

## Chapter 258 Enforcement

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### **258.02 Prohibition**

- A. No person shall sell, lease, or finance any parcel or parcels of real property or commence construction of any building for sale, lease or financing thereon, except for model homes, or allow occupancy thereof, for which a final map, or a parcel map, is required by the Subdivision Map Act or this Title, until such a map, in full compliance with the provisions of the Subdivision Map Act and this Title, has been filed for record by the County Recorder.
- B. Conveyances of any part of a division of real property for which a final or parcel map is required by the Subdivision Map Act or this Title shall not be made by parcels or block number, letter or other designation, unless and until such map has been filed for record by the County Recorder.
- C. This section does not apply to any parcel or parcels of a subdivision offered for sale or lease, contracted for sale or lease, or sold or leased in compliance with or exempt from any law, including this Title, regulating the design and improvement of subdivisions in effect at the time the subdivision was established.
- E. Nothing contained in Sections 258.02(A) and (B) shall be deemed to prohibit an offer or contract to sell, lease or finance real property or to construct improvements thereon where such sale, lease of financing, or the commencement of such construction, is expressly conditioned upon the approval and filing of a final map or parcel map, as required under the Subdivision Map Act or this Title.

### **258.04 Remedies**

- A. Any deed of conveyance, sale or contract to sell real property which has been divided or which has resulted from a division in violation of the provisions of the Subdivision Map Act or this Title, is voidable at the sole option of the grantee, buyer or person contracting to purchase, any heirs, personal representative, or trustee in insolvency or bankruptcy thereof within one year after the date of discovery of such violation. The deed of conveyance, sale or

contract to sell is binding upon any successor in interest of the grantee, buyer or person contracting to purchase, other than those above enumerated, and upon the grantor, vendor or person contracting to sell, or his or her assignee, heir or devisee.

- B. Any grantee, or successor in interest thereof, of real property which has been divided, or which has resulted from a division, in violation of the provisions of this Title or the Subdivision Map Act may, within one year of the date of discovery of such violation, bring an action in the superior court to recover any damages suffered by reason of such division of property. The action may be brought against the person who so divided the property and against any successors in interest who have actual or constructive knowledge of such division of property.
- C. The provisions of this section shall not apply to the conveyance of any parcel of real property identified in a certificate of compliance filed recorded final map or parcel map, from and after the date of recording.
- D. This section does not bar any legal, equitable or summary remedy to which the City or other public agency, or any person, firm or corporation may otherwise be entitled, and the City or other public agency, or such person, firm or corporation may file a suit in the superior court to restrain or enjoin any attempted or proposed subdivision or sale, lease, or financing in violation of the Subdivision Map Act or this Title.
- E. The City shall not issue a permit or grant any approval necessary to develop any real property which has been divided or which has resulted from a division, in violation of the provisions of the Subdivision Map Act or this Title, if it finds that development of such real property is contrary to the public health or the public safety. The authority to deny or approve such a permit shall apply whether the applicant therefore was the owner of record at the time of such violation or whether the applicant therefore is either the current owner of record or a vendee thereof with, or without, actual or constructive knowledge of the violation at the time of the acquisition of an interest in such real property.
- F. If the City issues a permit or grants approval for the development of any real property illegally subdivided, the City may impose those additional conditions which would have been applicable to the division of the property at the time the current owner of record acquired the property. If the property has the same owner of record as at the time of the initial violation, the City may impose conditions applicable to a current division of the property. If a conditional certificate of compliance has been filed for record in accordance with the provisions of Section 258.06, only those conditions stipulated in that certificate shall be applicable.

#### **258.06 Certificate of Compliance**

- A. Any person owning real property or a vendee of such person pursuant to a contract of sale of such real property may request the Director to determine whether the real property complies with the provisions of the Subdivision Map Act and this Title. A written application for a certificate of compliance shall be accompanied by a preliminary title report not more than six months old that shows the legal owners of the property and copies of all previous recorded deeds applicable to the property.

- B. If the Director determines that the real property complies with the provisions of the Subdivision Map Act and this Title or the City Subdivision laws applicable at the time of creation, the Department shall prepare a certificate of compliance to be placed on record with the County Recorder. The certificate of compliance shall identify the real property and shall state that the division thereof complies with the provisions of the Subdivision Map Act and this Title.
- C. If the Director determines that the real property does not comply with the provisions of the Subdivision Map Act or this Title, the Director may, as a condition to granting a certificate of compliance, impose conditions in accordance with Section 258.04(E). Upon the Director's making such a determination and establishing such conditions, the Director shall prepare a conditional certificate of compliance to be placed on record with the County Recorder. Such certificate shall serve as notice to the property owner or vendee who has applied for the certificate, a grantee of the property owner, or any subsequent transferee or assignee of the property, that the fulfillment and implementation of such conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property. Compliance with such conditions shall not be required until such time as a permit or other grant of approval for development of such property is issued by the City.
- D. A recorded final map or parcel map shall constitute a certificate of compliance with respect to the lots of real property described therein.
- E. Subject to the provisions of Section 66499.35 (E) of the Subdivision Map Act, an official map prepared pursuant to Section 66499.52 (B) of the Subdivision Map Act shall constitute a certificate of compliance with respect to the lots of real property described therein.
- F. A fee and/or deposit shall be charged to the applicant for making the determination and processing the certificate of compliance.

### **258.08 Notice of Violation**

If the Director has knowledge that real property has been divided in violation of the provisions of the Subdivision Map Act or this Title, a Notice of Intention to Record a Notice of Violation shall be mailed by the Director by certified mail to the current owner of record. The notice shall describe the property in detail, name the owners, describe the violation and state that the owner will be given the opportunity to present evidence. The notice shall also contain an explanation as to why the subject lot is not lawful under Section 66412.6 (a) or (b) of the Subdivision Map Act. The notice shall specify the date, time and place for a meeting at which the owner may present evidence to the Director why a notice of violation should not be recorded.

The meeting shall be held no sooner than 30 days and no later than 60 days from the date of mailing of the Notice of Intention to Record a Notice of Violation. If, within fifteen 15 days of receipt of the notice, the owner fails to file with the Director a written objection to recording the notice of violation, the Director shall file the notice of violation for record with the County Recorder. If, after the owner has presented evidence, the Director determines that there has been no violation, the Director shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, the Director

determines that the property has in fact been illegally divided, the Director shall file the notice of violation for record with the County Recorder.

The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property.

- A. The statute of limitations for beginning any civil or criminal action against an owner or subdivider for violating the Subdivision Map Act shall be tolled for any time period during which there is no constructive notice of the transaction constituting the violation.
- B. Each violation of the provisions of this Title or the Subdivision Map Act by the subdivider or owner of record of the property involved in the violation shall be punishable by imprisonment in the county jail or in the state prison not exceeding one year, by a fine of no more than \$10,000, or by both. Every other violation of this division is a misdemeanor.

#### **258.10 Appeals of Director's Action**

Appeal of any Director's action pursuant to this chapter shall be made to the City Council under the procedures established in Chapter 248.