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Specializing in Community Associations

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CHANGES TO DAVIS-STIRLING ACT

1. *Civil Code §4045. Giving General Notice.* Since not all associations have an area for posting notices, notice for board meetings (and other general notice requirements) has been expanded to include:
 - First-class mail,
 - Electronic notice (with consent),
 - Inclusion in a billing statement or newsletter, and
 - Television broadcasts.
2. *Civil Code §4202. Commercial & Industrial CIDs.* Commercial and industrial associations are no longer exempt from emergency assessment provisions in the Act.
3. *Civil Code §4205. Hierarchy of Documents.* When conflicts exist between documents and between documents and the law, the following hierarchy will be used: law, CC&Rs, articles of incorporation, bylaws, rules & regulations.
4. *Civil Code §4235. Update Reference in Documents.* Boards can update statutory references without need for membership vote.
5. *Civil Code §4600. Granting Exclusive Use.* Exempts 67% requirement to:
 - Accommodate disability,
 - Comply with governing law,
 - Assign parking space, storage unit designated in CC&Rs but not assigned to a specific unit.
6. *Civil Code §5125. Custody of Ballots.* Custody by the Inspector of Elections was extended to one year (from nine months in current Code).
7. *Civil Code §5200. Inspection of Governing Docs.* Governing documents added to inspection rights.
8. *Civil Code §5260. Written Requests.* The following requests by members must be in writing to:
 - Change info in membership list,
 - Add or remove 2nd address for delivery of notices to the member,
 - Request individual delivery of general notices (or cancel prior request),
 - Opt out of the membership list or to cancel prior request, and
 - Receive all reports in full or to cancel a prior request for same.

9. *Civil Code §5300. Annual Budget Report*. Consolidates financial disclosure requirements under this new term:

- Budget,
- Reserve summary,
- Reserve funding plan,
- Statement of deferral or non-repair major components,
- Statement as to whether special assessment anticipated,
- Procedures used to calculate reserves,
- Outstanding loans longer than one year, and
- Summary of insurance.

10. *Civil Code §5310. Annual Policy Statement*. Consolidates policy disclosures:

- Name & address of designated person to receive notices,
- Right to request to have notices sent to 2 different addresses,
- Posting locations for general notices,
- Right to receive general notices individually,
- Right to receive minutes,
- Assessment collection policies,
- Policies in enforcing lien rights,
- Discipline policies including schedule of fines,
- Summary of dispute resolution procedures,
- Summary of architectural application procedure,
- Mailing address for overnight payment of assessments, and
- Any other information required by law or the governing documents.

11. *Civil Code §5350. Conflicts of Interest*. Forbids directors from voting on matters affecting their own:

- Discipline
- Damage assessments
- Payment plans
- Foreclosure
- Remodel applications
- Exclusive use application


12. *Civil Code §5850. Fine Schedule*. The new Davis-Stirling Act requires annual distribution of the association's fine schedule as part of its annual policy statement. Previously, notice was required only upon adoption or revision.

13. *Civil Code §5855. Reimbursement Assessments*. Boards must give notice and opportunity to be heard before imposing reimbursement assessments.

CONVERSION CHART #1

*EXISTING TO NEW*See Conversion **CHART #2**

EXISTING	NEW CODE	EXISTING	NEW CODE
1350	4000	1365(a)(3)(B)	5300(b)(5)
1350.5	4005	1365(a)(3)(C)	5300(b)(6)
1350.7	4040, 4045, 4050	1365(a)(3)(D)	5300(b)(8)
1351 (intro)	4075	1365(a)(4) (1 st ¶)	5300(b)(7)
1351(a)	4080	1365(a)(4) (2 nd ¶)	5300(d)
1351(b)	4095	1365(a)(4) (3 rd ¶)	5300(a)
1351(c)	4100	1365(b)	5300(b)(3)
1351(d)	4105	1365(c)	5305
1351(e)(1)-(2)	4120, 4285	1365(d)	5320(a)
1351(e)(3)	4290, 4295	1365(e)	5310(a)(7)
1351(f)	4125	1365(f)(1)	5300(a)-(b)
1351(g)	4130	1365(f)(2)	5810
1351(h)	4135	1365(f)(3)	5300(b)(9)
1351(i)	4145	1365(f)(4)	5300(b)(9)
1351(j)	4150	1365.1	5730; 4040(b)
1351(k)	4175	1365.2(a)(1)	5200(a)
1351(l)	4185	1365.2(a)(1)(I)(ii)	5225
1351(m)	4190	1365.2(a)(1)(I)(iii)	5220
1352	4200	1365.2(a)(2)	5200(b), 5205(g)
1352.5	4225	1365.2(b)(1)	5205(a)
1353(a)(1)	4250(a)	1365.2(b)(2)	5205(b)
1353(a)(1)-(4)	4255	1365.2(c)(1)-(5)	5205(c)-(g)
1353(b)	4250(b)	1365.2(d)	5215
1353.5	4705	1365.2(e)	5230
1353.6	4710	1365.2(f)	5235
1353.7	4720	1365.2(g)	5240(c)
1353.8	4735	1365.2(h)	5205(h)
1353.9	4745	1365.2(i)-(j)	5210(a)-(b)
1354	5975	1365.2(k)	5210(c)
1355(a)	4270(a)	1365.2(l)	5240(a)
1355(b)	4260	1365.2(m)	5240(d)
1355(b)(1)	5115(e)	1365.2(n)	omitted
1355(b)(2)	4270(b)	1365.2.5	5570
1355(b)(3)	4270(a) (3)	1365.2.5(b)(3)	5300(e)
1355.5	4230	1365.3	5580
		1365.5(a)	5500
		1365.5(b)	5510(a)
		1365.5(c)(1)	5510(b)



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1356	4275
1357(a)	4265(a)
1357(b)	4265(b)
1357(c)	omitted
1357(d)	4265(c)
1357.100(a)	4340(a)
1357.100(b)	4340(b)
1357.110	4350
1357.120	4355
1357.130	4360
1357.140	4365
1357.150	4370
1358(a)	4625
1358(b)	4630
1358(c)	4635
1358(d)	4640
1358 (last 2 ¶)	4645, 4650
1359	4610
1360	4760
1360.2	4740
1360.5	4715
1361	4505
1361.5	4510
1362	4500
1363(a)	4800
1363(b)	omitted
1363(c)	4805
1363(d)	5000(a)
1363(e)	5240(b)
1363(f)	5850(a)
1363(g)	5855
1363(h)	4820
1363(i)	5865
1363.001	5400
1363.005	omitted
1363.03(a)	5105(a) 5100(a), 5115(a)- (c)
1363.03(b)	5110
1363.03(c)	5130
1363.03(d)	5115(a)
1363.03(e)	5120(a)
1363.03(f)	5120(b)
1363.03(g)	5125
1363.03(h)	omitted
1363.03(i)	omitted

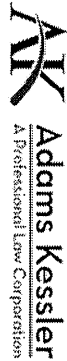
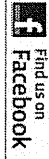
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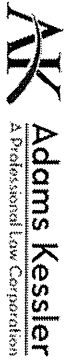
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1365.5(c)(2)	5515
1365.5(d)	5520
1365.5(e)(1)-(4)	5550
1365.5(e)(5)	5550, 5560
1365.5(f)	4177
1365.5(g)	4178
1365.5(h)	omitted
1365.6	5350(a)
1365.7	5800
1365.9	5805
1366(a)	5600(a), 5605(a), 5605(c)
1366(b)	5605(b)-(c), 5610(a)-(c)
1366(c)	5620
1366(d)	5615
1366(e)	5650(b)
1366(f)	5650(c)
1366.1	5600(b)
1366.2(a)	4210
1366.2(b)	omitted
1366.4	5625
1367	5740
1367.1(a) (1 st sentence)	5650(a)
1367.1(a) (2 nd sentence)	5660 (intro)
1367.1(a)(1)-(6)	5660(a)-(f)
1367.1(b)	5655
1367.1(c)(1)(A)	5670
1367.1(c)(1)(B)	5705(b)
1367.1(c)(2)	5673
1367.1(c)(3)	5665
1367.1(d)	5675, 5685(a), 5725(a)
1367.1(e)	5725(b)
1367.1(f)	5680
1367.1(g)	5700(a), 5710(a), 5735, 5710(c)(1)- (2)
1367.1(h)	5700(b)
1367.1(i)	5685(b)
1367.1(j)	5710(b)
1367.1(k)	4040(b)
1367.1(l)	5690
1367.1(m)	5740
1367.1(n)	omitted

1363.03(j)	5105(b)
1363.03 (k)	5115(d)
1363.03(l)	5100(c)
1363.03(m)	5100(d)
1363.03(n)	5100(e)
1363.03(o)	omitted
1363.04	5135
1363.05(a)	4900
1363.05(b)	4925(a)-(b)
1363.05(c)	4935(e)
1363.05(d)	4950(a)
1363.05(e)	4950(b)
1363.05(f)	4920
1363.05(g)	4923
1363.05(h)	4925(b); 5000(b)
1363.05(i)	4930
1363.05(j)	4910
1363.05(k)(1)	4155
1363.05(k)(2)	4090
1363.07	4600
1363.07(a)(3)(F)	4202(a)(4)
	5145,
1363.09	4605,
	4955
1363.1(a)	5375
1363.1(b)	4158
1363.1(b)(1)	5385
1363.2(a)-(e)	5380(a)-(e)
	4158;
1363.2(f)	5385
1363.2(g)	5380(f)
1363.5	4280
1363.6	5405
1363.810	5900
1363.820	5905
1363.830	5910
1363.840	5915
1363.850	5920
1364(a)	4775(a)
1364(b)	4780
1364(c)	4775(b)
1364(d)-(e)	4785
1364(f)	4790



1367.4(a)	5705(a); 5715(a); 5720(a)
1367.4(b)	5720(b)-(c)
1367.4(c)(1)	5705(b)
1367.4(c)(2)	5705(c)
1367.4(c)(3)	5705(d)
1367.4(c)(4)	5715(b)
1367.4(d)	5720(c)(2)-(3)
1367.5	5685(c)
1367.6	5658
1368(a)	4525
1368(b)	4530
1368(c)(1)	4575
1368(c)(2)	4580
1368(c)(3)	4110
1368(d)	4540
1368(e)	4545
1368(f)	4535
1368(g)	omitted
1368.1	4730
1368.2	4528
1368.3	5980
1368.4	5985
1368.5	6150
1369	4615
1369.510	5925
1369.520	5930
1369.530	5935
1369.540	5940
1369.550	5945
1369.560	5950
1369.570	5955
1369.580	5960
1369.590	5965
1370	4215
1371	4220
1372	4020
1373	4202
1374	4201
1375	6000
1375.1	6100
1376	4725
1378	4765


1365(a)(1)	5300(b) (1)	
1365(a)(2) (intro)	5300(b) (2)	
1365(a)(2)(A)-(D)	5565	
1365(a)(3)(A)	5300(b) (4)	

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CONVERSION CHART #2

*NEW TO EXISTING*See Conversion **CHART #1**

NEW CODE	EXISTING	NEW CODE	EXISTING
4000	1350	5115(b)	1363.03(b)
4005	1350.5	5115(c)	1363.03(b)
4010	New	5115(d)	1363.03(k)
4020	1372	5115(e)	1355(b)(1)
4035	New	5120(a)	1363.03(f)
4040	1350.7	5120(b)	1363.03(g)
4040(b)	1365.1(c), 1367.1(k)	5125	1363.03(h)
4045	1350.7	5130	1363.03(d)
4050	1350.7	5135	1363.04
4055	New	5145	1363.09
4065	New	5200(a)	1365.2(a)(1)
4070	New	5200(b)	1363.2(a)(2)
4075	1351 (intro)	5205(a)-(b)	1365.2(b)
4076	New	5205(c)-(f)	1365.2(c)(1)-(4)
4078	New	5205(g)	1365.2(a)(2); 1365.2(c)(5)
4080	1351(a)	5205(h)	1365.2(h)
4085	New	5210(a)-(b)	1365.2(i)-(j)
4090	1363.05(k)(2)	5210(c)	1365.2(k)
4095	1351(b)	5215	1365.2(d)
4100	1351(c)	5220	1365.2(a)(1)(I)(iii)
4105	1351(d)	5225	1365.2(a)(1)(I)(ii)
4110	1368(c)(3)	5230	1365.2(e)
4120	New	5235	1365.2(f)
4125	1351(f)	5240(a)	1365.2(l)
4130	1351(g)	5240(b)	1363(e)
4135	1351(h)	5240(c)	1365.2(g)
4140	New	5240(d)	1365.2(m)
4145	1351(i)	5260	New
4148	New	5300(a)	1365(a)(4)
4150	1351(j)	5300(b)	1365 (intro)
4153	New	(intro)	
4155	1363.05(k)(1)	5300(b)(1)	1365(a)(1)
4158	1363.1(b); 1363.2(f)	5300(b)(2)	1365(a)(2) (intro)
4160	New	5300(b)(3)	1365(b)
4170	New	5300(b)(4)	1365(a)(3)(A)
4175	1351(k)	5300(b)(5)	1365(a)(3)(B)
4177	1365.5(f)	5300(b)(6)	1365(a)(3)(C)
		5300(b)(7)	1365(a)(4)



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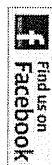


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4178	1365.5(g)
4185	1351(l)
4190	1351(m)
4200	1352
4201	1374
4202	1373
4202(a)(4)	1363.07(a)(3)(F)
4205	New
4210	1366.2(a)
4215	1370
4220	1371
4225(a)-(b), (d)	1352.5
4230	1355.5
4235	New
4250(a)	1353(a)(1)
4250(b)	1353(b)
4255	1353(a)(1)-(4)
4260	1355(b)
4265(a)	1357(a)
4265(b)	1357(b)
4265(c)	1357(d)
4270(a)	1355(a)
4270(a)(3)	1355(b)(3)
4270(b)	1355(b)(2)
4275	1356
4280	1363.5
4285	New
4290	New
4295	New
4340(a)	1357.100(a)
4340(b)	1357.100(b)
4350	1357.110
4355	1357.120
4360	1357.130
4365	1357.140
4370	1357.150
4500	1362
4505	1361
4510	1361.5
4525	1368(a)
4528	1368.2
4530	1368(b)
4535	1368(f)
4540	1368(d)
4545	1368(e)



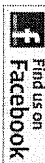
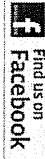
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5300(b)(8)	1365(a)(3)(D)
5300(b)(9)	1365(f)(1); 1365(f)(3); 1365(f)(4)
5300(c)	1365(a)
5300(d)	1365(a)(4)
5300(e)	1365.2.5(b)(3)
5305	1365(c)
5310(a)(7)	1365(e)
5320	1365(d)
5350(a)	1365.6
5350(b)&(c)	New
5375	1363.1(a)
5380(a)-(f)	1363.2(a)-(g)
5385	1363.1(b)(1); 1363.2(f)
5400	1363.001
5405	1363.6
5500	1365.5(a)
5510(a)	1365.5(b)
5510(b)	1365.5(c)(1)
5515	1365.5(c)(2)
5520	1365.5(d)
5550	1365.5(e)(1)-(5)
5560	1365.5(e)(5)
5565	1365(a)(2)(A)-(D)
5570	1365.2.5
5580	1365.3
5600(a)	1366(a)
5600(b)	1366.1
5605(a)	1366(a)
5605(b)	1366(b)
5605(c)	1366(a)
5610 (intro)	1366(b)
5610(a)-(c)	1366(b) (1)-(3)
5615	1366(d)
5620	1366(c)
5625	1366.4
5650(a)	1367.1(a)
5650(b)	1366(e)
5650(c)	1366(f)
5655	1367.1(b)
5658	1367.6
5660 (intro)	1367.1(a)
5660(a)-(f)	1367(a)(1)-(6)
5665	1367.1(c)(3)
5670	1367.1(c)(1)(A)

4575	1368(c)(1)	5673	1367.1(c)(2)
4580	1368(c)(2)	5675	1367.1(d)
4600	1363.07	5680	1367.1(f)
4605	1363.09(a)-(b)	5685(a)	1367.1(d)
4610	1359	5685(b)	1367.1(i)
4615	1369	5685(c)	1367.5
4625	1358(a)	5690	1367.1(l)
4630	1358(b)	5700(a)	1367.1(g)
4635	1358(c)	5700(b)	1367.1(h)
4640	1358(d)	5705	1367.4(c)
4645	1358	5705(a)	1367.4(a)
4650	1358	5705(b)	1367.1(c)(1)(B); 1367.4(c)(1)
4700	New	5705(c)	1367.4(c)(2)
4705	1353.5	5705(d)	1367.4(c)(3)
4710	1353.6	5710(a)	1367.1(g)
4715	1360.5	5710(b)	1367.1(j)
4720	1353.7	5710(c) intro	1367.1(g)
4725	1376	5710(c)(1)- (2)	1367.1(g)(1)-(2)
4730	1368.1	5715	1367.4(c) (intro)
4735	1353.8	5715(a)	1367.4(a)
4740	1360.2	5715(b)	1367.4(c)(4)
4745	New	5720(a)	1367.4(a)
4760	1360	5720(b)	1367.4(b)
4765	1378	5720(c)(2)- (3)	1367.4(d)
4775(a)	1364(a)	5725(a)	1367.1(d)
4775(b)	1364(c)	5725(b)	1367.1(e)
4780	1364(b)	5730(a)	1365.1(b)
4785	1364(d)-(e)	5730(b)	1365.1(a)
4790	1364(f)	5735	1367.1(g)
4800	1363(a)	5740	1367; 1367.1(m)
4805	1363(c)	5800	1365.7
4820	1363(h)	5805	1365.9
4900	1363.05(a)	5810	1365(f)(2)
4910	1363.05(j)	5850(a)	1363(f)
4920	1363.05(f)	5855	1363(g)
4923	1363.05(g)	5865	1363(i)
4925(a)	1363.05(b)	5900	1363.810
4925(b)	1363.05(h)	5905	1363.820
4930	1363.05(i)	5910	1363.830
4935(a)	1363.05(b)	5915	1363.840
4935(b)	1363.05(b)	5920	1363.850
4935(c)	1363.05(b)	5925	1369.510
4935(d)	§1367.4(c)(2)	5930	1369.520
4935(e)	1363.05(c)	5935	1369.530
4950(a)	1363.05(d)		
4950(b)	1363.05(e)		



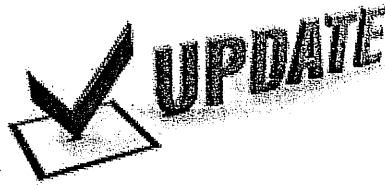
5000(a)	1363.09(a)-(b)		5940	1369.540
5000(b)	1363(d)		5945	1369.550
5100(a)	1363.05(h)		5950	1369.560
5100(c)	1363.03(b)		5955	1369.570
5100(d)	1363.03(l)		5960	1369.580
5100(e)	1363.03(m)		5965	1369.590
5105(a)	1363.03(n)		5975	1354
5105(b)	1363.03(a)		5980	1368.3
5110	1363.03(j)		5985	1368.4
5115(a)	1363.03(c)		6000	1375
		6100	1375.1	
		6150	1368.5	



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UPDATE REQUIRED?**

QUESTION: Will my homeowners association have to update its documents to conform to the 2014 Civil Code changes including references to past Civil Code numbers?



ANSWER: No, you don't need to update your documents. You may need to update them for other reasons--because they are badly written, contain Declarant language, are ambiguous about maintenance duties, etc. but changing Civil Code numbers is not one of them.

Renumbering. The most noticeable change in the Davis-Stirling Act is the renumbering. The current Act is found in sections 1350 to 1378 of the Civil Code. The rewrite moves everything to sections 4000 to 6150 of the Civil Code. For example, Civil Code §1350 becomes §4000 starting January 1, 2014. If your CC&Rs and bylaws refer to the old numbering system, there is no legal requirement that you switch to the new numbering system. Since the existing Civil Code numbers roll over to new numbers on January 1, references in your documents automatically flow to the new Code. In other words, your documents don't become obsolete and unenforceable on January 1 because they refer to old Civil Code numbers.

Conversion Chart. All you need is a conversion chart to find the new numbers. Charts can be found on many law firm websites, including my own (see **Conversion Chart**). You can download and distribute our chart to the membership and include it in escrows for new owners. That should allay any angst about the new numbering system.

Substantive Changes. Also, the handful of substantive changes in the Rewrite are not sufficient to trigger a restatement of your association's governing documents.

RECOMMENDATION: If your governing documents need amending for other reasons then it makes sense to restate them and convert the Civil Code numbers. Talk to your association's attorney about the merits of restating your documents. If you don't have legal counsel, **contact us** for a proposal.

ELECTRIC VEHICLE



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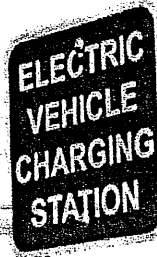


Contact us about
amending your CC&Rs
and Bylaws.



CHARGING STATION

QUESTION: I want to install an electric charger for my car. What does the Civil Code consider an "unreasonable" expense? Since my car is over 100 feet from the meter, it will cost me \$4,000 to run electricity & install the charger. Isn't that an unreasonable amount?



ANSWER: The reasonableness of the expense is a matter between you and your electrician. By statute, the association must allow you to install a charging station but the cost is yours not theirs. Following is the relevant portion of the EV statute dealing with reasonableness:

(a) ...any provision of a governing document... that either effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in an owner's designated parking space... is void and unenforceable. (b)(2) For purposes of this section, "reasonable restrictions" are restrictions that do not significantly increase the cost of the station... (Civ. Code §1353.9.)

The association is not imposing any unreasonable restriction on you nor did it move the meter so as to drive up your costs. You're simply the victim of sticker shock and you cannot expect your neighbors (the association) to subsidize your costs.

RECOMMENDATION: Before buying that shiny new electric vehicle, owners should investigate the cost of installing the equipment to keep it running.

EXPERIENCED HOA LAWYERS NEEDED



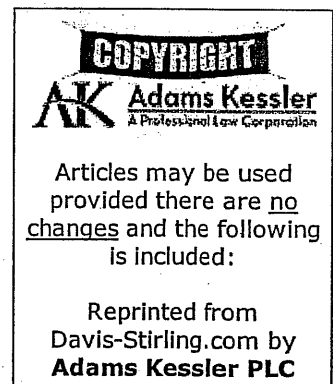
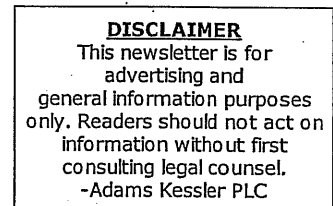
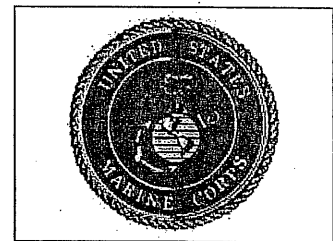
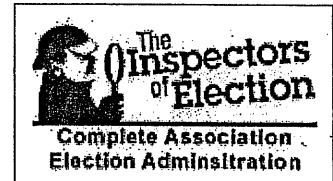
Adams Kessler PLC is continuing to grow and needs two more attorneys on our team.

We are expanding our Orange County office and need an attorney with 5-10 years of experience in community association law. The second attorney will work out of our Los Angeles office and also needs to be an experienced HOA attorney.

If you are interested, please contact me by **email** or at 310-945-0280.
-Adrian Adams

FEEDBACK

Following are comments about the HOA that was sued for not obtaining FHA certification.



FHA Certification #1. A civil rights action??? Really? -Stephany Y.

FHA Certification #2. Another argument for FHA certification is for owners to qualify for the best reverse mortgage loans, which are only obtained through the FHA program, and certification of the condo complex is required. A lot of older condo owners rely upon reverse mortgages to remain in their homes. -Jay M.

FHA Certification #3. The costs associated with certification and the amount of paperwork is not insignificant. The benefit of being FHA certified serves the needs of both buyer and seller. Our board has chosen to assist homeowners through the process if they pay the costs. -Robert S.

FHA Certification #4. FHA certification is rather costly. Also the FHA rules are constantly changing and would cause BODs to be on top of this almost on a daily basis or they could be held responsible for any errors. As a board member, I would not want that responsibility and would refuse to place myself in that situation. Also my pay scale as a board member is too low to take on that responsibility. -Gloria F.

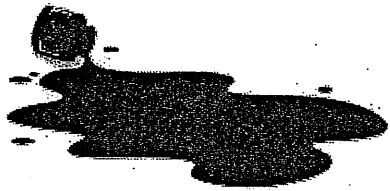
FHA Certification #5. Interesting response on the FHA. I had one of my properties certified a couple years ago but when I submitted the paperwork to have it re-certified, we were turned down. In the two-year interim they had amended the CC&Rs to include rental restrictions, now requiring a buyer to live in the unit at least 24 months before it can be rented. (Too many investors were coming in, rental numbers were going up and lenders were backing off on new loans and refinancing.) The other side of this is it's also not possible to get FHA certification in the first place if more than 50% of the units are rented. In other words, it's a perfect Catch-22--a property won't be certified if it has too many rentals or if it limits rentals. -Trudy M.

RESPONSE: Our tax dollars at work.

FHA Certification #6. One other downside to a lack of certification is a lack of a reverse mortgage for anyone qualified. This is becoming a larger issue with our aging population. -Len M.



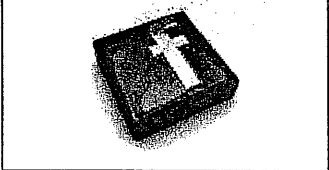
BIRTHDAY. On November 10, 1775, the Second Continental Congress passed a resolution establishing the Continental Marines, thus giving birth to the United States Marine Corps. Happy Birthday and Semper Fi fellow Marines!



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