

# Rossmoor Legal Seminar

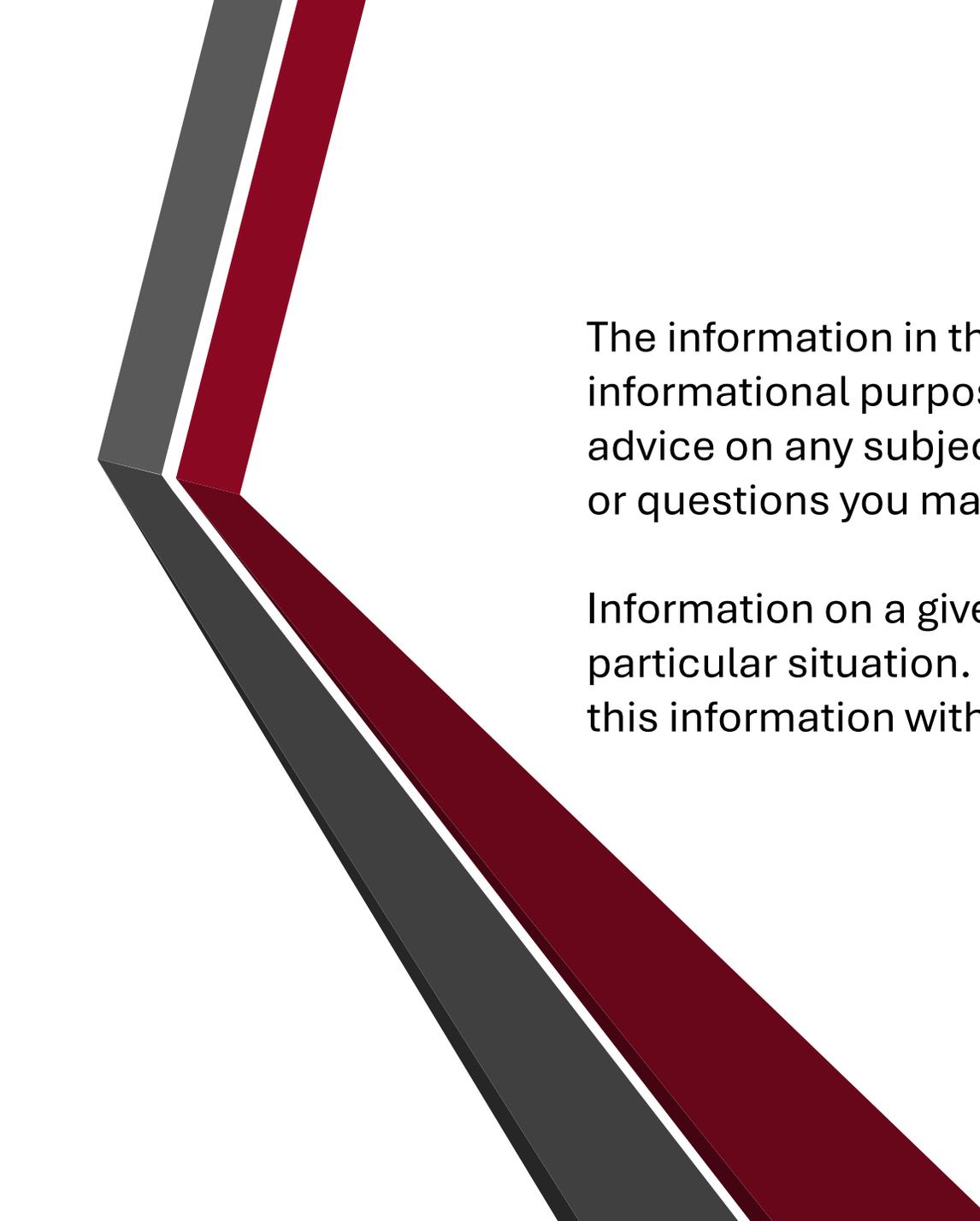
February 27, 2026

# Welcome



HUGHES  
GILL  
COCHRANE  
TINETTI

ATTORNEYS AT LAW



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Information on a given law or legal issue may not apply to your particular situation. You should not act nor refrain from acting upon this information without seeking the advice of legal counsel.



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# Today's Agenda

- 9:00 am Welcome
- 9:05 am Understanding Ownership Interests
- 9:30 am Fiduciary Duty and Board Meetings
- 10:15 am Break
- 10:25 am Legislative Update
- 11:00 am Potable Water/Turf
- 11:30 am Elections (Part I)
- 12:00 pm Lunch/Questions & Answers
- 12:45 pm Elections (Part II)
- 1:15 pm Questions & Answers



# Ownership Interests

**Amy K. Tinetti, Esq., CCAL**

# What is a Common Interest Development?

In California, community associations are called “common interest developments” (CIDs)

- Portion of the Civil Code (Sections 4000 through 6150) called the Davis-Stirling Common Interest Development Act (“D-S Act”)
  - Enacted in 1986
  - Has been amended every year since
- Term “homeowners association” is not used in the D-S Act, but it is the term used colloquially
- D-S Act uses term “association” – defined as a “nonprofit corporation or unincorporated association created for the purpose of managing a common interest development”
  - association = corporation
  - CID = physical property

# Four Types of CIDs

1. Planned development
  2. Condominium project
  3. Stock cooperative
  4. Community apartment project
- All but community apartment projects exist at Rossmoor

# Creating a CID

Documents  
to be  
recorded:

Declaration  
(CC&Rs)

Final map  
(parcel map)

Condo plan  
(if applicable)

# CID Definition



# Separate Interest

Owner of a home in a CID owns a “separate interest” – different types of separate interests for different types of CIDs

## **Planned development**

- Separate interest = lot, parcel, area or space
  - Separate interests can be attached or detached
- Ownership = parcel and everything on that parcel

## **Condominium project**

- Separate interest = unit
  - Units can be stacked, attached (side by side) or detached, standalone structures
- Ownership = unit, undivided interest in real property and exclusive use rights (all three make up the “condominium”)

# Separate Interest - Continued

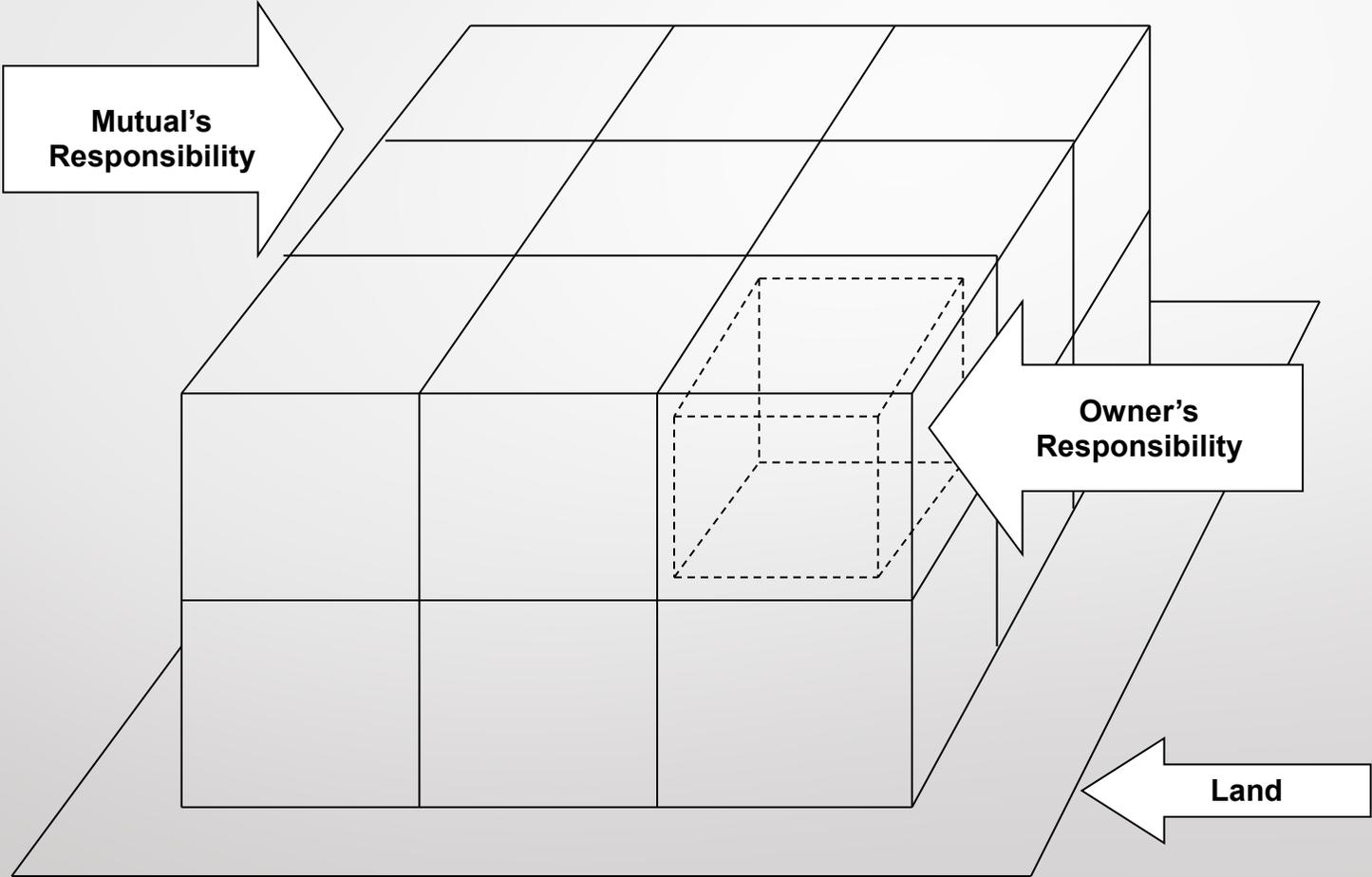
## Stock Cooperative

- Separate interest = exclusive right to occupy a portion of the real property
  - Governing documents refer to “manors” and/or “units” as occupied portion
- Ownership = share of stock or membership certificate + right to occupy a portion of the real property

# Boundaries of Unit

- Unit typically bounded by unfinished surfaces of floors, ceilings and walls
- Finished surfaces are part of the unit
- But always have to check CC&Rs and condominium plan
- If water travels from unit to unit, common area is **BY DEFINITION** impacted

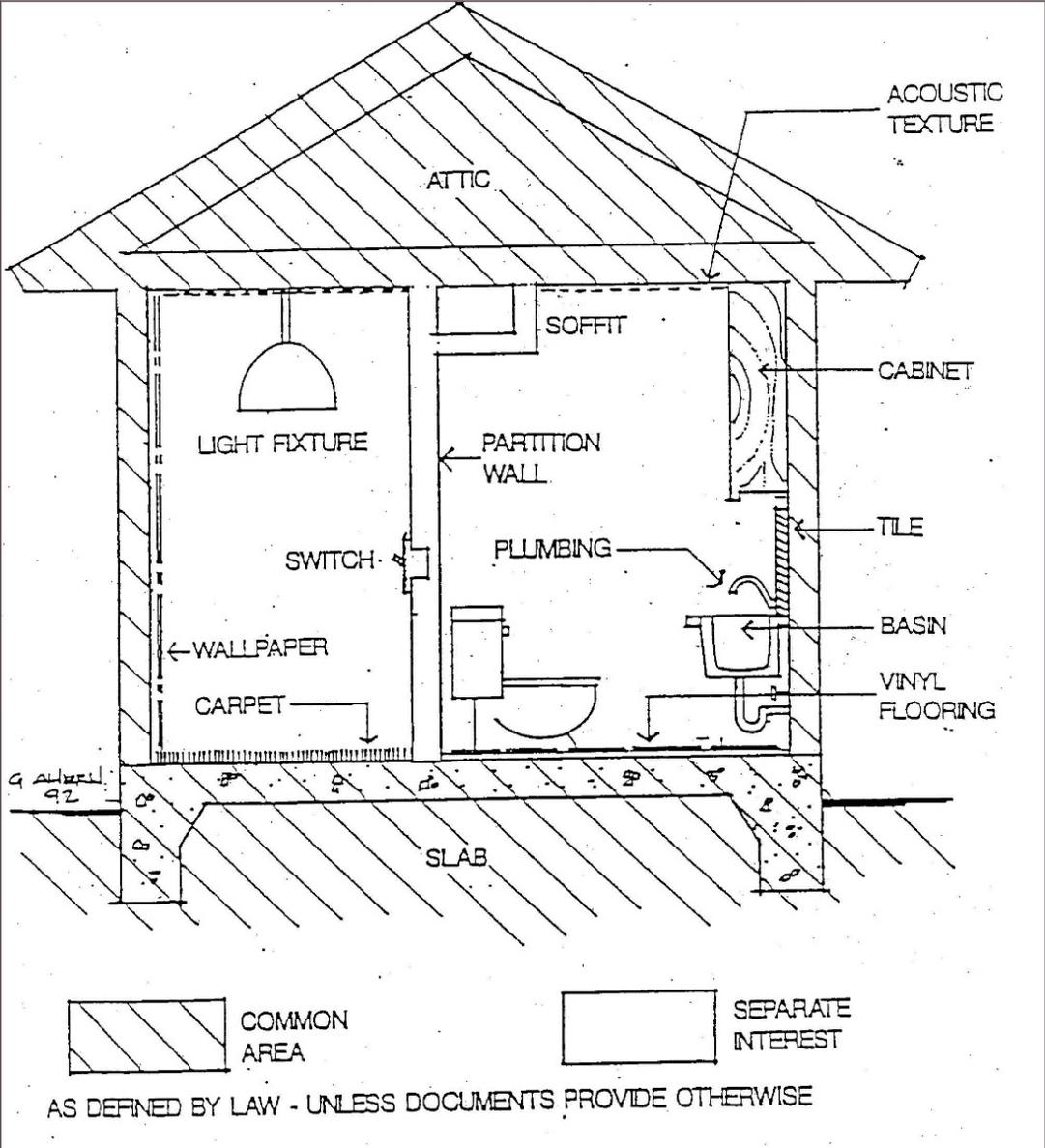
# Condominium



# Common Area

- Everything other than the separate interests
- May be owned by homeowners as tenants in common (typical in condominium projects) or by the mutual (typical in planned developments)
- But can be a combination – governing documents dictate

# Condominium Components



# Common Area

- Everything other than the separate interests
- May be owned by homeowners as tenants in common (typical in condominium projects) or by the mutual (typical in planned developments)
- But can be a combination – governing documents dictate

# Exclusive Use Common Area (“EUCA”)

- Part of the common area
- Defined as a portion of the common area designated by the CC&Rs as for the exclusive use of one or more, but fewer than all, of the owners of separate interests
- Examples: balconies, patios, assigned parking spaces, carports, garages
- Only a use right (not ownership)

# **Fiduciary Duty and Board Meetings**

A 3D rendering of a conference room. In the center is a long, light-colored wooden conference table with rounded ends. Surrounding the table are several black office chairs with white armrests and five-point bases with casters. The chairs are arranged in two rows, facing each other. The background is a plain, light gray wall and floor.

**Ellen R. Schuster, Esq.**

# Board's Role

## **Preserve, protect and enhance property values**

- Manage the mutual
- Enforce governing documents
- Manage finances of the mutual
- Board members are fiduciaries – owe a fiduciary duty to mutual and its members

# Board's Role - Continued

- Role of counsel and management is to help board meet the standards of the “Business Judgment Rule”
- Policy governance model – board sets policy and management executes it
- Decision of a majority of a quorum of the board is a decision of the board
- Duties, powers, and limitations of the board are set forth by statute, governing documents, and case law

# Sources of and Limitations on Board's Authority

- Governing Documents
  - Articles of Incorporation
  - Bylaws
  - Declaration of Covenants, Conditions and Restrictions (CC&Rs)
  - Operating Rules
- Civil Code
- Corporations Code



# Sources of and Limitations on Board's Authority - Continued

- Other state laws
  - Health & Safety Code
  - Vehicle Code
  - Fair housing laws (Fair Employment and Housing Act and Unruh Act)
- Federal laws
- Case law
- Local laws or ordinances



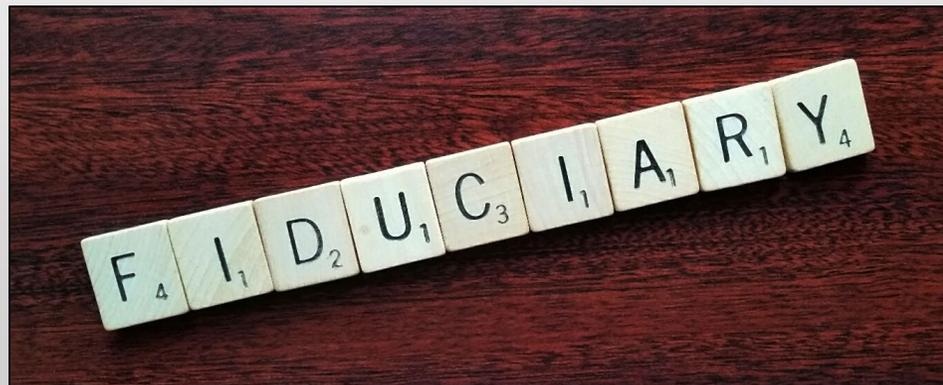
# Fiduciary Duty

- Fiduciary = “a person to whom property or power is entrusted for the benefit of another”
- Highest duty of care and loyalty recognized by law
- Board members owe a dual fiduciary duty – to the mutual and to its members

FIDUCI - WHAT?

# Fiduciary Duty, Generally

- Protect privileged and confidential communications
  - Attorney/client
  - Executive session
- Act within the scope of your authority
  - Individual directors only have the authority to act given to them by the board
  - Individual directors do not have authority to speak for the board or mutual without explicit board authority



# To Comply with Fiduciary Duty Directors Must:

- **Act in good faith and in the best interests of the mutual**
  - Do not make decisions according to self-interest
  - Ensure that decisions do not adversely affect the mutual or its members as a whole
  - Do not make decisions favoring the interests of a particular group within the mutual
- **Act only after reasonable inquiry**
  - Independently investigate and evaluate facts before acting
  - Consult with experts
  - Entitled to rely on information prepared by experts retained by the mutual



# To Comply with Fiduciary Duty Directors Must Also:

- **Act as an ordinarily prudent person in a like position**
  - Use the level of care which persons of ordinary practicality would use in order to avoid injury to themselves or others under similar circumstances
  - Act prudently and minimize risks

# Business Judgment Rule

## IF

- Directors and the board act in good faith and in the manner believed to be in the best interests of the mutual
- Directors act with care, use reasonable inquiry, and act as an ordinary prudent person would in a similar position under similar circumstances
- Seek and rely upon the advice of third-party experts

## THEN

- Court applies business judgment rule (judge will not substitute their judgment for that of the board if decision is made properly)
- Protects even if decision is not to act, but does not protect for failure to make a decision (deciding to take no action is different than taking no action)
- Directors protected from personal liability (“safe harbor”)

# Protection from Personal Liability

- You didn't sign on as a volunteer to take on personal liability
  - Act within the scope of your authority
  - Utilize experts
- Your job is NOT to save your neighbors a couple of bucks
  - Your job is to spend money!

# Directors and Officers Insurance

- Protects directors and officers when they act within the scope of their authority and comply with fiduciary duties
- Make sure your D&O insurance is in place
  - Will not protect directors when they act outside the scope of their authority
  - Will not protect against illegal acts

## *Eng v. Opperman*

- Owner requested to construct an ADU in garage and new garage in front
- Business judgment rule (BJR) and judicial deference can be far reaching
- Boards must hire and consult with third party experts

## *Lipton v. Fairbanks Ranch*

- Owner dispute about hedge removal causing them to see neighbor's tennis court
- Decisions are not protected by BJR or judicial deference if association does not follow its own rules

# Quorum

- Minimum level of participation in order to take action or conduct business
- Required for:
  - Board meetings
  - Member meetings
  - Member votes

# Board Action

**When does the board act?**

**Only in a properly noticed board meeting!**

- Open Board Meeting
  - 4 days' notice with agenda posted
- Executive Session Meeting
  - 2 days' notice with agenda posted



# Open Meeting Act

## What is a meeting? Either:

- “A congregation, at the same time and place, of a sufficient number of directors to establish a quorum of the board, to hear, discuss, or deliberate upon any item of business that is within the authority of the board.”

## OR

- A teleconference, where a sufficient number of directors to establish a quorum of the board, in different locations, are connected by electronic means, through audio or video, or both...

Civil Code § 4090

## AND

- Board may not conduct a meeting via a series of emails except in an emergency (which requires unanimous written consent)

Civil Code § 4910

# Open Board Meeting

- Meetings are open to the members (record owners)
  - Except for items allowed to be discussed in executive session, board meetings must be open to the members
  - Tenants and other non-members do not have a legal right to attend
- Agenda
  - Before a board may discuss or take action on any item it must first appear on a posted agenda
  - Agenda must be posted with the notice, at least 4 days prior to a meeting

# Member Forum

- Homeowner/Member Forum
  - Law requires that members be allowed a reasonable opportunity to address the board at any open board meeting
  - Law also says the board **shall** establish time limits
  - Board is not obligated to respond to or address the homeowner



Open Mic Night

# What if an item is not on agenda?

- Board members and management may briefly respond to statements or questions from members, ask clarifying questions, make brief announcements, or make brief reports on activities
- Board may refer information, matters and administrative tasks to management, even if not on agenda
- Emergencies – if action is needed on a matter which arose after agenda distributed
- If the item was on a recent agenda and it was continued to the current meeting

# Executive Session Meeting

- Closed to members (except those invited to attend)
- Allows board to address issues which may be privileged or confidential
- Per Civil Code:
  - Formation of contracts
  - Member discipline
  - Personnel matters
  - Litigation
  - Delinquent assessments (payment plans, decision to foreclose)
- In addition, privileged and confidential discussions with legal counsel
- Keep confidential

# Practice Pointer

Executive session board meeting agendas can say the following:

**Any or all of the following topics will be discussed:**

- **Formation of contracts**
- **Member discipline**
- **Personnel matters**
- **Litigation**
- **Delinquent assessments**
- **Confidential discussions with legal counsel**

Allows boards to address any of these topics during their executive session meetings.

# Remote Meetings

- As of January 1, 2024, all board and member meetings may be conducted entirely by teleconference and video conference
- Notice of meeting must contain technical instructions and contact information to assist with remote connections before and during the meeting
- Participants must have the option of participating by telephone
- Votes of directors must be conducted by roll call
- Physical location still required for meetings at which ballots are tabulated

# Board Meetings via Email

In 2023, the Court of Appeal ruled email exchanges among board members do not constitute a “board meeting”

**BUT...**

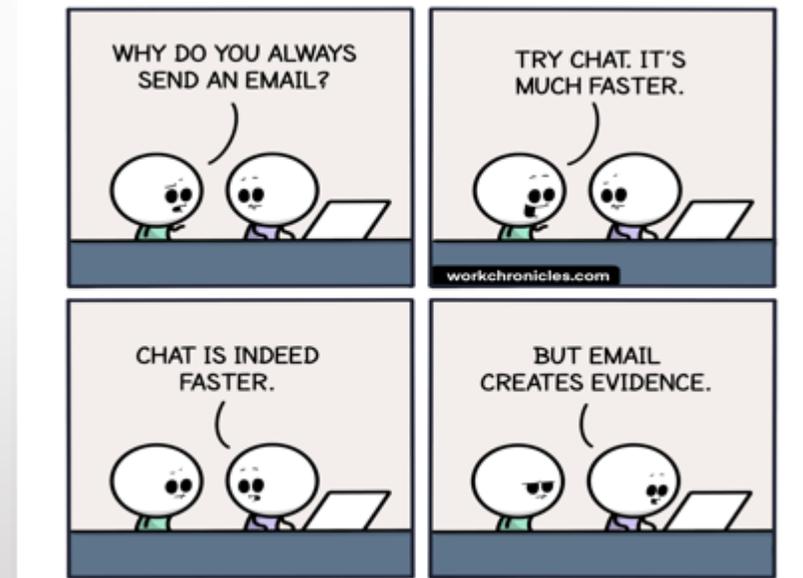


# Board Meetings via Email - Continued

- The Civil Code **explicitly states** that if number of directors on email is sufficient to constitute a quorum, a series of emails is a board meeting
- We continue to strongly encourage boards to limit email communication
  - Use email to “push” information or for administrative purposes only
  - Do not comment, express opinions, or discuss matters via email
  - Think of email as “evidence” mail
  - Remember the purpose of the Open Meeting Act
    - Ensure transparency in board decision-making
  - Members may challenge decisions made by the board, **especially** if deliberations are conducted privately via email

# Risks of Email

- Email = “evidence mail”
  - Emails may find their way to the membership or jury
- Set up a separate personal email exclusively for board business (receipt of board packets, etc.)
- Acceptable way to disseminate information but not for discussion



# Emergency Meetings (Not Noticed)

Boards can meet via email only if an **emergency** and if **all directors consent in writing** to meet via email (consents may be transmitted by email)

## IT'S AN EMERGENCY IF:

- There are circumstances that could not have been reasonably foreseen; **AND**
- Which require immediate attention and possible action by the board; **AND**
- Which of necessity make it impracticable to provide notice as required by law.



# Meeting Minutes

- Record of decisions and items tabled for later discussion, NOT a verbatim account of every word said
- Should not include detail regarding discussions or deliberations
- Keep them brief and simple!
- Meant for internal use – they do not have to be posted anywhere and executive session meeting minutes should never be posted
- Members have right to request and be provided with all open board meeting minutes



TIME FOR  
A BREAK!



CALIFORNIA

# Legislative Update



Zer Iyer, Esq.



# 2026 Legislation

Effective January 1, 2026

# AB 1154 – JADUs



- **Before**

- If there was a JADU on a single-family lot, the owner was required to occupy the main residence AND
- JADU rental terms did not have a specific timeframe

- **Now**

- Owners are only required to occupy the single-family residence if the JADU will share a bathroom in the existing structure
- JADU rental terms must be longer than 30 days



# SB 410 – Disclosure of Balcony Inspection Report

- ALL balcony-inspection reports are now considered “association records” capable of being inspected by and provided to members upon written request (Civil Code § 5200)
- Most recent balcony-inspection report must be disclosed by owners to prospective purchasers (Civil Code § 4525)
- Association may charge an owner for production of the most recent balcony-inspection report during the disclosure process (Civil Code § 4528)
- Only required for condominium developments and those with 3 or more attached multifamily dwelling units per building



# SB 410 – continued

- The first page of a balcony-inspection report must now contain:
  - Date of inspection
  - Total number of units in project
  - Total number of units in project with exterior elevated elements
  - Total number of inspected exterior elevated elements posing an immediate threat to safety of the occupants and the number of units impacted
  - A certification that the inspector has conducted a visual inspection and evaluated a “statistically significant sample” of the exterior elevated elements within the project



# SB 547 – Property Insurance Cancellation

- Prohibits an insurer from canceling or refusing to renew a policy of commercial property insurance
  - For a property located in any ZIP code within or adjacent to the fire perimeter
  - For one year after the declaration of a state of emergency AND
  - Based solely on the fact that the insured structure is located in an area in which a wildfire has occurred
- This prohibition expressly applies to common interest developments



# SB 625 – Rebuilding after natural disaster

- Civil Code § 4752
  - Governing document provisions may not prohibit or have the effect of prohibiting a “substantially similar reconstruction of a residential structure” that was destroyed or damaged in a disaster
  - Defines “disaster”
    - State of disaster or emergency by federal government
    - State of emergency declared by Governor
    - Local emergency declared by local governing body
  - Defines the criteria for determining what is “substantially similar reconstruction”



# SB 625 – Rebuilding after natural disaster - continued

- Civil Code § 4766
  - Requires expedited review of applications submitted for substantially similar reconstruction following disasters
    - Initial review and response must be completed within 30 days of submission
    - Multiple other criteria for communication with applicant
  - If challenged in court and successful, the homeowner is entitled to their reasonable attorney fees



# SB 770 – EVCS Insurance Requirements

- **Before**

- Owners who wanted to install EVCS were required to name association as additional insured on their liability insurance policy

- **Now**

- Associations do not have to be listed as an additional insured on the owner's liability insurance policy



# Legislation

Effective July 1, 2025

# AB 130 – Fines & Enforcement

- Signed by the Governor on 6/30/25 and went into effect immediately – on 7/1/25
- Made changes to several California statutes
  - Amended Civil Code §§ 5850 and 5855
- Made changes to an association's ability to impose disciplinary fines and the disciplinary process





# AB 130 – Civil Code Section 5850

- Fines cannot exceed the **lesser** of
  - The fine stated in the existing fine policy OR
  - \$100 “per violation”
- ***Exception*** to \$100 fine limitation
  - “If the violation may result in an adverse health or safety impact on the common area or another association member’s property”
  - Before imposing such fines, board must make “written finding” specifying the adverse health or safety impact in an open board meeting



# AB 130 – Civil Code Section 5855

- Member opportunity to cure violation before hearing
- Conditions prior to imposition of discipline
- Agreement reached at hearing?
  - Financial commitment
- If no agreement, members can request IDR
- Notice of decision must be sent out within 14, not 15, days of board action

# Handling Enforcement POST AB 130

- No enforcement policy? No enforcement!
- Have legal counsel review of *existing* fine and enforcement policy and suggest changes
- Expand the definition of “per violation” to include repeat incidents of breaking the same rule
- Expand the adverse health and safety impact to include impact on people- not just property
- Adopt a board resolution – in advance – which identifies those violations which the Board already believes have an adverse health and safety impact; this eliminates the need to make a separate written finding each time
- Consider seeking **reimbursement** of all costs related to enforcement

# Reimbursement Refresher

- Mutual can only seek reimbursement for a cost that has *already* been incurred
  - cannot be prospective or unknown cost
    - Any invoice or evidence of payment made by the mutual
- Must not levy or charge a reimbursement assessment to an account automatically
- Must provide member with notice and hearing prior to the levy of reimbursement assessment
- Notices should include:
  - The exact amount for which the mutual is seeking reimbursement
  - Reference to the § of the governing documents that gives the mutual the right to seek reimbursement from the member

# **Turf and Potable Water**

**Dana S. Marron, Esq.**

# What Boards Need to Know About AB 1572 (Turf & Potable Water)

- What is AB 1572?
- Functional v. nonfunctional turf
- Reporting, enforcement, and penalties
- Resources

# What is AB 1572?

- AB 1572 is California environmental/water-conservation legislation
  - AB 1572 does not apply to exclusive use areas
- (See Water Code §§ 110; 10608.12; 10608.14)

# Terminology

- *Potable water*: Drinking water (not recycled water)
- *Turf*: Sod / lawn
- *Common Area*:
  - Defined by the Water Code, not the governing documents
  - Owned or managed by a “homeowners association”
  - Not exclusive use common area
  - Not individual lots or units
  - When in doubt, check with EBMUD

# Functional Turf

Functional turf is turf in a recreational use area or community space.

It is permissible to use potable water to irrigate functional turf.

Examples of functional turf:

- Sports fields
- Golf courses
- Playgrounds
- Picnic grounds
- Pet exercise areas



# Nonfunctional Turf

Nonfunctional turf serves no recreational or community purpose.

It is not permissible to use potable water to irrigate nonfunctional turf.

Examples of nonfunctional turf:

- Turf in street rights-of-way
- Turf in parking lots
- Median strips
- Narrow strips along walkways



Which Turf Is It?



# Functional Turf or Nonfunctional Turf



Nonfunctional Turf – Decorative narrow strip along walkway

# Functional Turf or Nonfunctional Turf



Functional Turf – EBMUD treats backyards as functional turf

# Functional Turf or Nonfunctional Turf?



Nonfunctional Turf with an exemption – watering is allowed to continue to ensure the health of trees. Only for Existing Trees! Only where they are!

# Key Dates and Reporting

**January 1, 2029** – Common interest developments must stop using potable water on nonfunctional turf

**June 30, 2031** – Common interest developments with  $> 5,000$  sq. feet of irrigated common area must certify compliance by this date, and do so every 3 years thereafter



# Risks of Noncompliance

**Penalties** – EBMUD can impose penalties of up to \$1,000 per day

**Liability** – Risk of breach of fiduciary duty claims

## Helpful Resources

- <https://nonfunctionalturfca.org>
- <https://www.ebmud.com/water/conservation-and-rebates/watersmart-irrigation-programs/non-functional-turf>



# Planning

- Turning off the water is not an option
- Start planning now
  - ✓ RWC or landscape contractor creates a “turf map”
  - ✓ Landscape contractor provides design options and pricing
  - ✓ Create a budget and funding plan
- Communicate with the members throughout the process
  - Open board meetings
  - Town halls
  - Email blasts

# Recap

- Potable Water is not permissible on nonfunctional turf (purely decorative common area turf) in common areas\*
- Potable Water is permissible for functional turf (e.g., recreational or community use areas) in common areas, in exclusive use areas, and for non-turf plantings\*
  - \*Check with your landscape contractor and EBMUD about what is considered common area and exclusive use areas for purposes of AB 1572
- Work as a team with RWC, the mutual's landscaping contractor, EBMUD, and encourage membership support
- Start planning now



# **Elections**

**Amy K. Tinetti, Esq., CCAL**

# Secret Ballot Elections

## **Four matters must be voted on by secret ballots**

(regardless of what the governing documents say)

- Assessment increases requiring member approval
- Election and removal of directors
- Amendments to the governing documents (except operating rules)
- Grant of exclusive use of common area

## **Other member votes may not require secret ballots**

(check governing documents re member approval)

- Vote to obtain a loan
- IRS revenue ruling
- Capital improvement



# Inspector of Elections

## **Must be independent third party**

- Can be member if not director, candidate for board, or related to a candidate

## **Duties**

- Count and tabulate votes in public at an open meeting so members can witness
- Determine when polls close, consistent with governing documents
- Determine tabulated results of election
- Perform “any acts as may be proper to conduct the election with fairness to all members” in accordance with applicable law and the governing documents

## **Must be appointed by the board**

- Make sure minutes reflect appointment

**Report prepared by Inspector of Elections is prima facie evidence of the results of the election**

# Candidate/Director Qualifications

## Mandatory Qualification

**Only members of the mutual, at the time of nomination, can run for the board of directors**

## Exception:

- Legal entities as members may appoint a natural person as a “member” for nomination as a director



# Candidate/Director Qualifications

## Permissive Qualifications

Per bylaws or election rules, the mutual may disqualify the following from nomination and board service:

- Members not current in payment of regular or special assessments
  - **Exceptions:**
    - Subject assessment is paid under protest
    - Candidate has entered into a payment plan
    - Candidate was not provided an opportunity for IDR

# Candidate/Director Qualifications

## More Permissive Qualifications

**Per bylaws or election rules, the mutual may disqualify the following from nomination and board service:**

- Candidates who share ownership interest in subject property with a currently serving director
- Member of the mutual for less than a year at time of nomination
- Member has served maximum number of terms (if documents contain term limits)
- Past criminal conviction which would prevent or terminate the mutual's fidelity bond coverage

# Candidate/Director Qualifications

The mutual may NOT disqualify a nominee or director for:

- Non-payment of fines
- Non-payment of collection charges
- Non-payment of late fees
- Non-payment of costs levied by a third party

# Timeline for “Regular” Election of Directors

***At least 120 days prior to election***

**Check to see if mutual has compliant election rules**

- Deadline to amend rules is 90 days *before* election; additionally, 28-day member notice and comment period applies

***At least 30 days prior to nomination deadline***

- Provide call for candidates by general notice
- Appoint inspector of elections

# Timeline for “Regular” Election of Directors

***At least 30 days before ballots are mailed***

**Pre-ballot notice (or “save the date”)**

- Date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector of elections
- The date, time, and location of the meeting at which ballots will be counted
- List of all candidates' names that will appear on the ballot

***At least 30 days before “election” (i.e., ballot counting)***

**Ballots sent by mail or “delivered” to each member**

- Must include election rules or website address for rules

# Timeline for Other Secret Ballot Elections

## ***At least 120 Days Prior to Election***

### **Check to see if mutual has compliant election rules**

- Deadline to amend rules is 90 days *before* election; additionally, 28-day member notice and comment period applies

## ***At least 30 days before “election” (i.e., ballot counting)***

### **Ballots sent by mail or “delivered” to each member**

- Must include election rules or website address for rules

# What is Election by Acclamation?

When, as of the deadline for submitting nominations, **the number of qualified candidates is not more than the number of vacancies to be elected**, as determined by the inspector or inspectors of the elections, an association may, but is not required to, consider the qualified candidates elected by acclamation if certain conditions have been met.



LUNCH  
TIME

Condition #1:

## **“Regular Election Required Once Every Three Years**

- The mutual must have held a regular election of directors in the last three years.
- “The three-year time period shall be calculated from the date ballots were due in the last full election to the start of voting for the proposed election.”

Condition #2:

# Initial Notice of the Election; Procedure for Nominating Candidates

- The mutual must provide **individual notice** to the mutual's members of all of the following information **at least 90 days before the deadline for submitting nominations**:
  - The number of board positions that will be filled at the election
  - The deadline for submitting nominations
  - The manner in which nominations can be submitted
  - A statement reminding members that: *If, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the board of directors may, after voting to do so, seat the qualified candidates by acclamation without balloting.*

Condition #3:

## Reminder Notice of the Deadline for Submitting Nominations

- The mutual has provided a reminder to the mutual's members by **individual notice** of all of the following information **between 7 and 30 days before the deadline for submitting nominations**:
  - The number of board positions that will be filled at the election
  - The deadline for submitting nominations
  - The manner in which nominations can be submitted
  - A list of the names of all of the qualified candidates to fill the board positions as of the date of the reminder notice
  - A statement reminding the members that: *If, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the board of directors may, after voting to do so, seat the qualified candidates by acclamation without balloting.*

Condition #4:

## Acknowledgment of Receipt of Nominations

- The mutual must provide, **within 7 business days of receiving the nomination**, a written or electronic communication acknowledging the nomination to the member who submitted the nomination

## Condition #5:

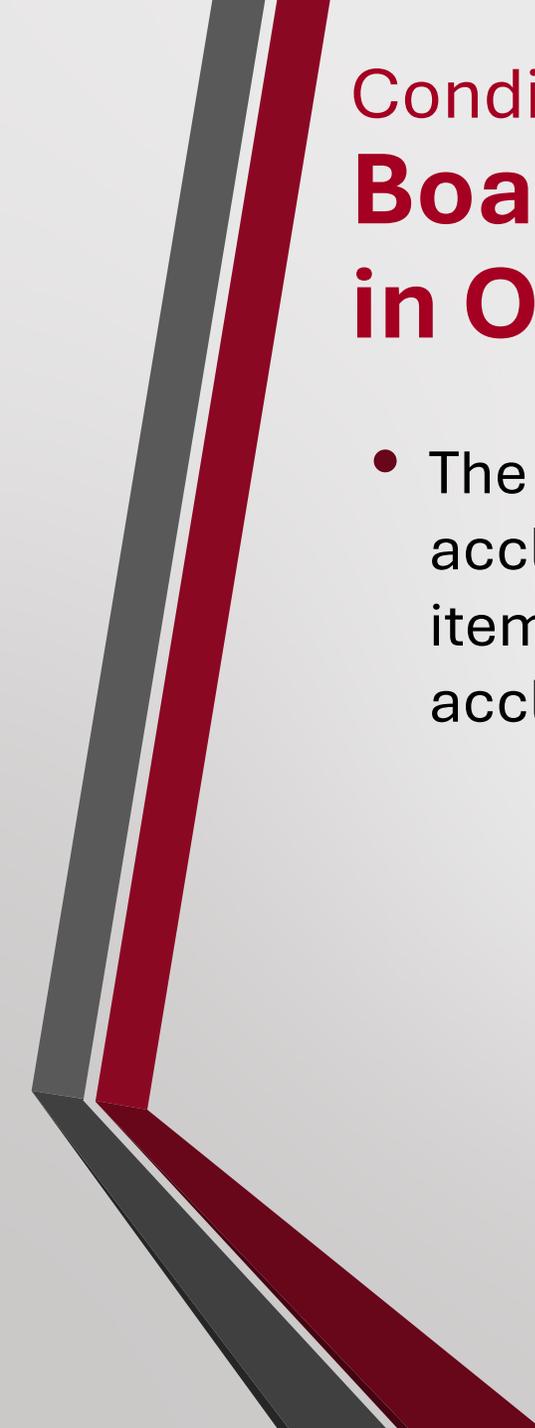
# Notice of Nominee Qualification

- The mutual has provided, **within 7 business days of receiving a nomination**, a written or electronic communication to the nominee, indicating either of the following:
  - The nominee is a qualified candidate for the board of directors; or
  - The nominee is not a qualified candidate for the board of directors, the basis for the disqualification, and the procedure (which must comply with the internal dispute resolution provisions contained in Civil Code § 5900 et seq.) by which the nominee may appeal the disqualification
- The mutual can combine the acknowledgement of receipt of nomination with the notice of nominee qualification into a single written or electronic communication if the nominee and the nominator are the same person.

Condition #6:

## **Allow Qualified Candidates to Run for Election**

- The mutual must permit all candidates to run if nominated, except for nominees disqualified for running as allowed or required pursuant to subdivisions (b) to (e), inclusive, of Civil Code § 5105.



Condition #7:

## **Board Approval of Election by Acclamation in Open Meeting**

- The board must vote to consider the qualified candidates elected by acclamation at an open session board meeting for which the agenda item reflects the name of each qualified candidate that will be seated by acclamation if the item is approved.

# Electronic Voting

May be used for:

- Board of director elections
- Amendments to governing documents
- Grants of exclusive use common area pursuant to Civil Code § 4600

**MAY NOT BE USED** for elections to increase assessments

# Changes to Election Rules

- Mutual may utilize Inspector of Elections to conduct an election by electronic secret ballot (except for assessment increase vote)
- Must permit member to change voting method (from electronic to written and vice versa) no later than 90 days before election
- Opt-out election – mutual must mail written ballot to members who have opted out or for whom mutual does not have an email address
- Opt-in election – mutual must send electronic secret ballot only to members who have opted in

# Changes to Election Rules - Continued

- Valid email address required for someone to vote electronically
- Electronic ballot and written ballot must contain the same ballot measures
- Nominations from the floor prohibited for electronic director elections

# Other Impacts of Electronic Voting

- Inspector of elections' duties expanded
- Notice regarding voting method must be provided to each member and member may change voting method no later than 90 days before election
- Method to confirm, at least 30 days before voting deadline, that the member's electronic device can successfully communicate with internet-based voting system
- Annual policy statement must be updated
- Voter list must include member's voting method

**QUESTIONS?**



# Thank You!

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