

Second Supplement to Memorandum 2010-29

Statutory Clarification and Simplification of CID Law: Comments on Preliminary Provisions

The Commission has received a letter from Kazuko K. Artus, commenting on the content of the First Supplement to Memorandum 2010-29. That letter is attached as an Exhibit.

The letter provides additional perspective on the discussion of proposed Sections 4035 and 4045.

Respectfully submitted,

Brian Hebert
Executive Secretary

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

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12 August 2010

Mr. Brian Hebert
Executive Secretary
California Law Revision Commission

Re: CID Law: First Supplement to Memorandum 2010-29

Mr. Hebert:

I am taking the liberty of assuming that you are still entertaining public comments on the proposals in the Tentative Recommendation because you are inviting the clarification of certain public comments (First Supplement to Memorandum 2010-29, p. 18).

Proposed § 4035 (Delivered to an association). I am happy that you recognize that personal delivery to an association with a receipt for delivery would resolve the potential issue of sloppy or dishonest practices. But I am not happy with the option given to associations in general in proposed § 4035(b)(4). An association which either maintains a business office or uses remunerated managerial or administrative personnel (regardless of whether an employee/employees or a managing agent meeting the definition of proposed § 4155) should be required to accept personal deliveries of documents in the business office or to such personnel and to issue written receipts.

I appreciate your concern that a receipt requirement may impose an excessive burden on small associations. I would not object to giving associations which have no business office and no paid managerial or administrative personnel an option to decline personal delivery. However, a requirement for an association to issue a receipt is not new. Existing § 1367.1(b) requires associations to issue receipts for members' payments (presumably of assessments and related fees and charges) on request. Proposed § 5655(b) continues this requirement, as it should. Therefore, I believe that a requirement to issue receipts for documents personally delivered is unlikely to impose any significant burden on any association.

Proposed § 4045 (General notice). I did not suggest placing subdivision (b) before subdivision (a) as you described in the last paragraph starting on p. 12. My suggestion was to open subdivision (a) with "Except as provided in subdivision (b)." That format is used in proposed § 5625(a) ("Except as provided in subdivision (b), . . .").

Proposed § 4045(a)(3). Present § 1363.05(f) concerning the notice of board meetings includes the following sentence:

Notice shall be given by posting the notice in a prominent place or places within the common area and by mail to any owner who had requested notification of board meetings by mail, at the address requested by the owner.

Underline added.

Since proposed § 4045(a)(3) would be incorporated into proposed § 4920 (Notice of board meeting) by reference (“Notice shall be given by general delivery (Section 4045).”), it should retain the words “a prominent place or places.”

Sincerely,

Kazuko K. Artus