

Retention of Association Election Materials

In September of 2019 the Legislature created a new category of “association records” referred to as “**association election materials.**” Civil Code 5200(c) defines “**association election materials**” to include returned ballots, signed voter envelopes, the voter list of names, parcel numbers, and voters to whom ballots were to be sent, proxies, and the candidate registration list.

Required to be in the election operating rules. Civil Code §5105(a)(7) requires the association to retain both a candidate registration list and a voter list. Both of these lists are included in the definition of “association election materials.”

Right to inspect candidate registration list and voter list. The Association shall permit members to verify the accuracy of their individual information on both lists at least thirty (30) days before the ballots are distributed. [Civil Code §5101(a)(7).] We recommend including a reminder in every candidate solicitation that members should confirm their personal information by the deadline for candidate nominations to ensure the information is accurate before ballots are sent.

The information required to be in the voter list is well defined to include: (1) name; (2) **voting power**; (3) the physical address of the voter’s separate interest and/or the parcel number; and (4) the mailing address if different than the property address. Compare the “membership list,” defined at §5200(a)(7) (which does not include “voting power”) and was amended to expressly include an Owner’s “email address.”

The information required to be included in the Candidate Registration List is not well defined. At a minimum it should include the name of each candidate. The list of candidates included in the Pre-Ballot Notice can serve as the “Candidate Registration List.”

Retention of Association Election Materials. Civil Code §5125 requires that the ballots, signed voter envelopes, voter list, proxies, and candidate registration list, (i.e., the “association election materials”) be in the custody of the inspector of elections or at a location designated by the inspector until after the tabulation of the vote, and until the time allowed by Section 5145 for challenging the election has expired. Section 5145 states that a member may bring a challenge within one year of the date the inspector of election notifies the board and membership of the election results. However, as an “association record,” defined in 5200(c), “association election materials” are subject to member inspection for the current fiscal year and for each of the previous two fiscal years. Therefore, we recommend that associations retain “association election materials” for three (3) years after the date of the election.