



## **AB 2035 – Common Interest Developments**

### **Summary**

AB 2035 would amend the California Civil Code to lower, in certain limited circumstances, the percentage of owners who must vote affirmatively to amend Covenants, Conditions and Restrictions (CC&R's) in a common interest development.

### **Existing Law**

Under existing law (Civil Code Section 4275), if a homeowners association (HOA) is unable to achieve the quorum of homeowners required by their CC&Rs in an election to amend the CC&Rs, the HOA is permitted to petition the superior court of the county in which the common interest development is based for an order that reduces the percentage of affirmative votes necessary for an amendment to their CC&Rs to 50% of all homeowners.

### **Issue**

For a multitude of reasons, many HOAs struggle to reach quorum requirements in elections to amend their CC&Rs. Though the court order described above is intended as a remedy, in a very large association with a high percentage of nonresident owners with little interest in governance, even this lowered quorum requirement has proved unattainable.

One such common interest development is Third Mutual of Laguna Hills, the largest HOA within Laguna Woods Village, which has been unable to amend its CC&Rs since 1988. The association has spent hundreds of hours and well over \$100,000 trying to turn out the vote in two separate elections. But with over 6,000 units, many with absentee owners uninterested in governance issues, the HOA has only managed to get approximately 40% of their membership to vote. It has thus proven impossible to reach even the 50% affirmative

vote of all homeowners that is required to petition for judicial approval.

CC&Rs that have not been updated in 38 years, even to incorporate the myriad statutory changes during that period, are a source of confusion and not reflective of modern governance practices or even the advances of the modern age.

### **Solution**

To address this issue, AB 2035 will amend Civil Code Section 4275 to allow an HOA to petition the court for approval if 37% of all homeowners vote in favor of amendments to the CC&Rs, if the common interest development meets the following criteria:

1. It is a senior citizen housing development.
2. It has more than 6,000 separate interests.
3. More than 25 percent of the separate interests are occupied by non-owner tenants.
4. The common interest development's declaration has not been amended in at least 35 years.

AB 2035 is a common-sense solution to allow very large, senior citizen common interest developments with a significant percentage of nonresident owners to amend their declarations when they cannot reach the quorum requirements established by their outdated CC&Rs.

### **For More Information**

Contact: Bennett Simpson

Phone: 916-319-2072

Email: [Bennett.Simpson@Asm.CA.Gov](mailto:Bennett.Simpson@Asm.CA.Gov)