

## **ELECTION RULES**

These rules apply only to the following elections:

- a) *Approval of an assessment increase above the levels allowed to be made by the Board pursuant to Civil Code § 5605;*
- b) Elections of Directors;
- c) Amendments to the governing documents (as defined in *Civil Code § 4075*); and
- d) Grant of exclusive use of a portion of the Association Property pursuant to *Civil Code § 4600*.

### **Qualifications for Membership Voting**

Only Owners, as defined in the Declaration, are Members of the Association. A Member shall be entitled to one (1) vote for each Condominium owned. When more than one person holds an interest in any Unit, all such persons shall be Members. The vote for such Unit shall be exercised as the Owners collectively determine, but in no event shall more than one (1) vote be cast with respect to any Unit.

If title to a Unit is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person to exercise its member rights. The designation must be in writing and delivered to the Association before ballots are distributed. Any designation shall remain in effect until it is modified or revoke.

### **Verification of Voter List**

For each election of Directors, the Association shall compile a candidate registration list and a voter list. The voter list shall include name, voting power, and either the physical address of the voter's separate interest, the parcel number, or both. The mailing address for the ballot shall be listed on the voter list if it differs from the physical address of the voter's separate interest or if only the parcel number is used. Members are allowed to verify the accuracy of their individual information on both lists up to 30 days before the ballots are distributed. Unless required by law, Members are not allowed to review and comment on individual information of other members. Instructions for making corrections will be provided with the list information. Corrections will be made within two business days.

**Qualifications for Candidacy and Continued Service on the Board:** Pursuant to the Governing Documents, any Candidate for a position on the Association's Board and any Director must be in good standing with the Association.

For purposes of these rules, a Member is not in good standing if the Member at the time of the determination:

- a) **Owes the Association an undisputed debt for assessments which is more than 90 days old. For purposes of this rule, assessments do not include fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party. Also, a debt is "undisputed" if the Member has: (A) not challenged the debt with credible written evidence, or (B) the Member has requested and attended a hearing before the Board, or other appropriate Association committee, which resulted in an overall determination favorable to the Association. Persons who are paying assessments under protest pursuant to Civil Code Section 5658 or pursuant to a payment plan authorized by Civil Code Section 5665 are in good standing.**

- b) Has current violation(s) of the Governing Documents (as defined in *Civil Code* § 4075) which is/are unremedied for more than 90 days following notice of the violation from the Association or which are unsuccessfully challenged by the Member at a hearing. For purposes of this rule a violation is successfully challenged by the Member when the Member has: (A) opposed the violation with credible evidence, and (B) requested and attended a hearing before the Board or other appropriate Association committee, where the hearing resulted in a determination generally favorable to the Member. Any other action by the Member or result following a hearing is an unsuccessful challenge.**
- c) Is currently, or within the 36 months prior to the election has been, a party in litigation against the Association in which the Association was the prevailing party.**
- d) At the time of the nomination, is burdened by a judgment in favor of the Association.**

In addition, Candidates and Directors must satisfy the following requirements:

- a) If elected, must not be serving on the Board at the same time as another person who holds an ownership interest in the same Unit as another Candidate or Director.
- b) The Candidate and/or Director cannot be bonded by the company providing the Association fidelity bond coverage because of a past criminal conviction.
- c) The Candidate and/or Director cannot be bonded by the company providing the Association fidelity bond coverage for any other reason.

In any event, any qualified Candidate may nominate himself/herself to run for a director position, in accordance with the Governing Documents, the *Civil Code*, and *Corporations Code*. However, **nominations from the floor are not permitted. Write-in candidates are not permitted** and will not be counted.

Only Candidates who are in good standing are qualified to be Candidates for election to the Board.

If the Association determines that a potential Candidate or Director is not in good standing, the Association shall give the potential Candidate an opportunity to participate in its internal dispute resolution procedure to determine if the person can resolve the outstanding issue and become a qualified Candidate.

If the matter is not resolved through the Association's internal dispute resolution process, a Member may request that the Board consider the issue through its Notice and Hearing procedure.

Votes will not be counted for any Candidate who is not qualified. Candidates will be notified in writing upon submittal for nomination if they are not in good standing. In the event of a tie, the winner will be determined by a coin flip or drawing of straws.

The Association will publish a request for candidates in the Association's newsletter and/or other direct mailing (as the Board shall determine) at least 90 days prior to the date of the annual meeting. Prospective candidates desiring to run for a position on the Board must complete a Candidate's Qualification Form and return the completed form to the designated person(s) on or before the nomination deadline noted on the form or accompanying materials in order to be placed on the ballot by the Association.

### Solicitation Materials

If access is provided to any Candidate, all Candidates for election to the Board shall have one (1) no cost opportunity for access to Association media selected by the Board (e.g. the Association's newsletter, or the Association's web site) during a campaign, following reasonable notice to all Candidates of the availability, for a purpose(s) reasonably related to that election, provided the deadline for delivering the Candidate's statement to the Association established by the Board, as set forth in the reasonable notice to the Candidates, shall have been met by a Candidate for such publication prior to that election. No Candidate's statement shall exceed 250 words for publication in Association media. For purposes of this rule, notice to the Candidates shall be sent to the Member's address on file with the Association.

Any Candidate wishing to present any other campaign materials to the Members other than as provided in (a) above, and in other than Association media, may do so by any reasonable means, and at the Candidate's sole expense.

If access is provided to any Member, all Association Members shall have one no cost opportunity to have access to Association media selected by the Board (e.g. the Association's newsletter or the Association's web site) during a campaign, following reasonable notice to all Association Members of the availability, for a purpose(s) reasonably related to that election, provided the deadline for delivering the Member's statement to the Association established by the Board, as set forth in the reasonable notice to the Members, shall have been met by the Member for such publication prior to that election. No Member's statement shall exceed 250 words for publication in the Association media. For purposes of this rule, notice to the Members shall be sent to the Member's address on file with the Association.

Any Member wishing to present any other campaign materials to the Members other than as provided above, and in other than Association media, may do so by any reasonable means, and at the Member's sole expense.

### Content

The Association shall not edit or redact any content from Candidate or Member messages, but may include a statement specifying that the Candidate or Member, and not the Association, is responsible for the content of any published statement.

### Limitation on Publication Space Made Available

So long as each Candidate and/or Member is provided the same opportunities for publication, the Association may restrict the availability of any Association no cost publication by limiting the number of opportunities for print space made available and/or the number of words that will be included from each Candidate or Member in the Association's no cost publication. In the absence of more restrictive limitations adopted by the Board for any particular matter, each Candidate and/or Member shall be limited to no more than 250 words for any one Association publication. The Board may, in its sole discretion, present a candidacy questionnaire with questions for all interested Candidates and/or Members to complete. If such a questionnaire is provided, then the Association will only print the answers to such questions and may impose a limitation upon the number of words for the response to any question presented.

### Availability of Meeting Space

One time access to an Association Property space determined by the Board, on a date and at a time reasonably established by the Board, shall be provided at no cost, following reasonable notice, to all Candidates and all Association Members, for the purpose of hearing any such Candidate or Member wishing to advocate a position, support or opposition to any Candidate or election matter, prior to the election by hosting a "Meet the Candidates Night", or other special gathering, so long as every Candidate and/or Member is provided with an equal

opportunity to participate in the event. The Association shall not charge for the use of the Association Property space on the date and at the time so designated for this purpose.

#### Selection of Inspector(s) of Election

Prior to the presentation of any issue to the Members for a vote, the Association shall appoint one (1) or three (3) Inspector(s) of Election. The Inspector(s) of Election appointed by the Board may be any person or entity considered to be an independent third party under Civil Code Section 5110, which means that the person must not be: (1) a Director; (2) a Candidate; (3) any of the Director's relatives; (4) any of a Candidate's relatives; or (5) a person, business entity, or subdivision of a business entity who is currently employed or under contract to the Association for any compensable services other than serving as an inspector of elections.

The Inspector(s) of Election shall use the Governing Documents, including these rules, the Civil Code and the Corporations Code, shall consider the advice of the Association's corporate counsel, and shall attempt, in so far as possible, with fairness to all, to allow the vote of each Member, and be consistent, in the discharge of his/her responsibilities.

#### Distribution of Information and Ballots

1) The Association shall provide general notice of the procedure and deadline for submitting a nomination at least 30 days before any deadline for submitting a nomination. Individual notice shall be delivered pursuant to Civil Code Section 4040 if individual notice is requested by a Member.

2) The Association shall provide general notice of all of the following at least 30 days before the ballots are distributed:

- (a) The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector or inspectors of elections.
- (b) The date, time, and location of the meeting at which ballots will be counted.
- (c) The list of all candidates' names that will appear on the ballot.

Individual notice of the above paragraphs shall be delivered pursuant to Section 4040 if individual notice is requested by a member.

3) The inspector or inspectors of elections shall deliver, or cause to be delivered, at least 30 days before an election, to each Member both of the following documents:

- a. The ballot or ballots.
- b. A copy of the election operating rules. Election rules may be delivered by either (i) posting to an internet website and including the corresponding internet website address on the ballot together with the phrase, in at least 12-point font: "The rules governing this election may be found here:"; or (ii) individual delivery.

#### Meeting Conduct

Any count or tabulation of ballots shall be done at an open meeting of the Board. Any Candidate or Member may observe the count, but shall stand at least ten (10) feet away from the Inspector(s) of Election. Candidates and/or Members may not harass, cajole, distract, molest, communicate with, or otherwise interfere with the Inspector of Elections while the count is taking place. Prior to the completion of the count or tabulation, Members or

persons not specifically authorized to do so by the Inspector of Elections may not touch any ballot or other election materials. All ballots will be made available for inspection by any Candidate or Member during regular business hours at the Manager's office once the meeting is concluded. Any person violating this Section may be asked by the Inspector of Elections to leave the meeting, the count and tabulation may be continued to a different time and/or place, or any other reasonable step(s) may be taken by the Inspector(s) to prevent further disruption.

If necessary, the inspector(s) may to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector(s) deem appropriate, provided that the persons are independent third parties.

If allowed, the authenticity, validity and effect of proxies shall be determined by the Inspector of Election on the night of any election. The polls for any vote of the Membership shall be open from the date the Secret Ballot is mailed and shall be closed at the time that envelopes are opened, unless the Inspector determines another time for the polls to close. The polls for any vote of the Membership shall close when the Inspector of Election has determined that the ballots shall be counted.

#### Confirmation of Member Rights

As required by Civil Code Section 5105, the Association confirms the following:

(1) Denial of a ballot to a Member for any reason other than not being a Member at the time when ballots are distributed is prohibited.

(2) A person with general power of attorney for a Member, who provides a copy of the power of attorney to the Association, has the right to receive the Member's ballot. The ballot of a person with general power of attorney for a Member will be treated like all other ballots received and counted if returned in a timely manner.

#### Impact of Changes in Law

These election rules were adopted shortly after major changes were made to the Davis-Stirling Common Interest Development Act. Because of this, if any amendment to the statute or other change in law renders any provision of the election rules invalid, the rules shall be deemed to be automatically amended to delete that provision. However, all other rules shall remain in place. If the Board subsequently determines that it wishes to amend or modify a rule, the Board may do so using the amendment procedure authorized by law and the Governing Documents.