



One effective method to ensure the integrity of the secret written ballot is to use the “three envelope process” described herein under BALLOT GUIDELINES.

This is important to protect the identity of the homeowner and to ensure a secret ballot.

How can unit owners remove board members?

If unit owners wish to remove a board member, they have to begin a written petition process and get 10% (or lower if the HOA bylaws allow a lower percentage) to request a removal election. This petition must be mailed, return receipt requested, or served by a process server to the board or community manager.

The next step, taken by the board or management company, is to send out secret written ballots not less than 15 days nor more than 60 days after the date on which the petition is received.

Thereafter, the steps (for mailing and opening ballots) must take place as described in STEPS TWO THROUGH FOUR.

NOTE: EFFECTIVE Oct. 1, 2009, there are criminal penalties where persons knowingly, willfully and with fraudulent intent alter the outcome of executive board elections. Further, community managers and board members who ask for or receive compensation to influence a vote, opinion or action of the executive board are also guilty of a crime.

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BALLOT GUIDELINES

- The outer envelope, addressed to the homeowner, contains two envelopes.
- The second envelope (the larger of the two inside) is addressed back to the management company or, if self-managed, the board’s nominating committee, if applicable. The second envelope contains the unit owner’s name and address to produce a record that a unit owner did (or did not) vote.
- The third envelope (the smallest) will be marked “**Ballot**” on the outside and will have no other markings. This is important to protect the homeowners’ identity and to ensure a secret ballot.

NOTE: The ballot mailed to the unit owner must include prepaid first class postage. However, the envelope for the return ballot does not have to be prepaid or stamped. (Division Advisory Opinion #10-01.)

ASSOCIATION ELECTIONS

Office of the Ombudsman
for Owners in Common-
Interest Communities and
Condominium Hotels

Executive Board Election Guidelines



What is an executive board?

Under NRS 116 and NRS 116B, an executive board (also called “board”) governs each homeowners association (HOA). Unit owners (also known as homeowners) must elect an executive board of at least 3 members, all of whom must be unit owners, no later than the termination of declarant control. Officers are not required to be unit owners unless the covenants, conditions and restrictions (also called “CC&Rs”) state otherwise.

How do I run for the executive board?

NOTICE OF ELIGIBILITY TO RUN FOR THE BOARD

Thirty (30) days or more before a ballot is prepared, the board (secretary or other officer, if CC&Rs specify) must give notice to unit owners of their eligibility to run for the board.

Robert Frank Comment: When contacted on March 23-24, 2011, both the Ombudsman Office and the Compliance Section confirmed that the Real Estate Division considers it *mandatory for the Boards to distribute candidate information sheets at least 30 days prior to the distribution of ballot packages.*

CANDIDATES ARE ALLOWED TO CAMPAIGN

Associations may limit campaigning to no more than 90 days before the date ballots must be returned. Campaign material cannot be defamatory, libelous or profane. At least 30 days before the election, candidates may provide an informational statement to the secretary (or officer specified in the bylaws) that shall be sent with the ballot or in a separate mailing at the association's expense. The association may limit the statement to no more than a single typed page.

CANDIDATES MUST DISCLOSE INFORMATION

Candidates must make a good faith effort to disclose potential conflicts of interest (financial, business, professional, and personal relationships or interests). Candidates must also disclose whether or not they are in "good standing." A candidate with any unpaid and past due assessments or construction penalties is NOT in good standing. The association is not obligated to distribute any disclosure if it contains information that is believed to be defamatory, libelous or profane.

Disclosures must be in writing to the HOA, along with candidacy information, which is distributed to unit owners with the ballot.

If the candidate does not submit a disclosure statement, the association may inform unit owners that the candidate did not do so.

PROCEDURE WHERE THE NUMBER OF CANDIDATES IS *EQUAL TO OR LESS THAN* THE NUMBER OF MEMBERS TO BE ELECTED

Once the initial nomination period is over, if the board determines the number of nominated candidates is equal to or less than the number of members to be elected, then a

second notice must be given to unit owners informing them that the association will not prepare or mail ballots, and the nominated candidates automatically will be deemed to be duly elected to the board unless:

- 1) a qualified unit owner self-nominates within 30 days after this second notice; and
- 2) the number candidates following this second nomination period is greater than the number of members to be elected.

Otherwise, if the number of nominated candidates remains equal to or less than the number of members to be elected at the close of the second nomination period, then ballots do NOT need to be mailed and the nominated candidates will be deemed to be elected to the board not later than 30 days after the date of the closing period for nominations.

The association shall send to each owner notification that these candidates have been elected to the board.

PROCEDURE WHERE THE NUMBER OF CANDIDATES IS *GREATER THAN* THE NUMBER OF MEMBERS TO BE ELECTED

If the number of candidates is determined to be greater than the number of members to be elected because: 1) there were more candidates nominated than the number to be elected during the initial nomination period; or 2) someone self-nominated during the second nomination period described above, then an election must take place as described in the following steps.

STEP ONE - BALLOTS ARE PREPARED

Eligible unit owners who nominated themselves during the one of nomination periods must be placed on the ballot, along

with nominees selected by a nominating committee, if applicable.

STEP TWO - MAILING THE BALLOT

A secret ballot and a return envelope must be sent by the secretary or other person specified in the CC&Rs prepaid via United States mail to the mailing address of each unit, or to any other mailing address designated in writing by the unit's owner. The candidate disclosure statement must be included along with the candidate informational statement (unless the informational statement was mailed earlier).

STEP THREE - RETURNING THE BALLOT

Each unit's owner must be provided with at least 15 days after the mailing date to return the secret written ballot to the association.

STEP FOUR - COUNTING THE BALLOTS

Only the secret written ballots that are returned to the association may be counted and a quorum is not required for an election to be valid. The secret written ballots must be opened and counted at an association meeting. Unit owners and board members have the right to be present at the counting.

NOTE: A quorum of either the board members or the unit owners is not required to be present when ballots are opened and counted.

No person whose name is on the ballot, and no incumbent board member, may possess the secret ballots – nor may they be given access to or participate in the counting of the secret written ballots BEFORE they have been opened and counted.

After the count, these ballots are available for review by any unit owner or board member.