



Residents for Open  
Board Elections

January 9, 2016

Phillip Frengs  
President  
Palos Verdes Homes Association  
320 Palos Verdes Drive West  
Palos Verdes Estates, CA 90274

Dear Phil:

I understand that you are the new President of PVHA, succeeding Mark Paullin after his resignation effective December 31, 2015. Congratulations.

In the spirit of transparency, I wanted to share with you concerns about the current election process. There is evident resistance by PVHA's outside lawyers to multiple overtures in writing by Jeff Lewis for ROBE (Residents for Open Ballot Elections) to participate in a pre-meeting before January 12<sup>th</sup> to review the process and provide input directly to the unnamed retired Judge who has been selected by PVHA as election inspector. In the absence of such a meeting, it could be a real mess at the Annual Meeting on Tuesday evening, and I think we'd all like to avoid such an embarrassing spectacle.

**1) PVHA needs to identify by name the retired Judge serving as Election Inspector, and provide access by ROBE so we can articulate our interpretation of the legal situation:**

- Having an election observer who has been selected solely by the PVHA, whose name is secret and to whom only the PVHA has access (to present their perspective on the election process) is not fair play and not impartial, and hence totally unacceptable. It would be like allowing only the plaintiffs or defendants in a trial to interact with a judge during the trial and in submissions to the court, ignoring the other side, and then expecting all "participants" to accept the verdict as fair
- Refusal to allow ROBE or its candidates to have a meeting or phone call with this Judge before the votes are counted is inappropriate, biased and unfair. It also violates the Homeowners' rights to an impartial election observer per state law
- Failure to allow access will lead to further embarrassment to the PVHA in the press, further loss of trust in the PVHA by the public, and potentially trigger legal

challenges that could otherwise have been avoided. The continued arrogance by the PVHA and its lawyers needs to end -- now. This behavior is doing great damage to the public's trust in PVHA as an institution and needs to be addressed.

**2) PVHA must follow its own by-laws when filling Mark Paullin's seat.** At our "Meet the Candidates" night on Monday, Dale Hoffman indicated in response to a question that the PVHA plans to appoint a replacement rather than allow this election to determine the director to fill in the seat vacated by Mark Paullin.

- This would be in direct violation of PVHA's By-Laws which says: "***Vacancies in the Board of Directors shall be filled by the remaining Directors when assembled as a Board and such appointees shall hold office until the next Annual or Special Meeting of the members thereafter at which time an election for the unexpired portion of the term shall be held.***"
- Therefore, the Board can appoint someone until January 12, 2016 (the date of the next Annual Meeting after Mark Paullin's resignation 12/31/15). However, at the next Annual Meeting (on 1/12/16) the top five candidates should be chosen from among the eight remaining candidates unless another (as yet unknown) qualified candidate accumulates sufficient votes to be elected. In the absence of a quorum, under current practices it would fall back on the current Board to appoint a replacement until the Annual Meeting in January 2017, although even this practice is suspect (see #3 below).

**3) In the absence of a quorum, PVHA should hold another election in order to conform to its By-Laws.**

- We have been told that a quorum was last reached in 2009, and since then (in the absence of a quorum) the PVHA Board has defaulted to appointing themselves until the next Annual Meeting a year later.
- However, this practice is not consistent with the PVHA By-Laws which state adjournment to the next day -- **not** the next year: "***If, however, for want of a quorum or other cause, a member's meeting shall not be held on the day above named, or should the members fail to complete their elections, or such other business as may be presented for their consideration, those present may adjourn from day to day until the same shall be accomplished.***"

**4) If any ballots are rejected, the rejections should be grouped into reasons for rejection and a separate count made and disclosed on January 12<sup>th</sup> by reason.** This will help decide whether the rejected ballots would make a difference in the outcome, which might then preempt unnecessary time and energy spent contesting those rejections and hence streamline acceptance by the public in the outcome of the election.

**5) Other questions we would like to review before January 12<sup>th</sup> include:**

- What instructions have PVHA given to the retired judge?
- Can ROBE and its candidates get a copy of the instructions?
- Did any of the incumbents provide instructions?
- Exactly how many votes are needed to qualify for a quorum?
- How will ballots be treated when a member sent in the original ballot but casts another vote that supersedes that ballot?

I am available this weekend if you'd like to discuss any of this.

Respectfully submitted.



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cc: PVHA (Ed Fountain, Dale Hoffman, Carol Swets, Kim Robinson, Sid Croft)  
ROBE (Dick Fay, Jennifer Laity, Mike Moody, Ried Schott, Jeff Lewis)