

Civil Code §4525. Disclosures to Prospective Purchaser

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When an interest in a common interest development governed by the Davis Stirling Common Interest Development Act, Civil Code Section 4000 et seq., such as a condominium unit, a stock cooperative apartment or residence in a planned development, the association for the development has an obligation, if requested, to provide certain documents and information.

These requirements are set forth in Civil Code section 4525 as to owners who are selling, and in Civil Code section 4530 as to the association's requirements with respect to information that an association is to provide to the seller, if requested.

Under Section 4525, the seller is to provide the documents listed to a prospective purchaser of the unit or other common interest development residence, as soon as practicable before the transfer of title to the property or the execution of a real property sales contract, such as an installment land sales contract, as defined in Section 2985. Under Section 4530, the owners association is to provide this document to the selling owner upon request.

The documentation to be delivered includes:

- (1) **Governing Documents:** A copy of all governing documents. If the association is not incorporated, this shall include a statement in writing from an authorized representative of the association that the association is not incorporated.
- (2) **Statement Regarding Age Restrictions, if any:** If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.
- (3) **Annual Budget Report.** A copy of the most recent Association annual budget report as being the documents distributed pursuant to Article 7 (commencing with Section 5300) of Chapter 6 of the Civil Code.
- (4) **Statement as to Regular and Special Assessments and Fees.** A true statement in writing obtained from an authorized representative of the association as to the amount of the association's current regular and special assessments and fees, any assessments levied upon the owner's interest in the common interest development that are unpaid on the date of the statement, and any monetary fines or penalties levied upon the owner's interest and unpaid on the date of the statement. The statement obtained from an authorized representative shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in a common interest development pursuant to Article 2 (commencing with Section 5650) of Chapter 8.
- (5) **Notice of Violations:** A copy or a summary of any notice previously sent to the owner pursuant to Section 5855 that sets forth any alleged violation of the governing documents that remains unresolved at the time of the request. The notice shall not be deemed a waiver of the association's right to enforce the governing documents against

the owner or the prospective purchaser of the separate interest with respect to any violation. This paragraph shall not be construed to require an association to inspect an owner's separate interest.

(6) List of Defects, if any, under Civil Code Section 6000 for Claims of Developer Construction Defects. A copy of the initial list of defects provided to each member pursuant to Section 6000, unless the association and the builder subsequently enter into a settlement agreement or otherwise resolve the matter and the association complies with Section 6100. Disclosure of the initial list of defects pursuant to this paragraph does not waive any privilege attached to the document. The initial list of defects shall also include a statement that a final determination as to whether the list of defects is accurate and complete has not been made.

(7) Disclosure of Construction Defects per Settlement Agreement, if any. A copy of the latest information provided for in Section 6100.

(8) Statement of Approved Assessment Changes. Any change in the association's current regular and special assessments and fees which have been approved by the board, but have not become due and payable as of the date disclosure is provided pursuant to this subdivision.

(9) Statement Regarding Rental Prohibitions, if any. If there is a provision in the governing documents that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant, a statement describing the prohibition.

(10) Copy of Association Board Minutes. If requested by the prospective purchaser, a copy of the minutes of board meetings, excluding meetings held in executive session, conducted over the previous 12 months, that were approved by the board.

Under Civil Code Section 4528, the Association is to provide the selling owner upon receipt of a written request, in the form described in Civil Code §4528, a written or electronic estimate of the fees that will be assessed for providing the requested documents.(Civil Code §4530(b)(2).)

Upon written request, the association also must provide the owner of a lot or unit in a common interest development with a copy of the foregoing information as required under Civil Code §4525(a) within 10 days of the mailing or delivery of a written request for that information. (Civil Code §4530(a).)

Upon receipt of a written request, the association shall provide, in the form described in Civil Code §4528, a written or electronic estimate of the fees that will be assessed for providing the requested documents. (Civil Code §4530(b)(2).) The documents required to be made available pursuant to Civil Code §4530 may be maintained in electronic form, and may be posted on the association's internet website. Requesting parties shall have the option of receiving the documents by electronic transmission if the association maintains the documents in electronic form. The association may collect a reasonable fee based upon the association's actual cost for the procurement, preparation, reproduction, and delivery of the documents requested. (Civ. Code §4530(b)(1).) No additional fees may be charged by the association for the electronic delivery of the documents requested. (Civ. Code §4530(b)(1).)

Fees for providing disclosures must be separately stated and separately billed from other fees that are billed as part of the sale of a unit or a lot. (Civil Code §§4528 and 4530.)

When an association provides this information to the selling owner, it may be prudent for the association to include a disclaimer that the information may not include any information about the condition of the unit, apartment or residence, as that is not within the scope of the association's requirements to report upon.

If the association engages a management company or other entity to provide the required information, the association should make efforts to be sure that the information being provided is current and accurate.

The seller of a lot or a unit must provide the purchaser with copies of the required documents that are in the seller's possession, without charging the buyer, and the seller cannot bundle the documents together with other documents relating to the transaction. It is the responsibility of the seller to compensate the association, person, or entity that provides the documents required to be provided to the prospective purchaser. (Civil Code §4530.)