

CALIFORNIA ASSOCIATION of REALTORS®

COMMON INTEREST DEVELOPMENT (CID)
BASIC INFORMATION GUIDE

Basic Information for CID Homeowners and Their Boards

2017

INDEX

<u>Subject Area</u>	<u>Page</u>
INTRODUCTION	1
COMMON INTEREST DEVELOPMENT (CID) BASICS	1
TYPES OF CIDS	2
DISCLOSURE REQUIREMENTS FOR SELLERS	4
CID GOVERNANCE DOCUMENTS	5
DISPUTE RESOLUTION	6
CID FINANCES	7
CID MEETINGS	9
BOARD OF DIRECTORS PROVISIONS	11
MAINTENANCE AND REPAIR RESPONSIBILITIES	12
MANAGEMENT OF CIDS	13
INSURANCE GUIDELINES	14
GLOSSARY OF TERMS	16
PUBLIC INTERNET INFORMATION SOURCES	18
CONTACT INFORMATION for CID-RELATED ENTITIES	18
CAR and DRE LINKS for CID INFORMATION	18

PREFACE

This *COMMON INTEREST DEVELOPMENT (CID) BASIC INFORMATION GUIDE* is designed to provide general information regarding owning a home in a CID, as well as operating and managing CID's. This guide does not contain legal advice or guidance. For additional information, you may wish to consult with an attorney, accountant, or other appropriate professional.

INTRODUCTION

CIDs have become a popular type of home ownership, providing an alternative to the traditional single-family dwelling. At the end of 2015 there were an estimated 50,000 homeowner associations in the state, consisting of over 4.8 million residences. CIDs can have as few as two units in a duplex, hundreds of units in a downtown high-rise, or thousands of homes in a planned community. Generally speaking, CIDs provide a framework for owners to own their own home and share ownership of common areas.

Most laws governing CIDs are found in the following state codes: California Civil Code Sections 4100-6150 (the Davis-Stirling Act), California Business and Professions Code Sections 11000 *et seq.* (Subdivided Lands Law) and "SB 800" (California Civil Code Sections 895 *et seq.*) In particular, for disclosure requirements see California Civil Code Section 4525 (resale) and California Business and Professions Code Section 11018.6 (new subdivision), and California Civil Code Section 1134 (conversions). Certain other federal, state and municipal laws may also apply, as well as judicial decisions interpreting the laws governing CIDs. Each CID is managed pursuant to specific standards contained in documents commonly referred to as "the governing documents," which include the Covenants, Conditions and Restrictions ("CC&Rs"), Bylaws and Rules and Regulations.

THE COMMON INTEREST DEVELOPMENT

What is a Common Interest Development?

A CID exists where land is divided into separate ownership interests and where the separate owners have the right to use commonly owned property and/or facilities. CIDs also provide for a means for the owners to manage the CID through an association.

Does an owner have to join the CID's association?

An owner becomes a member of the CID's association by virtue of having an ownership interest in the CID.

Why buy into a CID?

A CID provides different benefits to individual owners made possible through common ownership. Owners can co-own community facilities, such as swimming pools, parks, recreational facilities and even

lakes. Costs are shared, allowing a CID to provide amenities that an individual owner might otherwise be unable to afford on his or her own. The CID may also take on some of the burdens of ownership which might otherwise be an individual owner's responsibility in a non-CID property, such as gardening services, maintenance, and/or utilities expenses.

A homeowner in a CID becomes a member of a community in which all members agree to adhere to the governing documents. Some CIDs may provide a more affordable option for the purchase of housing due to increased density and economies of scale in maintenance. Additionally, CIDs may, if operated in a fiscally prudent manner and due to sharing of costs, help ensure that properties are properly maintained and thus offer some protection for property values.

Other Considerations of CID Living.

CIDs take on much of the responsibility that would ordinarily be handled by the individual homeowner in a non-CID home. In many cases this also means that the CID member agrees not to make unilateral decisions regarding the appearance, maintenance and improvement of the home. For example, a CID member might have to seek authorization to change the exterior appearance of the home or make certain other remodel changes. By living in a CID community, the homeowner must cooperate with the community to maximize the benefits to all of CID living.

CID versus living in an apartment

A home in a CID may be attached or detached. The lifestyle of attached living is often like living in an apartment. An attached home may be very similar to an apartment in its physical layout and the buildings may be indistinguishable from an apartment complex. However, as noted above, owners in an attached home CID have substantially different responsibilities than renters or non-CID unit owners.

What is a condominium conversion?

Since the CID is a legal form of ownership, rather than a type of structure, a CID can be created from an existing development. Conversion can be from a non-CID, such as a rental apartment complex, to a condominium complex. It may also be from one form of CID to another. The conversion of a CID to another type of CID is principally a change of legal title, often with no physical changes to the complex.

TYPES OF CIDs

Four Types of CIDs

There are four types of CID's in California. One cannot determine the type of CID simply by looking at the building or complex. The four types of CIDs in California are: *planned developments (PDs)*, *condominiums*, *stock cooperatives*, and *community apartments*:

Planned Development (PD)

A planned development consists of real property which is split into different pieces commonly called “lots” that are often individual plots of land with a dwelling on them. The PD usually has common area which is owned by the CID association. The lots are individually owned and subject to common CC&Rs

Condominiums

A condominium consists of an undivided interest in the CID’s common area coupled with a separate interest in the airspace defined as a specific unit. The precise description of the unit will be found in a recorded document called the “Condominium Plan” or “Subdivision Map”. The owner receives a deed of ownership in the particular unit as well as an equal undivided ownership in the CID’s common area. For example, in a 48-unit development on Main Street, the owner of Unit 8 would have a deed showing the ownership of an individual interest in Unit 8 plus a 1/48th undivided ownership interest in the common area.

Stock Cooperative

A stock cooperative is usually referred to as a “co-op”. In a stock cooperative, a corporation owns the entire real property. The homeowner does not receive a deed, but a share of stock in the corporation tied to the right to a specific home on the property. The stock co-op will normally have one share per unit.

Community Apartment

Community Apartments are often referred to as “own-your-owns”. The building is owned in a “common tenancy” fashion, operating under recorded covenants. The deed the community apartment owner receives may not mention any specific dwelling, but may simply state that the owner owns one individual equal share of the property. In the example of 48 homes at #1 Main Street, the deed may state that the homeowner owns a 1/48th interest in the property at #1 Main Street. The deed provides a homeowner the right to occupy a specific home in the community apartment project, or the right to occupy a unit and use the common area, as may be set out in a management agreement between all the joint owners.

How does a purchaser know what kind of CID home is owned?

The type of CID a person owns should be identified on the deed and on the first page of the recorded covenants, usually called “CC&Rs”.

Is one type of CID better than another?

Generally, the answer is no. The various forms of CIDs are similar as to the use, occupancy and restrictions. However, the ability to obtain financing may differ depending on the type of CID.

DISCLOSURE

What information or documents must a CID owner provide to a prospective purchaser?

Under Civil Code Section 4525 an owner (and hence a member of the CID association) is required to give the following documents to a prospective buyer (which the CID must provide to the owner within ten days of written request):

- * The association governing documents - CC&Rs, Bylaws, operating rules, and articles of incorporation.

- * The association's most recent Annual Budget Report (Civil Code 5300) and Annual Policy Statement (Civil Code 5310). Each of these items are collections of annual documents required to be provided to all members. The Annual Budget Report contains primarily important financial disclosures, and the Annual Policy Statement contains a collection of various association policies.

- * A statement describing any restrictions in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age, including a statement that the restriction is only enforceable to the extent permitted by California Civil Code Section 51.3.

- * A statement from a representative of the association regarding current regular and special assessments and fees levied upon the seller's interest, including any unpaid assessments.

- * A summary of any notice previously sent to the owner alleging violations of the governing documents that remain unresolved at the time of request.

- * A copy of the latest defect list regarding any pending or resolved construct defect litigation.

- * Any change in the association's current regular and special assessments and fees which have been approved by the board of directors but have not yet become due and payable.

- * A disclosure of any rental prohibitions in the association.

- * If the buyer requests, copies of the approved minutes of open board meetings over the previous 12 months.

Please note that this is not meant to be a complete list of disclosures; an association may be required to provide additional documentation.

Is a CID obligated to provide its members with the necessary documentation to give to a buyer?

Yes. Upon written request, an association must, within 10 days of the mailing or delivery of the request, provide the owner (seller, not buyer) of a separate interest with a copy of the items listed in the section above and other disclosures required by law. The association may charge the seller (not the buyer) a fee for this service, but the fee may not exceed the association's reasonable costs to prepare and reproduce the requested information. If the association refuses to comply (i.e., "willful" violation), the Civil Code provides a civil penalty not to exceed \$500, plus actual damages incurred by the buyer and reasonable attorney fees. The document fees cannot be "bundled", but must be itemized for each document.

Is there a limit to association transfer fees?

Yes. An association can only charge its actual costs for changing its records as a transfer fee. However, there are often fees charged by the association regarding lender certifications and other tasks in connection with an escrow. There are some associations with additional transfer fees authorized by statute, which are less common.

CID GOVERNING DOCUMENTS

What are governing documents?

The governing documents of the association include the Articles of Incorporation (if applicable), CC&Rs, Bylaws, subdivision map or condominium plan, and operating rules which govern the CID association and define the rights and obligations of the CID and its members.

Articles of Incorporation

If the CID is incorporated (which is common), the CID must have Articles of Incorporation containing a statement which does all of the following:

- Identifies the corporation as an association formed under the Davis-Stirling CID Act;
- States the location of the business or corporate office of the association; and
- States the name and address of the association's managing agent, and if the manager is Certified.

Subdivision Map or Condominium Plan

The document that divides the land into lots is usually referred to as a "Subdivision Map." The document which divides the property into individual units is usually referred to as a "Condominium Plan." The map or plan is filed (i.e., "recorded") with the County Recorder and is therefore a public document. It defines the "common area" or "exclusive use common area" as well as the "separate interest." This document can be very important in case there are disputes between homeowners, or between the homeowner and the association, over the use of certain parts of the property.

Covenants, Conditions and Restrictions (CC&Rs)

This is also a "recorded" document which contains, among other things, a legal description of the common interest development, the nature of the development (i.e., planned development, condominium project, stock cooperative or community apartment), the association's name, and any restrictions on the use or enjoyment of any portion of the development. The CC&Rs usually also contain the basic rights and obligations of the owners and the association with respect to dues, assessments, maintenance, and other basic items. This document can be amended by a vote of the membership.

[Note - Use Restrictions - CC&Rs affect the homeowner's life in the CID. There usually will be a section in the CC&Rs called "use restrictions" which list prohibited activities or uses. Those restrictions can range from limits on pets to parking restrictions or even rental restrictions.]

Bylaws

Bylaws usually do not address issues regarding the property, but generally contain the CID governance procedures such as annual meeting guidelines, voting procedures, and eligibility and powers of the board of directors. Bylaws are typically not recorded and are not deemed public documents. They can only be amended by a vote of the membership at a general membership meeting that has been announced to the members for such a purpose.

Operating Rules

In addition to the requirements contained within the CC&Rs, CID associations also adopt operating rules for the CID regarding a variety of subjects such as parking, architectural guidelines and facilities use. These rules and regulations must be written and not conflict with state law or the other governing documents. They are passed and amended by the CID board of directors after notice to the members and do not require a membership vote. They are not effective until distributed to the membership in written form.

Can governing documents be changed?

Yes, the governing documents can be changed by the association on a membership vote (except for operating rules, which are changed by a board vote). They can also be changed as a result of changes in the law which restrict the ability of an association to have certain policies.

What if there are contradictions between the governing documents?

Sometimes, as governing documents are amended, contradictions can be created. The law takes precedence over all the governing documents. CC&Rs take precedence over bylaws, and bylaws take precedence over rules.

What if I do not like certain provisions in the governing documents?

When a homeowner acquires ownership of a home in a CID, the homeowner thereby legally accepts the terms of the governing documents and agrees to abide by their terms. As a member of the CID, a homeowner has the right to seek a revision to the governing documents. Until a change is actually made, however, the homeowner must comply with the governing documents.

DISPUTE RESOLUTION

What if a homeowner has a dispute with his or her Homeowners' Association or one of his or her neighbors?

CIDs are required to have in place procedures to help homeowners resolve disputes between each other and/or with the HOA. There should be in place an Internal Dispute Resolution (IDR) procedure which designates someone to help resolve such disputes. In the event IDR fails, members and the association are required to offer Alternative

Dispute Resolution (“ADR”) to the other side in the majority of cases involving disputes between a member and the association (there are some exceptions such as a dispute over assessments). There are two basic methods of ADR, *mediation and arbitration*:

Mediation

Mediation is a discussion between the parties which seeks to find a resolution to the dispute, aided by a mediator who is a facilitator of that discussion. Mediation is not designed to determine who is right and who is wrong, but simply to end the dispute. A skilled mediator will try to help the parties reach a mutually acceptable resolution. If an agreement is not reached, the parties will need to go to court or arbitration.

Arbitration

Arbitration is a hearing, essentially a less formal private trial, in which both sides present evidence in front of a neutral person called an arbitrator. The arbitrator may be a lawyer, retired judge, or any other person agreed upon by the parties or defined by the governing documents. The arbitrator, after hearing the evidence, will render a decision. The decision can be binding or non-binding, depending on what the parties have agreed to at the commencement of the proceeding.

CID FINANCES

All CIDs incur expenses maintaining, repairing, replacing, and operating the development. The expenses are typically shared by all members pursuant to a formula set forth in the CC&Rs. To meet those expenses, the CID will levy assessments upon all owners.

Bank accounts

CIDs should have two basic bank accounts, holding two different types of funds:

The “*operating account*” is used to pay for day-to-day expenses such as landscaping, utilities, painting, and management fees.

The “*reserve account*” is designed to help the CID pay for major repairs and replacement of CID common area items. At least every three years, the CID must have a reserve study performed to project how long major common area components (for example, elevators, roofs, etc) will last and how much it should cost to repair or replace them.

Assessments

The five basic types of assessments are: *regular, special, emergency, reimbursement and penalty*:

Regular

A *regular assessment* is usually imposed on a monthly or quarterly basis. Regular assessments are often referred to as “dues”. These assessments are used to pay the CID’s operating account needs and meet its reserve account requirements. Regular assessments cannot be increased by more than 20% per year without a membership vote.

Increases of less than 20% can be made by the board of directors without a full membership vote, but not without notice to membership of the meeting during which such a decision will be made.

Special

A *special assessment* is separately imposed and is limited to a specific amount of money over a specific period of time. Special assessments more than 5% of the CID's annual gross budgeted expenses may not be set by the board without the approval of a majority of the homeowners.

Emergency

Emergency assessments may be imposed by the board of directors under extraordinary circumstances such as repairs needed for safety or required by court order.

Reimbursement

Reimbursement assessments are sometimes provided for in the governing documents, and allow the CID to seek reimbursement from a member under certain circumstances

Penalty

A *penalty assessment* is commonly referred to as a "fine" and is imposed by the board of directors due to a violation of the governing documents. The fine cannot be imposed unless the board has first given the member a chance to discuss the matter with the board.

Budgets

CIDs are required to annually prepare, adopt and distribute a budget to all members. As described below, the budget provides key information about a CID association for a prospective buyer.

Annual Budget Report; Pro Forma Operating Budget

Unless the CC&Rs impose more stringent standards, the association must prepare and distribute to its members a formal operating budget not less than 30 days or more than 90 days before the beginning of the fiscal year. This budget is part of a collection of documents called the "Annual Budget Report", which is sent to all members annually. The "pro forma operating budget" should contain such information as estimated revenue and expenses; a summary of the association's reserves; a statement as to whether the board of directors has determined to defer or not undertake repairs or replacement of any major component, or has determined to levy any regular or special assessments for the major components; a general statement addressing procedures used for the calculation and establishment of reserves sufficient to defray future repair, replacement, or additions to those major components that the association must maintain; and such other information as may be required by the association's governing documents.

Summary of the Pro Forma Operating Budget (Alternative)

Instead of the “formal operating budget”, an association may instead distribute a summary of the pro forma operating budget accompanied by a written notice that the complete statement is available at the business office of the association, or other location, and copies can be made, if requested, at the association’s expense. If a member requests a copy of the budget by mail, the association must send it by first-class mail within 5 days after receiving the request.

Member access to Financial Information

Members have the right to inspect and even copy most CID records, including financial records. There are some exceptions, such as records of member discipline, or other confidential matters. Member access to financial records is obtained through a written request to the board of directors or the CID’s management (if any).

Audits and Reviews

An *audit* is a very involved and expensive verification by a certified public accountant of the CID’s income and expenses. Most CIDs do not obtain audits because of the cost.

More commonly, CIDs hire accountants to perform a *review*, in which the accountant confirms that the records are in good order and are kept in accordance with generally accepted accounting principles. In reviews the accountant does not verify the numbers’ accuracy.

What happens if a member does not pay their assessment?

When members fail to pay their assessments in a timely manner, the CID may impose late fees, penalties and collection fees on the member. If payment remains unpaid, the CID may place a lien on the home until the obligation is paid - including attorney fees. State law has strict requirements for this process.

CID MEETINGS

Membership Meetings

Membership meetings are meetings in which decisions are to be made by all of the members as opposed to the board of directors. Votes at membership meetings are conducted by secret ballot on most issues. CIDs must conduct at least one membership meeting per year, at which directors are elected. Usually, these “**Annual Meetings**” include a financial report and such other business as has been announced in advance to all of the membership. Membership meetings held between Annual Meetings are called “**Special Membership Meetings**.” These meetings can be called for many reasons, usually to vote upon items which the Board may not decide but which require a membership vote. These meetings can be called by the board or by a petition of members, pursuant to the governing documents.

Voting at membership meetings

Unless the governing documents say otherwise, normally a member voting in a CID membership meeting may vote in three basic ways: By *attending and voting*, by *ballot cast in advance* (essentially an

“absentee ballot”), or by *proxy*. Not all associations allow voting by proxy. Additionally, a *quorum* of members, as defined by the governing documents, must be present to conduct business at a meeting of members, and *secret ballots* are required for specific votes.

Voting in lieu of attendance

Many CIDs offer the members the option of voting without having to attend the membership meeting. This process is often referred to as “voting by absentee ballot” since the member is not personally attending the meeting. CIDs are required to send all members absentee ballots for most votes at least 30 days prior to the date of voting.

Proxy

A proxy is a written statement in which one member grants to another member the right to vote that member’s ballot at a membership meeting. A proxy is signed by the issuing member and grants a designated recipient the right to vote the member’s ballot. Not all associations allow proxies for voting purposes.

Quorum

A quorum is the minimum number of members who are required to participate (in person, by proxy or by absentee ballot) in order to conduct business during a membership meeting. The quorum is normally defined in the governing documents. If not enough members participate to attain a quorum, no business can be conducted at the membership meeting.

Secret Ballots

CID associations are required to use secret ballots for elections regarding assessments, selection of members of the board of directors, amendments to the governing documents, or the grant of exclusive use of common area property. The law also requires the association appoint an inspector of elections. (Civil Code 5110)

Board Meetings

A CID makes its normal business decisions through a governing board of directors. The board meets pursuant to the requirements of the governing documents, and at least quarterly.

Board of director meetings must be open to all owners. In the meetings, a time must be set aside for members to speak, subject to a reasonable time limit. A member’s right to access minutes from meetings may not be limited by contract or the articles or bylaws. The board of directors may restrict attendance only when it meets in an “executive session”. All matters discussed in the closed meeting must be generally noted in the minutes of the subsequent open meeting and made available to the unit owners.

Required Notice for Board Meetings

Notice of a pending board meeting, except an emergency meeting, must be given to association members four days prior to the scheduled meeting and must include an agenda.

Meeting Guidelines

The board of directors may not discuss, or take any action on, an item at a non-emergency meeting of the board that was not included in the circulated agenda. This restriction does NOT prohibit open forum comments on issues not on the agenda, and board members responding to such comments or statements. This restriction also does not prevent the board of directors from dealing with true emergencies where four days advance notification was not possible.

Types of Board Meetings

The three types of board meetings are *regular, special and emergency*.

Regular

Regular meetings occur on a regular schedule.

Special

Special meetings are meetings which must address an urgent matter that cannot wait for the next scheduled regular meeting.

Emergency

Emergency meetings are meetings of the board of directors called without the required minimum 4-day notice to members, to address circumstances not reasonably foreseen and which require immediate attention and possible board action that cannot wait for the notice required of a regular or special meeting.

What is an “executive session”, and why can’t the homeowners attend?

The board of directors may close the meeting to attendance only when it meets in an "executive session". This is a session called to consider litigation, matters relating to the formation of contracts with third parties, member discipline, common area damage reimbursement claims, personnel matters, or to meet with a member at the member's request regarding an assessments delinquency. However, the actions taken in such a closed meeting must be generally noted in the minutes of the subsequent open meeting and made available to the owners.

Minutes

A CID must keep minutes of its membership meetings and board meetings. These minutes are not transcripts of the entire meeting, but only a recitation of any committee reports received and actions taken. Draft minutes should be available to all members within thirty days after a

meeting. The Board or the manager keeps custody of the approved minutes, which are official records of the corporation.

THE BOARD OF DIRECTORS

According to state law, a CID must have a board of directors. Most governing, policy and operational decisions are made by the board of directors.

Powers and Limits

Powers of the board of directors, length of a director's term, number of directors, nominating procedures, and limitations on board authority, should be found in the CC&Rs and/or bylaws. Decisions outside the board's power must be submitted to the membership for vote.

Selection

Normally directors are elected by the membership at a meeting of all the members. However, in the event of a vacancy due to resignation, the board usually has the power to appoint a replacement director.

Qualifications

The qualifications to serve on the CID board are normally found in the bylaws. However, in addition to the legal requirements, one should remember that board service is a commitment. Service on a board of directors requires a dedication to the interests of the CID as a whole.

Officers

Officers are normally directors, are elected by vote of the directors, and serve at the pleasure of the board. Officers can be elected or removed by the board of directors at any time.

President

The *President* normally chairs all association meetings and is the association's chief officer. The President's power is limited to that granted by the Bylaws, and is different than business corporate Presidents.

Vice President

The *Vice President* fills in for the President to chair meetings if the President is not available. Depending upon the Bylaws, the Vice President may also have other duties.

Secretary

The *Secretary* normally keeps the minutes of all CID meetings (board of directors and membership meetings), and co-signs with the President important documents such as board of directors resolutions or other legal documents.

Treasurer

The *Treasurer* normally is charged with overseeing the CID finances and making sure that proper reports are provided to the board of directors at each regular meeting. The Treasurer should be someone who understands finances, budgets and basic recordkeeping.

MAINTENANCE AND REPAIR OF THE CID

Normally the governing documents, subject to state law parameters, will provide guidance as to what the CID maintains or repairs and what activities are homeowner responsibilities. Maintenance obligations generally fall into the following categories:

Unit or Lot

Repair and maintenance of the member's lot or unit is normally the responsibility of the member.

Common Area

The Common Area is maintained and repaired by the CID. The description of the Common Area is found normally in the governing documents, usually in the condominium plan or subdivision map.

Exclusive Use Common Area

Under state law, exclusive use common areas are areas normally maintained by the member and repaired by the CID, unless governing documents state otherwise. Exclusive use areas may be specified in the governing documents, and also by state law. An exclusive use common area is used only by the member, but is not owned separately. The CID may control how the exclusive use area is used and how it is maintained.

MANAGEMENT

To manage a CID, one must have a working knowledge of building and property management, finances and CID law. A CID manager should have good interpersonal skills, be organized and a good record-keeper.

Self-Management

A self-managed CID uses volunteers within the CID to fulfill the various functions required to manage the property. While much less expensive than professional management, self-management places a heavy burden on the volunteer board of directors.

Professional Management

There are a number of ways to use professional managers. Some CIDs hire their own manager as an employee of the CID association, while others hire a management company that will designate a particular individual to manage the association.

Full Management

Full management services may be provided pursuant to a contract between the CID and a management company. Such services often include management of the CID's finances and buildings. Managers will often attend meetings of the board of directors or membership.

Financial Management

Due to the higher cost of full management services, many CIDs choose to retain a management company only to handle the finances. The board of directors and committees handle issues regarding the buildings and grounds.

Are Managers required to be licensed or credentialed?

Managers are not required to hold any license, education or credential in order to manage a CID.

What is a Certified Common Interest Development Manager?

State law provides that managers may qualify for the title of Certified Common Interest Development Manager ("CCIDM"). To attain this certification, a manager must complete at least thirty hours of specified course work in topics including California CID law and pass an examination. Providers of this education must be certified by the Department of Real Estate. While the CCIDM designation is not mandatory, it is mandatory for a manager to disclose to the CID whether or not the manager is a CCIDM and whether or not the manager has other relevant licenses, such as a real estate license.

Are there other indicators of a manager's qualifications?

There are several organizations which offer credentials to CID managers. Among those are the Community Associations Institute and the California Association of Community Managers. The CID association's board of directors should ask prospective managers what credentials they hold.

INSURANCE

Protecting the CID association in effect helps protect each owner. Prospective owners are encouraged to review the summary of insurance the association is required to provide. As noted below, a variety of insurance policies are available to be considered:

General liability insurance

General liability coverage is insurance protecting the CID from claims or lawsuits against it. State law also provides protection for the members of CIDs from personal liability arising out of lawsuits against the CID, as long as the CID maintains certain minimum levels of insurance: For CIDs with one hundred homes or less, that minimum is \$2,000,000; for CIDs consisting of more than one hundred homes, that minimum is \$3,000,000.

Property insurance

Property insurance protects against damage to the CID property caused by certain defined perils. The extent of property insurance depends upon how the

insurance contract is written. Some items including mold, dry rot and earthquake damage are normally excluded from property damage insurance policies.

Individual homeowner insurance

A CID homeowner may obtain their own insurance coverage, apart from that of the CID. Such insurance might cover damage to the interior of the home, replacement housing if the home is damaged, or even special assessments imposed for major repairs. Some CIDs require their members to have such coverage.

Earthquake insurance

Earthquake insurance is usually purchased separately, but may be shown as an addendum or amendment to the property insurance policy. Such insurance is expensive and has a high deductible (usually at least 10% of the policy coverage). Many CIDs do not carry such insurance.

Directors and Officers Insurance

Directors and officers coverage (also known as “D&O” insurance) protects board members and officers from lawsuits alleging negligent exercise of their duties. State law provides personal immunity for volunteer officers and directors of CIDs with one hundred or fewer homes that carry minimum coverage of five hundred thousand dollars (\$500,000). For CIDs consisting of more than one hundred homes that minimum is one million dollars (\$1,000,000).

Fidelity Insurance

Fidelity coverage protects the CID from dishonesty of employees or fiduciaries. Such coverage is sometimes called a fidelity bond. Lenders sometimes require proof of such insurance prior to closing of an escrow.

Payment Bond

CIDs initiating construction projects may purchase this bond in which the bonding company guarantees that the subcontractors and material suppliers will be paid.

Performance Bond

CIDs initiating construction projects may purchase this bond in which the bonding company guarantees that the contractor will finish the project.

Workers Compensation Insurance

State law requires employers to carry workers compensation insurance to protect employees from injuries sustained in the course of their work. CIDs with employees must carry this type of insurance and so should the CID’s vendors.

-END-

GLOSSARY OF TERMS

Alternative Dispute Resolution — (Also known as “ADR”) - Dispute resolution without court trial. Most common methods are *arbitration* and *mediation*.

Amendment — Changes to the governing documents.

Annual Meeting — Membership meeting CIDs are required to have once each year for financial reporting and election of directors.

Arbitration — Alternative dispute resolution method, similar to a trial but done outside the court and the decision is made by one or more arbitrators instead of a judge. Arbitrators may be retired judges, lawyers, or other persons accepted by both sides. Arbitration may be binding or non-binding.

Articles of Incorporation — Document filed with the Secretary of State which establishes the corporation.

Assessment — A required payment by a member of a CID.

Board of Directors (also referred to as “Board”) — The governing body of a CID. The Board is normally elected, although replacements can be appointed. Number and qualifications are set by the governing documents.

Budget — Estimated income and expenses of a CID for the coming year.

Bylaws — Governing document that establishes the CID operating procedures.

Certified Common Interest Development Manager (CCIDM) — An individual managing a CID who has met the education requirements for the CCIDM designation, issued by a private trade organization as authorized under state law.

Committees — An advisory group formed by board motion to assist the board.

Common Area — Property interests owned in common by all owners in the CID as defined by a subdivision map or condominium plan.

Common Interest Development — A real property development in which multiple owners have an undivided interest in real property, coupled with the right to a separate interest in the property.

Condominium Map — A governing document filed with the County Recorder that lays out locations and boundaries of the units and common areas.

Covenants, Conditions & Restrictions (also known as **CC&Rs**) — A governing document filed with the County Recorder that provides guidance for the property’s use and maintenance

Conversion — Process in which a development is legally changed from one form of real estate ownership to another.

Director — A member of the board of directors elected at a membership meeting; may be appointed in the event of a vacancy.

Disclosures — Documents informing a prospective buyer about the CID.

Emergency Assessment — A membership payment imposed by the board of directors to deal with a need of the CID which cannot wait for membership approval through the normal budget process.

Emergency Meeting — A meeting of the board of directors, called due to an emergency that cannot wait for a normal meeting notice.

Exclusive Use Common Area — Common area for use of one dwelling.

Executive Session — Closed session of a board of directors meeting, during which only certain topics may be discussed.

Financial Management — Arrangement for administrative services in which the management vendor oversees only the CID’s financial matters and does not manage the property.

Fines — (Also called penalty assessments) – A financial penalty imposed upon a member, after a board of directors hearing, assessed in response to a violation of provisions within the governing documents.

Full Management — Arrangement for administrative services in which the management vendor oversees both the CID's financial and operations/property management activities.

Governing Documents — The Articles of Incorporation, Condominium Plan or Subdivision Map, CC&Rs, Bylaws, and Rules.

Internal Dispute Resolution — Method of alternative dispute resolution in which a member of the CID acts as a representative of the association to attempt to resolve conflict with a member.

Lien — A claim made directly against property. A common method of enforcing assessment obligations is the recording by the CID of a lien against a member's property in the CID.

Lot — Separate interest owned by the member in a Planned Development, as defined by a subdivision map.

Mediation — Alternative dispute resolution technique involving a disinterested third party, selected by agreement of the disputing parties, who attempts to persuade the parties to resolve their differences.

Minutes — Written record of CID meetings conducted and actions taken.

Notice — Advance announcement of an act, event, or meeting.

Officers — Elected by the board of directors, officers normally include a *president, vice president, secretary and treasurer*.

Open Forum — Required portion of every board meeting providing members an opportunity to address the board of directors on items on or off the agenda.

Open Meeting Act — 1996 addition to the Davis-Stirling Act requiring board of directors meetings to be held with notice to members, open to members, and with minutes promptly distributed.

Operating Account — Bank account in which the CID receives assessment payments and from which it pays its bills.

Penalty Assessment (Also known as a "fine") — Financial discipline.

President — The chief officer of a CID, usually calls and chairs meetings of the board and sets agendas. Normally elected by vote of the board, and, as any officer, serves until the board votes to replace the officer.

Quorum — The minimum number of members required to participate in a member or board of directors meeting in order to conduct business.

Regular Assessment (Often called "Dues") — Allocation of the CID's operating income needs among the membership via periodic payments.

Reserve Account — Account maintained by the CID to accumulate in advance funds needed for major repair and replacement items.

Reserve Study — The review of the CID's need for major replacement and repair items, with a projection of the anticipated life of those items and the projected cost of replacement or restoration of those items.

Review — Verification by an accountant that the client's books and records are in good order; not a verification the books and records are accurate.

Rules (also often known as rules and regulations, or "house rules") — only governing document passed solely by vote of the board. Rules normally govern conduct of members in the community, and may cover many topics.

Secretary — Corporate officer who is responsible for minutes.

Secret Ballot — Ballots which do not identify the voter.

Self-management — Management services are provided by CID volunteers.

Separate Interest — In a condominium, means an individual "unit"; in a planned development, means a separately owned "lot"; in a stock cooperative or community apartment, means the right to occupy a given dwelling.

Subdivision Map — Recorded document defining boundaries of the property interest for a planned development.

Transfer Fees — Fees charged by the CID connected to the transfer of ownership of a property interest in a CID.

Treasurer — Officer charged with monitoring the CID's finances.

Unit — Property interest separately owned by a condominium owner.

Use Restriction — Limitation upon specific uses of a CID property interest.

Vice President — Officer normally charged with chairing the CID board meetings in the absence of the president.

PUBLIC INTERNET INFORMATION SOURCES

Corporations Listings —

Secretary of State web site <https://businesssearch.sos.ca.gov/>

Licensing information —

Architects <http://www.cab.ca.gov/querylic.htm>

Attorneys <http://members.calbar.ca.gov/search/member.aspx>

Contractors <https://www2.cslb.ca.gov/OnlineServices/>

Engineers http://www.dca.ca.gov/pels/l_lookup.htm

Real Estate Licensees <http://www2.dre.ca.gov/publicasp/ppinfo.asp>

Megan's Law information — <http://www.meganslaw.ca.gov/>

Davis-Stirling Act — Civil Code Sections 4100-6150

(legislative site for Civil Code) — <http://www.leginfo.legislature.ca.gov>

CONTACT INFORMATION FOR CID-RELATED ORGANIZATIONS:

California Association of REALTORS (CAR) ® <http://CAR.ORG>

Community Associations Institute (CAI) <http://CAIONLINE.ORG>

California Association of Community Managers (CACM) <http://CACM.ORG>

Congress of California Seniors <http://www.seniors.org>

Executive Council of Homeowners (ECHO) www.echo-ca.org

Institute of Real Estate Management (IREM) www.irem.org

C.A.R. LINKS

Q&A: Homeowners' Associations: A Guide for REALTORS®

<http://www.car.org/legal/hoa-folder/homeowners-associations>

DRE LINKS

Living in a California Common Interest Development

<http://www.dre.ca.gov/files/pdf/re39.pdf>

Reserve Study Guidelines for Homeowner Association Budgets

http://www.dre.ca.gov/pdf_docs/re25.pdf

FAQs: Common Interest Developments

http://www.dre.ca.gov/files/pdf/faqs/FAQ_CommonInterestDevelopments.pdf

Operating Cost Manual for Homeowner Associations

<http://www.dre.ca.gov/files/pdf/re8.pdf>

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[Note - this CAR publication has also been endorsed by the Community Associations Institute]