from a physical altercation between two sets of residents at Greenhouse Condominiums, Eric Woolard and Breonna Hall (the defendants and cross-plaintiffs), and Eric Smith and Stacy Thorne (the plaintiffs and cross-defendants). The

appellate court affirmed the trial court's judgment, agreeing that Woolard and Hall had not established a breach of duty by Regent and Greenhouse. The court emphasized that homeowners associations and property management companies are not responsible for mediating or intervening in disputes between homeowners or their residents, and imposing such a duty would place an undue burden on these entities.

Facts: In December 2019, Eric Smith and Stacy Thorne were at their residence in the Greenhouse Condominiums when they got into a physical altercation with their neighbors, Woolard and Hall. Woolard and Hall alleged that the altercation was the result of long-standing harassment from neighbors, including complaints about their dogs and other minor disturbances, which were allegedly exacerbated by Regent and Greenhouse. Woolard and Hall claimed that Regent and Greenhouse failed to address their complaints and allowed the harassment to escalate, ultimately leading to the violent incident. Even though Regent and Greenhouse adequately responded to all complaints filed by Woolard and Hall.

In their cross-complaint, Woolard and Hall sought indemnification, apportionment of fault, and damages for negligence against Regent and Greenhouse, claiming that their failure to intervene or adequately address the harassment caused the altercation. They also accused Greenhouse's management of unethical conduct, asserting that Regent ignored their complaints, failed to investigate incidents, and ultimately contributed to the emotional and financial distress Woolard and Hall suffered.

In response, Regent and Greenhouse argued that they had no legal duty to intervene in the dispute between neighbors, and that their actions in responding to complaints were reasonable and met the standard of care expected of property management companies and homeowners associations. They also argued that Woolard and Hall had not provided sufficient evidence of negligence or a breach of duty.

Disposition: The court granted summary judgment in favor of Regent and Greenhouse, concluding that they did not owe Woolard and Hall a duty to intervene in the dispute between neighbors. The court determined that Woolard and Hall had failed to provide any legal basis for imposing such a duty and that their claims of housing discrimination were unfounded. Furthermore, there was no evidence of negligence or a failure to investigate complaints in the manner required by law.

Woolard and Hall's appeal was based on their belief that the trial court had erred in granting summary judgment, specifically arguing that the foreseeability of harm made it clear that Regent and Greenhouse should have intervened. However, the court found that

foreseeability alone is not enough to establish negligence, and no duty existed for the homeowners association or property manager to resolve neighbor disputes.

Thus, the judgment in favor of Regent and Greenhouse was affirmed, and the appeal was denied.

Mays v. Oakview Homeowners Association (6/17/2024)

Significance: Courts are increasingly willing to require Boards to hold elections even if a quorum is not met, especially if elections have not been held according to the governing documents.

Facts: Oakview Homeowners Association (Association) elects its five (5) directors to two-year staggered terms at the Association's annual meeting each year. However, the number of members attending the annual meeting from 2018 through 2023 was insufficient to constitute a quorum. Mays ran for a seat on the board from 2020 through 2022, but an election never took place because the Association failed to meet quorum each time an election meeting was held. In 2022, Mays filed a petition for Peremptory Writ of Mandate and a Motion for Judgment, where she stated that the Association violated the CC&Rs and Bylaws by failing to maintain the full number of directors and not holding annual meetings to replace directors. The trial court granted Mays' Motion for Judgment, and separately issued a Writ of Mandate in favor of Mays. A peremptory writ of mandate is a judicial order requiring that a party perform an act or cease to act where the Court finds that an official law, duty, or judgment requires them to do so.

Disposition: It was affirmed that the Association needed to hold a new election for the Board of Directors, even if a quorum was not met again. The Association's governing documents provided that "in the absence of a quorum, the meeting must be adjourned no less than five (5) days and no more than thirty (30) days from the date of the original meeting." The trial court felt this was convincing because the Association's governing documents require the Association to notice the time and place for another meeting, even if the vote by members present at a current meeting to forgo setting another meeting if a quorum is not achieved. The Appellate Court stated, "The Association failed to enforce the governing documents, which resulted in an abuse of power that occurs when an incumbent board tries to perpetuate their own power by failing to hold regular homeowner meetings or elections."

Taggart v. North Coast Village Home Owners Association (11/28/2023) 2023 WL 8228855

Significance: The court's interpretation of "regular" and "special" assessments highlights that the purpose of the assessment is paramount, not just its label or structure. This case clarifies how assessments in homeowner associations are classified under the Davis-Stirling Act, reinforcing that the purpose of an assessment is the key factor in determining whether it is a "regular" or "special" assessment. This legal principle discourages HOAs from using superficial labeling tactics to bypass legal requirements, thereby ensuring that the substance of the assessment (its actual use) prevails over the form (the label attached to it). This is significant because it limits the ability of HOAs to circumvent statutory restrictions by labeling assessments in ways that do not reflect their actual purpose. If HOAs could simply re-label regular expenses as "special" assessments, they could evade the legal limits on increases.

Facts: This case involves an appeal by Tim Taggart against the North Coast Village Homeowners Association (HOA) concerning two $1,000 assessments levied in 2020 and 2021. The HOA imposed additional $1,000 assessments per unit to cover operating costs, which included increased insurance premiums, wages, and COVID related expenses. The HOA labeled these assessments as “special assessments,” but they were used for recurring operating expenses. Taggart sued the HOA, claiming the assessments were incorrectly labeled and exceeded the statutory limits for a special assessments under California's Davis-Stirling Common Interest Development Act (the Act).

The trial court concluded that the assessments should have been classified as regular assessments; notwithstanding that the Association labelled them as special assessments. The court’s rationale that the assessments were being used to pay for recurring operating expenses and therefore the 5% maximum increase provision for special assessments did not apply. The trial court ruled in favor of the Association and Taggart appealed.

Taggart argued that the assessments were improperly classified as "regular assessments" rather than "special assessments" by the court, which would be subject to different limitations under the Act. Specifically, he argued that special assessments are capped at 5% of the HOA's budgeted gross expenses unless homeowner approval is obtained, whereas regular assessments do not require such approval unless they increase by more than 20% from the previous year.

Disposition: The trial court ruled that the assessments were "regular assessments" despite being labeled "special" by the HOA. The court reasoned that the nature and use of the assessments (covering essential operating expenses like insurance and wages) made

them regular, not special, assessments. The court also ruled that because these assessments were used for ongoing operating expenses, they were not subject to the 5% cap for special assessments under section 5605(b).

The court emphasized that the distinction between "regular" and "special" assessments is based on the purpose of the assessment, not its label or frequency. Since the assessments were for essential operating costs, they were regular assessments. The court referenced the legislative intent of the Davis-Stirling Act, which distinguishes regular assessments for ongoing operations from special assessments for extraordinary expenses or capital improvements. The court also rejected Taggart's argument that assessments could be classified based on their payment structure, noting that such a position would allow HOAs to circumvent the statutory limits by using different payment schedules.

On appeal, the judgment was affirmed in favor of the HOA, with the court holding that the assessments were regular assessments, not subject to the 5% limit for special assessments. The Court of Appeals determined that the $1,000 assessment was generally used for operating expenses and not for extraordinary or unforeseen costs. As such they were in actuality regular assessments and not subject to the 5% cap on special assessments as set forth in in Civil Code 5605. As such, the court determined that how an association labels an assessment is not as relevant as what the purpose of the assessment is.

Haidet v. Del Mar Woods Homeowners Association (10/21/2024) 2024 WL 4677484 (only the westlaw citation is currently available)

Significance: If a defendant is included in the complaint but is then subsequently left off a subsequent amended complaint, the prior defendant is no longer a party to the case and the plaintiff ultimately forfeits their right to voluntarily dismiss said defendant. If a plaintiff wants to preserve their right of voluntary dismissal of a defendant in a subsequent amended complaint, the plaintiff needs to file the amended complaint including that defendant and then make a motion to dismiss without prejudice.

Facts: Gregory and Kathleen Haidet, condominium owners, sued the Del Mar Woods Homeowners Association (HOA) and others, alleging nuisance from improperly installed flooring by their upstairs neighbors. The HOA demurred, and the court dismissed their claims, allowing them to amend some but not all of their claims. The Haidets chose not to amend claims against the HOA, instead filing an amended complaint with other defendants and left the HOA out of the amended complaint. The HOA sought dismissal with prejudice and attorney fees which was filed on April 6, 2024. The Haidets filed a

request to dismiss the HOA without prejudice on April 18, 2024, which was rejected by the clerk because the HOA was no longer an active case participant, based on not being included in the first amended complaint.

The Haidets argued they should have been allowed to dismiss the HOA without prejudice, citing their timely amended complaint and request. The court ruled the Haidets forfeited their right to voluntary dismissal by omitting the HOA from their amended complaint and dismissed the HOA with prejudice under Civil Procedure Section 581(f)(2). The court also awarded the HOA $48,229.08 in attorney fees, finding the HOA the prevailing party, as it succeeded in its demurrer and led to the Haidets dropping their claims.

Disposition: On appeal, the Haidets contested both the dismissal with prejudice and the attorney fees award, but the court affirmed the trial court's decisions, concluding the HOA was the prevailing party and the dismissal was within the court's discretion.

NEW LAWS EFFECTIVE JANUARY 1, 2025

STATUTES SIGNED BY GOVERNOR NEWSOM

AB 2159 Common Interest Developments: Association Governance: Elections.

Amends Civil Code Sections 5105, 5110, 5115, 5120, 5125, 5200 and 5260

The bill introduces several key changes to the Davis-Stirling Common Interest Development Act, particularly focusing on the use of electronic secret ballots in elections for associations. The bill authorizes associations to adopt rules that allow elections to be conducted via electronic secret ballots. This is allowed even if the association's governing documents specify otherwise, though members must be given the ability to change their preferred voting method no later than 90 days before an election. It specifies that electronic voting systems must authenticate the member's identity and confirm that the member's device can successfully communicate with the system 30 days before the voting deadline, and send a receipt once a vote is cast, ensuring greater security and verification in electronic voting.

Associations that conduct electronic voting must provide specific notices, including the date and time by which electronic ballots must be transmitted, and preliminary instructions on how to vote electronically. For members voting by written secret ballot, the association must still mail physical ballots and envelopes. However, this requirement only applies to those members voting by written secret ballot, not to those voting electronically. The bill allows associations to conduct elections entirely by mail, entirely by electronic secret ballot, or a combination of both, overriding any conflicting provisions in the

governing documents. When voting on amendments to governing documents, associations conducting electronic voting can provide the proposed text of amendments electronically but must provide a written copy upon request.

The bill extends the prohibition on reviewing ballots before the election count to include electronic voting tally sheets. No one can access these tally sheets prior to the designated counting time. The bill expands the requirements for the custody and inspection of ballots and tally sheets to include electronic voting materials, ensuring transparency in the process. Requests to opt into or out of electronic voting must be submitted in writing to the association, at least 90 days before an election, to be valid.

AB 2460 Common Interest Developments: Association Governance: Member Election.

Amends Civil Code Section 5115 and Corporations Code Section 7512

The new bill clarifies issues arising from AB 1428 enacted last year and introduces changes to the existing law governing common interest developments under the Davis-Stirling Common Interest Development Act, specifically concerning quorum requirements and notice of meetings regarding election of directors and recall elections.

Civil Code Section 5115 requires that if the association's governing documents require a quorum for an election of directors, a statement that the association may call a reconvened meeting to be held at least 20 days after a scheduled election if the required quorum is not reached, at which time the quorum of the membership to elect directors will be 20 percent of the association's members, voting in person, by proxy, or by secret ballot.

This paragraph shall not apply if the governing documents of the association provide for a quorum lower than 20 percent.

For an election of directors of an association, and in the absence of meeting quorum as required by the association's governing documents or Section 7512 of the Corporations Code, unless a lower quorum for a reconvened meeting is authorized by the association's governing documents, the association may adjourn the meeting to a date at least 20 days after the adjourned meeting, at which time the quorum required for purposes of a reconvened meeting to elect directors shall be 20 percent of the association's members, voting in person, by proxy, or by secret ballot.

No less than 15 days prior to the date of the reconvened meeting, the association shall provide general notice of the reconvened meeting, which shall include: (1) The date, time, and location of the meeting; (2) The list of all candidates; (3) Unless the association's governing documents provide for a lower quorum, a statement that 20 percent of the

association's members, voting in person, by proxy, or secret ballot will satisfy the quorum requirements for the election of directors at that reconvened meeting and that the ballots will be counted if a quorum is reached, if the association's governing documents require a quorum.

AB 2114 Building Standards: Exterior Elevated Elements: Inspection.

Amends Civil Code Section 5551

The bill amends the Davis-Stirling Common Interest Development Act by allowing a licensed civil engineer to conduct the required visual inspection of exterior elevated elements in condominium projects. Previously, only a licensed structural engineer or architect was authorized to perform the inspection. The inspection must still be conducted at least every 9 years.

AB 3057 California Environmental Quality Act: Exemption: Junior Accessory Dwelling Units Ordinances.

Amends the Public Resources Code Section 21080.17

This bill introduces a new expansion to the existing California Environmental Quality Act (CEQA) exemption related to accessory dwelling units (ADUs). This is part of a broader effort to streamline the process for creating ADUs and junior accessory dwelling units (JADUs), facilitating the construction of additional housing units without triggering the complex environmental review processes typically required under CEQA.

The bill expands the existing CEQA exemption to include the adoption of ordinances by cities or counties that provide for the creation of JADUs in single-family residential zones. This change removes the requirement for an environmental impact report (EIR) or negative declaration under CEQA for these types of ordinances.

The bill means that local governments can adopt ordinances allowing the creation of JADUs without the need to conduct an environmental review under CEQA, provided the project falls within the defined criteria for exemption (such as being in a single-family residential zone).

SB 900 Common Interest Developments: Repair and Maintenance.

Amends Civil Code Section 4775, 5550 and 5610

The new provisions introduced in this bill modify and expand certain responsibilities of associations in managing common interest developments under the Davis-Stirling

Common Interest Development Act. These changes aim to provide associations with more flexibility and resources to maintain the safety and livability of common interest developments, especially in the case of utility failures and emergencies affecting the property.

An association will now be responsible for repairing and replacing utilities (gas, heat, water, or electricity) when interruptions occur in the common area, even if the issue extends into another area, unless a public or private utility provider is responsible for the service. The association's board must begin the repair process within 14 days of identifying the issue. If the association lacks sufficient reserve funds, this bill allows the association to obtain competitive financing to fund repairs or replacements without a vote from the members. It can also levy an emergency assessment to repay the loan, provided specific conditions are met. If the board cannot reach a quorum during the 14-day window, the bill allows for a reduced quorum at the next meeting specifically to vote on beginning the repairs. Directors can vote electronically to initiate repairs or replacements under these provisions. If the association is in an area affected by a state or local emergency or disaster, and it materially impacts the association's ability to repair or maintain common areas, it is exempt from these requirements.

The bill expands the definition of "major components" for the purposes of the association's reserve study to include gas, water, and electrical services if the association is responsible for repairing or replacing these services. The bill broadens the circumstances that qualify as emergency situations allowing associations to increase assessments without restriction. In addition to threats to personal safety, the bill includes situations where there is a threat to personal health or other hazardous conditions discovered on the property. This allows for extraordinary expenses related to health and safety hazards to be addressed more quickly.

SB 477 Accessory Dwelling Units.

Amends Civil Code Sections 714.3 and 4751 of the Civil Code; Amends Sections 65582.1, 65583, 65583.2, 65585, 65589.4, 65589.9, 65852.1, 65852.21, 65852.27, 65863.3, 65913.5, 66411.7, 66412.2, and 66499.41 of, to add Chapter 13 (commencing with Section 66310) to Division 1 of Title 7 of, and to repeal Sections 65852.150, 65852.2, 65852.22, 65852.23, and 65852.26 of, the Government Code; to amend Sections 18214, 50504.5, 50515.03, 50650.3, 50843.5, and 50952 of the Health and Safety Code; to amend Sections 10238 and 21080.17 of the Public Resources Code; and to amend Section 10755.4 of the Water Code

This bill primarily focuses on non-substantive changes and reorganization of existing provisions related to the creation and regulation of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in residential zones.

The bill reorganizes various existing provisions that govern the creation and regulation of ADUs and JADUs. This could involve restructuring the legal language and clarifying the relationship between local ordinances and ministerial approvals, but without introducing significant new rules or standards.

The bill makes non-substantive changes to the existing law. These changes may include updates to language or formatting for clarity, but they don't alter the intent or requirements of the law.

The bill includes a declaration that it will take effect immediately as an urgency statute, meaning it will become law right away upon passage, rather than waiting for the usual legislative timeline.

SB 1211 Land Use: Accessory Dwelling Units: Ministerial Approval.

Amends Government Code Sections 66313, 66314 and 66323

The bill introduces new provisions regarding Accessory Dwelling Units (ADUs). These changes are aimed at streamlining the ADU approval process and expanding the opportunities for ADUs in both single-family and multifamily residential areas, with a focus on reducing local regulatory barriers.

In addition to the existing law, which prohibits local agencies from requiring the replacement of offstreet parking spaces when a garage, carport, or covered parking structure is demolished in conjunction with an ADU, this bill extends that prohibition to also include uncovered parking spaces. This means local agencies cannot require the replacement of uncovered parking spaces when demolished for the construction or conversion of an ADU.

The bill prohibits local agencies from imposing any objective development or design standards that are not specifically authorized by the law on any ADU that meets the requirements for ministerial approval. This means local agencies can no longer create additional rules or restrictions beyond those explicitly stated in the law for ADUs that are eligible for streamlined approval.

The bill defines "livable space" for ADUs, specifying that it refers to space intended for human habitation, which includes areas for living, sleeping, eating, cooking, or sanitation. This clarification ensures consistency and clarity in how ADUs are assessed and approved, especially in relation to whether space in a dwelling qualifies for ADU conversion.

Under the existing law, a local agency could approve up to 2 detached ADUs on a lot with an existing multifamily dwelling. This bill increases the allowable number to up to 8 detached ADUs, provided that the total number of ADUs does not exceed the number of existing dwelling units on the lot. For lots with a proposed multifamily dwelling, the bill allows up to 2 detached ADUs, as opposed to previously limiting the allowance.

By imposing new duties on local governments regarding the approval of ADUs, such as prohibiting additional local development standards and expanding the number of allowable detached ADUs, the bill creates a state-mandated local program. The bill specifies that no reimbursement is required for local agencies and school districts for the costs incurred due to the changes introduced by this bill. This is because of a specific provision in the law.

CORPORATE TRANSPARENCY ACT

On December 3, the U.S. District Court for the Eastern District of Texas issued a preliminary nationwide injunction in the case *Texas Top Cop Shop, Inc. v. Garland*, blocking enforcement of the Corporate Transparency Act (CTA). The court granted the plaintiffs' request, halting the U.S. Department of Treasury from enforcing the act's beneficial ownership information reporting requirements. Judge Amos L. Mazzant III ruled that reporting companies, including community associations, need not comply with the January 1, 2025, deadline for reporting beneficial ownership information until further court orders.

Prior to the recent Court decision, community associations and management companies were required to file Beneficial Ownership Information on an annual basis. The Beneficial Ownership Information included providing the business name, the legal name, birthdate, home address, driver's license or passport numbers of Association board members and those individuals in substantial control.

The injunction applies nationwide, impacting all entities required to comply with the CTA, including community associations. Organizations involved in advocating for Common Interest Developments (CID) were generally opposed to the CTA and support the injunction, as the act's requirements are seen as burdensome for community associations, which differ from traditional businesses. CID advocacy groups continue to seek for a full repeal or exemption of the act to protect privacy and avoid undue burden on volunteer association board members.

The plaintiffs in this case raised constitutional concerns, arguing that the CTA oversteps Congressional authority, infringes on the right to free association, and violates the Fourth

Amendment by forcing the disclosure of private information. The court's ruling referenced similar arguments in an ongoing lawsuit in Virginia.

On December 23, 2024, the Fifth Circuit Court of Appeals granted the government's emergency stay over the injunction issued by the U.S District Court for the Eastern District of Texas. The Court stated that the Government demonstrated that a stay is warranted. After the stay, the Treasury Department/Financial Crimes Enforcement Network extended the Corporate Transparency Act compliance deadline to January 13, 2025

This development is not a final ruling on the CTA's constitutionality which continues to be ongoing. Organizations involved in advocating for CID's remain opposed to the CTA and will proceed forward with their claims, continuing to seek a full repeal or an exemption for associations.

On December 26, 2024, the Fifth Circuit Court of Appeals reinstated the nationwide injunction, meaning Owners Associations do not need to report beneficial ownership information, currently. The Court mentioned they reinstated the injunction "in order to preserve the constitutional status quo while the merits panel considers the parties' weighty substantive arguments." Again, this decision is not final as the Court is waiting to determine the substantive arguments before proceeding with requirements for reporting beneficial ownership information.

It would be prudent for associations to gather all necessary identification documents that are needed for reporting beneficial ownership information. This ensures that if the injunction is lifted after the substantive arguments are heard, associations will not miss the deadline for filing beneficial ownership information.

STATUTES NOT SIGNED BY GOVERNOR NEWSOM

AB 2149 Gates: standards: inspection.

Amends Civil Codes Section 3496 and adds Part 5.6 (commencing with Civil Code Section 7110) to Division 4 of the Civil Code.

This bill introduces several new requirements and regulations regarding the installation, inspection, and maintenance of "regulated gates" on real property, with a focus on public safety.

A "regulated gate" is defined as any gate that weighs more than 50 pounds and is more than 48 inches wide or 84 inches high, and is intended to be used by the public, a community, or a large group of people. This applies unless otherwise specified. The bill requires that all

newly installed regulated gates meet certain standards. If it had been signed into law by the Governor, these standards would have been implemented by local building departments by July 1, 2026, and updated in the building code requirements for their jurisdiction. The bill also requires owners to maintain a written compliance report for at least 10 years for regulated gates.

Owners of regulated gates would have been required to have their gates inspected by July 1, 2026, or upon installation, and then reinspected at least once every 10 years. The owners must also maintain a written report detailing the gate's compliance with these standards for at least 10 years and provide it to building departments upon request. If an inspection determines that a regulated gate poses an immediate safety threat, the owner must immediately cease its use until necessary repairs are made. A contractor or qualified employee must be engaged to address the emergency condition.

SB 1470 Construction Defect Cases.

Amends Civil Code Sections 895, 896, 897, 916, 921, 926, 927, 933, 934 and 945.5

The new provisions introduced in this bill would have made several changes to the process of handling construction defect claims and liability for deficiencies in residential construction. These changes aim to improve the process of addressing construction defects by ensuring repairs are properly inspected and compliant with building codes, while providing builders with clearer defenses and streamlined procedures for resolving disputes.

If it had been signed into law by the Governor, for a builder to be liable for deficiencies in construction, the deficiency must materially affect the habitability or usefulness of the residential dwelling unit. The deficiency must also result from a failure to meet the standard of care, which is defined as the level of care typically expected in the industry for similar work performed in the state.

The bill required the participation of a special inspector in the inspection and approval of any repair work performed under prelitigation procedures. This ensures that repairs are appropriately inspected and meet the required standards. The builder must obtain and pay for a building permit to perform the repair work. This ensures that repairs comply with local building codes and regulations. A local permitting authority must issue the building permit within 30 days of receiving the application, creating a new state-mandated local program for timely processing of permits.

The bill allows the builder to obtain a release or waiver from the claimant after completing the repair work, which was previously prohibited under existing law. The bill removes the previous provisions about the claimant needing to show that repair work caused further damage. Instead, it now allows the building permit and special inspector's reports to be introduced as evidence in an enforcement action, potentially improving the transparency of repair work.

The bill adds new affirmative defenses for builders in construction defect enforcement actions. If the builder complies with the required building permit for repairs, it may be used as a defense. If the builder receives approval from the special inspector for the repairs, this can also serve as a defense.

If the Commission on State Mandates determines that the bill imposes costs on local agencies (such as issuing building permits), the state will be required to reimburse these costs under established procedures.