

Protect your HOA with Smart Policies: Solar Panels on Condos and Peaceful Assembly

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Civil Code Section 4515 (Senate Bill 407)

Owners' and Residents' use of Common Areas

(a) Ensure that members and residents can peacefully assemble and freely communicate with one another and with others with respect to common interest development living or for social, political, or educational purposes.

Civil Code Section 4515 (SB 407)

(b) The governing documents, including Bylaws and operating rules, shall not prohibit a member or resident from:

(1) Peacefully assembling or meeting with members, residents, and their invitees or guests during reasonable hours and in a reasonable manner for purposes relating to:

common interest development living

association elections

legislation

election to public office

or the initiative, referendum, or recall processes.

Civil Code Section 4515 (SB 407)

The governing documents shall not prohibit a member or resident from:

(2) Inviting public officials, candidates for public office, or representatives of homeowner organizations to meet with members, residents, and their invitees or guests and speak on matters of public interest.

Civil Code Section 4515 (SB 407)

The governing documents shall not prohibit a member or resident from:

(3) Using the common area, including the community or recreation hall or clubhouse, or, with the consent of the member, the area of a separate interest, for an assembly or meeting described in paragraph (1) or (2) when that facility or separate interest is not otherwise in use.

Civil Code Section 4515 (SB 407)

The governing documents shall not prohibit a member or resident from:

(4) Canvassing and petitioning the members, the association board, and residents for the activities described in paragraphs (1) and (2) at reasonable hours and in a reasonable manner.

Civil Code Section 4515 (SB 407)

The governing documents shall not prohibit a member or resident from:

(5) Distributing or circulating, without prior permission, information about common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall processes, or other issues of concern to members and residents at reasonable hours and in a reasonable manner.

Civil Code Section 4515 (SB 407)

(c) A member or resident of a common interest development shall not be required to pay a fee, make a deposit, obtain liability insurance, or pay the premium or deductible on the association's insurance policy, in order to use a common area for the activities described.

Civil Code Section 4515 (SB 407)

(d) A member or resident who is prevented by the association from engaging in any of the activities described may bring a civil or small claims court action to enjoin the enforcement of a governing document (including an operating rule) that violates this section.

The court may assess a civil penalty of not more than five hundred dollars (\$500) for each violation.

Civil Code Section 4515 (SB 407)

Potential Rules

1. Prohibit inviting the general public.
2. Guest list is required.
3. Reasonable time limits. E.g. 9 a.m. to 9 p.m.
4. Reasonable sound volume limits.
5. Reasonable limits on the number of attendees.
6. Owners/residents are liable for damaged facilities.
7. Security service must be retained.
8. Parking Rule Compliance
9. Cleaning of Common Area

AB 634

Solar Energy Systems

Civil Code Section 714.1

Associations must allow installation of solar energy systems on:

1. The roof of the building in which an owner resides, or
2. A garage or carport adjacent to the building that has been assigned to an owner.

AB 634

Solar Energy Systems

Civil Code Section 4600

Installation of solar energy systems on a common roof is exempted from the requirement to obtain approval of 67% of the owners to grant exclusive use of the common area to an individual owner.

AB 634

Solar Energy Systems

Civil Code Section 4746

Associations shall require the owner who is installing the solar energy system to:

1. Notify the other owners that share the roof.
2. Maintain liability insurance on the roof and provide evidence of insurance.

AB 634

Solar Energy Systems

Civil Code Section 4746

Associations can adopt governing documents that require owners to submit a solar site survey showing:

1. Placement of the system prepared by a licensed contractor or the contractor's registered salesperson knowledgeable in the installation of solar energy systems to determine usable solar roof area.
2. A determination of an equitable allocation of the usable solar roof area among all owners sharing the same roof, garage, or carport.

AB 634

Solar Energy Systems

Civil Code Section 4746

Associations can adopt governing documents that require owners and subsequent owners to be responsible for:

1. Costs for damage from the installation, maintenance, repair, removal, or replacement of the solar energy system.
2. Costs for the maintenance, repair, and replacement of the system until it has been removed and for the restoration of the property after removal.
3. Disclosing to prospective buyers the existence of the system and the related responsibilities of the owner.

AB 634

Civil Code Sections 714.1, 4600, & 4746

Potential Rules

1. Limit placement and visibility
2. Require notice to homeowners
3. Require homeowner liability insurance
4. Require solar site survey to determine (a) usable solar roof area; (b) equitable allocation of solar roof area.
5. Require applications
6. Require maintenance, repair, and replacement of Solar Energy Systems
7. Require disclosure to prospective purchasers
8. Require execution and recordation of indemnification agreement





A T T O R N E Y S

Thank you for attending!