



2014 - 2015 DISCLOSURE AND NOTICE CHECKLIST

Each year in October, SwedelsonGottlieb publishes its Disclosure and Notice Checklist as a resource for Managers and Board Members. The following sets out what disclosures and notices California community associations are to provide to homeowners, how they are to be provided to homeowners, and other considerations.

Annual Budget Report

Every California community association that is subject to the Davis-Stirling Act, regardless of size, must distribute to all of its members, by individual delivery (as defined in Civil Code Section 4040), an Annual Budget Report no less than thirty (30) and no more than ninety (90) days before the end of each fiscal year. Note that if certain items are not provided, as identified in Civil Code Section 5605, the members must approve any increase in regular assessments. The Annual Budget Report is a compilation of the reports and information listed below, subject to more stringent standards as may be set forth in the association's governing documents.

The association must deliver either: (1) the full Annual Budget Report; or (2) a summary of the Annual Budget Report. The summary, as may be applicable, must include a general description of the content of the Annual Budget Report. Instructions on how to request a complete copy of the Annual Budget Report, at no cost to the member, must be printed in at least 10-point boldface type on the first page of the summary. If a member has requested to receive the Annual Budget Report in full, the association must deliver the full report to the member, rather than a summary of the Annual Budget Report. The Annual Budget Report must also be sent to any secondary address provided by a member.

✓ Pro Forma Operating Budget

Civil Code §5300(b)(1)

Associations must distribute their "pro forma" operating budget as part of the Annual Budget Report. It must show an estimate of revenue and expenses on an accrual basis.

Suggestion: Unemployment may remain high through 2015, resulting in an increased rate of defaults and foreclosures. We recommend that community associations consider including a line item for bad debt in their budgets.

✓ Reserve Summary

Civil Code §§5300(b)(2), 5565

Associations must distribute a summary of the association's reserves, prepared pursuant to Civil Code Section 5565. It must be printed in bold type and be based on the most recent reserve study, which is required every three (3) years and is commonly known in the reserve study industry as the "update with site visit"; in other years, an "update with no site visit" will be performed.

✓ **Reserve Funding Plan Summary** Civil Code §§5300(b)(3), 5550(b)(5)

Associations must distribute a summary of the Reserve Funding Plan adopted by the board, as specified in paragraph (5) of subdivision (b) of Civil Code Section 5550. The summary must include notice to members that the full Reserve Funding Plan is available upon request, and the association must provide the full Reserve Funding Plan to any member upon request.

✓ **Major Component Repair Statement** Civil Code §5300(b)(4)

Associations must distribute a statement as to whether the board has determined to defer or not undertake repairs or replacement of any major component with a remaining life of thirty (30) years or less, including a justification for the deferral or decision not to undertake the repairs or replacement.

✓ **Anticipated Special Assessment Statement** Civil Code §5300(b)(5)

Associations must distribute a statement as to whether the board, consistent with the Reserve Funding Plan adopted pursuant to Civil Code Section 5560, has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves to fund same. If so, the statement shall also set out the estimated amount, commencement date, and duration of the special assessment.

Note: This is always a required statement, so if there is no anticipated special assessment, distribute a statement confirming same.

✓ **Reserve Funding Mechanism Statement** Civil Code §5300(b)(6)

Associations must distribute a statement as to the mechanism or mechanisms by which the board will fund reserves to repair or replace major components, including assessments, borrowing, use of other association assets, deferral of selected replacements or repairs, or alternative mechanisms.

✓ **Procedures for Calculating Reserves Statement** Civil Code §§5300(b)(7), 5570(b)(4)

Associations must distribute a general statement addressing the procedures used for the calculation and establishment of the reserves to defray the future repair, replacement, or additions to those major components that the association is obligated to maintain. The statement shall include, but need not be limited to, reserve calculations made using the formula described in Civil Code Section 5570(b)(4), and may not assume a rate of return on cash reserves in excess of two percent (2%) above the discount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made.

✓ **Outstanding Loan Statement** Civil Code §5300(b)(8)

Associations must distribute a statement as to whether the association has any outstanding loans with an original term of more than one (1) year, which must include the payee, interest rate, amount outstanding, annual payment, and when the loan is scheduled to be retired.

Note: This is always a required statement, so if there are no outstanding loans conforming to the above description, distribute a statement confirming same.

✓ **Insurance Summary** Civil Code §5300(b)(9)

Associations must distribute a summary of the association's property, general liability, earthquake, flood, and fidelity insurance policies, as applicable. For each policy, the summary shall include the name of the insurer, the type of insurance, the policy limit, and the amount of the deductible, if any. To the extent that any of the required information is specified in the insurance policy declaration page, the association may meet its obligation to disclose that information by making copies of that page and distributing it with the Annual Budget Report. The insurance summary must contain, in at least 10-point boldface type, the following statement:

“This summary of the association’s policies of insurance provides only certain information, as required by Section 5300 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any association member may, upon request and provision of reasonable notice, review the association’s insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the association maintains the policies of insurance specified in this summary, the association’s policies of insurance may not cover your property, including personal property or real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage.”

✓ **Assessment and Reserve Funding Disclosure Summary Form** **Civil Code §§5300(e), 5570**

The Assessment and Reserve Funding Disclosure Summary form, prepared pursuant to Civil Code Section 5570, must accompany the Annual Budget Report or summary of the Annual Budget Report.

Annual Policy Statement

Associations must distribute to all members, by individual delivery (as defined in Civil Code Section 4040), an Annual Policy Statement no less than thirty (30) and no more than ninety (90) days before the end of each fiscal year, which shall contain the items referenced below.

Associations must deliver either: (1) the full Annual Policy Statement; or (2) a summary of the Annual Policy Statement. The summary, as may be applicable, must include a general description of the content of the Annual Policy Statement. Instructions on how to request a complete copy of the Annual Policy Statement, at no cost to the member, must be printed in at least 10-point boldface type on the first page of the summary. Notwithstanding the foregoing, if a member has requested to receive the Annual Policy Statement in full, the association must deliver the full report to the member, rather than a summary of the Annual Policy Statement. The Annual Policy Statement must also be sent to any secondary address as may be requested by a member pursuant to Civil Code Section 4040(b).

✓ **Association’s Designated Recipient** **Civil Code §§5310(a)(1), 4035**

Associations must provide the name and address of the person designated to receive official communications to the association pursuant to Civil Code Section 4035.

Note: If no designated recipient is identified in the Annual Policy Statement, deliveries to the association may be made to the president or secretary of the association.

✓ **Right of Notice to Two Addresses** **Civil Code §§5310(a)(2), 4040(b)**

Associations must provide a statement explaining that a member may submit a request to have notices sent to up to two different specified addresses pursuant to Civil Code Section 4040(b).

✓ **General Notice Location** **Civil Code §§5310(a)(3), 4045(a)(3)**

Associations must describe the location, if any, designated for the posting of general notices pursuant to Civil Code Section 4045(a)(3).

Note: The association cannot post general notices (e.g., notices of board meetings) in any common area location, except those identified in the Annual Policy Statement. Failure to describe the location will result in the association’s inability to post general notices on association property.

✓ **Right to Receive General Notice by Individual Delivery** Civil Code §§5310(a)(4), 4045(b)
Associations must give notice of a member's option to receive general notices by individual delivery pursuant to Civil Code Section 4045(b).

✓ **Right to Receive Board Minutes** Civil Code §§5310(a)(5), 4950(b)
Associations must give notice of a member's right to receive copies of board meeting minutes and of how and where to do so pursuant to Civil Code Section 4950(b).

✓ **Statement of Assessment Collection Policies** Civil Code §5310(a)(6), 5730
Associations must provide the notice language exactly as set forth in Civil Code Section 5730, in at least 12-point type.

✓ **Assessment Collection Policy** Civil Code §§5310(a)(7)
Associations must provide a statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in the payment of assessments. This requirement is generally satisfied by distributing the association's Assessment Collection Policy.

This policy usually describes:

- How, when and under what conditions the association will record and foreclose upon assessment liens;
- The nature and amount of late charges, interest and collection costs; and
- Owners' rights to demand internal dispute resolution (commonly referred to as "IDR") and alternative dispute resolution (commonly referred to as "ADR") at different times during the collection process.

Note: Although the many notices required as part of the non-judicial foreclosure process are not covered in this Disclosure and Notice Checklist, please be aware that pursuant to Civil Code §5660, a copy of the association's Assessment Collection Policy must also be distributed with pre-lien notices.

✓ **Governing Document Enforcement and Fine Policy** Civil Code §§5310(a)(8), 5850
Associations must provide the association's discipline policy, if any, including any schedule of penalties for violations of the governing documents pursuant to Civil Code Section 5850.

✓ **Dispute Resolution Procedure Summary** Civil Code §§5310(a)(9), 5920, 5965
Associations must provide a summary of dispute resolution procedures, pursuant to Civil Code Sections 5920 and 5965.

✓ **Architectural Guidelines and Procedures** Civil Code §§5310(a)(10), 4765
Associations must provide their members with notice of any requirements for association approval of physical changes to property pursuant to Civil Code Section 4765. The notice must describe the types of changes that require association approval and must include a copy of the procedure used to review and approve or disapprove a proposed change.

✓ **Overnight Payment Mailing Address** Civil Code §§5310(a)(11), 5655
Associations must provide the mailing address for overnight payment of assessments pursuant to Civil Code Section 5655.

✓ **Miscellaneous Information** Civil Code §5310(a)(12)
Associations may provide any other information that is required by law or the governing documents or that the board determines to be appropriate for inclusion.

Fiscal Year End Disclosures

Within 120 days after the close of each fiscal year:

✓ **Review of Financial Statement** Civil Code §5305

For any fiscal year in which the association's gross income exceeds \$75,000, a review of its financial statement must be prepared by a licensed California certified public accountant and distributed to the members within one hundred twenty (120) days after the close of each fiscal year. This review may be distributed by individual delivery as defined by Civil Code Section 4040.

Note: Some governing documents require an audit (which is a higher level of review by an accountant), as opposed to a review.

✓ **Notice of Right to Receive Annual Report** Corporations Code §8321

For any fiscal year in which the association's gross revenues are at least \$10,000, it must prepare an annual report within one hundred twenty (120) days after the end of the association's fiscal year and notify members on an annual basis of their right to receive the annual report. The association must provide the annual report at its own expense to any member submitting a written request for a copy of the report.

The annual report must contain:

- A year-end balance sheet and income statement, and statement of cash flow for the fiscal year;
- A notice stating where records of the association members' names and addresses are stored; and
- Disclosure of transactions with interested parties and of indemnification agreements.

Associations must attach either the accountant's report, if an independent accountant has reviewed or audited the financial statement, or a certificate by an officer indicating that the statement was prepared without review or audit.

✓ **Notice of Transaction with Officer or Director** Corporations Code §8322

If applicable, associations must provide notice to the membership of any transaction between the association and a director during the previous fiscal year involving more than \$50,000. In order to maintain indemnity, most governing documents prohibit directors from being paid for their services as directors, but some will allow directors to be paid for services in other non-board capacities.

Additional Disclosures/Notices

✓ **Reserve Fund Transfer for Litigation Expenses** Civil Code §5520

When an association uses or transfers any funds from its reserve account to fund litigation, it must notify the members of the transfer and of the availability of an accounting in the next available mailing to the membership. This notice may be given by general delivery as defined by Civil Code Section 4045.

✓ **Litigation Expenses**

Civil Code §5520

Unless an association's governing documents impose more stringent standards, the association shall prepare an accounting of the litigation reserve fund expenses (paid with money from the reserve fund) on at least a quarterly basis. The accounting shall be made available for inspection by members at the association's office.

✓ **Assessment Increases**

Civil Code §5615

Notice of an assessment increase or special assessment must be provided by first-class mail to members not less than thirty (30) nor more than sixty (60) days before the increase or assessment is due. This notice must be given by individual delivery as defined by Civil Code Section 4040.

Suggestion: Even if the budget identifies the increased assessments, it is always a good idea to prepare and distribute a general notice.

Note: This is different from the 60-day window to provide notice of an increase in budgeted regular assessments based on the beginning of the fiscal year.

✓ **Notice of Intent to Borrow from Reserves**

Civil Code §5515

Boards may authorize the temporary transfer of money from a reserve fund to the association's general operating fund to meet short-term cash-flow requirements or other expenses, if the board has provided notice of the intent to consider the transfer in a notice of meeting.

The notice shall include:

- The reasons the transfer is needed
- Some of the options for repayment, and
- Whether a special assessment may be considered.

If the board authorizes the transfer, the board shall issue a written finding, recorded in the board's minutes, explaining the reasons that the transfer is needed, and describing when and how the money will be repaid to the reserve fund.

✓ **Notice of Intent to Postpone Repayment of Borrowed Reserves**

Civil Code §5515

Boards may, after giving the same notice required for considering a transfer of money from a reserve fund, and, upon making a finding supported by documentation that a temporary delay would be in the best interests of the common interest development, temporarily delay the repayment of borrowed reserves within one (1) year of the board's decision to borrow. The board must exercise prudent fiscal management in maintaining the integrity of the reserve account, and, if necessary, levy a special assessment to recover the full amount of the expended funds within the prescribed time limit.

Member Discipline

✓ **Schedule of Monetary Penalties**

Civil Code §5855

If an association adopts or has adopted a policy imposing any monetary penalty, including any fee, on its members for a violation of the association's governing documents or rules, a schedule of the monetary penalties that may be assessed for those violations pursuant to the policy must be distributed to the members via first class mail or personal delivery when the schedule is first adopted or when revised. This schedule is required to be distributed as part of the Annual Policy Statement.

✓ **Notification to Member**

Civil Code §5855(a)

When the board meets to consider or impose discipline upon a member, boards must notify the member in writing, by either personal delivery or first-class mail, at least ten (10) days prior to the meeting. The member may attend the meeting, which must be held in executive session if requested by the member. This notice must be given by either individual delivery (as defined by Civil Code Section 4040) or personal delivery.

Suggestion: Always schedule disciplinary hearings to take place in executive session, subject to the member's request to hold the hearing in general session.

✓ **Notification of Decision**

Civil Code §5855(c)

If the board imposes discipline on a member, boards must provide the member a written notification of the disciplinary action, by either personal delivery or first-class mail, within fifteen (15) days following the action. This notice must be given by individual delivery (as defined by Civil Code Section 4040) or personal delivery.

Elections

✓ **Delivery of Election Ballots**

Civil Code §5115(a)

Ballots and two preaddressed envelopes with instructions on how to return ballots must be mailed by first-class mail or delivered by the association to every member not less than thirty (30) days prior to the deadline for voting. If applicable, the notice of meeting at which the vote will be held may be sent along with the voting materials, provided that the window below for Notice of Membership Meeting is also satisfied.

✓ **Publication of Election Results**

Civil Code §5120(b)

The tabulated results (which means the actual numerical count of votes for each candidate, or count of votes in approval and disapproval of the proposal, as applicable) of the election must be recorded in the minutes of the next board meeting and must be available for review by the members. Within fifteen (15) days of the election, the board must publicize the tabulated results of the election in a communication directed to all members. This communication may be given by general delivery as defined by Civil Code Section 4045.

Board and Membership Meetings

✓ **Notice of Open Session Board Meetings**

Civil Code §4920

At least four (4) days before each open session board meeting (other than with respect to emergency Board meetings), associations must give notice of the time and place of a board meeting and include the agenda for the meeting. The board can only address the items set forth on the agenda, although there are exceptions for special situations. Notice may be given via electronic means if consent for same is provided by a member. The board shall not take action on any item of business outside of a meeting. This notice may be given by general delivery as defined by Civil Code Section 4045.

✓ **Notice of Executive Session Board Meetings**

Civil Code §4920

At least two (2) days before a board meeting that will be held solely in executive session, the association must give notice of the time and place of the meeting, even though the executive session meeting is not open to the general membership. There are exceptions for emergencies and other special situations. Notice may be given via electronic means if consent for same is provided by a member. The agenda for the executive session meeting must be included in the notice of meeting, but should be limited to a summary of which of the five executive session topics will be discussed in the meeting, in order to avoid a breach of the association's executive session privilege, the dissemination of confidential information or the invasion of an owner's privacy. This notice may be given by general delivery as defined by Civil Code Section 4045.

✓ **Emergency Meeting Via Electronic Transmission** Civil Code §4923

An emergency meeting of the board held via electronic transmission (e.g., via email) may be held only with the unanimous advance written consent of all directors, which consents must be filed with the minutes of such meeting. A majority of a quorum of directors present at such emergency meeting held by electronic transmission is required to approve any board action taken in that meeting.

✓ **Board Minutes Available** Civil Code §4950(a)

The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the board, other than executive session, must be available to members within thirty (30) days of the meeting. They must be distributed to any member of the association upon request and upon reimbursement of the association's costs for distribution. A prospective purchaser may request an owner to provide the previous twelve (12) months of general session board meeting minutes. The owner may request that the association deliver the minutes directly to the prospective purchaser or other third party.

Suggestion: If you receive such a request, include some form of the following statement in your response: "These documents are being provided to you in the limited scope of complying with a request of the owner of the unit/lot for same in accordance with Civil Code Section 4525, et seq. The delivery of these documents to you shall not constitute establishment of privity between you and the association, and such delivery shall not create any further responsibility for the association with respect to further disclosure of documents to you."

✓ **Notice of Membership Meeting** Corporations Code §7511

Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting must be given not less than ten (10) nor more than ninety (90) days before the date of the meeting to each member who, on the record date for notice of the meeting, is entitled to vote. The Davis-Stirling Act does not specify how this notice shall be delivered, so the requirements for same are subject to Corporations Code Section 7511. We recommend sending this notice to the members via U.S. Postal Service by first class mail.

✓ **Committee Minutes** Civil Code §5210

When a committee of the board makes a decision, the committee minutes must be made available to members within fifteen (15) days following approval of such minutes, excepting minutes of any litigation/legal, personnel, discipline/enforcement or other committees of the board which are formed to address executive session board meeting topics (in accordance with Civil Code §4950(a)).

Rule Adoption, Change and Reversal

✓ **Notice of Intention to Adopt or Change Rule** Civil Code §4360(a)

For certain kinds of operating rule changes set forth in Civil Code Section 4355, the board must provide written notice of a proposed rule change to the members at least thirty (30) days before making the rule change. The notice must include the text of the proposed rule change and a description of the purpose and effect of the proposed rule change. However, exceptions apply for emergencies. After thirty (30) days, the board must meet to decide whether to adopt the rule change after consideration of any comments made by members. This notice may be given by general delivery as defined by Civil Code Section 4045.

✓ **Notice of Rule Adoption or Rule Change** Civil Code §4360(c)

As soon as possible after making a rule change, but not more than fifteen (15) days after making the rule change, the board must deliver notice of the rule change to every member. This notice may be given by general delivery as defined by Civil Code Section 4045.

✓ **Request for Meeting to Consider Rule Reversal** Civil Code §4365(b)

Five percent of the membership may call a special meeting of the members to vote on reversal of a rule change if the request is sent within thirty (30) days after notice of a rule adoption or change from the board. The board is obligated to provide notice of the special meeting to the members. The Davis-Stirling Act does not specify how this notice shall be delivered, so the requirements for same are subject to Corporations Code Section 7511. We recommend sending this notice to the members via U.S. Postal Service by first class mail.

✓ **Notice of Rule Reversal Vote** Civil Code §4365(g)

If the membership votes on a rule reversal, the board must provide notice of the results of the member vote within fifteen (15) days after the close of voting. This notice may be given by general delivery as defined by Civil Code Section 4045.

✓ **Notice of Amendment to CC&Rs** Civil Code §§4270, 4275

If the membership votes to amend the CC&Rs, the board is required to distribute a copy of the amendment by first-class mail postage prepaid or personal delivery to all owners “immediately” upon recordation. The Davis-Stirling Act states that an amendment is effective upon recordation with the county recorder, provided the requisite number of members approve it and that fact is certified by an officer. If a court petition to amend the CC&Rs was successful pursuant to Civil Code Section 4275, the association will be required to send, by individual delivery (pursuant to Civil Code Section 4040), a copy of the recorded amendment to all members “within a reasonable time after the amendment is recorded”. We recommend providing a copy of all recorded amendments, whether the result of a petition or not, via individual delivery to the members as soon as possible after recordation.

Suggestion: Immediately send copies of any certified amendments to the Bylaws as well.

Corporate Disclosures

✓ **Statement of Officers’ Names, Addresses / Agent for Service of Process** Corp. Code §8210

All incorporated associations must file this information with the Secretary of State’s office every other year, up to five months prior to the anniversary date of the initial filing.

✓ **Registry / Statement of CID Association** Civil Code §5405

All associations, whether incorporated or not, must file a form provided by the Secretary of State every other year, either with the above Statement of Officers’ Names (or for an unincorporated association, every other July) or within sixty (60) days of change in an on-site or management address.

Construction Defects

✓ **Disclosure of Construction Defect Issues Before Suit** Civil Code §§6150, 6000

At least thirty (30) days before an association files a lawsuit for construction defects, it must provide notice to all owners of the defect issues, schedule a membership meeting to discuss the claims and the available options (with notice of meeting provided at least fifteen (15) days in advance), including any settlement offer from the developer. If the board rejects a settlement offer from the developer, the board must hold a meeting of members to discuss same no less than fifteen (15) days before the association commences an action for damages against the respondent (the developer). The Davis-Stirling Act does not provide that this notice must be delivered by individual delivery (as defined in Civil Code Section 4040) or general delivery (as defined in Civil Code Section 4045), so we recommend sending this notice to the members via U.S. Postal Service by first class mail.

✓ Disclosure of Construction Defect Settlement

Civil Code §6100

Upon settling a construction defect claim with the developer, the association must inform the members as soon as reasonably practicable of the following:

- What will be repaired;
- An estimate when the defects will be repaired; and
- Any defects that may not be repaired.

The Davis-Stirling Act does not provide that this notice may be delivered by individual delivery (as defined in Civil Code Section 4040) or general delivery (as defined in Civil Code Section 4040), so we recommend sending this notice to the members via U.S. Postal Service by first class mail.

Miscellaneous Disclosures/Notices

✓ Escrow/Sale of Unit

Civil Code §§4525, 4530, 4528

Within ten (10) days of written request from an owner, an association must provide the owner (or owner's agent/escrow) with a copy of various documents and information so that the owner may satisfy certain disclosure obligations to a prospective buyer. Among the documents and information to be provided by the selling owner are the governing documents, the last financial records provided to members pursuant to Civil Code Sections 5300 and 5310, a statement of unpaid fines and other monetary penalties, as well as a copy or summary of any notices of alleged violations of the governing documents that remain unresolved at the time of making the disclosure to the prospective buyer.

Note: The failure to notify the buyer through escrow of any violations may preclude the association's ability to enforce the governing documents relating to those violations against the new owner.

- An association is required to provide the selling owner, upon receipt of a written request and prior to processing the request, a written or electronic estimate of the fees that will be charged for providing the requested documents; this billing disclosure must be provided on the form included in Civil Code Section 4528. *Contact our office at info@sghoalaw.com if you would like a sample copy of this form.*
- The disclosure documents required under Civil Code Section 4525 may be maintained in electronic form, and may be posted on the association's website; an owner has the option of receiving the documents electronically or by hard copy.
- The association may collect a reasonable fee from the seller for the procurement, preparation, reproduction and delivery of the documents requested; no additional fees may be charged for electronic delivery of the documents requested. Be sure to comply with the limits on cancellation fees and provisions for refunds in connection with these documents as set forth in Civil Code Section 4530.
- The association may not withhold delivery of the requested documents for any reason or subject to any condition, except the payment of the fees permitted.
- The association may not bundle and deliver the documents responsive to a request under Civil Code Section 4525 with any other documents.
- An association may contract with any person or entity to facilitate compliance with the document requirements on behalf of the association.
- The owner of a separate interest is required to provide notice to a prospective buyer of any provision in the governing documents that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant, with a statement describing the prohibition.
- If requested by an owner, a copy of the minutes of the meetings, excluding meetings held in executive session, of the association's board of directors, conducted over the previous twelve (12) months, that were approved by the association's board of directors, must be provided to the owner or, at the owner's direction, directly to the prospective purchaser or other third party. The Association can charge a reasonable fee to the owner for the minutes, based on the actual costs for providing the minutes.

- The association is required to provide to a recipient authorized by the selling owner a copy of the completed 4528 form with the delivery of the requested documents.

Suggestion: If the selling owner designates a third party for delivery of any documents, such as the prospective purchaser, include some form of the following statement: "These documents are being provided to you in the limited scope of complying with a request of the owner of the unit/lot for same in accordance with Civil Code Section 4525, et seq. The delivery of these documents to you shall not constitute establishment of privity between you and the association, and such delivery shall not create any further responsibility for the association with respect to further disclosure of documents to you."

✓ Notice of Document Request Costs

Civil Code §5205(c)-(g)

Associations may request that the member reimburse the association for the direct and actual cost of copying and mailing the requested documents. In addition to the direct and actual costs of copying and mailing, the association may bill the requesting member an amount, not to exceed \$10 per hour and \$200 per written request, for time actually and reasonably involved in redacting enhanced records of the association. The association must inform the member of the amount of the copying, redaction and mailing costs, as may be applicable, and the member must agree to pay those costs before the association copies and sends the requested documents.

✓ Notice of Temporary Relocation for Repair, Maintenance or Pest Control; Relocation Costs

Civil Code §§4775(b), 4785(a)-(c)

Associations must give notice of the need to temporarily vacate a separate interest for repair or maintenance of areas within the responsibility of the association or the prompt, effective treatment of wood-destroying pests or organisms to the occupants and/or the owners of the separate interest not less than fifteen (15) days nor more than thirty (30) days prior to the date of relocation. The notice must state the reason for the relocation, the date and time of the beginning of repair, maintenance or treatment, the anticipated date and time of termination of repair, maintenance or treatment, and that the occupants will be responsible for their own accommodations during the relocation. The costs of such temporary relocation, or a temporary relocation of an occupant and/or owners of a separate interest related to the association's performance of repair, maintenance or treatment to areas of the development for which the association is responsible, are to be borne by the owner of the separate interest affected. Notice by the association shall be deemed complete upon either: (1) personal delivery of a copy of the notice to the occupants, and if an occupant is not the owner, individual delivery (pursuant to Section 4040) of a copy of the notice to the owner; or (2) individual delivery (pursuant to Section 4040) to the occupant at the address of the separate interest, and if the occupant is not the owner, individual delivery (pursuant to Section 4040) of a copy of the notice to the owner.

✓ Transmission of Documents

Civil Code §§4040, 4045

Any document may be sent by e-mail, facsimile, or other electronic means if the recipient has agreed to that method of delivery, only if such delivery creates a record that is capable of retention at the time of receipt; an electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record. Contact our office at info@sghoalaw.com if you would like a sample consent form for receipt of documents via electronic means.

This Disclosure and Notice Checklist is informational in nature only and does not constitute legal advice by SwedelsonGottlieb. Consult an attorney if you have questions regarding the above described disclosures and notices.