

**Belwood of Los Gatos Homeowners Association**  
**Elections by Mail Procedure**  
*Version 1.0, May 16, 2017*

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## INTRODUCTION

This document details the procedure for the Belwood of Los Gatos Homes Association (ASSOCIATION), a California Homeowners' Association (HOA), to conduct an election by mail requiring a vote of the ASSOCIATION's Class A members as defined in the ASSOCIATION's by-laws (MEMBERS), including both the annual election of the ASSOCIATION's Board of Directors (BOARD), and special elections.

Upon approval, this document shall supersede all previous versions.

## GOVERNING DOCUMENTS

The procedure detailed in this document is written to be in compliance with the election requirements detailed in the following governing documents.

### *Governing Law*

Any ASSOCIATION election requiring a vote of its MEMBERS by mail (ELECTION) must follow the applicable California law regarding HOAs (GOVERNING\_LAW).

At the time of this document's approval, the GOVERNING\_LAW regarding ELECTIONs is the Davis-Stirling Act (Effective January 1, 2014). The law itself is found at: <http://www.davis-stirling.com/Main-Index/Statutes/-Davis-Stirling-Act>. The specifics regarding ELECTIONs are found in Article 4 (Member Election) of Chapter 6 (Association Governance).

The GOVERNING\_LAW contains three basic requirements for an ELECTION:

- An independent Inspector of Election (INSPECTOR) must count the ballots and report the results.
  - The INSPECTOR must be neutral and cannot be currently serving on the BOARD, an employee of the ASSOCIATION, or a relative of either.
  - To ensure the impartiality of controversial ELECTIONs, it is strongly recommended that the INSPECTOR not be a MEMBER, or a relative of a MEMBER.
- Balloting must be secret, following very specific requirements.
  - No ballot shall have anywhere on it a name or other identification of who cast the ballot.
  - Each ballot shall be returned sealed in its own plain, unmarked envelope (SECRET\_ENVELOPE) that shall not have anywhere on it a name or other identification of who cast the ballot.
  - The SECRET\_ENVELOPE must be returned sealed inside another envelope addressed to the ASSOCIATION with a return address label in the upper left-hand corner that includes the voter's name and address, and, under that return address label, the voter's signature (RETURN\_ENVELOPE).
- Ballots shall be mailed to MEMBERS at least 30 days prior to the count.

***Association By-Laws***

At the time of this document's approval, the current version of the ASSOCIATION's By-Laws (BY-LAWS) is dated October 24, 2006. The specific requirements regarding ELECTIONs are found in Section 2 (Elections) of Article V (Directors).

**GENERIC ELECTION PROCEDURE**

The BOARD's Secretary (SECRETARY) is responsible for driving the ELECTION process. It is their responsibility to ensure that the proper actions are taken by all who have supporting roles in the process.

All expenses incurred by the SECRETARY while carrying out these responsibilities shall be reimbursed by the ASSOCIATION.

***Ballot Creation***

For each ELECTION, the BOARD shall set the date of the vote count (ELECTION\_DAY). The ELECTION\_DAY shall coincide with the date of a BOARD meeting.

At its meeting two months prior to the ELECTION\_DAY, the BOARD shall approve the slate of candidates for elected office(s), if that ELECTION includes such a vote, and the exact wording of any proposal(s), if that ELECTION includes such a vote. This document does not detail the procedure for accomplishing this. That is the responsibility of the BY-LAWS.

After the BOARD meeting, the SECRETARY shall create the ballot for that ELECTION (BALLOT). The BALLOT shall include detailed instructions for MEMBERS to mark and return their BALLOTS.

The SECRETARY shall submit to the Editor of the ASSOCIATION's Belringer Newsletter (BELRINGER\_EDITOR) an article for the next edition to announce the ELECTION.

***Member Eligibility***

All MEMBERS are entitled to receive and cast BALLOTS.

Only BALLOTS cast by MEMBERS who are in good standing, as defined in the BY-LAWS, (ELIGIBLE\_MEMBERS) shall be counted.

Mailings to MEMBERS who are not ELIGIBLE MEMBERS (INELIGIBLE\_MEMBERS) shall include a delinquency notice with their BALLOTS, and their BALLOTS shall only be counted if they become ELIGIBLE\_MEMBERS by ELECTION\_DAY. The SECRETARY shall create the delinquency notice.

MEMBERS who own one (1) single-family dwelling (HOUSE) are entitled to cast one (1) BALLOT.

MEMBERS who own one (1) two-family dwelling (DUPLEX) are entitled to cast two (2) BALLOTS.

MEMBERS who own multiple properties are entitled to cast one (1) BALLOT for each HOUSE owned, and two (2) BALLOTS for each DUPLEX owned.

At the time of this document's approval, MEMBERS collectively owned 251 HOUSES and 15 DUPLEXs. For each ELECTION, there will be  $251 + (15 * 2) = 281$  BALLOTs (BALLOT\_COUNT) mailed to MEMBERS.

The BALLOT\_COUNT shall be the denominator of the calculation of the voter turnout percentage to determine if the BY-LAWS quorum requirements for the ELECTION were met.

### ***Ballot Mailing***

The SECRETARY shall mail BALLOTs to MEMBERS in a single stamped envelope addressed to the MEMBER's billing address, with an ASSOCIATION return address label in the upper left corner (MAILING\_ENVELOPE).

At the time of this document's approval, the maximum number of mailings is  $251 + 15 = 266$ . The actual number of mailings (MAILING\_COUNT) is determined by reducing 266 for each owner of multiple properties according to the number of properties each owns. In general, a MEMBER who owns  $n$  properties will reduce 266 by  $n - 1$ . For example, each MEMBER who owns two (2) properties reduces this number by one (1); each MEMBER who owns three (3) properties reduces this number by two (2); etc.

Completing an ELECTION mailing consists of two distinct steps that must be completed at least 30 days prior to the ELECTION\_DAY. These steps are:

1. Labeling and filling the MAILING\_ENVELOPEs.
2. Weighing, stamping, and mailing the MAILING\_ENVELOPEs.

### ***Labelling and Filling the Mailing Envelopes***

At the BOARD meeting two months prior to the ELECTION\_DAY, the ASSOCIATION's Bookkeeper (BOOKKEEPER) shall provide to the SECRETARY the following:

- A printed list of current MEMBERS, including name, billing address, number and type of properties owned, and whether they are ELIGIBLE MEMBERS or INELIGIBLE MEMBERS. This list shall be sorted twice, first by the number of BALLOTs each MEMBER may cast in decreasing order, and second alphabetically by the MEMBER's last name in increasing order (MASTER\_MEMBER\_LIST).
- Two sets of MEMBER mailing labels, each label containing a MEMBER's name and billing address: one label for the mailing address on that MEMBER's MAILING\_ENVELOPE; the other label for the return address on that MEMBER's RETURN\_ENVELOPE (MEMBER\_ADDRESS\_LABEL\_SETs).
- Two sets of MAILING COUNT ASSOCIATION mailing labels, each label containing the ASSOCIATION's mailing address: one set for the return addresses on the MAILING\_ENVELOPEs; the other set for the mailing addresses on the RETURN\_ENVELOPEs (ASSOCIATION\_ADDRESS\_LABEL\_SETs).

To prepare for filling and labelling the MAILING\_ENVELOPEs, the SECRETARY shall procure the following:

- MAILING\_COUNT MAILING\_ENVELOPES.
  - Size #10.
  - Available at Costco with peel-and-stick seals.
  - For owners of multiple properties, it may be necessary to substitute a 9 x 12 catalog envelope.
- MAILING\_COUNT RETURN\_ENVELOPES.
  - Size #9.
  - Available at most office supply stores.
  - For owners of multiple properties, it may be necessary to substitute a larger envelope.
- BALLOT\_COUNT SECRET\_ENVELOPES.
  - Size #6 <sup>3</sup>/<sub>4</sub>.
  - Available at most office supply stores.
- BALLOT\_COUNT copies of the BALLOT.
  - Use light-weight, blue, orchid, or green paper.
  - Use FedEx Office and the ASSOCIATION's FedEx Office account.
- As many copies of the notice of delinquency as there are INELIGIBLE\_MEMBERS.
  - Use light-weight, pink, yellow, or orange paper.
  - The number of INELIGIBLE\_MEMBERS is typically very small (less than 5), so these may be copied either at home or at FedEx Office.

The exact contents of the MAILING\_ENVELOPE for each MEMBER shall be determined according to the number and types of properties owned by that MEMBER:

- MAILING\_ENVELOPES for MEMBERS who own one HOUSE shall contain one (1) RETURN\_ENVELOPE, one (1) SECRET\_ENVELOPE, and one (1) BALLOT.
- MAILING\_ENVELOPES for MEMBERS who own one (1) DUPLEX shall contain one (1) RETURN\_ENVELOPE, two (2) SECRET\_ENVELOPES, and two (2) BALLOTS.
- MAILING\_ENVELOPES for MEMBERS who own multiple properties shall contain one (1) RETURN\_ENVELOPE, plus for each HOUSE owned one (1) SECRET\_ENVELOPE and one (1) BALLOT, and for each DUPLEX owned two (2) SECRET\_ENVELOPES and two (2) BALLOTS.

To place correctly the contents of the MAILING\_ENVELOPE for each MEMBER, the following steps shall be performed in the numbered order:

1. The MAILING\_ENVELOPE shall have the MEMBER's address label affixed to its center front, an ASSOCIATION address label affixed to the front upper left-hand corner, and a red ink stamping of "Ballot Enclosed. Thanks for Voting" placed on the front lower left-hand corner.
  - The ASSOCIATION owns this ink stamp which is kept by the SECRETARY.
2. The RETURN\_ENVELOPE shall have an ASSOCIATION address label affixed to its center front, the MEMBER's address label affixed to the front upper left-hand

corner, and a red ink stamping of “Signature \_\_\_\_\_” placed immediately below the return address label.

- The ASSOCIATION owns this ink stamp which is kept by the SECRETARY.
3. After the RETURN\_ENVELOPE is properly labelled and ink stamped, it shall be placed unsealed in the corresponding MAILING\_ENVELOPE without any folding and without any extraneous markings.
  4. The entitled number of BALLOTS shall be tri-folded and placed in the MAILING\_ENVELOPE without any extraneous markings.
  5. The entitled number of SECRET\_ENVELOPEs shall be placed unsealed in the MAILING\_ENVELOPE without any folding and without any extraneous markings.
  6. If the MEMBER is an INELIGIBLE\_MEMBER, one delinquency notice shall be placed in the MAILING\_ENVELOPE.
  7. When the contents of a MAILING\_ENVELOPE are complete, the MAILING\_ENVELOPE shall be sealed and placed in a group with all other MAILING\_ENVELOPEs containing the same number of enclosures.

#### *Weighing and Stamping the Mailing Envelopes*

The SECRETARY shall take the sorted groups of sealed MAILING\_ENVELOPEs to a post office for weighing and procuring of the proper postage in the necessary quantities.

One sealed MAILING\_ENVELOPE from each group shall be weighed, and the resulting postage purchased in a quantity equal to the number of MAILING\_ENVELOPEs in that MAILING\_ENVELOPE’s group.

That postage shall then be applied to each MAILING\_ENVELOPE in the group, and the all MAILING\_ENVELOPEs in that group mailed.

#### ***Ballot Casting***

To cast their BALLOTS, MEMBERS shall mark their BALLOTS according to the BALLOT instructions, seal each marked BALLOT in its own SECRET\_ENVELOPE, and then seal the sealed SECRET\_ENVELOPE(s) inside the RETURN\_ENVELOPE. MEMBERS shall then sign the RETURN\_ENVELOPE just below the return address label.

The RETURN\_ENVELOPEs must be received by the ASSOCIATION no later than 8:00p on ELECTION\_DAY.

MEMBERS shall either stamp and mail their RETURN\_ENVELOPEs, or deliver them by hand to the BOOKKEEPER at the location of ELECTION\_DAY’S BOARD meeting on ELECTION\_DAY during the first thirty (30) minutes of the meeting.

Up to and including ELECTION\_DAY, the BOOKKEEPER shall collect the RETURN\_ENVELOPEs as they are received by mail. On ELECTION\_DAY no later than the start of the BOARD meeting, the BOOKKEEPER shall bring to the location of ELECTION\_DAY’S BOARD meeting all RETURN\_ENVELOPEs received by mail.

On ELECTION\_DAY during its first thirty (30) minutes, the BOOKKEEPER shall be at the location of ELECTION\_DAY'S BOARD meeting to collect any hand delivered RETURN\_ENVELOPEs.

All received RETURN\_ENVELOPEs shall remain sealed until delivered to the INSPECTOR.

### ***Ballot Counting***

The BALLOTs shall be counted starting thirty (30) minutes into the BOARD meeting on the ELECTION\_DAY.

Thirty (30) minutes into the BOARD meeting on ELECTION\_DAY, the BOOKKEEPER shall provide to the INSPECTOR all received RETURN\_ENVELOPEs, the MASTER\_MEMBER\_LIST updated to indicate any changes in MEMBER eligibility, and a master tally sheet (TALLY), including specific instructions and quorum requirements for each count.

The INSPECTOR shall log each RETURN\_ENVELOPE by placing a check mark next to that MEMBER's name on the MASTER\_MEMBER\_LIST.

The INSPECTOR shall next sort the RETURN\_ENVELOPEs into four groups:

- **Ineligible:** Sealed RETURN\_ENVELOPEs from INELIGIBLE\_MEMBERS.
- **Unsigned:** Sealed RETURN\_ENVELOPEs missing a signature.
- **Rejected:** Unsealed RETURN\_ENVELOPEs containing more SECRET\_ENVELOPEs than the MEMBER is entitled to cast.

Each of these RETURN\_ENVELOPEs shall be taped shut with their SECRET\_ENVELOPEs inside, and the reason for rejection written on the outside.

- **Accepted:** Unsealed RETURN\_ENVELOPEs with their SECRET\_ENVELOPEs removed and placed in their own separate group.

The INSPECTOR shall next shuffle the group of accepted SECRET\_ENVELOPEs, and sort them into three groups:

- **Non-Secret:** Sealed SECRET\_ENVELOPEs with the MEMBER's identification on their outside.

These SECRET\_ENVELOPEs shall be returned to the MEMBER's RETURN\_ENVELOPE. That RETURN\_ENVELOPE shall be taped shut with the reason for the rejection written on its outside, and returned to the Rejected RETURN\_ENVELOPEs group.

- **Rejected:** Unsealed SECRET\_ENVELOPEs containing more than one BALLOT.

Each SECRET\_ENVELOPE shall be taped shut with the BALLOTs inside, and the reason for the rejection written on the outside.

- **Accepted:** Unsealed SECRET\_ENVELOPEs with their BALLOTs removed and placed in their own separate group.

The INSPECTOR shall then inspect the group of accepted BALLOTs, and sort them into three groups:

- **Non-Secret:** BALLOTs with the MEMBER's identification on them.

These BALLOTs shall be taped shut in a SECRET\_ENVELOPE, which shall then be taped shut in that MEMBER's RETURN\_ENVELOPE, and the reason for the rejection written on the outside. That RETURN\_ENVELOPE shall be returned to the Rejected RETURN\_ENVELOPEs group.

- **Rejected:** BALLOTs with selections that are not in compliance with the BALLOT instructions, or BALLOTs with unclear selections.

These BALLOTs shall be taped shut in a SECRET\_ENVELOPE, with the reason for the rejection written on the outside, and that SECRET\_ENVELOPE shall be placed in the Rejected SECRET\_ENVELOPEs group.

- **Accepted:** BALLOTs to be counted.

The number of Accepted BALLOTs shall be the numerator of the calculation of the voter turnout percentage to determine if the BY-LAWS quorum requirements for the ELECTION were met.

The INSPECTOR shall record the final counts on the TALLY, indicating for each count if a quorum was achieved. The INSPECTOR shall then sign the TALLY.

The INSPECTOR shall then report the results of each count to the BOARD, first indicating if a quorum was achieved, and, if so, the resulting count. If a quorum was not achieved for a count, the INSPECTOR shall not report that count, but, instead, await further instructions from the BOARD.

The SECRETARY shall then enter the results into the minutes.

The SECRETARY shall then submit to the BELRINGER\_EDITOR an article announcing the ELECTION results.

The INSPECTOR shall retain all BALLOTs and the TALLY for twelve (12) months, and then provide them to the SECRETARY who shall retain them for an additional three (3) months, after which they shall be disposed.

### **ANNUAL BOARD OF DIRECTORS ELECTION**

Per the BY-LAWS, the ELECTION\_DAY for the ELECTION to determine the BOARD directors to serve during a calendar year (BOARD\_ELECTION) shall be the day of the November BOARD meeting of the immediately prior calendar year.

The BOARD\_ELECTION procedure shall be the same as the Generic Election Procedure, with the exception that the MAILING\_ENVELOPE for a BOARD\_ELECTION shall include certain legally required disclosure documents regarding the ASSOCIATION's finances and collections policy.

At the September BOARD meeting two months prior to the ELECTION\_DAY for the BOARD\_ELECTION:



- The BOARD shall approve the slate of candidates for the next calendar year's BOARD.
- The BOOKKEEPER shall provide to the SECRETARY the MASTER\_MEMBER\_LIST, two MEMBER\_ADDRESS\_LABEL\_SETs, and two ASSOCIATION\_ADDRESS\_LABEL\_SETs.
- The BOARD shall approve the budget and reserve study for the next calendar year.

The disclosures included a BOARD ELECTION MAILING ENVELOPE (DISCLOSURES) shall be one (1) of each of the following in the order listed:

- An overview letter from the BOARD's Treasurer (TREASURER).
- The ASSOCIATION's collections policy.
- The standard California disclosures on collections.
- The BOARD-approved budget for following calendar year.
- The BOARD-approved reserve study for the following calendar year.

The TREASURER shall provide to the SECRETARY master copies of the DISCLOSURES no later than the first Sunday following the September BOARD meeting at which the budget and reserve study were approved.

In addition to the supplies detailed in the Generic Election Procedure, the SECRETARY shall procure the following:

- MAILING\_COUNT copies of the DISCLOSURES.
  - Create a single-sided master containing all DISCLOSURES (typically 13 pages).
  - From the single-sided master, create MAILING\_COUNT two-sided, stapled copies.
  - Use light-weight, white paper.
  - Use FedEx Office and the ASSOCIATION's FedEx Office account.

Each BOARD\_ELECTION MAILING\_ENVELOPE shall include one tri-folded copy of the DISCLOSURES, in addition to the BOARD\_ELECTION enclosures as detailed in the Generic Election Process.

- Adding the DISCLOSURES typically does not require using larger envelopes than those listed for in the Generic Election Procedure.

For budgeting purposes, the cost of each BOARD\_ELECTION is between \$500.00 and \$700.00, depending on current postage rates, current FedEx Office copying rates, and the number of left over envelopes from the prior year.