

REQUIRED DISCLOSURES BY ASSOCIATIONS

1. FINANCIAL/BUDGET DISCLOSURES

DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTERS
<p><u>Pro Forma Operating Budget</u>, which includes:</p> <p>1) The estimated revenue and expenses on an accrual basis</p> <p>2) Summary of reserves, based upon most recent review or study; based only on assets held in cash or cash equivalents</p> <p>3) Statement as to whether board has determined or anticipates special assessment, and if so, amount, commencement date and duration; and statement as to mechanism for funding reserves</p> <p>4) The current deficiency in reserve funding, expressed on a per unit basis.</p>	<p>Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.</p>	<p>Not less than 30, nor more than 90 days before beginning of association's fiscal year</p>	<p>Civil Code §1365(a)</p>	<p>If budget is not timely mailed, board may not increase assessments pursuant to Civil Code §1366.</p> <p>For reserve summary: reserve study must be done every 3 years (Civil Code §1365.5(e)); updated annually.</p> <p>Instead of distributing the budget, board may elect to distribute a summary with a written notice that the pro forma operating budget is available at the business office or at another suitable location within CID. If member requests the pro forma operating budget, it must be delivered by first-class mail within 5 days of request at association's expense.</p>
<p><u>Summary of reserve funding plan</u> including notice that full reserve study plan is available upon request</p>	<p>Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.</p>	<p>Not specified in statute</p>	<p>Civil Code §1365(b)</p>	<p>Plan must be adopted as part of reserve study at least once every 3 years; summary must be mailed, but not clear when, or how often</p>



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<u>Statement by domestic non-profit corporation</u>	File with Secretary of State	Biennially or whenever information regarding agent for service of process, officers change	Corp. Code §§8210; 8212	Information re filing can be found at www.ss.ca.gov
<u>Assessment and Reserve Funding Disclosure Summary</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc., with pro forma operating budget or summary thereof	Not less than 30, nor more than 90 days before beginning of association's fiscal year	Civil Code §1365.2.5	Use form given in Civil Code §1365.2.5 (amended 1/1/10)
<u>Accountant's review of year - end financial statements</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	Within 120 days after close of association's fiscal year	Civil Code §1365(c)	Statute only requires review if gross income exceeds \$75,000. No penalty for untimely mailing. Bylaws/CC&R's may require "audit," not review
<u>Notice of assessment increase or special assessment</u>	Mailing to all owners by first-class mail	Not less than 30 days nor more than 60 days before assessment is due	Civil Code §1366	A resolution must be prepared and distributed if assessment increase is under "emergency exception" (Civil Code §1366(b)(3))



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<p><u>Annual Report</u>, which contains:</p> <p>1) Balance sheet as of end of fiscal year;</p> <p>2) Statement of changes in financial position for fiscal year;</p> <p>3) Statement of where membership list is located;</p> <p>4) Statement of any indemnification/defense of director greater than \$10,000.00</p>	<p>Association must prepare report no more than 120 days after close of fiscal year, and notify members of their right to receive</p>	<p>Annually; must provide actual copy of report only upon request of member</p>	<p>Corp. Code §§8321, 8322</p>	<p>Board may reference owners' right to receive Annual Report in "budget package"; board should request management/accountant prepare balance sheet, statement of changes in financial position, as part of year end financial review (audit)</p>
<p><u>Schedule of fines</u> (monetary penalties) adopted by board</p>	<p>Mailing to each member by first-class mail or personal delivery</p>	<p>When adopted, or when any change is made thereto</p>	<p>Civil Code §1363(g)</p>	<p>May be included with "budget package" if package is mailed by first class mail or personally delivered. Penalty: failure to distribute may affect ability to collect fines</p>
<p><u>Notice of board's intent to consider temporary transfer of reserve funds to operating funds to meet short term cash flow requirements</u></p>	<p>In notice to members of open meeting of board at which the temporary transfer will be considered, in compliance with Open Meeting Act, Civil Code §1363.05</p>	<p>At least 4 days before open meeting, unless governing documents require a longer notice period</p>	<p>Civil Code §1365.5(c)(2)</p>	<p>Notice must include reasons transfer is needed, some options for repayment, and whether a special assessment may be considered.</p>



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<u>Notice of board's intent to consider delay in restoring temporarily transferred reserve funds within one year of the initial transfer</u>	In notice to members of open meeting of board at which the delay in restoring the reserve funds will be considered, in compliance with Open Meeting Act, Civil Code §1363.05	At least 4 days before open meeting, unless governing documents require a longer notice period.	Civil Code §1365.5(c)(2)	Generally, transferred funds must be repaid within one year, except if the board makes a documented finding that a temporary delay would be in the "best interests of the common interest development."
<u>Accounting of expenses related to litigation if reserve funds are temporarily transferred to pay for same</u>	Inspection at association's office by members on request	Accounting to be made at least quarterly	Civil Code §1365.5(d)	Board meeting minutes should reflect that accounting has been made as required.
<u>Accounting books, records</u>	Inspection by members, or by mail if no business office within CID, and no agreement re place for inspection is reached	Upon written request by member during reasonable hours; statement of proper purpose	Corp. Code §8333; Civil Code §1365.2	A "proper purpose" is very broad and may include almost anything related to association's operation/management
<u>Lien and Collection Policy - how the association plans to collect delinquent assessments</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	Annually, not less than 30 days, nor more than 90 days preceding beginning of fiscal year	Civil Code §1365(e)	May be mailed as part of "budget package". No express statutory penalties for non-compliance-but owner could challenge assessment increase or enforcement
<u>Notice regarding assessments and foreclosure</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	Annually, during the 60 day period preceding beginning of fiscal year	Civil Code §1365.1	Use form verbatim. No express statutory penalties for non-compliance-but owner could challenge assessment increase or enforcement



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<u>Notice of right to submit secondary address</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	Annually, not less than 30, nor more than 90 days before beginning of association's fiscal year	Civil Code §1367.1(k)	Must be mailed together with pro forma operating budget. No express statutory penalties for non-compliance, but owner could challenge enforcement efforts. If written notice of secondary address is received, association must send any and all correspondence and legal notices (including assessment/lien notices) to both addresses.

2. MEMBER MEETING/MINUTE INFORMATION

DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTERS
<u>Policy re how members can obtain copies of minutes</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	Annually with budget or with any general mailing	Civil Code §1363.05(e)	May be mailed as part of "budget package"
<u>Notice of Board meetings</u> - other than executive session meetings; must include agenda	Posting in common area, mailing to any owner who has requested notice; may also be by mail/newsletter	At least 4 days before board meeting	Civil Code §1363.05(f)	Exceptions for "emergencies"



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<u>Membership List</u> , including names, property addresses and mailing addresses of all members who have not opted out pursuant to Civil Code §1365.2(a)(1)(I)(iii)	Copying/inspection by members	Within 5 days of written request by member, statement of proper purpose required	Civil Code §1365.2; Corp. Code §8330	Board may deny access to list only if it reasonably believes that the information in the list will be used for another purpose (board bears burden of proof). Board must contact members who have opted out by alternate notice process.
<u>Notice of Annual Meeting</u>	Personally; by electronic transmission (as provided in Corp. Code §20); or by mail or other means of written communication, to address appearing on association's books or given by the member for purposes of notice	Not less than 10 days nor more than 90 days before meeting	Corp. Code §7511(a); Civil Code §1363(e)	Notice must include place, date and time of meeting, and any means of electronic transmission or video screen communication by which members may participate (pursuant to Corp. Code §§20 and 21)
<u>Ballots for elections</u>	First class mail or personal delivery	Not less than 30 days prior to deadline for voting	Civil Code §1363.03(e)	Must be delivered with 2 preaddressed envelopes and instructions on how to return ballots
<u>Tabulated results of election</u>	Publicized in communication directed to all members	Within 15 days of election	Civil Code §1363.03(g)	Must also be recorded in minutes of next meeting of directors and be available for review by members
<u>Notice of special meeting petitioned by members</u>	Personally; by electronic transmission (as provided in Corp. Code §20); or by mail or	Not less than 20 days after receipt of petition (actual meeting to be held not less	Corp. Code §7511(c); Civil Code §1363(e)	Board sets meeting date; if timely response is not made, petitioning members may set



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	other means of written communication, to address appearing on association's books or given by the member for purposes of notice	than 35 or more than 90 days from receipt of petition)		date and give notice, or court may order meeting and notice
<u>Agendas and minutes of board meetings and/or membership meetings</u>	Inspection and copying by members	Within 30 days of meeting; upon written request by member during reasonable hours; statement of proper purpose	Corp. Code §8333; Civil Code §§1363.05 and 1365.2	Member must pay cost of copying, distribution. Members are not entitled to executive session meeting minutes. Minutes should be marked "draft" until approved.
<u>Minutes of committee meetings</u>	Inspection and copying by members	Within 15 days following approval	Civil Code §1365.2(j)(5)	Committees with decision-making authority must keep minutes which must be made available

3. DISCLOSURE DOCUMENTS INDEX

DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTERS
<u>Index of documents required to be disclosed</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	Upon request by member	Civil Code §1363.005	Form is provided in statute; will likely be subject to frequent updates



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4. INFORMATION PROVIDED TO OWNERS ON SALE

DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTERS
<p>1) Governing documents;</p> <p>2) If age restriction in documents, a statement that any restriction different from Civil Code §51.3 is only enforceable to extent of §51.3;</p> <p>3) Budget, financial statement,</p> <p>4) Amount of current regular and special assessments; all delinquent assessments, late charges, interest and costs of collection, amount due for fines</p> <p>5) Notice of any change in current regular and special assessments which have been approved but are not yet due and payable;</p> <p>6) Copy or summary of notice of alleged violations that remain unresolved;</p> <p>7) Copy of preliminary list of defects provided to the members pursuant to Civil Code §1375;</p>	<p>Upon request by owner/seller</p>	<p>Within 10 days of mailing/delivery of request by owner</p>	<p>Civil Code §1368</p>	<p>Association may charge reasonable fee, based on actual cost to procure, prepare and reproduce requested items.</p> <p>Association can't impose/collect any fee in connection with transfer of title except its actual cost to change records, and cost to reproduce documents described herein</p>



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DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTERS
8) Copy of information provided to members re settlement of defect litigation pursuant to Civil Code §1375.1				

5. INSURANCE

DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTER
<u>Statement of insurance policies carried by association</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	Annually, not less than 30, nor more than 90 days preceding beginning of fiscal year	Civil Code §1365(f)(1)	Policies which must be disclosed: property; general liability; earthquake; flood and fidelity insurance
<u>Notice of lapse, cancellation, non-renewal or significant change in insurance coverage/deductible</u>	First-class mail to all owners	As soon as reasonably practicable	Civil Code §1365(f)(2)	Immediate notice to members is required if replacement coverage will not be in effect by the date existing coverage will lapse.

6. TERMITE RELOCATION

DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTERS
<u>Notice of need to relocate for termite treatment</u>	<ul style="list-style-type: none"> ▪ Personal delivery to occupant and by mail to owners if different than occupants; or ▪ Mailing to both owner and occupant by first-class mail 	15 - 30 days before relocation date	Civil Code §1364(d)	Notice must state reason for temporary relocation; date and time of beginning of treatment; anticipated date and time of termination of treatment; that occupants are responsible for own accommodations during relocation



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DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTERS
				If owners do not relocate association may obtain court order

7. CONSTRUCTION DEFECTS/LITIGATION

DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTERS
<u>Notice of presence of asbestos</u>	First class mail to all members/occupants	Upon knowledge of presence of asbestos in common interest development and annually thereafter	Health & Safety Code §§25915.2 and 25915.5	Alternatively, association may post large signs in each building, informing persons that association knows the building contains asbestos containing material and where more detailed information may be obtained; association must also disclose in escrow
<u>Disclosure statement re: presence of design/construction defects and CC&R enforcement litigation</u>	Mailing to all owners; upon request	Provide updates regularly as needed to update membership regarding status	Fiduciary duty of board of directors; see <i>Kovich v. Paseo Del Mar Homeowners Association</i> case	There is no duty to provide such information to prospective buyers, realtors, lenders
<u>Notice of meeting to discuss problems that may lead to filing of action against developer for design and construction defect</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	Not later than 30 days prior to filing of lawsuit against developer, and at least 15 days prior to meeting	Civil Code §§1368.5 and 1375	Notice must specify options available to address problems and time and place of meeting.



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<u>Notice of board decision to use reserve funds to pay for litigation involving common area components</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	When decision is made by board	Civil Code §1365.5(d)	Board must also notify members of availability of an accounting of litigation expenses
<u>Notice of continuing nuisance/knowledge of material condition which may affect property values</u>	Mail to all members	As soon as board becomes aware		Penalty: suit by owner for breach of fiduciary duty, non-disclosure
<u>Notice of settlement of defect lawsuit, defects to be repaired</u>	Mail to all members	As soon as reasonably practicable after resolution	Civil Code §1375.1	Penalty: suit by owner for breach of fiduciary duty, non-disclosure

8. RULE CHANGES

DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTERS
<u>Notice of proposed rule change, including text of proposed rule change and description of purpose and effect</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	At least 30 days before making the rule change	Civil Code §1357.130(a)	Board must consider any comments received from members at open board meeting. Exceptions for emergency rule change
<u>Notice of rule change</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	As soon as possible, but not more than 15 days after making rule change	Civil Code §1357.130(c)	Rules must be in writing; within authority of board; not inconsistent with governing documents; and reasonable



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<u>Notice of emergency rule change</u> , including text of the rule change, description of purpose and effect, date rule change will expire	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	As soon as possible, but no more than 15 days after making the emergency rule change	Civil Code §1357.130(c)	Emergency rule change may only be made if required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the association. An emergency rule change is effective for 120 days, unless rule change provides for shorter period

9. MEMBER DISCIPLINE/DISPUTE RESOLUTION

DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTERS
<u>Notice of hearing</u>	Personal delivery or first-class mail	At least 10 days prior to meeting	Civil Code §1363(h)	Notice must include date, time and place of meeting; the nature of the alleged violation; statement that the member has a right to attend and address board
<u>Notice of discipline imposed</u>	Personal delivery or first-class mail	Within 15 days following disciplinary action	Civil Code §1363(h); Corp. Code §7341	Disciplinary action is not effective unless this notice is given Effective date of any suspension of membership privileges must be at least 5 days after hearing



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<u>Alternative dispute resolution (ADR); summary of statute</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	With budget or in other corporate mailing	Civil Code §1369.590	Summary must include this language: "Failure of a member of the association to comply with the alternative dispute resolution requirements of Section 1369.520 of the Civil Code may result in the loss of your right to sue the association or another member of the association regarding enforcement of the governing documents." Failure to comply with ADR statute may affect recovery of attorney's fees, etc.
<u>Internal dispute resolution (IDR), description of procedure</u>	Methods contained in Civil Code §1350.7, including mail, personal delivery, email, facsimile, etc.	With ADR summary	Civil Code §1363.850	Board is required to adopt fair, reasonable and expeditious IDR procedures. Minimum procedural requirements set forth in Civil Code § 1363.830; default procedure set forth in § 1363.840



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10. ARCHITECTURAL REVIEW

DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTER
<u>Notice of architectural approval procedures</u>	Mailing to all owners	Annually (we suggest sending out with financial disclosures)	Civil Code §1378	Must include (1) the types of changes that require architectural approval and (2) the procedure by which submissions are reviewed. The requirements for this procedure are described in Civil Code §1378, and include mandatory right to appeal decision to board.

11. VEHICLE TOWING

DOCUMENT	HOW	WHEN	AUTHORITY	PRACTICE POINTER
<u>Notice of association's right to tow</u>	Sign at each entrance to community	Prior to towing any vehicle from common area	Vehicle Code §22658	Rules regulating parking should be adopted and distributed prior to towing; (Sign is not required if notice + waiting period is met.) Specific authorization for tow may also be required.

