

# SOLANA BEACH AND TENNIS CLUB OWNERS ASSOCIATION VOTING POLICIES AND PROCEDURES

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## **1.0 Introduction**

The Solana Beach and Tennis Club Owners Association, Inc. (“Association”) has adopted the following rules, policies, and procedures for conducting the Association’s voting and election processes in response to the amendment of California Civil Code Sections 1357.120 and addition of Sections 1363.03, 1363.04 and 1363.09, which became operative on July 1, 2006.

It is the Association’s intent to ensure the most comprehensive and balanced guidelines for our Members. To accomplish this goal, we have made the required revisions with you, the Homeowner, in mind. We sincerely hope our efforts in compiling these policies and procedures will assist you in understanding the voting process and will serve to encourage you to participate in the Association’s decision making process.

The following rules, procedures and policies apply to all matters of the Association that are regulated or otherwise controlled by a Membership voting requirement or ratification. This includes the selection of Directors, amendments to the Association’s Governing Documents, regular assessment increases that exceed the authority of the Board of Directors, special assessments, and the granting of exclusive use of common area property.

These guidelines do not contain all of the information that may apply to your rights and responsibilities in the matters that require you to vote. The Association’s CC&R’s and By-Laws contain additional provisions and should also be reviewed by you, along with the voting policies and procedures, in order to guarantee a complete and thorough understanding of these matters.

## **2.0 General Information**

2.1 In accordance with the Association’s Governing Documents, all persons who meet the qualifications set out in Section 3 are eligible to run for Director positions.

2.2 No Association funds shall be expended for the purposes of campaigning in connection with any vote or election other than those funds specifically required to distribute required correspondences, notices, or forms that may contain the names of candidates or descriptions of issues being voted upon. Specifically excluded is the expenditure of association funds for the purposes of expressly advocating approval, election, or defeat of any matter or candidate.

### **3.0 Candidate Qualifications**

3.1 (a) Director candidates shall be Members of the Association and meet any other qualifications set forth in the Governing Documents for the Association.

(b) Director candidates must be “Members in good standing” at all times during their candidacy for the Board. “Good Standing” means that the Member’s rights have not been suspended pursuant to section 7.3 or as permitted by the Association’s Governing Documents.

### **4.0 Nomination Procedures**

#### **4.1. Establish Date of Meeting.**

(a) **Note:** The timeframes set forth herein assume that the Association has sufficient time after these Rules take effect to reasonably comply therewith. If not, or for other good reason, the Board shall have the power to adjust the timeframes as it deems reasonably necessary.

(b) At least one hundred eighty (180) days out, at an open meeting of the Board of Directors, the Board shall establish the date of the meeting when the votes are to be counted.

(c) The Board shall also determine the date by which the ballots must be received by the Inspector(s). This date can be either prior to the meeting when no voting shall be permitted at the meeting, or this date may be the date of the meeting when voting is to take place at the meeting.

#### **4.2 Nominating Committee.**

(a) The Board of Directors shall have the right, but not the obligation, to appoint a Nominating Committee for the purpose of establishing the candidate roster for any Director election. In lieu of appointing a Nominating Committee, the Board of Directors shall fulfill this function and thereafter all references to the “Nominating Committee” shall mean the Board of Directors.

(b) The Nominating Committee (if other than the Board) shall be appointed per the requirements of the Bylaws, and if the Bylaws are silent on the issue the Committee shall consist of a Chairman, who shall be a member of the Board of Directors and not being a candidate, and two (2) or more Members who are not directors and/or candidates.

(c) The Nominating Committee (if other than the Board) shall be appointed by the Board not less than one hundred and fifty (150) days prior to the meeting.

(d) As of the date of appointment, the Nominating Committee members (if other than the Board) shall be Members of the Association and be members in good standing. Committee members may be removed or replaced as per the Bylaws or applicable law.

(e) The Association should mail out requests to serve on the Board approximately one hundred fifty (150) days before the meeting.

(f) Nominations for elected positions must be received no later than one hundred (100) days prior to the meeting date. Any qualified member of the Association may nominate himself or herself for election to the Board of Directors.

(g) The Nominating Committee shall be charged with the review and consideration of all Director candidate application submissions. Review shall entail verification of “good standing” status of all candidates, as of the date of review.

(h) The Nominating Committee shall, upon finalization of the candidate roster, provide the names in nomination to the Board of Directors. Submission of the finalized roster shall be no later than ninety (90) days prior to the meeting date.

(i) The nomination of qualified candidates from the floor at the meeting shall not be permitted, unless voting takes place at a valid member’s meeting, where voting for the Board is permitted and scheduled on the agenda.

## **5.0 Campaign Protocols**

### **5.1 Campaigns.**

(a) During election periods all candidates shall have equal access to the Association’s Media, including, but not limited to, newsletters, websites, and bulletin boards, but only for purposes that are reasonably related to the election. The issue of “equal access” shall be determined solely by the Board.

(b) With regard to candidate or Member writings intended for distribution to the Members, the Association shall also include a statement specifying that the candidate or Member, and not the Association, is responsible for the content of the communication.

(c) No submission for distribution shall be edited for content. Modifications to formatting may be made so as to allow for space and/or media restrictions. If any formatting modifications should become necessary they shall

be applied equally to all submissions and at no time shall any formatting be applied that may signify a preference or partiality.

(d) Any expense that may be required for the distribution of submitted materials shall be borne solely by the submitting party. These expenses may include, but are not limited to, administrative services, reproduction costs, postage, and supplies. Any costs shall be approved and paid by the submitting Member prior to distribution.

(e) The Association shall provide at no cost, access to any Association owned common area meeting space, if any, to any Member or candidate advocating a point of view or opinion during the campaign period. The use of the common area meeting space must be for purposes reasonably related to the election. Any such use of the common area facilities shall be regulated by any existing rules or regulations for such use.

(f) All requests for access to the common area facilities for campaigning purposes must be submitted in writing, shall be made in advance, and are subject to first come priority scheduling. The Board, in its sole discretion, may reasonably limit a candidate's or Member's access to common area facilities in order to facilitate equal access for other candidates and Members.

## **6.0 Inspectors of Election**

### **6.1 Selection of Inspectors.**

(a) Inspector(s) of Election shall be appointed by the Board of Directors. The Board shall have the power to remove an inspector who ceases to meet the required qualifications, is unable or unwilling to perform his duties, or for other good reason, and to appoint a new inspector in his place.

(b) Inspector(s) of Election may be Members of the Association, but may not be a Member of the Board of Directors or candidate for the Board Directors or related to a Board Member or candidate for the Board.

(c) If the Inspector(s) of Election are Members of the Association, they shall be Members in good standing.

(d) The Inspector(s) of Election, as appointed, may be any one of the following independent third parties: volunteer poll worker with the County Registrar of Voters, Licensee of the California Board of Accountancy, Notary Public, or other qualified person.

(e) The Board may, at its sole discretion, choose to appoint any one of the following employed or currently contracted Association vendors to serve as

the Inspector(s) of Election: management agent, legal counsel, accountant, or other qualified individual.

- (f) Also, the Board may authorize payment of Association funds to any third party appointed to serve as Inspector(s) of Election. However, no payment may be authorized for any Association Member appointed as Inspector(s) of Election.

## 6.2 Number of Inspectors.

The Inspector(s) of Election shall be comprised of either one or three persons. In no case shall an Inspector(s) of Election panel be comprised of an even number of inspectors.

- (a) If there are three (3) Inspectors of Election, the decision or act of a majority shall be effective in all respects as the decision or act of all.

## 6.3 Duties of Inspectors.

The Inspector(s) of Election shall be responsible to perform the following tasks associated with any vote or election:

- (a) Determine the number of Memberships entitled to vote and the voting power of each.
- (b) Determine authenticity, validity and effect of submitted proxies, if any.
- (c) Receive ballots (set address for the submission ballots).
- (d) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
- (e) Determine poll closure time, if actual voting is to take place at the meeting.
- (f) Counting and tabulation of all ballots.
- (g) Determine results of voting.
- (h) Perform any other acts that are necessary and proper to conduct the election with fairness to all members in accordance with Association rules which are NOT in conflict with California Civil Code § 1363.03.

6.4 Performance of Duties.

The Inspector(s) of Election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as quickly as possible.

**7.0 Voting**

7.1 Voting Classes.

The Association's Bylaws and/or CC&Rs provide definitions for, and the rights of, each Membership Voting Class in the Association. Per section 9.3 of the CC&Rs, the owner of one or more condominiums shall have one vote for each condominium owned.

7.2 Voting by Members.

In any voting matter of the Association, each Member, as defined in the Association's Governing Documents, shall be entitled to a single vote for each separate interest owned and for which regular assessments have commenced against such separate interest. When voting for the election of Directors to the Board, members may cumulate their votes per CC&Rs, Article IX, section 9.6.

7.3 Suspension of Rights.

The Board of Directors shall have the right to suspend the rights of any Member, after notice and hearing as provided in the Governing Documents or by law:

(a) For non-payment of assessments that are delinquent. The suspension of the voting rights of any Member for non-payment of regular or special assessments shall remain in full force and effect until such time as any and all regular and special assessment obligations have been satisfied, including any costs related to collecting the assessments.

(b) For a violation of the Governing Documents, the Board may suspend the rights of any Member for a period not to exceed thirty (30) days or such longer period as the Governing Documents permit for any infraction of the Association's published governing documents after reasonable written notice and an opportunity to be heard at a hearing before the Board of Directors.

(c) If the member is not a member in "good standing" pursuant to the requirements of the Governing Documents, if any.

7.4 Format and Scope.

All membership voting related to the following shall be conducted by secret ballot: Directors, amendments to the Association's Governing Documents, regular assessment increases which exceed the authority of the Board of Directors, special assessments, and the granting of exclusive use of common area property. To the extent that the legislature later expands the areas to which this secret ballot process applies,

these policies and procedures shall automatically include the areas added by the legislature.

## **8.0 Proxies**

### 8.1 Distribution

Proxies will not be mailed out to the Members as part of the election package unless the Board directs otherwise. However, proxies may still be used by the Members if voting is to actually occur at a member meeting, otherwise proxies will not be permitted.

### 8.2 Content

All Proxies shall be consistent in content with the established guidelines as set forth in the Association's Governing Documents or as may be mandated by applicable law.

### 8.3 Format.

All proxies shall include a separate sheet that will be formatted to allow the Member to provide instruction for the proxy holder on each matter to be voted upon, which separate sheet may be detached and given to the proxy holder to retain. Any proxy which does not comply with this Section shall be deemed invalid.

(a) The proxy holder must be present at the meeting and shall cast the member's vote by secret ballot provided that proxy voting will be permitted at the meeting.

### 8.4 Validity

In no case shall any Proxy be valid for a period exceeding eleven (11) months from the date of its execution.

### 8.5 Proxy Warning

Due to the legal requirement concerning the form of proxy, the Inspector(s) of Election will not be able to verify that the proxy holder has voted in a manner consistent with what is directed on the proxy form.

## **9.0 Ballots**

### 9.1 Distribution.

Ballots shall be distributed along with two pre-addressed (2) envelopes and instructions for submission via first class mail or hand delivery.

(a) Distribution shall be made not less than thirty (30) days in advance of the meeting.

9.2 Content.

Ballots shall contain the names of all candidates who have been nominated in accordance with the established guidelines, and/or a description of any other matter being addressed in the voting. Ballots shall not contain any identification indicators related to the voter; including names, addresses, and unit or lot numbers. Ballots shall not be signed by the voter.

9.3 Submission.

Ballots voted prior to the meeting date shall be enclosed in a sealed envelope, that is sealed and then inserted into a second envelope that is sealed. In the upper left hand corner of the second envelope, the voter shall print and sign his or her name, address, and lot, or parcel, or unit number in the Association that entitles him or her to vote. The second envelope shall have printed above the signature block the following statement or something close thereto: **The undersigned hereby votes the enclosed ballot and appoints the Inspector(s) of Election as his/her proxy holder for quorum purposes only at the member meeting.** The second envelope is addressed and sent to the Inspector(s) of Election to be retained until the completion of tabulating. The envelope may be mailed or delivered by hand to the specified location. Ballots which do not comply with these requirements shall not be counted.

(a) Ballots submitted to the Inspector(s) of Election shall be held in their sealed envelopes until the date of the meeting, at which time such ballot envelopes shall be opened. In no case shall any ballot be opened, viewed, or otherwise reviewed prior to the date and time that has been established for the tabulation of said ballots. Once the ballot has been received by the Inspector(s) of Election it may not be revoked or otherwise recalled. If more than one ballot is received for any Unit or Lot, the Inspectors of Election shall determine its validity.

(b) All voting by ballot **must** utilize the official Association form and envelopes. Reproductions and copies will not be accepted. To the extent that a Member loses or otherwise spoils his or her ballot, a new ballot may be requested from the Association and the new ballot shall be promptly sent to the requesting owner.

(c) Members may request a receipt for the delivery of a ballot envelope.

9.4 Tabulating.

The Inspector(s) of Election shall tabulate all ballot submissions in public view at a properly noticed meeting of the Board or Members set for the purpose of voting on matters of the Association.

(a) The counting and tabulation shall be done in public. The Inspectors may appoint additional persons to assist in the counting and



tabulation of votes. Provided that such additional persons meet the same minimum qualifications as the Inspectors.

(b) Any candidate or member may witness the counting and tabulation of votes from a reasonable distance and provided that they do not disrupt the process in any manner whatsoever. Members observing the process must stand at least five (5) feet back from the area of counting and tabulation and not communicate or otherwise interfere with the Inspector(s) in any manner whatsoever. Anyone violating these requirements shall be asked to leave the meeting.

9.5 Retention.

After the election, the ballots shall be retained by the Association for a period of one (1) year. At the expiration of the retention period all ballots will be destroyed.

9.6 Challenge.

In the event of a properly noticed challenge, the ballots shall be made available for review and inspection by the challenging Member(s) and/or his or her legally appointed representative as permitted by law.

## **10.0 Election Results**

10.1 The results of the election shall be promptly reported to the Board of Directors of the Association.

10.2 The results shall be recorded in the minutes of the next meeting of the Board of Directors and shall be available for review by Members.

10.3 Within fifteen (15) days of the election, the Board shall publicize the results of the election in a written notice to the members.

## **11.0 Non-Director Voting**

11.1 When voting on other matters besides director elections, and which come under the scope of California Civil Code § 1363.03, the Association shall generally use the procedures outlined above, but the Board may adjust the procedures to account for differences between director elections and the election at hand, e.g., special assessments, increasing the regular assessment, amendments, and the grant of exclusive use of common area.