

Subject: RE: Election Rules

Date: Wednesday, September 14, 2016 at 1:16:56 PM Pacific Daylight Time

From: Jane Blasingham <jblasingham@AdamsStirling.com>

To: Francine Kirkpatrick <DrFKirk@verizon.net>

Hi Francine,

I apologize, but It is our firm policy that we do not send Word versions of our documents. Please feel free to print it out and write-in comments or place comments on a separate sheet. Some people convert the PDF to Word format. That is fine if you want to do it, but I just cannot send the Word version. Most of the sections included are either per statute or per the Bylaws. Please see the following link for a summary of what is required by law to be in them: <http://www.davis-stirling.com/ElectionRulesRequired/tabid/1924/Default.aspx>.

The use of common area during election campaigns is required to be included even if the common area is very small (i.e., just a walkway or a grass corner). Members have the right to use it as long as they are not blocking access.

If the executive committee consists of less than a quorum of directors, then notice of the meeting is not required. If the committee consists of a majority of directors, then notice of the meeting is required.

Section 1.1.1 of the Bylaws states only one of the co-tenants, co-owners or parties in interest of a separate interest may exercise the membership rights. Then in Section 1.1.2, the Bylaws state that only one vote can be cast per separate interest. I think it is best to read these sections narrowly instead of broadly. If read broadly, the effect is only one person from a separate interest can exercise membership privileges, which means only one person can attend a board meeting, can speak in open forum, can use the common area, can submit an architectural request, can campaign, etc. I seriously doubt this was the intention of the Bylaws. It is not industry practice to only allow one member from a property to enjoy the benefits of membership in the Association. If read narrowly, the Bylaws restrict voting to one vote per separate interest regardless of the number of owners of that separate interest. This aligns with industry standards and is how most associations restrict voting. I recommend using the narrow reading of the Bylaws.

Limiting a separate interest to one vote regardless of the number of owners does not mean that both owners are prohibited from being on the Board. Voting as a board member is completely separate and distinct from voting as a member of the Association. The voting rights of a board member are given at the time that owner becomes a member of the board. The Association's Bylaws do not restrict a husband and wife, partners or co-owner from serving on the Board. It is up to the Board on how to proceed on this matter. If it is working for the Association to have spouses on the Board, that does not need to be changed. The reason why associations will adopt the restriction is because they have run into issues with board member spouses who do not have the best interests of the association in mind and work against the other members of the board. They control a larger vote because there are two of them. It does not sound like that is a problem with this Board. An alternative is to adopt a rule that spouses, partners or co-owners may not serve on the executive committee. Since there are only 3 members (and possibly 2 alternates) it makes sense to make sure everyone on the executive committee is independent and cannot control the vote (i.e. cannot vote 2 to 1 and always control the outcome of the committee's decisions).

Please let me know if you have any questions.

Thank you,