

ASSOCIATION ELECTION PROCEDURES

- A. Introduction. California's Davis-Stirling Common Interest Development Act (specifically Civil Code section 5105) requires that common interest development property owners associations, such as Lake California Property Owners Association, Inc. (the "Association"), adopt rules regarding the conduct of elections of directors (as well as other specified votes conducted by an owners association). Those election rules must comply with a number of specific requirements that are set forth in California Civil Code and California Corporations Code.

The procedures that follow were drafted to reflect the statutory requirements and will be used by the Association in elections governed by Civil Code Section 5105 subsequent to their adoption.

Notwithstanding any other law or provision of the governing documents, an election within a common interest development regarding assessments, selection of members of the association Board of Directors, amendments to the governing documents, or the grant of exclusive use of the common area property pursuant to Section 5105 shall be held by secret ballot in accordance with the procedures set forth in these procedures.

All statutory references herein shall include specific statutes referenced, as those statutes may be amended and/or renumbered from time to time, as well as any applicable successor statutes later enacted.

- B. Equal Access to Association Media. The following guidelines pertain to use of the Association media:
1. Campaign Signs. In accordance with Civil Code Section 4710, campaign signs may only be posted on the lot or in the window of the residence owned by the candidate or a member supporting the candidate. Campaign signs shall not be posted or maintained in any portion of the Common Areas.
 2. Candidate Statements. By state law, the Association may not edit or redact any content from these communications, but may include a statement specifying that the candidate or member, rather than the Association, is responsible for the content of the statement. Any statement, however, will be limited in size, which shall not exceed one side of an 8.5" by 11" sheet of paper. In order to ensure legibility, it is recommended that each candidate use a standard, legible typeface, one-inch margins on all sides, and a font size no smaller than 12-point.

3. Other Association Media Access. It is not the policy of the Association to provide candidate access to Association media, newsletters or internet websites during a campaign. In the event that the statements of actions of an incumbent director who is also a candidate for re-election to the Board are reported in any of the Association media, solely in the context of that director's performance of his or her duties, those reports or statements shall not constitute provision by the Association of access to its media for campaign purposes.

Should this Association policy change in the future, Civil Code Section 5105(a) provides that equal access to any permitted media shall be provided to all nominees and members advocating a point of view (whether or not endorsed by the Board of Directors). The Association will not redact or edit any content from any candidate communications (but will edit for length, as outlined above), but the Association may include a statement specifying that the nominee or member authoring the communication, not the Association, is responsible for the content of the communication. In accordance with Civil Code Section 5135, no Association funds shall be used for campaign purposes, except to the extent necessary for the Association to comply with the duties imposed upon it by law.

4. Member Lists. In accordance with the provisions of Civil Code Section 5225, members may make a written request for a list of Association members for use in conjunction with the election process. In accordance with the provisions of Civil Code Section 5205, this list will provided to the member upon payment of the actual costs for the preparation of the list, which cost is currently \$10.00 but which may change from time to time due to increases or decreases in administrative costs.
5. Equal Access to Association Meeting Areas for Nominees and for Members Advocating a Particular Point of View. In the event that the Association provides any Common Area meeting facilities within Lake California for the use of candidates during a campaign, the Association shall provide equal access to all candidates, including those who are not incumbents, and to all members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the election

This requirement, which is imposed by statute, shall not be interpreted as obligating the Association to provide access to such meeting spaces at times when the space is normally and customarily utilized for other Association business or for other purposes related to the Association's operations. The Association retains its authority and responsibility to ensure that the Common Facilities are managed, operated, and accessed for the common benefit and enjoyment of all Association members.

C. Minimum Qualifications for Board of Director Candidacy. In accordance with California Civil Code, in order to be eligible to be a candidate for election to the Board of Directors, the candidate must meet the following qualifications

1. The candidate must be a member of the Association at the time of their nomination (Civil Code Section 5105(b)).
2. The candidate must not be delinquent in the payment of regular and special assessments, unless they have
 - a. Paid under protest (Civil Code Section 5658)
 - b. Entered into a payment plan (Civil Code Section 5665)
 - c. Not yet completed Internal Dispute Resolution (Civil Code Section 5910).
3. The candidate, if elected, may not serve on the board at the same time as another person holding a joint ownership in the same separate interest parcel and the other person is either properly nominated for the current election or is an incumbent director (Civil Code Section 5105(c)(2)).
4. The candidate has been a member of the association for more than one year (Civil Code Section 5105(c)(3)).
5. The candidate may not have a prior criminal conviction that would prevent the Association from purchasing fidelity bond coverage as required in Civil Code Section 5806, or would cause the Association's fidelity bond coverage to be terminated upon their election (Civil Code Section 5105(c)(4)).

D. Term of Office. In accordance with the Association's bylaws and California Civil Code:

1. Three (3) Directors shall be elected every third year, all other years two (2) directors will be elected.
2. Directors shall serve for a three-year term.
3. Each Director, whether elected or appointed, shall hold office until the expiration of the term for which elected or appointed, until a successor has been qualified and elected or appointed, or until the earlier disqualification, death, resignation, or removal of such director.

E. Minimum Qualifications for Member Voting. Each Member of the Association is entitled to a ballot unless they are not a member of the Association at the time the ballots are distributed (Civil Code Section 5105(g)(1)).

F. Nominations for Election to the Board of Directors; Self-Nomination. Each year, the Association shall send a notice to all Members inviting eligible members to become candidates for election to the Board of Directors. This notice may be presented to the Members in the Association's regular newsletter, and shall state:

1. The address to which members must respond;
2. The date by which the Member may notify the board of his/her desire to become a candidate; the deadline for which must be at least 30 days from the date of notice.

Any member desiring to nominate themselves as a candidate for election to the Board must present written notice to the Board of Directors of the of the person's desire to self-nominate by the stated deadline date. The member's notification to the Board may also (but is not required to) include a "candidate's statement", the length of which shall not exceed one side of an 8.5" by 11" sheet of paper. In order to ensure legibility, it is recommended that each candidate use a standard, legible typeface, one-inch margins on all sides, and a font size no smaller than 12-point. Both write-in candidates and floor nominations at the annual meeting are not permitted.

- G. Voting Eligibility. Each member of the Association is entitled to cast one ballot for each lot that member owns.
- H. Proxy Voting. The secret ballot voting requirements of Civil Code Section 5100 do not prohibit the use of proxy voting. However, it is the policy and practice of the Association to conduct its elections by use of written ballot voting in accordance with Corporations Code Section 7513, and that form of balloting contemplates that each member will receive a ballot by mail or personal delivery, and shall, therefore, have the right to case the ballot personally. In corporate law, proxy voting contemplates in which an agent of an absent member (i.e. the proxy holder) presents evidence of authority to act on the behalf of the absent member (in the form of the written proxy) at the meeting that the issuer of the proxy was unable to attend. For this reason, the Civil Code rules related to proxy voting in director elections does not apply to the election of directors pursuant to the written ballot election process utilized by the Association.
- I. Voting by Acclamation. If it is determined at the deadline for the registration of candidates, following the 30-day notice period that there are less than, or, an equal number of nominees as there are electable director positions, resulting in the election being uncontested, then the secret ballot voting procedures will be dispensed with for that election year, and the nominees will be appointed by acclamation at the Board meeting to be held in May, or the closest Board meeting to the date for when the Annual Meeting would have been held.
- J. Notice of the Voting Process. The secret ballot voting procedures of Civil Code Section 5115 provide that notice of all of the following shall be provided to the members at least 30 days before ballots are distributed.
1. The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector of elections.
 2. The date, time, and location of the meeting at which the ballots will be counted.

3. The list of all candidates' names that will appear on the ballot.

- K. Use of Secret Ballots and Ballot Completion Requirements. Ballots and two preaddressed envelopes with instruction on how to return the ballots shall be mailed by first-class mail or delivered by the Association to every member not less than 30 days prior to the deadline for voting. Deposit into the U.S. Mail system with proper first-class postage addressed to the latest address of the member as shown in the Association's records shall constitute delivery by mail on the date so mailed. The member's name, address, lot, parcel or unit number may not be listed on the ballot.

After voting, the ballots shall be returned as follows: The ballot itself shall not be signed by the member but is inserted into an envelope that is sealed. The sealed envelope shall then be inserted into a second sealed envelope. State law requires that a space or lines shall be presented where the voter can print or sign their name, address and Lot number. The member shall then sign and write their name and indicate the address or separate interest that entitles the voter to cast their vote on the upper left-hand corner of the exterior envelope.

The second, exterior envelope shall be addressed to the inspector of the election who will be tallying the votes. This envelope may be mailed to arrive on or before or delivered by hand on or before the last date for the return of the secret ballots to the location stated in the provided notice. Any member may request a receipt for delivery of the Member's ballot.

- L. Determination of Election Results and Succession to Office. The Candidates receiving the highest number of votes, up to the number of vacancies to be filled in the election, shall be elected as directors and shall take office immediately following their election. In the event there is a tie vote between those candidates who receive the lowest number of votes necessary to qualify the candidate for election, the tie shall be broken by random drawing among the candidates receiving the same number of votes.

- M. Supervision of the Election Process: Appointment of Independent Inspectors of Election. In order to ensure secrecy of ballots and fairness in the conduct of director elections, the Board of Directors shall select an independent third party or parties to serve as the inspector(s) of election.

Civil Code Section 5105(a)(5) specifies that the number of inspectors of election shall be one or three. The Association's Board of Directors shall designate one or three Inspector(s) of Election by separate resolution.

Pursuant to Civil Code Section 5110(b) the Inspector of Elections for the Association may be:

1. a volunteer poll worker with the county registrar of voters,
2. a licensee of the California Board of Accountancy (a CPA),
3. a notary public, or
4. a member of the association (who is not a member of the board of directors or a candidate for the board of directors or related to a member of the board of directors or a candidate for the board of director).

The Inspector of Election may NOT be:

1. Members of the Board of Directors,
2. A candidate for the Board of Directors,
3. Related to a member of the Board of Directors, or
4. Anyone currently under contract with the Association for a service that is not specifically and solely to provide the service for inspector of election.

The duly appointed Inspector(s) of Election shall have the full powers of an Inspector of Elections appointed by the Board pursuant to Civil Code Section 5105, Corporations Code Section 7614, or any successor statute, and shall perform their duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical.

Any report made by the Inspector of Elections is prima facie evidence of the facts stated in the report. The sealed ballots at all times shall be in the custody of the Inspector of Election or at a location designated by the Inspector of Election until after the tabulation of the vote, and until the time allowed by Section 7527 of the Corporations Code for challenging the election, at which time the custody of the ballots shall be transferred to the Association.

Without limiting the foregoing, the Inspector(s) of Election shall do all of the following:

1. Determine the number of memberships entitled to vote and the voting power of each (Civil Code Section 5110(c);
2. Determine the authenticity, validity, and effect of proxies, if any;
3. Prepare a voter list and correct any information for voters within two business days of receiving notice of errors (Civil Code Section 5105(a)(7);
4. Prepare a list of candidates and correct any information within two business days of receiving notice of errors (Civil Code Section 5015(a)(7);
5. Deliver ballots with instructions to each member of the Association (Civil Code Section 5105(g)(4);
6. Deliver election rules to each member of the Association (Civil Code Section 5105(g)(4);
7. Receive ballots. Sealed ballots shall at all times be in the custody of the Inspector of Election, or at a location designated by the Inspector of Election until after the tabulation of the vote, at which time custody of the ballots may be transferred to the

- Association, or may be retained by the Inspector for storage (Civil Code Section 5115(b)(1));
8. Verify member information and signatures on the outer envelopes (Civil Code Section 5120);
 9. Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote (Civil Code Section 5110(c)(4);
 10. Open Ballots, count and tabulate all votes (Civil Code Section 5110(c);
 11. Determine when the polls close, consistent with the governing documents (Civil Code Section 5110(c);
 12. Determine and announce the result of the election (Civil Code Section 5120(a);
 13. Report the results of the election to the Board (Civil Code Section 5120(b);
 14. Keep custody of election materials (Civil Code Section 5125);
 15. Oversee recounts (Civil Code Section 5125);
 16. Make records available for legal challenges (Civil Code Section 5125);
 17. Make records available for, and oversee inspections during the time the records are in the inspector's custody (Civil Code Section 5205); and
 18. Perform any act as may be proper to the conduct of the election with fairness to all Members and in accordance with the Association Rules pertaining to the conduct of elections and section 5105 of the Civil Code.

N. Requirements for the Counting and Tabulation of Ballots. The designated Inspector of Election must count and tabulate the votes in public at a properly noticed open meeting of the Board of Directors or the members. Any candidate or other member of the Association may witness the counting and tabulation of the votes. In the event that such meeting is unable to be attended by members in person as a result of any government restrictions on assembly or gathering, the counting and tabulation of the votes shall be broadcast and access to the broadcast will be provided to all members. No person, including a member of the Association or an employee of the Association's management company, if any, shall open or otherwise review any ballot before the time and place at which the ballots are counted and tabulated. In the event that tabulation of the ballots cannot be concluded before the designated time for adjournment of the annual meeting, such meeting shall be continued for such time as is required to complete the tabulation of ballots, and members shall be entitled to remain in attendance at the continued meeting to observe the tabulation.

O. Announcement of the Results of the Election. The results of the election shall be promptly reported by the Inspector of Election to the Board of Directors of the Association, shall be recorded in the minutes of the next meeting of the board, and shall be available for review by members of the Association. Within fifteen (15) days of the election, the board shall publish the results of the election in a communication directed to all members.

- P. Retention of Ballots. After tabulation, election ballots shall be stored by the Inspector of Election or the Association in a secure place for no less than one year after the date of the election. In the event of a recount or other challenge to the election process, the Inspector of Election and/or the Association shall, upon written request, make the ballots available for inspection and review by Association members or their authorized representatives. Any recount or inspection shall be conducted in a manner that shall preserve the confidentiality of each Member's vote. All costs for such recount shall be borne by the requesting member.