



business law • litigation & appellate practitioners

December 9, 2016

Hon. Michael A. Latin (Ret.)
ADR Services, Inc.
1900 Avenue of the Stars, Suite 250
Los Angeles, CA 90067

VIA E-MAIL (judgelatin@adrservices.org) AND CONFIRMED BY U.S. MAIL

Dear Judge Latin,

As you may recall, I represent Residents for Open Board Elections (“ROBE.”) Last year and this year, ROBE fielded a slate of candidates for the election of the Board of Directors (“Board”) for the Palos Verdes Homes Association (“Homes Association.”) Moss Adams has been designated to receive and count ballots. We understand that you have been appointed the election inspector for this year’s election. As inspector, your duties require that you:

Perform any acts as may be proper to conduct the election with fairness to all members in accordance with this article, the Corporations Code, and all applicable rules of the association regarding the conduct of the election that are not in conflict with this article.

(Civ. Code § 5110, subd.(c)(8)).

We are writing to inform you of several irregularities and concerns regarding the election process and the delivery of ballots to Moss Adams. ROBE believes these irregularities impact the fairness of the election and ROBE asks you to make an inquiry and resolve these concerns:

First, the PV Homes Association contracted with Moss Adams to receive, maintain and count the ballots. We are informed that Moss Adams’ address is:

Moss Adams
10960 Wilshire Blvd #1100,
Los Angeles, CA 90024

The ballots prepared and mailed out by the Homes Association included a pre-addressed postage paid envelope for the return of ballots. The return envelopes contain no return address. That return envelope is printed with the following address:



PVHA Inspector of Elections
c/o Moss Adams LLP
11960 Wilshire Blvd Ste 1100
Los Angeles, CA 90099-9811

The address provided on the return envelope appears to have an incorrect street number (“11960” and zipcode “90099-9811”) vs. “10960” and zipcode “90024” for Moss Adams, the accounting firm contracted to receive the PVHA ballots due on 1/4/2017. 11960 Wilshire corresponds to the address of “Sparky’s Pet Grooming.” See enclosed exemplars of the ballots, envelopes and Google Maps printout for Sparky’s. The lack of a return address on the pre-printed return envelope along with the incorrect address leaves voters in doubt as to whether the ballot is received at the correct address. Given the Homes Association’s historical inability to achieve a quorum, this address discrepancy is causing Homes Association members trepidation.¹ The Homes Association, via its President, Phil Frengs, has indicated that “no matter what the written address or any hand-correction of the address on the envelope,” the envelopes as printed are likely to reach their intended destination since 90099-9811 is a special zip code for permit mail and the bar code looks to that rather than the street address. Even if all ballots are actually received by Moss Adams and not Sparky’s, some Homes Association members have expressed the subjective belief that their votes are not being counted by design. This is a trust issue.

ROBE has suggested that Moss Adams post on their website an alphabetical list of property owners for those members that have submitted ballots. That list could also be publicized on Nextdoor. Posting a list of those that have and have not voted is standard practice in other elections. The Homes Association, via Phil Frengs, has rejected posting a list in advance and instead has decided that no ballots will be opened until January 5. The problem with that approach is that by January 5, if a member learns their ballot was not received it is practically too late for the member to request and submit a replacement ballot. We would suggest that something be done to ease member fears regarding undelivered ballots. ROBE notes that the confusion now felt by Homes Association members is the result of the preparation of the ballot

¹ The ballots also misstated the relevant experience of two candidates. Overstating one candidate’s experience by eleven years and understating another by ten years. The Homes Association sent out a postcard in response to this issue but it is unclear how many members previously voted in reliance on this incorrect information. Many of the postcards were smudged due to the inks used by the Homes Association in preparing them rendering the correction illegible. While there is nothing remaining for you to address on this issue of misstating candidates’ years of membership, the errors have compounded the mistrust felt by members towards the process. It also leaves a question of what will happen if someone decides that “new” information makes them want to change their vote.



envelopes under the direction of the Homes Association. ROBE did not make the mess. It is up to the Homes Association to clean up the mess and restore some trust with members. The Homes Association's present stance of doing nothing except to say "trust us" is not an effective solution.

Second, the By-Laws state that if a quorum is not reached at the annual meeting, the election should be adjourned from "day to day" until a quorum is reached.² In the past, the Board has interpreted this to mean that the result of no quorum is that incumbents can continue serving until the following year's election. ROBE interprets the By-Laws to mean that the election be extended from day to day until the quorum is reached. We would appreciate clarification from you as to what the Board intends to do this year if no quorum is reached. Note that in past elections there were up to three mailings sent, and this year the PVHA has said they are only doing one; if the time period is extended, then a follow-up mailing to those who have not yet voted would seem to make sense along with a statement that the election has been extended for a few weeks.

These issues raise questions regarding the fairness of this election and are sowing feelings of mistrust between Homes Association members and the Board. Your inquiry and public report as to these matters would be appreciated and would ease these growing tensions.

Very truly yours,

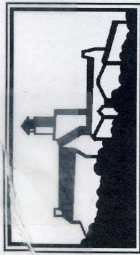
Jeffrey Lewis

cc: Todd.Vanderwel (via e-mail todd.vanderwel@mossadams.com)
Ed Pilolla (via e-mail ed.pilolla@pvnews.com)

² The relevant language of the By-Laws appears at Article V on page 51:

"at such annual meeting of the members, directors for the ensuing year shall be elected by secret ballot, to serve as herein provided and until their successors are elected. 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.**" (Emphasis added).

ENCLOSURE

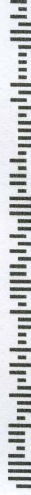


**PALOS VERDES
HOMES ASSOCIATION**

320 Palos Verdes Drive West
Palos Verdes Estates, California 90274

Presorted
First Class Mail
U.S. Postage
PAID
KES Mail, Inc.

FORWARDING SERVICE REQUESTED





PALOS VERDES
HOMES ASSOCIATION

Phone 310.373.6721
Fax 310.373.9115
Email pvha@pvha.org
Website pvha.org

NOTICE OF 91st ANNUAL MEETING & ELECTION OF DIRECTORS

We invite you to the ninety-first Annual Meeting of members, to be held Tuesday, January 10, 2017 at 8:00PM in the Council Chambers of the Palos Verdes Estates City Hall 340 Palos Verdes Drive West, Palos Verdes Estates, Ca 90274.

The PVHA was established in 1923 to interpret and maintain the Protective Restrictions that run with the land in Palos Verdes Estates and the Miraleste area of Rancho Palos Verdes. PVHA is a private, non-profit corporation governed by a 5-person all volunteer Board of Directors. If you own real estate in PVE or Miraleste, you are a member of Palos Verdes Homes Association. Every building site has one vote in the annual election of the PVHA Board of Directors.

Over 4,139 architects, designers, real estate agents, contractors, members and prospective homeowners have visited the Homes Association office since the first of the year. There have been over 1,400 plan reviews and submitted so far this year. The real estate market is still going strong and over 119 Completion and Compliance Inspection reports for homes to be sold have also been processed. All residential and commercial plans, including any modifications, are available to view. Our knowledgeable staff is ready to answer questions and provide a variety of invaluable information at your request. Palos Verdes Estates and Miraleste are special areas on the hill because of the dedication of PVHA.

We are proud of the heritage of the Palos Verdes Homes Association and are committed to its principles, and effective operation. Our office and staff, located adjacent to city hall, is ready to assist members with inquiries and their property improvement projects.

ENCLOSED WITH THIS ANNUAL MEETING NOTICE IS THE MEMBER VERIFICATION, ELECTION BALLOT, AND A PREADDRESSED ENVELOPE FOR RETURN BY MAIL.

Please do not delay! Ballots and member verifications must be received by the Inspector of Elections by the close of voting on **January 4, 2017.**

Your Board of Directors,

Philip J. Frengs
Edward Fountain
Dale Hoffman
Carol Swets
Carolbeth Cozen

NOTE: Candidate information can be found online at pvha.org/candidates

PALOS VERDES HOMES ASSOCIATION

2016-2017 Fiscal Year Budget

Budget 2016-2017**REVENUE**

Plan Fees	497,045
Completion & Compliance	21,000
Tree Review Fees	4,000
Other	3,150
Total Fees	525,195
Investment Income	13,300
TOTAL REVENUE	538,495

EXPENSES**Payroll/Related Expenses**

Salary/Wages/Taxes/Worker's Comp	303,100
Retirement Plan	13,845
Temp Services	10,800
Accounting Services	16,800

Total Payroll/Related Expenses 344,545**Office Occupancy Expenses**

Rent/Utilities/Taxes	40,000
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Operating Expenses

Insurance Expense	35,400
Legal Fees	24,000
Art Jury Fees	48,000
Annual Meeting	16,000
Office Supplies/Expenses	10,000
Tree Review/Arbitration Expense	6,000
Depreciation	5,300
Other	9,250

Total Operating Expenses 153,950**TOTAL EXPENSES 538,495****Revenue over Operating Expenses 0****BOARD CONTROLLED EXPENSES**

Brandel Scholarships	3,000
Community Expense	5,250
Public Relations	4,750
Member Communications	9,500
Litigation Expense	50,000
Loss on Disposal of Assets	1,100
Total Non-Operating Expense	73,600
NET INCOME (LOSS)	(73,600)

NOVEMBER 2016**Minutes of the Board of Directors**

Copies of the minutes of PVHA Board of Directors meetings are available to members at the Association office.

Fiscal Matters

(a) A copy of the operating budget for the 2016-2017 fiscal year is enclosed.

(b) The financial statements for the year ended June 30, 2016 were prepared in accordance with generally accepted accounting principles. A Certified Public Accounting firm audited the statements and the audit resulted in an unqualified opinion. Copies are available to members at the Association office.

Proposed Physical Changes

The PVHA requirements for physical changes on member's property are set forth in Article II, Section 1 of the Declaration No. 1 of the Declaration of Establishment of Basic Protective Restrictions.

Pursuant to Declaration No. 1 PVHA has established an Art Jury to approve plans that are submitted by members. The procedures for submission of plans for approval by PVHA are available in the Association office or on request to any member.

Insurance Summary

The Association's policies of insurance are listed below. Upon request and reasonable notice, members may review the Association's insurance policies at the Association office, and; upon request and payment of reasonable duplication charges, obtain copies of the policies.

PALOS VERDES HOMES ASSOCIATION SCHEDULE OF INSURANCE POLICIES

Policy	Carrier	Coverage	Amount Deductible
General Liability	TOPA	\$1,000,000 each occurrence \$2,000,000 general aggregate	none
Umbrella Liability	TOPA	\$2,000,000	none
Directors' & Officers' Liability	Continental Casualty	\$2,000,000	\$15,000

{ VOTE FOR 5 CANDIDATES ONLY }

Incumbent Board Candidates

Select	Name	Director Service	PVHA Member	Term
<input type="checkbox"/>	Cozen, Carolbeth	2016	15 years	2 year
<input type="checkbox"/>	Fountain, Edward	2004	47 years	1 year
<input type="checkbox"/>	Frengs, Philip J.	1997	32 years	3 year
<input type="checkbox"/>	Hoffman, Dale	2010	43 years	2 year
<input type="checkbox"/>	Swets, Carol	2015	34 years	3 year

Candidates Nominated By Petition

<input type="checkbox"/>	Breene, Marlene	-	21 years	TBD
<input type="checkbox"/>	Fay, W. Richard	-	32 years	TBD
<input type="checkbox"/>	Schott, Ried	-	11 years	TBD

INSTRUCTIONS

- Step **1** Complete the ballot by placing an "X" for the candidate(s) of your choice, with a maximum of 5 votes. **DO NOT sign the ballot.**
- Step **2** Place the completed ballot in the **Ballot Envelope** and seal the envelope.
- Step **3** Place the **Ballot Envelope** in the **Member Verification Signature Envelope** and seal.
- Step **4** **As the property owner of record, you must sign your name and print your name** where indicated on the **Member Verification Signature Envelope**.
- Step **5** Place the **Member Verification Signature Envelope** in the pre addressed **Return Mailing Envelope** and return by mail to PVHA Inspector of Elections c/o MOSS ADAMS LLP 10960 Wilshire Blvd. Suite 1100 Los Angeles, CA 90024 in order to be **received by January 4, 2017.**

FAILURE TO COMPLY WITH THE INSTRUCTIONS WILL CAUSE YOUR BALLOT TO BE VOID,
IT WILL NOT BE COUNTED.



{ BALLOT ENVELOPE }
Insert completed ballot



{ MEMBER VERIFICATION SIGNATURE ENVELOPE }
Insert sealed ballot envelope

Member Signature(s)

Print First and Last Name(s)

Must be received by
January 4, 2017



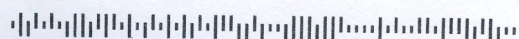
NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 16 LOS ANGELES CA 90024

POSTAGE WILL BE PAID BY ADDRESSEE

PVHA INSPECTOR OF ELECTIONS
C/O MOSS ADAMS LLP
11960 WILSHIRE BLVD STE 1100
LOS ANGELES CA 90099-9811



ENCLOSURE

