



# BUILDER SERVICES GUIDE



## FORWARD

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The information in this manual has been prepared for the purpose of assisting our developer clients and their associates in the planning and developing of residential or commercial subdivision projects in Northern California. It is our hope that this information will help you to better understand the subdivision process and the responsibilities of the parties who are a part of the Developer's Team.

The information contained herein is meant to give the developer a general overview of the subdivision mapping process and the Department of Real Estate ("DRE") process. The specific requirements of your project may vary from the information provided. Therefore, please use this information as a guide only.

The pressures that burden our clients are many and varied. As a member of your team, it is our goal to relieve some of these pressures by providing quality title insurance, escrow and DRE processing services. This commitment will continue from the inception of our involvement in your subdivision through the sale and close of escrow of the last lot or unit in your project.



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FNTG Builder Services encourages you to obtain assistance in all matters requiring such advice or guidance.

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## • DEVELOPER'S RESPONSIBILITIES



FNTG Builder Services understands that the ultimate responsibility for the entire subdivision process and the success of your development lies with you, the developer. It is therefore imperative that we work closely with you and that you carefully coordinate and communicate your needs and requirements to us, your engineer, attorney, budget preparer and the other members of your team throughout all of the various aspects of your project.

**Some, but not all, of the various duties and responsibilities that involve you directly are as follows:**

- Contact your FNTG Builder Services Sales Executive to open your subdivision title order and discuss the members of your Development Team. If you are new to the process, they can provide you with a list of qualified engineers, attorneys, budget preparers and DRE processors.
- Payment of fees for:
  - a. Bonds: Off-Site Improvement Bonds, Tax Bond(s), Homeowner's Association Maintenance Bond and optional bonds such as, a Subsidy Bond, Completion Bond or Purchase Money (RE 600) Bond. The various bonds required will be explained throughout this section.
  - b. Incorporating the project's homeowner's association, if applicable.
  - c. Department of Real Estate (DRE) filing fees, if applicable.
  - d. Natural Hazard Disclosure Report(s).
  - e. All other fees and payments required to process the subdivision map and building plans with the city and/or county. (These are further discussed on the Engineer's Responsibilities page of this section.)
- Obtain or be involved in obtaining the necessary signatures and notary acknowledgements on your subdivision map, and other documents to be recorded in connection with the recording of your map.
- Coordinate with your engineer to comply with the Conditions of Approval imposed on your subdivision map by the city and county.
- Arrange for construction and take-out financing for your project. FNTG Builder Services will need your lender information in order to anticipate and process the required title insurance for your lender.

If your project is a residential condominium or planned development of 5 or more lots or units, or if your project is a standard subdivision of 5 or more lots, located in an unincorporated area of the county, then you will need to process an application with the Department of Real Estate (DRE) for a Public Report. You must have at least one of the types of Public Reports offered by the DRE before you can offer your lots or units for sale. A list and explanation of the Public Reports and their process can be found on the 'Obtaining Your Public Report' page of this ebook.



## • DEVELOPER'S RESPONSIBILITIES

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### **The developer's responsibilities in the DRE process are as follows:**

- Contract with a qualified attorney for the preparation of management documents (CC&R's, Bylaws, Articles of Incorporation) and any other documents your attorney may prepare for you.
- Contract with a qualified budget preparer for the preparation of a homeowner's association maintenance budget.
- Select FNTG Builder Services to handle the escrows for the entire project.
- Contact your FNTG Builder Services sales executive to discuss who will be handling your DRE processing. Your processing may be handled by your attorney, an independent DRE processor or a DRE consultant at FNTG Builder Services. If you are new to the process or if the project has complexities that would benefit from a preliminary meeting of the development team, your sales executive can set it up for you.
- Provide your DRE consultant with the information they request for applications and forms to be submitted to the DRE.
- Obtain or be involved in obtaining the necessary signatures and notary acknowledgements on the CC&R's, Subordination to the CC&R's, and condominium plan (if a condominium project).
- Obtain a DRE Maintenance Bond, once the DRE has approved the maintenance budget and provided the bond amount. Your DRE processor will advise you if other DRE bonds are required.
- Complete the DRE online survey, which is required before the DRE will release your Final Public Report.

Once your project has received a Final Public Report from the DRE, you are ready to start or complete your sales program.

### **Your responsibilities will now include:**

- Provide your buyers, through your sales agents or escrow with a copy of the DRE Public Report and the Purchaser Documents (i.e. CC&R's, Bylaws, Articles of Incorporation, Maintenance Budget, Natural Hazard Disclosure, condominium plan [if a condominium project] and any project specific disclosures or warranties that you may have had prepared).
- Contact your FNTG Builder Services sales executive to set up your sale-out title orders and request an indemnity approval, if you expect to close escrows within 90 days of completion.
- Prepare an Address Certification List which will be provided by your FNTG Builder Services sales executive. This will be your official list and comparison of the project addresses and unit numbers as posted on the door with the recorded subdivision map or condominium plan. The list will also include any parking assignments, if applicable. The list should be maintained by the sales office, your title officer and your escrow officer. Any changes will require immediate notification to all.
- Purchase the Homeowners Association Blanket Insurance Policy (condominium) or Common Area Policy (planned development).
- Prepare a Notice of Completion to be recorded by FNTG Builder Services within 10 days of the completion date.
- Provide escrow with a property tax estimate if the taxes are unsegregated and you will be closing escrows between July 1st and November 1st. This estimate will be used for proration purposes. Consult with your FNTG Builder Services sales executive about setting up a tax hold account for the payment of future unsegregated taxes.



## • ATTORNEY'S RESPONSIBILITIES



A knowledgeable real estate attorney is an essential team member for any subdivision. Upon request, your FNTG Builder Services Sales Executive will provide you with a list of qualified attorneys who specialize in real estate transactions and the requirements of the Department of Real Estate (DRE).

The following is a list of the responsibilities which you should expect your attorney to assume in connection with your project:

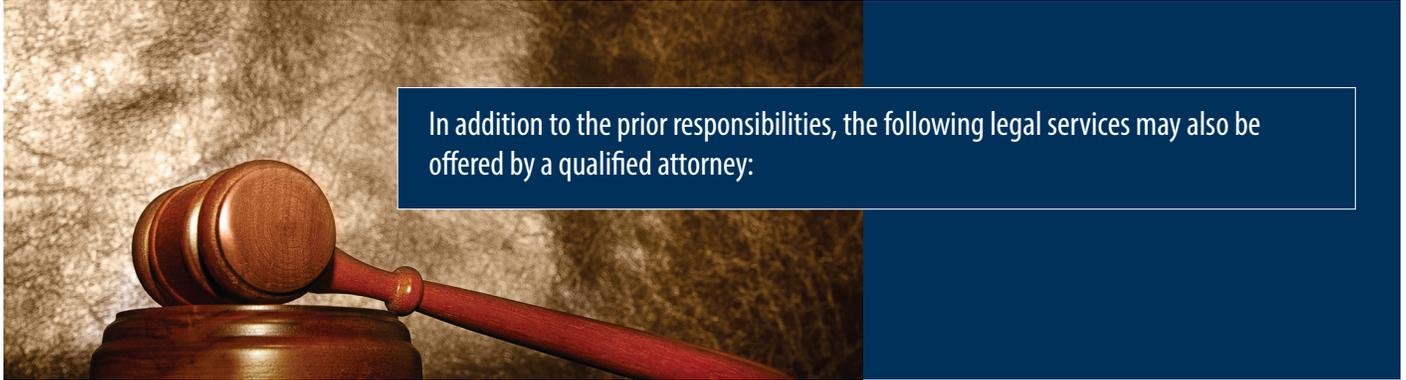
- Preparation of the homeowners association management documents which include:
  - **Declaration of Covenants, Conditions and Restrictions (CC&Rs)**
  - **Articles of Incorporation, if applicable**
  - **Association By-Laws**
  - **SB 800 Notice, if applicable**

*The above documents are part of the purchaser documents to be given to each buyer during escrow and are required for any condominium or planned development project regardless of whether a Public Report is required by the DRE.*

- Preparation of a sample purchaser Grant Deed (FNTG Builder Services will consult with the attorney and ultimately approve the legal description)
- Preparation of any association property deed or easement deed and its accompanying irrevocable escrow instructions, if applicable
- Review of any condominium plans or planned development maps and their conditions of approval to assure consistency with the CC&Rs. The attorney may prepare the Notes and Definitions for the condominium plan and provide them to the engineer.
- Discuss Senate Bill 800, The Homebuilder "Fix-It" Construction Dispute Resolution Law and their recommended method of compliance
- Preparation of the purchase agreement and escrow instructions, if requested
- Preparation of a Subordination to the CC&Rs to be signed by the lender(s) of record at the time of the CC&R recording. Many attorneys handle the submission and discussion of this required form with your lender to assure a smooth approval and signing
- Preparation of Form RE 616 which indicates the attorney's master management
- Document Number (MMD#). This MMD# means the attorney's documents have been pre-approved by the DRE and will require less time to be approved for your project. File the Articles of Incorporation for the homeowners association with the Secretary of State. Many attorneys also handle the filing with the Franchise Tax Board for the association's non-profit status.



## • ATTORNEY'S RESPONSIBILITIES



In addition to the prior responsibilities, the following legal services may also be offered by a qualified attorney:

- Preparation of ownership entity documents such as incorporating, Limited Liability Company (LLC) filings or Partnership (LP) filings
- Preparation of Special Disclosures for the project
- Preparation of a Limited Warranty
- Preparation of Subsidy or Maintenance Agreement
- Preparation of Shared Use Agreements or Easement Agreements for mixed use projects
- Preparation of Maintenance Manuals for individual homeowners and the association
- Preparation of election rules for the association
- Review of the condition of title prior to acquisition. FNTG Builder Services will provide copies of all underlying documents and, in some cases, plotted easements for review and discussion
- Review of lender documents for your construction loan
- Assistance with entitlement issues
- DRE processing
- Assistance with DRE issues if there are unusual aspects to your project
- For condominium conversion projects, provide tenant notification forms and assistance

The above represents only some of the responsibilities you may wish to have your attorney assume. Consult with your attorney about the acquisition and development of your specific project in order to come to a decision as to the total responsibilities he or she will assume on your behalf.



## • BUDGET PREPARER'S RESPONSIBILITIES



If your project is a Condominium, or a Planned Development, you will need a homeowner's association budget. This budget is a computation of all the expense items which are associated with a common interest project, such as common area insurance, monthly maintenance expenses, reserves and management.

If your project will require a Public Report from the Department of Real Estate (DRE), it is essential that your budget preparer be familiar with the requirements of the DRE as well as experienced in the type of subdivision you are developing. Upon request, your FNTG Builder Services sales executive will provide you with a list of qualified budget preparers who are familiar with the requirements of the DRE.

### **The following are the forms and documents provided by your budget preparer for review by the DRE:**

- Association Budget and accompanying worksheets (Form RE 623)
- Common Facilities Questionnaire (Form RE 624A)
- Reserve Study, if the project is a condominium conversion or a previously approved project that has been operational for over a year
- Conversion Questionnaire (Form RE 639), if the project is a conversion or has been operational for over a year
- Analysis of whether the association dues should be equal or an unequal formula based on unit square footage (condominium developments only)
- Analysis, if requested, of the financial benefits of a maintenance agreement

Because your budget preparer will be calculating the common expenses of your project, you will need to provide him or her with your architectural plans and landscape plans. Your budget preparer will also need information from you about the cost and quality of the facilities you plan to include in your project.

Your budget preparer is an essential part of your team and should be included in any discussions about changes to the project or the common facilities being offered. When included in discussions early and at every point of change, your budget preparer can suggest ways of keeping the cost to your buyers down as much as possible.



## • ENGINEER AND/OR LAND SURVEYOR'S RESPONSIBILITIES



A civil engineer or a licensed land surveyor (hereinafter referred to as the engineer or project engineer) is retained by you, the developer, to analyze the project and to process the required subdivision maps and plans.

Note that the State Subdivision Map Act allows for either a civil engineer or licensed land surveyor to file for recording a tract or parcel map. Upon request, your FNTG Builder Services sales executive will be happy to provide you with names and phone numbers of such engineering firms or individual engineers for your consideration.

### **The following is a list of the services requiring an engineer:**

- Tentative and Final Tract Map or Parcel Map
- Boundary survey
- Street and/or off-site improvement plans
- Grading plan
- Utility plans, such as water and sewer
- Condominium plan (if a condominium)

### **Prior to the tentative map approval**

The engineer will discuss many things about the project with you prior to preparing and submitting the tentative map. Often times a planning consultant or expeditor is involved at this stage to assist with the feasibility analysis. Either way, the following is an overview of the items to be discussed and considered.

- The type of subdivision you desire, the number of units or lots that are planned, timing, etc.
- The engineer will then make a study of the existing zoning, expected street dedications or street widening requirements, community or general plan densities, parking requirements, demolition problems and environmental issues. An initial study which includes discussions with the city planning department can give advanced information about the conditions the city may impose and any possible neighborhood opposition. Once this information has been obtained, the developer will have a fairly accurate idea of the feasibility of the development.



## • ENGINEER AND/OR LAND SURVEYOR'S RESPONSIBILITIES

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- Due to parking requirements or, sometimes, excessive building setback requirements, it may not be physically possible to construct the maximum number of units or lots theoretically allowed for your development. Therefore, you should retain an architect or land planner to do a conceptual plan at this stage. Some cities require fairly complete building plans to be submitted with the tentative map and they may require a conditional use permit to be processed simultaneously with the subdivision map.
- In some cities, demolition of existing apartment units can trigger conditions of approval which provide for tenant relocation assistance.
- If the project is a conversion of an apartment to a condominium, a 60 day notice of your intent to file an application for condominium conversion must be given to all of the tenants in the building before you can file your application with the city. The local governing body (city or county) will have specific filing requirements for conversions which should be discussed at the initial study stage.
- Once the initial study is done, the engineer will begin processing the map. The engineer obtains a tract or parcel map number (whichever is required for your project) from the county engineer. This number is a key number and will appear on all correspondence with your project engineer, the city, county, attorney, budget preparer, DRE and FNTG Builder Services. Throughout the entire mapping process, the number will remain the same.
- The project engineer will begin gathering the information needed to complete the tentative map package to be submitted to the city. This package includes the tentative map, an environmental questionnaire and other reports depending on the type and location of your project.
- Depending on the location of the subject property, other reports or studies could be required including oak tree reports, archeological reports, traffic reports, solar feasibility report, etc. Some requested reports require the retention of other experts and some can be completed by the engineer. In addition to the tentative map and the above reports, a radius map and a listing of the homeowners of property within that radius must be prepared. Some cities, like the City of Los Angeles, require that a specialist prepare this for you.
- Existing street improvements, ground elevations and existing easements are required to be shown on the tentative map in some cities which will require an early field survey. If not required on the tentative map, the information is necessary for the final map and will be needed by the architect in preparation of the building plans.
- Once the tentative map has been prepared, a subdivision order should be opened with FNTG Builder Services. Call your FNTG Builder Services sales executive to open the order for you. The Subdivision Reports and Final Guarantee issued by FNTG Builder Services will be utilized to assure the city, county and the project engineer of names and signatures required to appear on the title pages of the final map and, if applicable, the condominium plan.
- The tentative map package is then submitted to the local governing body (city or county) for their processing and environmental clearance. This agency will, as required, distribute copies of the map and related documents to other departments, such as traffic, building and safety, planning, and engineering, for their input. The project engineer will then receive proposed Conditions of Approval from the various departments. After reviewing the conditions, the engineer will forward copies to the developer for his or her comments.



## • ENGINEER AND/OR LAND SURVEYOR'S RESPONSIBILITIES

- If an environmental clearance in the form a Negative Declaration or Exemption can be given, the project can proceed. If the project has environmental issues which cannot be easily mitigated, an Environmental Impact Report would be required and the project could be substantially delayed.
- A public hearing will be scheduled and conducted, at which time the engineer can be available to represent the developer. In cities requiring building plans with the tentative map, the project architect is often present at this hearing. It is always a good idea for the developer to be present at all hearings and meetings with the city or county. The decision at this hearing may be appealed by anyone dissatisfied, either by the opposition to the development, or by you, the developer. If appealed, a higher board will re-hear the case and either deny the appeal or grant it in part, or in its entirety. Some cities allow the second appeal to be filed with the City Council. The result of an appeal to the City Council is final.

### **After the tentative map approval**

- Once the city has approved the tentative map, the developer has the required information to submit an application to the Department of Real Estate (DRE) for a Preliminary Public Report (Pink). For detailed information on this process, see the section entitled "Obtaining Your Public Report"
- **The documents required of the engineer for a DRE filing are:**
  - a. Copy of the tentative tract map
  - b. Copy of the signed Conditions of Approval of the map
  - c. Preliminary condominium plan, if the project is a condominium
- Once the subdivision map conditions of approval are determined after the public hearing, the project engineer will discuss with the developer how to comply with each condition. The engineer will then begin processing the final map. The map itself is a complete, in-depth boundary analysis and survey which will include the entire area around the property on which the project is or will be located. Once the final map has been drafted (after the survey and analysis) it will be submitted to the city or county engineer as well as to FNTG Builder Services for checking.
- Concurrent with the preceding processing, all the various conditions of approval should be complied with, some of which may require the payment of fees, recording of covenants and agreements, the posting of improvement bonds, processing street and other improvement plans, etc.
- All subdivision maps recorded between January 1st and October 31st will require a tax bond. Depending on the county, the tax bond amount may require a separate application. You should discuss this process with your engineer as it is not always covered by their contract. In addition to the bond, taxes for the full year must be paid to obtain a tax clearance. Maps recording between November 1st and December 31st do not require a bond, but the full year's taxes must be paid.
- When the final map is found to be technically correct, and all conditions of approval have been satisfied, the map will be sent, as appropriate, to the City Council or the County Board of Supervisors for final approval. Ordinarily, the tract will be approved without discussion since the Subdivision Map Act prohibits them from rejecting the map, unless the conditions of approval have not been satisfied. The clerk then signs the map and returns it to the city or county engineer who will verify the title information with FNTG Builder Service's Subdivision Guarantee and check for tax clearance. The map will then be sent to the county recorder to record.



## • ENGINEER AND/OR LAND SURVEYOR'S RESPONSIBILITIES

### Condominiums

If the map recorded for your project is for condominium purposes, your engineer will be consulting with you, your attorney, your architect and FNTG Builder Services in connection with the preparation of a condominium plan or Plans. The aspects of a condominium plan are as follows:

- A condominium plan is based, most frequently, on the building plans prepared by your architect. The condominium plan defines (using notes and definitions) the project boundary, common area(s), elements of the units and exclusive use common area(s), if any. The units and any exclusive use common area(s) are delineated on separate sheets of the condominium plan(s).
- Your project engineer will be requested to provide copies of the proposed condominium plan to your attorney (to review for consistency with the project CC&Rs and related documents), to the DRE (for review in connection with the application for a Public Report) and to FNTG Builder Services (for review in connection with approval for title insurance to your purchasers). Any required corrections based on such reviews must be completed prior to recording the final condominium plan.
- Decisions that you will make about your condominium plan will include whether patios, balconies, decks, yard areas, storage and parking will be an element of the unit or exclusive use common area. An element of a unit means that the area is considered part of the unit, whereas exclusive use common areas are considered part of the common area but reserved for the exclusive use of a particular unit. For example, individual garages that have direct access to a particular unit are usually considered an element, whereas parking spaces in a common garage are usually considered exclusive use common area. If parking is exclusive use common area, you will need to decide whether it will be assigned to a particular unit at the time of sales or predetermined by the Plan. There are pros and cons for both methods and you should discuss with your attorney and engineer which method works best for you and your project.
- If possible, (prior to recording the condominium plan and the CC&Rs) the Plan should be checked in the field by the engineer against the units as constructed (or under construction). This field review of the units is necessary if the condominium plan is based solely on architectural plans of buildings to be built or under construction and not based on a survey of the units as-built. This check will enable the engineer to verify that the units built on the ground are substantially the same as defined and delineated on the Plan and that the parking is correctly shown. (This process is called as-built certification.) This certification, if required, will prevent last minute problems in closing your escrows. If the engineer cannot make this certification because of substantial differences between the Plan and the units as-built, the Plan will need to be amended before escrows can close. Because of this, it is recommended that you keep your project engineer informed of changes occurring during construction and review your condominium plan carefully before it is submitted for recording.
- Before your units go to sale, your condominium plan will be used to provide FNTG Builder Services with an Address Certification List. This list will provide a reference and cross check of the official addresses issued by the city and posted on the doors of the units, with unit numbers shown on the condominium plan. The list also provides the parking space assignments, if parking is not pre-assigned on the condominium plan. You should decide early if you want your unit numbers to match your address numbers. It is also essential that the Address Certification List be prepared after the unit numbers are on the doors and after you have made a physical inspection to see that the addresses are posted correctly. Early planning and a final check by you will eliminate errors in the grant deeds to your buyers. These errors can occur with parking space assignments and storage assignments as well as with the units themselves.



## • ESCROW HOLDER'S RESPONSIBILITIES



The escrow holder plays a key role in the successful completion of your project's sale-outs. As the liaison with the developer, or their escrow coordinator, the buyers and the buyers' lender, and all sales agents, you will come to appreciate their communication and organizational skills.

If your project requires a Public Report from the Department of Real Estate (DRE), you will need to select your escrow company prior to submission of your application to the DRE. The DRE requires that the escrow holder be under the jurisdiction of the Department of Corporations (DOC), such as an independent escrow company, or under the Department of Insurance (DOI), such as a title company escrow. Escrow companies that are under the jurisdiction of the Department of Real Estate, such as a broker-owned escrow, are not acceptable for subdivision sale-out escrows.

### **The following are the documents provided by escrow for submission to the DRE:**

- Certified sample escrow instructions. Most often these are a joint purchase agreement/escrow instructions form and are provided by the project attorney, escrow, or the California Association of Realtors (CAR)
- Sample Grant Deed, if not provided by the project attorney
- If a Preliminary Public Report (PINK) is being obtained, the escrow will sign an agreement to hold buyers' deposits (Form RE 612A).
- Once the Maintenance Bond is obtained, the original will be held by escrow with an agreement (Form RE 643) submitted to the DRE

The DRE will review and approve your purchase agreement and escrow instructions and you will certify that the form submitted to the DRE is the form you will use. Changes in your purchase agreement/escrow instructions should be discussed with escrow or the project attorney to determine if they are material and should be resubmitted to the DRE for approval.

If you will be obtaining a Preliminary Public Report (PINK) before the Final Public Report (White) is issued, the escrow holder will be named in the Report and will hold any buyer deposits. All deposits received under a PINK are refundable. (See further into this handbook for types of Public Reports.) If you will be opening escrows under a Conditional Public Report (YELLOW), the purchase agreement/escrow instructions will have additional wording outlining the requirements for closing. It is important to note that individual title reports cannot be issued under a YELLOW because the subdivision map and condominium plan, which make up the legal description, have not recorded. This means that buyer's loan approval will not be able to be completed until the WHITE is issued. Any deposits received under a YELLOW must be held in escrow.



## • ESCROW HOLDER'S RESPONSIBILITIES

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**The following is a summary of the clauses that the DRE looks for in approving escrow instructions:**

- Completion of the units and common facilities prior to the close of escrow and recordation of a Notice of Completion, unless the completion is the subject of a bond which has been approved by the DRE (This includes conversion projects with renovation)
- Escrow must close within 12 months
- Subordination of any existing loan to the CC&Rs
- Escrow must hold the required maintenance bond until the appropriate release after 80% of the units have closed and escrow receives a letter from the association that the developer is current in the payment of dues for which are owed
- Escrow must hold any subsidy or completion bond, if required
- Buyer's funds must be held until escrow closes, unless a bond for funds released to the developer is posted with the DRE (This type of bond cannot be used under a Pink or Yellow)
- Transfer is to be free of any existing blanket encumbrance (developer's loan)

In addition to the above, the escrow holder will request demands from lenders, order Natural Hazard Disclosure Reports and other reports required by the local jurisdiction, provide buyer's lender with requested documents, communicate with the buyer for vesting information, receive and prepare loan documents for buyer's signature, prepare estimated and final closing statements, prorate association dues and taxes, authorize the closing with FNTG Builder Services and notify the buyer and seller of the close.

As the developer, you will need to provide escrow with contact information of your construction lender, your project's preferred lender for buyer's loans and the association's management company. In addition, you will need to purchase insurance for the common areas, which in the case of a condominium will often include the units. Escrow holder will discuss with you how you want to handle the payment of future unsegregated property taxes which may be billed to you after you have closed units. Whether FNTG Builder Services Escrow Division is handling your escrows or we are coordinating with an independent escrow company, FNTG Builder Services will do its part to assure a successful escrow closing for you and your buyers.



## • FNTG BUILDER SERVICES' RESPONSIBILITIES



FNTG Builder Services employs a staff of specially trained technicians to examine, report, guarantee and insure the condition of title for all types of subdivision developments. In addition, as a member of the developer's team, we see our job as working closely with the developer, project engineer and attorney in order to anticipate and resolve the many title related issues that arise throughout the course of a project.

**We prefer, if possible, to begin our work as a member of your team prior to the acquisitions of the land for development. This is recommended so we can work with your team in examining and proposing solutions to title issues such as:**

- "Blanket", "floating" or otherwise undefined or unlocated easements
- Implied or actual rights of surface entry for the development of existing oil or mineral rights
- Recorded covenants, conditions and restrictions (CC&Rs) which limit or prohibit the proposed development
- Boundary documents which may create gaps or overlaps with the description or establishment of the boundaries of the subject property
- Easements of record which may, based on their location or use, impair or otherwise limit the proposed development
- Issues involving primary or secondary access to the project site

The above listing represents just a few of the issues which may delay, hinder or otherwise impair the proposed project development plans. We recognize that we may not always be the title company for the land acquisition. However, since we will be working with you and your team thereafter, consider seeking our input prior to close of the land acquisition escrow nonetheless. We will be happy to help when and where possible.

**During the mapping stage of your project, your FNTG Builder Services subdivision title officer will provide the following services to you, your project engineer, attorney and Department of Real Estate (DRE) processor as follows:**

- Tentative map and boundary review for your engineer
- Provide engineer with boundary deeds, vesting deed(s), recorded maps, recorded easements and other recorded documents necessary to prepare and process the subdivision map
- Subdivision reports are provided to you, your engineer, the city and county, as well as other interested parties. These reports and the subsequent Subdivision Guarantee are provided to the city and county for recordation of your subdivision map. They include the current owners and the nature of all recorded title interests that appear on the title sheets of the map, in accordance with the requirements of the Subdivision Map Act and local ordinances.



## • FNTG BUILDER SERVICES' RESPONSIBILITIES



- Some counties, such as Los Angeles, require the preparation of a 5 year tax history along with a large scale copy of the assessor's map for tax bond applications.
- If the project is a condominium, we obtain the condominium plan from your engineer and review it for accuracy and consistency with the proposed covenants, conditions and restrictions (CC&Rs) as prepared by your attorney.
- If DRE processing is required, we provide the attorney and the DRE processor with a title report containing the title information required by the DRE for the Public Report application.
- Your FNTG Builder Services subdivision title officer will review and record the approved project documents and prepare a final title report for the DRE and the FNTG Builder Services Sale-Out Title Officer.
- For projects of a complicated nature, such as mixed use, high-rise, master planned developments, modular style phasing and adaptive re-use projects, your title officer will meet with and work closely with your engineer, attorney and other team members to address and clarify all mapping and title insurance issues from initial development to the recording of all project documents.

When you are ready for construction loan financing, contact your FNTG Builder Services sales executive to open a title order for this purpose. The reports referred to in this section will form the basis of a Preliminary Report for the benefit of you and your lender.

### **Your FNTG Builder Services construction loan title officer will work with you and your lender to:**

- Provide a Preliminary Title Report
- Plot recorded easement locations as may be required
- Provide recorded document copies as may be required. In most cases, the documents will be hyperlinked to the report for ease of emailing the entire report and documents to lender's attorney and all related parties
- Resolve any title insurance issues or needs raised
- Provide Pro forma Policy and endorsements as may be required
- Review, record and insure the construction loan documents

If you intend to start work on the project property prior to the recording of your construction loan, consult with your FNTG Builder Services sales executive or title officer before work begins on your subdivision site. Your lender requires that their title insurance policy insure against loss due to any mechanics' lien having priority over their loan. The start of work, even as minor as demolition, grading or contracting for temporary power poles, fencing, port-a-potty or other rented preconstruction equipment can be considered a break in priority. In order to provide this insurance to your lender, you will need to provide an indemnity acceptable to FNTG Builder Services. We recommend that you notify us of any start of work on your project site at once, but no later than 48 hours before your construction loan is expected to record. This will give us the minimum time necessary to prepare and process your



## • FNTG BUILDER SERVICES' RESPONSIBILITIES

indemnity for approval. In any event, it is always best not to start until after the loan records.

If FNTG Builder Services will be handling the processing of a Public Report from the Department of Real Estate (DRE), contact your FNTG Builder Services DRE Consultant to review the status of your DRE filing. Upon completion of construction, recordation of all necessary project documents and the issuance of any required DRE Final Public Report (White), you are ready to open and close escrows for the sales of completed lots or units. Your Developer Services Title Officer at FNTG Builder Services will open a title order for each lot or unit in your development as requested by your escrow.

### **Your title officer will:**

- Provide title reports and any requested document copies to your escrow and any buyer's lender
- Provide legal descriptions for use by escrow or buyer's lender on their documents
- Order inspection for verification of address and (if a condominium) parking assignment list
- Consult with you, your escrow or buyer's lender to resolve any issues or needs that may arise
- Request sale-out mechanic's lien Indemnity for closings prior to the expiration of the lien period
- Review, record documents and issue policies of title insurance to your buyers and their lenders

### **Additional services and information available to you through your FNTG Builder Services Sales Executive include but are not limited to the following:**

Coordination and consultation with you and the rest of the development team to assure good communication and quality of service to you from FNTG Builder Services throughout the entire development and sale-out process; provide "Builders Bulk Rate" title insurance premium rate quotations for your subdivision needs (acquisition, construction loan and sale-out policies of title insurance); and set up online property data account for property profile information 24/7.





## • OBTAINING YOUR PUBLIC REPORT



FNTG Builder Services understands how important it is to obtain a Public Report in a timely manner. We offer the services of experienced DRE Consultants to assist you in obtaining a Public Report.

What exactly is a Public Report? A Public Report is a disclosure statement which provides consumer protection in the sale of subdivided land, including air space subdivisions. It is issued by the Department of Real Estate (DRE) after the submission of a filing package, their initial review, deficiency submission, the recording of certain documents and their final review.

### **Projects requiring a Public Report:**

- A standard subdivision of five or more lots to be sold with completed homes (residential houses within a subdivision with public streets and no common area) located within an unincorporated area of the county
- A standard subdivision of five or more lots when all or some lots are to be sold as vacant lots
- Residential common interest subdivision of five or more units or lots, such as a condominium or planned development. Stock cooperatives and community apartment projects (“own-your-owns”) are also considered common interest subdivisions but are rare except in their conversion to condominiums.

### **Projects that DO NOT require a Public Report are:**

- Commercial condominiums
- Any subdivision of four or less lots or units
- Standard subdivisions within the city limits to be sold with completed homes



## • OBTAINING YOUR PUBLIC REPORT

There are seven types of Public Reports, but the ultimate one obtained for a new subdivision is a Final Public Report (called a WHITE).

- 1. Preliminary Public Report, called a PINK.** A PINK will allow you to advertise the project “For Sale” and take refundable deposits to secure a reservation of a unit or lot. Escrow must hold buyer’s deposits but you cannot sign a binding contract or escrow instructions. Either party can cancel and all monies must be returned. A PINK is good for one year and can be renewed and/or amended as often as needed. A PINK requires a very short application and in most cases can be issued in one to two weeks of submittal to the DRE. The requirements for a PINK include the developer be in title or be an “owner-in-escrow” and the project have a tentative tract map approval.
- 2. Conditional Public Report, called a YELLOW.** A YELLOW will allow you to enter into a binding contract and open escrow, subject to the completion of specified conditions. Only when these conditions are satisfied and a Final Public Report is issued can escrow close. A YELLOW can only be issued after a completed filing package has been submitted, a request letter has been filed with an additional filing fee, the DRE Deputy has completed their review and any corrections have been satisfied. Timing for issuance ranges from 2 1/2 to 3 1/2 months from the initial submittal, but is not guaranteed. A YELLOW is good for six months and can be extended only once for an additional 6 months.\* This makes it possible to get a YELLOW too early with the potential for it to expire before you can obtain the WHITE. In addition, because one of the conditions to be satisfied is most often the recording of the subdivision map and condominium plan, title reports cannot be issued, making the buyer’s loan approval not possible until the Final Report is issued.
- 3. Final Public Report, called a WHITE.** The WHITE is the report which allows you to enter into binding contracts and open and close escrows (provided the project is completed). A WHITE requires the same filing package as the Yellow with the addition of final DRE approval and recordation of the final documents. Once submitted to the DRE, it usually takes between four to six months to obtain a WHITE, provided the subdivision map records within that time. A WHITE is good for five years, after which it can be renewed at five-year intervals.
- 4. Amended Public Report.** This is obtained when an existing Public Report has a material change. Consult your FNTG Builder Services DRE Consultant or your attorney to determine if the change in your offering is material. A short form application, explaining the nature of the amendment, is required with a filing fee, along with back up documentation relative to the change.
- 5. Renewed Public Report.** This is obtained when the existing Public Report has expired. A Public Report must be renewed even if the number of unsold lots or units falls below five. The renewal process should begin several months before the Public Report is due to expire, as budgets will need to be re-reviewed and approved.
- 6. Interim Public Report.** This is similar to a PINK on a project that is under DRE review for an Amended or Renewed Public Report.
- 7. HUD Limited-Term Final Public Report.** This is a fairly new report which is subject to change and discontinuance. It is similar to a YELLOW on a high-rise project of more than 100 units which is subject to HUD jurisdiction, has a lender pre-sale requirement and where construction cannot be completed within two years. This Limited-Term WHITE must be renewed every six months. Your FNTG Builder Services DRE consultant or your attorney can help determine if this report is still available or applicable to your project.

\* In certain high-rise condominium developments of 25 units or more, a YELLOW can be issued for up to 30 months with one 6 month extension. This additional time is granted on a case by case basis with special approval required by the DRE.



## • OBTAINING YOUR PUBLIC REPORT

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### Getting Started on the DRE Process

The DRE process should be started after the city or county approves the tentative map and before construction commences. Assembling your processing team early will help you determine the timing that works best for you.

### Your processing team should consist of:

- FNTG Builder Services Sales Executive
- DRE Consultant from FNTG Builder Services or other DRE processor, such as your attorney's office or an independent DRE processor
- Engineer
- Attorney
- Escrow
- Budget Preparer, if the project is a condominium or planned development

If this is the first time this team has worked together, it is a good idea to have a DRE “kick-off” meeting of all of the team members. This can expedite the process when everyone receives the information they need at the same time and can discuss aspects of the project that make it unique.

### The following documents should be brought to your “kick-off” meeting:

- Developer's entity documents, such as LLC-1 and Operating Agreement, or LP-1 and Partnership Agreement or Corporate Resolution, if a corporation. The purpose of these documents is to provide the DRE with evidence of the signing authority of the person signing the application and other documents.
- A signature block will be generated from this and given to the engineer, attorney and DRE consultant.
- Site Plan (five copies) showing the building lay-out and common area facilities
- Architectural Plans (one set) for the budget preparer
- Tentative Tract Map (five copies)
- City or county signed Conditions of Approval

From this meeting, your team members will receive the information they need to complete their part of the DRE filing package. Each of their responsibilities has been outlined in detail in earlier portions of this manual. The following is a summary:

- **Attorney** – Management documents (CC&Rs, Bylaws, Articles) and possibly the Purchase Agreement/Escrow Instructions, sample Grant Deed and Deed and Irrevocable Escrow Instructions for Association Property
- **Budget Preparer** – Budget and Common Facilities Sheet
- **Engineer** – Tentative Tract Map, signed Conditions of Approval and preliminary Condominium Plan (if a condominium)
- **Escrow** – Purchase Agreement/Escrow Instructions
- **DRE Consultant** – All other DRE forms including the Questionnaire



## • OBTAINING YOUR PUBLIC REPORT

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You should carefully review the documents prepared by each of your team members to make sure your project is being correctly represented and your preferences covered.

### **The DRE Process**

Once your DRE consultant receives all of the documents and information for the filing, including the filing fee, they will assemble the DRE filing package and duplicate budget package. Once filed, they will become your “Single Responsible Party”. The DRE will send you copies of the Deputy Assignment Notice and future Deficiency Notices, but the originals will go to the single responsible party with the expectation that they will assemble and submit future documents.

To expedite your DRE process, once a filing has been made, you should work closely with your engineer to get the Map recorded. This will involve complying with all of your tract conditions of approval, posting of subdivision and tax bonds and paying many fees. It is important to remember that every time your engineer submits a copy of the final map for checking to the City or County, they need to send a copy to your FNTG Builder Services subdivision title officer for checking. We often find discrepancies or errors on the map that are missed by the city or county.

When the map is approved for recording by FNTG Builder Services, we will issue the required Subdivision Guarantee within 24 hours of the city’s request. At the same time the Guarantee is sent to the city, it is sent to the county; so when the map arrives for recording, our Guarantee is already there and the county will then call us the morning of the recording for an “Oral Date Down”. This is a final check of the chain of title and verbal assurance to the county that no new documents recorded which would affect the map.

It is important to remember that when your map is in final review with the city or county map checker, it can be substantially delayed by changes in title and the recording of a new loan. Consult with your engineer and your FNTG Builder Services sales executive before you record a new loan. Changes that can often not be helped are the recording of utility easements during the final stages. Fortunately these only require an additional note on the map and do not require new signatures.

The condominium plan is usually submitted to the DRE in a preliminary form and then finalized by the engineer after you have started construction. Your engineer will want to perform a site visit to verify the accuracy of the Plan. Coordinate with your engineer to determine how early you and your lender can sign the Plan. When the condominium plan is in its final form, it needs to be checked by your FNTG Builder Services subdivision title officer along with the CC&Rs.

The CC&Rs are also a final document which will need to be signed by you and your lender. Your lender will actually be signing a Subordination to the CC&Rs. Lenders familiar with subdivision construction will be willing to sign the map, condominium plan and CC&Rs without a problem. Contact your attorney if you have any lender issues in this regard.



## • OBTAINING YOUR PUBLIC REPORT

Another final document to complete your DRE filing is the **Maintenance Assessment Bond** or other security device, which amount is approved by the DRE. Your DRE consultant will notify you when your budget has been approved and it is time to deposit this security with escrow. The Maintenance Assessment Bond is the most commonly used security device. The purpose is to guarantee our payment of assessments on unsold units. It is deposited with escrow and can be in the form of a Surety Bond, Cash Deposit, Letter of Credit or Set Aside Letter. Your filing may have included an optional Subsidy Agreement or Start-Up Fund. Both of these arrangements also require the posting of a bond or other security to guarantee your obligation. Your DRE consultant will let you know if these bonds are required.

When the final documents are ready to be submitted to the DRE (recorded map, condominium plan, CC&Rs, and bond[s]), your DRE Consultant will prepare the Final Public Report (WHITE) and make the final submission. The DRE has 15 days to issue the WHITE.

Once the WHITE is issued, your DRE Consultant will notify you and provide you with an initial number of copies of the White and the Purchaser Documents to distribute to your buyers.

**The documents that make up the Purchaser Documents that will need to be given to each buyer either at the point of sale or while in escrow are:**

- Final Public Report
- CC&Rs
- Bylaws
- Articles of Incorporation
- SB800 Notice
- Annexation Document (if a phased project)
- Subsidy or Maintenance Agreements (if applicable)
- Condominium Plan
- Maintenance Budget

**The following documents may also be given if they have been prepared for your project. Some of these documents are not part of the DRE filing so you should confirm what documents need to be given to your buyers and who will be responsible for providing them:**

- Disclosures prepared by your attorney for your project (optional)
- Limited Warranty (optional)
- Maintenance Manual (optional)
- Special Property Tax Disclosures
- Hazard Disclosure



## • PUBLIC REPORT TIMETABLE



Because the most often asked question is, "How long does it take?" the following are the required guidelines the Department of Real Estate uses in their review of Public Report applications:

	<b>Condominium and Planned Developments</b>	<b>Standard Subdivisions</b>
Deputy assigned <b>within ...</b> of receipt of application. (PINK can be issued within this time.)	<b>10 days</b>	<b>10 days</b>
Deputy reviews file; issues Deficiency Notice <b>within ...</b> (YELLOW can be issued at this time after YELLOW deficiencies are satisfied.)	<b>60 days</b>	<b>20 days</b>
Upon receipt of items requested by deputy in #2 above, he/she must approve condo plans/CC&R's for recording, have budget approval, etc., and issue the "request for final documents" <b>within ...</b>	<b>30 days</b>	<b>20 days</b>
Deputy must issue Final Public Report <b>within ...</b> of receipt of all final documents.	<b>15 days</b>	<b>10 days</b>
	<b>Total: 115 days</b>	<b>60 days</b>

NOTE: THE TOTAL NUMBER OF DAYS DOES NOT INCLUDE THE TIME IT TAKES TO RESPOND TO DEFICIENCIES, REVISE DOCUMENTS, RECORD THE TRACT MAP AND CONDOMINIUM PLAN, REVISE THE BUDGET, OBTAIN BONDS, ETC. YOU SHOULD EXPECT TO SPEND FOUR TO SIX MONTHS IN THE PROCESS FROM THE TIME OF SUBMITTAL TO THE DRE.

The most common delays are caused by delays in recording the Tract Map and changes in the application which change the budget. Up to 45 days should be added for re-review and approval of a revised budget. Because every project is different and DRE case loads vary, you should consult with your DRE team to get an estimate of the timing for issuance of your Public Report.



## • CONDOMINIUM CONVERSIONS



The local governing body (city or county) will have specific requirements for the approval of a conversion from an apartment to condominiums which will include noticing, relocation benefits and a tenant's right to purchase their unit.

The Subdivision Map Act, Section 66427.1, outlines the noticing requirements and references other sections of the Map Act that are relevant to conversions. The following is a summary of the tenant notices which are required at this time. The Map Act is updated annually and any changes affecting condominium conversions should be noted.

### **The local governing body may impose additional conditions but, at a minimum, the Map Act requires:**

- 60 Day notice prior to filing a tentative map application, pursuant to Section 66452
- Notice of the public hearing for approval of the conversion, pursuant to Section 66451.3 and any appeals, pursuant to Section 66452.5
- 10 Day notice that an application for a Public Report will be or has been submitted to the DRE
- 10 Day notice of the approval of the final map by the city or county
- 5 Day notice that the developer has received the Public Report from the DRE
- After final map approval, notice to prospective tenants of a 90 day first right to buy
- 180 Day notice of intention to convert prior to termination of tenancy due to the conversion, pursuant to Section 66452.11, but not before the city has approved the tentative map
- Notice of tenant's exclusive right to buy their unit for a period of not less than 90 days from the date of issuance of the Public Report, unless the tenant gives prior written notice of their intent not to purchase

Some of the notices referenced above have specific wording outlined in Sections 66452.8, 66452.9, 66459 and 66452.51 of the Map Act. You should consult with your engineer, attorney or condominium conversion consultant for the appropriate wording and timing of these notices.

### **The Department of Real Estate (DRE) also has additional filing requirements for condominium conversion projects of 5 units or more. They are:**

- Submission of a Form RE 639, Conversion Questionnaire which asks for the age of the building and certain common area components and information regarding renovation and other matters
- Copy of the tenant's notice of intention to convert and notice of tenant's first refusal right
- Statement of defects
- Inspection reports
- Income and expense statements applicable to the project for the last three (3) years

NOTE: If you will not be recording a new loan, you should discuss the conversion with the existing lender. Some lenders will not cooperate and you may be forced to obtain a loan from a lender willing to sign the subdivision map, condominium plan, CC&R Subordination, and issue partial releases to close individual escrows.

- **COMMERCIAL CONDOMINIUMS AND MIXED-USE DEVELOPMENTS**



**Commercial Condominiums** follow the same basic procedure for approval and preparation for sales as residential condominiums with one big exception: they are exempt from the filing requirements of the DRE.

Their ownership and maintenance structure can also be quite different, to allow for the different needs and expectations of a commercial owner. For instance, the condominium plan can be drawn with fixed units or with a grid format with one to two foot squares being deeded. The grid format provides for maximum flexibility in selling by square foot but it has its challenges in other areas. The CC&Rs can also be creative in the way parking and maintenance obligations are handled.

The attorney, engineer and FNTG Builder Services subdivision title officer play a significant role in designing the documents to fix the developer’s marketing plan. An early planning meeting of these team members is essential for a smooth subdivision process.

Commercial condominiums are not exempt from the filing requirements for a Builder’s Exclusion with the County Assessor’s office. The Builder’s Exclusion or Construction Exclusion (“ConEx”) forms should be obtained from the Assessor’s office

and filed within 30 days from the start of construction to insure that no Supplemental Bill will be issued based on the recording of the Notice of Completion.

**Mixed Use Developments** are usually a hybrid of a residential condominium and a commercial condominium. Most often, they are separated by different legal lots on a tract map but their separation can also be by modules on a condominium plan. They usually have two separate associations with a Reciprocal Easement Agreement (REA) or other agreement that governs their relationship with each other. If one association and condominium plan is used for both ownerships, the entire project is submitted to the DRE for review. Otherwise, just the residential condominium is filed with the DRE.

The commercial aspect of the mixed use does not have to be in a condominium format. As long as there is a separate legal description provided on the tract map or condominium plan, the ownership can be singular with the same rental rights as a standard commercial project.

In addition to the attorney, engineer and FNTG Builder Services subdivision title officer, the budget preparer can play a significant role in helping to plan the project successfully and should be included in early meetings.





- **SEGREGATION OF PROPERTY TAXES**



Segregation is a word commonly used by the development industry to refer to what the Assessor calls a “**parcel change**”. A parcel change occurs when a property is divided by a new subdivision map, condominium plan or lot line adjustment.

Segregation is a word commonly used by the development industry to refer to what the assessor calls a “parcel change”. A parcel change occurs when a property is divided by a new subdivision map, condominium plan or lot line adjustment. Segregation is the term the assessor and tax collector uses to describe the separation of a single tax bill which then becomes prorated among individual owners. So the segregation is the separation of the tax amounts after the parcel change has occurred. Proration of taxes based on segregated tax bills is fairly easy and will be handled by escrow. It is the estimating and proration of unsegregated tax bills that is the subject of this section.

If the property taxes at the time of sale to your buyers are not segregated, as is almost always the case in condominium and condominium conversion developments, a plan must be in place to estimate with some accuracy what tax amount should be used for proration. If a future unsegregated bill is expected, a collection plan also needs to be in place to insure the timely payment of these taxes.

In addition to segregation, an increase in the assessed value due to a change in ownership and new construction can be under review with the assessor during sales to individual buyers, causing a change in assessed value after bills have been issued and resulting in additional bills issued after sales. Therefore, it is important to understand what triggers reassessment and what triggers segregation. Both come into play in properly planning for your tax prorations and possible tax collection.

A segregation is triggered by the recording of a tract map, parcel map, condominium plan or lot line adjustment. A map, plan or lot line adjustment in a new subdivision that records prior to December 31st will cause the segregation by the following tax year.

A reassessment is triggered by a change in value based on a transfer of ownership or new construction. If the reassessment is based on a transfer of ownership, a Supplemental Tax Bill will be issued to reflect the increase from the time of sale to the end of the tax year. If the reassessment is based on new construction, the value will be the construction value as of January 1st or as of the recording date on a Notice of Completion (for non-exempt developments).

If your project is a standard subdivision or planned development which required the recording of your tract map prior to commencement of construction, chances are the property taxes will be segregated prior to your sales. Your concern will be whether the segregated tax bills reflect the value of a vacant lot or a complete or partially complete home.



## • SEGREGATION OF PROPERTY TAXES

The assessor no longer requires the filing of a Builder's Exclusion/ConEx form to exempt you from the issuance of a Supplemental Tax Bill generated by a Notice of Completion on new construction, with the exception of condominium conversions, commercial condominiums and condominiums of four units or less. However, you can still be subject to an Escaped Assessment, Adjusted Tax Bill or an Unsecured Tax Bill that reflects the increase in value of new construction as of January 1st.

These bills usually arrive after you have sold your homes or units. If the taxes are segregated and you have sold the home, the bill should be already prorated for that portion of the year in which you were the owner. If the taxes are not segregated, you need to have anticipated this and collected an adequate proration from your buyer.

### **Estimating future unsegregated taxes:**

- When estimating based on a change in ownership by the developer after January 1st, 1.25% of the sales price is the standard suggested by escrow companies and the Department of Real Estate. If you are aware of any special assessment districts or Mello Roos assessments, you will want to take those into account as they will probably make the tax rate higher than 1.25%. This situation occurs when a developer sells the entire project either right before the map records or near the time of sale-outs and the assessor has not had time to issue the new developer's Supplemental Bill.
- 1.25% of the buyer's purchase price can also be used. The buyer is charged and the developer credited. In this case, the developer has an agreement with the buyer through escrow that they will pay both the unsegregated bill and the buyer's new Supplemental Bill that will be issued as a result of the sale.
- It will be up to you to let your escrow know if you will be providing an estimate for the proration of taxes. You should also make sure that they plan to prorate based on a full year. The assessor will not segregate a half or partial year. The exception to this is condominium projects of four units or less that have applied for assistance in segregating the bill.
- Once the tax estimate is determined, unless you will be using 1.25% of the buyer's purchase price, it is customary to divide the estimate equally to determine a per unit amount. Again, this amount is prorated for the entire tax year. If your closing is occurring between January 1st and June 30th, the buyer will be charged the entire estimate amount in addition to a proration of the current taxes. If your closing is between July 1st and October 1st, the buyer's amount will be prorated from their close of escrow through June 30th of the following year.
- The tax estimate amount can either be held by the developer, the homeowners association management company, or a tax hold account can be set up with FNTG Builder Services. Discuss with your FNTG Builder Services sales executive whether a tax hold account would be advantageous for your project.



- **SEGREGATION DATES FOR PROPERTY TAXES**



The following dates should be useful in determining how you will handle the proration of unsegregated taxes for your project:

### **January 1**

Assessment date. Taxes become a lien not yet due and payable for the fiscal tax year starting July 1st. This is also the valuation date for new construction. If a subdivision map or condominium plan has not recorded by this date, the tax bill will not be segregated when issued in October and an estimate will be required. You should also note the status of construction of your project as of this date. If the value of the improvements is not already showing on your bill, you should expect a reassessment. The Assessor will likely use a cost approach for their appraisal which will include soft and hard cost and standard measures for construction.

First sale occurring between January 1st and October 1st: you will need to determine if segregated bills will be issued based on when the map or condominium plan recorded. In addition, you will need to estimate what the bill will be and collect from the buyer an amount sufficient to cover their portion of any unsegregated bill. The bill will be sent to the property owner as of January 1st, which may be you. It will be your obligation to pay both installments of any unsegregated bill and to forward any segregated bills you receive to the appropriate owners. See "Estimating Future Unsegregated Taxes" on page 29 of this handbook for various methods of estimating and paying unsegregated taxes.

### **February 1**

2nd installment regular taxes are due.

### **April 10**

2nd installment regular taxes last day to pay without penalty.

### **July 1**

Fiscal tax year begins. Taxes are due after this date but not yet known or payable. Even if taxes will be segregated for this new fiscal year, an estimate will be required for closings from now to when the bill is issued in October. The assessor can now advise if the taxes will be segregated and provide the valuations being used for the upcoming bill(s). This will be helpful for determining your estimate or confirming the estimate you are using.



- **SEGREGATION DATES FOR PROPERTY TAXES**

Sales occurring after July 1st: Your estimate will now be prorated between you and the buyer.

### October

Sometime during the month, regular tax bills should be received.

For first sales occurring after October 1st, you should be able to prorate based on the actual bill provided it correctly reflects the value of the project as of January 1st.\* If you had sales and were using an estimate, escrow should now use the actual bill amount. Prorations will still be from the close of escrow through June 30th of the following year. The assessor will be obligated to complete the segregation of taxes for the next year.

If segregated bills are issued when an unsegregated bill was expected, buyers should be sent their bills along with a refund of the estimate that was collected from their funds.

### November 1

1st installment regular taxes are due.

### December 10

1st installment regular taxes last day to pay without penalty. If paying unsegregated taxes, both installments should be paid.

\*Although actual tax amounts should be able to be used for proration purposes after the bill is received in October, the following situations could mean the bill is too low and the receipt of an adjusted, escaped or developer's Supplemental Bill is probable. In these cases an estimate of future taxes should still be used:



The bill is not in the name of the developer, indicating the probability of a future Supplemental. This will happen if you have had a change in ownership after January 1st. If this is the case, you should estimate the amount of the supplemental and prorate accordingly.

The value of the property does not reflect the value of the completed improvements as of January 1st. If this is the case, you should contact the regional office of the assessor to see what adjustments they are planning to make before they complete the segregation.





## CONCLUSION

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We hope that you find this information useful. Your FNTG Builder Services Sales Executive, Title Officers, Escrow Officers and DRE Consultants are ready to answer any specific questions you might have involving their expertise.

**We will always be proud to be a part of your Development Team.**

