

Old vs New Legal Document Comparison

There may be provisions in the proposed Declarations, Bylaws and Rules that you do not like or support. We reached out to every member to get their input before “finalizing” the documents. We revised the drafts to incorporate the input we got. At this time, you should compare the proposed documents with the current documents and decide if the proposed documents protect your interests as well as, or better than, the current documents.

If you have not yet approved the Amended and Restated Declaration of Covenants, Conditions and Restrictions, please consider these important differences between the current legal documents and the proposed legal documents. The Board of Directors hopes you will agree that the proposed documents are at least a step in the right direction for our Association.

Special Assessments

Under the current Bylaws, Special Assessments can be passed by a majority of votes, in person or by proxy, at a meeting in which 30% of each membership class is present. If a quorum is not met at the first meeting, a second meeting can be called for the vote, and only 15% of each membership class is required for a quorum. So, a Special Assessment can be approved or voted down by as few as 8% of the membership.

Under the proposed Bylaws, Special Assessments can only be passed by a majority of Class A Members.

Dues

Under the current Bylaws, Dues can only be increased by more than 10% if approved by a majority of votes, in person or by proxy, at a meeting in which 30% of each membership class is present. If a quorum is not met at the first meeting, a second meeting can be called for the vote, and only 15% of each membership class is required for a quorum. So, a Dues increase can be approved or voted down by as few as 8% of the membership.

Under the proposed Bylaws, Dues can only be increased by more than 10% if approved by a majority of eligible voters, in person or by proxy, at a meeting in which a quorum is met (30% of A Members in person or by proxy).

Rules

Under the current Bylaws, the Board of Directors make the Rules, without any membership vote.

Under the proposed Declarations and Bylaws, Changes to the Rules must be approved by a majority of eligible voters, in person or by proxy, at a meeting in which a quorum is met (30% of A Members in person or by proxy).

Financial Management

Under the current Bylaws, the Board of Directors can authorize anyone to sign checks, and no amount requires two signatures or Board approval. There is no requirement for periodic financial audits by an independent accountant. There is no requirement to provide the membership with an annual or long-range budget. And there is no language indemnifying the Association against injuries to members and their guests due to their own actions. These deficiencies have made it impossible to obtain an insurance quote that would cover liability, provide Director and Officers liability, and cover downstream losses due to dam failure.

Under the proposed Bylaws, only the President, Vice President and Treasurer are authorized to sign checks, and two signatures are required for all checks over \$5000, and Board Approval is required for any expenditure over \$3000. Annual financial audits by an independent accountant are required. The Board is required to submit an

annual budget to the membership, considering the five-year reserve study. And there is indemnification language in the Declarations, Bylaws, and Rules to protect the Association. The provisions should make it possible to obtain an insurance quote that will allow us to meet the Dam Safety Regulation requirements without having to modify our dam or spillway.

Board Vacancies

Under the current Bylaws, the Board can appoint someone to fill a vacancy for the remainder of the term. The membership can remove a Director if approved by 60% of the membership.

Under the proposed Bylaws, the Board can only appoint someone to fill a vacancy caused by death, disability or resignation until the next election. The membership can remove a Director if approved by a majority of the membership.

Number of Directors

Under the current Bylaws, the Board must have at least five Directors. There is no upper limit, and no description of who has the authority to change the number of Directors.

Under the proposed Bylaws, the Board may have between five and nine Directors, but any change in the number must be approved by a majority vote of the Class A Members.

Powers of the Board of Directors

The proposed Declarations and Bylaws do not expand the powers of the Board of Directors. The current Bylaws give the Board the powers to manage the affairs of the Association.

Officer Duties

The current Bylaws do not provide any express duties for any of the officers.

The proposed Declarations and Bylaws put obligations and limits on Directors and Officers.

B Member Considerations

Under the current Declarations and Bylaws, all members must pay the same Dues and Special Assessments, but B members can leave the Association. But if they want to rejoin the Association, per the current Bylaws, they must pay all Dues and Assessments that were levied during their inactive status.

Under the proposed Declarations, B members may be charged lower dues, and are not subject to Special Assessments. This is intended to encourage B membership.

Document Consistency and Adequacy

The current Declarations, Bylaws, and Articles of Incorporation each have different names for our Association. They are not compliant with current regulatory requirements.

Final Thoughts

We are lucky in that 97 A members have the opportunity each year to volunteer to serve on the Board of Directors as one of nine Directors. Most Boards are made up of a much smaller fraction of the membership, and are often dominated by the Developer and their designees. Directors only serve for 3 or 4 years, but plan to live in our community much longer than that, so they retain their "Member perspective" as they carry out their Board responsibilities.