

**R-RANCH AT THE LAKE
MINUTES
REGULAR MEETING OF THE BOARD OF DIRECTORS
JULY 21, 2007**

Directors present: Ken McArdle, President
Mark Bendick, 1st Vice President / Treasurer
Steve Love, 2nd Vice President
Randy Apoian

Directors not present: Nellie Cutright, Secretary – due to illness

Meeting called to order by Ken McArdle.

Mike Mooney led the Pledge of Allegiance.

Ken thanked the owners for attending the explanation of the financial report presented by Tony Delavati just prior to the board meeting. He expressed appreciation for Mr. Delavati's efforts and Candace Shook's assistance with the reports.

Ken explained that due to a ranch situation that must be dealt with today, he needs to keep the meeting as brief as possible. Owners were asked to hold questions and comments until the next to the last item of business, and the open forum

Candace Shook read the minutes as follows:

1. Board meeting of April 21, 2007. *Motion to accept made by Steve Love. Seconded by Ken. Unanimously approved.*
2. Executive meeting of May 26, 2007.
3. Executive meeting of June 9, 2007. Randy made a correction to the minutes, noting he was not present at that meeting as reported.

Ken made a motion to approve both sets of executive session minutes as read and corrected. Mark seconded the motion. Unanimously approved.

Treasurer's Report. Mark reported that cash accounts are healthy. Operating account as of 7/31 \$381,000. Reserve \$328,000. Total \$709,000. At the present time we are running under budget.

Mark reported that the Public Report will not be renewed this year with the DRE. All developer shares have been sold and resale shares do not require a public report.

Mark reported that the new owners of property adjacent to the ranch, Bill and Candice Howder, notified the ranch a few months ago that our owners could no longer ride horses over their property as has been done for many years. The Howders are now agreeable to allowing ranch owners to cross over using the easement we have been using. This will be in exchange for a token payment of \$1

per year by the ranch and an agreement that the Howells may use ranch amenities as guests. Mark read a draft agreement, a copy of which is attached to these minutes.

Ken made a motion to accept the agreement as written. Randy seconded. Motion unanimously approved.

Mark noted that the new owners have already given the ranch permission to begin using the trail pending finalization of the agreement, and it has been reopened.

Mark stated that the holding area is going to a re-vote for the purpose of making sure that Pridmore will keep their fees at the current level of \$300. Ken, Paul Adams and the Pridmores are working on the final details of their agreement. Ken commented that but a gentleman's agreement is in place pending execution of the written agreement, and Pridmore is no longer charging ranch owners any more than \$300 per year for storage.

Stables Report.

Jennifer was not present. Ken reported that he thinks we have 47 ranch horses and 32 owner horses. Jennifer is doing a very good job. The horses are in good condition, as well as the stables and all the equipment. The staff at the stables are to be congratulated, and they are appreciated for all they do.

Ranch Manager's Report. Paul Adams was not present and had not been able to get the information to Ken to report at the meeting.

Equine Ad Hoc. Ken McArdle reported that this committee has not had a meeting since the last board meeting. Nothing has been done as far as the owner horses, programs, or expenses to report.

Safety Committee. Vicki Love was not present. Candace Shook announced that there was an accident a couple weeks ago at the basketball courts. A young man was cut and the wound required stitches. The bolts have been covered with cushions and duct tape so no one else gets hurt. Apparently it had been that way for many years, but management was not aware of it. Ken commented that when owners notice these small things it is helpful to report them so they can be corrected.

Kiddin' Korral Committee / Teen Report. Presented by Dawn Clark, owner 675. The Korral is almost complete. Deck has been tabled until later for fundraising. Some painting and minor fence repair. Added since last meeting: milk barn, swamp cooler, animals. Now have two adult goats and four kids, two of which will leave the ranch 7/22. Also two ducks, two rabbits and two Chinese chickens. There are 29 children volunteering as junior staff, ages 9-14, and eight adult volunteer supervisors. 164 hold harmless agreements are on file. A DJ was hired for the Memorial Day dance, but due to an accident he was unable to make it. The dance for July 4 was better organized but poorly attended due to the music not fitting the teen's preferences. Working on a better list of DJs and improvements in execution of dances and teen activities. A ranch carnival is planned for today at 4pm on the big lawn.

Campground Committee. Presented by Mike Mooney, owner 235. Mike Mooney is the organizer of the new campground committee. The seven committee members are: Mike Mooney, John Scannell, Jeff Perrera, Wayne Palmerton, Denise Palmer,

Carl Dineen and John Sarducci. The committee plans to present a recommendation regarding the construction of 50 new trailer campsites. Ken confirmed at Mike's request that he asked Mike to take on reorganizing the campground committee, and that Mike agreed. The board requested a report of the officers positions from Mike.

Boat Committee. Presented by Albert Sanchez, owner 274. The next meeting is scheduled for October 20, 2007. Albert asked anyone interested in being on the committee to attend. They just had a lottery for the vacant covered spot and it is now occupied.

Cabin Committee. Presented by Ruth McCracken owner 147. The last committee meeting was June 30, 2007. Changes are already being noticed. There are tables next to the bathhouse sinks now to hold items while washing dishes, holes drilled in the picnic tables for umbrellas, stairs, screens, holes, repaired. The committee has developed cabin checklists for owner feedback. Owners will receive and turn these in at the end of their visit. A copy of the checklist is attached to these minutes.

Ken suggested one revision to checklist – change checkmarks to yes / no.

The committee is looking at a few upgrades and things that need funding, as attached. The committee is requesting board approval so Paul Adams can proceed. The next cabin committee meeting is scheduled for August 4, 2007. They will develop an estimate at that time of items requested for the 2008 budget. There is an open permit to allow development of more A cabins.

Ken wanted to talk to Paul Adams before approving the current work estimate and agreed to potentially approve these items at the next board meeting.

Ruth expressed the committee's thanks to the staff. The improving appearance of the cabins and bathhouses are due to the efforts of the staff.

Horseman's Association. Presented by Valerie Figuerdo, owner 912. They are receiving a lot of positive feedback from people. The first basic skills clinic was well received and the next is scheduled for July 28, 2007. Another evening dinner ride is scheduled for August 18. Paul Adams moved the Horseman's Association trailer under the big oak. The association is trying to clean that out and to make it a center of activities and fundraisers. The association joins with everyone expressing appreciation to Jenny and staff. They are very supportive and active volunteering to help with evening rides, etc. The Horseman's Association requests that the big arena refurbishment be put in the plan for the next few years and possibly plans to cover the arena. It would be very helpful if possible, cooler and more comfortable during the summer, and better riding ability in the winter.

Ken asked about the association BBQs. Valerie reported that the first BBQ was well attended, the second not as much. They hope for good attendance at next one. The next meeting will be July 28, 2007 at 3pm.

Holding Area Committee. Presented by Mike Mooney, owner 235. Pridmore has rolled back fees to \$300 from \$500. Ken will be working on the final details of the agreement with Pridmore that R-Ranch owners will pay \$300. In exchange for this consideration the ranch agreed not to develop a trailer holding area.

Old Business. None

New Business.

1. Ken noted that there have been reports recently of abusive or threatening language used. Every owner has a right to come to the ranch and be able to enjoy the peace and quiet of this ranch and the activities. If there is an incident that happens that an owner feels needs to be addressed and you can't do it with the person individually, write a report and allow the manager or the board to help resolve it.
2. Status of Common Interest Development (CID) and Davis-Stirling. Ken read an e-mail from Mark to Chris Neri and Mr. Neri's response. A copy of the e-mail is attached to these minutes.

Ken suggested that the ownership should be asked what they want. The best way to resolve this is to have majority vote 50% plus one. Ken proposed to put a ballot together by the October board meeting.

A lengthy discussion was held on Davis-Stirling and the ranch's CID status.

Ken made a motion to request asking the owners to vote if they want to come under Davis-Stirling and require 50% plus one to validate yes or no. Mark seconded the motion. Ken, Mark, Steve voted yes. Randy abstained. Randy wanted to know what the vote is – a yes to coming under Davis-Stirling or to vote out, no, on being under Davis-Stirling. If vote is for a yes to Davis-Stirling, then he votes no. Confirmed that this vote would be yes, to come under Davis-Stirling.

Motion passed 3-1.

3. Ken stated that the Yahoo e-mail group is an unofficial site for owners, not an official ranch site. The ranch does not control it. Owners should be able to talk to each other and that's what it's for. When you say something in writing you create a record that may be taken out of context. It depends on what you say and it can come back to haunt you. If using e-mail, be careful, be considerate and be honest.

No correspondence to read.

Open Forum.

Owner 687: Has a question and concern about an incident that occurred on the ranch.

Ken: It is clear that this is not something that happens every day. Things happen and try to deal with it. The ranch cannot deal with anything that we don't know about. If something happens and you're aware of it, step up and put it in writing. It happens infrequently right now.

Owner 1514: Donated new American flag to the ranch.

Owner 274: Understands the father lost his temper. He would have lost his temper too.

Randy: He wasn't on the ranch when this happened. Didn't know about it until he was told about it. The parents met and his son sent an e-mail of apology. Son admitted he made a mistake. The matter was resolved in that his son has been indefinitely suspended from the ranch.

Ken: He understands people getting upset. It's not Randy's fault. His son did this. He's an adult. He has been given the ultimate punishment that the ranch can provide. The ranch has done all that it can do. To belabor Randy on something his son did isn't fair.

Owner 673: Randy is not responsible for the actions of his son. Everyone needs to be mindful of how you treat the parents of the victim. And if you make a mistake, just apologize.

Owner 1359: Reported a problem his grandchildren had a couple weeks ago.

Ken: Appreciates kids are kids. Sometimes people do things they shouldn't. He can't do anything about it unless someone who sees it reports it in writing. If it happens at all, it happens too often. If owners are aware of something and don't report it, they are adding to the problem.

Owner number unknown: There seems to be a problem with drinking. Is there a possibility of banning alcohol on the ranch?

Ken: Appreciates her concerns. Doesn't think it is possible at this time.

Meeting adjourned by Ken McArdle.

The annual owners' meeting is August 18, 2007 at 10:00 a.m. The next regular board meeting is scheduled for October 20, 2007, noon.

Respectfully submitted,

Laura Bohler
Secretary

MANAGER REPORT

SENCE THE LAST BOARD MEETING ON 4-21-07 THE CREW HAS BEEN WORKING ON DAILY WORK ORDERS. I WOULD LIKE TO REPORT WHATS GOING ON IN THE CAMPGROUNDS. EVERY DAY I COUNT OPEN CAMP SITES AFTER JULY 4TH WEEKEND THERE HAS BEEN AN AVERAGE OF TEN OPEN SITE 10 FROM MON-FRI. AS MUCH AS 24 OPEN SITES ON FRI JULY 20TH. ALSO WE HAVE NOT HAD ANY POWER PROBLEMS SENCE THE 1ST OF MAY. THE NEW WORK SEEMS TO BE WORKING VERY WELL. THERE HAS BEEN SOME ONGOING WATER LINES BEING REPLACED WITH NEW PIPING ABOUT 650^{FT}. WE HAVE ALSO HAD 18 EMPLOYEES TRAINED IN CPR + FIRST FOR THE SAFTY FOR OWNERS.

STEVEN B. MCCARTHY
SCOTT E. RUBRIGHT
SHAWN T. MCCAMMON
EMILY L. FBIS

ALSO ADMITTED IN
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April 18, 2007

Mr. Randy Apoian
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Livermore, CA 94550

Re: Status of R-Ranch at the Lake as a Common Interest Subdivision

Dear Randy:

This letter will confirm our telephone conference Thursday, April 5, 2007. You, along with Gene and Ruth McCracken and Laura Bohler, who were present in my office, raised several questions with respect to the undivided interest subdivision in which you are all members, known as "R-Ranch at the Lake." You advised me that you are a member of the board of directors of the R-Ranch at the Lake Owners Association, Inc., a nonprofit mutual benefit corporation and that there is some confusion among board members due to conflicting Public Reports whether or not your subdivision is a common interest subdivision subject to the Davis Stirling Act. You have asked our firm for legal clarification.

I have reviewed the initial Subdivision Public Report for R-Ranch at the Lake and the 1999 amendment and renewal, along with your CC&Rs and Bylaws. In addition, I have reviewed a packet of documents compiled by Laura Bohler relating to the deletion in the 1999 renewal of the Subdivision Public Report of all reference to your undivided interest subdivision as a common interest development. The current Public Report expires in August of this year, making timely your quest to resolve this issue now. It is unclear to me why the California Department of Real Estate (DRE) would change the characterization of your undivided interest subdivision from its original designation as a common interest development unless directed to do so by the developer or the board of directors of the owners Association. Without attempting to solve that mystery, you have asked me for my opinion as to whether or not R-Ranch at the Lake is a common interest development (CID) and, if so, whether the deletion of such reference in the current public report affects its status as a CID. In short, you are a CID and regardless of the change in the public report, you remain a CID.

By way of background, I have been representing owner associations and common interest developments since 1975. I have seen many variations of common interest developments and many variations in the make-up of the boards of directors of the associations charged with managing those common interest developments. I also have experience with undivided interest subdivisions such as yours, which as you likely are aware, is a rather uncommon structure. Because it is uncommon, the DRE, and for that matter the legislature, has not focused on the unique characteristics of undivided interest subdivisions.

Mr. Randy Apoian
April 18, 2007
Page

As stated above, it is unclear why DRE deleted reference to the common interest development aspect of R-Ranch at the Lake in the renewal of the Subdivision Public Report in 1999. I reviewed a letter from Terry Carlson, an attorney who had represented R-Ranch at the Lake during that time wherein he expressed his opinion that R-Ranch at the Lake is not a common interest development. He also disclosed in his correspondence that he had had discussions with Chris Neely at DRE regarding his view that the subdivision did not include "separate interests." It may well be that Mr. Carlson convinced Mr. Neely that the prior public reports issued by DRE were in error. As such, Mr. Neely may have gone ahead and deleted reference to the common interest development without objection from the R-Ranch at the Lake board of directors. This change was done without the knowledge or consent of the owners of R-Ranch at the Lake and therefore, in my opinion was of no effect. The designation of this subdivision as a CID is a real property issue and not an association issue. If the owners of the real property believed that the subdivision should not be designated a CID contrary to how the original developer designated it, then such change would have to be supported by a vote of the majority of all the undivided real property interests. This has not happened. You either are or you are not a CID, regardless of how any reference to CID status is in the public report. In our legal opinion, R-Ranch at the Lake is a CID subdivision. Furthermore, the inconsistency now between the public reports issued prior to April 22, 1999 and the current public report must be resolved and be resolved prior to the August 2007 renewal of your public report by requesting DRE to add back the deleted language. Most of the owners in your subdivision purchased, pursuant to a public report that identified the interest as an interest in a common interest development. The deletion in a subsequent public reports to any reference to CID status does not mean R-Ranch at the Lake is not a CID subdivision.

Certainly reasonable minds can differ as to whether or not R-Ranch at the Lake constitutes a common interest development pursuant to California Civil Code section 1351 and therefore whether or not the subdivision is subject to the Davis Stirling Act. In our opinion, R-Ranch at the Lake clearly fits within the definition of a planned unit development as set forth in California Civil Code section 1351(k). The initial Subdivision Public Report and all public reports through the April 1999 renewal identified the undivided interests as undivided interests in a common interest development. The key distinction between the differing views seems to rest on the definition of "separate interests." Mr. Carlson and apparently Chris Neely at DRE have concluded that the undivided interests conveyed to each owner in the subdivision does not conform to the definition of "separate interests" and Civil Code section 1351(1)(3) in that there is no "separately owned lots, parcel, area, or space." We disagree. The fact that that statutory definition does not specifically address "undivided interests" does not mean that the "undivided interests" do not qualify as "separate interests" for the purposes of a planned unit development. Each of the 1,800 undivided interests included in the R-Ranch at the Lake Subdivision have all of the following characteristics, which in our view, result in such undivided interests being "separate" under the Code. Each undivided interest is:

- (a) Separately deeded;
- (b) Freely transferable;
- (c) Subject to being mortgaged and thus foreclosed;

Mr. Randy Apoian
April 18, 2007
Page

(d) Within the context of the recorded CC&Rs dated 1982, subject to nonjudicial foreclosure by the property owners association for nonpayment of assessment liens recorded against each specific undivided interest;

(e) Defined as an undivided interest not exempt from the definition of subdivided lands or subdivisions under California Business and Professions Code section 11000.1; and

(f) Made specifically appurtenant to a separate membership in the R-Ranch at the Lake Owners Association.

Furthermore, the transfer or conveyance of such undivided interest constitutes the transfer of a single membership in the Association. Such membership cannot stand alone separate from the undivided interest in the subdivision and can only exist when appurtenant to an undivided interest.

The board of directors should carefully address this issue and seek consistency in the public reports affecting all the undivided interests. Generally, the Department of Real Estate does not make the decision as to whether a subdivision is or is not a common interest subdivision. Generally, the subdivider, and in some instances with these types of developments, the owners association defines the designation. The original developer, Jeff Dennis, formed this R-Ranch, the R-Wild Horse Ranch in Tehama County, and the original R-Ranch in Siskiyou County as common interest developments. I suspect he knew what he was doing and that the DRE designation in the Public Reports was not a mistake as suggested by Mr. Carlson. Today each and every owner of an undivided interest benefits by the common interest development designation primarily because such designation carries with it the obligation on the part of the board of directors of the Association to conform to the Davis Stirling Act. The Davis Stirling Act has been developed since its inception in 1985 to address the needs and to protect the interests of owners by regulating the board of directors. There are many examples of boards that have abused their powers and run roughshod over the rights of the dues-paying members. I am advised that over half of the residential dwelling units in California are now within common interest developments. This is now the norm—no longer the exception.

I hope the foregoing has been helpful to you and your board. If you need additional input, please let me know.

Very truly yours,

MCCARTHY & RUBRIGHT, LLP

By 

Steven B. McCarthy
SBM/pp

Living in a California COMMON INTEREST DEVELOPMENT

Published by the State of California, Department of Real Estate in August 2002

This publication is designed to provide general information in response to some of the more frequently asked questions regarding living in a common interest development (CID). We hope it contributes to your understanding and expectations of home ownership in a CID.

Since this brochure does not contain specific legal information or guidance, it should only be used as a general source of information. If you wish to research the subject matter further, you may wish to consult with an attorney or an industry professional experienced with CIDs.

1. What is a common interest development (CID)?

A CID is descriptive not only of a certain type of real estate and form of home ownership, but also of a life-style that is becoming more and more common to the American way of life. To understand the concept, it is important to know that there is no one structural type, architectural style, or standard size for CIDs. They come in a variety of types and styles, such as single family detached houses, two story townhouses, garden style units with shared "party walls," and apartment-like, multi-storied high rises. Currently in California, there are tens of thousands of CIDs which range in size from a simple two unit development to a large complex having thousands of homes, many commonly owned facilities, and multiple associations under the auspices of one overall master association. However, despite the wide range of differences that may exist among CIDs, all CIDs are similar in that they allow individual owners the use of common property and facilities and provide for a system of self-governance through an association of the homeowners within the CID.

The most common type of association of homeowners is the nonprofit mutual benefit corporation. This is a corporation in which the members of the corporation vote for a board of directors which runs the affairs of the corporation. However, some associations, usually the older ones, are unincorporated associations. In many ways, unincorporated associations are treated the same as mutual benefit corporations under California law.

2. Do you have to join the association?

Membership in the association(s) is automatic. When a person buys a lot, home, townhouse, or condominium in a common interest development, he/she automatically becomes a member of the association(s).

3. What are Covenants, Conditions and Restrictions (CC&Rs)?

The Declaration of the Covenants, Conditions and Restrictions, or CC&Rs, contains the ground rules for the operation of the association. This governing document identifies the association's common area and responsibilities, explains the obligation of the association to collect assessments, as well as the obligation of the owners to pay assessments. It also states that the association may sue owners for violations of the rules or failure to pay assessments, and explains what happens if there is any destruction of property in the development as a result of fire or earthquake. Usually, the CC&Rs will also state the duties and obligations of the association to its members, insurance requirements, and architectural control issues.

4. How are the CC&Rs enforced?

California laws allow that either the association or an owner in a common interest development may file a lawsuit asking the court to enforce the CC&Rs. The law currently requires, with some exceptions, that either the owner or the association must offer to engage in some form of alternative dispute resolution process before filing a lawsuit. You may wish to consult with an attorney who specializes in this type of law if you are faced with or contemplating an enforcement matter.

5. What are Bylaws?

As stated above, the CC&Rs generally state how an association is to be operated. In almost every instance the association, through its board of directors, has the ultimate responsibility for managing the association. As the association is usually a corporation, Bylaws establish the rules by which the corporation will be run. Bylaws usually set forth how members vote for the board of directors, the number and term limit of members of the board of directors, the duties of the board, the duties of the officers, and other incidental provisions.

6. Does the Department of Real Estate assist with the enforcement of the Bylaws and CC&Rs?

CIDs are subject to the Davis-Stirling Common Interest Development Act (California Civil Code Sections 1350 et seq.). This Act is intended to provide homeowners with a system of self-government and dispute resolution. The Department of Real Estate reviews the legal framework of all new CIDs to ensure compliance with the Subdivided Lands Law as part of the public report application process before homes are offered for sale to the public. Once sales have commenced, the Department's jurisdiction is limited to the subdivider's obligations under the public report, which does not include intervention in association disputes. Presently, there is no state or local agency that directly regulates associations or their members.

7 Who is in charge of the association?

The homeowners are in charge of the association. Often, homeowners will elect a board of directors to operate the association and preserve, enhance and protect the value of the CID, but the board answers to the homeowners. It should be noted that it is not unusual for the board to contract with a professional management company to run the day-to-day affairs of the association. Ultimately, however, it is the board who is responsible for the oversight of the homeowner association.

8. What is the board of directors and how are its members elected?

The board of directors governs the association. Its members are elected yearly or less frequently, depending upon the terms mandated in the governing documents of the association. The governing documents also determine the number of directors. Directors are elected by the members of the association (homeowners) who vote for vacancies as they occur. Normally, each lot or unit has one vote no matter how many people own it, with the notable exception that the subdivider may, for a time, have up to three votes for each lot or unit he/she owns.

9. How can you serve on the association's board of directors?

There are two ways to become a member of the board of directors. You can request that the association or nominating committee place your name on the election ballot so other members of the association will have an opportunity to vote for you in the next election or you can ask the board of directors to consider appointing you to any interim vacancy on the board.

10 What are the responsibilities of the board of directors?

The board has the ultimate responsibility for operating the association. Board members must deal in good faith on behalf of all the homeowners and exercise reasonable care. The board makes sure that the

association's money is collected, its bills are paid, the association is operated efficiently, and violations of the rules of the association are addressed. For example, the board is responsible for reviewing the association's bank statements, preparing a budget, and distributing the budget (or budget summary) to the members prior to the beginning of the association's fiscal year. The board must also prepare a fiscal year-end financial statement for distribution to the members. There are numerous other things for which the board is responsible, as set forth in the association's CC&Rs, Bylaws, the Corporations Code and the Davis-Stirling Common Interest Development Act (California Civil Code Sections 1350 through 1376). Even if the board of directors opts to contract with a professional management company to run the day-to-day affairs of the association, the board of directors is still ultimately responsible for management of the association.

11. Are there other opportunities to volunteer in the association besides the board of directors?

Usually, an association will have a number of committees that perform valuable functions. For example, the architectural committee oversees requests for modifications to properties in the development and generally attempts to make sure that modifications and other improvements are consistent with the existing architecture of the development. There may be other committees to join, depending on the type of development in which you live. An association may have a landscape committee to oversee landscaping. There may be a welcoming committee that greets new homeowners or an election committee that coordinates the election of the board of directors. Committees are usually established by the association's Bylaws, CC&Rs, and/or the board of directors. Let your board know that you would like to actively participate in your association.

12. How does the association pay its bills?

Each association has a budget that is prepared based on the common area obligations of the CID, and distributed to all of its members. The budget determines how much money the association is going to need to operate for the following year. The association has the right to bill the members for their fair share of the budgeted amount. This billing is known as an assessment, which may be paid via monthly invoices, coupons supplied by the association, or some alternative method. Ideally, the association collects sufficient money through these assessments and pays the bills for the services and goods contemplated in the budget. If the assessments collected are insufficient to pay the bills, the board of directors is allowed to levy what is known as a special assessment. Without member approval, the total of special assessments in any fiscal year cannot exceed 5 percent of the gross budgeted expenses for that year.

By paying your fair share of the obligations of the association, through the budget and assessment process, you are proportionally paying for the current and long term maintenance obligations of the association. Of course, all of the other owners are doing so as well.

13. How is the amount of the monthly assessment determined?

When the budget is prepared, the amounts necessary for the daily operation and long term reserves for maintenance and replacement are determined based on the level of service for which the association is both required and willing to pay. For example, sometimes there are specific items defined in the CC&Rs that require a certain level of maintenance by the association. Once the annual amount is determined, then it must be collected from the members in order for the association to operate. Each member's assessment is usually collected monthly, in 12 equal installments. Some associations collect assessments on a quarterly or annual basis. The CC&Rs will normally indicate the frequency of assessment collections.

14. Are there different types of assessments or fees?

There are several types of assessments that may apply to your association. The California Civil Code defines assessments as either being regular or special. Regular assessments are needed for the operating (day-to-day) and reserve (long-term maintenance) activities of the association.

Special assessments are those levied by the association for major repairs, replacement, or new construction of the common area or for a one-time, unanticipated expense which cannot be covered by the regular assessment (e.g., insurance premiums that unexpectedly "sky rocket").

Note, a special assessment should not be confused with a monetary penalty levied by the association against an individual owner to reimburse the association for an expense such as damage to the common area, or imposed as a disciplinary measure for a violation of the rules and regulations. Homeowners can be fined for damaging common areas and/or violating any rules and regulations of the association.

Some CIDs establish user fees or special charges for services and activities that are not customary. Typically, these are imposed on an owner specifically benefiting from the service, such as an owner who wants to use the common area pool, clubhouse, or tennis courts to entertain private guests. The fees are usually on a pay-as-you-go basis and generally cannot become a lien on the owner's unit or interest.

There are other types of assessments that may be designated by the CID homeowners association. For example, an association may have an assessment for cable television service. A "reimbursement assessment" may be levied against an individual owner as a charge for damage to the common area resulting from an act by the owner or an owner's guest.

The best place to look for the different types of assessments that may apply to a CID is in the CC&Rs of the association.

15. Who can raise the amount of the assessment?

The board of directors can increase the amount of the assessment by following certain procedures mandated by California Civil Code Section 1366. Even if the governing documents are more restrictive, the board of directors may not increase the regular assessment more than 20 percent per year, without the approval of the owners. The board must circulate a budget to the membership no less than 45 days but no more than 60 days prior to the beginning of the fiscal year. If the budget indicates that an assessment increase greater than 20 percent is necessary, a majority of the members of the association must approve the assessment. There are also provisions for a board to increase an assessment more than 20 percent without member approval in cases of emergency such as an extraordinary expense required by order of a court, or for repairs to the common area.

16. What happens if you do not pay your assessments?

Usually, the association will send you a reminder letter as a first step. The law is specific in California regarding the due date of assessments and the overall process that an association must follow regarding delinquent assessments. The law states that if an assessment is not paid within 15 days of the due date, a delinquency occurs. At this point, the association can add a charge to your assessment in the form of a late fee in the amount of \$10.00 or ten percent of the monthly assessment amount, whichever is greater, unless the CC&Rs specify a lesser amount. Again, the law covering this area is quite clear and the board must follow these procedures.

Once a year, the association will send each owner a copy of the assessment collection policy, which will tell you the amount of the late fee. If your assessment becomes over 30 days delinquent the association has the right to assess interest up to 12 percent per year on the balance which is owed and unpaid.

If you still fail to pay your assessments, the matter may be referred to an attorney or foreclosure service. The association has the right to lien your property for the amounts owed as well as other costs such as attorney's fees.

Ultimately, the association can foreclose and take your property for your failure to pay assessments. A

personal judgment may also be entered against you.

As you can see, it is imperative that all owners pay their assessments in a timely manner. Failure by several owners to pay their assessment obligation could place the association in financial jeopardy.

17. Are there other rules in an association?

An association's board of directors may establish rules and regulations governing issues ranging from where you can park to what you can place on a balcony or deck. Associations frequently have guidelines and rules that specify the type of landscaping that may be installed or in some instances, not installed. Rules and regulations can be just as enforceable in an association as the CC&Rs, Bylaws and applicable laws. The most frequent type of miscommunication between an owner and the association usually arises from an owner being unaware of the rules and regulations when the association attempts to enforce them. You can easily prevent such misunderstandings by making certain you have a current copy of the rules and regulations, which may be obtained from the association or the management company.

18. Can you make improvements to your home?

The answer is generally yes, depending on the type of home that you have (condominium, townhouse, detached, etc.). However, in addition to the conditions in the CC&Rs, most associations have established rules and regulations (also known as Architectural Guidelines) which must be followed in order to make any alterations or improvements. Generally, associations assist members who wish to improve their property as long as the improvement is performed in a manner consistent with the CC&Rs and rules and regulations.

19. Who do you contact if you are having problems with or questions regarding the home interior? The association common area? Neighbors? Paying assessments?

The first place to look for answers to your questions is the CC&Rs. Then you should speak to a board member or, if your association has contracted with a management company, they may be able to provide assistance. Problems with the interior of a home normally are the responsibility of the owner. The association's common area is managed by the association, so the appropriate contact is either one of the association's board members or, if applicable, the management company. When there is a dispute between neighbors, sometimes it is best resolved between those owners. Where a dispute involves payment of assessments or an infraction of the association rules or CC&Rs, it would be appropriate to contact the board of directors and/or the management company.

20. What is a management company and what does it do?

A management company is a separate business enterprise usually hired to act as the agent of the association. As an agent for the association, they take their direction specifically from the association's board of directors. Typical contractual responsibilities of the managing agent include a variety of services to the association, such as collecting assessments, paying the association's bills, taking direction from the board of directors for enforcement of rules infractions, and obtaining various vendors to perform services. Other possibilities for management company duties include assisting with the budget process; preparing meeting agendas and minutes for the board of directors; or serving as a neutral third party to help solve problems that can occur in CIDs. Additionally, the managing company may advise the board of directors on how to comply with relevant California Civil Code requirements and assist with appropriate and timely compliance.

21. Can owners rent to someone else?

Some CIDs restrict the number of units that may be rented by owners. Some CC&Rs require that a rental agreement acknowledge that the tenancy is subject to all of the rules and regulations of the association.

Some associations' rules and regulations also require that you provide the association with a copy of the rental agreement. In most associations, the CC&Rs state that the owner of the property being rented is responsible for the conduct of the tenant. Naturally, it is in the best interest of all parties to prevent problem situations between tenants and owners of other units. If your tenant does damage to the common area or creates a nuisance (e.g., loud music or pet problems), the disturbance could become your problem and the association may fine you.

22. What are your individual responsibilities as an owner living in a CID?

Primarily, you are responsible for paying your assessments on time and abiding by the CC&Rs and all other rules and regulations which exist for community harmony.

23. What are your individual rights as an owner living in a CID?

Your individual rights as an owner living in a CID are based upon the laws of the state of California and the documents you signed at the time of purchase. Prior to making a purchase, it is advisable to thoroughly review the CC&Rs and any other governing documents applicable to the CID. You may also wish to attend a board meeting and obtain copies of minutes from previous board meetings. The CID should be able to demonstrate that it has adequate insurance coverage, a solvent budget and a sufficient reserve account.

Generally, the rights of owners include:

- The right to participate in meetings of the board of directors and to be heard.
- The right to enter into dialogue with your association board of directors with regard to any problem you may perceive in the development.
- The right, with some exceptions, to utilize an alternative dispute resolution process, if a dispute arises between you and the association prior to the involvement of the court system.

24. What should I do if I decide to sell my home?

You may wish to contact a real estate professional, the board of directors, the professional management company (if your CID has one) and/or an escrow company for assistance with the many details involved with selling your home. There are a number of documents that an individual owner is legally required to provide to a prospective purchaser of a unit in a CID. You will want to make sure that the buyer is aware of the rules and regulations of the association as well as the assessment obligation so there is not a problem or misunderstanding which could jeopardize the sale of your home.

Until the sales transaction is completed and title is transferred, the owner of record is responsible for all assessments and fines unless otherwise stated in the sales and purchase agreement. This includes new assessments approved during the sale and purchase that become due while the sale is pending.

CONCLUSION

A successful and viable CID is generally one in which homeowners assume an active role, not only by attending association meetings, voting and paying dues on time, but also by running for elected offices, serving on committees and participating in group activities. While governing documents help establish a foundation, involved owners build the CID and make it a community.

[Go to top of page](#)

page last modified on Tuesday, November 25, 2003

Gene McCracken
771 Cuesta Ave.
San Mateo, CA 94403

November 18, 2006

Mr. Chris Neri, Assistant Supervisor, Subdivision Section
California Department of Real Estate
P.O. Box 187005
Sacramento, CA 95818-7005

Subject: CID Status of R-Ranch at the Lake, Napa County

Dear Mr. Neri:

I am a Licensed Real Estate Broker and my wife and I are owners of a share at R-Ranch at the Lake. It has been a wonderful part of our lives for many years.

Ever since our renewed interest in policies at the ranch starting this past spring, I have been concerned about several items, one being the CID status of the ranch. I was part of the original R-Ranch at the Lake sales staff. Part of our training included documents related to the purchase. This included the DRE Public Report #010034HF-F00 which is enclosed. Page 2 very clearly states we are a Common Interest Development. On page 3, # 4 states "this is a common interest subdivision of the type referred to as an undivided interest subdivision". We also signed the same document when we purchased our share of R-Ranch at the Lake.

It is very clear that common interest is conveyed as undivided interest and we are required to join an owners association. There is only one conclusion to these basic facts. We were and still are a CID.

I am concerned because our Board President has stated that we do not have CID status at this time. He said that in 1999, the DRE decided that our classification as such was a mistake and our CID status was dropped. It seems that the reversal of our CID status was based on the view that we lack separate interests.

This does not hold true. The fact is that every time an owner occupies a cabin there is a separate interest for the duration of their stay. No one else can use or occupy that particular cabin for a time set by the owner, up to a maximum of one month. Every time an owner places a trailer on a site, there is a separate interest. No other owner can use the site or occupy the trailer for a time set by the owner, up to a maximum of three months. The boat storage arrangement is a separate interest as well.

In addition, our deeds are collectable and can be mortgaged and foreclosed on. Our shares as fee may be sold, willed or gifted. This certainly speaks of separate interest as well.

Lastly, to my knowledge, all three Northern California R-Ranches were established as Common Interest Developments. Obviously much thought was given to this by all parties concerned including the DRE. As a result, it does not compute that the CID status was called a mistake and dropped.

The question is why? It seems that this is something that needs to be corrected by the DRE!

Thank you for your attention to this concern. I look forward to your response.

Sincerely,

Gene McCracken
Real Estate Broker # 00418505
mccrackn@pacbell.net

Encl.