

§ 1710.214

The disclosure information required in § 1710.112 shall be appropriately amended to reference the parent company and not the developer and must include a statement to the effect that the developer's parent company (insert name) has entered into an unconditional guaranty to perform and fulfill the obligations of the developer.

(h) *Opinions.* If the accountant qualifies or disclaims his opinion, the Secretary may accept the statements and require such additional disclosure as the Secretary deems necessary in the public interest or for the protection of purchasers.

(i) *Copies for prospective purchasers.* Copies of the financial statements filed with the Statement of Record shall be made available to prospective purchasers upon request. A supply of the latest submitted statements shall be maintained at whatever place, or places, as is necessary to allow immediate delivery upon request by a prospective purchaser. These statements shall contain financial information only and shall not include any promotional material such as that usually set forth in annual reports.

(j) *Change from audited to unaudited statements.* (1) Developers who file audited statements must continue with audited statements throughout the duration of the registration unless, at a later date, the developer submits amendments which demonstrate to the satisfaction of the Secretary that it then qualifies for an exception from audited statements under paragraph (e)(3)(ii) of this section. For purposes of paragraph (e)(3)(ii)(C) of this section, the Secretary will consider the aggregate sales prices of only the lots yet to be sold, and may consider whether any additions to the subdivisions or reacquisitions of lots already sold would be likely to cause the dollar limits to be exceeded.

(i) The aggregate sales prices of the lots yet to be sold in the subdivision has been reduced to less than \$1,500,000.00, and that it will not exceed this amount through further additions to the subdivision, or through the reacquisition of lots already sold, and;

(ii) The sales contract provides for delivery of a deed within 120 days of the date of the contract which conveys

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title free and clear of any mortgage or lien or the developer files an Assurance of Title Agreement with OILSR, and;

(iii) Any down payments or deposits are held in an escrow or trust account, or;

(iv) The developer then qualifies for exception (e)(3)(iii) or (e)(3)(iv) above.

(2) The Secretary may allow a developer, who has made sales prior to registration, to submit unaudited statements under the provisions of paragraph (j)(1)(i) of this section. The developer must demonstrate to the satisfaction of the Secretary that the acceptance of unaudited statements would not be a detriment to the public interest or to the protection of purchasers.

[44 FR 21453, Apr. 10, 1979, as amended at 45 FR 40490, June 13, 1980; 49 FR 31372, Aug. 6, 1984; 50 FR 10942, Mar. 19, 1985]

§ 1710.214 Recreational facilities.

(a) Submit a synopsis of the proposed plans and estimated cost of any proposed or partially constructed recreational facility disclosed in § 1710.114. This item should include the general dimensions and a brief description of the facility but it should not include blueprints or similar technical materials.

(b) Submit a copy of any bond or escrow arrangements to assure completion of the recreational facilities disclosed in § 1710.114 which are not structurally complete.

(c) Submit a copy of the lease for any leased recreational facility.

§ 1710.215 Subdivision characteristics and climate.

(a) Submit *two* copies of a current geological survey topographic map, or maps, of the largest scale available from the U.S. Geological Survey with an outline of the entire subdivision and the area included in this Statement of Record clearly indicated. Photo copies made by the developer are not acceptable. Do not shade the areas on the maps which have been outlined.

(b) If drainage facilities are proposed but not yet completed, submit a synopsis of the developer's proposed plans which includes a description of the system of collecting surface waters; a description of the steps to be taken to

control erosion and sedimentation and the estimated cost of the drainage facilities.

(c) Submit copies of any bonds, escrow or trust accounts or other financial assurance of completion of the drainage facilities.

(d) State whether the jurisdiction in which the subdivision is located has a system for rating the land for fire hazards.

§ 1710.216 Additional information.

(a) *Property Owners' Association.* (1) If the association has been formed as a legal entity, submit a copy of the articles of association, bylaws or similar documents, and a copy of the charter or certificate of incorporation.

(2) If the developer exercises any control over the association, state whether any contracts have been executed between the association and the developer or any affiliate or principal of the developer. If there have been, briefly summarize the terms of the contracts, their purpose, their duration and the method and rate of payment required by the contract. State whether the association may modify or terminate the contracts after the owners assume control of the association.

(3) State whether there is any agreement which would require the association to reimburse the developer, its affiliates or successors for any attorney's fees or costs arising from an action brought against them by the association or individual property owners regardless of the outcome of the action.

(4) If the answer to paragraph (a)(2) or (a)(3) of this section is in the affirmative, disclosure may be required in § 1710.116(a) at the discretion of the Secretary.

(5) Submit a copy of any membership agreement or similar document.

(b) *Price range, type of sales and marketing.* (1) State the price range of lots in the subdivision.

(2) State the type of sales to be made, i.e., contract for deed, cash, deed with security instrument, etc.

(3) Describe the methods of advertising and marketing to be used for the subdivision. The description should include, but need not be limited to, information on such matters as to:

(i) Whether the developer will employ his own sales force or will contract with an outside group;

(ii) Whether wide area telephone solicitation will be employed;

(iii) Whether presentations will be made away from the immediate vicinity of the subdivision and/or if prospective purchasers will be furnished transportation from distant cities to the subdivision;

(iv) Whether mass mailing techniques will be used and gifts offered to those who respond.

(4) Submit a copy of any advertising or promotional material that is, or has been, used for the subdivision that:

(i) Mentions or refers to recreational facilities which are not disclosed in § 1710.114, or;

(ii) Promotes the sale of lots based on the investment potential or expected profits, or;

(iii) Contains information which is in conflict with that disclosed in this Statement of Record.

Amendments to reflect changes in advertising or promotional material need be filed only when there is a material change related to one of the above factors. Depending upon the content of the material submitted, the Secretary may require additional warnings in the Property Report portion.

(c) *Violations and litigation.* (1) Submit a copy of the complaint(s), the answer(s) and the decision(s) for any litigation listed in § 1710.116(c).

(2) If it is indicated in § 1710.116(c) that the developer or any of the parties involved in the subdivision are, or have been, the subject of any bankruptcy proceedings, furnish a copy of the schedules of liabilities and assets (or a recap of those schedules); the petition number; the date of the filing of the petition; names and addresses of the petitioners, trustee and counsel; the name and location of the court where the proceedings took place and the status or disposition of the petition.

Explain, briefly, the cause of the action.

(3) Furnish a copy of any orders issued in connection with any violations listed in § 1710.116(c).

(d) *Resale or exchange program.* (1) If it is stated in § 1710.116(d)(3) that there is an exchange program which provides