

Memorandum 2020-64

**Emergency-Related Reforms:
Common Interest Development Meetings
(Draft Recommendation)**

At its September meeting, the Commission¹ approved a tentative recommendation that proposed adding Civil Code Section 5450, to make adjustments to the law that governs the conduct of teleconference meetings in common interest developments (“CIDs”).² The reforms would only apply during a governmentally-declared emergency.³ The deadline for public comment on the tentative recommendation was November 1, 2020.

The Commission has received the following communications commenting on the tentative recommendation:

	<i>Exhibit p.</i>
• Adrian Adams, Adams Stirling (9/17/20)	1
• Kazuko K. Artus, San Francisco (10/13/20, 10/26/20)	3, 9
• Elaine Roberts Musser (10/15/20)	6
• Glenn Grossman (10/17/20)	8

The comments were uniformly favorable. While some suggested minor improvements to the proposal, none opposed the general concept of the reform or identified any problematic details. For that reason, the staff has attached a draft recommendation for the Commission’s consideration. After considering the matters discussed in this memorandum, the Commission should be in a position to decide whether to approve the draft as a final recommendation, with or without changes.

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. *Emergency-Related Reforms: Common Interest Development Meetings* (Sept. 2020).

3. Proposed Civ. Code § 5450(a).

Unless otherwise indicated, all statutory references in this memorandum are to the Civil Code.

Location of Proposed Law

The proposed law would create a new article: “Article 11. Emergency Powers and Procedures.” Proposed Section 5450 would be located within that article. Those decisions were made in anticipation of the possibility that other emergency-related reforms might be added to the CID statutes in the future. It would be helpful to have a separate and easily identified location for their placement.

Ms. Artus suggests that the proposed law instead be located in or adjacent to the existing law on the conduct of board meetings.⁴

One concern she has about the current location is the possibility that Section 5450 might be overlooked by an association board and therefore not followed. That problem could perhaps be avoided by adding a cross-reference in Section 4090, along the following lines:

4090. “Board meeting” means either of the following:

(a) A congregation, at the same time and place, of a sufficient number of directors to establish a quorum of the board, to hear, discuss, or deliberate upon any item of business that is within the authority of the board.

(b) A teleconference, where a sufficient number of directors to establish a quorum of the board, in different locations, are connected by electronic means, through audio or video, or both. A teleconference meeting shall be conducted in a manner that protects the rights of members of the association and otherwise complies with the requirements of this act. Except for a meeting that will be held solely in executive session or conducted under Section 5450, the notice of the teleconference meeting shall identify at least one physical location so that members of the association may attend, and at least one director or a person designated by the board shall be present at that location. Participation by directors in a teleconference meeting constitutes presence at that meeting as long as all directors participating are able to hear one another, as well as members of the association speaking on matters before the board.

The staff prefers that approach over relocating Section 5450. It would provide clearer integration of the new law into the old, without abandoning the idea of creating a location for any future emergency-related reforms.

4. See Exhibit p. 4.

Also, as Ms. Artus correctly points out, it would not be optimal to include Section 5450 in either existing Article 2 (“Board Meetings”) or Article 3 (“Member Meetings”), because Section 5450 applies to both board and member meetings. Ms. Artus’ alternative suggestion of putting Section 5450 in a new Article 3.1 would address that problem, but seems a bit awkward.

How would the Commission like to address this issue?

Application of Proposed Law

Mr. Grossman writes briefly to suggest that Section 5450 should not be limited to emergencies, but should instead apply to all meetings.⁵

The Commission previously considered this suggestion and rejected it. The Commission decided against pursuing any “broader reforms” of CID law at this time, beyond those necessary to address an emergency.⁶

Mr. Adams suggests that the proposed law should be applied to associations that do not have meeting space within the common area that is adequate to hold a board or member meeting.⁷ That is an interesting possibility, which the Commission has not yet considered.

For prudential reasons, the staff still recommends against adding any non-emergency reforms to the proposed law. There is value in presenting a “clean” proposal to the Legislature, to facilitate enactment. If any potentially controversial elements are added to the proposal, its enactment prospects might be undermined (especially if the Legislature continues to face pandemic-related obstacles in 2021). We know that the proposed law, as currently framed, has not engendered any controversy. We do not know if expanding its application beyond emergencies might draw opposition.

That said, it might make sense for the Commission to revisit Mr. Adams’ suggestion after the fate of the proposed law has been decided in the Legislature. If the proposal is enacted, the Commission could perhaps take steps to assess how much support there would be for broadening its application to associations that lack meeting space.

How would the Commission like to handle these suggestions?

5. See Exhibit p. 8.

6. Minutes (Aug. 2020), p. 6.

7. See Exhibit pp. 1-2.

Toll-Free Telephone Access

Ms. Artus suggests that an association conducting a meeting under the proposed law be required to provide a toll-free number for use by members who participate by telephone.⁸

This would avoid costs to members who wish to participate by phone and are located outside of the local area. However, it would likely achieve that by shifting the cost to the association (which would likely need to pay for the toll-free service). The staff investigated how this would work with its own teleconference provider, Zoom. Under that service, the cost of providing toll free access would be a minimum of \$100 per month. If more than \$100 in call tolls are incurred during a month, the host would also be charged for the excess.

This would likely be a manageable cost for very large associations, but might be a problem for small ones. Mr. Adams points out that half of all CIDs have 25 or fewer units. For such small associations, a \$100 per meeting charge might well be a significant burden, especially in associations where no members actually use the service (as might be the norm).

For that reason, the staff is disinclined to legally mandate that associations provide toll-free telephone access. In associations where there is significant demand for such service, the association and members would hopefully be able to work out some kind of arrangement to meet the need.

Validation of Decisions Made During Present Emergency

The staff has heard informally that a number of associations have been using teleconferencing to hold meetings during the pandemic, without meeting the existing requirement of a physical location as an anchor for the meeting. This is not surprising. Associations are likely doing the best they can to continue necessary operations, despite the obstacles posed by the pandemic.

Ms. Artus wonders whether members who are dissatisfied with decisions made at such meetings might attempt to invalidate the decisions on the grounds that the meetings at which they were made were unlawful. She proposes two possible ways to address the problem:

- (1) Add a safe harbor provision to the proposed law, expressly providing that breach of the physical anchor requirement during the present emergency shall not be grounds for invalidation of a decision made at a teleconference meeting.

8. See Exhibit pp. 3-4.

- (2) Add a provision authorizing the board or members to save such decisions by ratifying them after the fact.⁹

Addressing the second point first, the staff does not believe that any law would need to be enacted to allow a board or the members to ratify prior decisions that have been cast into doubt. In fact, this would likely be the easiest solution for the problem. If a member challenges the validity of decisions made at a prior meeting, on the grounds that the physical anchor requirement was not met, the board or members could hold a lawful meeting and reapprove the disputed decisions.

The staff sees the appeal of creating a statutory safe harbor instead. It would avoid a lot of procedural hassle. It would also avoid the difficulties that might follow if the current board or membership declines to reapprove prior decisions that have been cast into doubt.

However, the staff is uneasy about that approach. It seems likely that it would be controversial for the law to provide a blanket validation of all decisions made at allegedly unlawful teleconference meetings, whatever the circumstances. Some would see such an approach as improperly shielding decisions that should actually be invalid. Further, those who wish to invalidate such decisions might still be able to litigate the matter, by challenging the validity of the savings provision itself. It might be argued that retroactive validation of unlawful acts would deprive CID owners of vested property rights (i.e., the right to due process with respect to decisions that burden member property).

If the Commission is interested in pursuing this possibility, the staff would need to do further research into the retroactivity issue. That would delay approval of a final recommendation until December.

How would the Commission like to handle this issue?

Enforcement

Finally, Ms. Artus wonders whether the proposed law should include some kind of express provision on enforcement.¹⁰

For example, existing Section 4955 provides a remedy for a violation of the article that governs board meetings:

9. See Exhibit pp. 4-5.

10. See Exhibit pp. 3-4.

4955. (a) A member of an association may bring a civil action for declaratory or equitable relief for a violation of this article by the association, including, but not limited to, injunctive relief, restitution, or a combination thereof, within one year of the date the cause of action accrues.

(b) A member who prevails in a civil action to enforce the member's rights pursuant to this article shall be entitled to reasonable attorney's fees and court costs, and the court may impose a civil penalty of up to five hundred dollars (\$500) for each violation, except that each identical violation shall be subject to only one penalty if the violation affects each member equally. A prevailing association shall not recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation.

It is worth noting that the physical anchor requirement for teleconference meetings is not located in the article governed by Section 4955. It is located in a definition provision (Section 4095). This casts doubt on whether Section 4955 would be applicable to an action challenging a meeting held in violation of the physical anchor requirement. (It also illustrates why it is bad practice to locate substantive rules within definitions.)

The staff recommends against adding an enforcement provision to the proposed law. Ms. Artus correctly notes that such a provision would likely be controversial. Some would see it as an invitation to litigation and an unnecessary cost.

How would the Commission like to handle this matter?

Conclusion

Having considered the issues discussed above, **the Commission should decide whether to approve the attached draft recommendation as a final recommendation, with or without changes, for publication and submission to the Governor and Legislature.**

Respectfully submitted,

Brian Hebert
Executive Director

Reply to: 2566 Overland Avenue, Suite 730
Los Angeles, CA 90064
(800) 464-2817

September 17, 2020

Via Email Only

Brian Hebert, Executive Director
California Law Revision Commission
400 Mrak Hall Drive
Davis, CA 95616
Email: bhebert@clrc.ca.gov

Re: Common Interest Developments – Virtual Meetings (Memo 2020-35)

Dear Mr. Hebert:

The pandemic has brought into focus the great benefits of video conference meetings via Zoom and other conferencing platforms. I know the Commission is considering a revision to Civil Code §4090(b) to waive the physical location requirement during emergencies. I recommend the statute be revised to eliminate the requirement for meetings as I describe below, not just during emergencies.

According to statistics compiled by Levy, Erlanger & Co., CPAs, through its information division, HOA-Info, in 2016, over half of all associations in California were quite small:

2-25 units	24,235	54%
26-325	19,106	42%
326+ units	1,875	4%
Unknown size	6,804	-
TOTAL	52,020	100%

I don't have more recent data, but suspect the numbers are similar.

Our firm represents thousands of associations throughout California, including a large percentage of those in the 2 to 50-unit range, most of which are self-managed. It has been our experience that almost none of them have a place to meet. A surprising number in the 100-unit range also have no onsite facilities for meetings.

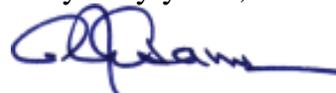
For board and membership meetings, members meet in an owner's unit, outside on a lawn, beside the pool, in a garage, in alleyways (one of my meetings was in an alleyway next to the dumpster). Most of these locations are subject to the weather and all outside locations suffer constant noise disruptions from traffic noise, sirens, aircraft noise, trash trucks, etc. Some associations rent hotel meeting rooms or reserve space in fire stations, schools and other locations—I have attended meetings in all such locations and more. All offsite locations require owners to drive to the locations. Owners without access to a vehicle or who are stuck in traffic miss the meetings.

These associations are the ones who would most benefit from virtual meetings where members could attend meetings from their unit, their office, their car, or while out of the country on their computer, tablet, or smart phone (or call into the meeting on a land line). For the rare individual with no method of external communication, they could join a neighbor attending the meeting on their computer. Not only is this more cost-effective for associations, we have seen greater member involvement due to the ease of participation.

Accordingly, it makes sense for over half of all associations in California with no onsite meeting facilities to waive the requirement for a physical location when holding virtual meetings, plus waive it for all associations affected by a declared emergency. The benefits from this change in the law would benefit hundreds of thousands (millions?) of residents in associations throughout California. Any potential downside one might imagine would be de minimis and easily overcome.

Thank you for your consideration of this request.

Very truly yours,



Adrian J. Adams, Esq.
ADAMS | STIRLING
Professional Law Corporation

13 October 2020

Kazuko K. Artus, Ph.D., J.D.

Via Email: commission@clrc.ca.gov

San Francisco

California Law Revision Commission

E-mail: Kazukokartus@aol.com

Attn: Brian Hebert, Executive Director

13 October 2020

Via Email: commission@clrc.ca.gov

California Law Revision Commission

Attn: Brian Hebert, Executive Director

Re: Tentative Recommendation Regarding
Common Interest Development Meetings

Ladies and Gentlemen:

The Commission's Tentative Recommendation is much appreciated. I am a member of a CID association that manages a residential-commercial mixed-use condominium project located in San Francisco.¹ Since March, my association conducted its board meetings as zoom conferences with option for participation by telephone (land line). Based on that experience, I wish to make a few suggestions.

Toll-Free Call-in Number(s)

All provisions of proposed § 5450(b) would be helpful and necessary, I believe. That said, I request that a provision be added to require an association to provide a toll-free call-in number and an international call-in number to enable all members (including but not limited to directors) to participate at no financial cost to them.

My association, of which a majority of members are more often physically in San Francisco than other places, provides only Los Angeles and San Jose call-in numbers for its Zoom/phone board meetings. I much prefer to participate in board meetings by telephone because it's simple, but am not pleased to see that each board meeting adding over USD 100 to my telephone bill.

Would proposed § 5450(b)(3) ["Every director and member has the same ability to participate in the meeting that would exist if the meeting were held in person"] require that directors and other members be able to participate

¹ The project comprises 255 residential units, 5 commercial units and the common area.

13 October 2020

Via Email: commision@clrc.ca.gov
California Law Revision Commission
Attn: Brian Hebert, Executive Director

Re: Tentative Recommendation Regarding
Common Interest Development Meetings

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at no financial cost to them? It is not absolutely clear to me even though that is the case with board meetings held in person in my association.

I would suggest that proposed § 5450(b)(2) be slightly modified to read, "The meeting notice provides the *toll-free* telephone number and the electronic mail address of a person . . ." and proposed § 5450(b)(5), to read, "Any person who is entitled to participate in the meeting shall be given the option of participating by telephone *toll-free*."

Location of Proposed § 5450 in Davis-Stirling Act

I would appreciate it if proposed § 5450 is added to the Common Interest Development Open Meeting Act ("Open Meeting Act"), Civ. Code §§ 4900 *et seq.*, instead of being cast as a new article 11 of chapter 6, which is physically so distant from the Open Meeting Act (art. 2 of ch. 6) as to create a significant risk of being overlooked.

It may be more logical to cast proposed § 5450 as a stand-alone article of ch. 6 as it is apparently intended to apply to member meetings as well as to board meetings. If that is the reason for your proposing art. 11, I would suggest casting it as art. 3.1 to be placed immediately after art. 3 concerning member meetings.

I am concerned that my association may not notice proposed § 5450 immediately upon its coming into effect and merrily keep conducting board meetings the way it has been, without complying with proposed § 5450(b)(1), (2) and (4), as has been the practice since March 2020.²

Validation of Actions Taken before the New Rules Come into Effect

It is likely that before proposed § 5450 comes into effect many CID associations will have held board meetings that do not meet the definitions of § 4090. I suggest adding to proposed § 5450 a provision to validate

² My association's board meetings are regulated not only by the Open Meeting Act, but also by additional rules imposed in 2013 by a settlement agreement resulting from past violations of the Open Meeting Act. Directors are still having trouble with these rules to a large extent because they are not in the Open Meeting Act.

13 October 2020

Kazuko K. Artus, Ph.D., J.D.

Via Email: commision@clrc.ca.gov
California Law Revision Commission
Attn: Brian Hebert, Executive Director

Re: Tentative Recommendation Regarding
Common Interest Development Meetings

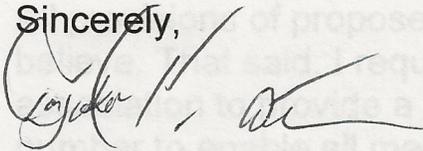
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actions taken in such board meetings that would have been valid had the meeting conformed to § 4090.

One possibility would be a provision that actions taken in purported board meetings held before the coming into effect of proposed § 5450(a) under a condition enumerated in proposed § 5450(a) are not invalid merely because the meetings failed to conform to § 4090 and/or the meeting notices failed to specify the place of meeting as required by § 4920(a).

Another possibility would be a provision to authorize the board (members in the case of actions taken in member meetings) ratify after the coming into effect of proposed § 5450(a) those actions taken in purported board meetings held under a condition enumerated in proposed § 5450(a) that would be valid had the meeting conformed to § 4090 and had the meeting notice conformed to § 4920(a).

Sincerely,



My association, of which a majority of members are more often physically in San Francisco than other places, provides only Los Angeles and San Jose call-in numbers for its Zoom/phone board meetings. I much prefer to participate in board meetings by telephone because it's simple, but am not pleased to see that each board meeting adding over USD 100 to my telephone bill.

Would proposed § 5450(b)(3) ["Every director and member has the same ability to participate in the meeting that would exist if the meeting were held in person."] require that directors and other members be able to participate

The project comprises 255 residential units, 5 commercial units and the common area.

ELAINE ROBERTS MUSSER
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October 15, 2020

California Law Revision Commission
c/o UC Davis School of Law
400 Mrak Hall Drive
Davis, CA 95616
Via email: bhebert@clrc.ca.gov

Re: Tentative Recommendation; Emergency-Related Reforms: CID Meetings, Sept 2020; (Proposed CA Civil Code §5440 (added))

Dear Sirs,

In reference to the above-mentioned tentative recommendation, I am in full support. The discussion surrounding this proposal was very intelligent, thoughtful and informative. Great consideration was taken in listening and heeding comments from members of the public.

The new proposed law strikes a nice balance of giving homeowners in an emergency related teleconferenced meeting the same exact protections they would have had in a regular in-person meeting. Because the proposed law does not create any new substantive rights, it is much more likely to be approved quickly by the legislature. However, the proposed change does give specific direction on how to maintain those same homeowner rights within the challenge of a teleconferenced environment, to wit:

- Clear directions must be given on how to access the meeting;

- Technical assistance on accessing the meeting must be provided;
- Any vote by directors must be a roll call vote;
- Any person may participate by telephone if they do not have computer access to the meeting.

Very nicely done.

Sincerely,

A handwritten signature in cursive script that reads "Elaine Roberts Musser".

Elaine Roberts Musser

**EMAIL FROM GLEN GROSSMAN
(10/17/20)**

Should not be limited to emergencies.

Now that we are conducting board meetings by Zoom, more members are attending than when we had a physical location because it is so convenient to attend by Zoom.

Kazuko K. Artus, Ph.D., J.D.

San Francisco
E-mail: Kazukokartus@aol.com

26 October 2020

Via Email: commision@clrc.ca.gov
California Law Revision Commission
Attn: Brian Hebert, Executive Director

Re: Enforcement of Proposed § 5450?

Ladies and Gentlemen:

I would appreciate some clarification as to the intended consequences of an association causing a member meeting or a board meeting to be held entirely by teleconference when none of the conditions described in proposed § 5450(a)(1) to (3) exists.

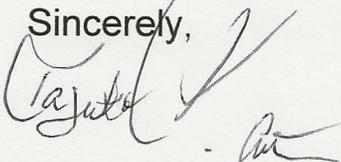
How far would the Commission wish to have the State go in discouraging such an occurrence? Would the Commission propose to authorize the court to void such a meeting on an association member's complaint? I hope not because there's unlikely to be any harm if all members are able to participate in the meeting.

However, an enforcement provision similar to § 4955 and § 5145 would be needed to ensure that an association make arrangements to enable all members participate, if proposed § 5450 is to be a stand-alone article. That would concern proposed § 5450(b).

I trust that the Commission will review further the experiences of associations and association members before finalizing its recommendation on this matter.

Some members of the public would oppose any enforcement provision on grounds of its financial costs to associations. I would urge that the Commission take into consideration the non-financial costs of not promoting the enforcement of such measures as those enumerated in proposed § 5450(b), e.g., increased member apathy, even though they are difficult to quantify in financial terms.

Sincerely,



#X-100, H-850

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

STAFF DRAFT

RECOMMENDATION

Emergency-Related Reforms:
Common Interest Development Meetings

November 2020

California Law Revision Commission
c/o UC Davis School of Law
Davis, CA 95616
<commission@clrc.ca.gov>

SUMMARY OF RECOMMENDATION

Existing law provides that a common interest development can only conduct a meeting by teleconference if at least one physical location is held open for participation by the owners of separate interests.

The Commission recommends that this requirement be waived during a declared emergency, provided that certain procedural safeguards are met.

This recommendation was prepared pursuant to Resolution Chapter 46 of the Statutes of 2020.

1 EMERGENCY-RELATED REFORMS:
2 COMMON INTEREST DEVELOPMENT
3 MEETINGS

4 A common interest development (“CID”) is a housing¹ development
5 characterized by (1) separate ownership of dwelling space (or a right of exclusive
6 occupancy) coupled with an undivided interest in common property, (2)
7 covenants, conditions, and restrictions that limit use of both the common area and
8 separate ownership interests, and (3) management of common property and
9 enforcement of restrictions by a community association. CIDs include
10 condominiums, community apartment projects, housing cooperatives, and planned
11 unit developments.²

12 Existing law generally requires that meetings of the board of directors of a
13 CID’s managing association be open to the membership of the association. These
14 requirements are similar in spirit to the open meeting laws that govern state and
15 local government entities.³

16 Existing law allows a CID board to meet by teleconference, but only if there is
17 at least one physical location held open for attendance by members and at least
18 one director attends at that location.⁴ A similar requirement exists for state and
19 local agencies.⁵

20 As a result of the COVID-19 pandemic, it became unsafe for groups of people to
21 congregate. “Stay at home” orders were issued, both locally and statewide. The
22 requirement that one location be held open to the public made it impracticable for
23 public bodies to use teleconferencing to conduct open meetings. This was a
24 serious problem, because teleconferencing was the only means of conducting
25 meetings safely during the public health emergency.

26 The same problem exists for CIDs. If association boards are to conduct meetings
27 safely, they may need to use teleconferencing to do so. But existing law makes
28 that impracticable, by requiring that a teleconference meeting be anchored by a
29 physical location that is open to attendance by members, with at least one
30 association official present at that location.

31 Recent experience shows that emergency conditions can persist for many
32 months. It would not be feasible for a CID board to be unable to meet for such a

1. Although most CIDs are residential, a CID may also include commercial units. An entirely nonresidential CID is exempt from many of the laws that govern residential CIDs. See Civ. Code § 1373.

2. See Civ. Code § 1351.

3. See Gov’t Code §§ 54950-54963 (Ralph M. Brown Act); 11120-11132 (Bagley-Keene Open Meeting Act).

4. See Civ. Code § 4090(b).

5. See Gov’t Code §§ 54953(b)(3), 11123(b)(1)(C).

1 long period of time. This may be especially true in a time of emergency. The
2 board may need to make unusually critical and time-sensitive decisions.

3 To address that problem for state and local government meetings, Governor
4 Newsom issued an executive order that waived the requirement that a physical
5 location be held open to the public when conducting a state or local government
6 meeting by teleconference.⁶

7 The Commission recommends a statutory reform to codify the same policy for
8 CIDs. The requirement that a CID board meeting conducted by teleconference
9 have a physical location that is open to members would be waived during a
10 declared emergency.

11 The application of that waiver would not be limited to infectious disease
12 emergencies. There may be other kinds of emergencies, like wildfires, that would
13 make it unsafe or otherwise impracticable for an association to meet in a physical
14 location.

15 In addition, the waiver would only apply if certain procedural safeguards are
16 satisfied:

- 17 • Notice of the meeting must include detailed instructions on how to
18 participate in the teleconference.
- 19 • The notice must include contact information for a person designated to
20 provide technical assistance with the teleconference process, both before
21 and during the meeting.
- 22 • A vote of the directors must be conducted by roll call.
- 23 • Members must be allowed to participate by telephone.

6. See Executive Order N-29-20.

PROPOSED LEGISLATION

1 **Civ. Code § 5450 (added). Emergency teleconference meeting**

2 SECTION 1. Article 11 (commencing with Section 5450) is added to Chapter 6
3 of Part 5 of Division 4 of the Civil Code, to read:

4 Article 11. Emergency Powers and Procedures

5 5450. (a) This section only applies to a common interest development that is in
6 an area affected by one or more of the following conditions:

7 (1) A state of disaster or emergency declared by the federal government.

8 (2) A state of emergency proclaimed by the Governor under Section 8625 of the
9 Government Code.

10 (3) A local emergency proclaimed by a local governing body or official under
11 Section 8630 of the Government Code.

12 (b) Notwithstanding subdivision (b) of Section 4090, any other law, or the
13 association's governing documents, a board meeting or meeting of the members
14 may be conducted entirely by teleconference, without any physical location being
15 held open for the attendance of any director or member, if all of the following
16 conditions are satisfied:

17 (1) The meeting notice provides clear technical instructions on how to
18 participate by teleconference.

19 (2) The meeting notice provides the telephone number and electronic mail
20 address of a person who can provide technical assistance with the teleconference
21 process, both before and during the meeting.

22 (3) Every director and member has the same ability to participate in the meeting
23 that would exist if the meeting were held in person.

24 (4) Any vote of the directors shall be conducted by a roll call vote.

25 (5) Any person who is entitled to participate in the meeting shall be given the
26 option of participating by telephone.

27 **Comment.** Section 5450 is new.

28 Subdivision (a) governs the application of the section. See also 42 U.S.C. §§ 247d (federal
29 public health emergency), 5120-5208 (federal disaster relief).

30 Subdivision (b) authorizes meetings to be conducted entirely by teleconference, if certain
31 conditions are met.

32 Paragraphs (b)(1) and (2) govern the required content of notice of a meeting conducted under
33 this section. The method of delivery of a board meeting notice is governed by Section 4045
34 (general delivery). Under Section 4045(b) any member has the right to receive meeting notice by
35 individual delivery under Section 4040, which can include delivery by electronic mail. That
36 option must be noted in the common interest development's annual policy statement. See Section
37 5310(a)(4).

38 Paragraph (b)(4) is similar to Government Code Section 11123(b)(1)(D).