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ELECTIONS AFTER JULY 1, 2006

Commencing July 1, 2006:

HOAs must have election rules, adopted pursuant to rule change statutes....

Rules MUST:

1. Provide for equal access to HOA media, newsletter for pro and con positions.
2. Insure access to HOA meeting space for meetings pertaining to election
3. specify qualifications for election to board and nomination procedures (self-nominations cannot be barred)
4. Specify qualifications for voting, define voting power, and state proxy requirements and voting period (for elections without a meeting)
5. Specify a method of selection of inspector(s) of election

SECRET BALLOTING:

All voting for: election of directors, governing document amendments, assessment votes, and grants of exclusive use common area must be by SECRET BALLOT

Inspectors of election must be independent unless rules provide otherwise.

Inspectors' job:

1. Determine number of members entitled to vote
2. Determine validity of proxies
3. Receive ballots (but can't open prior to all being opened)
4. Hear challenges and questions in connection with right to vote
5. Count/tabulate votes
6. State when polls close
7. Determine election result
8. Anything else needed that is not in conflict with the statute

Elections after July 1, 2006

Kelly G. Richardson, Esq.

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DIRECTED PROXIES – aka ABSENTEE BALLOTS

Absentee ballot page must be on a separate page from the proxy page, so holder can retain proxy page and cast ballot page.

FOR BALLOTS CAST BEFORE THE MEETING (mail or dropped off): TWO ENVELOPES.

Ballot: Only information is the member's vote

Inner envelope – no identifying information, just contains the ballot

Outer envelope – contains identifying information, member must print AND sign.

Outer envelope not to be opened until ballots are counted. Counting must be “in public” with any member witnessing counting of votes.

Result to be announced to membership within 15 days of election.

Until election, sealed ballots shall be in custody of the inspectors at designated location.

After tabulation custody of ballots is transferred to HOA, and stored for at least one year. Any member can inspect ballots.

CAMPAIGN EXPENSES.

HOA can only expend funds to extent notices required by law.

IF ERROR IS CLAIMED

- 1, Any member can sue up to one year after the election.
- 2, If a court finds the election procedures not followed court MAY void the election.
3. If member prevails, member “SHALL” recover attorney fees, and court MAY impose civil penalty of up to \$500 per violation. (A violation affecting all equally is one violation).
4. If member challenge does NOT prevail, HOA does not recover attorney fees unless court finds challenge to be “frivolous, unreasonable, or without foundation”.

SURVIVING THIS NEW LAW:

#1 Must have understandable, thorough and non-legalese elections/voting rules “handbook”.