

COUNCIL COMMITTEE MINUTES

Concurrent Special Committee Meetings of the Sacramento City Council, Redevelopment Agency of the City of Sacramento, Housing Authority of the City of Sacramento and the Parking Authority of the City of Sacramento.

COMMITTEE NAME: Law and Legislation

MEETING DATE: August 16, 1990

MEETING TIME: 3:00 p.m.

LOCATION: 915 I STREET, 2ND FLOOR, COUNCIL CHAMBER

I HEREBY CALL Special Meetings of the Sacramento City Council, Redevelopment Agency of the City of Sacramento, Housing Authority of the City of Sacramento, and Parking Authority of the City of Sacramento to be conducted concurrently with the Council committee meetings listed below, which are incorporated herein by reference. The Special Meetings are called to permit Members who are not on the listed committees to attend the meetings and participate in the discussions. In the event five (5) or more members of the City Council are present at a Committee meeting, only those items listed on the agenda can be acted on or discussed.

The meeting was called to order at 3:05 p.m. by Chair Lynn Robie.

PRESENT: Committeemembers Robie, Chinn, Serna and Pane.*

GUEST: Councilmember Kastanis.

*Committeemember Pane arrived at 3:35 p.m.

1. Legislative update from Ken Emanuels, the City's Legislative Advocate.

Recommendation of Staff: File.

MINUTES:

Ken Emanuels, the City's Legislative Advocate, discussed several pieces of legislation which are of interest to the City. He said that several pertinent flood bills have been approved, and that the bill relating to sale of tobacco products to minors was dropped due to opposition. He also informed the Committee that the mandatory water meters issue was dropped because of lack of votes in committee. He said there was no opposition to AB 3436, whereby CalTrans will help finance a study of freight consolidation. It was noted, also, that the bill prohibiting the sale of fortified wines failed passage in the Assembly, and that it probably won't be re-introduced because of lack of interest.

At this time AB 3689 (Hauser) was discussed. A copy of this bill is attached. This bill would permit installation of solar panels in condominium complexes. It was agreed to watch this bill in the future. Serna requested Ken Emanuels to communicate the Committee's support of AB 3736 regarding railroads and CalTrans. This bill is a miscellaneous bill containing ten different provisions.

COMMITTEE ACTION SHEET

2. ITEM CONTINUED FROM PREVIOUS PAGE.

for the Arts, particularly in the areas of Congressional funding and artistic freedom, as censorship should not be allowed. He also noted that President Bush supports reauthorization of the NEA without restrictive language, and that Sacramento artists and art institutions have received considerable funding from the NEA in the past.

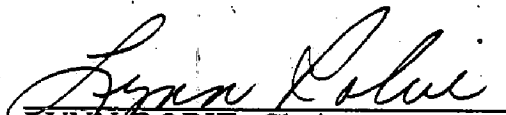
*Committeemember Pane arrived at 3:35 p.m.

There were several persons in the audience who spoke in support of this resolution, including Pat Davidson, Vice Chair of the Sacramento Metropolitan Arts Commission and Glynnis Wood-Alberts, Executive Director of Sierra Two Center for the Arts and Community. There was some discussion of censorship. Chinn moved to support the resolution, Serna seconded the motion, and it was unanimously supported and will be forwarded to full Council.

4. Oral update on State budget legislation.

Chair Robie stated that this item has already been discussed in Council.

The meeting was adjourned at 3:40 p.m.


LYNN ROBIE, Chair

ATTEST:


JUDY SANDERS, Secretary

AMENDED IN SENATE AUGUST 13, 1990

AMENDED IN SENATE JULY 27, 1990

AMENDED IN SENATE JUNE 20, 1990

AMENDED IN ASSEMBLY MAY 2, 1990

CALIFORNIA LEGISLATURE—1989-90 REGULAR SESSION

ASSEMBLY BILL

No. 3689

Introduced by Assembly Member Hauser

March 1, 1990

An act to amend Sections 714, 1354, and 1366 of the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 3689, as amended, Hauser. Homeowners' associations: assessments.

(1) Under existing law, covenants, conditions, or restrictions contained in any document affecting transfer or sale of any interest in real property are limited in the types of ~~limitations~~ *restrictions* that can be placed on the installation or use of solar energy systems.

This bill would modify the criteria for permissible restrictions in existing law, and state the intent of the Legislature in this regard. The bill would also request the California Energy Commission to convene specified meetings on the subject, and to make recommendations thereon to the Legislature on or before January 1, 1991.

(2) Existing law provides that covenants and restrictions in a common interest development declaration are enforceable as equitable servitudes, as specified.

This bill would provide that in any action to enforce such a declaration, the prevailing party shall be awarded reasonable attorney's fees and costs.

(3) Under existing law, a homeowners' association is required to levy regular and special assessments sufficient to perform its obligations, as specified.

This bill would provide that the association shall not impose annual increases of regular assessments, pursuant to a specified provision governing increases in assessments, unless the board of directors of the association has prepared and distributed a pro forma operating budget to the members, as specified, or has obtained the approval of more than 50% of the owners of the association.

(4) The bill above changes would become operative July 1, 1991. The bill would also set forth a declaration of legislative intent and would request meetings of interested parties to recommend standards respecting reasonableness of restrictions on solar energy systems, to be transmitted to the Legislature by July 1, 1991.

Vote: majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in
2 enacting this act to promote the economic installation
3 and efficient operation of solar energy systems in
4 common interest developments, consistent with
5 covenants, conditions, and restrictions that do not
6 significantly increase the cost of the energy system or
7 significantly decrease the efficiency of the energy system.

8 The Legislature hereby requests the California Energy
9 Commission to convene and advise that meetings of
10 interested parties be convened for the purpose of
11 drafting standards or guidelines to define the
12 "reasonableness" of these restrictions in clear terms, and
13 to make recommendations to the Legislature in this
14 regard on or before ~~January~~ July 1, 1991.

15 SEC. 2. Section 714 of the Civil Code is amended to
16 read:

17 714. Any covenant, restriction, or condition contained
18 in any deed, contract, security instrument, or other
19 instrument affecting the transfer or sale of, or any

1 interest in, real property which effectively prohibits or
2 restricts the installation or use of a solar energy system is
3 void and unenforceable.

4 This section shall not apply to provisions which impose
5 reasonable restrictions on solar energy systems.
6 However, it is the policy of the state to promote and
7 encourage the use of solar energy systems which to the
8 extent feasible provide maximum solar access, and to
9 remove obstacles thereto. Accordingly, reasonable
10 restrictions on a solar energy system are those restrictions
11 which do not significantly increase the cost of the system
12 or significantly decrease its efficiency or specified
13 performance, or which allow for an alternative system of
14 comparable cost, efficiency, and energy conservation
15 benefits.

16 For the purposes of this section, "solar energy system"
17 has the same meaning as defined in Section 801.5.

18 SEC. 3. Section 1354 of the Civil Code is amended to
19 read:

20 1354. The covenants and restrictions in the
21 declaration shall be enforceable equitable servitudes,
22 unless unreasonable, and shall inure to the benefit of and
23 bind all owners of separate interests in the development.

24 Unless the declaration states otherwise, these servitudes
25 may be enforced by any owner of a separate interest or
26 by the association, or by both. In any action to enforce the
27 declaration, the prevailing party shall be awarded
28 reasonable attorney's fees and costs.

29 SEC. 4. Section 1366 of the Civil Code is amended to
30 read:

31 1366. (a) Except as provided in this section, the
32 association shall levy regular and special assessments
33 sufficient to perform its obligations under the governing
34 documents and this title. However, annual increases in
35 regular assessments *for any fiscal year*, as authorized by
36 subdivision (b), shall not be imposed unless the board has
37 complied with subdivision (a) of Section 1365 *with*
38 *respect to that fiscal year*, or has obtained the approval of
39 owners, constituting a quorum, casting a majority of the
40 votes at a meeting or election of the association

1 conducted in accordance with Chapter 5 (commencing
2 with Section 7510) of Part 3 of Division 2 of Title 1 of the
3 Corporations Code and Section 7613 of the Corporations
4 Code. For the purposes of this section, "quorum" means
5 more than 50 percent of the owners of an association.

6 (b) Notwithstanding more restrictive limitations
7 placed on the board by the governing documents, the
8 board of directors may not impose a regular assessment
9 that is more than 20 percent greater than the regular
10 assessment for the association's preceding fiscal year or
11 impose special assessments which in the aggregate
12 exceed 5 percent of the budgeted gross expenses of the
13 association for that fiscal year without the approval of
14 owners, constituting a quorum, casting a majority of the
15 votes at a meeting or election of the association
16 conducted in accordance with Chapter 5 (commencing
17 with Section 7510) of Part 3 of Division 2 of Title 1 of the
18 Corporations Code and Section 7613 of the Corporations
19 Code. For the purposes of this section, quorum means
20 more than 50 percent of the owners of an association. This
21 section does not limit assessment increases necessary for
22 emergency situations. For purposes of this section, an
23 emergency situation is any one of the following:

24 (1) An extraordinary expense required by an order of
25 a court.

26 (2) An extraordinary expense necessary to repair or
27 maintain the common interest development or any part
28 of it for which the association is responsible where a
29 threat to personal safety on the property is discovered.

30 (3) An extraordinary expense necessary to repair or
31 maintain the common interest development or any part
32 of it for which the association is responsible that could not
33 have been reasonably foreseen by the board in preparing
34 and distributing the proforma operating budget under
35 Section 1365. However, prior to the imposition or
36 collection of an assessment under this subdivision, the
37 board shall pass a resolution containing written findings
38 as to the necessity of the extraordinary expense involved
39 and why the expense was not or could not have been
40 reasonably foreseen in the budgeting process, and the

1 resolution shall be distributed to the members with the
2 notice of assessment.

3 (c) Regular and special assessments levied pursuant to
4 the governing documents are delinquent 15 days after
5 they become due. If an assessment is delinquent the
6 association may recover all of the following:

7 (1) Reasonable costs incurred in collecting the
8 delinquent assessment, including reasonable attorney's
9 fees.

10 (2) A late charge not exceeding 10 percent of the
11 delinquent assessment or ten dollars (\$10), whichever is
12 greater, unless the declaration specifies a late charge in
13 a smaller amount, in which case any late charge imposed
14 shall not exceed the amount specified in the declaration.

15 (3) Interest on all sums imposed in accordance with
16 this section, including the delinquent assessment,
17 reasonable costs of collection, and late charges, at an
18 annual percentage rate not to exceed 12 percent interest,
19 commencing 30 days after the assessment becomes due.

20 (d) Associations are hereby exempted from
21 interest-rate limitations imposed by Article XV of the
22 California Constitution, subject to the limitations of this
23 section.

24 ~~SEC. 5. This act shall become operative on July 1,~~

25 ~~SEC. 5. Sections 2, 3, and 4 of this act shall not become~~
26 ~~operative until July 1, 1991.~~