

Admin.

October 8, 1999

## First Supplement to Memorandum 99-58

### **New Topics and Priorities: Common Interest Development Study**

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Attached as an Exhibit is a letter from Frederick L. Pilot of the Common Interest Consumer Project. Mr. Pilot was instrumental in getting the Commission to request authority to study common interest development law.

Mr. Pilot objects to the staff's suggestion in Memorandum 99-58 that the Commission as a first step on this study retain a consultant to provide expert guidance on the appropriate scope of the study. He requests that if expert consultants are retained, it be for the purpose of providing the Commission with balanced input in devising options and recommendations to the Legislature as it conducts its review of this area of law.

Respectfully submitted,

Nathaniel Sterling  
Executive Secretary

California Law Revision Commission

VIA ELECTRONIC MAIL

October 5, 1999

Members of the Commission:

The Common Interest Consumer Project expresses its gratitude to the Commission for successfully requesting legislative authority to study the law affecting residential common interest developments (CIDs) pursuant to the enactment of ACR 17. This study will provide the Legislature much needed assistance per the Commission's charter to "accomplish needed reforms that otherwise might not be made because of the heavy demands on legislative time" in an area of the law impacting millions of current and prospective California homeowners.

We have reviewed Staff Memorandum 99-58 dated October 1, 1999 on the subject of "New Topics and Priorities." We understand this memorandum will be reviewed at your meeting in Sacramento on October 14 and offer the following comments with regard to the staff recommendations contained in item number 17 of that memorandum concerning the CID law review.

As the requesting entity of the CID study, the Common Interest Consumer Project strongly urges the Commission to adhere to the original scope of the CID study that it requested in ACR 17, i.e. with the goal assisting the Legislature in "setting a clear, consistent, and unified policy with regard to their formation and management and the transaction of real property interests located within [CIDs]" and, as an objective, to assist the Legislature in clarifying the law and eliminating unnecessary or obsolete provisions, consolidating existing statutes in one place in the codes, and, finally and most importantly, determining to what extent residential CIDs should be subject to state regulation.

CICP urges the Commission to conduct a full and complete study of CID law and to permit the necessary amount of time and resources required to complete this review and formulate options and recommendations to the Legislature.

We are concerned and puzzled by staff's recommendation that an expert consultant be retained on the rationale that "[A]n expert familiar with the law and politics in this area could advise the Commission as to whether a comprehensive new statute is achievable, such as the Uniform Common Interest Ownership Act, and what specific areas of law are most amenable to reform or will likely encounter unalterable political opposition." CICP respectfully suggests that political considerations be left to the elected members of the Legislature who ultimately set public policy and in no way influence the Commission from

conducting a thorough, dispassionate review of this important and evolving area of the law.

When CICIP recommended this study to the Commission one year ago, it did so precisely because political considerations within the Legislature made it difficult to impossible for that body to initiate and conduct a meaningful review of CID law as a basis for possible reforms. That was clearly demonstrated by the inability of the now-defunct CID Working Group formed pursuant to SR 10 in the 1997-98 legislative session to issue even a single recommendation to the Legislature following a public hearing conducted by the Senate Housing & Land Use Committee in November 1996 that raised many issues of concern with current CID law. As such, CICIP recognizes that such a complex area of the law requires an objective, expert review such as the Commission could perform to provide the Legislature a much-needed starting point.

As for staff's recommendation that an expert consultant be retained, we urge that such retention not be for the purpose of determining the scope of the study of CID law per our above comments. If expert consultants are to be retained to assist the Commission with this project, CICIP requests that experts representing both industry and consumer perspectives be obtained to provide the Commission with a degree of balance in devising options and recommendations to the Legislature as it conducts its review.

CICIP once again thanks the Commission for undertaking this important study and stands ready to provide whatever assistance possible as it proceeds.

/s/

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