

UNDERSTANDING CONDOMINIUM AND PUD OWNERSHIP



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California's builders, in an effort to combat the dual problem of an increasing population and a declining availability of prime land, are increasingly turning to common interest developments (CIDs) as a means to maximize land use and offer homebuyers convenient, affordable housing.

The two most common forms of common interest developments in California are condominiums and planned developments, often referred to as PUDs. The essential characteristics shared by these two forms of ownership are:

1. Common ownership of private residential property;
2. Mandatory membership of all owners in an association which controls use of the common property;
3. Governing documents which establish the procedures for governing the association, the rules which the owners must follow in the use of their individual lots or units as well as the common properties; and
4. A means by which owners are assessed to finance the operation of the association and maintenance of the common properties.

Before continuing further, it may be helpful to clarify a common misconception about condominiums and PUDs. The terms condominium and PUD refer to types of interests in land, not to physical styles of dwellings. Therefore, when homebuyers say that they are buying a townhouse, that is not the same as saying that they are buying a condominium. When homebuyers say that they are buying a unit in a PUD, they are not necessarily buying a single - family detached home. Though the townhouse is the most common style of structure found in common interest developments in California, a townhouse might legally be a condominium, a unit or lot in a planned development, or a single - family detached residence. The terms condominium or PUD will say a great deal about the ownership rights the buyer will receive in the unit and the interest they will acquire in the common properties or common areas of the development.

Common interest developments offer many advantages to homebuyers - low maintenance and access to attractive amenities - however, there are restrictions and duties which come with ownership of a condominium or PUD that buyers should be aware of prior to purchase.

To acquaint you with various aspects of ownership in common interest developments, the California Land Title Association has answered some of the questions most commonly asked about condominiums and PUDs.



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What are the basic differences between ownership of a condominium and ownership of a PUD?

The owner(s) of a unit within a typical condominium project owns 100% of the unit, as defined by a recorded condominium plan. As well, they will own a fractional or percentage interest in all common areas of the condominium project.

The owner(s) of a lot within a PUD own the lot which has been conveyed to them - as shown in the recorded tract map or parcel map - and the structure and improvements thereon. In addition, they receive rights and easements to use in common areas owned by another - frequently a homeowner's association - of which the individual lot owners are members.

The above are basic descriptions and should not be considered legal definitions.

Besides ownership of my unit, what other amenities (common areas) will I be acquiring use of and how will I own them?

Common interest areas may span the spectrum from the ordinary - buildings, roadways, walkways and utility rooms - to the extravagant - equestrian trails and golf courses - with more usual amenities including community swimming pools and clubhouse facilities.

Your ownership rights in common areas will be spelled out in your project's Declaration of Covenants, Conditions and Restrictions (CC and R's). The subject of CC and R's will be expanded upon later in this brochure.

As we stated in the answer to the previous question, condominium owners own a fractional or percentage interest in common with all other owners in the condominium project, in all common areas. PUD owners receive rights and easements to use of common areas through their membership in a homeowner's association, which typically owns and controls the common areas. Some PUD projects, however, provide that the individual homeowners will own a fractional interest in the common areas. Again, in this case, a homeowner's association will have the right to regulate the use of the common areas and to assess for purposes of maintaining the common areas.

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