

Your Community's Spring Cleaning Check-List

By Cari Ann Potts, Esq., Myers, Widders, Gibson, Jones & Feingold, LLP



ANNUAL DISCLOSURES

As you likely know, 30 to 60 days prior to the end of its fiscal year, an association must make certain annual disclosures to its members. Depending on the particular association's fiscal year, this time of the year is ideal for drawing up an association's annual budgetary and policy disclosure statements. As required by the Davis-Stirling Common Interest Development Act (the "Act"), an association must:

- ◆ Distribute an annual budget report, including a pro forma operating budget, summaries of the association's reserves and reserve funding plan, statements concerning the possibility of repairs, special assessments, summaries of outstanding association loans and the association's insurance policies, among other things. The full list of requirements for the annual budget report is laid out in Civil Code section 5300.
- ◆ Distribute an annual policy statement, which must designate the individual selected to receive official communications to the association, notify the member of his or her right to receive general notices by individual delivery and of his or her right to receive copies of meeting minutes, among a number of other things. The full list of requirements for the annual policy statement is laid out in Civil Code section 5310.
- ◆ Review its governing documents to determine if the association must disclose items not specifically required in the Act.
- ◆ Ensure that the required annual statements are properly delivered to each member pursuant to Civil Code section 5320.

EDUCATE YOUR BOARD

While the terms of each association's board of directors differ, spring presents an association with the opportunity to make sure its board of directors is fully educated about its roles and responsibilities. We suggest the directors:

- ◆ Review the governing documents, including the declaration of covenants, conditions, and restrictions (the "CC&Rs"), bylaws, and any rules and regulations.
- ◆ If not already done, review all new statutory and case law affecting associations. Our firm provides a comprehensive seminar covering the most important new legislation and case law affecting homeowner associations. Other firms and organizations do the same.
- ◆ Review the Act's open meeting requirements. It is important that a director is aware of to whom he can speak about association business and when, and which subjects are appropriate for closed meetings as opposed to open meetings.
- ◆ Review the Act's and/or the association's dispute resolution requirements. New directors are often not aware that associations have prescribed grievance procedures. Educating those directors before a dispute arises pays dividends when a sticky situation does present itself.

SURVEY THE PROPERTY

In preparation for drafting the annual budget and budget-related disclosures, an association should survey its common area

property. (See Civ. Code, § 5300, requiring an association to disclose what association property, if any, must be repaired or replaced.) To do so:

- ◆ Walk around the association's property. Survey the building walls and roofing structures, landscaping and hardscaping, parks common area buildings (such as recreation and meeting centers), and asphalt for items in need of repair or replacement.
- ◆ Review association records to determine the life of the roofing system(s) and asphalt. If the lifespan is coming to an end, obtain estimates for the cost of repair or replacement.
- ◆ Review the association records to determine if complaints have been registered concerning common area property. View any property which has been called out in a complaint, and obtain estimates for the repair or replacement as needed.

REVIEW THE GOVERNING DOCUMENTS

It is well-known that statutory and case law affecting associations is in constant flux. Before you know it, your association governing documents have become stale, or even legally noncompliant. Noncompliant governing documents can lead to the use of improper or unlawful procedures, which may, in turn, render the association susceptible to a lawsuit. To ensure the association's governing documents are up to snuff:

- ◆ Review recent case and statutory law.
- ◆ Review the association's governing documents, including the CC&Rs, bylaws, and rules and regulations or policies and procedures, keeping in mind the Act's requirements and recent case law.
- ◆ Alternatively, contact the attorney for your association and coordinate a consultation to discuss review, restatement, and amendment of the governing documents.

In summary, with a little foresight and spring cleaning, you can ensure your association operates smoothly and with as little conflict as possible.

Myers, Widders, Gibson, Jones & Feingold, LLP is one of the oldest law firms in Ventura County, and is the fourth largest law firm in the Tri-Counties. Over the past 30 years, our firm has provided effective, prompt, personal service to hundreds of homeowners' associations and property managers throughout California. The firm has 15 attorneys whose practice areas include business law, civil litigation, personal injury, construction defect, homeowner association law, construction law, employment law, insurance coverage, municipal and public entity law, estate planning, real estate, collections, education law, nonprofit law and taxation.



**MYERS, WIDDERS, GIBSON,
JONES & FEINGOLD, LLP**

ATTORNEYS AT LAW, SINCE 1971

Ventura | Thousand Oaks | Valencia | San Luis Obispo

Mammoth Lakes | Las Vegas

805-644-7188 | www.MWGJLAW.COM