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Superior Court of California  
County of Los Angeles

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By Raul Sanchez, Deputy

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

11 L. RIED SCHOTT,

12 Petitioner,

13 v.

14 PALOS VERDES HOMES  
15 ASSOCIATION,

16 Respondent and Real  
17 Party in Interest.

) Case No.: BS169638

) **PETITIONER'S BRIEF**

) (Assigned for all purposes to the  
18 Hon. Ruth Ann Kwan, Dept. 72)

) RES ID: 171017259316

) Date: November 28, 2017

) Time: 9:00 a.m.

) Department: 72

19 Filed: May 17, 2017

20 Trial: None Set

21 **BY FAX**

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**TABLE OF CONTENTS**

1

2 TABLE OF AUTHORITIES ..... 3

3 MEMORANDUM OF POINTS AND AUTHORITIES..... 4

4 I. Introduction..... 4

5 II. Applicable Law..... 5

6 III. The Recent History of the Board to Block Challengers from

7 Appearing on the Ballot and to Avoid Achieving a Quorum ..... 7

8 IV. The Court Should Reject the Homes Association’s First Defense

9 that Petitioners Should Have Campaigned Harder and Should

10 Lose Three Elections Before Filing this Action..... 11

11 V. The Court Should Reject the Homes Association’s Second

12 Defense that the Quorum Requirement is “Sacred” and “Old”

13 Because the Public Policy of Having Valid Elections and

14 Representation on the Board Outweighs Sentimental

15 Attachment to 1920’s Documents ..... 12

16 VI. The Court Should Reject the Homes Association’s Third Defense

17 that the Quorum has Been Reached in the Past and that any

18 Failure to Reach the Quorum is a Tacit Approval by the

19 Membership of the Homes Association..... 13

20 VII. The Court Should Reject the Homes Association’s Fourth

21 Defense that the Homes Association Has Never Adjourned day-

22 to-day until a Quorum is Reached ..... 15

23 VIII. The Court Should Reject the Homes Association’s Fifth Defense

24 that the Requested Changes to Election Procedures are Costly,

25 Impractical or Illegal ..... 15

26 IX. Relief Requested – as to the January 2017 Ballots..... 16

27 X. Why a Twenty Five Percent Quorum is Requested ..... 16

28 XI. Relief Requested – as to the January 2018 Ballots..... 17

XII. Conclusion ..... 18

PROOF OF SERVICE..... 19



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**TABLE OF AUTHORITIES**

**Cases**

*Fourth La Costa Condominium Owners Ass'n v. Seith*  
(2008) 159 Cal.App.4th 563 ..... 6

*Greenback Townhomes Homeowners Assn. v. Rizan*  
(1985) 166 Cal.App.3d 843 ..... 6

**Statutes**

Corporations Code, section 705 ..... 16

Corporations Code, section 7515 ..... 5



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. Introduction**

3 This is an action to reduce the quorum required for the annual election of the  
4 members of the Board of Directors (“Board”) for the Palos Verdes Homes Association  
5 (the “Homes Association”). The Homes Association is a mutual benefit nonprofit  
6 corporation that governs the affairs of more than 13,000 residents living in the City  
7 of Palos Verdes Estates, and over 5,400 properties located within the City of Palos  
8 Verdes Estates. The Homes Association is the entity that enforces the covenants,  
9 conditions and restrictions (“CC&R’s”) and other land use restrictions that enhance  
10 the land values and quality of life in Palos Verdes Estates. The Board appoints  
11 members to, and oversees, the Art Jury that regulates architecture and building in  
12 the community. The Homes Association also hears and resolves view disputes among  
13 members and the Board hears appeals of view decisions rendered by its arbitrator.  
14 The Homes Association also has the job of protecting 800 acres of parkland that has  
15 been set aside in Palos Verdes Estates since the 1920’s. All of these important  
16 functions are carried out through a board of five members. The five members of the  
17 Board are not elected under current procedures.

18 Instead of an election, whenever a vacancy on the Board occurs, the remaining  
19 four Board members find a like-minded person to fill the vacancy. Each January the  
20 Homes Association is required to have a shareholder’s meeting and Board election.  
21 The By-Laws of the Homes Association specify a fifty percent quorum to hold an  
22 annual meeting and Board election. A quorum has not been reached since 2009.  
23 Therefore, for the past eight years, 2010 through 2017, at the date specified for the  
24 annual meeting, the incumbent members of the Board declared themselves to be *de*  
25 *facto* Board members for the following year.

26 In reality, only two of the current board members have ever been elected and  
27 the terms of those two have long ago expired. One current board member has served  
28 for twenty years. Another has served for 13 years. The Board is indifferent to the

1 lack of an election. The ballots for the January 2017 election are sitting in a locked  
2 room somewhere gathering dust. The Board has refused calls to have them opened  
3 and tabulated. The Board has taken various actions over the years to make it less  
4 likely that the quorum can ever be obtained or for challenger candidates to appear  
5 on the ballot.

6 This is an action to lower the quorum and enact other election procedures to  
7 ensure a fair and valid election in January 2018 and thereafter. In addition,  
8 petitioners request that the January 2017 ballots be opened, counted and used to  
9 seat whichever top five candidates won that election to staggered terms of one, two  
10 or three years.

## 11 12 **II. Applicable Law**

13 This is an action to reduce the quorum required for the annual meeting and  
14 Board election. Corporations Code, section 7515 (“Section 7515”) authorizes this  
15 action:

16 If for any reason it is impractical or unduly difficult for any corporation  
17 to call or conduct a meeting of its members, delegates or directors, or  
18 otherwise obtain their consent, in the manner prescribed by its articles  
19 or bylaws, or this part, then the superior court of the proper county,  
20 upon petition of a director, officer, delegate or member, may order that  
21 such a meeting be called or that a written ballot or other form of  
obtaining the vote of members, delegates or directors be authorized, in  
such a manner as the court finds fair and equitable under the  
circumstances.

22 (§ 7515, subd. (a)).

23 Although Section 7515 has been enacted since January 1, 1980, only two  
24 published cases<sup>1</sup> have construed the law: *Greenback Townhomes Homeowners Assn.*

25  
26 <sup>1</sup> The dearth of case law construing section 7515 may be explained by the fact that most  
27 homeowner’s associations in California own and manage common property. As such, they  
28 are common interest developments that are subject to the Davis Stirling Act. The Palos  
Verdes Homes Association owns *no* common property and is *not* subject to Davis Stirling.  
The general rules regulating corporations in general and specifically mutual benefit  
nonprofit corporations apply instead of Davis Stirling.





1 *v. Rizan* (1985) 166 Cal.App.3d 843 (“*Greenback*”) and *Fourth La Costa*  
2 *Condominium Owners Ass’n v. Seith* (2008) 159 Cal.App.4th 563 (“*Fourth La*  
3 *Costa.*”)

4 In *Greenback*, the association board decided to revise its bylaws to conform to  
5 modern laws. In September 1981, the board distributed revised bylaws and ballots to  
6 its members. The balloting period was between October 1, 1981 and January 23,  
7 1982. The association had a 75 percent quorum. That quorum was not met by the  
8 January 23, 1982 deadline. Four months later, a petition was filed by the board  
9 president in the name of the association to lower the quorum. By August 1982 –  
10 seven months after the failed quorum – the trial court granted the petition lowering  
11 the quorum. One association member appealed. He argued that the association did  
12 not have standing because, according to the appellant, the text of Section 7515  
13 authorizes a quorum lowering petition be filed only by a director, officer, delegate or  
14 member. The statute does not specify that a petition may be brought by an  
15 association in its own name. The *Greenback* court rejected the challenge. It held that  
16 although the association is not named in Section 7515 as a person to bring an action,  
17 the corporation was the beneficiary of the proceeding and a petition signed by an  
18 officer was sufficient to confer jurisdiction to the trial court to rule on the petition.  
19 The trial court’s order lowering the quorum was affirmed.

20 In *Fourth La Costa*, a 48-unit condominium development had a quorum of 75  
21 percent. In 2004, the association decided that the governing documents needed  
22 updating. A letter was sent out in August 2005 and requested ballots be returned by  
23 October 2005. That effort was unsuccessful, the quorum was not met and in  
24 February 2006, less than four months after the failed quorum, the association filed a  
25 petition in the superior court to lower the quorum. The trial court granted the  
26 petition. One member appealed on a number of grounds which were all rejected. The  
27 Court of Appeal affirmed the trial court’s order lowering the quorum.



1     **III.    The Recent History of the Board to Block Challengers from**  
2            **Appearing on the Ballot and to Avoid Achieving a Quorum**

3            The petition in this matter summarizes the actions taken by the Board to  
4     prevent challengers to the incumbents. Those actions are:

5            The Homes Association has no nominating committee. (First Amended  
6     Petition (“FAP”) ¶ 8 (a)).

7            There are no term limits for current Board members. One Board member has  
8     served for over twenty years and another for over thirteen years. (FAP ¶ 8 (b)).

9            Prior to the Summer of 2016, there were no rules or publications establishing  
10    how a challenger could appear on the ballot. (FAP ¶ 8 (c)).

11           In 2012, when one member wanted to appear on the 2012 ballot, the Homes  
12    Association manager informed him that he could only appear on the ballot if invited  
13    to do so by the Board. (FAP ¶ 8(d)).

14           In 2015, non-party<sup>2</sup> Residents for Open Board Elections (“ROBE”) decided to  
15    run a slate of candidates for the January 2016 Board election. (FAP 8(e)). Citing  
16    sections of the Corporate Code, ROBE obtained the 100 signatures and presented  
17    them the same week in November 2016 that the Homes Association mailed out the  
18    ballots for the January 2016. However, since the ballots had been printed already,  
19    only the incumbents appeared on that ballot. The Homes Association refused to send  
20    an additional ballot with all nine of the candidates listed unless ROBE paid for the  
21    mailing and the price quoted was three times what it would cost the Homes  
22    Association to mail an amended ballot. ROBE prepared a second ballot with all nine  
23    candidates and those ballots were mailed out by ROBE at ROBE’s expense. The  
24    Homes Association’s attorney announced in the local newspaper that they would  
25    count the last ballot received, but then a few days later he rescinded that statement  
26    and said they’d only count the first one. No quorum was reached in the January

27            \_\_\_\_\_  
28    <sup>2</sup> ROBE was previously a plaintiff in this action. The Court ordered ROBE to not be a  
   plaintiff when the First Amended Petition was filed. Most of ROBE’s members are also  
   members of the Palos Verdes Homes association



1 2016 election so the current directors declared themselves to be directors for the  
2 following year. (FAP ¶ 8(e)).

3 In the Summer of 2016, the Homes Association issued two Resolutions  
4 defining the process for allowing alternative candidates to be nominated. Under  
5 these Resolutions, the Homes Association required that all candidates submit 100  
6 signatures to appear on the ballot. The incumbent directors were not excluded from  
7 this requirement per the Resolution but nevertheless the incumbents did not comply  
8 with the 100 signatures requirement. The process as defined in the Resolution was  
9 onerous and the signatures had to be present on a specific form and each signature  
10 gatherer had to notarize the submitted signature form. Even though the incumbents  
11 did not follow their own process, they automatically appeared on the ballot despite  
12 the fact that the incumbents' terms had expired years ago. Note that all candidates  
13 for Palos Verdes City Council (including incumbents) need to collect 25 signatures to  
14 be listed as a candidate. The Homes Association Director challengers – a slate of  
15 three candidates backed by ROBE – submitted the necessary 100 signatures and  
16 appeared on the ballot. No quorum was reached in the January 2017 election so the  
17 current directors declared themselves to be directors for the following year. (FAP ¶  
18 8(f)). The Homes Association By-Laws allow “adjournment day-to-day” in the event  
19 of a non-quorum thus keeping the election open, and this has occurred in the past.  
20 But in the 2017 election, the Board explicitly voted against following their own by-  
21 laws in this regard.

22 In past years, the Board approved multiple mailings of ballots to increase the  
23 number of ballots received. Since 2014, the Board restricted mailings to only one. In  
24 reviewing past election results, quorums were only achieved when multiple ballot  
25 mailings were performed. (FAP ¶ 10(a)). In past years, the ballot mailings  
26 commenced earlier (in October). In more recent years, the ballot mailings  
27 commenced in late November or December, thereby shortening the window of time  
28





1 when ballots are reviewed by members and accepted, and increasing the risk they  
2 are lost in the holiday mail. (FAP ¶ 10(b)).

3 Prior to the January 2017 election, the Board had previously accepted ballots  
4 via walk-in, e-mail or facsimile. The Board no longer accepts ballots handed in at the  
5 Homes Association office, submitted via e-mail or submitted via facsimile. (FAP  
6 ¶ 10(c)). Prior to the January 2017 election, the Board previously accepted a ballot  
7 that was dropped off by a member in person at the annual meeting. In 2016, the  
8 policy was changed to disallow proxies and walk-in votes at the Annual Meeting  
9 beginning with the January 2017 Annual Meeting. This remains the new policy,  
10 even though the By-Laws allow proxies and they have always been accepted before.  
11 (FAP ¶ 10(d)).

12 In the middle of ballot submission in December 2015, the President of the  
13 Homes Association (Mark Paulin) unexpectedly resigned. A replacement was needed  
14 to fill the vacancy. The Board could have very easily counted the votes at the  
15 January 2016 election and appointed the candidates who received the top votes. The  
16 Board had the discretion to do so even though there was no quorum met. Filling the  
17 vacancy in this fashion would have been reasonable. Instead, the Board waited eight  
18 months and then continued their self-perpetuating practice of selecting a  
19 replacement themselves and ignored the submitted votes; the person they selected  
20 had not appeared on the ballot and had not collected any nominating signatures.  
21 (FAP ¶ 10 (d)).

22 The Board, in advance of the January 2017 election, hired a third-party  
23 accounting firm to tabulate the ballots. However, there were mailing irregularities  
24 where the envelope provided to return ballots had an address error which directed  
25 the envelope to a dog grooming business in West Los Angeles rather than the  
26 accounting firm. The Post Office claims that all envelopes provided were received at  
27 the correct address because the bar code directed collection to a sorting site that  
28 relied on the bar code rather than the printed mailing address.

1 Many members expressed concerns about the address error, and sought a  
2 process to confirm that their ballot had been received. ROBE formally wrote to the  
3 Homes Association and suggested posting a list on its website or in its offices, or  
4 provide a phone number to call to verify receipt of a ballot. The Homes Association  
5 rejected all these suggestions and refused to do anything to address this legitimate  
6 concern of its members that the ballots might be lost in the mail, and hence provide  
7 a means of confirmation that the ballots had been received. (FAP ¶ 10(e)-(f)).

8 The mailing list used by the Homes Association is not fully updated since  
9 some members reported they did not receive ballots in past or the most recent  
10 election. This is documented both on social media (Nextdoor) and in a recent survey  
11 conducted by ROBE. (FAP ¶ 10(g)).

12 The Board has refused to publish biographies and position statements of the  
13 candidates running for office along with the ballots. Even though biographies (but  
14 not positioning statements) were supplied on the Homes Association’s website,  
15 ROBE advocated that this information should also be supplied with the ballot (as  
16 done by other organizations in the community such as the Palos Verdes Golf Club,  
17 the Palos Verdes Tennis Club and the Palos Verdes Beach and Athletic Club) and  
18 that it would help voters become more informed as well as help increase the number  
19 of members that vote. (FAP ¶ 10(h)).

20 The Homes Association has not made any efforts to gather and use email  
21 addresses to increase member voting or participation in annual elections. The  
22 Homes Association has also chosen not to use the Internet to supplement member  
23 voting in elections, which may be another way to improve voting turnout. They have  
24 no email list or notification functionality built into their website (unlike the City of  
25 Palos Verdes Estates which encourages residents to sign-up for communications).  
26 (FAP ¶ 10(i)).

27 When a quorum is not obtained and Directors are not elected, the By-Laws  
28 provide that the annual meeting is to “adjourn from day to day” - until a quorum is



1 achieved and an election occurs. However, the Board has ignored this provision each  
2 January. Not only is this contrary to democratic principles, but it is not believed to  
3 be in compliance with the intent of the By-Laws of the Homes Association, which  
4 specifically state in Article V, Section 1, that:

5 At such annual meeting of the members, Directors for the ensuing year  
6 shall be elected by secret ballot ... If, however, for want of a quorum or  
7 other cause, a member's meeting shall not be held... or should the  
8 members fail to complete their elections ...those present may adjourn  
from day to day until the same shall be accomplished.

9 (FAP ¶ 10(l); By-Laws Art. V, Section 1).

10 Each of the foregoing facts separately impairs the ability of challengers to  
11 appear on the ballot and for a quorum to be achieved. Absent Court intervention, it  
12 is inevitable that the Board's continued practice of restrictive practices and declaring  
13 themselves the winner of each January "election" will continue.

14  
15 **IV. The Court Should Reject the Homes Association's First Defense that**  
16 **Petitioners Should Have Campaigned Harder and Should Lose Three**  
17 **Elections Before Filing this Action**

18 The Homes Association contends that the challengers should try harder and  
19 participate in more than two elections before it brought this action. The Court  
20 should reject this defense for at least four reasons: First, ROBE has tried -- since the  
21 Fall of 2015 -- to get a quorum. ROBE sponsored a slate of candidates in the Fall of  
22 2015 for the January 2016 election and in the Fall of 2016 for the January 2017  
23 election. Two-year's worth of failed elections is more than reasonable. Requiring  
24 ROBE to mount a third challenge under unfair rules that favor the incumbents  
25 would be futile.

26 Second, there is no express requirement in the text of Section 7515 that an  
27 association member try to get elected three times (or ever) before filing an action.



1 Third, the courts that have applied Section 7515 have lowered the quorum in  
2 much shorter time periods than are presented here. In *Greenback*, the failed quorum  
3 occurred in January 1982, by May 1982 a petition was filed and in August 1982 the  
4 trial court lowered the quorum. That result was upheld on appeal. Similarly, in  
5 *Fourth La Costa*, the failed quorum occurred in October 2005 and a petition to lower  
6 the quorum was filed in February 2006. That result was upheld on appeal. None of  
7 the cases construing Section 7515 have inserted a requirement that challengers  
8 seeking to unseat incumbents attempt three years of campaigning and three failed  
9 elections before seeking relief. Respectfully, the Court should reject the Homes  
10 Association’s attempt to re-write Section 7515 to include a requirement the  
11 Legislature never intended.

12 Fourth, the Homes Association President Phil Frengs separately stated in the  
13 Summer 2017 Palos Verdes Bulletin (the official newsletter for the Homes  
14 Association): “As you may recall, there was a spirited campaign by the group  
15 representing the petition candidates, including websites, lawn signs, candidate  
16 forums, email blasts and direct mail.... In spite of the group’s herculean efforts, 512  
17 fewer parcels participated.” This public statement directly contradicts the Homes  
18 Association’s assertion that the challengers can be successful without changing  
19 anything in the process just by “trying harder.”  
20

21 **V. The Court Should Reject the Homes Association’s Second Defense**  
22 **that the Quorum Requirement is “Sacred” and “Old” Because the**  
23 **Public Policy of Having Valid Elections and Representation on the**  
24 **Board Outweighs Sentimental Attachment to 1920’s Documents**

25 The Homes Association contends that the quorum requirement is “sacred” and  
26 because it dates back to the 1920’s it should be left untouched. The Court should  
27 reject that requirement. Section 7515 represents an expression of public policy that  
28 elections should be held and if a quorum requirement is a barrier to elections, they



1 should be lowered. Times change as evidenced by the fact that the quorum has not  
2 been met for eight years. It is time for the Homes Association's election procedures  
3 to adjust. The fact that the Homes Association's By-Laws date back to the 1920's is  
4 not a reason in and of itself to deny relief here. While the By-Laws are important  
5 they are not "sacred" and the Court has the discretion under Section 7515 to make  
6 any reasonable orders necessary to allow Homes Association members to actually  
7 elect board members.

8  
9 **VI. The Court Should Reject the Homes Association's Third Defense that**  
10 **the Quorum has Been Reached in the Past and that any Failure to**  
11 **Reach the Quorum is a Tacit Approval by the Membership of the**  
12 **Homes Association**

13 The Homes Association sees each year's failed quorum as a referendum  
14 that the thousands of members of the Homes Association are pleased with  
15 current leadership. It is this attitude that has resulted in year after year of  
16 failed quorums. The complaint about the artificially high quorum is not new.  
17 It is a recurring complaint that has been voiced repeatedly by Homes  
18 Association members over the decades. Local papers have published  
19 complaints about the lack of the quorum in 1942, 1949, 1950, 1968, 1969,  
20 1971, 1973 and 1976. (Harbison Decl., ¶ 12). In the 1950's, an editorial ran in  
21 the local paper about the annual failure to reach a quorum:

22 The annual farce in the procedure to hold an annual meeting is  
23 just that – a farce. The local resident property owners had no  
24 voice in electing the Board of Directors of the Homes Association.  
25 The Board of Directors has become a "perpetual" Board.... It is  
26 not a question of whether or not the members of the Board of  
27 Directors are doing what is right...it is the principle in question –  
28 a real American principle where the people govern themselves by  
FREE election.

(Harbison Decl. 11, Ex. F).



1 Those words from the 1950's remain true today. The Court should  
2 invoke its powers under Corporations Code section 7515 to enact changes in  
3 the quorum requirements to hold a real meeting for January 2018. Moreover,  
4 the ballots cast in January 2017 should be opened, counted and given effect.

5 The Homes Association argues that the failure to obtain a quorum is  
6 only a recent phenomenon. However, a review of voting data dating back to  
7 1928 demonstrates that the Homes Association annual meetings have been  
8 plagued with a lack of quorum. Although quorums were regularly reached  
9 between 1928 and 1940 (when many lots were still unsold and owned by the  
10 developer/bank), after 1940, quorums were infrequent. (Harbison Decl., ¶¶ 7-  
11 8, Exs. A-B).

- 12 ➤ Between 1941 and 1969, a quorum was never reached.
- 13 ➤ In 1970, a quorum was reached with three ballot mailings.
- 14 ➤ Between 1971 and 1973, no quorum was reached.
- 15 ➤ Between 1974 and 2001, a quorum was reached in 22 of the 28  
16 years.
- 17 ➤ Between 2002 and 2006, there was no quorum.
- 18 ➤ Between 2007 and 2009: Quorums were reached because Board  
19 members took an active role in the election and ensured there  
20 were three mailings and telephone calls.
- 21 ➤ Between 2010 and 2017: There were 8 years without a quorum.

22 (Harbison Decl., ¶ 8, Ex. B).

23 In the years since 1940 when the votes were in the hands of owners  
24 rather than the developer, a quorum was achieved in only 26 of 77 years.  
25 (Harbison Decl., ¶ 9). Furthermore, in the years in which a quorum was  
26 achieved, the Board seems to have taken a more active role in terms of  
27 sending multiple ballots and making phone calls by individual Board  
28 Directors to get out the vote. In contrast, the current Board is at best passive,





1 and arguably has placed many obstacles to make it harder to achieve a  
2 quorum.

3  
4 **VII. The Court Should Reject the Homes Association's Fourth Defense**  
5 **that the Homes Association Has Never Adjourned day-to-day until a**  
6 **Quorum is Reached**

7 One remedy sought herein is that for years where the quorum is not  
8 reached, the election should be held open and more votes should be allowed to  
9 be cast. The Homes Association argues that has never been done. But the By-  
10 Laws provide for this. And in years past rather than simply declaring  
11 incumbents to be Board members for a full year, the Board held the election  
12 open for additional time to allow additional votes to be cast until a quorum is  
13 reached. (Harbison Decl., ¶ 13). This occurred in 1929, 1930, 1931, 1941, 1942,  
14 1969 and 1971. (Harbison Decl., ¶ 13).

15  
16 **VIII. The Court Should Reject the Homes Association's Fifth Defense that**  
17 **the Requested Changes to Election Procedures are Costly,**  
18 **Impractical or Illegal**

19 The Homes Association argues that the changes requested by  
20 petitioners are costly, impractical or illegal. Respectfully, the Homes  
21 Association is wrong.

22 **Lowering the Quorum is not Costly, Impractical or Illegal.**

23 Lowering the quorum from fifty percent to twenty-five percent is not costly. It  
24 would not increase the cost of conducting an election. It is not impractical. If  
25 this Court issues an order, the next election could easily be conducted with a  
26 twenty-five, thirty or thirty-five percent quorum without one nickel in  
27 increased cost. Nor is it illegal. Corporations Code, section 7515 authorizes an  
28 order lowering the quorum.

1 The Homes Association argues that lowering the quorum will allow  
2 “agitators” to take control of the Board. However, lowering the quorum will  
3 merely allow votes to be counted.

4 **Allowing Proxies.** The Homes Association argues that allowing votes  
5 by proxy violates the law. However, California law provides that – outside  
6 Davis Stirling associations – proxies are presumptively valid. (Corp. Code, §  
7 705, subd.(a)).

8  
9 **IX. Relief Requested – as to the January 2017 Ballots**

10 The Court has broad discretion to fashion relief calculated to lead to an actual  
11 election. As for the 1,589 ballots for the January 2017 election, the Court should  
12 order them opened and counted and the top five winners from those ballots should  
13 be the current Board Directors. Due to the by-laws requiring staggered terms, the  
14 top 2 candidates would get 3 year terms, the next two would get 2 year terms and  
15 the 5th highest would get a one year term.

16  
17 **X. Why a Twenty Five Percent Quorum is Requested**

18 At the prior hearing in this matter, the Court expressed skepticism that a  
19 twenty-five percent quorum was appropriate. Below is a chart of how many votes  
20 were cast in the last seven elections. The impact of lowering the quorum  
21 requirement to one-third or 25 percent as applied to historical data is demonstrated  
22 below:

23

Year	Votes Cast	50%	33.33%	25%
2017	1589	No quorum	No quorum	Quorum
2016	1772	No quorum	No quorum	Quorum
2015	1563	No quorum	No quorum	Quorum
2014	1654	No quorum	No quorum	Quorum







Year	Votes Cast	50%	33.33%	25%
2013	2588	No quorum	Quorum	Quorum
2012	2252	No quorum	Quorum	Quorum
2011	2501	No quorum	Quorum	Quorum
2010	1367	No quorum	No quorum	Quorum

**XI. Relief Requested – as to the January 2018 Ballots**

As for the upcoming election in January 2018, the following options have been suggested by petitioner:

- 1) Lower the quorum for annual meetings and elections of board of directors from fifty percent (50%) to twenty-five percent (25%) or such other number as this Court feels could –in conjunction with other measures below – result in a quorum;
- 2) Direct the Homes Association to conduct at least 3 mailings of ballots each year in the 4-month period before the January election (unless a quorum is achieved after 1 or 2 mailings);
- 3) Allow for cumulative voting;
- 4) Allow for voting by written proxies;
- 5) Allow for votes by members appearing in person at the January annual meeting;
- 6) Allow for voting by members dropping ballots off in a lock-box at the Homes Association office;
- 7) Require that if the Board adopts any procedure for challengers to appear on the ballot the incumbents must meet the same procedure to appear on the ballot;
- 8) Require the Homes Association follow its Bylaws concerning the “adjourning day-to-day” provision in the event of no quorum, and
- 9) Allow for By-Law amendments to be approved by Homes Association members if there is a vote by forty percent (40%) of all members.




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**XII. Conclusion**

Based on the foregoing, petitioner respectfully requests that the petition be granted and the Court grant such other and different relief as the Court deems just and proper.

DATED: October 26, 2017

Respectfully submitted,

By:  \_\_\_\_\_  
Jeffrey Lewis

Attorney for Petitioner  
L. RIED SCHOTT

Jeffrey Lewis  
Attorney at Law  
609 Deep Valley Drive, Suite 200  
Rolling Hills Estates, CA 90274

**PROOF OF SERVICE**

*Residents for Open Board Elections, et al. v. Palos Verdes Homes Association*  
Los Angeles Superior Court Case No.: BS169638

I, Jason R. Ebbens, declare that I am over the age of 18 years, employed in the County of Los Angeles, and not a party to the within action; my business address is 734 Silver Spur Road, Suite 300, Rolling Hills Estates, CA 90274.

On **October 26, 2017**, I served the foregoing: **PETITIONER'S BRIEF** on the interested parties in this action by placing  the original  a true copy thereof, enclosed in a sealed envelope with postage pre-paid, addressed as follows:

Brant H. Dveirin, Esq.  
**LEWIS BRISBOIS BISGAARD & SMITH LLP**  
633 West 5<sup>th</sup> Street, Suite 4000  
Los Angeles, CA 90071

*Attorneys for Respondent and Real Party in Interest*

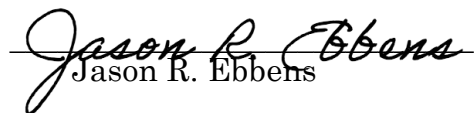
BY MAIL. I am readily familiar with this law firm's practice for collection and processing of correspondence for mailing with the U. S. Postal Service. The within correspondence will be deposited with the U. S. Postal Service on the same day shown on this affidavit, in the ordinary course of business. I am the person who sealed and placed for collection and mailing the within correspondence on this date at Rolling Hills Estates, California, following ordinary business practices.

BY GOLDEN STATE OVERNIGHT. The within correspondence will be deposited with Golden State Overnight delivery service on the same day shown on this affidavit, in the ordinary course of business. I am the person who sealed and placed for collection and mailing the within correspondence on this date at Rolling Hills Estates, California, following ordinary business practices.

**COURTESY COPY** BY ELECTRONIC SERVICE. I served the foregoing document(s) on interested parties via email to each of the parties listed in the service caption above. A true and correct copy of the transmittal will be produced if requested by any party or the Court.

(STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **October 26, 2017**, in Rolling Hills Estates, California.

  
Jason R. Ebbens

