



NEWSWIRE

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HOA Board Hostages

For the vast majority of our clients, building homes in a planned development is fairly simple and painless. There may be a few more steps to take and hoops to jump through due to the bureaucratic process involved with the Public Report, but all in all, it goes smoothly. For those projects that don't go smoothly, it often comes down to a conflict with the Homeowners Association (HOA) Board and/or HOA Manager. We don't see this come up too often, but when we do, it's difficult to watch. Some projects have been delayed for 12 months or more. The good news is this can be a preventable problem!

If you are the developer of the project or if you purchased lots in an existing project, there are some things you can do to prevent issues from cropping up down the line:

- **Retain a reputable attorney who specializes in common interest developments**, and who maintains pre-approved "Master Management Documents" (MMDs) with the Bureau of Real Estate to prepare the CCRs, Bylaws and Articles for your development.
 - Having MMDs reduces the time in review at the Bureau of Real Estate (BRE), which in turn, saves you time. The attorneys who specialize in common interest developments know and understand the BRE process and are also more familiar with the building and development process.
 - Well drafted documents include provisions that address real-life issues experienced in many common interest developments and are customized to the local jurisdiction and to the project specifically.
- Designate yourself as an initial member of the HOA Board and stay on the Board as long as you can. Always be mindful of the Declarant's rights that you have, and allow those rights to work for you.



"Big bad wolves not withstanding, this area isn't zoned for residential brick structures."

BRE News

The Bureau of Real Estate has been actively hiring new Specialists to help with file review. So far, three new specialists, have been hired in Sacramento. They have also hired another manager for the Sacramento office. With these changes, many existing files have been reassigned to the newer investigators. Review timelines are beginning to normalize around the mandated timeframes.

Industry News

It was announced at PCBC that The Bureau of Real Estate believes they may have jurisdiction over the commercial elements of mixed use projects. Going forward, lot fees for the commercial units may be charged, and

- Filings made to the BRE that occur a year or more after the first sale may need to include a Budget Review as a part of the BRE approval process. BRE will perform a full review of the financial health of the HOA, including copies of HOA financial reports and bank documents, as well as the current HOA-adopted Budget.
- Board members and HOA Managers who are unfamiliar with the BRE process may provide you with incomplete financial packages, or worse - withhold this information from you - which can cause delays in your approval process.
- In worst case scenarios, we have seen self-managed HOA's redirect funds for expenditures on frivolous items such as holiday decorations or extravagant landscaping remodels, which later results in increased dues to cover reserve items. Under-funded reserves can create a delay in the Budget review by BRE, which can result in the need for developer funding the shortage, or have a cautionary note included in the Public Report to be issued.

budgets, sample purchase agreements, and restrictions may be required in BRE submittal packages. The only time Commercial Units will be considered exempt is in projects that are 100% commercial ("strictly commercial"), without any residential units in the project. If you have any questions, please call or email Scott at scott@cabuilderservices.com

A word to the Wise...

- *Retain a Management Company that specializes in Residential HOA Management, and better yet, Start-Up HOAs and who has a history working with new developments.*
 - The right HOA Manager will work *with you and with the HOA*, to make sure all of your bonds are in place and released when available. They will also be there to coordinate with you and your sale Escrow teams, making the buying process go more smoothly for your buyers.
 - Make sure they're familiar with phased projects and incorporating incremental phase budgets with common area. They should be familiar with the different legal documents and maintenance agreements in place between the builder and the HOA.
 - A good HOA Manager will also guide the initial HOA Board meeting, in accordance with the CCRs and Bylaws, creating the format and standard for future meetings.
 - Longer term, the HOA Manager will provide the guidance to the HOA Board to ensure that the MMD's are followed and the initial start-up budget is adopted. They will also make sure that Reserve Studies are done on schedule, as mandated by law.
 - When issues arise on the Board, the HOA Manager should be in a position to communicate effectively both with the homeowner members, and the builder/developer members, to resolve the issues before they become problems.