

UNDERSTANDING COMMUNITY ASSOCIATION ELECTION OF DIRECTORS

Michael Rome, J.D.

www.hoa-attorneys.com

It is getting near the time of year when community associations start preparing for election of the new Board of Directors. The specific procedure for electing the Board is usually found in the Bylaws. Candidates are selected by a nominating committee and/or nominated from the floor.

Elections are typically held at the annual meeting for the Association. Proper notice and proxy ballots are mailed to the membership prior to the date of the meeting. (Sometimes the proxy ballots contain a line for a write-in candidate.)

In order to hold an official election it will be necessary to have participating at least the amount of voting members constituting a quorum. Quorum requirement often vary between 10% and 25% of the eligible voting homeowners. It is not unusual to suspend the meeting for an hour or so while proxy ballots are collected from homeowners door-to-door.

Once the quorum is achieved, the nominees are normally elected to the Board by a simple majority of the votes cast. Most of the time candidates will be running for a specific officer position...such as President, Vice-President, Treasurer or Secretary. In this case, the candidate who received the most votes for each position would be the winner.

Occasionally the Bylaws will provide that the homeowners vote for who will serve on the Board, without designating a specific officer position. In this situation the newly elected Board members choose amongst themselves who will serve as President, etc..

The length of the terms served and the minimum qualifications to run for the Board are contained in the Bylaws. Terms vary between one and three years. Sometimes they are 'staggered'...meaning different officer positions will come up for election in separate years. In this way there is always someone with experience on the Board.

Qualification requirements can differ more than you might imagine. The Bylaws might state that nominees for the Board must be owners who are in 'good standing' with the Association. To be in good standing the homeowner must be current in payment of all association dues and fees. (This is usually also the requirement for being eligible to vote in the election.) Occasionally the Bylaws will require the Board members reside in the subdivision, or that joint owners of the same property cannot serve at the same time.

Finally, there is sometimes a confusion regarding secret voting versus anonymous voting. Although it is best to have voting by written ballots that are only viewed and counted by the Secretary (and maybe property manager) this is not the same as 'anonymous' voting. The ballots should contain the signature of the voter, along with the printed name, address and date. If the election is contested the written ballots containing all of this information will be crucial.