

[<Back](#) [Print](#)

You are receiving this email from Gillespie Home Inspection because you purchased a product/service or subscribed on our website. To ensure that you continue to receive emails from us, add [kim@gillespiehomeinspection.com](mailto:kim@gillespiehomeinspection.com) to your address book today. If you haven't done so already, click to [confirm](#) your interest in receiving email campaigns from us.

You may [unsubscribe](#) if you no longer wish to receive our emails.



December 2006 **Gillespie Home Inspection Newsletter**

Dear Kim,

This month we're introducing our new service - HOA Document Inspection. Your feedback on our newsletter is always welcome. And please feel free to reuse any part of this text in marketing your business.

## HOA Disclosures and the Real Estate Agent



Condominiums, community apartment projects, stock cooperatives, and planned developments are the various types of common interest developments (CID). They are unique in that when a buyer purchases a unit in one of these developments, the buyer typically is also purchasing a pro-rata share of the common area. Dealing with disclosures in the purchase and sale of an interest in a CID is like walking through a minefield.

Over a decade ago, there was a great hue and cry from buyers of homes in community associations who were routinely being caught by surprise by undisclosed defects in the common areas and under-funded reserve accounts, and, of course, the resulting special assessments. This also caused a hue and cry from agents who were being dragged into the resulting lawsuits.

The result was the passage of California Civil Code sections 1350 to

1376, otherwise known as the Davis-Stirling Act. This law governs the rules and regulations for home owner's associations (HOA), the rights and responsibilities of the boards of directors and owners, as well as the types of information which must be maintained and published to the owners of properties in the CID.

In addition to the required disclosures listed in the Sales Disclosure Chart for Realtors® provided by C.A.R., the following documents, if applicable, should also be delivered to the buyer:

- A summary of the association's property, general liability, and earthquake and flood insurance policies in effect - Including any changes in policies or deductibles. In addition, a statutory statement in Section 1365(e)(4) is required to be provided (Cal. Civ. Code §§ 1368(a)(3), 1365(e))
- A statement describing any restrictions in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age, including a statement that the restriction is only enforceable to the extent permitted by California Civil Code Section 51.3 (senior citizen housing) (Cal. Civ. Code § 1368(a)(2))
- A statement from a representative of the association regarding current regular and special assessments and fees levied upon the seller's interest including any unpaid assessments (Cal. Civ. Code § 1368(a)(4)).
- A summary of any notice previously sent to the owner pursuant to California Civil Code Section 1363 (h), alleging violations of the governing documents that remain unresolved at the time of request (Cal. Civ. Code § 1368(a)(5))
- A copy of the preliminary list of defects provided to each member of the association pursuant to California Civil Code Section 1375, unless the association and the builder subsequently enter into a settlement agreement or otherwise resolve the matter and the association complies with California Civil Code Section 1375.1. The preliminary list of defects shall also include a statement that a final determination as to whether the list of defects is accurate and complete has not been made (Cal. Civ. Code § 1368(a)(6))
- A copy of the latest information provided for in California Civil Code Section 1375.1 (any settlement agreement involving construction defect litigation) (Cal. Civ. Code § 1368(a)(7))
- Any change in the association's current regular and special assessments and fees which have been approved by the board of directors, but have not yet become due and payable (Cal. Civ. Code § 1368(a) (8))

Each transaction is different. Each association keeps records differently. Unless you are familiar with the documents and the way these documents are compiled, you cannot be sure that you've provided your client with the appropriate information to make a decision to sell or buy. But the potential liability is worse.

According to C.A.R., if there are "material facts" that are undisclosed by the seller, the "seller or real estate agent involved in the transfer of real property or a mobilehome may be liable for failing to disclose material facts affective the value or desirability of the property."

Are you willing to take that chance with your clients? Let us help.

Gillespie Inspections provides an HOA document inspection. Call Kim for further information.

## The HOA Inspection Process

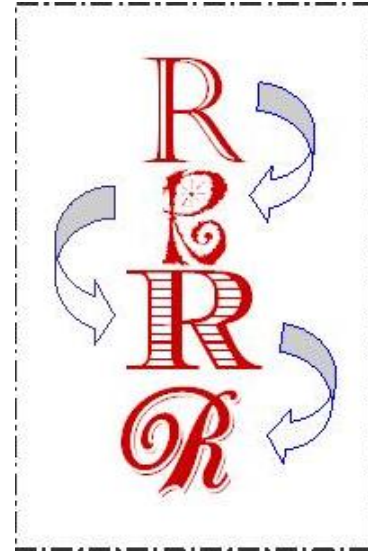
**Request** the documents properly. This is very important since HOA's have specific names and titles for the document they produce on behalf of their owners. Such as the word "budget" could mean a one page income and expense statement. You want a pro forma operating "budget" with full disclosures as required under Civil Code 1365.

**Receive** the documents, disburse to all parties in the transaction.

**Review** - Someone needs to review the documents when received to make sure of the following: 1) They are for the subject property and Homeowners Association. 2) They are for the current time period, and reflect time lines such as bBudget, annual CPA review, insurance renewal dates and most current minutes available. 3) Are they legible with no missing pages?

**Report** - Someone needs to be able to report on all of the above and provide a risk management package for the transaction. For the Sellers, provide verification of what is required and what is actually is being passed to the buyers to cover their obligation under the Law 1368. Buyers would be able to evaluate the financial health and administrative operations of the association in question to enable them to make a good business decision. An HOA deficit can be negotiated to prevent future litigation for non-disclosure.

For more information about HOA documents and the inspection/review process, please give us a call.



## Didja Know? Holiday Safety Tips

Property inspections are for disclosure, status and most of all *safety!* We are focused on the safety and security of your clients and wanted to share some safety tips for the holidays.

- Do not burn papers in the fireplace. A



flash fire may result as wrappings ignite suddenly and burn intensely.

- Remove all wrapping papers from tree and fireplace areas immediately after presents are opened.
- Make sure you buy a fresh tree - fresh needles are hard to pull from branches; the trunk of a fresh tree is sticky with resin.
- Some popular holiday plants are toxic. Do not ingest holly berries, cedar tree bark, mistletoe and poinsettias.
- Outdoor electrical decorations should be plugged into a ground-fault circuit interrupter (GFCI). You can buy portable units if needed.
- Use this time as a reminder to check the batteries in your smoke detector.
- And don't forget food safety!

Don't let the Grinch steal your Christmas!

## Just for Fun

The first person to respond with the correct answer to this trivia question will win a Barnes & Noble card. Send your answer to [kim@gillespiehomeinspection.com](mailto:kim@gillespiehomeinspection.com).

(The winner of last month's trivia was James Roberts at Coldwell Banker. He correctly guessed that a "snood" is the flesh-like appendage that dangles from a turkey's forehead.)

***In what year did Toys for Tots start making the holidays a little happier for children by organizing its first Christmas toy drive for needy youngsters?***

**[\(Donate to Toys for Tots here...\)](#)**

**We work your hours, call anytime...**

[kim@gillespiehomeinspection.com](mailto:kim@gillespiehomeinspection.com)

408.871.9909

<http://www.gillespiehomeinspection.com>

**[Join our mailing list!](#)**

**Save 15% -**

If your client is buying or selling a property which involves a Homeowner's Association give us a call to save 15% on your document review in the month of December. (But you have to mention

## Introductory HOA Inspection Special

our newsletter!)

No limits on quantity!

Offer Expires: 1/10/2007

[Forward email](#)

✉ **SafeUnsubscribe**®

This email was sent to kim@gillespiehomeinspection.com, by

[kim@gillespiehomeinspection.com](mailto:kim@gillespiehomeinspection.com)

[Update Profile/Email Address](#) | Instant removal with [SafeUnsubscribe](#)™ | [Privacy Policy](#).

Email Marketing by



Gillespie Home Inspection | 792 Marilyn Drive | Campbell | CA | 95008