



2024 Edition

COMMON INTEREST DEVELOPMENT ACT MINI-LEGAL DICTIONARY



Fiore Racobs & Powers
A Professional Law Corporation

The Recognized Authority In Community Association Law and Commercial/Industrial CID Law

Fiore Racobs & Powers is honored to have earned the trust and confidence of our clients over the past 51 years by providing quality legal services and guidance.

Fiore Racobs & Powers is a full-service law firm, providing complete representation of common interest developments including: CC&R and Architectural Enforcement, Document Amendment, Elections/Votes, Corporate Counsel, Legal Opinions, Assessment Collection, Litigation, Appeals & General Legal Services.

Our Firm's ongoing mission is to "Provide quality legal services to our clients while setting the example for others to follow in the legal community. We are dedicated to the success of community associations through the practice of law, the education of our clients and industry professionals, and the advancement of public policy."

This booklet and other resources (including the Davis-Stirling Common Interest Development Act) are available for download on our website at FIORELAW.COM.

We sincerely hope that you find this booklet useful.

FioreLaw.com
877-31-FIORE

2024 EDITION

COMMON INTEREST
DEVELOPMENT
MINI-LEGAL
DICTIONARY

Compliments of

 **Fiore Racobs & Powers**

COMMON INTEREST DEVELOPMENT MINI-LEGAL DICTIONARY

“1542 Waiver” - *this term constitutes a waiver of a settling party’s rights under California Civil Code Section 1542. The effect is to release not only all claims known at the time of execution of the release, but also all unknown claims which existed at the time of the signing of the release.*

“Accessory Dwelling Unit”/“ADU” - *small structures, attached or detached, typically under 1200 square feet on the same parcel as the single family dwelling. Must have a kitchen or bathroom (See Government Code Section 65852.2).*

“Adjourn” - *to postpone or put-off a meeting for another future date (e.g. adjourn a meeting).*

“ADR” - *any form of alternative dispute resolution other than court process; includes mediation, arbitration, mini-trial, etc. (See Civil Code Section 5925.)*

“Affidavit”/ “Declaration” - *a written statement signed under the penalty of perjury or in the presence of a notary attesting to the existence of the fact(s) set forth.*

“Affirmative Defense” - *part of the answer that sets forth basis of the defendant’s or cross-defendant’s contention why they are not liable.*

“Agenda” - *a list of items to be discussed at a Board or Member Meeting. Per Civil Code Section 4930 the agenda items must be shown and posted in order to be discussed at a Board Meeting.*

“Annexation” - *the process by which additional properties made subject to a Declaration of Restrictions that extends to the common plan of a development and brings the additional property under the control of the existing owners association. Annexation is frequently used in common interest developments so that the developer does not have to originally commit to develop more separate interests and can reasonably be sold in a short period of time. Each new area to be annexed (i.e., a phase) must be the subject of a separate public report.*

“Annual Budget Report” - *a report required to be sent to the membership annually per Civil Code Section 5300 containing budget, reserve and financial information.*

“Annual Policy Statement” - *a report required to be sent to the membership annually per Civil Code Section 5310 containing disclosures, notices and policy information.*

“Answer” - *the defendant(s) ’ or cross-defendant(s) ’ formal response to the complaint or cross-complaint, which denies or affirms complaint or cross-complaint in whole or in part.*

“Arbitration” - *an informal trial proceeding per court order or agreement; decision of the arbitrator may be “binding” or “non-binding.” “Binding” - arbitrator’s decision is final absent fraud. “Non-Binding” - either party may ignore/appeal the arbitrator’s decision.*

“Arbitrator’s Decision/Award” - *the decision of the arbitrator after a hearing on the dispute, similar to a judgment after a trial.*

“Articles of Incorporation” - *the Articles of Incorporation are basically the corporate charter of an association which is incorporated. This corporate charter document is filed with the Secretary of State’s office in Sacramento.*

“Attorney-Client Privilege” - *a rule of evidence providing that neither an attorney nor the attorney’s client may be compelled to disclose confidential information.*

“Attorneys’ Fees” - *attorneys’ fees, usually charged at hourly rates, include charges incurred for services provided by attorneys and communications between the client and his/her attorney. (Costs may not include attorneys’ fees.)*

“Attorney Work Product Privilege” - *a rule of evidence providing that an attorney’s “work product” such as written or recorded materials containing the attorney’s mental impressions, conclusions, opinions or legal theories prepared in anticipation of litigation is not subject to disclosure.*

“Audit” - *the highest level of review of a corporation’s books and records by a certified public accountant, in accordance with the guidelines of the American Institute of Certified Public Accountants. It generally involves a complete reconciliation of all vouchers, charges, and expenditures, including an authentication of accounts. A complete audit of an association’s books and records is not required by the provisions of the Davis-Stirling Act or the California Corporations Code, but may be required by an association’s governing documents.*

“Ballot” / “Secret Ballot” - *a piece of paper by which an association member expresses his/her choice on certain matters to be voted upon by the association’s membership at a meeting or by mail under Civil Code Section 5105. This term should not be confused with “written ballot” under Corporations Code Section 7513.*

“Brown Act” - *(Government Code Sections 54950, et seq.) This Act provides that all meetings of a legislative body of a local agency are to be opened to the public. As such, the Act is directed toward conduct of public officials, and is not applicable to boards of directors of associations.*

“Burden of Proof” - *the plaintiff/cross-complainant has the initial burden to prove the allegations in the complaint/cross-complaint are true.*

“Department of Real Estate” - *the Department of California’s State government which is vested with regulatory jurisdiction over common interest developments, under the Subdivided Lands Act (Business and Professions Code Sections 11000, et seq.) (“DRE”)*

“Business Judgment Rule” - *this standard of care is generally applicable to officers and directors of a community association under Corporations Code Section 7231(a). This section provides that a director/officer must perform his or her duties, including the director’s duties as the member of any committee of the board, in good faith, and in a manner in which the director believes to be in the best interest of the corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.*

“Bylaws” - *the document which sets forward the requirements for a corporation to follow in conducting its business, including the information regarding quorum, the number and terms of directors, the time frameworks for noticing meetings. The Bylaws are not recorded or filed.*

“Cause of Action” - *the individual claims and theories of liability (e.g., contract, tort, injunction) for which some type of relief/remedy is sought in the complaint or cross-complaint.*

“CC&Rs” - *a Declaration of Covenants, Conditions and Restrictions - also known as the “Declaration.” This is a set of documents which is recorded in the County Recorder’s Office for the County in which the real property is located. The CC&Rs run with the land, meaning they bind each owner of land within the project covered by the CC&Rs to the conditions set forth therein. CC&Rs are also enforceable as equitable servitudes, under Civil Code Sections 4250; 5975.*

“Certificate of Good Standing” - *a certificate issued by the California Secretary of State indicating that an association is in current compliance with all of its requirements for non-profit mutual benefit corporations.*

“Certificate of Occupancy” - *a certificate provided by the local governmental agency allowing for the occupancy of a residence or other building.*

“Code” / “Statute” - *various adopted and published laws at both Federal and State levels.*

“Commercial and Industrial Common Interest Developments” - *non-residential CIDs as defined in Civil Code Section 6500.*

“Commercial and Industrial Common Interest Development Act” - *Civil Code Section 6500 et seq. - a separate Act governing non-residential CIDs.*

“Commingle” - *to mix or combine funds (e.g., to commingle reserves and operating accounts.)*

“Common Area” - *as defined by Civil Code Section 4095, this term generally denotes the entire common interest development except the separate interests, such as individually owned lots or condominium units. It may also include, in the context of a planned development, easement rights appurtenant to the separate interests.*

“Common Interest Development” - *also known as a “C.I.D.”; means any of the following: a) Community apartment project; b) Condominium project; c) Planned development; d) Stock cooperative. (See Civil Code Section 4100.)*

“Community Service Organization” - *is defined by Civil Code Section 4110 as a nonprofit entity, other than an association, that is organized to provide services to residents of the common interest development or to the public in addition to the residents, to the extent community common areas or facilities are available to the public. A “community service organization or similar entity” does not include an entity that has been organized solely to raise money and contribute to other nonprofit organizations that are qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code and that provide housing or housing assistance. (“C.S.O.”)*

“Complaint” - *(sometimes referred to as a “lawsuit” or “suit”) the document filed with the court to formally start the lawsuit and state (allege) claims (causes of action) against defendant (complaint can also be amended voluntarily or otherwise, e.g., First Amended Complaint, Second Amended Complaint, etc.).*

“Condominium Conversion” - *the process by which an apartment project or a cooperative housing project is legally transformed into a statutory condominium. Most counties and municipalities have strict ordinances regulating the conversion of such housing to statutory condominiums.*

“Condominium” - *a form of common interest development, consisting of an undivided interest in common or a portion of real property coupled with a separate interest in space called a “unit,” the boundaries of which are described in a recorded condominium plan. (See Civil Code Sections 4125; 4285.)*

“Condominium Plan” - *a recorded plan consisting of a description or survey map of a condominium project containing a three dimensional description of the project in sufficient detail to identify both the common areas and each separate interest, together with a certificate consenting to the recordation of the plan signed and acknowledged by the record owner of fee title to the real property subject to the plan. (See Civil Code Sections 4120; 4285-4295.)*

“Conflict of Interest” - *generally speaking, the term “conflict of interest” may be applied to any transaction or dealing between a director or officer of the association where the director’s own interests conflict with the director/officer’s duty of utmost loyalty to the association. As defined by Corporations Code Section 7233, conflicts of interests are limited to contracts or transactions in which the director/officer has a material financial interest. Such transactions may be considered void or voidable by the corporation, unless they are approved by a majority of the association’s disinterested directors, after full disclosure*

of the material facts concerning the transaction by the affected director. (See also Civil Code Section 5350.)

“Contract” - *an agreement entered into between at least two parties. The contract must specify the parties, the duration, and the consideration for the agreement.*

“Costs” - *“costs” incurred in the prosecution of a lawsuit generally include court filing fees, service fees, motion fees, jury fees, court reporter and deposition costs, and witness fees.*

“Cross-Complaint” - *if the defendant has claims (causes of action) against the plaintiff or others, he/she may file a counter suit or a new suit in the same action.*

“Cumulative Voting” - *a system of voting by which the members of the association have a number of votes equal to the number of directors to be chosen at the annual election, and are allowed to cast all of their votes for one person or distribute them among the candidates as the member sees fit.*

“Davis-Stirling Common Interest Development Act” - *California Civil Code Sections 4000, et seq., containing the bulk of the statutory framework for the operations and management of residential common interest developments in California. (“Davis-Stirling Act”)*

“Declaration” - *see “Affidavit.”*

“Defendant” - *the person/company who is sued directly by the plaintiff (there may be many defendants).*

“Demurrer” - *a technical response by the defendant(s) or cross-defendant(s) filed in lieu of an answer to the complaint, which states why the complaint is legally deficient in some way (the court hears this by way of a motion).*

“Deposition” - *formal question and answer session of potential witnesses, parties, experts, or others, which takes place before a court reporter under oath, which is later typed into booklet signed under penalty of perjury by the person deposed (“deponent”).*

“Director” - *also known as a Board Member. (See Civil Code Section 4140.)*

“Discovery” - *formal investigation by the parties normally by way of depositions, interrogatories, document production requests, etc.*

“Document Production” - *a written request to a party to produce documents to which they must respond in writing agreeing to produce the documents, raising objections thereto, or stating the documents do not exist or cannot be found.*

“Easement” - *an interest in real property which bestows a right upon the owner of one parcel of land to use the land of another for a special purpose. For example, an association may typically have an easement over the property of individual lot owners in a planned development for slope maintenance, or for other maintenance and repair purposes.*

“Equitable Servitude” - *a theory by which the use restrictions and other covenants in an association’s recorded declaration will be enforced by the courts, provided that the restrictions are set forth in at least one prior deed to the development, which states that the restrictions are for the benefit of other owners of separate interests in the development. In addition, the restrictions must generally be found to be in accordance with the general plan or scheme for the entire development. (See Civil Code Section 4250.)*

“Estoppel” - *an equitable doctrine that prevents a person from asserting a right or defense where the person’s own acts or conduct causes the party against whom the right or defense is claimed to detrimentally rely upon such acts or conduct.*

“Exclusive Use Common Area” - *that portion of an Association’s common area which is used exclusively by only one member of the Association, also known as Restricted Common Area. (See Civil Code Section 4115.)*

“F.C.C.” - *the Federal Communications Commission which regulates satellite “dish” antennas and other receiving and sending devices.*

“Fee” - *a complete interest in real property; “fee” ownership indicates an ownership of all aspects of the property as opposed to a future expectancy or a mere easement interest.*

“Fiduciary” - *a person charged with highest level of trust/confidence and duty of good faith towards corporation and members.*

“Foreclosure Sale” - *a sale of mortgaged or liened property by a trustee (e.g., nonjudicial foreclosure) or marshal (e.g., judicial foreclosure) for the purpose of satisfying a mortgage or lien against the property from the proceeds of the sale.*

“General Notice / General Delivery” - *the manner in which an association may provide notice and delivery to an owner. (See Civil Code Section 4045.)*

“General Release” - *a clause in certain settlement documents whereby one or more settling parties releases not only claims related to the specific litigation, but also all other claims which the releasing party knew existed prior to, or at, the time of the signing of the release.*

“Governing Documents” - *the Articles of Incorporation, Bylaws, Declaration and Operating Rules of an association. (See Civil Code Section 4150.)*

“Homestead Exemption” - law allowing a householder or head of a family to designate a principal dwelling house as the owner’s homestead and thereby exempting a portion of the value of the dwelling house (e.g., California \$75,000 for a single individual, and \$100,000 for a married couple) from execution for satisfaction of general debts.

“Indemnity” - contract or agreement by which one person agrees to secure another against an anticipated loss or claim, including the legal consequences of breach of some responsibility assumed by the party to be indemnified. For example, an insurance policy is a contract of indemnity, whereby the insurance agrees to secure the insured from anticipated losses in accordance with the terms of the policy.

“Individual Notice / Individual Delivery” - the manner in which an association may provide notice and delivery to an owner. (See Civil Code Section 4040.)

“Injunction” - a request for the court to order a party to not do something (or sometimes to do something), to keep conditions the way they currently exist until trial (to preserve the status quo).

“Intentional Tort” - a cause of action (claim) for personal injury, injury to real property seeking monetary damages arising out an intentional act. Examples; slander, assault and battery, willful destruction of property.

“Interrogatories” - formal written questions by one party to another.

“Judicial Foreclosure” - filing a lawsuit for collection of assessments and foreclosure of an association’s assessment lien by court order. Thus, as part of the judgment in an assessment collection action, the court orders the marshal to sell the property for satisfaction of the association’s assessment lien.

“Junior Accessory Dwelling Unit”/”JADU” - a unit of no more than 500 square feet and within a single family structure. Typically a bedroom in a single-family home that has an entrance into the unit from the main home and an entrance to the outside from the JADU (See Government Code Section 65852.22).

“Laches” - an equitable doctrine similar to a statute of limitations, which operates to preclude a person from asserting a claim or right when the person waited an unreasonable and unexplained length of time to assert the claim based on unfairness.

“Latent Defect” - a defective condition that is not discoverable upon a reasonable inspection.

“Law Clerk” - usually a person attending law school working for law firm part time, during summer, or while awaiting bar exam results.

“Lawyer” / “Attorney” - someone who has passed required courses of study and successfully completed Bar Exam; must be licensed by State Bar to practice law in California.

“Legal Secretary” - *secretary trained by school or experience” to do work for lawyer, including preparation, typing and filing of legal documents.*

“License” - *a grant of personal permission of authority by the owner of land to another to do a particular act or series of acts upon the owner’s land. License agreements are typically used in condominium projects, as a means for the association to give permission to an owner of a separate interest to construct an improvement attached to the common area.*

“Lien” - *also known as an assessment lien or Notice of Delinquent Assessment. This document is recorded against an owner’s separate interest for non-payment of assessments. (See Civil Code Section 5675.)*

“Lis Pendens” - *also known as a “notice of pending action.” This document is filed simultaneously with a lawsuit which relates to title to or possession of real property. The purpose of the lis pendens, which is also recorded with the county Recorder, is to provide notice to any potential buyer of the existence of a lawsuit which may affect his/her purchase and will appear on a title report for the property.*

“Litigation” - *is the entire process of prosecuting a lawsuit after the complaint is filed, including cross-complaints. (Sometimes referred to as the “Action”).*

“Litigator” - *lawyer who participates in the litigation process (usually used in the context of an attorney who goes to court) (also known as a “Trial Attorney”).*

“Managing Agent” - *as described in Civil Code Sections 4158; 5385. The term “managing agent” is a person or entity who, for compensation, or in expectation of compensation, exercises control over the assets of the association. It does not include a full-time employee of the association or a regulated financial institution operating within the normal course of business, or an attorney at law acting within the scope of his or her license. Persons or companies meeting the definition of managing agent are subject to strict requirements concerning the handling of association funds, under Civil Code Section 5380.*

“Mechanic’s Lien” - *a lien which may be placed on real property by a contractor licensed to do work in California. The mechanic’s lien is recorded with the County Recorder and must specify the amount which the contractor is seeking to recover. A lawsuit must be filed to foreclose upon the mechanic’s lien within ninety days of the recording of the mechanic’s lien. See also Civil Code Sections 4615 and 4620.*

“Mediation” - *neutral third person who tries to work with parties to reach a negotiated agreement/resolution to the dispute.*

“Mitigate” / “Mitigation” - *to alleviate or cause damage to be less severe; also substitute for (e.g., mitigation measures are steps to take to stop actions, such as water intrusion, from causing as much damage.)*

“Motion” - *a formal request, usually in writing, to the court to set a hearing and render a decision on an issue relevant to the litigation.*

“Motion in Limine” - *a written motion filed prior to trial asking the Court to exclude evidence before it is mentioned to a jury in opening statement.*

“MSC” - *a commonly used abbreviation for a Mandatory Settlement Conference. All parties (a quorum of the Board of Directors or legal liaison representative) are required to attend to discuss settlement prior to trial.*

“Nonjudicial Foreclosure” - *does not involve the court process; rather a trustee identified in the association’s assessment lien may proceed with a private foreclosure sale of the property to satisfy the assessment lien by recording a notice of default, and, thereafter, a notice of sale, after expiration of the statutory notice periods.*

“Notice of Meeting” - *written notice of either a Board or Member Meeting.*

“Notice of Non-Compliance” - *an instrument, similar to a lien, sometimes authorized under the CC&Rs to be recorded in the County Recorder’s Office against an owner’s property to evidence the owner’s violation of the provisions of the CC&Rs, thereby putting prospective purchasers of the property on notice of the violation. California case law has held such notices are not recordable in the Recorder’s office.*

“Nuisance” - *the result or consequences which arise from a person’s unreasonable or unlawful use of his or her own property in a manner causing obstruction or injury to the rights of another, or to the public, and creating a material annoyance, inconvenience and discomfort, such as persistent loud noises, odors, or unsightly care of property.*

“Operating Rule” - *Civil Code Section 4340 defines as a “regulation adopted by the board of directors that applies generally to the management and operation of the common interest development or the conduct of the business and affairs of the association.”*

“Ordinances” - *laws adopted at the local county and city level.*

“Paralegal” - *same as a legal assistant; many attend schools both accredited and unaccredited by the State Bar; certificates awarded but not licenses. Cannot appear in court and may have no career path to become a lawyer.*

“Parties” - *all plaintiff(s), defendant(s) and cross-defendant(s) in the litigation.*

“Patent Defect” - *a defective condition that is discoverable upon a reasonable inspection.*

“Permanent Injunction” - *an order by a Court issued after trial prohibiting a party from engaging in certain conduct. It may also order a party to perform mandatory affirmative acts.*

“Petition” - a document like a complaint where plaintiff has the legal right to get into court before a judge on certain issues (e.g., to challenge an association election.)

“Plaintiff” - the person or entity who has a claim (cause of action) and who files a lawsuit.

“Planned Development” - a form of common interest development, having either or both of the following features: (1) the common area that is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area; and/or (2) an association that maintains the common area with the power to levy assessments that may become a lien upon the separate interests. (See Civil Code Section 4175.)

“Pleading” - technically this means only the complaint, cross-complaint, answers (affirmative defenses), demurrer or judgment on the pleadings. However, in practice, “pleading” may refer generically to any document filed with court on pleading paper (paper numbered at the margin).

“Preliminary Injunction” - a hearing held approximately 15-20 days after the issuance of a Temporary Restraining Order. At that time the Court decides whether to continue a restraining order in effect until trial.

“Priority of Liens” - liens are generally ranked in the order in which they are first “perfected.” Thus, liens which are recorded first in time will be superior to liens recorded at a later date.

“Pro Forma Budget” - the term, “pro forma” simply means a form - a pro forma budget is one that the Board of Directors adopts to state the basic financial requirements and needs for the association for the coming year, along with anticipated expenses. The Davis-Stirling Act sets forth specific requirements (Civil Code Section 5300) for information which must be contained within the pro forma operating budget, as well as the time framework within which the budget must be distributed.

“Proof of Service” - a written statement in which a person serving a legal document swears under penalty of perjury they have served it.

“Proxy” - a proxy is a person who is appointed to act as an agent for another person, typically by representing that person at a meeting or in some public body. The term “proxy” also refers to the written instrument which contains the appointment of agency. (See Civil Code Section 5130; Corporations Code Section 7613.)

“Public Report” - a final public subdivision public report is essentially a permit, issued by the Bureau of Real Estate to the developer of a common interest subdivision, allowing the developer to market and sell the separate interests. It is the primary means of accomplishing subdivision regulation, and protects buyers of separate interests by requiring disclosure of all material facts and by

assuring adherence to the BRE applicable standards for creating, operating, financing, and preparing documentation for the project. (aka "White Report".)

"Quorum" - *the minimum number of people needed to legally hold a meeting. A quorum can be either a quorum for a board meeting or a quorum for an annual or special meeting of the members. If the quorum requirement is not met, the meeting may be adjourned.*

"Record Date" - *the legal date which may be set by the corporation for determining a member's right to vote, be nominated for office, or receive legal notice of association meetings. (See generally Corporations Code Section 7611.)*

"Recuse" - *to remove someone, or disallow participation (e.g., recuse a director from voting based on conflict of interest).*

"Release" - *a waiver of claims against persons or entities arising by agreement or operation of law.*

"Remedy / Relief" - *the type of compensation sought by the plaintiff; money damages, injunctions, etc.*

"Request for Resolution" - *offer of ADR served on owner to initiate ADR process. The Request for Resolution must include (1) a brief description of the dispute; 2) a request for alternative dispute resolution; and 3) notice that the party receiving the Request is required to respond thereto within 30 days of receipt or it will be deemed rejected. (See Civil Code Section 5935.)*

"Reserve Accounts" - *monies that the association's board of directors have identified for use to defray the future repair, or replacement of, or additions to, major components which the association is obligated to maintain. (See Civil Code Sections 4177; 4178.)*

"Reserve Study" - *a study of the association's reserve account requirements, identifying the major components which the association is obligated to repair, replace, restore, or maintain, for their probably remaining useful life; an estimate of the cost to repair, replace, restoration, or maintenance of the components, and an estimate of the total annual contribution necessary to defray such costs. (See generally Civil Code Section 5550.)*

"Review" - *a less stringent review of a corporation's books and records when compared to an audit, but also conducted in accordance with the guidelines of the American Institute of Certified Public Accountants. A review prepared by a certified public accountant is required by Civil Code Section 5305 for any fiscal year in which the association's gross income exceeds \$75,000.00.*

"Rules and Regulations" - *this is a Governing Document which is adopted by the Board of Directors, generally as an interpretive document to the CC&Rs. Generally member approval is not required for adoption of rules and regulations, although some older Bylaws and CC&Rs may require member approval for rules and regulations, as well as for the adoption of fines. The rules and regulations*

are not recorded at the County Recorder's Office. See also "Operating Rule."

"Separate Interests" - *as defined by Civil Code Section 4185, separate interests in a condominium project means an individual unit. In a planned development, it means a separately owned lot, parcel, area, or space.*

"Single Family Attached/Detached Unit" - *construction, marketing term for either a planned development or condominium unit where association may or may not have exterior maintenance duties.*

"Statute of Limitations" - *a time period within which a complaint must be filed or claim is forever barred.*

"Stop Notice" - *a notice given by a person/entity involved with a work of improvement to the owner of the property or construction lender. The stop notice requires the owner to withhold sufficient money to answer the claims set forth in the stop notice. Unless the stop notice is bonded, a construction lender, at its discretion, may withhold monies in a sufficient amount to cover the claims set forth in the stop notice.*

"Subordination" - *the act, process, or agreement by which a person's rights are ranked below the rights of others.*

"Subpoena" - *a court order to a non-party to appear either in court or at deposition and/or to produce documents.*

"Summary Adjudication/Judgment" - *a complex motion to the court to determine as a matter of law one or more issues which will be dispositive of the case. The court must find that there are no triable issues of material fact in order to grant the motion, which means that if there is even one factual issue which must be tried, the motion will not be granted. If the motion is granted, the case may be over and a judgment entered for the moving party.*

"Summary Proceeding" - *any proceeding where a controversy is settled, a case is disposed of, or trial conducted in a prompt and simple manner, without a jury, such as a Petition to the court to enforce an owner's right to inspect corporate records, an unlawful detainer action for eviction of a tenant in a landlord/tenant case, and/or a small claims action.*

"Summons" - *a document which is served with the complaint stating the lawsuit has been filed with the court, has been properly served and stating that the party served must respond within 30 days.*

"Surety Bond" - *a form of insurance, whereby the surety company agrees to assume the responsibility to pay the debt of an officer or director or other person or corporation, in the event that they default.*

"Tender" - *to provide to, or legally give notice of tender (e.g., make an insurance claim to the carrier).*

“Tort” - a cause of action (claim) for injury, including injury to person or real property (a civil wrong) seeking monetary damages (a “tortfeasor” is a person committing a tort).

“Townhouse” / “Townhome” - a marketing term for an attached, residential structure. This type of unit can legally be either a planned development, where the owner’s separate interest consists of that portion of the residential structure physically situated on an individually owned lot, or a condominium unit.

“Tract Map” - this is a document recorded by the subdivider of the real property in the County Recorder’s Office as required by the Subdivided Lands Act and the Subdivision Map Act. This map generally shows the location of all lots within a tract and provides specific descriptions, including dimensions. Also known as a Final Subdivision Map.

“Transactional Attorney” - lawyer who specializes in non-litigation oriented work. Generally in connection with common interest developments, the “corporate counsel” for associations are transactional attorneys.

“TRO” - an abbreviation for a Temporary Restraining Order. This court order is obtained on very short notice and orders the defendant to stop performing some prohibited activity. It remains in effect for approximately 15-20 days until a Preliminary Injunction hearing can be held.

“UBC” - abbreviation for the Uniform Building Code. The Uniform Building Code sets construction standards that are required to be followed in the construction of homes and improvements.

“Undertaking” - a promise or stipulation given in the course of legal proceedings. Most typically, this term is used in conjunction with a director’s promise to repay the corporation in return for the corporation paying defense costs on behalf of the director/officer under the provisions of Corporations Code Section 7237.

“Unincorporated Association” - a non-profit entity created for the purpose of managing a common interest development, which is not incorporated. Generally, incorporated associations are governed by a separate set of bylaws. (See Corporations Code Sections 18000, et seq.)

“Unruh Civil Rights Act” - Civil Code Sections 51, et seq., generally prohibiting discrimination as a violation of State law against certain protected classes of persons. This group of protected persons includes protection from age discrimination, except for residents of senior citizen housing as defined by Section 51.3.

“Verification” - a statement under penalty of perjury by the party that must accompany a response to interrogatories or a response to a demand to produce documents stating that the responses are true and correct.

“Voting Instructions” - required to be sent with Secret Ballot, two envelopes for Membership Votes per Civil Code Section 5115.

“Waiver” - *the relinquishment of a known right, claim or privilege, or conduct creating an inference of relinquishment of such right, claim, or privilege.*

“Written Ballot” - *the means by which a corporation may conduct a member vote without holding an actual meeting of the membership, pursuant to Corporations Code Section 7513. A written ballot may not be used to vote on matters required to be voted on by Secret Ballot under Civil Code Section 5115.*

Copyright 2024 by Fiore, Racobs & Powers, A PLC



**Fiore
Racobs
& Powers**

A Professional
Law Corporation

> Orange County Office

6440 Oak Canyon
Suite 250
Irvine, CA 92618
949-727-3111

> Inland Empire Office

6820 Indiana Avenue
Suite 140
Riverside, CA 92506
951-369-6300

> Coachella Valley Office

74-130 Country Club Drive
Suite 102
Palm Desert, CA 92260
760-776-6511

> San Diego County Office

380 S. Melrose Drive
Suite 330
Vista, CA 92081
760-707-1988

**The Recognized Authority In Community Association Law
and Commercial/Industrial CID Law**

FIORELAW.COM

877-31-FIORE