

Maintenance responsibilities

Condominium and planned development project

Each year, the Department of Real Estate (DRE) receives a number of inquiries regarding who is responsible for maintenance of common areas within a condominium or planned development. Sometimes, answering this question is not as easy as it seems and may involve the review of the maintenance provisions in the governing documents for the project.

The responsibilities for maintenance of areas owned by individual purchasers and those owned in common are normally set forth in the recorded restrictions and do not necessarily correlate with fee ownership. Each project is different and that difference is reflected in the recorded covenants, conditions, and restrictions (CC&Rs) for the project. Maintenance responsibilities may be assigned to be consistent with the architectural characteristics of the project. For example, certain common areas of a condominium project may be the responsibility of an individual unit owner if there are no shared party walls (e.g., exterior painting of freestanding units). Also, the roofs of units with discernible roof lines could be the responsibility of the individual owners. In these cases, the restrictions normally provide that an affected unit owner is granted an easement over the common area and owners have maintenance responsibility for these common areas.

It is extremely important that the budget be constructed to support the homeowner association's maintenance responsibilities. DRE carefully reviews each item to be included in the initial budget for a new project, because due to its newness, often the initial budget is only a best assessment projection of op-

erating costs. It is based on rates and formulas of the anticipated costs of operating and maintaining the common areas. Adjustments are sometimes needed due to actual experience.

After DRE approval of the budget, the assessment amount is disclosed in the final subdivision public report and a copy of the budget is provided to all buyers. A portion of the assessment will be allocated to a reserve fund for long-term repair and replacement of major common area components.

Thus, if you have questions regarding maintenance responsibilities in a condominium or planned development project, you should first review the governing documents and budget for the project. If those documents do not resolve your concerns, an inquiry should be made to the homeowners' association. 🏠



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Continuing education

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Because laws and regulations do change, it is advised that those licensees who are exempt from the continuing education requirement keep up to date by reading the *Real Estate Bulletin* and voluntarily taking continuing education courses as needed. 🏠