

Blog of the Community Associations Institute California Legislative Action Committee

Governor Signs SB 822: Community Association Managers Not "Contractors" or "Consultants" Under B&P Code Section 7026.1

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~~At 2012, California (http://enr.com/story/california/2012/09/26/ab-2237-amending-section-7026.1) of the Business and Professions (B&P) Code relating to contractors (Section 7026.1), effective Jan. 1, 2013. AB 2237 required "consultants" overseeing home improvement construction projects to be licensed "contractors." The result was much confusion and concern regarding whether community association managers were considered "consultants" and thus were now required to be licensed contractors when performing common management services such as bid solicitation or oversight of common area maintenance projects.~~

This year, CLAC sought to clarify what it believed to be an unintended consequence of AB 2237 (*i.e.*, the possible casting of community association managers in the role of "consultants" under Section 7026.1). CLAC contacted the Contractors State License Board (CSLB) to alert them of the issue and to propose legislation to clarify that community association managers are not consultants or contractors for the purposes of AB 2237.

Fortunately, the CSLB agreed with CLAC that including community association managers in the definition of contractor or consultant was not the intent of AB 2237. The CSLB accepted CLAC's proposed amendment to Section 7026.1, and helped CLAC facilitate its incorporation into this year's SB 822, an omnibus bill introduced by the Committee on Business, Professions and Economic Development.

Governor Brown recently signed SB 822 into law, adding the following provision to Section 7026.01: *"The term "contractor" or "consultant" does not include a common interest development manager, as defined in Section 11501, and a common interest development manager is not required to have a contractor's license when performing management services, as defined in subdivision (d) of Section 11500."* (B&P Code section 7026.1(b))

Community associations and their managers should still be aware that licensed contractors must be engaged to perform certain jobs. B&P Code section 7048 requires use of a licensed contractor for projects having an aggregate contract price for labor, materials and all other items of \$500 or more. Also be aware that, although the CLSB clarified on the legislative record its intent with respect to community association managers, SB 822 will not be effective until Jan. 1, 2014. Until that time, community association managers

should remain cautious when undertaking construction project oversight which might be seen to constitute the work of a “contractor” or “consultant.”

Nancy I. Sidoruk is an Attorney with Epsten Grinnell & Howell, APC, and is also the firm’s Director of Practice Development. She is a CLAC delegate representing the Greater Inland Empire Chapter, chairs the CAI-GRIE legislative support committee and serves as co-chair of the CLAC Grassroots Key Contacts task force.

CLAC wishes to thank attorneys Kieran J. Purcell and Nancy I. Sidoruk of Epsten Grinnell & Howell, APC, for their efforts in preparing the clarifying language which, on January 1, 2014, will become B&P Code section 7026.1(b). (<http://caiclac.files.wordpress.com/2013/09/nancy-sidoruk.jpg>)



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