

Ignacio Creek HOA

FAQ – Does the SB 326 “Balcony Bill” apply to Ignacio Creek HOA?

No. This law setting requirements for the inspection of elevated decks applies to condominium projects, not planned developments such as Ignacio Creek.

Background

In 2015, six people died and seven others were injured when an apartment balcony collapsed in Berkeley due to decayed wooden joists¹. SB 721 was subsequently adopted in 2018 in response to this tragic incident. That law was limited to apartment buildings (such as the one in Berkeley) and **expressly excluded Common Interest Developments**.

A year later, the legislature considered SB 326 which had a dual purpose: 1) extending the inspection requirements for “exterior elevated² elements” (“EEEs”) to “**condominium projects**” and 2) addressing an HOA board’s authority to sue the developer (which is unrelated to deck safety).

Types of HOA ownership –

- **Condominium Project (Civ.Code, §4125)** – “consists of an undivided interest in common in a portion real property coupled with **a separate interest in space** called a unit...” In practice, under this type of ownership, the owner does not own the land/lot upon which their “separate...space” occupies. Rather, it is owned by the HOA which maintains the common areas and buildings. **SB 326, by definition, applies only to this type of ownership. (Civ.Code, §5551(b)(1))**
- **Planned (Unit) Development (Civ.Code, §4175)** – is a type of development (“other than a ... condominium project”) with these features (both of which we possess):
 - **Common area is owned by the HOA or in common with the owners of the separate (property) interests who enjoy the use of the common area**
 - **Common area maintained by the HOA with the power to levy assessments upon the (owners of) the separate interests.**

Note: Based on our review of the legislative hearing notes for SB 326, we found no discussion regarding this decision to limit SB 326 to *condominium projects*.

https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB326

Key Elements of SB 326 (with comparisons to SB 721) –

- Applies only to Condominium Projects (not Planned Developments)
- Inspections must be completed by a structural engineer or architect. (In contrast, SB 721 also allows inspections by general contractors.)
- Applies to buildings with “three or more multi-family dwellings units.”

¹ The Contractor’s State License Board revoked the license of Segue Construction, Inc., the general contractor responsible for building the apartment complex where the collapse occurred, as it was alleged that the contractor company “willfully departed from or disregarded building plans or specifications, and willfully departed from accepted trade standards for good and workmanlike construction.”

² The bill applies to wood (or wood-based) supports for decks, balconies, stairways, (and) walkways whose walking surface is elevated “more than six feet above ground level.”

- Note: We have ten (10) buildings with EEEs, only three (3) of which meet this definition.
- Allows the use of a “statistically significant sample” for conducting the required inspections.
 - Note: With only three eligible buildings, a sample of less than three would not be statistically significant – so, they would all need to be inspected. Typically, you need a population of at least 30 to use this method. (In contrast, SB 721 allowed landlords to randomly sample a fixed percentage [15%] of the affected buildings.)
- Initial inspections were due by January 1, 2025, and then **every nine years** thereafter. (In contrast, SB 721 inspections are required every six years.)

ICHOA Practices (reported as of November 2025)

In light of the 2015 deck collapse, and in order to meet our fiduciary obligations, the HOA has worked diligently with our general contractor to conduct **annual inspections of all of our decks** (not just those for the three largest buildings). We are also engaged in a multi-year effort to upgrade all decks to meet modern building code requirements. Our deck plans are reviewed by the City of Novato Building Division which has approved the permits for this work.

- ICHOA has identified **40** elevated decks/balconies:
 - **29** have been **replaced or substantially repaired** since 2013.
 - **1** additional balcony is **scheduled for replacement in 2026**.
 - **3** more balconies are expected to **require replacement within the next few years**.
 - **4** decks/balconies are currently in **fair** condition.
 - **3** decks/balconies are in **good** condition.

This accounts for all 40 elevated decks/balconies.

Conclusion

As noted above, the HOA has a comprehensive plan to ensure the safety of the elevated decks in our community. We believe this exceeds the requirements of SB 326, which is not applicable to planned developments such as ours.