PPT SLIDES HANDOUT

ELECTIONS I: BECOME AN ELECTION PRO

FRIDAY CONCURRENT SESSION
8:00 – 9:15 AM

SPEAKERS
Northern California: Dave Feingold, Esq., John Hansen, Esq., Joan Liberty, CCAM-LS
Southern California: Marybeth Green, CCAM, Jacob Harle, Esq., Denise Iger, Esq.

SPONSORED BY

Founded in 1997, Fiberon® is a leading manufacturer of innovative, high quality composite decking and railing products designed to make outdoor living easy. We offer homeowners and professional builders a wide range of decking and railing styles, colors, and price points, along with design and installation resources, contractor programs, and expert technical support.

www.Fiberondecking.com
The Basics

Election Laws – Then and Now

The Participants

Election Time Line

The Ballot Package

The Campaign

Counting the Vote

After the Vote

HOA Elections in California
Before 2005

Good Old Days or the Wild West?

• Sources for Regulation

• Corporations Code, Civil Code, Governing Documents

• Problems and Abuses
“Battin” Down the Hatches

- California Alliance of Retired Americans / Senator Battin
- 2005 – Mandates for Elections
- Director Elections and Recalls, Assessments, Amendments, and Grants of EUCA
- Amended 2006
- Micro Management or Positive Change?

Election Rules

- Mandatory Content
  - Optional Content (Governing Documents Control)
- Secret Ballots
- Process to Encourage Fairness
- Small Claims Court Remedy

Election Rules - Commercial CID

- Commercial CID Act – CC § 6531, et seq.
- Corporate Code or Governing Documents Control
The Election Timeline

Solicitations → Board Meeting → Inspectors → Prep and Send Ballot Package → Voting Period → Meeting and Vote → Count → Publish Results

The Participants:
Inspectors, Candidates, and Voters

Civil Code § 5105
Election Rules – Mandatory Content

• Qualifications of Inspectors
• Qualifications for Voters
• Qualifications for Candidates

Appointment of Inspectors

• 1 or 3
• Who to use? / Who is authorized by rules?
• Assistants?
• When to appoint?
The Correct Order for Inspector Appointment

1. Select Inspector(s)
2. Designate Location
3. Ballots Received
4. Conduct Election

The Incorrect (but common) Order

1. Manager Determines Location
2. Ballots Received
3. Select Inspector(s)
4. Conduct Election

Role of Inspectors – Before the Meeting

- Designating location for return of ballots
- Registering ballots
- Determining who can vote
- Handling suspended voters
- Effect of suspended voters on quorum and vote

Qualifications of Voters and Candidates

- Developer-owned lots or units
- Merged Lots
- Record Date
- Good Standing – What does that mean?
Preparing the Ballot and Ballot Package

- Who should draft the ballot?
- Special issues
  - new developments, mixed use and delegate districts
  - IRS Revenue Ruling

Common Drafting Mistakes

- Terms? Open positions, staggered terms, length of term, filling vacancies
- Ballot good for adjourned meetings?
- Fairness: Identify the incumbents? Use of association media

Common Drafting Mistakes

- Cumulative Voting Mistakes
- Complying with meeting time, day, location requirements
- Ultra-Stringent Completion Requirements
- Equal Access Issues
Voting Period – Return of Ballots

- Door-to-door solicitation
- Neighbor drop-off
- Storage of ballots before the big night
- Distribution of ballots at the meeting
- Replacement ballots via mail

Campaigning

- Equal access
  - Media
  - Common area space
  - Access to list of voters
  - Redactions and disclaimer

Election Rules – Optional Content

- Alternate or emergency inspectors
- Type of parliamentary procedure
- Recount procedure
- How candidates will be listed on the ballot
- Candidate statements
Counting the Ballots

- Board or Annual Meeting?
- Who should run the meeting?
- Who needs to be at the meeting?
- What to bring?
- Forms of parliamentary procedure

When Does the Vote Close?

- Can the voting period be extended?
- Does it matter why it is extended? Notice requirements for extended voting period
- What to do when there is no quorum?
- Adjournment

Role of Inspectors – During and After the Meeting

- Close of balloting/polls
- Challenges
- Document Retention
How to Handle a Tie

- Do the rules address ties?
- Flip a Coin / Handshake
- Run-off election

Recording and Publishing the Votes

- Certifying the Vote
- Publication of vote count
  - Within 15 days
  - General notice
  - Tabulated results

Storing the Election Materials

- Inspector has to store them for one year
- Retention after the first year
  - Document retention policy
  - Consider different statute of limitations
Election Challenge?

- Difference in the outcome?
- Inspection of Ballots
- Recount by Inspectors
- Statute of Limitations
- Small Claims Court Jurisdiction

Next Up

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:15 - 9:30 am</td>
<td>Break</td>
<td></td>
</tr>
<tr>
<td>9:30 - 10:45 am</td>
<td>Elections II: From Pro to Expert</td>
<td>Salon A-C</td>
</tr>
<tr>
<td>9:30 - 10:45 am</td>
<td>Practical Implications for the California Solar Rights Act</td>
<td>Salon D-E</td>
</tr>
<tr>
<td>9:30 - 10:45 am</td>
<td>Employers: Social Media Use in the Workplace</td>
<td>Room 208 (second floor)</td>
</tr>
<tr>
<td>9:30 - 10:45 am</td>
<td>What's That Smell? Dealing with Secondhand Smoke</td>
<td>Salon F-G</td>
</tr>
</tbody>
</table>