

Fourth La Costa Condominium Owners Association
c/o CHAMPS/A Division of AAM, LLC
3520 Seagate Way • Suite 100
Oceanside, California 92056-2681
(760)603-0501 · FAX (760)603-0505

January 22, 2020

RE: New Election Operating Rules to Be Adopted for 2020

Dear Homeowner,

Please find enclosed the new election rules as outlined by Senate Bill 323. These rules will be adopted after 30 days of comment period by the membership.

Sincerely,

The Fourth La Costa Board of Directors

Law Offices of Michael G. Kim, A Professional Corporation

ATTORNEYS AT LAW
VENTANA REAL BUILDING
2173 SALK AVE., SUITE 250
CARLSBAD, CALIFORNIA 92008

Tel: (760) 579-7390
Fax: (760) 579-7391

MICHAEL G. KIM

Members of Fourth La Costa Owners Association
C/o Mr. Kanwal Nadir, CCAM
AAM, LLC
3520 Seagate Way, Suite 100
Oceanside, CA 92056-2681

Re: *Fourth La Costa Owners Association*
New Election Operating Rules to Be Adopted for 2020

Dear Members:

Enclosed please find new Election Operating Rules the Board of Directors proposes to adopt as a operating rules of the Association. These new Election Operating Rules are required by law (Senate Bill 323) to be adopted by the Association for the 2020 election year.

These Election Operating Rules are planned to be adopted after the normal thirty (30) day notice and comment period for operating rule changes. The purpose and effect of these Election Operating Rules is to comply with the requirements of Senate Bill 323.

Very Truly Yours, on behalf of the Board,

MICHAEL G. KIM, APC

By: Michael Kim
MICHAEL G. KIM

MGK: ml
Enclosure

Fourth La Costa Owners Association

Election Operating Rules

Pursuant to *Civil Code* Sections 5100, et seq., or other superseding statutes, Fourth La Costa Owners Association (“Association”) hereby adopts the following Election Operating Rules, which apply to elections regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, or the grant of exclusive use of common area.

Election of Directors

The Association shall hold an election for a seat on the board of directors in accordance with law at the expiration of the corresponding director’s term and at least once every four years. Because there are staggered terms for directors, this generally will mean an election annually.

The voting period for elections is set forth in these Election Operating Rules, and polls open at 9 a.m. PST on the first day the ballots are distributed and polls close at the annual meeting generally shortly after quorum is announced.

Nominations to the Board

Approximately one hundred and twenty (120) days before the date of the annual meeting and election, the Association shall provide general notice of the procedure and deadline for submitting a nomination as a candidate. The general notice shall be delivered at least thirty (30) days before any deadline for submitting a nomination. The Board of Directors may appoint a Nominating Committee consistent with the Bylaws. Nominations may also be made from the floor at each annual meeting. The Association shall retain the candidate registration list.

Qualifications to Serve on the Board of Directors

A person seeking to serve on the Board of Directors must be a Member. The Association shall disqualify a person from a nomination as a candidate for not being a Member of the Association at the time of the nomination.

The Association will disqualify a person from nomination as a candidate based on any of the following grounds:

(i) The Association will disqualify a nominee if that person discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would either prevent the Association from purchasing the fidelity bond coverage required by law should the person be elected or terminate the Association’s existing fidelity bond coverage as to that person should the person be elected.

(ii) The Association will disqualify a nominee due to failure of the nominee to be current in the payment of regular and special assessments. The Association requires a director to be current in the payment of regular and special assessments.

The Association may not disqualify a nominee for nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party. The Association will not disqualify a nominee for failure to be current in payment of regular and special assessments if any of the following circumstances are true:

(I) The nominee has paid the regular assessment or special assessment under protest pursuant to *Civil Code* Section 5658.

(II) The nominee has entered into a payment plan pursuant to *Civil Code* Section 5665.

(III) The nominee has not been provided the opportunity to engage in internal dispute resolution pursuant to *Civil Code* Section 5900, et seq.

(iii) The Association will disqualify a nominee if the person, if elected, would be serving on the board at the same time as another person who holds a joint ownership interest in the same separate interest parcel as the person and the other person is either properly nominated for the current election or an incumbent director.

(iv) The Association will disqualify a nominee if that person has been a member of the Association for less than one year.

Election Inspectors

Approximately ninety (90) days before the date of the annual meeting and election, the Board of Directors also shall appoint either one or three election inspectors to conduct elections. An election inspector may be a member but may not be a director or a candidate for director or be related to a director or to a candidate for director. An election inspector may not be 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 or inspectors of elections shall do all of the following:

- (1) Determine the number of memberships entitled to vote and the voting power of each.
- (2) Determine the authenticity, validity, and effect of proxies, if any.
- (3) Receive ballots.
- (4) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
- (5) Count and tabulate all votes.
- (6) Determine when the polls shall close, consistent with the governing documents.
- (7) Determine the tabulated results of the election.

(8) Perform any acts as may be proper to conduct the election with fairness to all members under law.

The inspector or inspectors may appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate, provided that the persons are independent third parties.

If there are three inspectors of elections, the decision or act of a majority shall be effective in all respects as the decision or act of all. Any report made by the inspector or inspectors of elections is prima facie evidence of the facts stated in the report.

All votes shall be counted and tabulated by the inspector or inspectors in public at a properly noticed open meeting of the Board of Directors or Members. Any Member may witness the counting and tabulation of the votes.

Within fifteen (15) days of the election, the Association shall report results of the election.

The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody of the inspector or inspectors of elections, or at a location designated by the inspector or inspectors until after the tabulation of the vote, and until the time allowed by *Civil Code* Section 5145 for challenging the election has expired, generally one year after the election, at which time custody shall be transferred to the Association.

If there is a recount or other challenge to the election process, the inspector or inspectors of elections shall, upon written request, make the ballots available for inspection and review by an Association Member or the Member's authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

Election, Candidate and Pre-Ballot Voter Notices

The Association shall compile a candidate registration list and a voter list.

The voter list shall include the Member 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. If title to a separate interest parcel 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 be a member. If title to a separate interest parcel 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 be a member.

These Election Operating Rules:

- (1) Prohibit the denial of a ballot to a Member for any reason other than not being a Member at the time when ballots are distributed.
- (2) Prohibit the denial of a ballot to a person with general power of attorney for a Member.
- (3) Require the ballot of a person with general power of attorney for a Member to be counted if returned in a timely manner.

The Association shall permit Members to verify the accuracy of their individual information on both the candidate registration list and the voter list approximately forty (40) and at least thirty (30) days before the ballots are distributed. The Association Member shall report any errors or omissions to either list promptly to the inspector or inspectors before the ballots are distributed who shall make the corrections within two (2) business days.

The Association shall provide general notice of all of the following at least 30 days before the 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 or inspectors of elections.
- (2) The date, time, and location of the meeting at which ballots will be counted.
- (3) The list of all candidates' names that will appear on the ballot.

Ballots

The inspector or inspectors of elections or the Association shall deliver, or cause to be delivered, at least thirty (30) days before an election, to each Member both of the following documents, which act shall commence the voting period:

- (A) The ballot or ballots.
- (B) A copy of the Election Operating Rules.

Delivery of the Election Operating Rules may be accomplished by either of the following methods:

- (i) Posting the election operating rules 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:"
- (ii) Individual delivery.

Equal Access

All candidates and points of view are entitled to equal access to membership in order to ensure fair campaigning procedures. These Election Operating Rules shall ensure that if any candidate or Member advocating a point of view is provided access to Association media, newsletters, or internet websites during a campaign, for purposes that are reasonably related to that election, equal access shall 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. The Association shall not edit or redact any content from these communications, but may include a statement specifying that the candidate or Member, and not the Association, is responsible for that content. Likewise, these Election Operating Rules shall ensure access to the common area meeting space, if any exists, during a campaign, at no

cost, 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.

Voting

Cumulative voting is required in any election where at least two directors are to be elected. Voting by proxy in accordance with the requirements of Bylaws Article III, Section 5 shall be permitted provided that in the case of secret ballots, the form of proxy shall provide for two separate pages: one page authorizing the proxy-holder to vote on behalf of the member and one page instructing the proxy-holder how to cast the member's vote.

Secret Ballot

In compliance with *Civil Code* Section 5115, all items requiring a vote of membership shall be held by secret ballot. Ballots and two preaddressed envelopes with instructions on how to return 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.

In order to preserve confidentiality, a voter may not be identified by name, address, or lot, parcel, or unit number on the ballot.

(1) The ballot itself is not signed by the voter but is inserted into an envelope that is sealed. This envelope is inserted into a second envelope that is sealed. In the upper left-hand corner of the second envelope, the voter shall sign the voter's name, indicate the voter's name, and indicate the address or separate interest identifier that entitles the voter to vote.

(2) The second envelope is addressed to the inspector or inspectors of elections, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector or inspectors of elections. The member may request a receipt for delivery.

In order to cast a vote, a Member must either (i) deliver (by mail or hand delivery) the completed secret ballot to the election inspector; (ii) designate another member to vote on their behalf by proxy, or (iii) attend the meeting (if any) and complete and submit the secret ballot at that time.

Once a secret ballot is received by the inspector of elections it shall be irrevocable.