

SOUTH COAST HOMEOWNERS ASSOCIATION

ANNUAL LEGISLATIVE FORUM

January 28, 2026



The statements set forth below are provided to assist participants in following the program. They should not be interpreted as absolute statements of law. The actual application of any statute or court decision is dependent upon the facts and circumstances presented in each case.

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NEW LEGISLATION

I. DISCLOSURE AND REPORTING REQUIREMENTS **FOR EXTERIOR ELEVATED ELEMENTS**

SB 410 / Civil Code Sections 4525 (a) (11); 4528; 5200 (a) (15) & 5551 (e) (5)

- A. Condominium Associations must provide a copy of their Exterior Elevated Element Report to any Owner requesting a copy.
- B. Condominium Owners must provide a copy of the Exterior Elevated Element Report to all prospective purchasers of their Unit.
- C. The Exterior Elevated Element Report must contain the following information on the first page:
 - (1) Date of inspection;
 - (2) Total number of Units in the Complex;
 - (3) Total number of Units with Exterior Elevated Elements;
 - (4) Total number of Exterior Elevated Elements;
 - (5) Total number of Exterior Elevated Elements posing an immediate safety threat and number of Units impacted; and
 - (6) The Inspector must certify that they have conducted a random and statistically significant sample of Exterior Elevated Elements in the Complex.

II. LIMITATION ON FINES

AB 130 / Civil Code Section 5850

- A. Fines for violating an Association's Governing Documents may not exceed \$100 per violation or the amount in the Association's Fine Schedule, whichever is less, **unless**:
 - (1) The violation may result in an adverse health or safety impact on the Common Area or another Association Member's property and;
 - (2) The Board makes written findings specifying the adverse health or safety impact at an open Board meeting.

- (3) A late charge may not be imposed on a monetary penalty.
- B. Additional issues to be considered:
 - (1) Ongoing violations; and
 - (2) Repeated violations.

III. FINE PROCEDURES

AB 130 / Civil Code Sections 5855

- A. The following procedures must be followed when imposing fines for violations of the Governing Documents:
 - (1) Written notice must be sent to the Owner, at least 10 days in advance of the Board hearing on the fine, allowing the Owner an opportunity to be heard before imposing a fine or other discipline.
 - (2) If the Owner cures the violation prior to the hearing, no fine or other disciplinary action may be imposed.
 - (3) If the Board and Owner agree at the hearing, a written Resolution shall be prepared and signed by the Board and Owner.
 - (4) If the Board and Owner are not in agreement at the hearing, the Owner may request Internal Dispute Resolution.
 - (5) If the Board imposes a fine, notice must be given to the Owner within 14 days.
- B. Related Issues:
 - (1) A Reimbursement Assessment for damage to the Common Area is not subject to the \$100 limitation, nor the right to cure.
 - (2) A noticed hearing is required for a Reimbursement Assessment.

IV. INSURANCE CANNOT BE REQUIRED FOR ELECTRIC VEHICLE CHARGING STATIONS

SB 770 / Civil Code Section 4745

- A. Owners electing to install Electrical Charging Stations must maintain liability insurance. A certificate of insurance must be provided to the Association within 14 day of Associations granting approval to install.

- B. The requirement that an Owner add the Association as an additional insured on the Owner's policy has been omitted.

V. CORPORATE TRANSPARENCY ACT

House of Representative Bill # 6395 / 31 US Code § 5336

- A. The purpose of the Corporate Transparency Act was to create a federal database providing law enforcement with information allowing for the detection, prevention and punishment of terrorism, and money laundering through business entities ("Reporting Companies").
 - (1) HOA's fall within the scope of the Act.
 - (2) Information that was required to be Reported by Board Members included their legal name, date of birth, residential or business street address and verification number from their passport, drivers license or other government issued identification number.
- B. As of March 2025, entities formed in the United States (e.g., LLC's, LPs, Corporations, etc., which would include HOA's) are exempt.

COURT DECISIONS

VI. ISSUES THAT COMMONLY LEAD TO LAWSUITS INVOLVING ASSOCIATIONS

Comprehensive statistics on win/loss rates are not uniformly published. However, legal analyses and common claims give a clear picture of the most frequent HOA lawsuit claims that result in victories and losses for Owner Associations.

- A. Maintenance, Repair & Rebuilding: 5 Lawsuits Reviewed. Associations Lost Every Case.

In most cases Associations are responsible for maintaining, repairing and replacing the Common Area and, where required by the CC&R's, the Units. Disagreements often arise over who is responsible for items in need of maintenance, repair and/or replacement.

- (1) Step #1; regardless of fault prevent further damage.

- (2) Step #2; review CC&R's. Determine which section applies: (a) The Section governing responsibility for maintenance & repair, or (b) The Section governing responsibility for repairing & rebuilding following damage or destruction resulting from fire or other casualty.
- (3) Do not confuse fault with responsibility to maintain, repair or rebuild.
- (4) Unless otherwise stated in the CC&R's, the Association is responsible for maintenance, repair and rebuilding the Common Area regardless of fault.
- (5) Unless otherwise stated in the CC&R's, Owners are responsible for maintenance, repair and rebuilding their Unit regardless of fault. **Note:** In the case of damage or destruction resulting from fire or other casualty, CC&R's often shift responsible for repair and rebuilding Units to the Association.

Example #1: Due to age an Owner's hardwood floors are warping, separating and need replacement. Unless otherwise stated in the CC&R's, Owners are responsible for the maintenance and repair of the hardwood floor.

Example #2: An Owner's 10 year old washing machine water supply line bursts causing water damage to Common Area and Unit (e.g., hardwood floors in the Unit). The Association has the responsibility to repair and rebuild the damaged Common Area and, **if required by the CC&R's**, the Unit interior (e.g., hardwood floors in the Unit). Because the damage was caused by a causality, the Association must repair and rebuild even if the event causing the damage was caused by the Owner's negligence in failing to maintain their water supply line.

- (6) Unless otherwise stated in the CC&R's, fault does not shift responsibility for maintenance, repair and rebuilding. Fault is only considered when determining whether the party responsible to repair and/or rebuild may seek reimbursement from the party at fault.
- (7) If an Owner, has responsibility to repair their Unit or replace their damaged personal property, alleges the need to do so was caused by the Association's negligence, and demands compensation, the Board should consider submitting a Claim to its Liability and D&O insurance policies.

B. Discrimination: 5 Lawsuits Reviewed. Association Lost 4 Cases and Won 1 & 1/2.

Discrimination lawsuits are becoming very common. HOA's are not exempt.

- (1) In HOA's discrimination suits frequently arise because of an Association's alleged failure to provide a "*Reasonable Accommodation*" to an occupant claiming a disability.
- (2) There are 5 elements a Plaintiff must show to prove that an Association failed to provide a Reasonable Accommodation under the California Fair Employment & Housing Act and/or the Federal Fair Housing Act:
 - a. Proof that the Plaintiff suffers from a "Disability" as defined by law.
 - b. The Association know of or reasonably should have known of the Disability;
 - c. The requested accommodation is necessary to ensure the Plaintiff has an equal opportunity to use and enjoy their Unit;
 - d. The accommodation is reasonable and;
 - e. The Association refused to allow the accommodation.
- (3) Modification that must be allowed are those that facilitate the use and access to a Unit for a disabled person including modifications of the route from the public way to the Unit door (Civil Code Section 4760 (a) (2)).

Wishing you all the best in the New Year,

HOLLISTER & BRACE, APC

By: /s/ James H. Smith