

Jan 18th Meeting Question to Attorney

As the association requested, we have gone through your current election process. As articulated in prior meetings, there are many problematic provisions in bylaw article 6, section 2, paragraphs A, B, and C. I would have a board vote to delete these provisions and replace them with the 9 provisions below that are contained in 720 of the Florida statutes, 61B of the administrative code, and as more fully articulated down below.

a. **What is clear is the current provisions are very poor as drafted. They can and will result in major disputes and issues. It will cost the association tens of thousands of dollars and the gray areas and “chess piece” areas don’t appear to be going away, especially not anytime soon.**

i. **To name a few, your current provisions would unfairly allow:**

1. Any board to create a single committee that is fully authorized to block any candidate
2. That committee could also decide to only put up certain candidates on the election Ballot, so the ballot consists of only people they like
3. Any board could choose to send out ballots late, complicating the voting portion of the election
4. and any board members or candidates could require the association let them know who did and did not vote for them – just for sheer safety, this one is a non-starter

- **AS A RESULT, I recommend that you make a motion to delete all three of these provisions from Article 6, section 2, paragraphs (a) through (c). And in place, I recommend that you infuse the following:**

- b. That you Follow Chapter 720, of the HOA Statutes
- c. That elections be free and fair and should substantially follow the rules in Florida Administrative Code 61-B (these are the rules that Millions of Floridians follow in condominium elections)
- d. This needs to be written down in your bylaws and easily accessible to all owners online, both with the management company and the county. This will give all owners, candidates, vendors, and management companies clear guidance for all of your elections.
- e. This will be the first step to creating a positive election environment, allowing all owners and candidates to participate in a system that resembles a process that millions of Floridians already use.

AS A RESULT, I would recommend that you make a motion to add the following to your Election Process in the Bylaws to fully replace provisions (a) through (c)

1. Fair notice: owners should receive at least **60 day notice** of the election
2. Fair Nominations: your process should allow **all owners to self nominate** in advance. No candidate should ever be blocked from running for the Board by any committee
3. **Timely Ballots:** all voting ballots need to be distributed well in advance. All owners should have enough time to learn the

candidates and vote.

4. You should have an option for a **candidate forum or candidate Q&A** so your owners get to know the candidates in an official capacity
5. The Association should allow **Mail in Balloting: Attendance should not be required: Florida Statute 720 attendance and default quorum procedures should be followed and the Association should count all mail in ballots of owners.** You should not require people to attend the meeting or require a person to attend their meeting in their place if they cannot make it (proxy). Any you should not require arcane and confusing voting certificates or HOA voter registration processes that seem to only serve to block votes today. Just like how Presidential elections are run, allow voters to vote their own vote and mail in their own ballot.
6. Owner's **votes should be confidential.** Again, like the presidency, no one should be able to see who an owner voted for; nor should any owner be harassed or mistreated based upon who they voted for.
7. Like our national elections, a majority should not be elected in a single cycle. This means **3 year terms.** Should have been in previously
8. **Holdover and runoffs follow the same** process and procedures as elected candidates in the governing documents. No one is an exception based upon appointment or turnout.
9. The **dispute process** should be enumerated clearly for your owners to follow the law without requiring owners to pay mandatory court expenses or mandatory legal fees to file in court - unless formal disputes cannot be resolved with an official mediator in expedited mediation. Offer it as the first part of any dispute process to ensure the owners and the association resolve to sitting down with one another face to face to resolve any real differences – it's infinitely cheaper and more successful than court and litigation.

- **I would recommend you vote to delete (a), (b), and (c) and replace it with those 9 changes to your election process.**
- **I would also recommend you also vote to use an election monitor this year.**
- **I would also recommend you distribute the recorded changes to all owners as quickly as possible to their mailing address (and any other convenient means) to provide clear procedures to Vince and his company so they can hold an election in late March/Early April-----**