

Balboa Terrace Homes Association
Post-Town Hall Changes to Documents

Bylaws:

3.3: revised this section to permit recording of meetings if authorized by the Board

CC&Rs:

4.10: identifies the section of the Davis-Stirling Act which lists the reasons exclusive use of the common area may be granted without approval of the members

5.4: simplified section on Architectural Standards, removing section on color schemes entirely

5.5: removed section authorizing retention of architect or consultant at applicant's expense

5.6(g): removed requirement of completing Renovations within one year and specified that reasonable extensions of time in which to complete Renovations will be granted. Applicants no longer have to resubmit projects for approval if not completed within one year.

5.9: removed authorization to enter into remodeling agreement

5.15: removed requirement of hold harmless, defense, and indemnity for approval of architectural plans by Association (the Association is still not liable for consequential damages arising out of approval of architectural plans)

5.20: removed diligent construction requirement that all construction must be completed within 18 months

6.4: removed nuisance example of excessive noise, including barking dogs

6.6: clarified authorization for home office use, acceptable as long as doesn't disturb others, there are no visiting clients, and no signage

FAQs

Q: Why do we need to restate our governing documents now? Why not just leave them the way they have always been?

A: The original governing documents, over 100 years old, are not in a modern format, do not contemplate the current statutory structure pertaining to homeowners associations, and are lacking in detail in key areas such as allocation of maintenance responsibility for specific components; use restrictions related to technology developed after 1922; acknowledgment of statutory requirements for areas of government and community concern such as fair housing laws, solar energy systems, and

telecommunications systems; enforcement mechanisms; and insurance requirements. This lack of detail means that statutory defaults may determine how your community is maintained and operated (as opposed to you choosing), that the documents are useless as a reference guide for members, directors, and management, and that expensive legal opinions may be required for issues that are usually contained in modern HOA Bylaws and CC&Rs.

Q: Do the proposed documents give the Association more power over my property?

A: No. The Association is responsible for maintaining the common area (alleys, landscaped common landscape areas, some fencing, entrance monument), not the separate interest lots (residences and lots on which they are located). The proposed restated CC&Rs do not add any rights of architectural control, lien rights, or rights of entry which do not already exist in the current documents and rules. There are some sections of the CC&Rs which specify the right of the Association to address nuisances and damage to the common area, but these rights already exist and are just set forth in a clearer way in the proposed documents.

Q: Do the proposed Bylaws give the Board more power?

A: No. The Bylaws specify the authority of the Board with regard to governance of the corporation which is the association. There is no expansion of authority given as a result of restating the documents and most of the provisions in the Bylaws are required by the Corporations Code and/or the Davis-Stirling Common Interest Development Act.

Q: Why is recording meetings not a good practice?

A: The Association is a corporation and the minutes of meetings are the evidence of what was decided at the meetings pursuant to the Corporations Code. Allowing recording and publication of meeting recordings by anyone discourages people from attending and speaking at meetings because people are reluctant to give up their privacy rights as well as their rights to control use of their voices and likenesses. The prevalence of social media platforms and abuse of posting on these platforms is a legitimate privacy concern. Edited portions of recorded meetings can and have been used to post misleading and inaccurate statements regarding directors, neighbors, and management. Recordings also pose a legal risk, as well as a security risk, to the community. The corporation is a private corporation and the members have a reasonable expectation that the finances and concerns of the community will be kept within the community and not made public to anyone with access to the internet.

Q: Can the Association raise assessments (monthly dues) beyond the specific dollar amount stated in the deed restrictions?

A: Yes. The Davis-Stirling Act at Civil Code section 5605(b) permits the board to raise the annual assessments by up to 20% each year without a member vote.