

Section 851 - Nature of Developments

The term "real estate development" shall include developments:

1. Which consist or will consist of separately owned lots, parcels or areas with either or both of the following features:
 - a. One or more additional contiguous or noncontiguous lots, parcels or areas owned in common by the owners of the separately owned lots, parcels or areas.
 - b. Mutual, common or reciprocal interests in or restrictions upon, all or portions of such separately owned lots, parcels or areas, or both.
2. The estate in a separately or commonly owned lot, parcel or area may be an estate of inheritance, estate in fee, an estate for life, or an estate for years.

Either common ownership of the additional contiguous or noncontiguous lots, parcels or areas referred to in subparagraph a. of paragraph 1. above, or the enjoyment of the mutual, common or reciprocal interests in, or restrictions upon the separately owned lots, parcels or areas pursuant to subparagraph b. of paragraph 1. above, or both, may be through ownership of shares of stock or membership in an owners association or otherwise.

Section 852 - Owners Association

A. An "owners association" may be formed by the owner or owners of real estate development for the purpose of:

1. providing management, maintenance, preservation and control of commonly owned areas or any portion of or interest in them, and/or
2. enforcing all mutual, common or reciprocal interests in or restrictions upon all or portions of such separately owned lots, parcels, or areas, or both.

B. An owners association shall be formed by the execution of an instrument signed and acknowledged by all owners of the real property included. Such instrument shall set forth in detail the nature of the obligations of the members and shall be filed of record in the office of the county clerk of the county wherein the real property is located. The instrument shall include a description of said real property.

C. The owners association shall have the power to enforce any obligation in connection with membership in the owners association by means of a levy or assessment which may become a lien upon the separately or commonly owned lots, parcels or areas of defaulting owners or members, which said lien may be foreclosed in any manner provided by law for the foreclosure of mortgages or deeds of trust, with or without a power of sale. In an action brought to enforce any lien authorized pursuant to the provisions of this section, the prevailing party shall be entitled to recover reasonable attorney's fees to be fixed by the court, which shall be taxed as costs in the action. No lien may be placed or mortgage foreclosed unless the homeowner was informed in writing upon joining the owners association of the existence and content of the owners association restrictions and rules, and of the potential for financial liability to the individual owner by joining said owners association.

Section 853 - Taxes and Special Assessments

Each separately owned lot, parcel or area together with its proportionate interest in the common element, shall constitute a separate and distinct unit; for the purpose of assessment of taxes, special assessments, and other charges which may be lawfully assessed against owners of real property, and each holder of such shall be liable solely for the amount of taxes against his individual estate and shall not be affected by the consequences resulting from the tax delinquency of other unit holders.

Section 854 - Membership - Covenants and Restrictions

Membership of said owners association shall consist of recorded owners of separately owned lots in the real estate development. Membership is transferred upon legal transfer of title to the separately owned lots. The owners association may also enforce the covenant and restrictions of the real estate development when specified by the covenants and restrictions.

Section 855 - Application of Act

The powers granted the owners association under this act shall apply only to owners associations created subsequent to the effective date of this act.

Section 856 - Right of Owner of Property in Real Estate Development to Bring Action Against Other Owners

Any person owning property in a real estate development shall be entitled to bring action against any other person owning property in such development to enforce any of the restrictions or covenants of the real estate development which are specified by the covenants or restrictions. In any action to enforce any restriction or covenant pursuant to the provisions of this section, the prevailing party shall be entitled to recover reasonable attorney's fees to be fixed by the court, which shall be taxed as costs in the action.

Section 857 - Request for Copy or Certified Copy of All the Recorded Covenants and Restrictions of a Real Estate Development

A copy or a certified copy of all the recorded covenants and restrictions of a real estate development shall be provided by the title company upon the request of any buyer of property in the real estate development as a part of the closing of the real estate sale. The buyer may be charged no more than Ten Dollars (\$10.00) for the copy, and the copy shall be mailed no more than thirty (30) days from the date of the closing.

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