

# FAQs

(frequently asked questions)

## Amending Condo Plans, CC&Rs, & Rules

11/17/25 Edition by Arthur Meirson

*This article is provided as a resource for understanding the rules for updating condominium governing documents (Plans, CC&Rs, Bylaws, Rules, etc.) in California, and summarizes those rules as they are understood on the publication date. Updated versions of this article may appear on the firm's website at [www.g3mh.com](http://www.g3mh.com).*

California condominium Homeowner Associations (“HOAs”) are subject to a confusing mixture of regulating forces. There is broad state regulation of condominium HOAs under the Davis-Stirling Common Interest Development Act, and under provisions of the California Corporations Code. There are also internal governing documents (CC&Rs, Bylaws, and Rules) which vary from one HOA to the next. And there are local laws, like San Francisco’s rent control and minimum-occupancy restrictions, which can conflict with the HOA’s own governing documents.

Because HOA governing documents do not automatically update themselves to stay current with changes in state regulations or to address changes over time within the HOA or in physical aspects of the property, every HOA eventually faces the need to amend and modernize its governing documents. This article explains how HOA governing documents can be successfully updated.

Recent legislation (AB130, amending Civil Code §5850) generally **caps HOA fines to \$100 per violation**, unless the violation may result in an adverse health or safety impact on the common area or another HOA member’s property.

Civil Code §5551 (SB326) requires condominium buildings with 3+ attached units to hire a licensed structural or civil engineer or architect to conduct a “reasonably competent and diligent visual inspection” of all Exterior Elevated Elements (“EEEs”) such as decks, balconies, stairways, and walkways with a walking surface elevated more than 6 feet above ground, that are supported in whole or in substantial part by wood or wood-based products, together with “associated waterproofing systems” (flashings, membranes, coatings, and sealants), to determine whether these EEEs are in a “generally safe condition and performing in accordance with applicable standards.” The first inspection was due by **January 1, 2025**, and must be completed every 9 years. For more information, see our companion article *Balcony Inspection Laws*.

### What Laws & Documents Govern Condominiums?

#### THE DAVIS-STIRLING ACT

All condominium properties in California are organized under, and governed by, the **Davis-Stirling Common Interest Development Act** (Civil Code §4000 et seq.). The **Davis-Stirling Act** by no means regulates *everything* affecting the status and operation of residential Homeowner Associations (HOAs), but its reach is comprehensive. Wide and

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weighty subjects like HOA decision-making, finances, dues, repairs, reserves, rentals and re-sales are dealt with in great detail, but so are minutia, such as the installation of electric vehicle charging stations, or the number of pets allowed.

### THE CALIFORNIA CORPORATIONS CODE

The **California Corporations Code** sets forth the state's laws governing general corporations and LLCs, nonprofit corporations (like HOAs), corporations for various special purposes (such as co-operative corporations), and unincorporated associations. Small condominium projects originally created with an *incorporated* HOA frequently re-organize as *unincorporated* associations, to extract themselves from some of the more burdensome regulations of the **Corporations Code** (and to stop paying an annual \$800 minimum California Franchise Tax).

### CALIFORNIA CODE OF REGULATIONS

The **California Code of Regulations**, Title 10, Chapter 6, Article 12 regulating subdivisions, sets forth a list of "Reasonable Arrangements" to which condominium governing documents and HOAs must adhere, including the requirement that each Unit in an HOA is entitled to an *equal vote*, even if HOA dues and assessments are *not* shared equally (§2792.18(a)).

### THE UNRUH CIVIL RIGHTS ACT

California's **Unruh Civil Rights Act** and certain federal laws prohibit many types of discrimination in housing and prohibit such conduct by condominium HOAs. The **Unruh Act** specifically authorizes "senior citizen only" housing under strictly limited circumstances (such as properties of at least 35 dwelling units which have been developed, substantially rehabilitated, or substantially renovated for, senior citizens).

### ARTICLES

**Articles of Incorporation or Association** are found in larger condominium projects, where the benefits of representative governance via an elected corporate Board of Directors and Officers are clear. Corporate **Articles** establish a non-profit entity, registered with the California Secretary of State, and pull governance of the HOA Board and Officers under the provisions of the **Corporations Code** (triggering an annual \$800 minimum Franchise Tax). Smaller HOAs, typically consisting of fewer than 10 residential units, are far less likely to have an *incorporated* HOA, and typically operate as *unincorporated* Associations (as allowed under Civil Code §4080). These HOAs do not have *Articles*.

### CC&RS

The **Declaration of Covenants, Conditions and Restrictions (CC&Rs)**, are permanent, recorded covenants containing a legal description of the condominium project, the name of its Homeowner Association, and restrictions on use of various portions of the condominium project by HOA members, their tenants and guests. **CC&Rs** can restate and augment the provisions of the **Davis-Stirling Act**, but they *cannot nullify or over-rule* any of its provisions.

### BYLAWS

**Bylaws**, which deal with HOA *governance* (meetings, elections, voting), typically are required when the HOA is governed by an *elected* Board of Directors. With incorporated HOAs, Bylaws must conform to the requirements of the **California Corporations Code**; in *unincorporated* HOAs, the influence of the **Corporations Code** is more tenuous. In smaller HOAs, it is quite

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common for provisions which might otherwise appear in **Bylaws** to be included in the **CC&Rs** instead. **Bylaws** cannot nullify, over-rule or bypass any of the provisions of the **Davis-Stirling Act**, or of the condominium **CC&Rs**.

## MAP

A condominium **Map** (also called a Parcel Map or a Final Map) is a large-format drawing prepared by a licensed land surveyor, printed on mylar plastic, and recorded with the City to create a condominium subdivision. It is often confused with a condominium **Plan** (see below) but serves a completely different function. **Maps** are drawings of the entire parcel on which the condominium projected is situated, showing lot-lines and the *two-dimensional* footprint of all structures.

## PLAN

A condominium **Plan** (also called Unit Diagrams or Exhibit B) is a multi-sheet 8½ x 11 drawing prepared by a licensed land surveyor, attached and recorded as an exhibit to the condominium **CC&Rs**. **Plans** are *three-dimensional* descriptions of the entire condominium project, showing each level of every structure, precisely defining the boundaries of individual units, Common Areas and Exclusive Use Common Areas (“EUCAs”) (parking, decks, storage, etc.). In condominium projects dating back more than 15 years, the **Plan** was not prepared separately, but was instead drawn directly on the condominium **Map**.

## RULES

HOAs may create **Rules**, which are less permanent, but legally enforceable *restrictions on use* of various portions of the condominium project. To be enforceable, any **Rule** must be in writing, within the Association’s authority, adopted by the Association in good faith, and be *reasonable* (Civil Code §4350). HOA **Rules** must be *consistent with California law* (including the **Davis-Stirling Act**), the **CC&Rs**, and any **Bylaws**. **Rules** can be revoked by the HOA in the same manner in which they are created.

## LOCAL LAWS

Certain local laws, like San Francisco’s Rent Ordinance and land use regulations, can conflict with HOA governance rules, skewering HOAs and their members on the horns of seemingly intractable dilemmas. For example, an HOA may wish to restrict the number of adult occupants in a condo unit, but City laws may allow for much higher occupancy if the unit is rented to tenants. San Francisco isn’t likely to pay any attention to your governing documents in seeking to advance its political and social agendas.

## Does the State Enforce Condo Governance?

Not directly. The **Davis-Stirling Act** and the **Corporations Code** create the basic legal framework under which all California HOAs must operate. **CC&Rs**, **Bylaws**, and **Rules** expand on that framework by adding more specific regulations. *Enforcement* is left to the HOA, or to individual homeowners seeking to compel their HOAs or their condo neighbors to follow the rules (Civil Code §5975). However, housing discrimination falling under the **Unruh Civil Rights Act** is subject to state supervision and prosecution.

## How are HOA Governing Documents Affected by Changes in State Law?

The **Davis-Stirling Act** and the **Corporations Code** are both *dynamic* sets of rules, subject to change every time the state legislature finds reason to do so (or as sometimes required by court rulings). And whenever the **Davis-Stirling Act** or the **Corporations Code** are amended, the governing regulations for *every California HOA* adjust in lockstep, even though the condo owners

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may have no idea that their rules have changed. The state doesn't send out notices to HOAs — owners have to keep on top of changes in the laws on their own. Because of the dynamic nature of state laws affecting condominiums, ***all HOA governing documents – CC&Rs, Bylaws and Rules – become out-of-date over time, and therefore require periodic review and updating.*** Examples of legal changes over the past few years that may conflict with older governing documents include, without limitation: general prohibition on fines exceeding \$100 (Civil Code §5850), prohibition against suspension of voting rights as member discipline (Civil Code §5105), and prohibition against a minimum rental term greater than 30 days (Civil Code §4741).

### How are HOA Governing Documents affected by Physical Changes to the Property?

**CC&Rs** and Condominium **Plans** are inextricably tied to certain physical aspects of the condominium property — the dimensions of the units and the location and assignment of **EUCAs** such as parking and storage areas. **CC&Rs** and **Plans** must be amended whenever there is a change in the perimeter boundaries of a condo unit, or following certain modifications to, or re-assignment of, **EUCAs**.

### When are Amendments Necessary or Desirable?

**Articles** tend to be highly standardized, one-page forms which, once they have been filed, are practically never amended. However, a small HOA shifting to **unincorporated** status will want to terminate its corporate status with the California Secretary of State.

**CC&Rs** are amended (i) when changes in the physical layout or design of the units or common areas render the **CC&Rs** incompatible with “the facts on the ground,” (ii) when owners desire to expand or modify their usage restrictions (e.g., to restrict smoking or to allow or disallow short-term rentals), and (iii) when necessary to conform the **CC&Rs** to periodic changes in the Davis-Stirling Act. The California legislature amends provisions of the Davis Stirling Act nearly every year (sometimes in minor, technocratic ways, and sometimes in major ways). In 2014 the Act underwent a major rewrite, including the renumbering of all referenced Civil Code sections. Generally, **CC&Rs** which are more than **10 years old** should undergo a review to determine whether minor amendments or a complete restatement is warranted. **CC&Rs** dating back more than **20 years** with no spot amendments generally are considered overdue for an update.

For HOAs with **Bylaws**, amendments are made when owners desire to modify their governance rules (usually to conform to changes in the **Davis-Stirling Act** or the **Corporations Code**).

**Maps** are rarely amended, unless there is change in the number of condominium units.

**Plans** are amended whenever there is a change in the perimeter boundaries of the condo units, for example, when a unit expands (horizontally or vertically) into an adjacent area which wasn't part of its original square footage, or following certain modifications to, or re-assignment of, **Exclusive Use Common Areas** (see, **EUCA Easements**, below).

**Rules**, often established by simple majority decision, can be quickly and easily modified when the owners desire to change their internal regulations in a less permanent manner than by amending their **CC&Rs** or **Bylaws** (for example, to establish or update a schedule of fines for member discipline).

### What are the Risks of Operating with Outdated HOA Governing Documents?

When **CC&Rs**, **Bylaws**, or **Rules** are more than a few years old, certain provisions may have been superseded by changes in the law impairing their usefulness as a roadmap for resolving any disputes or disagreements, or for enforcing homeowner obligations. It is usually better to remedy this before a dispute situation occurs, rather than trying to deal with both the dispute and the need to update the governing documents concurrently.

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## What are the Most Common Amendments?

Over the years, g3mh, LLP has assisted clients with a myriad of amendments to HOA governing documents, some for highly specialized reasons. However, certain trends have emerged. The list below, in no particular order, includes the most common reasons condominium owners have engaged us to amend their HOA governing documents:

- Updating documents to track changes in state law
- Modernizing old documents based upon drafting models created for large projects, and which are poorly suited for small HOAs
- Adding smoking restrictions
- Addressing short-term rentals (e.g. Airbnb, VRBO, etc.)
- Clarification of responsibility for window maintenance
- Switching from an incorporated to an unincorporated HOA
- Insurance carrier requirements
- Mortgage lender requirements
- Remodels which expand units
- Assignment/transfer of parking or storage spaces

Some of these examples can be accomplished via simple **Rules** amendments; others will require amending the **CC&Rs**, and others require amendment to **Plans**.

## What are the New Rules Governing Fines (Penalties)?

Effective July 1, 2025, Civil Code §5850 generally caps monetary penalties (“fines”) for violations of governing documents to the lesser of the amount stated in the published fine schedule or \$100 per violation. The \$100 cap does **not** apply to violations that “may result in an adverse health or safety impact on the common area or another association member’s property.” However, before imposing such a larger fine “the board shall make a written finding specifying the adverse health or safety impact.” Late charges and interest cannot be imposed on fines.

Prior to imposing fines as discipline, the board must hold a meeting and provide the member with at least **10 days’ notice** with the date, time, and place of the meeting, and also explain the nature of the alleged violation, and advise that the member has a right to attend the meeting to address the board. At the request of the member, the board must conduct the discipline portion of the meeting in executive session.

Further, the member shall be entitled to cure the violation prior to the meeting, or for violations that cannot be cured between the time of notice and the time of the meeting, the cure opportunity must be extended subject to the member providing a financial commitment. If the board and member are not in agreement after the meeting, the member is entitled to pursue Internal Dispute Resolution. If there is agreement, the board shall draft a written resolution. If the board imposes discipline on a member or imposes a fine for damage to Common Area, the board shall provide written notice of its decision within **14 days**. **Failure to follow the procedures of Civil Code §5850 is grounds to void the discipline decision.**

## What are the Rules Governing Rental Restrictions?

Many condo **CC&Rs** and **Rules** limit the number of rentals in the HOA by imposing a cap on the number of units which may be rented at any one time, or by requiring leases to be at least six months or one year to avoid a high turnover of residents. Effective January 1, 2021, Civil Code §4741 (AB3182) **voids all rental caps more restrictive than 25% and prohibits any restrictions on lease terms longer than 30 days**. Accessory Dwelling Units and Junior Accessory Dwelling Units are not counted towards the 25% cap. Short-term rentals can still be banned.



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*All California HOAs with non-compliant CC&Rs or Rules were required to amend their governing documents to remove noncompliant restrictions by no later than December 31, 2021.* HOAs with noncompliant governing documents are at risk of a civil penalty of up to \$1,000, plus actual damages (e.g. lost rental income). Worse, HOAs with noncompliant rental restrictions might not be able to enforce *any* rental restrictions.

### How to Amend CC&Rs?

Under the **Davis-Stirling Act**, amendment of **CC&Rs** requires approval “by the percentage of members required by the declaration and any other person whose approval is required by that declaration.” If the **CC&Rs** are silent on the minimum percentage required, an amendment may be authorized by a majority of all owners. (Civil Code §4270). Voting by secret ballot is required under Civil Code §5100.

Except in HOAs where a developer retains special rights via two classes of voting membership, an owner is entitled to *one vote for each unit owned*; this remains true even if the owners do not pay equal HOA assessments. If a unit is owned by *more than one person*, each such person will be a member of the HOA, but there still will be only one vote for that unit. If a member of the association owns *multiple* units, that person has multiple votes *as an owner*, i.e., one vote for each unit owned. However, if the HOA is governed by an elected Board, owners of multiple units do **not** have extra votes at Board Meetings. (Corp. Code §7211(c).) (Application of cumulative voting rules in electing Board Members typically applies only to larger HOAs, and is outside the scope of this article.)

### How to Amend a Condo Plan?

An Amended **Plan** is prepared by a licensed land surveyor. The **Davis-Stirling Act** demands that *every condo owner of record* sign a written attestation approving any amendment of a condominium **Plan**, and requires that *every lender holding a recorded deed of trust or mortgage* against any of the units must sign as well. If a unit is held subject to a life estate, both the life tenant and all holders of remainder interests must sign (Civil Code §§4290, 4295). The Amended **Plan** is recorded as an attachment to Amended **CC&Rs**.

### How to Amend Bylaws?

**Bylaws** are typically amended by a majority vote of the HOA Board of Directors. However, some changes may also require an affirmative vote of the owners.

### How to Amend Rules?

If the HOA is governed by an *elected* Board of Directors, HOA operating **Rules** are approved by the Board’s majority vote. If the HOA is governed *without* a Board (or if each unit is always entitled to a seat on the Board) HOA **Rules** are imposed by majority vote of the *owners*, with one vote allowed for *each unit owned*. **Rules** may be reversed the same way they are enacted, except that there is a special procedure (Civil Code §4360) under which a minority of owners may demand a special meeting of all owners to override a Board decision; if successfully reversed by the owners, the **Rule** may not be readopted by the Board for one year.

There are special notice and meeting provisions (Civil Code §§4360, 4365) for creating or amending HOA **Rules** relating to:

- Use of units, Common Areas, or EUCAs
- Architectural or aesthetic standards governing alterations of units
- Member discipline and monetary penalties
- Delinquent assessment payment plans
- Dispute resolution procedures
- Procedures for reviewing and approving changes to units and common areas
- Procedures for elections

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## How to Amend Articles?

HOA **Articles** are rarely, if ever amended. More typically, a small HOA moving to *unincorporated* status, will need to dissolve the corporation by application to the California Secretary of State's office.

## What are EUCAs, Easements, and how do they Affect the Amendment process?

**Exclusive Use Common Areas (EUCAs)** — certain defined areas associated with condominium units, such as exclusive decks, parking spaces, storage areas, etc. — are described in the condominium **Plan** and deeded to particular units via easements which show up on title (examine the legal description attached to a condominium Grant Deed for an example). When deeded **EUCAs** are re-assigned, or when such spaces are added or eliminated, in addition to the required amendment of the **CC&Rs**, the deeded easements which appear in the chain of title to the units must also be modified, typically by terminating old easements which are no longer valid, and creating new easements to accommodate the changes. This can require a *unanimous owner vote* to amend the condominium **Plan**, and may trigger *Lender Approval requirements* (see below).

## Are Some Amendments Prohibited?

Amendments cannot nullify, overrule, or bypass federal, state, or local law. For example, amendments cannot be used to place restrictions prohibited by law on the transfer of units (Civil Code §4730, et seq.), to unreasonably prohibit rental (Civil Code §4740), to categorically prohibit pets (Civil Code §4715), or to categorically bar the installation of solar energy systems (Civil Code §714) or of EV charging stations (Civil Code §4745).

## What Amendments can be Vetoed by a Single Vote?

Many amendments to condominium governing documents can be authorized by a majority or super-majority vote, as specified in the **CC&Rs** or **Bylaws**. However, some types of amendments are treated exceptionally:

- Amendments to a condominium **Plan** (requires the signatures of *all record title owners* (and their mortgage lenders))
- Amendments of provisions of the **CC&Rs** which by their own terms require a unanimous unit owner vote, or at least the affirmative vote of all affected owners
- Amendments where a specific voting percentage is expressly required under the **CC&Rs** or **Bylaws**
- Amendments in a 2-unit HOA

## Can Owners Force CC&Rs Amendments?

Yes, but only under highly limited circumstances. The **Davis-Stirling Act** (Civil Code §4235) allows for a simplified, non-voting amendment procedure solely to update cross-references to sections of the **Act** cited in **CC&Rs** and **Bylaws**. Civil Code §4275 allows owners and HOAs to petition the court for approval of *reasonable* amendments to **CC&Rs** with less than the percentage of affirmative votes otherwise required under the **CC&Rs**, if the required minimum number of votes isn't obtainable, but *more than 50%* of the votes are in favor of the changes.

## When is Mortgage Lender Approval Required?

When condominium units are subject to mortgage loans, the written consent of at least some percentage of the mortgage lenders may be required to amend **CC&Rs**. *Written consent of all mortgage lenders is required to amend a condo Plan*. No lender consent is needed to amend **Bylaws** or HOA **Rules**. While lender consent is usually readily granted, the process can take anything from a few days to several months; each lender is different, and lender policies and personnel change frequently. When a lender consent issue arises in connection with a pending sale, it can be difficult to complete the process within a typical 30-day closing timetable.

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### Are there any State Requirements for Condo Amendments?

*Some 5+ unit properties* are still required to obtain a “Public Report” from the California Department of Real Estate (DRE) by submitting a *separate application*, with additional fees and expenses. This requirement currently applies *only* to properties where the TIC *seller/developer still owns one or more of the units*. Amending condo governing documents while a Public Report remains active (five years) may necessitate applying to the DRE to amend the Public Report as well.

### How Long does the Amendment Process Take?

Simple amendments (like new smoking restrictions) which do not involve revisions to the condominium **Plan** can be completed relatively quickly. Amendments to the **Plan** require the services of a licensed land surveyor; availability of these specialists is limited and a quick turnaround may not be possible. Drafting Amended & Restated **CC&Rs** (& **Bylaws**) is a more involved process, and should include a meeting with the homeowners to review and understand all of the changes. Usually, timing will depend upon the availability of the owners to meet, review, and vote to approve the changes.

### Should I Update my Title Insurance Policy Following an Amendment?

Following certain amendments to condominium governing documents, and especially where the boundaries of units have been altered, or changes have been made to **EUCAs**, owners may wish to contact the company that provided their *title insurance policy*, to see if an update is needed.

### What Do Amendments Cost?

**City Fees:** There is no City review involved in amending most HOA governing documents, including **Plan** amendments, and therefore no charges, other than nominal recording fees. A significant exception, and one outside the scope of this article, would be a change in the *number* of condominium units.

**Surveyor:** If a Condominium **Plan** requires changes, say, to re-define **EUCAs** like “deeded” parking spaces, or to show the new boundaries of an expanded unit, a licensed land surveyor must prepare and sign an Amendment to Plan in proper form. Surveyors’ charges will vary, depending upon the complexity of the required revisions. Working with the surveyor who prepared the original Condominium Plan *may* result in modest cost savings.

**Attorney:** g3mh, LLP offers condominium amendment services either on a flat-fee or hourly basis, depending on whether we are entirely re-writing your documents or simply making minor revisions to selected provisions. Our fees vary depending on property size and are competitively priced; please call for details.

**Title:** If an update to your title policy is needed, your title company can provide this service.

**Lender:** Some lenders typically charge a fee to approve amendments.

### I Want to Amend my Condo Documents Right Away – What do I do Next?

We’re here to help! Please call or email our office and we’ll take care of you.



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## How do I Choose a Lawyer to Assist Me in Amending my HOA Governing Documents?

## What Sets g3mh, LLP Apart in Condo Amendments?

### *A Law Firm Assisting in Amending Condominium Governing Documents should offer you:*

- A choice of experienced attorneys knowledgeable in all aspects of the amendment process (including easement deeds and terminations where EUCAs are changing)
- A long history of successfully amending condominium governing documents
- Draft Amended & Restated CC&Rs (& Bylaws) utilizing color highlights to outline sections that have been updated because of changes in state law, unique sections that have been carried over from existing documents, and changes we recommend to put your documents on par with other condo HOAs
- A meeting with the homeowners to discuss the proposed revisions, and to explain the practical effects of the new language
- Counsel in all stages of the amendment process, including selection of an experienced surveyor
- Outstanding experience in mortgage lender consent requirements

#### **EXPERIENCE:**

**g3mh, LLP** has been a respected member of San Francisco's real estate community for over 40 years. Our team initiated its first condominium subdivision in 1998. Since then, we have successfully created new and amended governing documents for over 3,000 condominiums. ***g3mh, LLP provides full-service support to condominium owners, HOA boards, and developers, including: new construction condo formation, condo conversion, governing document drafting and amendment, HOA dispute resolution, and we can provide mediation services. This rounded scope of experience and expertise uniquely positions us to assist you or your HOA with your needs.***

#### **SPEED:**

Our attorneys work quickly to meet your requirements, particularly when a sale is pending. Amendments which do not involve revisions to the condominium Plan often can be completed within a few business days.

#### **REASONABLE FEES:**

**g3mh, LLP** provides its condominium amendment services either on a flat fee or hourly basis, depending on whether we are entirely rewriting your documents, or simply making minor modifications to selected provisions. We think you will find our fees both affordable and appropriate to the services you will receive. The scope of our work is clearly explained up front, and the costs laid out for you, so that there will be no surprises down the road.

#### **SERVICE:**

**g3mh, LLP** is a full-service law firm, which means that our attorneys are available to offer guidance in HOA and tenancy-in-common issues, condominium conversion, title transfer and vesting, broker-less/FSBO purchase/sale representation, landlord counseling, trust and estate matters, easements, zoning, planning and property tax issues, and all other real estate matters, including litigation and arbitration. No other firm in San Francisco offers the staffing and resources to meet your needs in every aspect of residential real estate ownership.

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*About the Author:*

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