"THE BALCONY BILL"

§ 5551 - ELEVATED ELEMENTS INSPECTIONS...IS YOUR HOA PREPARED?

Recent changes in the California Civil Code, also known as the Davis-Stirling Act requires homeowners associations to procure Elevated Elements Inspections for certain types of properties.

BRIEF HISTORY

BERKELEY, CA 2015

Not long ago, there was a tragic accident in Berkeley, CA. A group of people were standing on a balcony when the wooden structural supports failed and the deck collapsed, falling some 30 feet to the street below. Six people were killed and seven others severely injured. In response to that, the California legislature enacted new laws which require that wood framed elevated elements (balconies, decks, stairs, walkways) that protrude from the main structure be inspected by a licensed architect or engineer to ensure the structural elements are sound, and that any railings serving the areas are secure.

WHAT IT INCLUDES

§ 5551 CALIFORNIA CIVIL CODE

At a minimum, detailed inspection of load bearing components and associated waterproofing or building envelope systems is required...including flashing, membranes, coatings, and sealants that protect the load bearing components from exposure to moisture. In addition, intrusive investigation: i.e. cutting away stucco or siding to access the structural elements may be necessary. The report must include a list of the elements for which the HOA has maintenance and repair responsibility, recommendations for repair or replacement of the systems identified, and the expected remaining useful life of those components. The findings of the report are to be included in the association's Reserve Study, per the requirements listed in section 5551 of the California Civil Code (also known as the Davis-Stirling Act).

IMPACT ON RESERVES

EXPENDITURES & PERCENT FUNDED

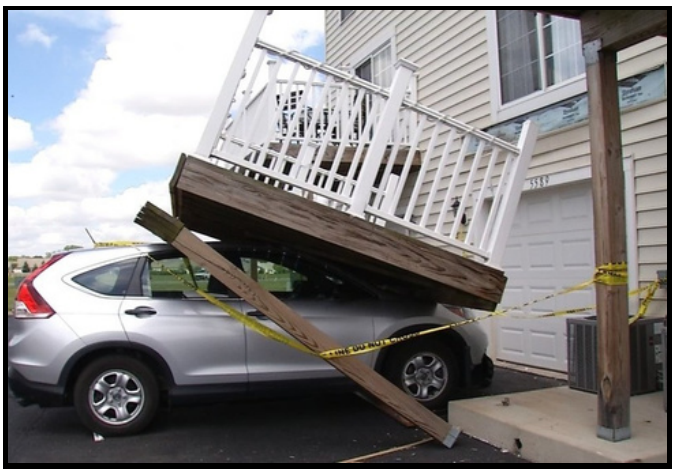
Some good news: Elevated Elements Inspections are considered reserve expenditures, as well as any remediation costs. However, this will result in a reduction of percent funded as well as potentially substantial increases in reserve contributions. If reserves are poorly funded, there may be a need for a special assessment(s) as well.

Les Weinberg, RS, MBA & Scott Clements, RS, PRA, CMI

TIMELINES

RESERVE STUDY REPORTING

The initial Elevated Elements Inspections must be conducted and included in the association's Reserve Study by January 1, 2025, and again no less than every nine years thereafter in coordination with the Reserve Study inspection pursuant to Section 5550 (or six years from date of completion for buildings constructed after January 1, 2020). Therefore, HOA's should budget to have the Elevated Elements Inspections performed no later than during the 2024 Fiscal Year. Reserve Studies for any fiscal year beyond 2020 should include a line item for the statutory mandated Elevated Elements Inspection in the appropriate years.



ESTIMATED COSTS

AVERAGE $500 PER UNIT

The costs of these Elevated Elements Inspections are expected to vary widely, based on the type of construction, the accessibility of the elements (such as the need for extension ladders or scaffolding), associated materials that must be reviewed, any destructive work that may be necessary, and restoration costs of the destructive work. Currently inspection costs have been ranging in the $800-1,200 per deck inspected, or a rough average of $500 per unit (i.e. not all units may have decks). Providers are required to inspect a "Statistically Significant Sample", which means a sufficient number of units inspected to provide 95 percent confidence that the results from the sample are reflective of the whole, with a margin of error of no greater than plus or minus 5 percent." In user-friendly terms this means several areas of every property will need to be evaluated, and a mid-size HOA of 150 units should anticipate inspection fees in the $75,000 – 150,000 range. Note, this does not include the costs of remediation should that be determined necessary.

ADVICE FOR HOA BOARDS

BUDGETING AND PREPARATION

- Update the current Reserve Study to include the estimated cost of the Elevated Elements Inspections, and adjust in a future study as additional information is received.
- Procure bids for Elevated Elements Inspections. Look for providers who specifically work with HOA's and have the appropriate experience and insurance coverages to undertake the scope of work necessary.
- Prepare for the inspection:
  - How and when will the elements need to be accessed.
  - Is individual unit access required? If so, which units?
  - To what extent will homeowner cooperation be needed?
  - Determine the potential impact on the daily activities of the members.
  - Communicate the procedures to the homeowners in advance, updating on a regular basis.

The requirements of these new regulations are clearly defined in the California Civil Code, and it is the responsibility of the HOA to provide the information to the membership via the Reserve Study and its associated Funding Plans. The sooner the requirements are addressed and budgeted for, the greater the ability to spread out the associated costs over a longer period of time.

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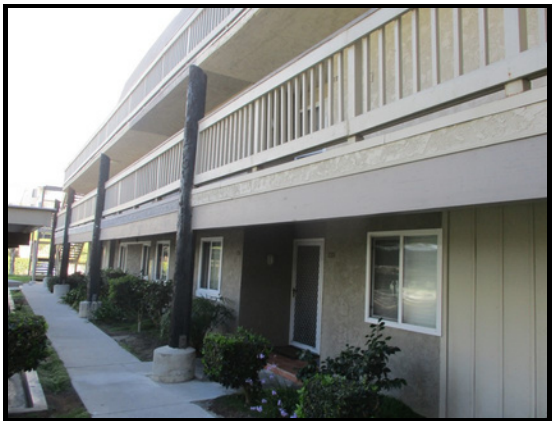
PHOTO LOG

The language in California Civil Code Section 5551 is detailed in its requirements, however, recognizes the prepares discretion in determining the scope and methodology of the Elevated Elements Inspection, and the specific reporting of the findings. The below provides some examples of construction commonly encountered and the relevance to the requirements outlined in the law, however, these are offered for information purposes only, as all Associations will need to consult with a licensed professional to determine the needs of their communities responsibilities.

Wood framed, elevated, railings subject to fallibility; inspection requirements likely apply.



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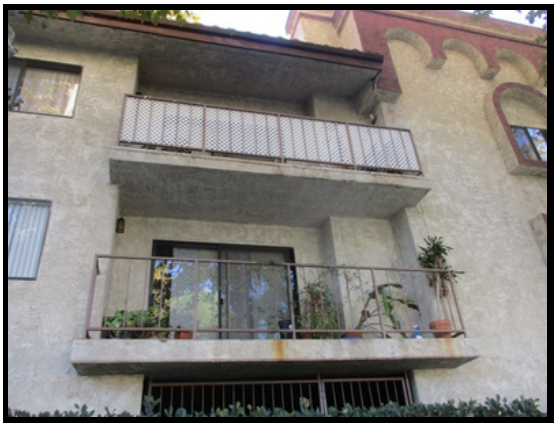
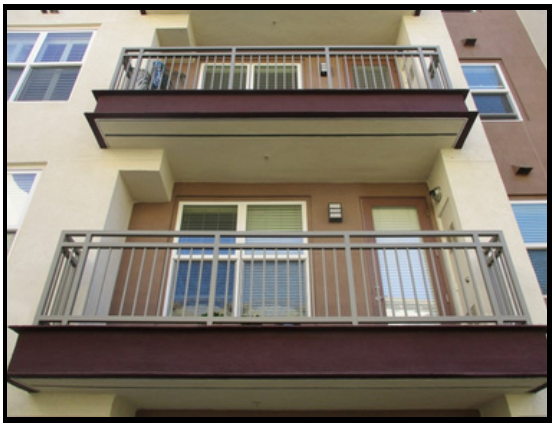


Wood framed, elevated, railings subject to fallibility. Note the lack of ventilation – destined to fail; inspection requirements likely apply.



Wood framed, elevated, railings subject to fallibility. Note the presence of ventilation; inspection requirements likely apply.

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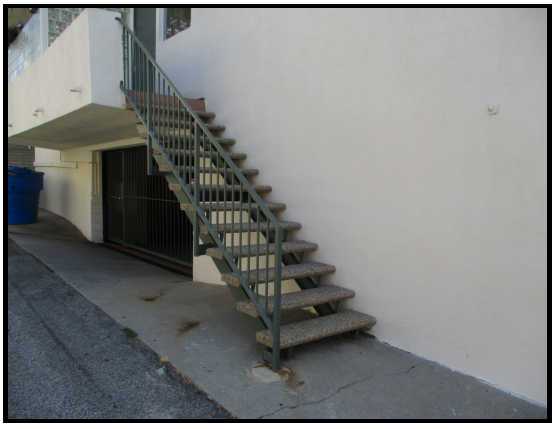
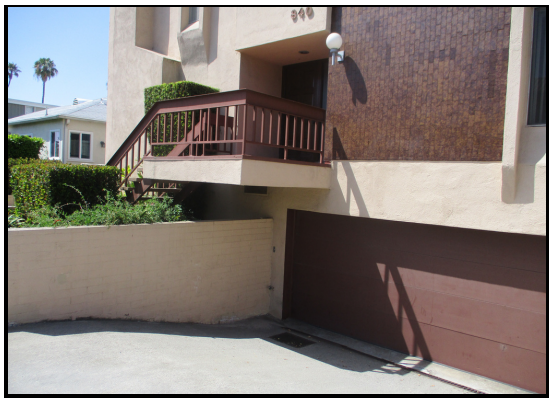


Metal framed stairs likely exempted; however, deck and door landing are wood framed, elevated inspection requirements likely apply.

PHOTO LOG CONT.



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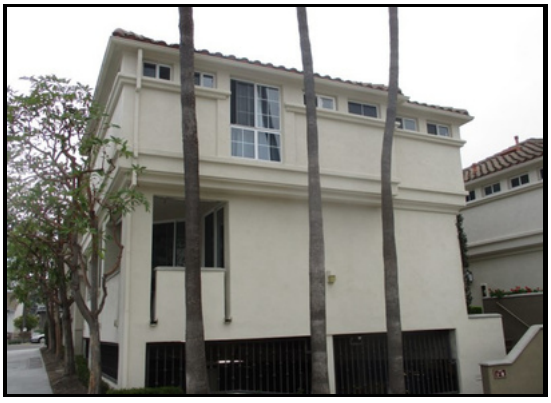
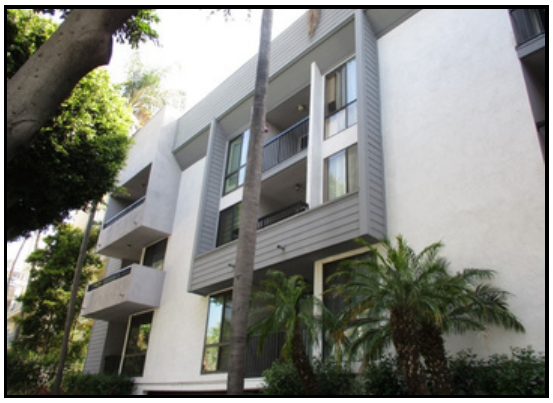


Center deck does not protrude, therefore, likely exempted, however, decks to the left do protrude; elevated inspection requirements likely apply.

Elevated deck does not protrude; elevated inspection requirements likely does not apply.



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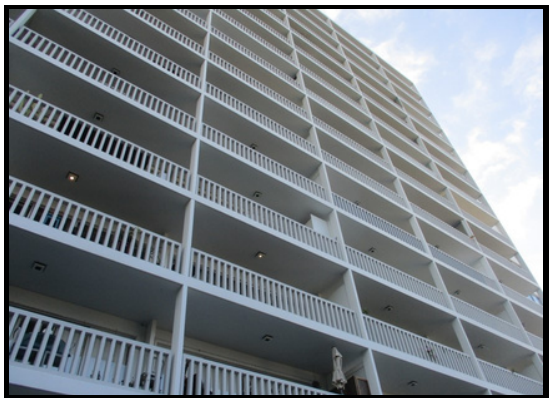

Concrete and steel construction; elevated inspection requirements likely does not apply.

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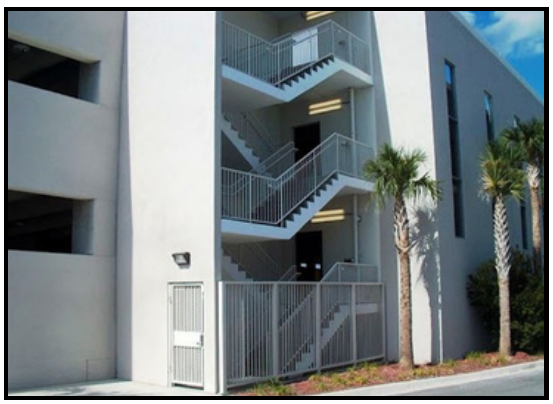
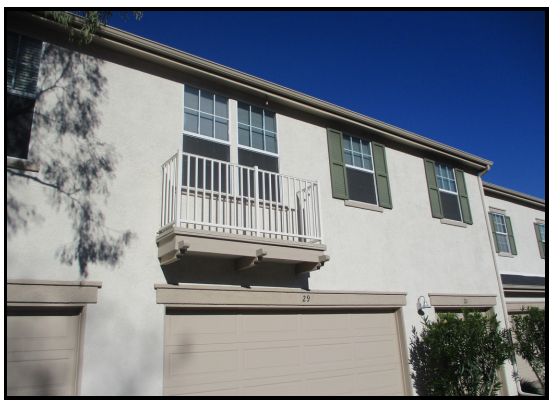


Stairs are concrete and steel construction; elevated inspection requirements likely does not apply.



Attached decorative element, not designed for human occupancy; elevated inspection requirements likely does not apply.