

Pomerado Homeowners Association Voting & Election Procedures

SECTION 1 - INTRODUCTION

The following election procedures for the Pomerado Homeowners Association (“Association”) are updated pursuant to California Civil Code Sections 5100, 5105, 5110, 5115, 5125, 5145 and 5200. Pursuant to California Civil Code Section 5105(h), these election operating rules shall not be amended less than 90 days prior to an election.

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&Rs 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.

SECTION 2 - GENERAL INFORMATION AND EQUAL ACCESS

2.1 In accordance with the Association's Governing Documents, all persons who meet the qualifications set out in Section 3.1 and not disqualified under Section 3.2 are eligible to run for Director positions.

2.2 Association Funds Shall not Be Used for Campaign Purposes. No Association funds shall be expended for the purposes of campaigning in connection with any vote or election other than those funds specifically required in order to distribute necessary 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.

a. Definition of Campaign Purposes [Civil Code §5130(b)]. “Campaign Purposes” include, but are not limited to, the following:

- (i) Expressly advocating the election or defeat of any candidate that is on the Association election ballot.
- (ii) Including the photograph or prominently featuring the name of any candidate on a communication from the Association or its board, excepting the ballot and ballot materials, within thirty (30) days of an election, provided that this is not a campaign purpose if the communication is one for which subdivision (a) of Section 5110 requires that equal access be provided to another candidate or advocate.

- 2.3 Equal Access to Association Media.** All candidates will be granted equal access to Association Media for purposes reasonably related to the election.

SECTION 3 - CANDIDATE QUALIFICATIONS

3.1 Qualifications of Directors – Mandatory Membership. A Member of the Association is eligible to be nominated or nominate himself or herself for a position on the Board if he/she is a Member of the Association at the time of nomination and is not disqualified under Section 3.2 below. Non-Members of the Association are not eligible to be nominated or to serve on the Board.

- a. If title to a property 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 for purposes of candidate nomination.

3.2 Disqualification. A Member is not eligible to be nominated or to nominate himself or herself for a position on the Board if he or she:

- a. Is not current in the payment of his/her regular or special assessments. However, a Member shall not be disqualified for failure to be current in payment of regular and special assessments if either: (1) the Member has paid the regular or special assessment under protest pursuant to Civil Code Section 5658; (2) the Member has entered into a payment plan pursuant to Civil Code Section 5665; or (3) the Member has requested or is participating in internal dispute resolution pursuant to Article 2 (commencing with Section 5900) of Chapter 10 of the Civil Code. All Directors must also be current in the payment of regular and special assessments during their Board tenure.
- b. 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 unit and the other person is either properly nominated for the current election or an incumbent director.
- c. Has been a Member of the Association for less than one (1) year.
- d. Has a past criminal conviction that would, if the Member was elected, either prevent the Association from purchasing the fidelity bond coverage required by Civil Code Section 5806 or terminate the Association's existing fidelity bond coverage.

SECTION 4 – NOTICE AND 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 fifty (150) 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, with the concurrence of the Inspector(s) of Election, 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 Notice of Procedure and Nomination Deadline. The Association shall provide general notice of the procedure and deadline for submitting a nomination at least 30 days before the deadline for submitting nominations.

4.3 Notice Before Ballot Distribution. The Association shall post notice of all of the following at least 30 days before the ballots are distributed:

- a. 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;
- b. The date, time, and location of the meeting at which ballots will be counted; and
- c. The list of all candidates' names that will appear on the ballot.

4.4 Nominating Committee.

- a. The Board of Directors shall have the right to appoint a Nominating Committee for the purpose of establishing the candidate roster for any Director election. If the Board of Directors omits, inadvertently or otherwise, to formally appoint a Nominating Committee in accordance with any Governing Document requirement, qualified members of the Board shall be automatically deemed to have been appointed by the Board at the first Board meeting following a director election and shall constitute the Nominating Committee to serve until the next Director election or until different members of the Nominating Committee are appointed. 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 approximately 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 appointed, 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 twenty (120) days before the meeting.
- f. Nominations for elected positions must be received by the date determined by the Nominating Committee approximately ninety (90) 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 that candidates meet all requisite qualifications, 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 approximately sixty (60) 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.

4.5 Nomination of Directors. Director Candidates shall be nominated by the Nominating Committee, or in the absence of a committee, written submission of a distributed candidacy statement must be received prior to the close of the established nomination period.

- a. **Self-Nomination.** Any Member may nominate himself or herself for election to the Board of Directors, as long as he or she is qualified under Section 3.1 and not disqualified under Section 3.2.
- b. **Candidate Nomination Form ("Form").** A Candidate Nomination Form will be mailed to each Member at a reasonable time before the annual meeting. Members interested in serving as a Director must complete and return a Form to management. Directors who want to serve again must complete and return a Form to management. Members can nominate themselves or another person. Completed Forms must be returned by the deadline listed on the Form. Any candidate nominated by another person will be contacted to confirm that he or she agrees to be a candidate. Only those candidates who are qualified and have returned their Forms on time will be listed on the ballot. The above candidate form submittal process shall be subject to change by the Board.

SECTION 5 - CAMPAIGN PROTOCOLS

5.1 Campaigns.

- a. **Equal Access to Association Media.** 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. **Candidate Communications.** 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. Regardless whether such a statement is made, the Association is not responsible for the content of any such communication.
- c. **No Alteration of Candidate Communications.** 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. **Campaign Expenses.** 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. **Access to Common Area.** 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.

(i) 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.

SECTION 6 - INSPECTORS OF ELECTION

6.1 Selection of Inspectors. Inspector(s) of Election shall be appointed by the Board of Directors. The Board shall select an independent third party or parties as an inspector of elections. 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. The Association's current management, attorney(s) and any other person or entity under contract with the Association for compensation are hereby prohibited from serving as an Inspector of Elections.

- a. 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. 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 (1) or three (3) persons. In no case shall an Inspector(s) of Election panel be comprised of an even number of inspectors. 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 consistent with the governing documents, if actual voting is to take place at the meeting.

- f. Counting and tabulation of all ballots.
- g. Determine results of voting.
- h. The Inspector(s) of Election, or his or her designee, may verify the member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated.
- i. Perform any other acts that are necessary and proper to conduct the election with fairness to all members in accordance with these election procedures, and all applicable rules of the Association which are NOT in conflict with California Civil Code Section 5105.
- j. Deliver, or cause to be delivered, at least thirty (30) days before an election, to each Member: the ballot(s) and a copy of the election rules. Delivery of the election operating rules may be accomplished by either of the following methods: (1) 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:"; or (2) individual delivery.

6.4 Good Faith of Inspector(s) of Elections. Every Inspector of Elections shall perform his or her duties impartially, in good faith, to the best of his or her ability, as expeditiously as is practical, and in a manner that protects the interest of all Members of the Association.

6.5 Decision. The decision or act of a majority of the Inspectors of Election shall be effective in all respects as the decision or act of all.

6.6 Report. Any report made or issued by the Inspector(s) of Elections is prima facie evidence of the facts stated in the report.

6.7 Removal of Inspectors of Elections. The Board of Directors may remove and replace any Inspector of Elections prior to the tabulation of votes if an Inspector resigns or if the Board reasonably determines that an Inspector will not be able to perform his or her duties impartially and in good faith.

SECTION 7 - 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.

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.

a. Voting by Proxy. The Association's Bylaws, Article 2, Section 2.10 provides that voting may be accomplished by proxy, provided that the proxy holder files with the Secretary of the Association a document executed by the Voting Member authorizing the proxy. In no event shall a proxy be valid for a period in excess of eleven (11) months from the date of execution thereof. In any election or voting procedure in which proxies are authorized, the Inspector of Elections shall be responsible to authenticate and determine the validity and effect of any submitted proxy.

b. Voting Rights. The Association is prohibited from denying a ballot to:

- (i) A Member for any reason other than not being a Member at the time when ballots are distributed; and
- (ii) A person with general power of attorney for a Member. The ballot of a person with general power of attorney for a Member shall be counted if returned in a timely manner.

7.3 Cumulative Voting. The Association's Bylaws, Article 3, Section 3.4 provides that every Member entitled to vote may cumulate his/her/its votes during any election of the Board of Directors. A Member may give one candidate a number of votes equal to the number of such members to be elected multiplied by the number of votes to which such Member is otherwise entitled, or distribute such votes on the same principle among more than one candidate. The candidates receiving the highest number of votes, up to the number of members of the Board of Directors to be elected, shall be deemed elected.

7.4 Applicability of Rules. [Civil Code §5100(a)(1)]. All membership voting related to the following shall be conducted by secret ballot: (1) Election and removal of Directors, (2) amendments to the Association's Governing Documents, (3) regular assessment increases which exceed the authority of the Board of Directors, special assessments, (4) 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.

a. Secret Ballots [Civil Code §5100(a)(1)]. Member voting on the items listed in 7.3 above will be by secret ballot.

7.5 Non-Revocable Ballots. Written ballots may not be revoked once they are submitted to the Inspector(s) of Elections. Once written ballots are deposited in the U.S. mail to the Inspector(s) of Elections, they are considered non-revocable.

7.6 Loss of Ballot. If a Member loses his/her ballot prior to the annual meeting, they may request another ballot, along with the appropriate envelopes from the Inspector(s) of Elections but they must sign a statement that the original ballot was lost, destroyed or never received. The Inspector(s) of Elections shall maintain a record of each request and, if it is determined that the Member voted twice, even by mistake, neither ballot will be counted. Additional ballots cannot be obtained from a member of the Board. Only the Inspector of Elections will provide additional ballots.

7.7 Secrecy of Ballots. A Member who signs or otherwise marks his/her ballot with an identifying mark, waives his/her right to secrecy. The Association is not responsible for redacting personal information that is added to the ballots by a Member.

7.8 Voting Period. The polls will open when the ballots are sent to the members and will close within at the commencement of the annual meeting, or any adjournment thereof, or the final collection of ballots for counting, whichever occurs first.

SECTION 8 - 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.
 - b. The proxy may be revoked by the member prior to the receipt of the ballot by the Inspector(s) of Election as described in Section 7613 of the Corporations Code.
- 8.4 Validity.** Except as permitted by the Governing Documents or by law, no Proxy shall 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. Members are therefore warned that voting by proxy effectively allows a proxyholder to vote in all cases however the proxyholder deems fit.

SECTION 9 - BALLOTS

- 9.1 Voting By Ballots [Civil Code §5115(a)].** . Members may vote by absentee ballot. Ballots shall be distributed along with two pre-formatted (2) envelopes and instructions for submission via first class mail or hand delivery. Distribution shall be made not less than thirty (30) days in advance of the meeting. The law requires the following procedures with regard to absentee ballots:
- a. **Envelopes.** 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.
 - b. **Confidentiality.** In order to preserve confidentiality, a voter may not be identified by name, address, lot, parcel, or unit number on the ballot.
 - c. **Model Procedures.** The Association shall use as a model those procedures used by California counties for ensuring confidentiality of voter absentee ballots.
 - d. **Absentee Ballot Procedure.** 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 prints and signs his or her name, address, and lot, or parcel, or unit number that entitles him or her to vote.
 - e. **Delivery of Ballot.** The second envelope will be 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.
- 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. At the Board's discretion, Ballots may contain one or more blank spaces for voters to insert the name of write-in candidate(s). No votes for a write-in candidate (if permitted) shall be counted if the write-in candidate does not meet the necessary Director qualifications and if he or she has not delivered written notification to the Association prior to vote tabulation of his or her agreement to serve on the Board.

9.3 Submission. 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. However, the Inspector(s) or their designees may verify the Member's information and signature on the second (outer) envelope prior to official tabulation. 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.

- a. 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.
- b. Members may request a receipt for the delivery of a ballot envelope.
- c. If a quorum is required by the governing documents, each ballot received by the Inspector(s) of Election shall be treated as a member present at a meeting for purposes of establishing a quorum.
- d. Adjourned Meetings - handling of ballots: If the meeting for purposes of tabulation is adjourned to another date due to lack of quorum, prior to the reconvened meeting date new ballots and two pre-formatted envelopes may be issued to all Members who have NOT previously voted by ballot, at the discretion of the inspector. Ballots which are mailed or hand-delivered to the Inspector(s) of Election or which remain properly in the possession of the Inspector(s) of Election from the first meeting shall be valid for the reconvened meeting.

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.

- 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.
- c. The Inspector(s) of Election shall not except in the fulfillment of their duties:
 - i. Provide Members and candidate(s) with information regarding the Ballot;
 - ii. Answer questions concerning the Ballot and vote; and
 - iii. Provide any interim counts or tabulations.
- d. The Inspector(s) of Election may request that the Meeting be recessed to allow the Inspector(s) of Election to complete the counting and tabulation of the Ballot to another time. Notice of the recessed Meeting will be given to all Members at the Meeting and will identify the location, dates and times when the counting and tabulation will be resumed. The Inspector(s) of Election will continue to maintain custody of the Ballots at the designed location until the counting and tabulation is complete.
- e. The Inspector(s) of Election will certify the tabulated results of voting by completing a report. The report will be signed by the Inspector(s) and will certify the correctness thereof to the best of the Inspector(s) belief.

- f. In the event of a tie vote among any number of candidate(s) for the Board, the Association will notice a new Meeting and send Ballots to all Members for the vote to break the tie. Such vote shall be conducted in accordance with the procedures set forth herein, to the extent applicable to a run-off vote. No previously cast ballots shall be used at the meeting to break the tie.

9.5 Custody of Ballots [Civil Code §5125]. The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list at all times shall be in the custody of the Inspector(s) of Elections or at a location designated by the Inspector(s) until after the tabulation of the vote and expiration of the time allowed by California Civil Code Section 5145 for challenging the election, after which time the custody and control of the ballots shall be turned over to the Association.

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.

SECTION 10 – ANNOUNCING ELECTION RESULTS [Civil Code §5120(b)]

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.

SECTION 11 - CONTESTING RESULTS OF AN ELECTION & RIGHT OF ENFORCEMENT

11.1 Statute of Limitations [Civil Code §5145]. A Member may bring a civil action for declaratory or equitable relief for a violation of Article 5 of the Civil Code by the Association, including, but not limited to, injunctive relief, restitution, or a combination thereof, within one year of the date that the Inspector or Inspectors of Elections notifies the Board and Membership of the election results or the cause of action accrues, whichever is later.

11.2 Recount or Challenge [Civil Code §5125]. In the event of a recount or other challenge to the election process, the Association shall, upon written request, make the ballots available for inspection and review by Association members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.

11.3 Civil Action [Civil Code §5145]. If a Member establishes, by a preponderance of the evidence, that the election procedures were not followed, a court must void any results of the election unless the Association establishes, by a preponderance of the evidence, that the Association's noncompliance with the Civil Code or these election rules did not affect the results of the election. The findings of the court shall be stated in writing as part of the record.

- a. A cause of action under California Civil Code Section 5145(a) may be brought in either the superior court or, if the amount of the demand does not exceed the jurisdictional amount of the small claims court, in small claims court.

- b. A member who prevails in a civil action to enforce the member's rights pursuant to this article shall be entitled to reasonable attorney's fees and court costs, and the court may impose a civil penalty of up to five hundred dollars (\$500) for each violation, except that each identical violation shall be subject to only one penalty if the violation affects each member of the association equally. The Association, should it prevail, shall not recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation. If a member prevails in a civil action brought in small claims court, the member shall be awarded court costs and reasonable attorney's fees incurred for consulting an attorney in connection with this civil action.

Section 12 - Consultation with Association Legal Counsel

12.1 The Inspector(s) of Election have the authority to confer with the association legal counsel in advance of, or at the Tabulation Meeting. Legal counsel represents the Association and does not represent the Members, Inspector(s) of Election, Board Members, management, or any related person. By adoption of these rules, Association legal counsel has been authorized by the Board of directors to provide advice to the Inspector(s) of Election, as determined necessary or prudent by the attorney, for the limited purpose of informing and advising the Inspector(s) of Election regarding issues relating to Inspector(s) of Election duties.

Section 13 – Elections Appendix

13.1 Election Frequency. An election for a seat on the Board of Directors shall be held at the expiration of the corresponding Director's term, and at least once every four (4) years.

13.2 Election Materials. As defined by California Civil Code Section 5200, "Association Election Materials" means returned ballots, signed voter envelopes, the voter list of names, parcel numbers, and voters to whom ballots were to be sent, proxies, and the candidate registration list. Signed voter envelopes may be inspected but may not be copied. The Association is required to retain, as Association Election Materials, both a candidate registration list and a voter list. CC §5105(a)(7).

- a. **Voter List.** The voter list shall include 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.
- b. **Verification.** A Member may request to verify the accuracy of their individual information on both lists at least 30 days before the ballots are distributed. The Association and/or Inspector(s) of Elections will make any requested corrections within two business days of receiving notice of any errors or omissions to either list.
- c. **Privacy.** Membership Lists are considered an "Association record" as defined in California Civil Code Section 5200, including name, property address, mailing address, and email address, but shall not include information for members who have opted out pursuant to Civil Code Section 5220.