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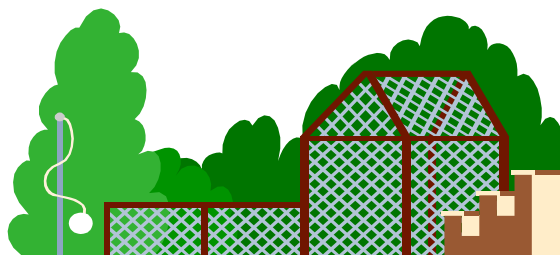
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Issue 1

Recent Updates and Impacts on Association Law

2000

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### **NEW PLAYGROUND REGULATIONS IN EFFECT**

New regulations regarding safety for playgrounds located in California went into effect on January 1, 2000. The regulations, codified at 22 California Code of Regulations Section 65700 *et seq.*, require “operators” of “playgrounds” to have their playgrounds inspected by a Certified Playground Safety Inspector by October 1, 2000. The operator is required to implement changes in the design, installation, inspection, maintenance and supervision of its playground that are identified as necessary to comply with the requirements established in the regulations.

At first glance, one might conclude that the regulations do not apply to community associations, since Section 65700.6 of the regulations defines “operator” as “any entity which operates a playground open to the public.” Most association playgrounds are arguably not open to the public, since their use is generally limited to community residents and their guests. However, Section 65700.6 provides that the regulation applies to: “a church, *subdivision*, hotel, motel, resort, camp, office, hospital, shopping center, child care setting, and any restaurant . . .” (emphasis added) The regulations appear to have adopted a broad definition of “public,” since most of the entities listed above generally limit use of their facilities to patrons, *e.g.*, a person who is not a guest of a resort would likely be asked to leave a resort’s playground if his or her non-guest status came to management’s attention. Note also the inclusion of “subdivision” in the list of operators, which suggests that community associations are intended to be covered.

A “playground” is defined as an improved outdoor open area designed, equipped and set aside for play by children (*i.e.*, persons two through twelve years of age) that is not intended for use as an athletic playing field or athletic court, and includes all playground equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation and related structures. *See* Sections 65700.8, 65700.2.

The requisite upgrades to playgrounds must be completed by January 1, 2003. See California Health & Safety Code Section 115730. In addition, Section 65730 of the regulations requires that playground equipment be assembled or installed under the direct supervision of an individual who is authorized by the manufacturer to assemble and install the equipment, or the equipment must be inspected by a Certified Playground Safety Inspector prior to the equipment's first use. The inspector must certify that the equipment is in compliance with the regulations. Finally, Section 65735 of the regulations requires the playground operator to maintain and inspect the playground and playground equipment pursuant to the standards adopted in the regulations, and Section 65740 requires operators to train their personnel involved in designing, installing and maintaining their playground by ensuring that the personnel have read and understood the requirements established by the regulations before such personnel participate in the design, installation or maintenance of the playground. 

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