

**VIEJO WEST CONDOMINIUMS OWNERS'
ASSOCIATION**

**MEMBERSHIP MEETING, ELECTION &
VOTING RULES**

**In Compliance with
SB 323**

Civil Code § 5100, ET. SEQ.
Effective January 1, 2020

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I. INTRODUCTION

Pursuant to the CC&Rs, By-laws and these Election and Voting Rules ("Rules"), the Association will hold meetings of the Membership to elect Directors and to conduct Association business. These Rules are intended to establish certain procedural rules for Membership elections and Membership voting. These procedural Rules are written pursuant to Civil Code § 5100, et. Seq., the California Corporations Code and the Governing Documents.

II. MEMBERSHIP MEETINGS

- A. The Association will hold a Meeting of the Members to elect Directors and to conduct Association business at the end of any Directors term or at least every four years. (Cal Civ. Code § 5100(a)(2).) The Meeting of the Members to elect Directors is generally held in the month of March or April.
- B. The Association will send out a Notice of Annual Meeting containing a list of the then known Candidates for election to the Board and with information on when polls will open and when the Members and Candidates may attend the Annual Meeting and/or Board meeting to witness the registration, review, count and tabulation of Ballots by the Inspector(s) of Election.
- C. In addition, Special Membership Meetings may be called by the Board, the Chairman of the Board, the President or such other persons as authorized by the Governing Documents or upon the receipt of a written request for a Special Membership Meeting signed by Members representing at least 5% of the total voting power of the Association. (Cal. Corp Code § 7510.) For Member votes that are to be conducted pursuant to the Secret Ballot process described herein, the meeting notice sent by the Association will include information on when polls will open and when the Members may attend a Membership or Board meeting to witness the registration, review, count and tabulation of Ballots by the Inspector(s) of Election.
- D. All Membership meetings and votes will be conducted in accordance with the applicable Civil Codes, California Corporations and Association's Governing Documents, as appropriate.

III. CANDIDATES AND CAMPAIGN FOR BOARD

- A. The Board of Directors consists of five (5) Directors. Directors are elected and

serve a term of two (2) years. (Bylaws, Art. IX, Sec. 9.01.)

B. The process to be a Candidate to run for the Board of Directors shall be as follows:

1. Prior to the Membership Meeting to elect Directors, the Association will distribute a request-for-Candidates ("Request for Candidates") form, seeking Candidates for the Board. The Request for Candidates shall include the opportunity for each Candidate to submit a 150-word written statement reasonably related to the election, including advocating a point of view ("Candidacy Statements"). Candidacy Statements received on a timely basis will be included with the Association's mailing of the notice and Ballot materials. The Association will not edit or redact these Statements but may include a statement specifying that the Candidate is responsible for that content. The Request for Candidates shall be mailed at least 30 days before the deadline to submit a Member's Candidacy Statement and the Request for Candidates shall include the procedure and deadline for submitting a Candidacy Statement. The Request for Candidates and the procedure and deadline for submitting a Candidacy Statement shall be transmitted via Individual Notice pursuant to Cal. Civ. Code § 4040.

2. Regardless of whether a Request for Candidates form was completed, any Candidate may still be nominated by himself, herself or by someone else from the floor of the Annual Meeting.

C. A Candidate must be a Member of the Association. (Cal. Civ. Code § 5105(b).)

D. A Candidate may be an individual that is not a Member only if a legal entity that is not a natural person holds legal title to a Separate Interest, is a Member of the Association and under the legal entity's governing authority has appointed a natural person to act as a Candidate. (Cal. Civ. Code § 5105(b)(2).)

E. A Candidate must be current in the payment of Regular and Special Assessments, and all Directors during their tenure must remain current in the payment of Regular and Special Assessments.¹ (Cal. Civ. Code § 5105(c)(1).)

1. A Candidate shall not be disqualified for failure to be current in payment of Regular and Special Assessments if either of the following circumstances is true:

a. The Candidate had paid the Regular or Special Assessment under protest pursuant to Cal. Civ. Code § 5658. (Cal. Civ. Code § 5105(d)(1).), or;

b. The Candidate has entered into a payment plan pursuant to Cal.

¹ A Candidate may not be disqualified for nonpayment of fine, fines renamed as assessments, collection charges, late charges, or costs levied by a third party.

Civ. Code § 5665. (Cal. Civ. Code § 5105(d)(1).)

- F. A Candidate may not be disqualified if the person has not been provided the opportunity to engage in internal dispute resolution pursuant to Article 2 (commencing with Section 5900) of Chapter 10 of the Civil Code regarding any unpaid Regular or Special Assessment, as defined immediately above.
- G. A Candidate may not be a joint Owner of a Separate Interest if another joint Owner of the Separate Interest is either properly nominated for the current election or is an incumbent Director. (Cal. Civ. Code § 5105(c)(2).)
- H. A Candidate may be a Member of the Association for less than one year. (Cal. Civ. Code § 5105(c)(3).)
- I. A Candidate shall be disqualified if that person discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would, if the Candidate was elected, either prevent the Association from purchasing the fidelity bond coverage required by Cal. Civ. Code § 5806 or terminate the Association's existing fidelity bond coverage (Cal. Civ. Code § 5105(c)(4).)
- J. If any Candidate or Member advocating a point of view is provided access to any Association media, including newsletters and internet web sites, during any campaign, for purposes that are reasonably related to that election, then all Candidates and Members advocating a point of view shall be provided with equal access for purposes reasonably related to that election.
- K. Access to Common Area meeting space will be made available 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.
- L. In each election for the Board of Directors, the Association may hold a forum for the nominees prior to the Annual Meeting. All Candidates may participate in any such forum. At any such event, each Candidate may give an oral statement of their qualifications of no longer than five minutes per Candidate. Questions may also be directed to any Candidate by the Members present at the meeting. The Candidates are not required to attend the event, to make a statement, or to answer questions but are encouraged to do so. A property manager, Board Member not up for election, or an election Inspector may moderate the event.
- M. Association funds shall not be used for Campaign Purposes in connection with any Association election, except as provided herein or to the extent necessary to comply with the duties of the Association imposed by law. The term "Campaign Purposes" shall not refer to expenditures required and related to holding the election, including, but not limited to, the expense related to distribution of materials containing the biographical description and photograph of the nominees within election materials, the expense required to confer with counsel regarding

any aspect of the election or meeting, the expense required to prepare, distribute, collect and tabulate the Secret Ballots, the expense required to hire an Inspector or Inspector(s) of Election and any persons associated therewith, or similar expenses.

IV. INSPECTOR(S) OF ELECTION

- A. One or three Inspector(s) of Election will be selected and appointed by the Board of Directors at an open Board meeting approximately 60 to 90 days prior to the date of the Annual Meeting or other Membership vote to be conducted by the Secret Ballot process described in these Rules.
- B. The Board may, but is not required to, select non-Member third parties as the Inspectors of Election, which may include, 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. The Inspectors can be volunteers or be hired by the Association.
- C. The Board will not select a member of the Board of Directors, a Candidate for the Board of Directors, a relative of a member of the Board or of a Candidate, or a person currently employed by or under contract to the Association for other compensable services.
- D. If an Inspector of Election fails or is unable to perform the role of an Inspector as stated in these Rules (such as might occur if an Inspector fails to attend a scheduled meeting) or becomes ineligible to be an Inspector, the Board may remove that Inspector and appoint another Inspector that meets the requirements of this section in his/her place.
- E. Duties of Inspector(s) of Election:
 - 1. Determine the number of Memberships entitled to vote and the voting power of each;
 - 2. Receive the proxies and Ballots;
 - 3. Confirm the number of lots represented at the meeting;
 - 4. Confirm the existence of a quorum;
 - 5. Hear and determine the authenticity, validity and effect of proxies, if any, and Ballots;
 - 6. Hear and determine all challenges and questions in any way arising in connection with the right to vote;

7. Determine when the polls shall close;
 8. Count and tabulate all Ballots;
 9. Determine the tabulated results of election; and
 10. Perform any acts which may be proper to conduct the election with fairness to all Members in accordance with Civil Code §5110, and any successor statutes, and the Governing Documents.
 11. Accept and count the Ballot of a person with general power of attorney for a Member to be counted if returned in a timely manner.
- F. 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 expeditiously as 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.
- G. Any report made by an Inspector or Inspectors of Election is prima facie evidence of the facts stated in the report.
- H. Prior to the mailing of the Ballots by the Association, the Inspectors will determine the location where the sealed Ballots will be mailed or delivered and where the Inspectors will maintain custody of the sealed Ballots until after the tabulation of the vote by the Inspectors. Unless the Inspectors select otherwise, the Association's management company will be the default choice to receive the sealed Ballots on behalf of the Inspectors. Management will not open, review or count the Ballots.
- I. The Inspectors may appoint additional personnel that meet the requirements of this section of these Rules to assist the Inspectors with verification of signatures and the Inspectors' duties, including registration, counting and tabulating, but the Inspectors will oversee and be responsible for all actions of such personnel.
- J. The Inspectors may implement procedures to reduce the potential for vote fraud, so long as those procedures do not compromise the confidentiality of the vote.
- K. Directors must be elected solely by Secret Ballot. Voice vote, show of hands, or any method other than Secret Ballot shall be prohibited. The vote may be conducted solely by written ballot, unless the Governing Documents specify otherwise.

V. ISSUANCE OF BALLOTS

- A. The Association shall utilize a Secret Ballot process, as described below, for any

or all of the following matters:

1. A vote of the Membership regarding assessments per Civil Code §5605 or other applicable law;
 2. Election and recall of Members of the Association's Board of Directors;
 3. Amendments to the Governing Documents;
 4. Grant of exclusive-use Common Area property pursuant to Civil Code § 4600;
 5. Any other purpose as required by law.
- B. The record date for Members entitled to receive notice of any Association election shall be the date thirty (30) days prior to the day the election materials are sent out by the Association. The record date for voting shall be the day of the Annual or Special meeting at which the vote is conducted.
- C. 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 of Election.
 2. The date, time and location of the meeting at which Ballots will be counted.
 3. The list of Candidates' names that will appear on the Ballot.
 4. Individual notice of the above paragraphs shall be delivered pursuant to Cal. Civ. Code § 4040 if individual notice is requested by a Member.
- D. Secret Ballots and two pre-addressed envelopes with instructions on how to return Ballots, and a Notice of Meeting, if applicable, must be mailed by first class mail or delivered by the Association to every Member not less than thirty (30) days prior to the deadline for voting. Secret Ballots shall also be delivered to a person with general power of attorney for a Member, if known by the Association. In order to preserve confidentiality, a voter may not be identified by name, address or lot, parcel or unit number on the Ballot itself. The balloting materials shall include all of the following:
1. One Secret Ballot shall be issued for each Separate Interest owned and the Owner of each Separate Interest is entitled to cast one Ballot, regardless of the number of Owners shown on the Association's Membership roster. If more than one Owner of a jointly-owned Separate Interest attempts to submit a Ballot, even by mistake, the first Ballot received will be counted.

2. The Secret Ballot shall contain the names of Candidates who timely delivered the required forms to the Association as referenced above. If there are no such Candidates, or if there are fewer Candidates than the number of Directors to be elected, the Secret Ballot will include the names, if any, of the Candidates and/or blank lines for write-in Candidates.
3. A write-in Candidate, unless nominated by the Candidate in writing and submitted with the Secret Ballot, must also be nominated from the floor of the Annual Meeting (or other Membership or Board meeting where voting by Secret Ballot will occur), by him or herself, or by another Member.
4. The Secret Ballot shall NOT identify the Member (or their designee) by name, address, lot, parcel number or number. If the Member signs the Secret Ballot or identifies him/herself on the Ballot, the Member shall be deemed to accept the risk that his or her Ballot may not be accepted/counted by the s and/or that the manner in which he or she voted may become public knowledge.
5. The completed Secret Ballot shall be placed into a pre-addressed ballot envelope ("Ballot Envelope"), which is then sealed. The Ballot Envelope is then inserted into the second pre-addressed envelope ("Address Envelope") that is then sealed. In the upper left-hand corner of the Address Envelope, the Member must print and sign his/her name, address and lot, parcel or Unit number that entitles him/her to vote.
6. The Owners of multiple properties must submit separate sealed Secret Ballot envelopes for each Separate Interest owned.
7. The Address Envelope shall be addressed to the Inspector(s) of Election for the tallying of votes. The Address Envelope can be mailed or delivered by hand by the Member to the location designated by the Inspector(s) of Election. Any Member can request a receipt for hand-delivery of his or her Secret Ballot. Any Member desiring a receipt for mail delivery shall send the Secret Ballot by certified mail, return receipt requested, to the location designated by the Inspector(s).
8. The sealed Secret Ballots shall be kept in the custody of the Inspector(s) of Election or at a location designated by the Inspector(s) of Election until the tabulation of the Secret Ballots by the Inspector(s), at which time custody can then be transferred to the Association. After tabulation, Secret Ballots shall be stored by the Association in a secure place for no less than one (1) year after the date of the election.
9. Ballots for matters other than elections shall identify the proposed action, provide an opportunity to specify approval or disapproval and provide at least thirty (30) days upon which to return the Ballot to the Inspector(s) of

Election. The voting instructions contained within the Ballot materials will show a date by which the Ballots must be delivered to the location designated by the Inspector(s) of Election.

10. Only Secret Ballots prepared by the Association will be accepted by the Inspector(s).
 11. Each Member shall be entitled to exercise one (1) vote for each Lot owned by the Member. (Bylaws, Art. V, Sec. 5.09.) Cumulative voting will be used for election of Directors. (Bylaws, Art. V, Sec. 5.09.) When it is appropriate to use cumulative voting, each Member shall have one vote for each lot owned by the Member, multiplied by the number of Directors to be elected, and the Member may cast all those votes for one Candidate or divide up the votes among the Candidates.
 12. Once a Member mails or delivers his/her Secret Ballot to the location designated by the Inspector(s), that Secret Ballot cannot be changed or revoked.
 13. The Inspectors of Election shall also deliver a copy of the Election Operating Rules. Delivery of the Election Rules may be accomplished by either of the following methods:
 - i. Posting the Election 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.
- E. All duties shall be performed in good faith, to the best of the Inspector's ability, and as expeditiously as practical.
- F. If there are three Inspectors of Election, the decision to act shall be a majority of the Inspectors and is effective in all respect as the decision of all.
- G. Inspectors shall have the authority to appoint Assistants to aid in registering and counting votes.
- H. These Election Rules are adopted to assist the Inspector(s) with their decisions, and to provide information and guidance as to how to address Membership suspension, record ownership, director qualification, etc.

VI. PROXIES

- A. The Association will only send out Proxies if required by the Bylaws to do so. All votes will be taken by the Secret Ballot process. If Proxies are permitted in the By-Laws, Members may provide their own Proxies, but any Proxy submitted must meet all legal requirements.
- B. The Proxy holder shall cast the Member's vote by Secret Ballot.
- C. Revocation of Secret Ballot submitted by a Member or an Authorized Individual is not permitted.

VII. REGISTRATION – GENERAL AND ISSUANCE OF LOST OR MISPLACED BALLOTS AT MEETING

- A. The Inspector(s) of Election will maintain a Membership roster at each registration station of each person registered, whether in person, by Secret Ballot, or by Proxy submitted by a Member or Authorized Individual. An actual count will be taken of those registered prior to the start of the meeting to determine quorum.
- B. After a vote of the Membership, the presiding Officer announces that the registration is closed, no further Member may be registered, except for those who are in line and recognized by the Chair at the moment the announcement is made.
- C. Memberships under suspension by the Association shall be noted by the management company on the Membership roster prior to the meeting pursuant to Board instructions.
- D. Members appearing in person to vote shall go directly to the registration table(s) and sign the Membership roster to register.
- E. Each Membership is entitled to only one registration. Memberships under suspension shall be referred to the association's Inspector(s) of Election for assistance and no Ballot shall be issued without approval by the Inspector(s).
- F. If the Member has previously sent in a Secret Ballot, then no further action is needed as the Secret Ballot is not revocable.
- G. After verification of a Member's eligibility, one Secret Ballot is issued for each unit owned and a "B" is placed by the Member's name on the Membership roster.

NOTE: Only one Ballot may be issued per unit owned, regardless of how many names are shown on the title. If more than one Owner of a jointly owned unit attempts to register, the first one to register gets to vote, unless the Owners have completed the Certificate of Appointment of Voting Representative. In such case, only the

authorized representative may be issued a Ballot for the unit.

- H. If unable to verify Membership, Inspector(s) of Election will make the determination.
- I. If a Member attends the meeting and registers to vote and receives a Ballot, all Proxies for that Member shall be invalidated by the Inspector(s) of Election. However, if a proxyholder has previously registered and received a Ballot, the Member may not register until the proxy is revoked or retrieved or the Ballot is retrieved from proxyholder or Member.

VIII. PROXY REGISTRATION – ISSUANCE OF BALLOTS

- A. Each Proxyholder must sign the Membership roster on behalf of the Member they represent for whom they are bringing in a proxy.
- B. The Proxyholder is to sign the Membership roster alongside the name of the Member(s) they are representing and a “P” is placed by the Member’s name by the Inspector(s) upon verification of a Member’s eligibility and validity of proxies.
- C. One Secret Ballot and two envelopes will be issued to the Proxyholder for each valid proxy which meets all legal requirements. The Proxy is held by the Inspector(s) as verification of the issued Ballot. Secret Ballots must be marked and then placed in the envelopes before being cast in the ballot box. Ballots placed in the envelopes will then be used at any adjourned meetings.
- D. Proxies submitted by Members and which are marked for “Quorum Purposes Only” shall be held by the Inspector(s) as verification of quorum and no Ballot is issued.
- E. If a Secret Ballot is submitted, that Ballot is final voting instrument that will be accepted and prevail. If proxies are submitted at the meeting for the same lot, the first proxy submitted and voted will be counted regardless of date. If there are more than one Proxy submitted for a unit and no Ballot has been submitted, the Proxy with the newest date shall prevail. If there is more than one Proxy with the same date submitted, and no Ballot has been submitted no Ballot shall be issued.
- F. When Membership privileges have been suspended, proxies or Secret Ballots are invalid with no Ballot being issued nor counted for quorum.
- G. If the Member has registered and received a Secret Ballot and a proxyholder presents a proxy on the Member’s behalf, the proxy is invalid and no Ballot shall issued.
- H. If the Proxyholder has registered and the Member later attends the meeting and wishes to register, then the Member may revoke his/her proxy only if a Ballot has

not been submitted. If a Ballot has been issued to the Proxyholder, the Member shall not be issued another Ballot but may retrieve the already issued Ballot from the proxyholder. Once a Ballot has been placed in the ballot box, it may not be revoked, retrieved or altered in any way.

- I. All questionable Proxies submitted by Members shall be separated from the valid Proxies and shall be reviewed by the Inspector(s). Upon determination of the invalidity for voiding the Proxy shall be so noted on the Proxy along with the initials of the Inspector(s) and the basis for the invalidity. If the meeting is adjourned to another date for lack of a quorum, the unopened Secret Ballots will be retained by the Ballot Inspector or Inspector(s) of Election on behalf of the Board. A proxyholder must attend and re-register at the adjourned meeting if they have failed to submit the Ballot.
- J. Any Proxy submitted by a Member and naming a Proxyholder not in attendance shall be reviewed by the Inspector(s) for determination as to whether it shall be counted for quorum only.
- K. All unsigned and/or undated proxies submitted by Members shall be reviewed by the Inspector(s) and deemed invalid.

IX. COUNTING AND TABULATING VOTES

- A. Upon passing of a motion by the Membership for balloting to close, the ballot box will be opened by the Inspector(s) of Election and the counting will begin.
- B. All votes shall be counted and tabulated by the Inspector(s) of Election in public, at a properly noticed open meeting of the Members.
 - 1. Any Candidate, Member of the Association or authorized individual may witness or view the counting and tabulation of the votes but may not be involved in any direct way or interfere with the Inspectors during the process.
 - 2. No person, including an Inspector(s) of Election, any Member of the Association, any authorized individual, any employee, or manager, may open or otherwise review any Ballot prior to the time and place at which the Ballots are counted and tabulated.
- C. The sealed Ballots shall at all times be in the custody of the Inspector(s) of Election or at the location designated by them, until after the registration, counting the tabulation of the votes and completion of the Inspector(s) of Election report, at which time custody may be transferred to the Association, by the Inspectors of Election.
- D. Management shall not register the Ballots. Board or Membership Meeting(s) shall be noticed in advance of any annual meeting, so that the Inspectors can

review the envelopes, and register the Ballots on the Membership list, with any Members or authorized individuals present who wish to observe.

- E. All questionable Ballots shall be separated from the valid Ballots (e.g., those that are not signed by the Member). The Inspector(s) will then determine validity. Upon determination of validity any reason(s) for voiding shall be so noted on the Ballot along with the initials of the Inspector(s).
- F. If the number of votes cast on a Ballot exceeds the number of positions to be elected, the Ballot is invalid, shall not be counted for voting purposes and shall be so noted by the Inspector(s), unless the Inspector(s) can reasonably determine the intent of the Member.
- G. When a box is checked for a Candidate, and it is the only box checked, the Inspector(s) shall determine whether the check mark reflects the total number of votes to be cast are all to be given to that Candidate or a single vote is to be given to that Candidate. Inspector(s) shall so note their decision on the Ballot and initial. The purpose for this is in the event of a challenge it will be known how that Ballot was counted originally.
- H. Votes cast on anything other than the official Ballot, shall be invalid and not counted, unless the Inspector(s) can determine the intent of the Member.
- I. When counting the valid Ballots, the Inspector(s) will endeavor to utilize the most expeditious system. The Management representative or Association's legal counsel may oversee the counting process, but not interfere with the counting process.
- J. At the discretion of the observing Inspector, the votes may be recounted by rotating Inspectors, i.e., the person that counted will then tally and the person that tallied will count.
- K. If votes do not match between counts, recounts should be done until the counts match.
- L. The same procedure shall be followed to tally "yes", "no" and "abstention" votes on other matters before the Members.

X. AFTER TABULATION

- A. Results of the election shall be promptly reported to the Board of Directors and to any Members present at the Membership Meeting. The results shall also be recorded in the minutes of the Annual Membership Meeting or of the next regular meeting of the Board of Directors.
- B. Results shall be available for review by all Members.

- C. Within fifteen (15) days of the Meeting, the Board shall publicize the results of the election in a communication directed to all the Members.
- D. After a Membership Meeting to elect Directors has been completed, the Board shall conduct an Organizational Meeting in compliance with the Bylaws.

XI. MISCELLANEOUS REQUIRED PROVISIONS

- A. A quorum shall be required only if so stated in the Governing Documents or other provisions of law. 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.
- B. An Association shall allow for cumulative voting using the Secret Ballot procedures provided in this section, if cumulative voting is provided for in the Governing Documents.
- C. Except for the meeting to count the votes required in subdivision (a) of Section 5120, an election may be conducted entirely by mail unless otherwise specified in the Governing Documents.
- D. In an election to approve an amendment of the Governing Documents, the text of the proposed amendment shall be delivered to the Members with the Ballot.
- E. 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. 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. The Inspector or Inspectors of Elections may turn over all of the original information required to be preserved to the management company for the Association in a sealed envelope or package, however, the Inspector or Inspectors of Elections shall maintain a full and complete copy of all of the information required to be preserved. The management company shall maintain the sealed envelope or package for two (2) years from the date of the election to ensure that any statute of limitation created by Cal. Civ. Code § 5145 has run and no challenge to the particular Member's Meeting may be brought by an Association Member, even though the statute of limitation for Cal. Civ. Code § 5145 is a one-year statute.
- F. Pursuant to Cal. Civ. Code § 5200, the Association shall retain as Enhanced Association Records and make same available when requested by a Member for inspection and copying, except the signed Voter Envelopes, as Association

Election Materials, 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. The voter list shall include, but not be limited to, the name, voting power, and either the physical address of the voter's Separate Interest, the parcel number or both. In addition, 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.

- G. The Association shall permit Members to verify the accuracy of their individual information on both lists at least 30 days before the Ballots are distributed. 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.

XI. METHODOLOGY TO ADDRESS PETITION TO RECALL THE BOARD OF DIRECTORS

If the Association receives a Petition to Recall the Board of Directors ("Petition") pursuant to Cal. Corp. Code §§ 7510 & 7511 it is virtually impossible to comply with conducting a Members' meeting to recall the Board of Directors and elect a new Board of Directors on the same date. Thus, the Board of Directors will be required to exercise one of several options with only one actually complying with Cal. Corp. Code §§ 7510 & 7511 and the Davis-Stirling act, as follows:

A The only code compliant Recall process must be accomplished in a multi-step process:

1. The Members' Meeting to recall the Board of Directors would be scheduled within the timeframe created by Cal. Corp. Code §§ 7510 & 7511, i.e. the notice of the date of the Member's meeting would be sent to all Members within 20 days of receipt of the Petition scheduling the meeting to Recall the Board of Directors ("Recall Meeting"). The Recall Meeting would be scheduled to be held within 90 days of receipt of the Petition;

2. The Association would, as soon as practicable, issue a call for Candidates to serve on the Board of Directors if the Recall Meeting is successful. The call for Candidates should include a return date of at least 30 days, and no more than 35 days. The Association could include the call for Candidates with the notice of the Recall Meeting or mail the call for Candidates separately. In either event, the call for Candidates should be mailed as soon as practicable;

3. After receipt of the Candidacy statements, the Association should follow the steps identified above in Art. V, Sec. C, and schedule the Members' Meeting to elect a new Board of Directors if the recall is successful ("Recall Board Election Meeting");

4. The Association should conduct the Recall Meeting within 90 days of receipt of the Petition, and if it is successful, hold the previously scheduled Recall Board Election Meeting. If the Recall Meeting is successful, the recalled Board should take no action between the successful Recall Meeting and the Recall Board Election Meeting, except for those actions that are absolutely required to protect the Association's interest. The recalled Board should not make any substantive decisions during the time period between the Recall Meeting

and the Recall Board Election Meeting.

B. A non-code compliant recall process can be accomplished in a single meeting, however, it could be subject to challenge under any circumstances:

1. The Members' Meeting to recall the Board of Directors would be scheduled beyond the timeframe created by Cal. Corp. Code §§ 7510 & 7511, i.e. the notice of the date of the Member's meeting would be sent to all Members within 20 days of receipt of the Petition scheduling the meeting to Recall the Board of Directors ("Recall Meeting"). The Recall Meeting would be scheduled to be held more than 90 days after receipt of the Petition. At the Recall Meeting there would be two items to vote on: (1) whether to recall the Board of Directors, and (2) if the Recall is successful, to elect a new Board of Directors. This methodology would be more efficient and less costly. Unfortunately, it would not comply with the various code sections and would be subject to challenge whatever the results were.

The Association would have to work diligently and quickly to accomplish the Recall Meeting as soon as practicable by sending out the call for Candidates and Notice of the Recall Meeting. Then after receipt of the Candidacy statements, the Association would have to work diligently and quickly to follow Art. V., Sec. C listed above in an attempt to comply as closely with the various code sections as possible. Please note this is not the recommended strategy, as it possibly subjects the Association to liability and an assertion regarding breach of fiduciary duty on the part of the current Board that may be subject to recall.