



2025 Edition

NEW LEGISLATION FOR 2025 AND 2024 CASES HANDBOOK



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 five decades 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 handbook 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 handbook useful.

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NEW LEGISLATION FOR 2025 & 2024 CASES

The Firm's Community Association Legal Webinar covering "New Legislation for 2025 & 2024 Cases" was held in November and December 2024. The following slides provide an outline of the legislation and cases affecting community associations, as presented at the webinar.

If you would like a link to the recorded webinar, please email Diane Weissberg, Manager of Client Relations, at dweissberg@fiorelaw.com.

Compliments of

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COMMUNITY ASSOCIATION LEGAL WORKSHOP

New Legislation for 2025 & 2024 Cases

PRESENTED BY:



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I. Updates to the Davis-Stirling Common Interest Development Act



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A. SB 900, Umberg. Common interest developments: repair and maintenance.

Amends Civil Code §§ 4775, 5550, and 5610:

- Deals with interruptions to gas, heat, water or electrical services on the common area that impact a separate interest
- If the repair to the utility component located on the common area is an Association responsibility, the statute requires the Association to commence the repair process within 14 days



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A. SB 900, Umberg. Common interest developments: repair and maintenance.

- Adds gas, water, and electrical service to “major components” for reserve studies
- May obtain competitive financing to pay for the costs of the repairs or replacements, without membership approval
- May levy an emergency special assessment to repay the loan if reserve funds are insufficient to cover the repair or replacement cost



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A. SB 900, Umberg. Common interest developments: repair and maintenance.

- Allows for a lowered quorum of the board if necessary to facilitate approval of the repair process



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B. AB 2159, Maienschein. Common interest developments: association governance: elections.

Amends Civil Code §§ 5105, 5110, 5115, 5120, 5125, 5200, and 5260:

- Provides the option to amend election operating rules to add some *limited electronic voting options*
- Electronic voting cannot be utilized for an election regarding regular or special assessments



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B. AB 2159, Maienschein. Common interest developments: association governance: elections.

Electronic voting allowed if:

- The election rules authorize electronic voting and
- The internet based voting system used by the Inspector of Election satisfies the requirements of new Civil Code § 5110(c)(4)



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Election Rule Requirements


Civil Code §§
5105 – 5130

- Allow a member to change, no later than 90 days before an election, the member's preferred method of voting
- Require an electronic secret ballot and a written secret ballot to contain the same list of items being voted on
- Prohibit nominations from the floor where electronic voting is an option

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Requirements for the Internet Based Voting System utilized by the Inspector of Election

- Each member voting electronically must be provided:
 - ✓ A method to authenticate the member's identity to the internet-based voting system; and
 - ✓ A method to transmit an electronic secret ballot to the internet-based voting system that ensures the secrecy and integrity of each ballot



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Other Changes

- Maintain a voting list identifying which members will vote by electronic secret ballot and which members will vote by written secret ballot
- Include in the Annual Policy Statement (Civil Code § 5310) information on the procedures to either opt out of or opt into voting by electronic secret ballot
- The definition of "Association election materials" is expanded to include the tally sheet of votes cast electronically



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C. AB 2460, Ta. Common interest developments: association governance: member election.

Amends Civil Code § 5115 and Corps. Code § 7512

This is a clean up measure to last year's legislation regarding reduced quorum level for adjourned membership meetings for election of directors



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C. AB 2460, Ta. Common interest developments: association governance: member election.

- Makes technical changes to the prior reduced quorum legislation
- Clarifies that the Association may call a reconvened meeting if there is no quorum



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D. AB 2114, Irwin. Building standards: exterior elevated elements: inspection.



Urgency Legislation to Civil Code § 5551

- “Balcony Bill” – required licensed structural engineer or architect to inspect exterior elevated elements
- Adds licensed civil engineer to the list of qualified professionals
- Deadline for completing the first inspection is January 1, 2025

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E. SB-477 Accessory dwelling units.

Urgency Legislation

- Non-substantive changes to certain ADU and JADU laws, including Civil Code § 4751



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II. Additional Laws/Proclamations



Corporate Transparency Act Reminder

Requires associations to report identifying information **by January 1, 2025**

Information includes:

- Names
- Addresses
- Dates of birth
- ID, State driver's license or U.S. passport

The screenshot shows the FinCEN website interface for BOI reporting. It includes a navigation bar with 'FINANCIAL CRIMES' and 'ENFORCEMENT NETWORK'. The main heading is 'Beneficial Ownership Information'. Below this, there are sections for 'Frequently Asked Questions' and a list of questions related to reporting requirements, such as 'Who is required to report BOI?' and 'What information must be reported?'.



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Corporate Transparency Act Reminder

- Associations will need to submit a new filing whenever there is updated information
- Civil and criminal penalties for willfully failing to report
- Penalties may apply to both associations and individual directors



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Note: Below is a summary of the updates regarding the enforcement of the Corporate Transparency Act from December 3, 2024 - December 26, 2024.

Date	Event	CTA Filing Requirement
December 3, 2024	TX District Court Judge issues preliminary injunction that the CTA is unconstitutional and that the January 1, 2025 filing deadline be vacated.	Off
December 23, 2024	Fifth Circuit Court of Appeals Motions Panel issues an order staying the District Court Judge's order.	On
December 24, 2024	FinCEN updates its website noting extended filing deadline of January 13, 2025.	On
December 26, 2024	Fifth Circuit Court of Appeals Merits Panel vacates Motions Panel order staying the District Court Judge's order.	Off

Governor's End of Drought Proclamation

- On September 4, the Governor ended the drought state of emergency for 19 counties
 - ✓ Includes Los Angeles, Orange, Riverside, San Bernardino, and San Diego counties



SB 428, Blakespear. temporary restraining orders and protective orders: employee harassment

Amends, repeals, and adds § 527.8 of the Code of Civil Procedure

Current law:

- Authorizes an employer to seek a TRO on behalf of an employee where unlawful violence or credible threat of violence

New law:

- Adds "harassment" as a ground for workplace TRO

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Carlsbad Municipal Code Ch. 6.15 (Smoke-Free Multi-Unit Housing Ordinance)

- Prohibit smoking or vaping any substance anywhere on the premises of a residential property with 3 or more units
- This includes Common Area and residential units, balconies, patios, etc.



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Carlsbad Municipal Code Ch. 6.15 (Smoke-Free Multi-Unit Housing Ordinance)



- Associations must provide notice of the smoking prohibition to all owners
- CC&Rs adopted or amended after January 1, 2025 must include smoking prohibitions as specified in the ordinance

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Carlsbad Municipal Code Ch. 6.15 (Smoke-Free Multi-Unit Housing Ordinance)

- Associations must post "no smoking" signs
- Associations with knowledge of violations must enforce the smoking ban
- Associations must distribute resources provided by the City to assist with nicotine dependence

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NEW CASES



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Doskocz v. ALS Lien Services (2024) 102 Cal.App.5th 107

- ALS Lien Services was hired to collect delinquent assessments
- ALS recorded a lien against the property
- Owner entered 6-month payment plan



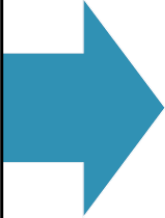
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Doskocz v. ALS Lien Services (2024) 102 Cal.App.5th 107

- The payment plan included a provision which required Owner to waive the application of payments set by Civil Code § 5655



Civil Code § 5655 requires payments to be applied first to outstanding assessments, then to late charges, interest, or collection costs/ attorneys' fees

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Doskocz v. ALS Lien Services (2024) 102 Cal.App.5th 107

- Owner made two payments which resolved a majority of the debt
- ALS closed its file, but did not release the lien



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Doskocz v. ALS Lien Services (2024) 102 Cal.App.5th 107

- Trial court found that ALS violated the FDCPA
- Awarded attorneys' fees and costs to class counsel in the amount of \$1,173,816
- ALS appealed and lost on appeal



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Dubac v. Itkoff (2024) 101 Cal.App.5th 540

- Owner owned a condominium in the same six-unit building as Neighbors
- Owner sued Neighbors for defamation, infliction of emotional distress, interference with economic advantage, and civil harassment



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Dubac v. Itkoff (2024) 101 Cal.App.5th 540

- The lawsuit focused on statements made in emails
- Failed the first prong of anti-SLAPP analysis re: "speech in connection with a public issue or an issue of public interest"



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Dubac v. Itkoff (2024) 101 Cal.App.5th 540

- Emails shows a personal feud not an exchange contributing to public discussion of public issues
- Every issue within an Association is not a "public issue"

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Colyear v. Rolling Hills Comm. Assoc. of Rancho Palos Verdes, et al. (2024) 100 Cal.App.5th 110

- Recorded covenant gave the association a right of entry to cut back trees in various lots in the community
- Court ruled that covenant does not apply to Owner's Lot because the at-issue covenant was not recorded against that specific lot



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UNPUBLISHED CASES



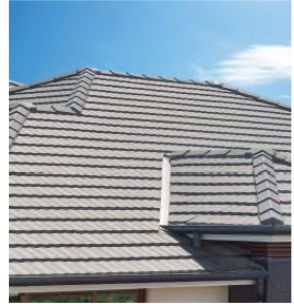
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Bear Valley Springs Condominium Association v. Pina (2024 WL 1152733)

- 69-unit project in Kern County
- Owner obtained Association reports stating that the roof was in poor condition
- Owner demanded that the Association repair the roof
- Roof condition had been under discussion for over two years



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Bear Valley Springs Condominium Association v. Pina (2024 WL 1152733)

- Owner called Association's insurance broker who reported her communication to the liability insurer as a claim
- Owner stated that no claim was made
- Insurer declined to renew the policy, and the premium for the replacement policy was 4x the premium for the prior policy

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Bear Valley Springs Condominium Association v. Pina (2024 WL 1152733)

- Association sued Owner for intentional interference with economic advantage
- Owner filed an anti-SLAPP motion alleging that these communications were protected

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Mays v. Oakview Homeowners Assoc. (2024 WL 3017726)

Both parties appealed the trial court's rulings:

- The Association appealed the trial court's ruling that the Association was required to adjourn the annual meeting in the absence of a quorum
- Owner appealed the trial court's ruling denying her request for an award of attorneys' fees and costs



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Mays v. Oakview Homeowners Assoc. (2024 WL 3017726)

- Court of Appeal ruling evidence a judicial belief that associations should go to great lengths to obtain quorum and have directors elected by the members



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Swenson v. Close (2024 WL 301924)

- Driveway easement
- Owner owns a home on the end of a flag-shaped lot
- Neighbor's house is closer to the street, does not have a driveway, but does have an easement to use Owner's driveway to access their lot



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Swenson v. Close (2024 WL 301924)

- Owner filed suit for declaratory and injunctive relief, quiet title, and trespassing
- Trial court ruled that Neighbor can park on the driveway provided they do not obstruct Owner's access to their property
- Appellate court held that Neighbor had no right to pedestrian access or to park vehicles on the easement



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Miller v. San Luis Bay Estate Homeowners Assoc. (2024 WL 3589633)



- Owner sued the Association after it denied her request for a gate pass
- Owner's lot and certain other portions were not annexed

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Miller v. San Luis Bay Estate Homeowners Assoc. (2024 WL 3589633)

- CC&Rs provided easement rights for annexed and non-annexed lots
- Trial court granted preliminary injunction in Owner's favor
- This case underscores the crucial role of CC&Rs in defining easement rights and homeowner access



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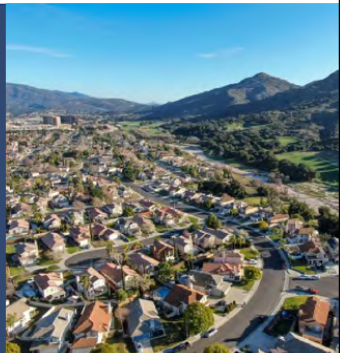
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THANK YOU FOR YOUR PARTICIPATION

CAMICB CREDIT:
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QUESTIONS OR PROPOSAL INFORMATION:
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