Study H-850

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

BACKGROUND STUDY

Scope of Study of Laws Affecting Common Interest Developments

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November 2000

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Scope of Study of Laws Affecting Common Interest Developments

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I. Overview of California Laws Affecting Common Interest Developments

The primary statutes governing common interest developments in California (hereafter CIDs) are the Davis-Stirling Act, the Nonprofit Corporation Law, and the Subdivided Lands Act. The Davis Stirling Act, Civil Code §§ 1350-1376, is the basic statute and covers many aspects of the creation and operation of these developments. The Subdivided Lands Act, Business & Professions Code §§ 11000-11200, comes into play during the initial stages of a CID and regulations issued pursuant to that Act substantially affect the provisions found in CID governing documents. The Nonprofit Corporation Law may affect the powers and governance of associations and the liability of their officers, directors, members.

Under the Subdivided Lands Act, a developer may not offer to sell interests in a CID without obtaining a public report from the Department of Real Estate. The report will not be issued unless the DRE finds that "reasonable arrangements have been or will be made as to the interest of each of the purchasers of lots, apartments, or condominiums in the subdivision with respect to the management, maintenance, preservation, operation, use, right of resale and control of their lots … and such other areas or interests … as have been or will be made subject to the plan of control …." Pursuant to this provision, the DRE has adopted policies and published a number of regulations covering provisions of the governing documents with respect to financing, governance, and other aspects of the operation of CIDs. The regulations appear at 10 Cal. Code of Regulations §§ 2790 *et seq*. After issuance of the public report, the DRE retains control over amendments to the governing documents until the developer holds or controls less than 25% of the votes that could be cast to amend them. Beyond that point, however, the DRE does not exercise continuing supervision over the contents of the documents or the operation of the CID. A useful discussion of the impact of the Subdivided Lands Act and the DRE regulations on CIDs may be found in CALIFORNIA CONDOMINIUM AND PLANNED DEVELOPMENT PRACTICE, (CEB, 1984, Jeffrey G. Wagner, James L. Beaver, Louis S. Weller, Update, June, 2000).

Under the Davis-Stirling Act, a CID must be managed by an association, which may be either incorporated or unincorporated. If the association is incorporated, the Nonprofit Corporation Law will affect the CIDs in several respects. Most associations are incorporated as nonprofit mutual benefit corporations and the provisions of Corporations Code §§ 7110 *et seq*. may govern meetings, elections, notices, voting rights, numbers needed for a quorum, selection and removal of directors, duties and liabilities of officers and directors, and the like. The general provisions and definitions contained in Part 1 of the Nonprofit Corporation Law, §§ 5002-5080, are also relevant to CIDs. Whether the association is incorporated

or unincorporated, under Civ. Code § 1363(c) the association may exercise the powers granted by Corp. Code § 7140 (with some exceptions) unless the governing documents provide otherwise.

Other statutes that should be reviewed in studying CIDs include the disclosure requirements imposed on transferors of residential real property under Civil Code § 1102 *et seq*. and on real estate brokers and salespeople under § 2079 *et seq*. In addition, unincorporated associations are covered by Title 3 of the Corporations Code beginning at § 20001, and association standing is covered in Code of Civil Procedure § 383.

Other statutes that may be of interest are those affecting the enforceability of particular provisions that may be found in CID documents. Those statutes include: Gov't Code § 434.5 (rules or covenants that prevent otherwise legal display of the U.S. flag on private property); Health & Safety Code § 13132.7 (prohibition on sale of wood roofing materials that fail to meet fire standards makes covenants requiring wood shake or shingle roofs unenforceable); Civ. Code § 714 (restriction that effectively prohibits or restricts installation or use of solar energy system is void and unenforceable); Health & Safety Code § 1597.40(c) (restrictions limiting use of property for family day-care home are void); Unruh Civil Rights Act, Civ. Code §§ 51-53 (arbitrary discrimination prohibited); Gov't Code § 12955 (housing discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability prohibited).

Other code sections that may affect CIDs include Veh. Code § 22658.2 (establishes conditions under which a CID may remove vehicles), Health & Safety Code § 25360.2 (owner of common areas in residential CID, other than the developer presumed not liable for certain releases of hazardous substances under Carter-Presley-Tanner Hazardous Substances Act), Rev. & Tax. Code § 2188 (taxation of CID common areas).

II. The Davis Stirling Act

The Davis-Stirling Act was adopted in 1985, two years after the Uniform Common Interest Ownership Act (UCIOA) was adopted by the National Conference of Commissioners on Uniform State Laws. Like that Act, Davis-Stirling brought together under one statute condominiums, cooperatives, and other common interest developments. Unlike UCIOA, however, Davis-Stirling did not attempt to be comprehensive. The history and goals of the statute are explained in Curtis C. Sproul & Katharine N. Rosenberry, ADVISING CALIFORNIA CONDOMINIUM AND HOMEOWNERS ASSOCIATIONS (1991, Update, March 2000) § 1.4:

> In 1985, a select committee of the California Assembly, appointed to study common interest developments, held hearings and solicited comments from attorneys, developers, real estate brokers, lenders, homeowners, property

> managers, and others involved in the creation or operation of common interest developments….
>
> The select committee decided not to try to solve all the problems that were identified during its deliberations…. Instead, it decided to address a problem only if all the interest groups represented could agree on a solution. The committee reached agreement on attempting to accomplish the following primary purposes of the Act:
>
> (1) To consolidate statutory provisions governing common interest developments ….
>
> (2) To standardize treatment of different types of common interest developments ….
>
> (3) To validate existing practices of developers and community associations ….
>
> (4) To resolve problems faced by homeowners and associations in the operation of common interest developments, particularly the collection of assessments and amendment of governing documents ….

Since the adoption of Davis-Stirling in 1985, the statute has been amended numerous times. Between 1987 and 1998, Rosenberry & Sproul counted thirty-nine amendments to the twenty-seven sections of the act (*A Comparison of California Common Interest Development Law and the Uniform Common Interest Ownership Act*, 38 Santa Clara L. Rev. 1009 n.4, 1998). Since then, more amendments have been made. The Act now contains 41 sections.

III. Criticisms of Current California Law Governing Common Interest Communities

There are numerous criticisms of current California law. Criticisms include the following:

A. The Law Is Too Complicated and Hard to Understand

The prime culprit here is the Davis-Stirling Act, which is almost impossible to read, even for people with legal training. It is poorly written — some parts are virtually incomprehensible; others are extremely difficult to wade through. The Act lacks a logical organizational structure. Captions for some sections fail to signal important matters that are covered. In addition, the numerous and frequent amendments to the Act make it hard for people to maintain a current understanding of the law.

As an example of the complicated, confusing language of the Act, consider § 1366:

> **1366. Levy of assessments; limitation on increases; delinquent assessments; interest**
>
> (a) Except as provided in this section, the association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this title. However, annual increases in regular assessments for any fiscal year, as authorized by subdivision (b), shall not be imposed unless the board has complied with subdivision (a) of Section 1365 with respect to that fiscal year, or has obtained the approval of owners, constituting a quorum, casting a

> majority of the votes at a meeting or election of the association conducted in accordance with Chapter 5 (commencing with section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations code. For the purposes of this section, "quorum" means more than 50 percent of the owners of an association.
>
> (b) Notwithstanding more restrictive limitations placed on the board by the governing documents, the board of directors may not impose a regular assessment that is more than 20 percent greater than the regular assessment for the association's preceding fiscal year or impose special assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that fiscal year without the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. For the purposes of this section, quorum means more than 50 percent of the owners of an association. This section does not limit assessment increases necessary for emergency situations….

These two subsections exhibit two major vices of Davis-Stirling: they are very hard to read and they don't clearly signal — if they signal at all — the true import of the statute. This statute allows the board to violate express provisions in the governing documents that limit the amount of assessment increases. If the board has complied with § 1365(a) (distributed a pro forma operating budget), it may increase assessments by 20% per year without a vote of the members, and by a greater percentage with approval of a majority of those voting at a meeting (so long as at least 50% of the owners appear at the meeting), no matter what the documents say. Although these sections are some of the worst, they are not unique.

Another problem with many sections of Davis-Stirling is that they cover too many subjects. Without extensive study of the statute, it is very difficult to locate particular provisions you may be interested in, and some important provisions are so buried that a sharp eye is needed to spot them. For example § 1368's caption is "Sale or title transfer; provision of specified items to prospective purchasers; copies; fees; violations; penalty and attorney fees; validity of title transferred in violation; additional requirements." Buried amidst 11 paragraphs of elaborate disclosure requirements imposed on both the seller and the association is subsection (c), which prohibits an association from imposing or collecting any "assessment, penalty, or fee in connection with a transfer of title or any other interest except the association's actual costs to change its records …." This ban on transfer fees, which appears to apply even if such fees are authorized by the recorded declaration is a significant limitation on the way funds can be raised to support association activities or other matters of interest to the CID. It should not be buried in a statute that otherwise deals with disclosure requirements.

B. The Coverage Is Very Uneven

The statute covers some areas in excruciating detail and pays little or no attention to others. There is little attempt to state general principles governing

duties of the association to members, for example, but there are elaborate provisions with respect to disclosure of insurance policy details (Civ. Code § 1365(e)(1)). There are also extensive provisions governing disclosure of particular items to prospective buyers, but no general principle that might cover material items not listed in the statute. The President of Association Reserves, Inc., writes that key disclosure items not required by the statute would include the percentage of owner-occupied units, the percentage of assessments delinquent for 90 days or more, and the percentage of reserves funded.

Another correspondent, Gale C. Guthrie, who represents the Cameron Park Community Services District, writes to suggest that the benefits of Davis-Stirling, at least as to amendment powers, should be extended to common interest communities that do not have common property. Section 1374, added in 1994, says that "nothing in this title may be construed to apply to a development wherein there does not exist a common area … nor may this title be construed to confer standing pursuant to Section 383 of the code of Civil Procedure to an association … wherein there does not exist a common area. This section is declaratory of existing law." One of the questions that should be considered in the study is whether some or all of the provisions of Davis-Stirling should be extended to developments where lots or units are subject to an obligation to fund enforcement of the CC&Rs even if there is no common area. The Restatement, Third, of Property, Servitudes includes such developments within its definition of common interest communities covered by Chapter 6. See Restatement § 6.2.

C. Securing Compliance with the Law Is Difficult

There is no regulatory agency charged with overseeing CIDs once they have passed beyond the DRE's control over the initial sales stage. If association boards fail to carry out their responsibilities or fail to comply with the law, owners have little recourse except to the courts. There are ADR provisions applicable to disputes over enforcement of covenants and restrictions in the declaration (Civ. Code § 1354), but they do not apply to disputes over management of the community or failure to comply with the statutes. Resort to judicial proceedings is often very expensive and can be very risky for an owner because the association may have greater resources to spend on legal talent, and the owner who loses is often liable for the association's attorney fees. Of the comments received, several expressed strong concerns over the difficulties homeowners face when association boards fail to act or act improperly.

D. The Protections for Individual Rights Are Weak

Civil Code § 1354 provides that restrictions contained in a declaration are enforceable unless unreasonable. "Unreasonable" was interpreted in *Nahrstedt v. Lakeside Village Condominium Ass'n, Inc*., 8 Cal. 4th 361, 878 P.2d 1275, 33 Cal. Rptr. 2d 63 (1994), to mean restrictions that are arbitrary, in violation of public policy, or in violation of a fundamental constitutional right. This limitation on allowable covenants is very close to that adopted in the Restatement, Third (see

§ 3.1), but there is nothing in Davis-Stirling comparable to Restatement § 6.7 or UCIOA § 3-102(c), which limit the extent of the association's power to adopt rules and regulations affecting use, occupancy of, or behavior in separately owned lots or units.

IV. Recommendations for Study

The Davis-Stirling Act is so unwieldy, disorganized, and loaded with micro-management minutia, that serious consideration should be given to starting over with a new framework on which a more comprehensible and comprehensive law of common interest developments could be constructed. The Uniform Common Interest Ownership Act (UCIOA) deserves careful consideration because it is clearly written, reasonably well organized, and reasonably comprehensive. Katharine N. Rosenberry and Curtis G. Sproul published a useful comparison of Davis-Stirling and UCIOA in 38 Santa Clara L. Rev. 1009 (1998), in which they reach the conclusion that California law could be improved by shifting to UCIOA as the basic statute. However, they recommend adding onto UCIOA those parts of existing California law that go beyond, or improve on, the UCIOA provisions.

My view is similar. UCIOA provides a better framework than Davis-Stirling and adopting it could provide significant advantages in standardizing terminology with the rest of the country and stabilizing California law so that constant amendments don't frustrate the efforts of association members, boards, and managers to understand the law that governs CIDs. I also agree that UCIOA can and should be improved on. The best substantive features of Davis-Stirling should be retained, but engrafted on the UCIOA framework. The study should look carefully at Davis-Stirling to determine which provisions are in fact superior to UCIOA provisions and which are useful supplements. Once those provisions have been identified, the further question should be asked whether the advantages to be gained are worth sacrificing the benefits of uniformity.

I also recommend using Chapter 6 of the Restatement, Third, of Property, Servitudes (2000) as a source of comparison and ideas for improvement on both UCIOA and Davis-Stirling. The Restatement is particularly useful because it provides a comprehensive statement of the general principles that should govern CIDs, something which is particularly lacking in Davis-Stirling. For example, the principles governing the duty of associations to their members are set forth in § 6.13:

§ 6.13 Duties of a Common Interest Community to Its Members

(1) In addition to duties imposed by statute and the governing documents, the association has the following duties to the members of the common interest community:

(a) to use ordinary care and prudence in managing the property and financial affairs of the community that are subject to its control;

(b) to treat members fairly;

(c) to act reasonably in the exercise of its discretionary powers including rulemaking, enforcement, and design-control powers;

> (d) to provide members reasonable access to information about the association, the common property, and the financial affairs of the association.
>
> (2) A member challenging an action of the association under this section has the burden of proving a breach of duty by the association. Except when the breach alleged is ultra vires action by the association, the member has the additional burden of proving that the breach has caused, or threatens to cause, injury to the member individually or to the interests of the common interest community.

Another example of a provision that might usefully be considered is § 6.12, which provides a solution for situations where the governing documents contain provisions that unreasonably interfere with operation of the CID:

> **§ 6.12 Judicial Power to Excuse Compliance with Requirements of the Governing Documents**
>
> A court may excuse compliance with any of the following provisions in a governing document if it finds that the provision unreasonably interferes with the community's ability to manage the common property, administer the servitude regime, or carry out any other function set forth in the declaration, and that compliance is not necessary to protect the legitimate interests of the members or lenders holding security interests:
>
> (a) a provision limiting the amount of any assessment that can be levied against individually owned property;
>
> (2) a provision requiring that an amendment to the declaration be approved by lenders;
>
> (3) a provision requiring approval of more than a majority of the voting power to adopt an amendment described in § 6.10(a) [extend the term of the declaration, make administrative changes reasonably necessary for management of the common property, prohibit or restrict uses of individually owned property that threaten harm to reasonable use of other property in the development];
>
> (4) a provision requiring approval of more than two-thirds of the voting power to adopt an amendment described by § 6.10(1)(b) that is not subject to the requirements of § 6.10(2) or (3) [amendments that don't apply uniformly to similar lots or that would otherwise violate the community's duties to its members under § 6.13 require approval by those adversely affected; amendments to prohibit or materially restrict non-nuisance uses of individually owned property, or to change basis for allocating voting rights or assessments require unanimous consent];
>
> (5) a requirement that an amendment to the declaration be signed by members;
>
> (6) a quorum requirement for meetings of members.

As part of the study, the interrelationship among the governing documents, the CID Act and the Corporations Code should be reviewed for suitability and compatibility, and also to ensure that it is clear which provision prevails in the event of conflict. Whether the statutory provisions are mandatory or are simply default rules should also be made clear.

I would also recommend that the study include examining ways to provide better protection to members of CIDs than is currently available through the legal system. Problems that have been raised are protecting owners from decisions to defer needed maintenance (they ultimately may result in high special assessments that seniors and those of modest income may not be able to afford), from overly intrusive regulations, from abusive enforcement practices, and from boards that

refuse to call elections, hold open meetings, or provide information. Other problems may include adoption of rules that are overly intrusive or disrupt settled expectations (like the ability to keep a pet). Concerns that have been raised include both the costs of resort to the judicial system and the barriers created by judicial deference to board decision making. In addition to considering adoption of Restatement § 6.13, other avenues to explore would include enacting a members' Bill of Rights as part of the CID statute (see French, *The Constitution of a Private Residential Government Should Include a Bill of Rights*, 27 Wake Forest L. Rev. 345 (1992)), and looking for ways to provide nonjudicial oversight and dispute resolution.

Non judicial oversight could be accomplished by extending the responsibilities of the DRE, or another regulatory agency to cover ongoing CID operations. The agency could package and provide information about the law governing CIDs in clear and easy-to-read language. It could also provide dispute resolution services through mediation, arbitration, or some other form of regulatory adjudication. Another possibility would be to require CIDs to file regular reports or otherwise demonstrate compliance with legal requirements, but it would probably be considerably less costly simply to enable CID members to invoke the jurisdiction of the agency when necessary to resolve a dispute. (A similar approach is taken with trusts — regular judicial accountings are no longer required, but beneficiaries and trustees may petition the court when necessary to resolve problems).

In conclusion, California law governing common interest developments could be substantially improved by simplifying, clarifying, and expanding the scope of the current statutes and by providing more affordable and available means to ensure compliance with the law and resolve disputes among CID members and boards. The current study provides an opportunity to develop new statutes that would accomplish these results.

V. Feasibility

You also asked me to comment on the political feasibility of making changes. On this point, I have little to offer. I am given to understand that there is a group that strongly supports the micro-management approach demonstrated in Davis-Stirling and that this group will probably strongly resist adoption of UCIOA or any other statutory framework that sets forth broader rules and principles and leaves some flexibility for CIDs to decide how to comply. Adoption of UCIOA would be strongly supported by the Joint Editorial Board and their California allies. Beyond that, I would think that anyone who has had to work with the Davis-Stirling Act would support changes that would make the statute readable and comprehensible. The homeowner democracy groups strongly support creating regulatory oversight of CIDs but might find that creation of a homeowner's option to ask a regulatory agency to step in would be acceptable, rather than full-blown regulatory oversight.

Letters and Comments Received

ECHO, Executive Council of Homeowners, letter dated Aug. 24, 2000.

The organization's purpose is to educate and advocate on behalf of associations. They state that their legal counsel is available to identify specific elements of Davis-Stirling which could be clarified or improved. The areas of concern identified are:

1. Lack of compliance with community association statutes. Particular areas of concern are:
   - Disclosure requirements
   - Due process for members
   - Open meeting requirements
   - Assessments, under- and over-assessing
   - Ultra vires acts
2. Lack of regulatory oversight
3. There is a real need for a fast effective way to ensure that associations operate in compliance with law. They suggest that something similar to the ADR provisions of § 1354 (which they drafted and sponsored) is needed for statutory compliance.

Gale C. Guthrie, Guthrie & Guthrie, for the Cameron Park Community Services District, letter dated Nov. 2, 1999

The district is authorized by Gov. Code § 61601.10(b)(5) to enforce the CC&Rs for about 50 subdivisions in Cameron Park. Their primary area of concern is that most of the CC&Rs they work with are more than 30 years old and lack provisions for amendment. The amendment provisions of Davis-Stirling (§ 1356) would be very useful to them, but Civ. Code § 1374, added in 1994, provides that nothing in Davis-Stirling applies to a development that lacks a common area. Suggested action:

- Amend § 1356 to provide that it applies to all subdivisions with CC&Rs.

Keith Honda, Chief of Staff, Assembly Dist. 23, email dated July 17, 2000.

The primary concern raised is that some associations refuse to impose assessments sufficient to cover maintenance expenses. Deferred maintenance problems eventually force the levy of a special assessment, which may be very large, and which may work a particular hardship on older members. This problem raises four concerns:

- Insufficient inspection of common areas and disclosure to members with respect to the condition of the property
- Lack of a standard for minimum levels of reserve funding
- Lack of oversight of association boards
- Lack of accountability of board members to association members

Robert M. Nordlund, Association Reserves, Inc., letter dated July 26, 2000, email dated Sept. 7, 2000.

Association Reserves prepares reserve studies for CIDs and includes 2930 California CIDs in its national client base. The key concerns identified, which Nordlund believes could be addressed by requiring regular public disclosures, are that

> Prospective purchasers are not given sufficient information about the CID they are buying into. They need to know:
>
> - Percent owner occupied (over 70% good, under 50% poor)
> - Percent 90-day delinquencies (under 55 good, over 10% poor)
> - Reserves percent funded (over 70% good, under 30% poor)
>
> The Liability of associations and real estate agents for inadequate disclosure is too limited.
>
> - Homeowners, rather than associations are required to make all disclosures
> - Real estate agent's duty to make disclosure about the association is too limited

Mr. & Mrs. R. Ross, email dated Feb. 3, 2000.

They are owners in a 550-member CID and want to see requirements for:

- Secret written ballots
- Term limits of 1-2 years for board members
- Multiple sealed bids for contracting work or services in excess of $250, the bids to be opened at an open meeting
- Board approval for any change in association attorney with justification noted in the minutes
- Poll of members before board makes decisions that take away member's right to use the privately held facilities for public use

Common Interest Consumer Project, letter dated Aug. 17, 2000.

Frederick L. Pilot, President, calls for review of the entire body of CID law, including judicial opinions as well as code provisions "with the goal of developing a clear, consistent and unified regulatory framework" for formation and management of CIDs. He calls the Commission's attention to the working papers prepared by the Public Law Research Institute of the University of California, Hastings College of law, which he has previously provided to the Commission. He makes raises several concerns and makes several suggestions:

Create a viable regulatory scheme for CIDs that clearly identifies rights and responsibilities of stake holders including consumers, builders, real estate licensees, CID board members, and managing agents.

Provide meaningful and feasible remedies to hold stakeholders accountable and foster respect for the rule of law. Give consumers an affordable and accessible means to enforce CID laws.

Conduct workshops or hold hearings around the state to elicit consumer perspectives and surface problems with the current regime.

Review the Supreme Court's decision in *Lamden v. LaJolla Shores Clubdominium* to accord substantial judicial deference to CID board decisions

governing maintenance decisions. If the judicial deference standard is retained, consider treating large CIDs as community service districts subject to Gov. Code §§ 61600 *et seq*. rather than under Davis-Stirling.

Frederick L. Pilot, President Common Interest Consumer Project, Inc., email to Senator Kopp dated March 11, 1998

The email requests adding a study topic for the comprehensive review of the current statutory scheme regulating common interest development housing. The concerns expressed include:

The public's understanding of CIDs is cloudy

The disclosure requirements in Civil Code §§ 1102, *et seq*. and 2079 should be revised to make them suitable for CIDs.

The current statutory scheme is too complex for the lay volunteers who administer CIDs to understand.

There are no practical enforcement provisions in current law to deter violations.

Karen D. Conlon, California Association of Community Managers, Inc. (CCAM), email dated July 25, 2000.

Would like to be provided with this report for confidential review and comment.

Les Thompson, emails dated Jan. 28, July 21, Aug. 15, and Sept. 28, 2000.

Mr. Thompson has owned and lived in a condominium for 24 years and retired in 1989 from the Federal Housing Administration where he specialized in CIDs. He sees no need to adopt UCIOA and believes that Davis-Stirling should continue to be amended to meet conditions in California. He has several suggestions for clarifications and amendments to the statute, and also decries the lack of regulatory oversight for CID associations. His points and suggestions include:

The statutory language is too "legaleze." Use everyday language in the statutes.

Clarify the meanings of maintain, replace, repair, restore, and component, for which he suggests specific definitions.

Underfunded reserves and deferred maintenance are serious problems. Require funding of reserves.

Clarify § 1365.5(c)(1) to specify that funds reserved for one major component cannot be used for another.

Clarify the definition of exclusive use common area (EUCA) in § 1351 and resolve the problems for CIDs established prior to 1986 with respect to responsibility for maintenance of these areas. Wiring should not be EUCA.

The lack of regulatory oversight for homeowner associations is a serious problem.

- Courts are reluctant to be involved with the less important problems
- Both ADR and court procedures are very costly
- The association can use common funds for legal expenses but the individual owners have to use their own resources to seek enforcement of the board's duties
- The Attorney General refuses to provide real help to secure compliance with the Corporations Code

He also includes statements from various homeowners as the problems they have encountered with their association boards.

The email of Aug. 15 refers to hearings held in Arizona at which homeowners registered complaints that their rights were trampled by their associations.

The email of Sept. 28 refers to a legislative hearing in Nevada at which more than 100 homeowners spoke of association horror stories.