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APPROVED MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
July 9, 2020

A meeting of the California Law Revision Commission was held on July 9, 2020. Consistent with Executive Orders N-25-20 and N-29-20, the meeting was held as an online video webinar.

Only those members of the public who identified themselves for the purpose of inclusion in the Minutes are listed as attendees.

Commission:

Present: Victor King, Chairperson
Crystal Miller-O'Brien, Vice-Chairperson
David A. Carrillo
Ana Cubas
Jane McAllister
Richard Rubin
Richard Simpson

Absent: Diane Boyer-Vine, Legislative Counsel
Assembly Member Ed Chau
Senator Richard D. Roth

Staff: Brian Hebert, Executive Director
Barbara Gaal, Chief Deputy Counsel
Kristin Burford, Staff Counsel

Other Persons:

Carrie Barnecut, Nugent Square
Chris Conley, American Civil Liberties Union of Northern California
Dan Hazel, Circle R Ranch
Marjorie Murray, Center for California Homeowner Association Law
Elaine Roberts Musser
Andrea O'Toole
Aniko Sherry, International Consultant
David Zeponi, Executive Council of Homeowners

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APPROVAL OF ACTIONS TAKEN

Unless otherwise indicated, the Commission decisions noted in these Minutes were approved by all members present at the meeting. If a member who was present at the meeting voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted below.

MINUTES

The Commission considered Memorandum 2020-22, presenting draft Minutes for the May 21, 2020, meeting.

The Commission approved the Minutes without change.

(Commissioner McAllister was not present when this decision was made.)

ADMINISTRATIVE MATTERS

Report of Executive Director

The Executive Director briefed the Commission on two matters:

(1) The State Budget for 2020-21.

(2) Staff investigation of the possibility of using the *California Style Manual* when preparing Commission materials.

Commissioner Suggestions

No suggestions were made.

1 **Meeting Schedule**

2 The Commission considered Memorandum 2020-23, presenting a proposed
3 meeting schedule for 2020.

4 The Commission approved the proposed schedule, with the understanding
5 that it will be revisited if circumstances change so as to permit in-person meetings.

6 *(Commissioner McAllister was not present when this decision was made.)*

7 **Closed Session**

8 The Commission met in closed session to discuss an employment matter,
9 pursuant to Government Code Section 11126(a).

10 The session was purely informational. No Commission action was required or
11 taken.

12 **2020 LEGISLATIVE PROGRAM**

13 The Commission considered Memorandum 2020-24, discussing the
14 Commission's 2020 Legislative Program.

15 This was a purely informational memorandum. No Commission action was
16 required or taken.

17 **STUDY G-300 — STATE AND LOCAL AGENCY ACCESS TO CUSTOMER INFORMATION**
18 **FROM COMMUNICATION SERVICE PROVIDERS**

19 The Commission considered Memorandum 2020-31, discussing government
20 access to customer information from communication service providers.

21 **Service Provider Liability**

22 For the purposes of preparing a tentative recommendation, the Commission
23 approved a revision of Penal Code Section 1546.4(d), along the following lines:

24 1546.4. ...

25 ~~(d)(1) A California or foreign corporation service provider, and~~
26 ~~its officers, employees, and agents, are not subject to any cause of~~
27 ~~action for providing records, information, facilities, or assistance in~~
28 ~~accordance with the terms of a warrant, court order, statutory~~
29 ~~authorization, emergency certification, or wiretap order issued~~
30 ~~pursuant to this chapter.~~

31 (2) Nothing in this subdivision affects any liability of a service
32 provider for an act that is not compelled by the terms of a warrant,
33 court order, statutory authorization, emergency certification, or
34 wiretap order issued pursuant to this chapter.

1 For the purposes of preparing a tentative recommendation, the Commission
2 approved the inclusion of a provision along the following lines (with brackets
3 indicating language that would be contingent on the placement of the provision):

4 **§ [____]. Restriction on transferred property**

5 [____]. (a) A separate interest in a stock cooperative that is
6 transferred pursuant to [this part] remains subject to any limitation
7 on the transferor's interest that was enforceable against the separate
8 interest at the time of the transferor's death, including, but not
9 limited to, a restriction on occupancy, an option to purchase the
10 membership on the transferor's death, a limitation on the transfer
11 value in a limited equity housing cooperative, a lien, an
12 encumbrance, an easement, or a lease. The holder of those rights may
13 enforce them against the separate interest notwithstanding its
14 transfer pursuant to [this part].

15 (b) Except as provided in subdivision (c), property may be
16 transferred pursuant to [this part] even if the beneficiary is not
17 eligible, under the governing documents of the stock cooperative, to
18 occupy the transferred property.

19 (c) If a separate interest is registered in beneficiary form pursuant
20 to [this part] and the stock cooperative exercises an option to
21 purchase the separate interest on the owner's death, the result is as
22 follows:

23 (1) The separate interest is transferred to the stock cooperative
24 rather than the beneficiary.

25 (2) The purchase price is paid to the beneficiary. Unless the law
26 or the governing documents of the stock cooperative provide
27 otherwise, the purchase price is the fair market value of the separate
28 interest, less the amount of any liens or encumbrances on the
29 property at the time of the owner's death and any amount that the
30 decedent owed the stock cooperative.

31 **Comment.** Subdivision (a) of Section [____] provides that a
32 separate interest that is transferred pursuant to [this part] remains
33 subject to any interests or limitations that were enforceable against it
34 at the time of the transferor's death. For a comparable provision, see
35 Section 5652(b) (revocable transfer on death deed).

36 Subdivision (b) provides that a separate interest may be
37 transferred to a beneficiary who is not eligible to occupy the separate
38 interest (e.g., the beneficiary is too young to reside in an age-
39 restricted community). Such ineligibility does not affect the
40 beneficiary's ability to transfer the property to another person.

41 Subdivision (c) addresses the effect of registration in beneficiary
42 form when a stock cooperative exercises an option to purchase the
43 registered property on the owner's death. Paragraph (2) of that
44 subdivision makes clear that the price paid to purchase a separate
45 interest may be limited by law or the governing documents of the
46 stock cooperative. For example, in a limited equity housing

1 cooperative, the amount paid will be based on a specified transfer
2 value, rather than fair market value. See Civ. Code § 817.

3 **STUDY X-100 — EMERGENCY-RELATED REFORMS**

4 The Commission considered Memorandum 2020-25 (expansion of Commission
5 study authority), Memorandum 2020-26 (pending sunset dates) and
6 Memorandum 2020-27 and its First, Second, and Third Supplements
7 (teleconference meetings in common interest developments). The Commission's
8 decisions on those topics are set out below.

9 **Commission Study Authority**

10 The Commission decided that each Commissioner may provide the staff with
11 a list of emergency-related topics that should perhaps be authorized for
12 Commission study. The lists may include topics drawn from pages 7 and 8 of
13 Memorandum 2020-25, but are not limited to those topics. The staff will present
14 all of the Commissioner suggestions in a memorandum that will be considered at
15 the August 13, 2020 meeting. The Commission will then decide whether to request
16 legislative authorization to study any of those topics.

17 **Pending Sunset Dates**

18 The Commission approved the draft attached to Memorandum 2020-26 as a
19 final report, subject to the following decisions:

- 20 • The staff will make changes to the draft to reflect recently enacted
21 budget legislation.
22 • The Chair will review those changes.

23 **Teleconference Meetings in Common Interest Developments**

24 The Commission decided to develop a proposal that would make it easier for
25 common interest developments to conduct meetings by teleconference during an
26 emergency. The proposal would also include rules to preserve members' existing
27 rights to observe and participate in the meeting. In its work on this topic, the
28 Commission will consider the specific proposals that have been made to date,
29 which are discussed in Memorandum 2020-27 and its First, Second, and Third
30 Supplements.