

Date of Hearing: June 13, 2018

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

SB 1173 (Vidak) – As Amended May 10, 2018

SENATE VOTE: 38-0

SUBJECT: Common interest developments: annual notices: time-share plan interests

SUMMARY: Requires a time share association, for properties found within a mixed use development in a common interest development (CID) homeowners association, to provide a list of time-share owners to the homeowners association at least annually, and that providing this list shall satisfy annual notice requirements found within common interest development law.

EXISTING LAW:

- 1) Establishes the Davis-Stirling Act, which governs common interest developments.
- 2) Provides that annually, an owner of a separate interest in a common interest development, shall provide notice to the association of all of the following:
 - a) The address or addresses to which notices from the association are to be delivered;
 - b) An alternate or secondary address to which notices from the association are to be delivered;
 - c) The name and address of the owner's legal representative, if any, including any person with power of attorney or other person who can be contacted in the event of the owner's extended absence from the separate interest; and
 - d) Whether the separate interest is owner-occupied, is rented out, if the parcel is developed but vacant, or if the parcel is undeveloped land.
- 3) Provides that if an owner fails to provide the notices set forth in (1) and (2) above, the last address provided in writing by the owner or, if none, the property address shall be deemed to be the address to which notices are to be delivered.
- 4) Establishes the Vacation Ownership and Time-Share Act (VOTA) of 2004, which governs time-share plans, and states the following:
 - a) Exempts timeshares found within a common interest development from the notice provisions set forth in (1)-(3) above, and that in instances when there are inconsistencies between the VOTA and the Davis-Stirling Act, the VOTA shall control;
 - b) The organized body consisting of the purchasers of time-share interests in a time-share plan shall maintain a complete list of the names and addresses of all owners of time-share interests in a time-share plan, and shall update this list no less frequently than every six months;

- c) The list described in (2)(b) shall not be published or provided to any time-share interest owner or to any third party or use or sell the list for commercial purposes.

FISCAL EFFECT: None.

COMMENTS:

Despite explicit language in VOTA that exempts time shares from annual notice requirements in Davis-Stirling, according to the author, the notice requirement has been interpreted to require a small subsection of timeshares located in larger, mixed-developments to abide by the requirements set forth in the Davis-Stirling Act. The author states that this places a burdensome and frivolous requirement on HOAs given the unique nature of timeshare ownership. Further, under VOTA, timeshare associations already must update address lists at least every six months, more frequently than the annual requirement in Davis-Stirling.

This bill responds to the problem that, when there are timeshare properties within a broader CID, the simultaneous application of both the VOTA and Davis-Stirling Act creates redundant membership list update requirements. In instances in which time share interests are found within a homeowners association, a time-share plan association shall provide a list of time-share owners to the homeowners association at least annually, and that in providing that list, shall satisfy annual notice requirements found within the Davis-Stirling Act.

Prior Legislation:

AB 1412 (Choi, Ch. 278, Stats. 2017) directed homeowners' associations, when a member fails to provide an annual address update, to continue to use the last provided address for delivery of official notices, rather than reverting to the address of the member's separate property.

SB 918 (Vidak, Ch. 780, Stats. 2016) required the owners of the separate interests in a common interest development to annually provide the association with specified written information for the purpose of receiving notices from the association.

Double-referred: This bill was also referred to the Committee on Judiciary where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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