



TOY WAREHOUSE HOMEOWNERS ASSOCIATION

ELECTION POLICY REQUIRED BY SB 323

Election Rules
Policy and Voting Procedures
Civil Code Sections 5100- 5145
Adopted 2020

I. ASSOCIATIONS SHALL ADOPT ELECTION RULES AS POLICY:

Commencing in July, 2006 and amended on October 12, 2019 with Senate Bill 323, Toy Warehouse Lofts Homeowners' Association is required to adopt election rules. (Civil Code §5105(a)). Civil Code Section 5145 provides that a member of an association may bring a civil action for a violation of the elections law (including the fact that an election was conducted without election rules in place) within one year of the date the cause of action occurs.

II. ELECTION RULES AND POLICY SHALL INCLUDE THE FOLLOWING:

Election Date and Association Election Procedures. (Civil Code § 5115)

Provide Equal Access to Association Media

Provide Access to Common Area Meeting Space

Specify Candidate Qualifications

Specify Nomination Procedures

Specify Qualifications for Voting

Specify Method of Selecting Inspector(s) of Elections

Allow Inspector(s) to Appoint/Oversee Additional Persons

Require Retention of Voter List and Candidate List as Election Materials

Prohibit the Denial of a Ballot to a Member

Ballots for Persons with a General Power of Attorney

III. NOTICE OF MEMBERSHIP MEETINGS:

The call for a meeting to conduct the business of the Association including the "Notice of Meeting and Agenda" will proceed in the same usual and customary manner set forth in the Association's CC&Rs and Bylaws. The meeting notification process will not change under the guidelines of Civil Code 5105(a).

IV. NOMINATION PROCEDURES (Applicable Only to Meetings Electing Directors):

Association shall provide a general notice of the procedure and deadline for submitting a nomination as a candidate at least 30 days before any deadline for submitting a nomination. The Association shall mail a "Candidate Nomination Form" to all homeowners at least sixty (60)

days prior to the election. Said form must be returned to the Association at least forty-five (45) days prior to the election.

Self-nominations. A member may nominate himself/herself, so long as the member meets the qualifications to serve as a director.

Any nomination form hand delivered or postmarked later than forty-five (45) days prior to the Annual Meeting will not be included in the secret written ballot procedure mailed in accordance with these rules. Nominations from the floor are not required by the Davis-Stirling Act but may be used if provided for in the Association's Governing Documents. (Civ. Code §5105(b).)

V. BOARD CANDIDATE QUALIFICATIONS:

Candidates for election to the Board of Directors shall meet the criteria as set forth in the Association's Governing Documents. Directors shall consist only of members who are in good standing with the Association.

The election rules may be used to establish qualifications for candidates for the board as permitted under Civil Code Section 5105(c).

VI. CAMPAIGNING, CANDIDATE STATEMENTS, COMMON AREA ACCESS AND USE OF ASSOCIATION FUNDS:

Any candidate for the Board, or any member advocating a point of view on an issue which is to be voted upon, shall have equal access to any Association media, newsletters, or Internet Web sites during the campaign, for purposes that are reasonably related to the election or other vote which is being taken. Equal Access shall be provided to all candidates and for all points of view, including those not endorsed by the board, for purposes that are reasonably related to the election. The association shall permit members to verify the accuracy of their individual information on election lists at least 30 days before the ballots are distributed

The Association shall not edit or redact any content from any statement or election communication received from an owner. Any content published shall include the following statement:

"These statements are from the candidates themselves, and not the Association. Neither the Association nor the Board of Directors is responsible for or necessarily endorses any of the views expressed in these statements."

Association funds shall not be used for campaign purposes, (as defined in Civil Code Section 5100 in connection with any Board election or any other Association election except to the extent necessary to comply with duties of the Association imposed by law.

VII. DETERMINING IF A QUORUM IS PRESENT AT MEETING:

A quorum is defined as the minimum number of members which must be participating in the meeting in order to enable the Association to do business. For a member to count as participating, and therefore be included in the quorum, a member must either personally attend the meeting or submit a ballot pursuant to these rules in advance of the meeting or closing of

the polls. A Homeowner may also send to the Inspectors of Election a proxy to be used only for quorum purposes; or provide a proxy to a person who attends on behalf of the member.

All ballots received by the Inspectors of the Election shall count for purposes of determining if a quorum is present at the election meeting. The existence of quorum shall be determined by the total of all ballots received in advance of the meeting, plus the total members represented in person or by proxy at any annual or special meeting held for purposes of the vote or election who have not previously returned ballots.

VIII. VOTING QUALIFICATIONS:

Only Owners of record, as defined in CC&Rs, are qualified to be a Member of the Association. A Member shall be entitled to one (1) vote for each Lot or Unit owned.

IX. SECRET BALLOT PROCEDURE:

The "Secret Ballot" process eliminates or at least mitigates the need for a proxy vote in that the homeowner may cast their vote by mailing in the secret Ballot. However, when a proxy is given, any instruction given for an election that directs the manner in which the proxy holder is to cast the vote shall 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 shall cast the member's vote by secret ballot.

Envelopes containing ballots cast prior to the meeting for counting shall not be opened for any reason but shall be date stamped and may be logged

X. INSPECTORS OF ELECTION:

The Board of Directors shall select or appoint "INDEPENDENT THIRD PARTIES" to be the inspector(s) of elections. The Board may choose to have either one or three inspectors of elections. For the purposes of this section, an independent third party includes, but is not limited to, a volunteer poll worker with the county registrar of voters, a licensee of the California Board of Accountancy, or a notary public. An independent third party may be a member of the association, but may not be a member of the Board of Directors or a candidate for the Board of Directors or related to a member of the Board of Directors or a candidate for the Board of Directors.

The purpose and duties of the inspectors of elections is to:

1. Determine the number of homeowners entitled to vote and the voting power of each.
2. Determine the authenticity, validity, and effect of proxies, if any.
3. Receive ballots.
4. Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
5. Count and tabulate all votes.

6. Determine when the polls shall close consistent with the governing documents.
7. Determine the tabulated results of the election.
8. Perform any acts as may be proper to conduct the election with fairness to all members in accordance with this section and all applicable rules of the association regarding the conduct of the election that are not in conflict with this section.

XI. COUNTING THE VOTES:

All votes shall be counted and tabulated by the inspector or inspectors of the election in public at a properly noticed open meeting of the Board of Directors or homeowners. Any candidate or other member of the association may witness the counting and tabulation of the votes. No person, including a member of the association or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated.

As secret ballots are returned to and collected by the election inspector, the inspector shall check off on a "sign-in sheet" that a ballot has been received for the respective unit. The first secret ballot received for any unit shall be the ballot of record and that vote which is counted. Any additional ballot(s) for the same unit shall be deemed invalid and shall be voided.

The secret ballots received prior to the meeting at which the votes were to be counted shall be maintained by the Inspectors of Election in a secure location until the adjourned meeting date.

XII. RECEIPT, HANDLING, CARE AND CUSTODY OF BALLOTS:

The secret ballots received prior to the meeting at which the votes were to be counted shall be maintained by the Inspectors of Election in a secure location until the adjourned meeting date.

XIII. PROXIES:

The "Secret Ballot" process eliminates or at least mitigates the need for a proxy vote in that the homeowner may cast their vote by mailing in the Secret Ballot. However, when a proxy is given, any instruction given for an election that directs the manner in which the proxy holder is to cast the vote shall 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 shall [then] cast the member's vote by secret ballot.

Ballots for Persons with a General Power of Attorney – The election rules must prohibit the denial of a ballot to a person with a general power of attorney for a member. The election rules must also require the ballot of a person with a general power of attorney for a member to be counted if returned in a timely manner. (Civ. Code § 5105(g) (2)-(3))

XIV. VOTING AT THE MEMBERSHIP MEETING:

Owners of record, as defined in CC&Rs, are qualified to be a Member of the Association. A Member shall be entitled to one (1) vote for each Lot or Unit owned. No title, No vote.

The voting process begins with the receipt of the ballots by the Homeowners. Homeowners review the ballot and all documents received and make a determination how they will cast their vote. The Homeowner will complete the ballot as instructed and place the ballot into a small envelope, seal and place the small envelope into a larger envelope and seal. The Larger envelope will have on it printed the address where the ballot envelope shall be mailed. The Homeowner will place a return address on the envelope and sign below the address as indicated. The Ballot envelope is sent to the Inspector of the Election by first class mail or delivered in person.

The Inspector(s) of Election shall determine the time upon which registration of members attending a meeting will cease and "Close the Polls." Polls shall not close until all members and proxy holders present and waiting to be registered have done so.

Upon closure of registration of members and proxies, the matter(s) to be voted upon shall be announced as per the Agenda for the meeting. After closure of nominations from the floor, the Inspector(s) of Election having collected the ballots shall begin to count the ballots and tabulate the results

XV. COUNTING VOTES AT ELECTION MEETING:

The results of the election shall be promptly reported to the Board of Directors of the association and shall be recorded in the minutes of the Election Meeting of the Board of Directors and shall be available for review by members of the association. Within 15 days of the election, the board shall publicize the results of the election.

XVI. ANNOUNCEMENT OF ELECTION RESULTS:

The results of the election shall be promptly reported to the Board of Directors of the Association and shall be recorded in the minutes of the the Election Meeting. The results of the election shall be available for review by members of the association. Within fifteen (15) days of the vote or election, the Board shall publicize the results of the election in a communication directed to all members. This may be done by posting of a notice in the same manner in which other notices are posted by the Association.

XVII. RETENTION OF ELECTION RECORDS:

The election documents and secret ballots shall be maintained by the Inspectors of Election in a secure location until the adjourned meeting date. Starting January 1, 2020, the Davis-Stirling Act creates a new category of "association election materials" which members are entitled to review. (Civ. Code 5200(c).) Election materials include: candidate registration list, voter list, ballots, signed voter envelopes (may be inspected but not copied), proxies. The sealed ballots at all times shall be in the custody of the inspector or inspectors of elections or at a location designated by the inspector or inspectors until after the tabulation of the vote. (Civ. Code §5125.)

Election Documents Custody after Election. Although the statute only calls for the custody of ballots, all election material should be held by the Inspector until the time allowed by Section 5145 for challenging the election has expired (one year), at which time custody must be transferred to the association. (Civ. Code §5125.)

Inspection. The Inspector must make the election materials available as-needed for inspection and review.

XVIII. CERTIFICATE OF SECRETARY:

The herein election rules and voting procedures were adopted on by a vote of the Board of Directors, Dated with Signature of Secretary.