

EMERY BAY VILLAGE HOMEOWNERS ASSOCIATION

ELECTION RULES

1. General. These Rules are intended to comply with Civil Code section 1363.03 and shall apply to elections (1) of the Board of Directors, and regarding (2) assessments, (3) amendments to the governing documents, (4) the granting of exclusive use of common area property, and (5) any other matter that may be the subject of a vote of Association members. These Rules shall be effective July 1, 2006.

2. Equal Access to Association Media and Facilities

2.1 No candidate or Association member advocating a point of view for purposes related to an election covered by these Rules shall be allowed access to any form of Association media, including newsletters and/or common area bulletin board, after written ballots are distributed as specified in Section 7.1 until the conclusion of the election.

2.2 For each election of Directors, the Association shall schedule one Meet the Candidates Assembly at the Association's common area meeting space where each nominated candidate may attend and speak to any Association members choosing to attend according to guidelines which may be established by the Board of Directors.

2.3 For each other election subject to these Rules, the Association shall schedule one Issues Assembly at the Association's common area meeting space at which any member advocating a point of view which is the subject of a pending election may attend and address the attendees according to guidelines which may be established by the Board of Directors.

2.4 With the exception of refreshments which may be provided at the above assemblies, no Association funds shall be used for campaign purposes in connection with any election which is subject to these Rules.

2.5 Sections 2.1, 2.2 and 2.3, above, specify the manner in which the Association shall comply with the legal requirement in Civil Code section 1363.03 that "if any candidate or member advocating a point of view is provided access to Association media, newsletters, or Internet Web sites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and members advocating a point of view, including those not endorsed by the Board, for purposes that are reasonably related to the election" and with the further legal requirement that access to common area meeting space be provided to all candidates and to all members advocating a point of view for purposes reasonably related to the election.

3. Qualifications of Candidates

3.1 Candidates for the Board of Directors must meet qualifications as set forth in the Association Bylaws and as set forth hereafter.

3.2 To the extent not in conflict with the Bylaws, a candidate must also:

3.2.1 Be current in all assessment payments;

3.2.2 Not be subject to any pending Association disciplinary actions;

3.2.3 Must not have been convicted of a felony; and

3.2.4 Be a record owner of a unit within the common interest development governed by the Association.

4. Nomination Procedure for Board of Directors

4.1 Candidates for the Board of Directors shall be nominated as set forth in the Association Bylaws and as set forth hereafter.

4.2 To the extent not in conflict with Association Bylaws:

4.2.1 Not later than 90 days before an election of Directors, the Association shall send by mail or electronic transmission to all members a solicitation to become a candidate for the Board of Directors;

4.2.2 Not later than 60 days before the pending election of Directors, interested persons must inform the Association's managing agent or Board of Directors in writing of their request to be a candidate for the Board of Directors (self-nomination). Nominations for candidates wishing to be included on the mailed ballots shall close 60 days prior to the conclusion of the election;

4.2.3 The Inspectors of Election shall review all persons so responding for compliance with the qualifications identified in Section 3;

4.2.4 All qualified persons who timely respond to the Association's solicitation shall be candidates for the Board of Directors at the next election.

4.3 Nominated candidates for the Board of Directors may provide a "candidate statement" which the Association shall enclose with the voting packet mailed to each Association member. The statement shall not exceed 250 words, and shall be delivered to the Association's managing agent in final form at least 45 days before the scheduled conclusion of the election.

5. Inspectors of Election

5.1 The Board shall appoint one or three Inspectors of Election who shall perform all functions required by Civil Code section 1363.03(c)(3), including:

5.1.1 Determine the number of memberships entitled to vote and the voting power of each;

5.1.2 Determine the authenticity, validity and effect of proxies, if any;

5.1.3 Receive and be the custodian of ballots, and direct the location to which ballots shall be sent until tabulated by the Inspectors of Election;

5.1.4 Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;

5.1.5. Count and tabulate all votes;

5.1.6 Determine when the election shall close, with the discretion to extend the deadline for voting as necessary;

5.1.7 Determine the results of the election; and

5.1.8 Report the results of the election to the Board of Directors.

5.2 Eligible Inspectors of Election may include:

5.2.1 The Association manager(s);

5.2.2 The Association attorney or CPA;

5.2.3 Any Association members who are not members of or candidates for the Board of Directors nor relatives of members or candidates for the Board of Directors; and

5.2.4 Any individuals with a contractual relationship or with no relationship to the Association.

5.3 The Association may, at the discretion of the Board of Directors, provide reasonable compensation to the Inspectors of Election.

5.4 The Association shall indemnify the Inspectors of Election in connection with services performed in good faith by the Inspectors of Election related to the election.

5.5 The Inspectors of Election shall have the sole authority to determine whether to issue a replacement ballot to a member if requested by the member.

6. Voting Rights

6.1 Each Association membership shall be entitled to a single vote with regard to each matter that is the subject of a pending election.

6.2 With regard to an election of Directors, each membership shall be entitled to cast one vote for each vacant seat on the Board of Directors.

6.3 Each member's qualifications for voting shall be as specified in the Bylaws.

6.4 The voting period will run from the date on which ballots are distributed (as specified in Section 7.1, below) until the conclusion of the election.

7. Voting Procedures

7.1 Mailing of voting packets. No later than 35 days before the election, the Association shall, by first class U.S. mail, send one voting packet to each Association member. Each packet shall contain the following:

7.1.1 One official ballot;

7.1.2 Copies of all candidates' statements timely received by the Association as specified herein;

7.1.3 Two sealable envelopes. The smaller (inner) envelope shall have no visible markings. The larger (outer) envelope shall be pre-addressed to the Inspector of Election, Emery Bay Village Homeowners Association, c/o Walsh Property Management, P.O. Box 2657, Castro Valley, CA 94546. The upper left corner of the larger envelope shall contain the owner's name and unit number and provide a place for the date and the owner's signature. In addition, the larger envelope shall include the following statement: "This envelope may be considered as a proxy to establish a quorum for the membership meeting held to conclude the election";

7.1.4 Instructions on how to use the two-envelope system; and

7.1.5 Notice of the date of the membership meeting or election.

7.2 Ballot content. Each ballot shall contain the following:

7.2.1 In an election of Directors, each candidate's name listed alphabetically;

7.2.2 The identification of any other matter that is the subject of a pending member vote;

7.2.3 A statement of the required quorum;

7.2.4 A statement that ballots to be returned by mail must be received no later than 5:00 p.m. on the day of the scheduled conclusion of the election or the day of the membership meeting; and

7.2.5 A statement that ballots may be returned personally no later than the time specified in the notice of the membership meeting or conclusion of the election.

7.3 Receipt of ballots

7.3.1 All ballots shall be received by the Inspectors of Election at locations as specified by the Inspectors of Election.

7.3.2 If so directed by the Inspectors of Election, the Association's management staff shall maintain a log of all ballot envelopes received, noting whether the envelopes were signed or unsigned.

7.3.3 Once a ballot has been received by the Inspectors of Election, it may not be revoked.

7.3.4 All ballots shall remain in the possession of the Inspectors of Election (at a location designated by the Inspectors of Election) until tabulated by the Inspectors.

7.4 Proxies

7.4.1 The Association shall have the option, but shall not be obligated, to distribute proxies for any election covered by these Rules. If the Association distributes a proxy form, any instruction given in that proxy directing the manner in which the proxy holder is to vote shall be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain. The proxy holder may then cast the member's vote by secret ballot which will be provided by the Inspectors of Election upon presentation of the proxy.

7.4.2 If a member attempts to use a proxy, any instruction given in that proxy directing the manner in which the proxy holder is to vote should be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain. The proxy holder may then cast the member's vote by secret ballot which will be provided by the Inspectors of Election upon presentation of the proxy.

8. Tabulation of Ballots

8.1 The voting packets shall be opened by the Inspectors of Election after the close of the election as determined by the Inspectors. The outer envelopes and each ballot shall be separately retained by the Inspectors.

8.2 The voting packet envelopes shall be opened and the ballots tabulated by the Inspectors of Election in public at a properly noticed open meeting of the members or of the Board of Directors.

8.3 Any candidate or other member of the Association may witness the counting and tabulation of the votes. However, no Association member or candidate shall communicate with the Inspectors during the tabulation process, and all members and candidates must remain at least six feet away from the counting area. The Inspectors of Election may cause the removal of any observer who interferes with or disrupts the counting or tabulation process.

8.4 When the ballots are counted at a membership meeting, the Inspectors of Election may announce to the membership those members who neglected to sign the outer envelope and provide an opportunity for them to do so prior to tabulation of the ballot.

8.5 The results of the election shall be promptly reported to the Board of Directors, shall be recorded in the minutes of the next meeting of the Board of Directors, and shall be available for review by the members of the Association.

9. Post-Election Procedures

9.1 The results of the election shall be recorded in the minutes of the next meeting of the Board of Directors and shall be available for review by members of the Association.

9.2 The Board of Directors shall publicize the results of the election within 15 days by a communication directed to all members.

9.3 After tabulation of the ballots, the Inspectors of Election shall transfer custody of all ballots and outer envelopes to the Association.

9.4 After tabulation, the ballots and outer envelopes shall be stored by the Association for no less than one year.

9.5 In the event of a re-count or challenge, the Association shall, upon written request, make the ballots available for inspection by the challenging Association member or its authorized representative. Any re-count shall be conducted in a manner designed to preserve the confidentiality of the vote.