

SANTA MONICA BAY TOWERS HOMEOWNERS ASSOCIATION ELECTION RULES

1. **Membership Voting Rights.**

- A. Each member's voting power is one vote per Unit owned.
- B. The authenticity, validity, and effect of proxies is as follows: Proxies are allowed for any membership votes. Only a member of the Association may serve as a proxyholder for another member. Proxies must be signed by the member or the member's authorized representative. Electronic signatures are acceptable.
- C. The voting period for elections, including the times at which polls will open and close, consistent with the governing documents, is at least 30 days from the date the ballot is distributed until the due date and time. Polls close at 5:00 p.m. on the due date or, if brought to a meeting held on the due date where the votes will be counted, polls close 15 minutes after the meeting starts.
- D. Persons may only be denied ballots if they are not a member at the time the ballots are distributed. A person holding a general power of attorney for a member is entitled to receive a ballot and to vote the ballot on behalf of the member.

2. **Board Elections - Candidate Qualifications.** The qualifications for candidates for the Board are as follows.

- A. Any person is automatically disqualified from a nomination as a candidate if they are not a member of the Association at the time of the nomination.
- B. If title to a Unit 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 qualification to serve on the Board.
- C. Members are disqualified from nomination as a candidate for the following reasons, but only if the person has first been provided the opportunity to engage in a "meet and confer" (internal dispute resolution) as defined in Civil Code Section 5900 *et seq.*
 - (1) The member is not current in the payment of regular and special assessments. However, a member cannot be disqualified (i) for nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party, or (ii) for delinquent assessments if the person has entered into a payment plan pursuant to Civil Code Section 5665.
 - (2) The member, if elected, would be serving on the Board at the same time as a co-owner of the same Unit, and the co-owner is either properly nominated for the current election or an incumbent director.

- (3) The person has been a member of the Association for less than one year.
- (4) The member discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would, if the person was elected, disqualify the Association from maintaining the fidelity bond coverage required by Civil Code Section 5806.
- (5) The member has been declared of unsound mind by a final order of court.
- (6) The member has been convicted of a felony.

3. **Campaigns.**

- A. **Equal Access to Media.** 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. **Equal Access to Meeting Space.** Access to the common area meeting space, if any exists, during a campaign, is granted 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. **Use of Association Funds.**
 - (1) Association funds shall not be used for campaign purposes in connection with any Board election. Association funds shall not be used for campaign purposes in connection with any other type of vote except to the extent necessary to comply with duties of the Association imposed by law.
 - (2) “Campaign purposes” include, but are not limited to, expressly advocating the election or defeat of any candidate, or 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 30 days of an election. “Campaign purposes” do not include communications for which Subsection (B), above, requires equal access.

4. **Election Procedures and Timeline.**

A. **Definitions.**

- (1) “General Delivery” means delivery by “Individual Delivery” or by posting the document in a prominent location that is accessible to all the members, if the

location has been designated for the posting of general notices by the Association in its annual policy statement.

- (2) "Individual Delivery" means delivery by prepaid first-class mail, or by certified or registered mail, or by an overnight delivery service, or, if the member has consented in writing to that type of delivery, by email, fax, or other electronic means.

B. **Inspector of Election.** The Board shall select appoint one or three independent third parties to serve as inspector(s) of election.

- (1) The inspector(s) may not be directors or candidates for election, but they may be members of the Association. The inspector(s) may not be the Association's manager, accountant, attorney, or any other person who is employed by the Association or otherwise under contract to provide services to the Association other than serving as the inspector of election.
- (2) The inspector(s) may appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector(s) deem appropriate, provided that the persons are independent third parties.

C. **Nomination Procedures.** For the election of directors, the procedures for the nomination of candidates, consistent with the governing documents, are as follows:

- (1) At least 30 days before the deadline for submitting a nomination, the Association shall provide General Delivery of the procedure and deadline for submitting a nomination. If any member asks for Individual Delivery of the procedure, the Association shall provide it.
- (2) Nominations must be submitted in writing.
- (3) Members may nominate themselves for election to the Board. Only members may nominate candidates.
- (4) Write-in candidates are not allowed for ballots.

D. **Candidate Registration List; Voter List.** The Association shall prepare election materials consisting of:

- (1) If the vote is a Board election, a candidate registration list containing the names of all candidates that will appear on the ballot.
- (2) A voter list that includes:
 - (a) The members' names;
 - (b) The members' voting power, which is one vote per membership;

- (c) Either the Unit's physical address, its parcel number, or both; and
 - (d) The members' mailing address for the ballot, if it differs from the physical address of the Unit or if only the parcel number is used.
- E. **Member Verification of Information.** At least 30 days before the ballots are distributed, the Association shall permit each member to verify the accuracy of their individual information on both the voter list and the candidate list. The Association or member shall report any errors or omissions on either list to the inspector(s), who shall make the corrections within two business days.
- F. **Voting Information.** At least 30 days before the ballots are distributed, the Association shall provide notice of all of the following by General Delivery except notice shall be provided by Individual Delivery to any member on request:
 - (1) The due date and time for return of the ballots;
 - (2) The physical address where ballots are to be returned by mail or handed to the inspector(s) of election;
 - (3) The date, time, and location of the meeting at which ballots will be counted; and
 - (4) The candidate list.
- G. **Ballot Package.** At least 30 days before the ballots are due, the inspector of election must deliver, or cause to be delivered, to each member the following documents:
 - (1) The ballot package, delivered by Individual Delivery. The package shall contain:
 - (a) A ballot. The ballot shall not include any place for members to sign or to write their names, addresses, or other identification. It shall include each proposed action and a space to specify approval or disapproval of it.
 - (b) The following information:
 - The due date and time for returning the ballot.
 - The number of responses needed to satisfy the quorum requirement.
 - For actions other than Board elections, the percentage of members required to pass the proposal.
 - (c) Two envelopes, as follows:
 - An inner envelope containing no information to identify the member using it. The member is to fill in the secret ballot, put it in

this blank inner envelope, seal the envelope, and place it in the outer envelope.

- An outer envelope containing in the upper left-hand corner the following information, or a place for the member to fill in the following:

- Signature line;
- Member's printed name; and
- The address of the member's Unit.

This outer envelope is to be returned to an address designated by the inspector of election.

- (d) In any vote of the members to approve an amendment to the Bylaws, CC&Rs, or any other governing document, the text of the proposed amendment shall be included with the secret ballot delivered to the members.

- (2) A copy of the Association's election rules. Alternatively, the election rules may be delivered by posting them on an internet website and including the website's address on the secret ballot with the phrase in at least 12-point font: "The rules governing this election may be found here." Or the election rules may be delivered to the members by Individual Delivery at least 30 days before the ballot due date.

- H. **Secret Ballots are Irrevocable.** Once a secret ballot has been received by the inspector of election, it cannot be revoked. Any subsequent ballots received for the same Unit shall be deemed invalid.
- I. **Quorum.** The quorum requirement for membership votes taken by secret ballot is a majority of the members, the same as quorum of the members needed for a membership meeting.
- J. **Lack of Response.** The Board may (but is not obligated to) extend the deadline for return of secret ballots if there is a lack of response. If it chooses to do so, the Board shall distribute to all members notice of the deadline extension before the original deadline has expired, using the same delivery method as was used to distribute the secret ballots.
- K. **Meeting to Count the Ballots.** The inspector of election shall open the envelopes and count the secret ballots at either a membership meeting or an open Board meeting, in a public location where the members can observe the counting process. The inspector of election can mark off a small area where members cannot enter to keep the secret ballots out of reach of the public, as long as the members can see and hear the counting process.

- L. **Approval Requirement.** Unless a different percentage of approval is required by law or the governing documents, approval by secret ballot shall be valid only when (i) the number of secret ballots returned by the deadline equals or exceeds the quorum requirement, and (ii) over half of the secret ballots cast votes in favor of the measure voted on. In an election of Directors, those candidates receiving the largest number of votes shall be elected to the Board.
 - M. **Tie Vote.** If there is a tie for the election of Directors, the result shall be determined by a run-off election conducted by secret ballot. If a run-off election is conducted, the previous year's Directors shall all be removed from office, the four candidates elected to the Board with the most votes shall take their positions immediately without waiting for the results of the run-off election, and the remaining position which was tied shall remain vacant until the run-off election is concluded.
 - N. **Voting Results.** The results of every member vote by secret ballot shall be recorded in the minutes of the meeting where the ballots were counted. In addition, within 15 days after the votes have been counted, the Board shall notify the members of the vote results by General Delivery.
 - O. **Storage and Access to Secret Ballots.** Secret ballots shall remain in the custody of the inspector of election, or at a location designated by the inspector, for one year after the election. After one year, the secret ballots shall be delivered to the Association. For one year after the secret ballots are counted, in the event of a recount or other challenge to the voting process, the secret ballots shall be made available for inspection and review by the members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.
 - P. **Storage and Access to Election Documents.** Secret ballots, signed envelopes, the voter list, proxies, and the candidate registration list ("election documents") shall remain in the custody of the inspector of election, or at a location designated by the inspector, for one year after the election. After one year, the election documents shall be delivered to the Association. For one year after the secret ballots are counted, in the event of a recount or other challenge to the voting process, the election documents shall be made available for inspection and review by a member or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.
 - Q. **Termination of Inspector's Duties.** The inspector of election's authority terminates when the inspector reports to the Board, or should have reported to the Board, the election results. Except for storage and access to the election documents, the inspector of election's duties and obligations terminate when the inspector actually reports the election results to the Board. The inspector's duties relating to storage and access to election documents shall terminate when the inspector delivers, or should have delivered, the election documents to the Association.
5. **Amendments.** These Election Rules may not be amended less than 90 days prior to an election.