

UNDERSTANDING COMMUNITY ASSOCIATION ELECTION OF DIRECTORS

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It is the time of year when community associations prepare for elections, which means it's also when I hear questions like: *Are spouses allowed on the board together? Do ballots have to be signed? Can delinquent homeowners be board members? How long after an election does the association have to keep the ballots? Do candidates choose whether they are running for President, Treasurer, or Secretary?*

The procedure for electing a board is usually contained within the bylaws, but these procedures can differ from community to community. For this reason it's important to read over the bylaws and thoroughly implement them in order to insure the election is considered valid. In addition to the bylaws, *Robert's Rules of Order* also offers some guidance about election protocol. Following are some common requirements regarding the election process.

Candidates. Candidates are usually self-nominated or selected by a nominating committee. Additionally, nominations are often allowed from the floor at the meeting. This is why proxy ballots for use by homeowners who cannot attend the meeting typically contain a line for write-in candidates.

The qualifications for candidates vary more than you might imagine. Some bylaws only allow homeowners who reside in the subdivision to run for the board. Others prohibit joint owners from serving on the board at the same time, or may limit nominees to those who are members in good standing (current in payment of all association assessments). The member in good standing rule also frequently applies to eligibility for voting in the election.

Notice & Meeting: Elections are usually held at the annual member meeting. Proper notice of the meeting and proxy ballots must be mailed to the homeowners within a certain number of days prior to the meetings as required in the Bylaws. (Sometimes the proxy ballots contain a space for write-in candidates.) The full agenda for the meeting and the proposed annual budget are often mailed along with the election ballot.

Quorum & Term Lengths: To hold an official election it is necessary to obtain a quorum of homeowners in person or by proxy. Quorum requirements vary between 10% and 50% 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. If a quorum cannot be reached, then the same Board members will continue to serve for the new term; or until such time as a quorum can be obtained for another meeting. In the event there is an empty Board seat (or a Director resigns) the remaining Directors can appoint someone to serve out the remaining term.

The lengths of the terms are also found within the Bylaws. Terms vary between one and three years, and sometimes they are 'staggered.' If they are staggered then not all the Board seats will come up for election in the same year. This assures that someone with prior experience will still be serving on the Board.

Officers Vs. Directors. Homeowners are sometimes surprised to find they are voting for the board members, but not their specific office; President, Secretary, Treasurer, etc... This is a widespread approach, and one of its purposes is to make sure there are enough candidates to fill the board. If several seats were open and everyone ran for President, only one candidate would make it to the board.

When the homeowners are not voting for the officers, the newly elected board members will designate officer positions at the first meeting of the new board. If the bylaws allow the homeowners to vote for the officers, the winners will be determined by which candidates received the most votes for each position.

Secret Voting Vs. Anonymous Voting. Secrecy is the main reason for voting by ballot in an election. (Robert's Rules, Article VIII, Section 46) This protects the privacy of the voter, who may otherwise be reluctant to vote their true sentiments publicly. There is also the issue of keeping the voting trends secret prior to the date of the election. A Board member running for re-election could keep track of the voting and know how many more votes or proxies are needed to assure themselves of a win.

Secret voting is occasionally confused with thinking the votes have to be anonymous. In our national elections the ballots themselves are anonymous because each person is approved prior to entering the voting booth. Since associations do not use voting booths or machines each ballot must contain the signature of the voter; the printed name of the voter; the property address; and the date.

Counting Votes & Certification Of Election. The votes are typically counted by the Secretary and at least one other witness (sometimes the property manager). Some larger associations employ a CPA for this purpose. Whoever is counting the votes decides on whether each ballot is valid, or if it is invalid due to such causes as: insufficient information; illegible writing; voting twice; and voter ineligibility. The defective ballots are set aside and not counted as votes. The remaining ballots should be tallied at least twice by each person counting the votes. The election results are certified in writing by those who counted the ballots, and the original will remain in the association's permanent records.

The winning candidates are then officially announced at the meeting. Pursuant to *Roberts Rules of Order*, any motion for a recount must be made before the meeting is adjourned. After the meeting is concluded the ballots should be properly disposed of in a way that maintains the privacy of the voters, such as shredding.