



ARIA HOMEOWNERS ASSOCIATION ELECTION PROCEDURES 2020

The following election procedures for the Association are being adopted in accordance with Senate Bill 323, codified as California Civil Code Sections 5100 et seq. As of January 1, 2020, the statute requires Homeowners Associations to adopt rules regarding election procedures. Pursuant to Civil Code section 5015 subdivision (h), these Election Rules shall not be amended less than 90 days prior to an election.

EQUAL ACCESS

1. If, in the course of an election campaign for a position on the Board, any candidate or member of the Association advocating a point of view is provided access to a form of media (including, but not limited to, newsletters and Internet web sites) that is owned or entirely run by and for the Association, for a purpose that is reasonably related to that election, equal access will be provided to all candidates and member of the Association for the same purpose ("Equal Access").

2. Equal Access, as described above, will also apply to members of the Association and candidates not endorsed by the current Board, and shall be for the purpose of advocating a point of view reasonably related to the election.

3. The Association may not edit or redact any content from the presentation of the points of view described in this Section, to the extent that such content does not violate any provision in the Declaration, Bylaws, these Project Guidelines or any other rules promulgated by the Board of Directors of the Association, or any applicable state, federal or local laws, but may include a statement specifying that the candidate or member of the Association, and not the Association, is responsible for the content of such point of view.

4. The Association shall give all candidates, including those candidates who are not incumbents, and those who are not endorsed by the Board, Equal Access to the common meeting area (i.e., time and space available for such candidate's use), if any, to present a point of view reasonably related to the upcoming election.

5. The Association may not charge candidates a fee for access to the common meeting area for the purposes described in this Section.

QUALIFICATIONS AND PROCEDURES FOR NOMINATION OF CANDIDATES

1. Subject to subsection (f) below, the Association shall disqualify a person from nomination as a candidate for not being a member of the association. A member of the Association is eligible to be nominated or to nominate himself or herself for a position on the Board if, subject to subsection (f):

(a) the member whether a sitting director or a candidate for nomination to serve as director, subject to subsection (e) below, remains current in the payment of regular and special assessments. For purposes of this subsection, "remains current" means the member is not more than thirty days' delinquent in the payment of any regular or special assessments, including the first assessment imposed pursuant to the CC&Rs;

(b) the escrow by which such member acquired his or her Condominium closed at least one (1) year from the deadline for submitting a candidate;

(c) the member has been convicted of a crime that would, if the member was elected, either prevent the Association from purchasing fidelity bond coverage or terminate the association's existing fidelity bond coverage;

(d) the member, if elected, would be serving on the board at the same time as another member who holds a joint ownership interest in the same separate interest parcel as the member and the other member is either properly nominated for the current election or an incumbent director.

(e) Notwithstanding subsection (a) above, the Association may not disqualify a member for non-payment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third-party or if despite being delinquent in the payment of regular or special assessments, the member has either (1) paid the assessments under protest pursuant to Civil Code section 5658; or (2) has entered into and continues to comply with the terms of a payment plan pursuant to Civil Code section 5665.

(f) Notwithstanding any of the requirements above, the Association shall not disqualify a person from nomination if the person has not been provided the opportunity to engage in internal dispute resolution pursuant to Civil Code § 5900 et seq.

2. The Association shall provide, via general notice, the procedure and deadline for submitting a nomination at least 30 days before any deadline for submitting a nomination. All members of the Association eligible to vote in the forthcoming election are eligible to nominate another eligible member of the Association or himself or herself as a candidate for the Board.

3. Provided that a member of the Association seeking candidacy for a position on the Board satisfies the eligibility requirements set forth in Section 1 above, such member of the Association may be nominated or nominate himself or herself by the following procedures:

(a) Nominations for Board candidates may be submitted in writing and deposited in a receptacle designated by the current Board or mailed to the secretary of the Association or the management company of the Association, whichever the Board decides, not less than thirty (30) days prior to the mailing or distribution of ballots for the election of new Board members. Members of the Association may not be prohibited from nominating themselves for any Board position and any attempt to prevent a member of the Association's self-nomination will be invalidated.

(b) After collecting all properly submitted nominations, the current Board will issue a list of the prospective candidates, having confirmed that each nominated person is eligible under Section 2 above, and contact each of the qualified members of the Association on that list to confirm that individual's acceptance of the nomination.

(c) The Board will issue a full list of confirmed candidates, and will draft a corresponding ballot to be distributed to all members of the Association for voting purposes. Such ballots must satisfy the requirements set forth in the Secret Ballot Section below.

(d) Upon request, the Association shall permit members to verify the accuracy of their individual information on the candidate registration list and the voter list at least 30 days before the ballots are distributed.

SECRET BALLOT

1. Pursuant to California Civil Code Section 5100, elections and votes related to assessments, selection of members of the Board, amendments to the governing documents adopted by the Association, and the grant of certain exclusive use easements will be by secret ballot. The secret ballot must satisfy the requirements set forth in the California Civil Code and this Section. The Association will send to each eligible member of the Association a ballot and two (2) pre-addressed envelopes not less than thirty (30) days prior to the voting deadline for the election.

2. Ballots must not identify the voter's name, address, or lot, parcel or unit number.

3. The ballot itself must not be signed by the voter. It must be inserted into a sealed envelope. That sealed envelope must then be sealed within a second (2nd), outer envelope. The outer envelope will have, in the upper left-hand corner, space for the voter to print and sign his or her name, and print his or her address.

4. The outer envelope is pre-addressed to the inspector or inspectors of election, as defined below, who will be counting the votes. The envelope containing the ballot will then be hand delivered or mailed via first class mail to a location specified by the inspector or inspectors of the election. The member of the Association may request a receipt for delivery.

SELECTION OF INSPECTORS

1. The current Board will select either one (1) or three (3) independent third parties to serve as the inspector or inspectors of the election ("Inspector(s)") not less than fifty (50) days prior to the voting deadline. A person or persons currently employed or under contract to the Association for any paid services may not be selected to be an Inspector. The Association's current property management company and any other party or entity under contract with the Association for compensation is hereby prohibited from serving as an Inspector.
2. For the purposes of this Article, independent third parties include the following:
 - a. A volunteer poll worker working for the county registrar of voters;
 - b. A Licensee of the California Board of Accountancy;
 - c. A Notary Public; or
 - d. A member of the Association that does not hold a position on the current Board, is not related to a member of the current Board, is not a candidate for the forthcoming election, for which such member of the Association would serve as an Inspector, and is not otherwise 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.
3. The inspector(s) of the election will have the following responsibilities:
 - a. Determine the number of memberships entitled to vote as of the record date and the voting power of each said membership;
 - b. Determine the authenticity, validity, and effect of proxies, if any;
 - c. Receive ballots;
 - d. Retain, as Association Election Materials, the candidate registration list and 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.
 - e. Hear and determine the outcome of all challenges and questions regarding a member of the Association's right to vote in the election;
 - f. Count and tabulate all votes submitted;
 - g. Determine the hours of operation of any polling facilities;
 - h. Determine and announce the result of the election based on the ballots received and votes tabulated; and
 - i. Make corrections to voter lists and candidate registration lists within two business days of receiving notice of an error or omission to the candidate registration list or the voter list.
 - j. Perform any acts as may be proper to conduct the election with fairness to all members of the Association in accordance with this Section and all applicable rules of the Association regarding the conduct of the election that are not in conflict with these procedures.
4. An Inspector will 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.
5. If there are three (3) Inspectors, the decision or act of a majority will be effective in all respects as the decision or act of all Inspectors.
6. Any report made or issued by the Inspector(s) is prima facie evidence of the facts stated in such report.

VOTING PERIODS

1. At least 30 days before ballots are distributed, the Association shall provide general notice of (1) the date and time by which, and the physical address where, ballots are to be returned to the inspector of elections; (2) the date, time and location of the meeting at which the ballots will be counted; (3) the list of all candidates' names that will appear on the ballot; and (4) if individual notice is requested by a member, the above items shall be provided by individual notice pursuant to Civil Code section 4040. Ballots and all related materials required for voting under these procedures, including a copy of these election rules, will be sent to eligible members of the Association not less than thirty (30) days prior to the date on which the collection and tabulation of votes has been set to begin by the Inspector(s).

2. Ballots, if hand delivered to a location or receptacle designated by the Inspector(s), must be received within seven (7) business days after the first (1st) day of ballot collection and tabulation, as determined by the Inspector(s).

3. If ballots are sent to the designated location or recipient via first class mail, such ballot must be postmarked no later than the third (3rd) business day after the first (1st) day of ballot collection and tabulation.

4. No further ballots will be accepted, by mail or otherwise, after the tenth (10th) day of ballot collection and tabulation. Any ballots received after the tenth (10th) day will be discarded and will not be counted in the Inspector(s)' tabulation of votes. The member of the Association whose ballot has been discarded will not be entitled to notification of such action and will not have the right to cast another vote in the present election. Such discarded ballots may not be counted in any subsequent recount or challenge to the election procedures.

ELIGIBILITY AND VESTING OF VOTING RIGHTS

1. A member of the Association is eligible to vote if his or her name is on title as of the date the ballots are distributed. A person with general power of attorney for a member may vote on behalf of a member if such person submits validly executed proof of his or her general power of attorney. The Association shall not deny a ballot to any person other than not meeting one of the above criteria in this section.

2. Except where cumulative voting is authorized, Class A members may cast only one (1) vote per Condominium. If more than one (1) party is record Owner of a Condominium, the vote for that Condominium will be decided by said parties between themselves, as so provided in the Declaration.

3. Such voting rights attributed to any given Condominium in the project will vest as provided in the Declaration.

PROXIES

1. Any eligible member of the Association may authorize another person to act by proxy, pursuant to the bylaws of the Association.

2. Any instruction given in a proxy that directs the manner in which the proxy is to cast the vote will be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain. The proxy holder will cast the vote by secret ballot, in the manner prescribed in these procedures. The Inspector will determine the authenticity, validity and effect of proxies. Proxies will be presumed valid if executed in accordance with California Corporations Code Section 7613 and the bylaws of the Association.

VOTING PROCEDURE AND CUSTODY

1. All votes will be counted and tabulated by the Inspector(s) in public at a properly noticed open meeting of the Board and/or members of the Association. Any candidate or member of the Association may witness the counting and tabulation of the votes. No person, including, but not limited to, members of the Association and employees of the management company, if one has been selected, will open or otherwise review any ballot prior to the time the ballots are counted and tabulated by the Inspector.

2. The results of the election, as tabulated by the Inspector(s), will be promptly reported to the current Board and will be recorded in the minutes of the next meeting of the Board, and will be made available for review of members of the Association. The Board will publicize the results of the election in a communication directed to all members of the Association, within fifteen (15) days of the date the final tabulation of votes has occurred.

3. The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody and control of the Inspector(s), or at such location designated by the Inspector(s), until after the final tabulation of votes, after which time the custody and control of the ballots will be turned over to the Association.

4. After the final tabulation of the votes has been completed by the Inspector(s) and custody and control of the ballots has been turned over to the Association, the Association will store the ballots

or cause them to be stored, in a secure location for not less than two (2) years from the date of final tabulation of votes.

CONTESTING THE RESULTS OF AN ELECTION

1. An action challenging the validity of any election must be commenced within nine (9) months of the final tabulation of votes and report of the results to the Board at the open meeting in the election challenged.

2. In the event of a recount or other challenge to the election process, the Association will, upon written request, make the ballots available for review by members of the Association or authorized representatives. Any recount must be conducted in a way that preserves the confidentiality of all ballots recounted.

RESTRICTION ON USE OF ASSOCIATION FUNDS

1. Association funds may not be used for campaign purposes in connection with any Board election. Association funds may not be used for campaign purposes in connection with any other Association election, except to the extent necessary to comply with the duties of the Association imposed by applicable law.

2. For the purpose of this Section, "Campaign Purposes" include, but are not limited to, the following:

a. Expressly advocating the election or defeat of any candidate that is on the Association election ballot; or

b. Including a photograph or prominently featuring the name of any candidate on a communication from the Association or the Board, excepting the ballot and ballot materials, within thirty (30) days of the distribution or mailing of ballots to members of the Association for voting purposes.

c. Such action is not considered a "Campaign Purpose" (for which Association funds may not be used) if the communication is one that is required for Equal Access as described in the Equal Access Section above.