

Second Supplement to Memorandum 2006-4

**Statutory Clarification and Simplification of CID Law:
Public Comment**

The staff has received more letters commenting on Memorandum 2006-4 (available at www.clrc.ca.gov). The letters are discussed in this supplement and are attached in the Exhibit as follows:

| | |
|--|-------------------|
| | <i>Exhibit p.</i> |
| • Karen D. Conlon, California Association of Community Managers (4/21/06) | 1 |
| • Howard Green (4/23/06) | 9 |
| • Norma Walker and Carole Hochstatter, Bakersfield (4/26/06) | 12 |

Except as otherwise indicated, statutory references in this memorandum are to the Civil Code.

RECORDING OF BOARD MEETINGS

Karen D. Conlon has written on behalf of the California Association of Community Managers (“CACM”) to comment on the question of whether CID homeowners should have a legally guaranteed right to record an association board meeting. CACM surveyed its members on the issue.

The response was mixed. Some of the comments support the concept of a statutory right to record a board meeting, for the following reasons:

- Recording of meetings can help to avoid problems that result from perceived secrecy. See Exhibit pp. 1, 4.
- Recording can be an effective way to deter incivility at meetings. See Exhibit p. 1.
- Recording provides for a more accurate record of what took place at a meeting. See Exhibit p. 2.

The majority of the responses were against the idea of a right to record, for the following reasons:

- Recording is aimed at “catching” volunteer board members in a mistake and creates an atmosphere that does not engender trust and faith. See Exhibit p. 3.

- Recording is unnecessary, as the minutes adequately record the official actions of the association. Deliberative discussion does not need to be preserved. See Exhibit pp. 3, 4.
- Recording is imperfect and is subject to manipulation. See Exhibit pp. 3, 5.
- Recording will chill the participation of directors and individual homeowners. See Exhibit pp. 4-5.
- In order to avoid misrepresentation of what took place at a meeting, an association would need to prepare and maintain its own recordings. See Exhibit p. 5.

Howard Green writes to support a statutory right to record a board meeting and to suggest that specific standards be added as to the number of recording devices that must be permitted. See Exhibit p. 10.

Norma Walker and Carole Hochstatter suggest that recording would be especially valuable as a record of a closed disciplinary proceeding. They also emphasize the general importance of transparency in association governance. See Exhibit p. 12.

The comments that we have received on this issue confirm two things: (1) the issue is creating problems, sometimes rising to the level of litigation, and (2) the issue is controversial.

A statutory resolution of the issue would be helpful. However, the topic is too controversial for inclusion in the proposed law, which is intended to be a noncontroversial cleanup measure. **The issue should be studied separately.**

MEETING AGENDA

Proposed Section 4620 would require that notice of an association board meeting include the agenda for the meeting. That would be a minor substantive change in the law.

Mr. Green suggests that the notice should be specific as to the items of business to be considered and should include any related drafts or background material. The state agency open meeting law provides one model for this approach, in Government Code Section 11125(b):

The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of

the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

Should the proposed law include language along those lines? More detail could help to avoid disputes about what the statute requires, but it would also make the law less flexible. We know that CIDs come in many types and sizes and have tried to keep requirements flexible where we can.

TELECONFERENCE

Proposed Section 4635 would authorize a director to participate in a meeting by teleconference, provided that certain conditions are satisfied.

Mr. Green suggests that a meeting at which a teleconference is used should be recorded. The recording would then be made available to the members. See Exhibit p. 10.

It is not clear why the use of a teleconference should trigger a recording requirement. Recording is not required by the teleconference provisions of the Corporations Code or the government open meeting laws. See Corp. Code § 7211(a)(6); Gov't Code §§ 11123(b), 54953(b).

The staff is also concerned that the cost and hassle imposed by a mandatory recording requirement could deter some beneficial use of teleconferencing. **The staff is not convinced of the need for the proposed change.**

Mr. Green also suggests that, if teleconference is used to conduct a board meeting, a member of the association should be guaranteed the right to participate by teleconference, at no direct cost to the member. While the policy goal of member inclusion is laudable, the proposal could add significantly to the cost and practical difficulty associated with teleconferencing.

The staff recommends against expanding the teleconference requirements in this way, at least in the current reorganization project.

DOCUMENT DELIVERY

Proposed Section 4050 would provide that delivery of a document by mail would be effective on deposit into the mail, but that an additional time would be allowed for an action or response after delivery. That approach is based on Code of Civil Procedure Section 1013.

Mr. Green objects to the proposed extension of time to respond to a record request, at least with respect to records that should be readily available. See Exhibit pp. 10-11. Such documents should be made available “instantly” or in a matter of minutes. *Id.*

That suggestion does not take into account the period of time that necessarily passes between delivery and receipt of a mailed document. Nor does it provide any time for response by the association. That seems unreasonable. Many associations are self-managed by volunteers. A volunteer may not be able to drop everything to immediately comply with a record request.

A reasonable time for response is especially important because existing law provides a small claims court remedy for noncompliance with a records request, which can include a \$500 civil penalty. An unreasonably short response time would probably result in widespread noncompliance, which would invite litigation over unavoidable minor delays.

The response time provided in the proposed law seems appropriate.

RECORD REPRODUCTION FEES

Proposed Section 4720 would continue existing Section 1356.2(c)(4)-(5), which allows an association to charge a fee to a member requesting a record, in order to recoup the reasonable cost of reproduction and redaction.

Mr. Green suggests that the fee should be waived if an association does not maintain its records in a manner that facilitates efficient retrieval and reproduction. See Exhibit p. 11.

Such a rule would encourage disputes over relatively small sums of money. **The staff recommends against modifying existing law on this point.**

DEFINITION OF “GOVERNING DOCUMENTS”

Proposed Section 4145 would continue the substance of the existing definition of “governing documents”:

4145. “Governing documents” means the declaration, bylaws, articles of incorporation or association, and any other document that governs the operation of the common interest development or its association.

Mr. Green suggests that the list of examples in the definition be expanded to enumerate other types of documents, including the following (See Exhibit p. 9):

- Policies, practices, and regulations
- Meeting minutes
- Contract with property manager
- Roster of officers, officials, and managers

The staff recommends against the proposed change. The term “governing documents” is used in a number of contexts in which the proposed enumeration would be problematic. For example:

- (1) The governing documents may specify the procedure for certain decisions to be made. See, e.g., Section 1355 (procedure for amendment of declaration). Should the board be able to modify the declaration amendment procedure by means of an entry in the minutes?
- (2) Section 1360.5 overrides an association’s pet restriction, but has no prospective application until an association amends its governing documents, at which point it does apply. Should a change in the roster of officers trigger application of the pet restriction override?
- (3) The law sometimes requires that governing documents be amended to include specific provisions. E.g., Section 1378 requires adoption of a fair and reasonable process for review of a proposed architectural change. Should the board be able to adopt the procedure in an informal statement of “practice” rather than a more formal type of document, which would be subject to a specific amendment procedure?
- (4) Section 1368 requires that all governing documents be provided by an owner to a prospective buyer. Should the prospective buyer receive all board meeting minutes?

Viewed from that perspective, it may be that Mr. Green has put his finger on a problem with the existing definition. It includes a relatively open-ended catch-all clause, which includes any documents that “govern the operation of the common interest development or association.” That language could arguably apply to an informal document that isn’t generally understood to be a “governing document.” That could raise all of the issues described above.

It might be helpful to remove the catch-all clause and add operating rules as the final type of governing document. That would provide a bright line description of the types of documents at issue. Thus:

4145. “Governing documents” means the declaration, bylaws, articles of incorporation or association, ~~and any other document that governs the operation of the common interest development or its association~~ or operating rules.

A note following the definition could highlight the change and ask for input on whether it would cause any substantive problems. **Should that change be made in the proposed law?**

If that approach is taken, it might be helpful to revisit the scope of documents that are subject to member inspection (under proposed Section 4700), in order to ensure that the sorts of informal governance documents described by Mr. Green are included.

FORMULATION OF BOARD POLICY

CACM suggests that it might be helpful if boards were required or encouraged to adopt formal policies on major governance issues. See Exhibit p. 2. Its letter provides a sample policy regarding the conduct of board meetings (at Exhibit p. 6), and an outline of other topics that should perhaps be addressed in policy documents (at Exhibit pp. 7-8). **The staff will note this suggestion in the cumulative list of topics for eventual consideration in connection with the study of CID law.**

Respectfully submitted,

Brian Hebert
Assistant Executive Secretary

Exhibit

**LETTER FROM CALIFORNIA ASSOCIATION OF COMMUNITY
MANAGERS (APRIL 21, 2006)**

April 21, 2006

Mr. Brian Hebert
California Law Revision Commission
4000 Middlefield Road #D-1
Palo Alto, CA 94303-4739

Sent Via Email

Dear Brian:

Re: CLRC Memorandum 2006 – 04

Thank you for the opportunity to respond to the CLRC's Memorandum that relates in part to recording of board meetings.

CACM conducted a survey of its members and volunteers specifically related to a member taping meetings of the Board. While this is not intended to be all inclusive, the following comments generally represent the theme of responses we received concerning the issue. CACM has provided additional comments at the end of each response for the consideration by the CLRC. Though CACM is not taking a position on recording as of yet, we do believe that it is important to recognize the need to allow each board to set policy in order to most effectively serve its own association.

Response #1

“As an attorney serving CID's for the last 20 years my thinking has evolved over the years. I firmly believe that developing a culture of transparency in the operations of the association is the best way to avoid controversy. When owners feel (often unjustly) that things are “secret” they tend to react badly. Beyond proper executive sessions, the owners should be given every reason to believe that the Board and management have nothing to hide. Perception is reality.”

“When it comes to taping meetings, in my opinion the Chair of the meeting has the authority to allow it or not. I typically advise Boards to adopt a meeting policy (sample attached), that covers, among other things, taping. Allowing the Chair to decide provides flexibility. If the taping is being done for purposes of harassment, interferes with the orderly process of the meeting, or certain members have a legitimate privacy right to protect (such as the police officer example), the right to tape can be denied.”

“And, don’t forget, taping can be a very effective way to stop abuse by owners at Board meetings. I have often advised a Board to videotape meetings where an owner has had a history of being rude and abusive during Board meetings. It’s a very effective tool in “chilling” abusive behavior by owners.”

CACM Comment: As an organization whose membership manages thousands of community associations in California, we recognize and support the important concept of transparency in community associations. The difficulty is the balancing act – balancing the needs of all owners versus the one or two that “want it their way.”

We do support the concept of proper governance in CIDs, wherein the board is the corporate entity that should create policy. In other words, volunteer directors must define a set of concepts (based on DS Act, their governing documents, etc.) and principles that provide a complete framework for efficient, focused and productive carrying out of the task of governing the CID. Doing so enables them to experience true accountability. Because directors are held to a much higher standard of behavior and fiduciary responsibility than the non-elected owner, they must have the authority to make decisions and be given the protection afforded under the Business Judgment Rule. A sample governance policy on taping meetings is attached for your review as Addendum A.

CACM suggests the CLRC consider having a discussion regarding the need to encourage CID boards to publish a comprehensive list of polices that conform to existing law and their governing documents. Attached as Addendum B is a list of sample polices CID boards should adopt if relevant to their community.

Response #2

“At all the communities I’ve managed, up to [association name omitted] taping has been under the auspices of the recording secretary. Communities have varied in the time period that they save the tapes. In all cases, the tapes have been available for folks to listen to without having copies available for them to take with them. In all cases, taping by private parties has been prohibited.”

“Currently at [association name omitted] the Board meetings are televised live and have been for years. Obviously, recordings of the meetings by someone at home can be done. The A/V Committee makes a DVD of the meetings and they are available for check out by someone who did not have a chance to see it live or tape it.”

“Yes. We have had some embarrassing moments. Thirty days ago a Board member told another one that the next time he comes to a meeting that he ought to sit in the back row with a dunce cap on. Yes. An ‘independent’ newsletter has transcribed comments, from time-to-time, to appear in their periodical.”

“With all of that, I’m not sure why we want to fight the trend. With modern communication technology, the practice will become more and more frequent. I have a philosophy of ‘cooperating so you can control,’ which I learned in dealing with the press. They are going to get a story so providing the facts is ..., better than saying ‘no

comment' or resisting. I do believe that there ought to be policy that private tapings are prohibited but making the public tapings available is not always a bad thing."

CACM Comment: This is another example of the balancing act each association must keep in mind. The procedure put into place at this association recognizes the need for transparency, recognizes how technology requires policy changes and reduces the chilling and deposition like atmosphere of taping by an individual.

Response #3

"I believe that taping a board meeting is not in the best interest of the community. The only thing that taping can accomplish is another way to 'catch' someone attempting to do the best job they can. As long as we have volunteer board members, there will be guffaws and probably more misstatements than we like, but nevertheless, it is about governance of a community and holding people to a 'deposition' like atmosphere does not engender trust and faith."

"The loser in all of this is the homeowner who only wants to pay a reasonable amount of maintenance fees and live his life, and maybe, just maybe, we can convince him to serve a term on the board. Although he may begin his service with good intentions, he will be tape recorded, challenged every step of the way and will not be able to be a productive board member because of all the 'empowerment to the homeowner' legislation."

CACM Comment: Our members are expressing grave concern over the lack of volunteers stepping forward to govern CIDs. For example, the inability to achieve a quorum at member meetings to elect directors, the reluctance of many volunteer directors to assess owners as required by Civil Code Section 1365 because they "don't want to be the bad guys," more legislative mandates every year, and threats against board members are being perceived as significant deterrents by the volunteer directors.

We refer the CLRC to an article in the Los Angeles Times on April 3, 2006, by Daniel Yi, relating to threats and abuse against volunteer boards. Adding mandatory tape recording may only serve as one more deterrence to step forward to volunteer as well as increase expenses to the community.

Response #4

"Recording of meetings would bring us closer to the 'governmental agency' realm rather than the corporate realm. My preference is not to allow taping of meetings: too easy to take something out of context; alteration of the tapes; inability to hear everything without microphones; etc. If push comes to shove and taping of meetings is allowed, it will lead to another managerial nightmare of tape storage, retrieval of tapes, being asked to do research from the tapes, etc., etc. The next question is why would taping be necessary? If the minutes are accurate and reflect the ACTION of the Board, this is the official corporate record and the tapes become superfluous."

CACM Comment: As the CLRC knows, minutes, along with other significant records must be made available to all owners within a specified time frame. If consideration of

mandated recording of meetings occurs, additional costs via increased assessments could now be incurred by the association members. Currently and in many cases, the manager takes and transcribes the minutes as part of their contract services and then provides the draft to the board for review and acceptance. There is no extra fee to take minutes.

Increased costs could potentially include the necessity of hiring a professional recording secretary, transcribing every single word stated by the board, and then maintaining tapes for record keeping purposes. If an owner wants to obtain an actual “copy” of a previously taped meeting, several questions arise as to the costs and monitoring of the duplication of the tape. In this age of sophisticated technology, it is easy to manipulate photos, recordings, and many other forms of records. Could minutes of the taped meeting noting action taken by the board suffice as the corporate record instead of adding additional administrative costs and potential legal costs to “review, store, retrieve, etc.” tapes of meetings?

Response #5

“The minutes are to be a record of Board decisions, actions, resolutions, reports, requests from homeowners and any voting by the Board that goes along with these items. The minutes are not to record the back and forth ‘he said- she said’ that goes on either during or prior to any Board action. “

Response #6

“Since 9/11, Sarbanes Oxley and Katrina, Americans are sensitive to open governance, and suspicious of those interest groups that want to protect the privacy of contractual relationships, such as the management and legal counsel relationships to CID’s. Shedding the light of day on proceedings is a kind of group therapy for the expulsion of past sins, and the “gotcha” syndrome that indicates this is just a ‘sign of things to come’.”

Response #7

“While managing a very large community association in [name of community omitted], this was a huge issue and it is in litigation. The Board has an action against the ex-president who insists it’s his right to tape. He tapes all meetings, including committee meetings (only exception, Executive Session).”

“The Board was advised to make and read a policy stating that taping the meetings was prohibited. They did. This didn’t matter, he did it anyway. They went so far as to call the Sheriff to remove him. He wouldn’t budge. Meetings were cancelled and business was backed up.”

“The homeowners were upset because he used the information on the tapes, took it out of context and sent newsletters to residents in his delegate district using the information. More than likely, it wasn’t positive information he was distributing.”

“We had a several law enforcement officers (owners) who did not want their faces shown much less their addresses recorded or published. In fact, one officer stood with her back in front of the camera when she spoke. She is a valued committee member and they

needed her but her fear held her back many times. Several years ago, this association hired an attorney specializing in constitutional law. In essence, this community would be actively against taping meetings.”

CACM Comment:

This response exemplifies the chilling effect of taping as well as the abuse that can occur when taping is done on an individual basis rather than allowing the board to set policy based on the community’s unique needs.

Response #8

“I too have had historical experience with an owner taping meetings after the President announced several times throughout the meeting that the Association did not allow such taping. It may come as no surprise that the tape was edited by the member and used during a pending lawsuit between the member and the Association. Multiple witnesses were called at great expense during deposition to defend against the edited version of the tape and the Association in the end, prevailed.”

“Although taping will chill other members from speaking as many won’t speak if the taping is known, it’s generally not the actual taping of the meeting that is dangerous, it’s what enterprising, techno guru members can do to ‘cut and paste’ the tape that causes me great concern.

Conclusion

CID Boards are accountable to a defined ownership. *The board’s job is to govern their community.* Leadership, effective policy making, delegation of authority (not responsibility) and the overall role of a fiduciary is the real job. The board is the link between the owners and the organization and utilizes the necessary resources to implement their decisions. The resources are other volunteers (i.e. committees), and third party contractors which include professional community management, legal counsel, risk management professionals, etc. that implement to directives of the board.

Should an effort be made to legislate the recording of meetings of volunteer directors, CACM would strongly encourage the CLRC to consider putting sufficient protections in place for abuses of the practice by individuals. We also suggest that the CLRC investigate and discuss the potential deterrent to volunteer directors obtaining insurance to protect them against the potential negative impact on Directors’ and Officers’ liability insurance policies and the issuing insurance companies, who might be obligated to respond and defend lawsuits as described in Response #8.

Thank you again for the opportunity to offer our insights.

Very truly yours,

/S/

Karen D. Conlon, CCAM
President

ADDENDUM A - SAMPLE

WE'RE THE BEST HOMEOWNERS ASSOCIATION Policy for Homeowner Participation at Meetings of the Board of Directors

Adopted April 2006

At a duly noticed Board meeting on April ____, 2006, after providing members with notice of the proposed policy as required by Civil Code §135.7.130, the Board of Directors adopted the following policy regarding homeowner participation at meetings of the Board of Directors.

1. **Business Purpose.** Meetings of the Board of Directors are for the purpose of addressing and conducting Association business. While members are invited and encouraged to attend all Board meetings, members do not have the right to disrupt or interfere with the orderly process of the meeting. This policy is intended to clarify the members' rights to attend and speak at Board meetings.
2. **Agenda Items.** The Board has discretion to establish the Agenda. For example, the Board may include as an agenda item the matter requested by a member, or may defer it to a subsequent meeting. The Board may also deny a member's request to place an item on the Agenda if the item does not constitute legitimate Association business or has been previously addressed and disposed of by the Board of Directors. During the meeting, a member may speak to an item on the Agenda if recognized by the chair of the meeting, and if such participation is consistent with the orderly process of the meeting.
3. **Homeowner Forum.** In accordance with Civil Code Section 1363.05, the Open Meeting Act, any member of the Association may speak at any meeting of the Association or the Board of Directors, except for meetings of the Board held in executive session. The Board provides for a time for members to speak during the "Homeowner Forum." Reasonable time limits may be placed on the time each speaker has to speak, at the Chair's discretion.
4. **Video/Audio taping.** Tape recording or videotaping of any Board meeting, by the Board or a member, shall be permitted only if such taping is approved by the Chair of the meeting.
5. **Courtesy.** All attendees, including Board members, shall at all times be respectful in communicating their positions and views. Personal attacks and threats will not be tolerated. The chair of the meeting, and/or a majority of the Directors, may vote to exclude any attendee from the meeting for a violation of this policy, and/or adjourn the Board meeting to another time or place and exclude the member from attending the continued meeting.

ADDENDUM B

Board Policies and Resolutions

- Media relations
- Oversight of vendors and projects
- Emergency authority Including: Repairs, Mold/hazardous materials
- Adoption of annual administrative calendar
- Adoption of Annual maintenance/operations calendar

- Financial policies that include:
 - Investments
 - Purchasing
 - Board spending limits
 - Ratification of emergency actions
 - Bidding and contracts

- Risk management including:
 - Proper addendums to contracts
 - Community facility use agreements
 - Additional insured endorsements
 - Certificates of insurance
 - Safety meetings

- Communication policies including:
 - Email
 - Written correspondence
 - Web site protocols
 - Identification of the spokesperson for the community
 - Newsletter/magazine/television article guidelines
 - Program, advertising and censorship protocols

- Board Meeting Conduct Rules including taping of board meetings

- Full Board support of Board decisions – the “One Voice Policy”

- Development of a business Plan and Long Range Strategic Plan

- Resolution Notebook with all resolutions codified and searchable via keyword search

- Record Retention Policy

- Reserve Funding Level Policy

- Human Resources including position descriptions, employee handbook

- Board Succession Planning
- Disaster Preparedness
- Contact information for all residents, including day, evening phone numbers, email, emergency and family member contact information
- Retention of all legal opinions - organized and categorized
- Proper Record keeping
- Policies adopting the statutory requirements
- Election Procedures/Historical Records of Elections
- Policies regarding Insurance Coverage, including:
Specific amounts and types of insurance coverage required/desired by Association
Vendor insurance requirements
- Operational Policies and Procedures and Rules of the daily operation of the corporation's business

ELECTRONIC MAIL FROM HOWARD GREEN (APRIL 23, 2006)

Hi - resending my earlier e-mail requesting discussion of section 4145.
I saw NO response from you, so perhaps it got lost in the mail.
Or perhaps my "form" was not correct -- if so please advise how to submit for public comment and discussion.

I am taking the time now to add several comments where the Staff asked for input within -04.

TIA Howard Green 508 - 945 - 4645

=====

&4145. Adequacy of the definition of **Governance Documents**:

Section 4145 fails to **enumerate** sufficiently the range of documents which could easily qualify:

The phrase "*and any other document that governs the operation of the CID or its association*" is too VAGUE.

While totality may never be achieved, the following are prime candidates:

Any / ALL of those listed in Chapter 5 (Article 1-7) of this Revision

Why is there NO specific reference to the FOLLOWING Types of Documents which frequently exist, carry authority, etc

Policies, Practices & Regulations of the CID

Approved & Draft Minutes of the Board of Directors and Committees of the CID

Contract provisions between the CID and any Management Firms (dealing often with delegation of powers)

Lists of Officials necessary to understand and interact with Governing Officials

Rosters of Officers (elected & appointed) incl addresses, phones, e-mail

Roster of Management Level Employees & Professional Consultants to the CID

&4620(a) Agenda to include Details and Support Materials

It is important that the Agenda not be limited to broad topical headings, but specific line items and enough detail so that a reasonably knowledgeable person can decide if they wish to provide input. This means that draft proposals, background information, etc should be attached to the agenda.

See related comments under 4705

&4625 Recording of the Meeting

YES Suggest that a maximum of **no less than 4 Video Recorders be allowed**, and unlimited personal Audio Recorders. As a professional video operator, one can capture meetings well with “locked down” cameras, and with hardly any disruption from camera action. Digital video cameras now are in the \$500 + range and can easily be linked together for a decent record of the meeting.

&4635 Teleconference Meetings

Should a teleconference meeting be held, then a master recording must be maintained by the Association as a business record and reproduced for any requesting member within the same document production times provided elsewhere.

In addition, any Member of the Association, by prior general application, may be included in all such hookups, and shall bear no costs if he provides a local telephone number for such tie-in.

Alternative technologies, such as Internet Streaming, may be employed in a similar manner.

&4705 Document Delivery Timing

The 10 day rule should NOT run for “current documents”:

“Instant availability” should be provided for requests of items prepared within the last two weeks, or that are requested “in advance”. These would include agendas, meeting packet materials, minutes, etc. Why should any delay be permitted for routine items?

If one wanted to protect against unreasonable demands, then perhaps a response standard could be established of 10 minutes per page of a document, but how can any serious delay be allowed for a meeting handout, prepared the day before a BoD gathering, and made available only to the Directors?

As part of this concept, every document being discussed or provided to the BoD as background, should be part of a packet available either by mail, e-mail, pickup at the “office”, or at the meeting site. Treasurers’ who walk in to meetings with financial materials for approval, without prior distribution for examination, should be censured. Therefore it may be appropriate to require PRIOR or EARLY disclosure of certain defined documents prior to being submitted for approvals.

&4720 Fees for Copy and Redaction Services

The association shall endeavor to maintain records in a manner that allows inspection and / or copy services to be performed with the minimum reasonable costs.

Every organization is expected to have a suitable records retention system to support their business needs. A requesting party shall not be burdened by retrieval fees where records have not been maintained chronologically by type of document.

Any records originally created as electronic documents will be retained both in paper and electronic formats, and the requesting party shall have the option as to the type of copies to be provided.

The association shall endeavor to separate redactable information identified in 4710 on paper and in electronic records, in a manner that subsequent manual effort is minimized or eliminated.

=====

end of this message

**ELECTRONIC MAIL FROM NORMA WALKER AND CAROLE
HOCHSTATTER (APRIL 26, 2006)**

**To: California Law Review Commission
Comments for hearing on April 27, 2006
Statutory Clarification and Simplification of CID Law**

From: Norma Walker, Carole Hochstatter

We appreciate Janet Shaban's comments and suggestions which gave us pause! We agree that any member that requests an executive session because of discipline should have the option of electronic recording. The member is at a disadvantage without the recording as one listener rather than many. A solution begs to be found to address the loophole in the homeowner association "open meeting act."

We as members present at many meetings of our association are aware that minutes sent to homeowners did not reflect all motions carried. When a member requested a correction to the minutes the board [agreed] to the correction; however, the correction was not made for (4) four months. Omissions from our association minutes include: (2) two directors resignations, a call for volunteer directors replace vacancies, vendors given fee increases, and board meetings without notice, and board budget motions without notice. It took a complaint to the Attorney General before our association delivered the 2006 budget to the members, and to date the response to explain why to the Attorney General has not been made, or SENT.

Volunteer boards have a fiduciary obligation to be transparent to the association members. All financial decisions that are not handled public are suspect.

When volunteer boards of directors treat codes, and CC&R's as "**suggested behaviors**"_ it leads to managing the association as if it were the board's "Plantation."

We will comment on the election issues when it is an agenda item.

Thank you for the opportunity to make/send comments.

NORMA WALKER