

Annual Request for Owners' Addresses and Owners' Preferred Methods of Delivery

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Added to the Davis-Stirling Common Interest Development Act ("DSA") by the California legislature in 2016 and further amended in 2021 and 2022, [Civil Code section 4041](#) requires a common interest development association ("association") to annually solicit the following information from owners: (1) the owner's preferred method of delivery for receiving notices from the association, which includes the option of receiving notices at a mailing address and/or an email address; (2) an alternative or secondary method of delivery for receiving notices from the association, which includes the option of receiving notices at a mailing address and/or an email address; (3) the name, mailing address, and (if available) email address of the owner's legal representative, if any, including any person with power of attorney or other person who can be contacted in the event of the owner's extended absence from his/her separate interest; and (4) whether the owner's separate interest is occupied by the owner, rented, developed but vacant, or undeveloped. ([Civil Code § 4041](#)(b).) [Civil Code section 4041](#) also requires owners to provide written notice of this information to their association annually. ([Civil Code § 4041](#)(a)(1)-(4).)

The annual solicitation notice sent by an association must include a statement that owners are not required to provide the association with an email address and a simple method for how an owner can notify the association in writing if they would like to change their preferred delivery method for receiving notices from the Association. Associations are required to enter the information received from owners in the association's books and records at least thirty (30) days prior to the association making its annual budget report and policy statement disclosure as required by [Civil Code section 5300](#). ([Civil Code § 4041](#)(b).) If an owner fails to provide their association with their preferred delivery method, the last mailing address provided in writing to the association by the owner, or, if none, the owner's property address within the association is the owner's default preferred method of delivery. ([Civil Code § 4041](#)(c).)

Beginning January 1, 2023, associations are required to deliver documents using an owner's preferred delivery method if such documents are required by law to be delivered via "individual" notice or "individual" delivery. ([Civil Code § 4040](#)(a)(1).) As noted above, if an association has no record of an owner's preferred delivery method and the document must be sent by "individual" delivery, an association must mail the document to the owner's address last shown in the association's records. ([Civil Code § 4040](#)(a)(2).)

Also beginning January 1, 2023, associations must deliver copies of its annual budget report and policy statement disclosure as required by [Civil Code section 5300](#) et seq., and copies of any and all assessment collection notices as required by [Civil Code section 5650](#) et seq.,

including copies of any notice of default or other nonjudicial foreclosure related notice contemplated in [Civil Code section 5710](#) to not only the owner's preferred mailing and/or email address, but also to the owner's secondary mailing and/or email address too, if one is identified by an owner. ([Civil Code § 4040\(b\)](#).)

It's important to note that [Civil Code § 4040\(c\)](#) provides that an unrecorded governing document provision (e.g., a bylaw or rule provision), which details a specific method of delivery, does not constitute an agreement by the owners to that delivery method. In other words, if a rule or bylaw provision provides for a specific method of individual delivery that is contrary to an owner's preferred delivery method, the association must use the owner's preferred delivery method.

Consequently, boards and managers can no longer assume that an owner's mailing address in the association is an owner's preferred method of delivery. Rather the associations must confirm whether an owner has specified a preferred method of delivery before sending that owner documents from the association if those documents must be sent via individual delivery.