

## First Supplement to Memorandum 2011-35

**Common Interest Development Law:  
Commercial and Industrial Subdivisions  
(Draft Tentative Recommendation)**

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Memorandum 2011-35 presents a draft tentative recommendation on *Nonresidential Subdivisions*. The proposed law set out in that draft would provide, among other things, that “residential use” of subdivision property would not include the short-term occupation of a vehicle:

(b) For the purposes of subdivision (a), the following uses are not considered to be residential uses and the fact that one or more of these uses is permitted within a common interest development does not make the common interest development a “residential common interest development”:

...  
(3) The short-term occupation of a boat, trailer, or motor vehicle that is located on but not permanently affixed to a lot, parcel, or separate interest. For the purposes of this paragraph “short-term occupation” means occupation for no more than 60 days out of each calendar year.

See proposed Bus. & Prof. Code § 11002(b)(3).

Proposed Civil Code 1373.5(b)(3) is intended to be an identical provision, but it contains an inadvertent inconsistency. It refers to 30 days, rather than 60 days. **That error should be corrected if the draft tentative recommendation is approved for public distribution.**

In addition, attorney Duncan McPherson has informally suggested a minor clarifying revision along these lines:

(3) The short-term residential occupation of a boat, trailer, or motor vehicle that is located on but not permanently affixed to a lot, parcel, or separate interest. For the purposes of this paragraph “short-term residential occupation” means occupation for no more than 60 days out of each calendar year.

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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](http://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.

The point of the revision is to make clear that “occupation” does not refer to the mere presence of a boat, trailer, or other vehicle on subdivision property. Rather, “occupation” refers to the use of the vehicle as a residence. **Should such a change be made?**

Respectfully submitted,

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Executive Director