







# EASTERN GARDENS CALENDAR OF EVENTS

NOVEMBER 2012

SUN	MON	TUE	WED	THUR	FRI	SAT
				1 10am Coffee	2 8:15am - Tai Chi	3
4 	5 8:15am - Tai Chi	6	7 8:15am - Tai Chi	8 10am Coffee	9 8:15am - Tai Chi Candidate Deadline	10
11  VETERANS DAY	12 8:15am - Tai Chi	13	14 8:15am - Tai Chi	15 10am Coffee 7pm Candidates Q&A	16 8:15am - Tai Chi	17
18	19 8:15am - Tai Chi	20	21 8:15am - Tai Chi	22 	23 8:15am - Tai Chi	24
25	26 8:15am - Tai Chi	27  10am Bookmobile	28 8:15am - Tai Chi	29 10am Coffee	30 8:15am - Tai Chi	

DECEMBER 2012

SUN	MON	TUE	WED	THUR	FRI	SAT
						1
2	3 8:15am - Tai Chi	4	5 8:15am - Tai Chi	6 10am Coffee	7 Pearl Harbor Day  3-5pm EG Voting	8
9 4-6pm EG Voting	10 8:15am - Tai Chi 5-7pm EG Voting	11 6-7pm EG Voting 7pm AGM	12 8:15am - Tai Chi	13 10am Coffee	14 8:15am - Tai Chi	15
16	17 8:15am - Tai Chi	18 10am Bookmobile	19 8:15am Tai Chi	20 10am Coffee	21 8:15am - Tai Chi	22  Give-A-Way
23	24 8:15am - Tai Chi	25  Merry Christmas	26 8:15am - Tai Chi	27 10am Coffee	28 8:15am - Tai Chi	29
30	31 8:15am - Tai Chi	1  2013				

AN EMERGENCY IS A PERSONAL SITUATION THAT THREATENS HUMAN LIFE OR PERSONAL PROPERTY AND DEMANDS IMMEDIATE ATTENTION, I.E. MEDICAL, BURGLARY, FIRE, THEFT & ASSAULT — **DIAL 911**

# THE GARDENS GRAPEVINE

Volume 9—Issue 6

EASTERN GARDENS COOPERATIVE, INC.  
3045 EASTERN AVE. SACRAMENTO, CA 95821

NOV-DEC 2012

## EASTERN GARDENS

### CALL FOR CANDIDATES & THE ANNUAL GENERAL MEETING/ELECTIONS

#### 2012 BOARD OF DIRECTORS

- **Kathy Slotterback**  
President/Board Member
- **Diane McKee**  
V.P./Board Member
- **Chris Manning**  
Treasurer/Board Member
- **Ed Healy**  
Secretary/Board Member
- **Shirley Brown**  
Board Member
- **Lynette Haley**  
Alternate Board Member
- **Vacant**  
Alternate

#### MANAGING AGENT

FPI Management  
800 Iron Point Road  
Folsom, CA 95630  
(916) 357-5300

- **Gary Haugstad**,  
Sr. Portfolio Mgr.
- **Theresa Williams**  
Community Manager
- **Kurt Whisenhunt**  
Maintenance, (On Call/PT)

#### OFFICE HOURS

10am—5pm  
Sat-Sun: CLOSED  
Office Ph: (916) 489-1604  
www.easterngardenscoop.org

After Hour  
**Building Emergencies**  
(916) 271-8649



The *California Corporations Code* mandates that corporations have a board of directors. Without a board, a corporation cannot conduct business, which means insurance coverage will lapse, maintenance ceases, rules enforcement ends, the association's corporate status lapses and lawsuits cannot be answered, potentially exposing each individual member to liability. Therefore, associations must hold elections to select a board of directors.

Eastern Gardens Board will be accepting applications for those members interested in running for the 2013 Board of Directors. The Board consists of seven members (i.e., five board members and two alternates). The board and its officers oversee the business and policy making affairs of the Corporation by working together with its management staff (FPI), for example, the annual operating budget, capital improvement plan, rules and regulations, and provide communication to its members. Once elected the Board establishes its meeting times and dates, they meet for few hours with management to review and discuss the needs of the corporation and its membership. Term of office is one year with the option of one or two board members carrying over for one additional year at the end of their initial term. November is the month when nominations will be accepted. The **dead line** for turning in your application is close-of-business, Friday, **November 9, 2012** at the business office. **Question and**

**Answer** session for all board candidates is scheduled for **Thursday, November 15, 2012 at 7:00pm** in the clubhouse. The only skill required is the ability to serve the interest of the corporation and its members.

#### ANNUAL GENERAL MEETING

In accordance with our By-Laws, the Annual General Meeting (AGM) of the membership is scheduled for the second **Tuesday, December 11, 2012 at 7:00 PM in the Clubhouse**. One of the



most important agenda items is the election of the Board of Directors. Depending on the number of carry-over's, vacancies will vary, usually three, but can be as many as five. Candidate Members with the highest amount of votes comprise the board and officers; the remaining candidate members with the least amount of votes become the alternates. The officers of the corporation, i.e., President, Vice President, Secretary and Treasurer are elected from within the board. (EG Bylaws, Article VI Section 1).

**Who May Vote:** Members on record who are in good standing may vote. "Where husband and wife are joint members, each shall be entitled to cast one-half vote (1/2)". Only one vote per household.





## Common Interest Developments (CIDs) & The Davis-Stirling Act

Common interest developments were first regulated in California in 1963 with the passage of the California Condominium Act. However, the laws affecting homeowners associations were scattered throughout the Corporations Code and the Civil Code and did not adequately address the unique issues posed by community associations. Through the efforts of Assemblyman Lawrence W. Stirling and law professor Katherine Rosenberry, a comprehensive body of law governing common interest developments was drafted in 1985 and became known as the Davis-Stirling Common Interest Development Act. The Act went into effect January 1, 1986 as Civil Code §§1350-1378.

The Davis-Stirling Act applies to all common interest developments in California, including those in existence prior to the Act.

**Corporations Code.** The Davis-Stirling Act applies to all common interest developments in California. In addition, the Corporations Code applies to all incorporated associations. From time-to-time, there are conflicts between governing documents and statutes which can be resolved using established rules of interpretation.

### DAVIS-STIRLING REWRITE SIGNED INTO LAW

On Friday, August 17th, 2012 Governor Brown signed into law the long-anticipated rewrite of the Davis-Stirling Act. The bill reorganizes and renumbers the Act to make it more user-friendly. In addition, the rewrite made substantive changes which I will cover in future

newsletters.

**Current CC&R Restatements.** Associations that are currently restating their CC&Rs and Bylaws do not need to wait for the rewrite to take effect. One of the provisions in the bill allows boards to update their governing documents by replacing old statutory references with new ones without the need for a membership vote:

Civil Code §4235(a) Notwithstanding any other provision of law or provision of the governing documents, if the governing documents include a reference to a provision of the Davis-Stirling Common Interest Development Act that was repealed and continued in a new provision by the act that added this section, the board may amend the governing documents, solely to correct the cross-reference, by adopting a board resolution that shows the correction. Member approval is not required in order to adopt a resolution pursuant to this section.

**Sneak Peak.** Although signed a few weeks ago, the rewrite does not go into effect until January 1, 2014 so as to give everyone a chance to familiarize themselves with the new Act. To get a peak at the new Davis-Stirling Act, see Assembly Bill 805.

*Reprinted from Davis-Stirling.com by Adams \* Kessler PLC*

### ASSOCIATION Vs MEMBERSHIP

The feedback from "Diana S." is way off base, at least in the discussion of incorporated associations. There is definitely a specific "entity separate" from the membership. Such corporations, defined in Corporations Code §7110 et seq clearly defines these enti-

ties. Corporate officers and directors of the corporation owe their fiduciary duties and responsibilities to that entity, NOT the members. Officers and directors are responsible to maintain the operational and physical assets of the corporation such that it is capable of delivering to the members those goods and services appurtenant to membership in that association. The benefits derived from membership in the association come from the corporate entity, not from the members themselves. Misunderstanding that concept causes many members to expect or demand from boards more than is appropriate. -Ted L.

*Reprinted from Davis-Stirling.com by*



**ADAMS \* KESSLER PLC** is a law firm specializing in community associations throughout California. They offer a full range of services, such as, CC&R & bylaw amendments for co-operatives and other associations. In past years, Eastern Gardens Board of Directors has utilized their services on various occasions to help clarify and resolve potential litigation issues, (e.g. amendments to our bylaws, interview questioner and elections).

Unlike other firms whose main practice areas include personal injury, family and entertainment law with a small homeowner association practice, they specialize in community association law staying current on all matters affecting the industry. They are best known to us for their Davis-Stirling.com website and their weekly email newsletters on a wide variety of HOA operational and management issues, this includes the three articles above.

### MEMBERSHIP ADDRESS/PHONE LIST



The Court of Appeals recently decided a non-HOA case which will likely affect other associations such as EG Co-op. The issue was the interpretation of a member's "address" in the Corp. Code §8330 (a) and the Civil Code §1365.2(a)(1)(I)(1) Until now, a member's address was his postal mailing address. The Court expanded the definition to include e-mail addresses for purposes of inspection and copying of membership phone lists.

**The Davis-Stirling Act allows owners to opt out of the sharing of such information**

**Opt Out Rights.** Because of e-mail overload, many members do not want their e-mail addresses or phone numbers distributed to their neighbors. Fortunately, the Davis-Stirling Act allows owners to opt out of the sharing of such information: A member of the corporation may opt out of the sharing of his or her name, property address, and mailing address by notifying EG manage-

ment in writing that he or she prefers to be contacted via the alternative process described in subdivision (c) of Section 8330 of the Corporations Code. This opt-out shall remain in effect until changed by the member." Civil Code §1365.2(a)(1)(I)(2)(iii). If you are interested in opting out of having your phone number listed on the membership phone listing then please contact management to have it removed so that its no longer disseminated to the general membership.

### EG 2012 RELECTIONS

Looking back to a brief summary of this years issues and projects:

- Elections, & Social Committees were appointed.
- Financial audit, no weaknesses or discrepancies found.
- New business office hours.
- Extended the outside waiting list
- Crime Prevention Awareness
- Adoption of Internal Dispute Resolution (IDR).
- Amendments to Rules and Regulations#7 "Laundry Rooms"
- New copier & PC purchased for business office.



- New EG website goes world wide.
- Pool repairs completed.
- Section "8" contract renewal for EG members
- No carrying charge increase for 2013.
- New 2012 Member Handbooks.
- Handicap ramp installed at clubhouse.

In addition, the Board would like to recognize and thank management, specifically, Ms. Theresa Williams, EG Community Manager, for her cost saving efforts on all related repairs to apartment units and building structures. Thank you Ms Williams and to Mr. Haugstad for your outstanding efforts and diligence for keeping watch on our expenses and for always finding better deals/vendors when conducting repairs. **NOTE:** This is also due in part that we have an on-call maintenance technician, Kurt Whisenhunt, who also saves us thousands of dollars, using his expertise, skills and knowledge...thank you Mr. Whisenhunt.



### GIVE-A-WAY/TAKE-A-WAY



It's your last chance to participate in the last Give-A-Way of the year. So bring your unwanted stuff, but in good condition. This is an opportunity for you to give away/take away those belongings that you've stuffed or packed away and never use.

The event date and times is as follows:

Where: Clubhouse

Day: Saturday

Date: December 22, 2012

Time: 8am-11am

**Note:** Drop-off time for your belongings is Friday , Dec 21st at 12noon.

### HAPPY HOLIDAYS



Here are some of the best Christmas quotes that you have ever read.

The reason I think that these are the best Christmas quotes is that they truly convey the joy of Christmas. Enjoy these Christmas quotes and spread the Christmas cheer. Happy Holidays from your Board and Management

**Edna Ferber, Roast Beef Medium**—Christmas isn't a season. It's a feeling.

**Charles N. Barnard**—The perfect Christmas tree? All Christmas trees are perfect!

**Charles Dickens, A Christmas Carol**—But I am sure that I have always thought of Christmas time, when it has come round... as a good time; a kind, forgiving, charitable, pleasant time; the only time I know of, in the long calendar of the year, when men and women seem by one consent to open their shut-up hearts freely.

