

# Subdivision Map Act Review

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# TRUE/FALSE QUESTIONS:

- 1. Fulfillment of construction requirements may not be required for divisions of 4 parcels or less until a permit or grant of approval is issued.
- 2. A Certificate of Compliance approving a Lot Line Adjustment creates the adjusted parcels.
- 3. Any parcel created prior to March 4, 1972, is conclusively presumed to have been lawfully created.
- 4. A local ordinance regulating the design and improvement of subdivisions, must be consistent with the Subdivision Map Act.
- 5. Property is considered as contiguous units, even if it is separated by fee title roads, streets, or railroad rights-of-way.
- 6. A remainder of a final or parcel map may be sold without a certificate of compliance
- 7. A Parcel Map may have 5 parcels.

# True/False continued.

- 8. A Condominium Map is required to show the parcels created by an air space condominium.
- 9. A tentative map is required for a parcel map.
- 10. A tentative map must be signed by a Land Surveyor or a Civil Engineer.
- 11. No final map or parcel map which creates a subdivision may be filed with the local agency without the written consent of all parties having any record title interest in the real property proposed to be subdivided.
- 12. A Quick Claim deed abandons an easement.

# 1. Fulfillment of construction requirements may not be required for divisions of 4 parcels or less until a permit or grant of approval is issued. False

## **66411.1. Improvements for Divisions Not Subdivisions of Five or More Lots; Construction Requirements**

(a) Notwithstanding Section 66428, whenever a local ordinance requires improvements for a division of land which is not a subdivision of five or more lots, the regulations shall be limited to the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created. Requirements for the construction of offsite and onsite improvements shall be noticed by a statement on the parcel map, on the instrument evidencing the waiver of the parcel map, or by a separate instrument and shall be recorded on, concurrently with, or prior to the parcel map or instrument of waiver of a parcel map being filed for record.

(b) Notwithstanding Section 66428, fulfillment of the construction requirements shall not be required until the time a permit or other grant of approval for development of the parcel is issued by the local agency **or, where provided by local ordinances, until the time the construction of the improvements is required pursuant to an agreement between the subdivider and the local agency, except that in the absence of an agreement, a local agency may require fulfillment of the construction requirements within a reasonable time following approval of the parcel map and prior to the issuance of a permit or other grant of approval for the development of a parcel upon a finding by the local agency that fulfillment of the construction requirements is necessary for either of the following reasons:**

- (1) The public health and safety.**
- (2) The required construction is a necessary prerequisite to the orderly development of the surrounding area.**

## 2. A Certificate of Compliance approving a Lot Line Adjustment creates the adjusted parcels. False

### 66412. Application of Division; Exclusions

This division shall be inapplicable to any of the following:

.....omitted portion.....

(d) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. **The lot line adjustment shall be reflected in a deed, which shall be recorded.** No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code. A local agency shall approve or disapprove a lot line adjustment pursuant to the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1).

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3. Any parcel created prior to March 4, 1972, is conclusively presumed to have been lawfully created, False

66412.6.

(a) For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created **if** the parcel resulted from a division of land in which fewer than five parcels were created **and if** at the time of the creation of the parcel, there was no local ordinance in effect which regulated divisions of land creating fewer than five parcels.

(b) For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if any subsequent purchaser acquired that parcel for valuable consideration without actual or constructive knowledge of a violation of this division or the local ordinance. Owners of parcels or units of land affected by the provisions of this subdivision shall be required to obtain a certificate of compliance or a conditional certificate of compliance pursuant to Section 66499.35 prior to obtaining a permit or other grant of approval for development of the parcel or unit of land. For purposes of determining whether the parcel or unit of land complies with the provisions of this division and of local ordinances enacted pursuant thereto, as required pursuant to subdivision (a) of Section 66499.35, the presumption declared in this subdivision shall not be operative.

4. A local ordinance regulating the design and improvement of subdivisions, must be consistent with the Subdivision Map Act. True

66421.

“Local ordinance” refers to a local ordinance regulating the design and improvement of subdivisions, enacted by the legislative body of any local agency under the provisions of this division or any prior statute, regulating the design and improvements of subdivisions, insofar as the provisions of the ordinance are consistent with and not in conflict with the provisions of this division.

5. Property is considered as contiguous units, even if it is separated by fee title roads, streets, or railroad rights-of-way. True

**66424.**

“Subdivision” means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future. **Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way.**

“Subdivision” includes a condominium project, as defined in Section 4125 or 6542 of the Civil Code, a community apartment project, as defined in Section 4105 of the Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in Section 4190 or 6566 of the Civil Code.



## 6. A remainder of a final or parcel map may be sold without a certificate of compliance. True

66424.6. (a) When a subdivision, as defined in Section 66424, is of a portion of any unit or units of improved or unimproved land, the subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease, or financing. Alternatively, the subdivider may omit entirely that portion of any unit of improved or unimproved land which is not divided for the purpose of sale, lease, or financing. If the subdivider elects to designate a remainder, the following requirements shall apply:

.....omitted portion.....

(b) If the subdivider elects to omit all or a portion of any unit of improved or unimproved land which is not divided for the purpose of sale, lease, or financing, the omitted portion shall not be counted as a parcel for purposes of determining whether a parcel or final map is required, and the fulfillment of construction requirements for offsite improvements, including the payment of fees associated with any deferred improvements, shall not be required until a permit or other grant of approval for development is issued on the omitted parcel, except where allowed pursuant to paragraph (2) of subdivision (a).

(c) The provisions of subdivisions (a) and (b) providing for deferral of the payment of fees associated with any deferred improvements shall not apply if the designated remainder or omitted parcel is included within the boundaries of a benefit assessment district or community facilities district.

(d) A designated remainder or any omitted parcel may subsequently be sold without any further requirement of the filing of a parcel map or final map, but the local agency may require a certificate of compliance or conditional certificate of compliance.

## 7. A Parcel Map may have 5 parcels. True

### 66426. Necessity of Tentative and Final Maps

A tentative and final map shall be required for all subdivisions creating five or more parcels, five or more condominiums as defined in Section 783 of the Civil Code, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, **except where any one of the following occurs:**

- (a) The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway, and no dedications or improvements are required by the legislative body.
- (b) Each parcel created by the division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway.
- (c) The land consists of a parcel or parcels of land having approved access to a public street or highway, which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the governing body as to street alignments and widths.
- (d) Each parcel created by the division has a gross area of not less than 40 acres or is not less than a quarter of a quarter section.
- (e) The land being subdivided is solely for the creation of an environmental subdivision pursuant to Section 66418.2.
- (f) A parcel map shall be required for those subdivisions described in subdivisions (a), (b), (c), (d), and (e).

[Amended, Chapter 76, Statutes of 2003]

## 8. A Condominium Map is required to show the parcels created by an air space condominium. False

66427.

(a) A map of a condominium project, a community apartment project, or of the conversion of five or more existing dwelling units to a stock cooperative project need not show the buildings or the manner in which the buildings or the airspace above the property shown on the map are to be divided, nor shall the governing body have the right to refuse approval of a parcel, tentative, or final map of the project on account of the design or the location of buildings on the property shown on the map that are not violative of local ordinances or on account of the manner in which airspace is to be divided in conveying the condominium.

(b) A map need not include a condominium plan or plans, as defined in Section 4120 or 6540 of the Civil Code, and the governing body may not refuse approval of a parcel, tentative, or final map of the project on account of the absence of a condominium plan.

(c) Fees and lot design requirements shall be computed and imposed with respect to those maps on the basis of parcels or lots of the surface of the land shown thereon as included in the project.

(d) Nothing herein shall be deemed to limit the power of the legislative body to regulate the design or location of buildings in a project by or pursuant to local ordinances.

## 9. A tentative map is required for a parcel map. False

66428. Tentative and Parcel Maps; Waiver by Local Ordinance; Exceptions; Options

(a) Local ordinances may require a tentative map where a parcel map is required by this chapter. A parcel map shall be required for subdivisions as to which a final or parcel map is not otherwise required by this chapter, unless the preparation of the parcel map is waived by local ordinance as provided in this section. A parcel map shall not be required for either of the following:

(1) Subdivisions of a portion of the operating right-of-way of a railroad corporation, as defined by Section 230 of the Public Utilities Code, that are created by short-term leases (terminable by either party on not more than 30 days' notice in writing).

(2) Land Conveyed to or from a governmental agency, public entity, public utility, or for land conveyed to a subsidiary of a public utility for conveyance to that public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a parcel map. For purposes of this subdivision, land conveyed to or from a governmental agency shall include a fee interest, a leasehold interest, an easement, or a license.

10. A tentative map must be signed by a Land Surveyor or a Civil Engineer. False

The Subdivision Map Act is silent on the issue. Many jurisdictions require topographic or design information which may trigger the Professional Land Surveyor Act or the Professional Engineer Act, requiring signing and sealing the tentative map.

11. No final map or parcel map which creates a subdivision may be filed with the local agency without the written consent of all parties having any record title interest in the real property proposed to be subdivided. False

**66430.**

No final map or parcel map required by this chapter or local ordinance which creates a subdivision shall be filed with the local agency without the written consent of all parties having any record title interest in the real property proposed to be subdivided, except as otherwise provided in this division.

**66436.**

(a) A statement, signed and acknowledged by all parties having any record title interest in the subdivided real property, consenting to the preparation and recordation of the final map is required, except in the following circumstances:

(1) A lien for state, county, municipal, or local taxes or special assessments, a trust interest under bond indentures, or mechanics' liens do not constitute a record title interest in land for the purpose of this chapter or any local ordinance.

(2) The signature of either the holder of beneficial interests under trust deeds or the trustee under the trust deeds, but not both, may be omitted. The signature of either shall constitute a full and complete subordination of the lien of the deed of trust to the map and any interest created by the map.

(3) Signatures of parties owning the following types of interests may be omitted if their names and the nature of their respective interests are stated on the final map:

(A) (i) Rights-of-way, easements or other interests which cannot ripen into a fee, except those owned by a public entity, public utility, or subsidiary of a public utility for conveyance to the public utility for rights-of-way. If, however, the legislative body or advisory agency determines that division and development of the property in the manner set forth on the approved or conditionally approved tentative map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement, the signature of the public entity or public utility may be omitted. Where that determination is made, the subdivider shall send, by certified mail, a sketch of the proposed final map, together with a copy of this section, to any public entity or public utility which has previously acquired a right-of-way or easement.

(ii) If the public entity or utility objects to either recording the final map without its signature or the determination of the legislative body or advisory agency that the division and development of the property will not unreasonably interfere with the full and complete exercise of its right-of-way or easement, it shall so notify the subdivider and the legislative body or advisory agency within 30 days after receipt of the materials from the subdivider.

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(B) Rights-of-way, easements, or reversions, which by reason of changed conditions, long disuse, or laches appear to be no longer of practical use or value and signatures are impossible or impractical to obtain. A statement of the circumstances preventing the procurement of the signatures shall also be stated on the map.

(C) Interests in, or rights to, minerals, including but not limited to, oil, gas, or other hydrocarbon substances.

(4) Real property originally patented by the United States or by the State of California, which original patent reserved interest to either or both of those entities, may be included in the final map without the consent of the United States or the State of California to the map or to dedications made by it.

(b) **No monetary liability** shall be incurred by, and no cause of action shall arise against, a local agency, a party, the subdivider, the subdivider's agent, or the engineer or land surveyor who prepared the map, on account of the omission of any signature, which omission is authorized by this section.

(c) A notary acknowledgment shall be deemed complete for recording without the official seal of the notary, so long as the name of the notary, the county of the notary's principal place of business, and the notary's commission expiration date are typed or printed below or immediately adjacent to the notary's signature in the acknowledgment.

## 12. A Quick Claim abandons an easement. False.

### Quitclaim (NOT QUICK CLAIM) deed

Noun. A real property deed which transfers (conveys) only that interest in the property in which the grantor has title. Commonly used in transfers of title or interests in title, quitclaims are often made to family members, divorcing spouses, or in other transactions between people well known to each other. Quitclaim deeds are also used to clear up questions of full title when a person has a possible but unknown interest in the property. Grant deeds and warranty deeds guarantee (warrant) that the grantor has full title to the property or the interest the deed states is being conveyed, but quitclaim deeds do not warrant good title.

And no, they will not abandon an easement.

### California Civil Code

805. A servitude thereon cannot be held by the Owner of the servient tenement.

811. A servitude is extinguished:

1. By the vesting of the right to the servitude and the right to the servient tenement in the same person;
2. By the destruction of the servient tenement;
3. By the performance of any act upon either tenement, by the owner of the servitude, or with his assent, which is incompatible with its nature or exercise; or,
4. When the servitude was acquired by enjoyment, by disuse thereof by the owner of the servitude for the period prescribed for acquiring title by enjoyment.