



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 L Street, Suite 700 • Sacramento, California 95814-3393

Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

April 13, 2009

Hon. John Benoit
Member of the Senate
State Capitol, Room 4066
Sacramento, California 95814

Subject: Senate Bill 259 (Benoit), as introduced - Oppose

Dear Senator Benoit:

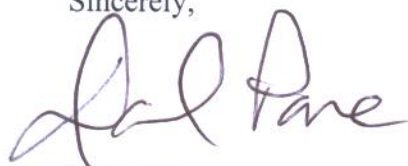
The Judicial Council opposes SB 259, prohibiting a court that voids results of an election of Common Interest Development (CID) board members from invalidating a decision of the board reached after the election, except where the court finds that the action of the board was contrary to law or the governing documents.

The Judicial Council opposes SB 259 because the bill is unnecessary and would inappropriately restrict the court's discretion in elections cases brought under the Davis-Stirling CID Act. The council is not aware of any situation in which a court improperly exercised its authority under the act invalidating decisions of a homeowner's association (HOA) after voiding the results of an election. In light of the lack of supporting evidence, this bill appears to be a solution in search of a problem. Moreover, the underlying law in this area is highly contentious, and the Judicial Council is concerned that adding unnecessary language to the act will invite further lawsuits seeking to interpret its meaning and parameters, rather than serving the author's stated purpose of clarifying the law in this area.

Finally, the Judicial Council believes that the proposed amendments unduly restrict the court's discretion in these cases. One could imagine a variety of situations involving improper actions taken by a majority of a HOA's board members, including the possibility of their having adopted flawed governing documents, and then taking a variety of improper actions that, while not strictly illegal, violated the rights of homeowners under the shield of those governing documents. Under the bill, a court would be prohibited from exercising its equitable powers to void such improper actions. The bill's proposed restrictions on the court's discretion in CID elections cases seem unwarranted.

For these reasons, the Judicial Council opposes SB 259.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daniel Pone". The signature is fluid and cursive, with the first name "Daniel" written in a larger, more prominent script than the last name "Pone".

Daniel Pone
Senior Attorney

DP/ljb

cc: Mr. Benjamin Palmer, Staff Counsel, Senate Judiciary Committee
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy
Mr. Michael Prosio, Legislative Affairs Secretary, Office of the Governor
Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 L Street, Suite 700 • Sacramento, California 95814-3393

Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

April 29, 2009

Hon. Ellen Corbett, Chair
Senate Judiciary Committee
State Capitol, Room 5108
Sacramento, California 95814

Subject: Senate Bill 259 (Benoit), as introduced – Oppose
Hearing: Senate Judiciary Committee – May 12, 2009

Dear Senator Corbett:

The Judicial Council opposes SB 259, which prohibits a court that voids results of an election of Common Interest Development (CID) board members from invalidating a decision of the board reached after the election, except where the court finds that the action of the board was contrary to law or the governing documents.

The Judicial Council opposes SB 259 because the bill is unnecessary and would inappropriately restrict the court's discretion in elections cases brought under the Davis-Stirling CID Act. The council is not aware of any situation in which a court improperly exercised its authority under the act invalidating decisions of a homeowners' association (HOA) after voiding the results of an election. In light of the lack of supporting evidence, this bill appears to be a solution in search of a problem. Moreover, the underlying law in this area is highly contentious, and the Judicial Council is concerned that adding unnecessary language to the act will invite further lawsuits.

Hon. Ellen Corbett

April 29, 2009

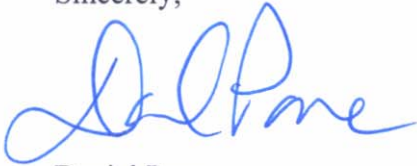
Page 2

seeking to interpret its meaning and parameters, rather than serving the author's stated purpose of clarifying the law in this area.

Finally, the Judicial Council believes that SB 259 unduly restricts the court's discretion in these cases. One could imagine a variety of situations involving improper actions taken by a majority of a HOA's board members, including the possibility of their having adopted flawed governing documents, and then taking a variety of improper actions that, while not strictly illegal, violated the rights of homeowners under the shield of those governing documents. Under the bill, a court would be prohibited from exercising its equitable powers to void such improper actions. The bill's proposed restrictions on the court's discretion in CID elections cases seem unwarranted.

For these reasons, the Judicial Council opposes SB 259.

Sincerely,



Daniel Pone
Senior Attorney

DP/ljb

cc: Members, Senate Judiciary Committee
Hon. John Benoit, Member of the Senate
Mr. Benjamin Palmer, Staff Counsel, Senate Judiciary Committee
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy
Mr. Michael Prosio, Legislative Affairs Secretary, Office of the Governor
Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research