



JUNE 6, 2006

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## **ELECTION RULES**

You may be aware that as of July 1, 2006, you will no longer be able to conduct Board elections by a vote at your annual meeting. A new statute (Civil Code Section §1363.03) will require that associations conduct all elections by secret mail-in ballot. This statute also applies to membership votes on assessments, amending your governing documents, and granting exclusive easements over common area. The procedures required by statute for these mail-in votes are very specific and complicated, and they will most likely override most of the procedures for elections and meetings stated in your Bylaws.

Civil Code Section §1363.03 also requires that all associations have a set of election rules. Even without this statutory requirement, election rules would almost be mandated so Boards have a set of procedures to follow that will comply with both the new law and, to the extent possible, their association's governing documents.

If the new election rules are adopted after July 1, 2006, Civil Code Section §1363.03 requires, among other things, that the Board distribute the draft rules to the owners at least 30 days before the Board votes on them in an open Board meeting. This advance notice is not required if the rules are adopted before July 1. In any case, you should have the rules in place before the next Board election to take place after July 1, 2006.

I can prepare a complete elections package, including a set of election rules, a form mail-in secret ballot, notice of the annual members' meeting, and a form Inspector of Elections report that is also required by statute, for the flat fee of \$300. Please feel free to call or email me if you have any questions.

## **OWNER REQUESTS FOR MEMBERSHIP LISTS AND OPT-OUT PROVISION**

As you may know, a new California statute to take effect July 1, 2006, requires homeowners associations to provide copies of the membership list (names, property addresses, and mailing addresses) to owners on receipt of a written request. (Owners are only entitled to this list for purposes relating to their interests as a member of the association.) There is one exception: To protect their own privacy, owners may "opt out" of the membership list and have the association keep their information confidential. If an owner requests the membership list to make a mailing to the entire membership, the association will address and mail that owner's letter directly to owners who have opted out. The association could charge an administrative fee for their time and effort.

Associations should notify their members of this opt-out feature and provide them an opportunity to opt out by July 1, 2006. They should also include an opt-out form with their escrow packages for new owners' use. I can prepare a notice to the owners and opt-out form for a flat rate of \$100 for your associations.