

DEPARTMENT OF REAL ESTATE

P.O. Box 187005
Sacramento, CA 95818-7005
(916) 227-0810



April 9, 2001

Mr. D. Andrew Sirkin
Goldstein, Gellman, Melbostad, Gibson & Harris, LLP
100 Van Ness Avenue
Twenty First Floor
San Francisco, CA 94102

RE: Resale of Tenancy In Common Interests

Dear Mr. Sirkin:

I have reviewed your letter dated March 29, 2001 in which you requested an opinion as to whether a Subdivision Public Report is needed for a resale of a Tenancy in Common and whether a broker or sales agent would violate applicable laws if they represent a seller who does not have a Subdivision Public Report.

In addition to the seven criteria you included in your letter, I would also require an additional criterion that the seller had not acquired five or more interests from the subdivider and that the seller is not a colleague of the subdivider.

If those eight criteria were met, no Subdivision Public Report would be required for the resale of the Tenancy in Common interest.

If you have any questions, feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Sam Perrotti".

SAM PERROTTI
Assistant Commissioner
Subdivisions

GOLDSTEIN, GELLMAN, MELBOSTAD, GIBSON & HARRIS, LLP

ATTORNEYS AT LAW

ONE HUNDRED VAN NESS AVENUE
TWENTY FIRST FLOOR
SAN FRANCISCO, CALIFORNIA 94102
TELEPHONE: (415) 621-6600
FACSIMILE: (415) 621-6656

D. Andrew Sirkin, Of Counsel

March 29, 2001

Sam Perrotti
Assistant Commissioner: Subdivisions
Department of Real Estate
2201 Broadway
P.O. Box 187005
Sacramento, CA 95818-7005

RE: Resale of Tenancy in Common Interests

Dear Mr. Perrotti:

Thank you again for the opportunity to meet with you and some of your deputies March 27. As discussed, I am writing to request a letter stating the Department's position regarding certain resales of tenancy in common interests.

I am specifically interested in situations where all of the following facts are true:

- (1) A person (the "Seller") owns an tenancy in common interest in a parcel consisting of five or more residential units;
- (2) The Seller, and all of the other owners of the parcel, are parties to an unrecorded tenancy in common agreement which assigns exclusive rights to occupy particular units to particular owners;
- (3) The building has been owned and occupied by a group of tenants in common, and the unrecorded tenancy in common agreement has been in effect, for more than six months;
- (4) The Seller has owned his/her interest in the parcel for at least six months, and did not purchase that interest with the primary purpose of reselling it;
- (5) The Seller has never owned the entire parcel, and has never had any familial, personal or business relationship with anyone who has owned the entire parcel;
- (6) The Seller was not involved in any manner in the initial creation or sale of the tenant in common interests except that he/she was a purchaser; and
- (7) No Public Report has ever been applied for, or issued, for the parcel.

Assuming all of the above facts are true, may the Seller sell his/her interest in the parcel without obtaining a Public Report? Will the absence of a Public Report make it impossible for a real estate broker or sales agent to represent the Seller and/or a buyer of the Seller's interest without violating applicable law?

Thank you in advance for your attention to this matter. Please feel free to call if you require further clarification or discussion. You may also reach my on my cellular telephone at 415

Very truly yours,



D. Andrew Sirkin

DAS/as