

**Bay Song Condominium Owners Association  
2020 ELECTION RULES**

**I. INSPECTOR OF ELECTIONS**

*A. APPOINTMENT*

The association's Board of Directors shall select an independent third party or parties as an inspector of elections, and shall have the authority to decide the number of inspectors of elections to be one or three.

For the purposes of this section, an independent third party includes, but is not limited to, a volunteer poll worker with the county registrar of voters, a licensee of the California Board of Accountancy, or a notary public. An independent third party 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 independent third party 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.

*B. DUTIES*

1. The inspector or inspectors of elections shall do all of the following:
  - a. Determine the number of memberships entitled to vote and the voting power of each.
  - b. Determine the authenticity, validity, and effect of proxies, if any.
  - c. Receive ballots.
  - d. Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
  - e. Count and tabulate all votes.
  - f. Determine when the polls shall close, consistent with the governing documents.
  - g. Determine the tabulated results of the election.
  - h. Perform any acts as may be proper to conduct the election with fairness to all members in accordance with this article, the Corporations Code, and all applicable rules of the association regarding the conduct of the election that are not in conflict with this article.
  - i. An inspector of elections shall perform all duties impartially, in good faith, to the best of the inspector of election's ability, as expeditiously as is practical,

and in a manner that protects the interest of all members of the association. 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.

2. 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.

## **II. NOMINATION & CANDIDATE QUALIFICATIONS**

### **A. NOMINATIONS**

1. The association shall provide notice to membership of the nominating procedure, candidate qualifications, and right to Informal Dispute Resolution, at least thirty (30) days prior to any deadline for submitting nominations;
2. Nominations may be made from the floor at the Annual Meeting;
3. Any Member may nominate him/herself or another member provided that nominee meets the candidate qualifications set forth below.

### **B. CANDIDATE QUALIFICATIONS** - To qualify as a candidate, the nominee must meet all of the following qualifications:

1. If elected, the Nominee would not be serving on the Board of Directors at the same time as another person who holds a joint ownership interest in the same separate interest parcel as the Nominee, provided that other person is already on or is running for a seat on the Board of Directors;
2. The Nominee discloses, or if the association is aware or becomes aware of, a past criminal conviction that would, if the person was elected, either prevent the association from purchasing the fidelity bond coverage required by Section 5806 or terminate the association's existing fidelity bond coverage;

3. The Nominee is current in the payment of regular and special assessments, which are consumer debts subject to validation. "Current" includes those who have paid the regular or special assessment under protest pursuant to California Civil Code Section 5658, or who have entered into a payment plan pursuant to Section California Civil Code 5665;
4. The Nominee will be provided the opportunity to engage in internal dispute resolution with respect to any disqualification pursuant to California Civil Code Article 2 (commencing with Section 5900) of Chapter 10.

### **III. VOTING**

#### *A. NOTICE OF MEETING*

At least thirty (30) days prior to the distribution of ballots, the association shall provide to membership notice containing the following information:

1. The deadline (date and time) to return the ballots ("Voting Period");
2. The physical location to return the ballots;
3. The date, time and location of where the ballots will be counted;
4. The list of all candidates' names that will appear on the ballot ("Candidate Registration List");
5. The member's right to verify the accuracy of their individual information on the Candidate Registration List and Voter List (Voter List includes 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). The association or member shall report any errors or omissions to either list to the inspector or inspectors who shall make the corrections within two business days.

#### *B. QUALIFICATIONS/RIGHTS*

1. Each member (including those with written power of attorney for a member) shall be entitled one (1) vote per lot.
2. No member's right to vote may be suspended.

### *C. ELECTION MATERIALS*

Ballots and two pre-addressed 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.

### *D. PROXY*

Proxies may be used to the extent permitted by the governing documents and applicable state law.

### *E. QUORUM*

If a quorum is required by the governing documents, each ballot received by the inspector of elections shall be treated as a member present at a meeting for purposes of establishing a quorum.

### *F. CUMULATIVE VOTING*

The association shall allow for cumulative voting using the secret ballot procedures if cumulative voting is provided for in the governing documents.

### *G. CUSTODY*

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 Section 5145 for challenging the election has expired, at which time custody shall be transferred to the association.

### *H. COUNTING/TABULATING VOTES*

1. All votes shall be counted by the Inspector of Election, or its designee, in public at a properly noticed open meeting of the membership or Board of Directors.
2. Any candidate or other member of the association may witness the counting and tabulation of the votes.
3. No person, including a member of the association or an employee of the management company, shall open or otherwise

review any ballot prior to the time and place at which the ballots are counted and tabulated.

4. The inspector of elections, or the designee of the inspector of elections, may verify the member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated.
5. Once a secret ballot is received by the inspector of elections, it shall be irrevocable.

#### *I. RESULTS*

The tabulated results of the election shall be promptly reported to the board and 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 15 days of the election, the board shall give general notice pursuant to Section 4045 of the tabulated results of the election.

#### *J. RECOUNT/CHALLENGE*

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.

### **IV. CAMPAIGNS**

#### *A. POINT OF VIEW*

The association 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 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. 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.

## B. ACCESS

The association 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.

## C. HOA FUNDS

1. Association funds shall not be used for campaign purposes in connection with any association board election. Funds of the association shall not be used for campaign purposes in connection with any other association election except to the extent necessary to comply with duties of the association imposed by law.
2. For the purposes of this section, "campaign purposes" includes, but is not limited to, the following:
  - (1) Expressly advocating the election or defeat of any candidate that is on the association election ballot.
  - (2) Including the photograph or prominently featuring the name of any candidate on a communication from the association or its board, excepting the ballot, ballot materials, or a communication that is legally required, within 30 days of an election. This is not a campaign purpose if the communication is one for which subdivision (a) of Section 5105 requires that equal access be provided to another candidate or advocate.