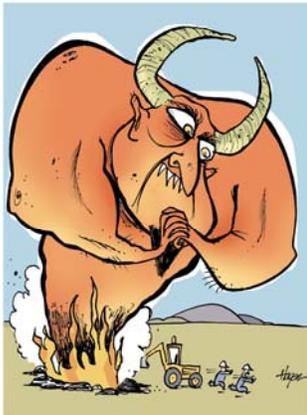


Got Solar?

AB 2188 went into effect on January 1, 2015 and local ordinances must be passed by September 1st this year. The new law requires every city and county in the State to conform to a "best practices" approach to solar permitting. Key elements include:

- More efficient and timely permitting - should take 24 hours or less
- Cities and counties are required to post their permitting requirements online, and must accept applications made online or by phone or fax
- Only one inspection will be required
- Reduces the time limits that an HOA can impose on their approvals of an owner's plan to install solar systems

The new law adds another positive to the long list of good reasons to Go Solar in the Golden State.



THIS DAY IS JUST GOING FROM BAD TO WORSE!

BRE News

New subdivision filings continue to increase throughout the State and it is interesting to note that subtle changes are taking place.

After making the decision to send Southern CA files to the Sacramento Office in an effort to off-set the LA staffing issues, the BRE is now experiencing an increase in filings in Northern CA. From January to February, 2015, filing activity in NorCal grew from 28% to 41% of Statewide applications.

Adding even more interesting statistics to the equation, new filings for Preliminary (PINK) Reports grew by 13%, indicating there are more

"Non-CID" Subdivisions

Civil Code Section 4175 defines a Planned development as having either, or both of the following features, paraphrased as follows:

- A) Common areas that are owned either by an Association or in common by the owners of lots.
- B) The association has the power to levy assessments that become a lien on the individual lots in the subdivision.

This right to lien is qualified as a non-judicial right of foreclosure for non-payment of assessments. In other words, the HOA can foreclose on any of the individual lots in the subdivision for non-payment of assessment dues, and it may be sold without a court action.

It follows, then, that if the two qualifying definitions can be avoided, that even when a governing agency requires an association to maintain "common" areas, the development might still be structured as a standard subdivision and might even be exempt from the BRE Public Report filing requirements.

An example of a Non-CID HOA might be a road maintenance Association, where the road, and possibly an entry gate is an easement only, and the HOA exists only to maintain the road and the gate. If a development like this were located within the limits of an incorporated city, selling completed homes, the project would be "exempt" from BRE's Public Report process.

While there are definite merits to Common Interest Developments, many of our clients have found that a Non-CID HOA works well for them, and it complies with local agency requirements for creating an HOA.

If you are unsure whether your development falls under BRE jurisdiction, we welcome you to call our office and one of our Consultants can help you.

Common Area Completion

If you are developing a common interest subdivision in California, completion of the common area improvements must be assured. **"The buyer must get what they bargain for."**

According to State law, any common area amenities included in the offering that are not completed prior to issuance of the Final Public Report must be financially secured.

B&P Section 11018.5 sets the standard for completion, and offers several different options for compliance:

- Allows for completion prior to close of the first escrow (escrow instructions); or
- Allows for the subdivider to post a financial security to cover completion of the amenities in the phase.

Financial Securities come in different formats. The bottom line is that the amount of the security is approved by BRE, and must include a 20% contingency—so the security is actually 120% of the projected construction cost.

The law allows for several different approaches with regard to security instruments that can be

used. In each approach, BRE forms for escrow instructions and the required security must be used.

- ⇒ Completion Bond
- ⇒ Letter of Credit
- ⇒ Set-Aside Letter
- ⇒ Cash deposit held by Escrow
- ⇒ An alternative arrangement may be presented

If your development plan includes a major amenity that will be constructed in a later phase, it must be financially secured in the initial phases if it is being used in your advertising campaign. Essentially, any amenity that buyers are aware of, that is not delivered to the HOA prior to or concurrently with the first sale closing, must be secured.

News just received **HOT OFF THE PRESS!**

CAR New Construction Purchase Agreement revised 04/15 meets BRE requirements with no further changes to comply with BRE requirements. If you wish to use the new form, it must be submitted to the BRE for your specific file for their approval prior to use. Call our office today.