CALIFORNIA BUILDER SERVICES

# NEWSWIRE

***Bringing Pertinent Information To Your Desktop***

**55 Shaw Avenue, Suite 105 • Clovis, CA 93612 • Phone: 559-473-2690 • www.cabuilderservices.com**

**August, 2015**

"We're from the City Zoning Commission, sir — we've decided to tear down your house and put up a slum."

## Transitioning the HOA

Structure and Control of your HOA: The control of the HOA rests with the subdivider until 51% of the lots or units have been conveyed and closed escrow. The CC&Rs and Bylaws for the development include provisions which allow this control, and also for the transfer of control to the individual buyers who make up the HOA.

There are several things that can be done early in the sales effort to set up a smooth transition later on:

- Retain professional management that will work with you and educate your board members
- Create your Community's Operating Rules early and communicate them to the manager
- Create an "Owners' Advisory Committee" to encourage owner involvement and training
  - ⇒This Committee can also work with you to accept common area improvements as they are completed and turned over to the HOA
- If control of the development is turned over ahead of the 3-year reserve study period, we recommend that a reserve study be prepared to insure that the reserve account is properly managed at the time of transition.

## BRE News

New filings submitted continue to be higher than prior years with average phase sizes of 12 lots/units per phase statewide. Filing review periods are still taking the entire mandated time frames.

We continue to advocate that our clients start the process early to avoid delays in their sales programs.

# Builder-to-Builder Exemptions

A "***subdivision***" is defined as "improved or unimproved land" divided for the purpose of sale, lease, or financing, into five or more lots or parcels. Any person or entity who owns five or more lots in a subdivision is considered a "***Subdivider***." Subdividers are required to obtain a Final Public Report prior to offering subdivision lots for sale to the public.

There are several exemptions in which the subdivision does not need to be reviewed by the Bureau of Real Estate: ***a)*** lots in a standard subdivision (no HOA) offered for sale with a completed residence on each lot, located in an incorporated city; ***b)*** lots that are zoned commercial, professional, or industrial with no residential element; ***c)*** public agencies such as a City, County or State agency as seller.

Another exemption is commonly referred to as the "Builder to Builder exemption." Specifically, to meet the exemption requirements, the sale must consist of five or more lots in a subdivision, which are sold to any person who acquires the lots "for the purpose of engaging in the business of constructing residential buildings, or the purpose of resale of the lots" (*paraphrased*) is exempt from BRE Review.

In other words, the sale from one "builder" to another "builder" or "sophisticated buyer" who will build and sell homes on the lots, is exempt from the public report process. The caveat, of course, is that the buyer must then comply with the requirements of filing – or meet an exemption requirement as outlined above. The Builder-to-Builder exemption applies if there is a purchase agreement in place with a take-down schedule, so long as the contract proposes to sell five or more lots.

# How LOW Can You Go…. with HOA Dues

Homeowner Association dues are a concern in any new development. "How can we get the dues down?" is a question we hear with most developments. Very often, after phasing options have been exhausted, obtaining lower HOA dues correlates to higher construction costs, so developers are faced with a decision on which way to go. While the construction of single family dwellings is becoming more and more energy efficient, constructing common area facilities equally efficiently pays dividends through lower dues.

Some ideas for lowering dues are not surprises:

- Drought tolerant plantings are not only required more often than not these days, they are also less expensive to maintain
- Landscape maintenance bids can often make a big difference when budgeting; what does your local landscape service provider offer? It's worth checking; it may be lower than the State's recommended minimum
- Including front yard maintenance gives the buyers a feeling of value-added
- Cement should be considered for more than sidewalks. Roller compacted concrete paving requires less maintenance and is 1/4 the cost of asphalt when it comes to long-term repair and reserves
- Using cementious fiberboard for wood siding can reduce the paint reserves by 1/3 and often can make an impact on fire insurance
- LED lights can make a huge difference in HOA electric costs
- Tile or metal roofs are a fraction of the cost to maintain than composition shingle
- Attached dwellings of 4+ units are required to put the costs to maintain building exteriors and roofs through the HOA
- Insurance policies should be placed covering ONLY the phases that are "active" to reduce costs up front
- If the project site allows enough area to install swinging gates instead of sliding, the maintenance costs can be reduced by as much as $800/year
- Small HOA's can often reduce dues below the BRE recommended minimum of $1,500/year by obtaining quotes for services from attorneys who specialize in HOA matters
- Small HOA projects can also benefit from a written quote for management services, and accounting, which also might be offered below the minimum recommended costs
- Solar systems for power, water heating, or pool heating impact energy costs yet don't add much to long term maintenance

> ***HOA Dues often correlate to higher construction costs, so developers are faced with a decision on which way to go.***

*The bottom line to remember is this: the HOA dues need reflect a realistic estimate for actual costs to operate the HOA month to month, and year to year.*