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Catherine Rucker

**ELECTRONICALLY FILED**  
Superior Court of California  
County of Marin  
~~FOR FILING~~  
James M. Kim, Clerk of the Court  
D. Harrison, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF MARIN**

Catherine RUCKER, an individual, Plaintiff,	)	Case No.:	0X000F11
vs.	)	<b>DECLARATION OF CATHERINE</b>	
	)	<b>RUCKER ISO VERIFIED COMPLAINT</b>	
	)	<b>FOR DECLARATORY AND INJUNCTIVE</b>	
	)	<b>RELIEF; EXHIBITS 1-12</b>	
POINTE MARIN ASSOCIATION; DOES 1-10, inclusive,	)		
Defendants,	)		
	)	I/C Judge:	
	)	Dept:	

1 I, CATHERINE RUCKER, DECLARE: I am competent to testify to the following facts of my  
2 own knowledge; and I could, and would, so testify if called.

3 1. I am the Plaintiff in the above-captioned case.

4 2. I am informed and believe that Defendant Pointe Marin Association (“PMA” or  
5 “Association”) was formed in October 2002, when its “Articles of Incorporation”  
6 were filed with the California Secretary of State; its “Declaration of Covenants,  
7 Conditions, and Restrictions (CC&Rs)” was recorded with the County of Marin;  
8 and its “Original Bylaws” were approved.

9 3. I am, and at all times relevant herein, I have been, a member of the Association, due  
10 to my ownership of two “separate interest” properties within the Common Interest  
11 Development that the Association manages.

12 4. Exhibit 1, attached hereto, is a true and correct copy of the PMA’s “Articles of  
13 Incorporation” (Oct. 1, 2002), which I downloaded from the California Secretary of  
14 State’s website.

15 5. The Pointe Marin Association is an association that manages a Common Interest  
16 Development that is located in Novato, California, and the Development includes  
17 342 “Separate Interest” lots, which include single-family homes. (See Exhibit 1  
18 (PMA’s “Articles of Incorporation,” Article D (Oct. 1, 2002) and Exhibit 2.)

19 6. Exhibit 2, attached hereto, is a true and correct copy of California Secretary of State  
20 Form SI-CID (filed Oct. 17, 2022), which I downloaded from the Secretary of  
21 State’s website. (See Item No. 7 for “Physical Location of the Common Interest  
22 Development” and Item No. 9 for “Number of Separate Interests in the  
23 Development”)

24 7. Exhibit 3, attached hereto, is a true and correct copy of PMA’s Original Bylaws,”  
25 Section 6.3 (Oct. 8, 2002), which I received from the developer, Centex Homes,  
26 when I purchased my two separate interest properties. From October 8, 2002, to  
27 May 13, 2021, Section 6.3 of the PMA “Original Bylaws” set out the requirements  
28 for the “Election of Directors.”

8. On May 13, 2021, through a “Member Election” process, the PMA Members approved the PMA “Amended Bylaws.” One of the main amendments was to increase the number of Directors from three to five.
9. Exhibit 4, attached hereto, is a true and correct copy of PMA’s “Amended Bylaws,” Sections 5.1, 5.2, 5.4, & 6.3 (May 13, 2021), which I received from the PMA property manager.
10. Exhibit 5, attached hereto, is a true and correct copy of the May 24, 2021, letter to the membership to announce the May 13, 2021, election results, which I received from the PMA property manager.
11. Since PMA’s inception, the maximum terms for *all* PMA Director positions have been 2-year terms. In addition, the PMA Bylaws have required the PMA Board of Directors (“Board”) to carry out annual “Member Elections” for the Director positions. Further, the PMA Bylaws set out “staggered” elections, with a portion of the Director positions open for election in the odd-numbered years and the remaining positions open for election in the even-numbered years. See Exhibit 3, Section 6.3 (Oct. 8, 2002) and Exhibit 4, Section 6.3 (May 13, 2021).
12. Section 6.3 of the “Amended Bylaws” states: “Three (3) directors shall be elected to two-year terms in the even years; and, two (2) Directors will be elected in the odd years.” See Exhibit 4, Section 6.3 (May 13, 2021).
13. Section 6.3 of the “Amended Bylaws” also states:  
“To achieve staggered terms, in 2021, the Association shall conduct an election for 3 Directors of which the top two candidates receiving the most votes will be elected to the odd year position which is a 2 year term (ending in 2023); and, the candidate receiving the third highest number of votes will be elected to a 1 year term (ending in 2022).”  
See Exhibit 4, Section 6.3 (May 13, 2021).
14. But after the May 13, 2021, elections when the PMA “Amended Bylaws” were approved and Directors Pat Eklund and Michael Christian were elected, the PMA

1 failed to hold the additional 2021 election – to fill the remaining three Director  
2 positions (including the two newly-created Director positions).

3 15. The PMA’s “Member Elections” are controlled by the Davis-Stirling Act Article for  
4 “Member Election.” See Civil Code Sections 5100-5145. Under Civil Code  
5 Section 5115, every “Member Election” requires at least 90 days to carry out, with  
6 an initial 30-day candidate nomination period and a 30-day ballot gathering period  
7 at the end. Civ. C. § 5115. Under Civil Code Section 5120 and the PMA Bylaws,  
8 all PMA elections culminate with an “Annual Member Meeting,” when the ballot  
9 envelopes are opened and the votes are counted and tabulated. See Civil Code  
10 Section 5120 and Exhibit 4 (the PMA “Amended Bylaws,” Sections 5.2 & 6.3 (May  
11 13, 2021).

12 16. Civil Code Section 5100 (a)(2) states: “An association shall hold an election for a  
13 seat on the board of directors in accordance with the procedures set forth in this  
14 article *at the expiration of the corresponding director’s term* and at least once every  
15 four years.” (Italics added) Civ. C. § 5100 (a)(2).

16 17. Civil Code Section 5100 (a)(2), which requires the PMA to hold elections to  
17 coincide with the “expiration of the corresponding director’s term,” was in effect on  
18 May 13, 2021, when PMA Directors Pat Eklund and Michael Christian were  
19 elected.

20 18. Further, Civil Code Section 5105(c) authorizes all Common Interest Development  
21 Associations, including the PMA, to adopt Election Operating Rules to disqualify  
22 member nominees for director positions – and the statute only includes four reasons  
23 to disqualify. (For example, the four reasons are failure to pay assessments, if two  
24 joint owners of a separate interest property would concurrently be candidates or  
25 could be serving on the Board at the same time, if the person has been a member for  
26 less than one year, and if the person has been convicted of certain crimes.) But  
27 Civil Code Section 5105(c) does not allow any Common Interest Development  
28 Association to disqualify nominees for director positions who are “seeking or

engaging in legal action against the Association and/or the Board of Directors and/or any individual Board Member.” See Civ. C. § 5105(c).

19. On January 7, 2021, the Plaintiff filed a Complaint in the “Rucker v. PMA I” lawsuit. In the lawsuit, the Plaintiff alleged violations of the Davis-Stirling Act Article for “Member Election” (for defective “Election Rules”) and the “Open Meeting Act.” See Marin County Superior Court Register of Actions for CIV-2100162,” with a “case open” date of “1/7/2021.”).
20. By the summer of 2023, the parties settled the lawsuit. As a result, on August 8, 2023, the Plaintiff filed a dismissal in the “Rucker v. PMA I” lawsuit.
21. On May 13, 2021, in a PMA “Member Election,” Pat Eklund and Michael Christian were elected to two of the PMA’s three Director positions. When they were elected, the PMA “Original Bylaws” expressly limited their terms to 2 years. See Exhibit 4 (The May 24, 2021, letter from the PMA to the Members to announce the May 13, 2021, election results) and Exhibit 3 (The PMA “Original Bylaws,” Section 6.3 (Oct. 8, 2002)).
22. Although the PMA “Amended Bylaws” require annual elections for a portion of the PMA Director positions, in 2022, the PMA failed to carry out the required election to fill three of the Director positions. See Exhibit 4 (The PMA “Amended Bylaws,” Section 6.3 (May 13, 2021)).
23. In May 2023, under Section 6.3 of the PMA “Original Bylaws,” the Director positions for Pat Eklund and Michael Christian expired. See Exhibit 3 (The PMA “Original Bylaws,” Section 6.3 (Oct. 8, 2002) and Exhibit 5 (The May 24, 2021, letter from the PMA to the Members to announce the May 13, 2021, election results).
24. On June 7, 2023, the PMA Board appointed Eric Vermillion to the third Director position.
25. On July 7, 2023, the PMA received a “Member Petition.” The Member Petition had been signed by 19 PMA Members, including the Plaintiff. The Member Petition

1 demanded an election to fill all five of the PMA’s Director positions because the  
2 two Director positions “being held by” Pat Eklund and Michael Christian had  
3 expired in May 2023, and the PMA had failed to hold an election in 2022 to fill the  
4 three other Director positions.

5 26. The Pointe Marin Common Interest Development includes 342 separate interests,  
6 and five percent of “342” is “17.1.” The rounded-up result is “18.”

7 27. Exhibit 6, attached hereto, is a true and correct copy of the July 7, 2023, PMA  
8 Member Petition language, which I had submitted to the PMA Board.

9 28. After the PMA received the Member Petition for an election to fill all five PMA  
10 Director positions on July 7, 2023, the PMA failed to provide a notice to the  
11 members within 20 days to announce an election to fill all five Director positions,  
12 with staggered terms.

13 29. On July 10, 2023, in a letter to the Members, the PMA Board stated: “[W]e have  
14 not been able to hold an election [since May 2021] in light of the pending litigation  
15 concerning the election rules.”

16 30. Exhibit 7, attached hereto, is a true and correct copy of the July 10, 2023, letter  
17 from the PMA to the Members, to announce the amended Election Rules, which I  
18 had received from the property manager.

19 31. But from January 2021 through May 13, 2021, the PMA successfully carried out a  
20 “Member Election” to elect two Directors and to amend the Bylaws - even though  
21 the “Rucker v. PMA I” lawsuit, which involved a challenge to the Election Rules,  
22 was active at the time. For example, the Rucker v. PMA I lawsuit was active  
23 between January 7, 2021, and August 8, 2023.

24 32. On July 25, 2023, the PMA Board provided a letter from its Attorney, Tom Fier, to  
25 the Members. In the letter, Mr. Fier explained that the PMA would only consider  
26 holding an election for only two (2) director positions. Mr. Fier stated: “Currently,  
27 there are three (3) directors holding office.” Mr. Fier’s letter did not provide any  
28 information about the beginning and end dates for the terms for Directors Pat

1 Eklund, Michael Christian, or Eric Vermillion. In addition, Mr. Fier did not  
2 provide any references to California law or the PMA's Bylaws to explain how any  
3 of the "sitting" directors were "exempt" from the election the Member Petition  
4 called for.

5 33. Exhibit 8, attached hereto, is a true and correct copy of the July 25, 2023, letter  
6 from PMA Attorney Tom Fier to the Members, which I had received from the  
7 property manager.

8 34. On August 10, 2023, my attorney submitted a request for Alternative Dispute  
9 Resolution (ADR), through mediation, to the PMA through the property  
10 management company.

11 35. On September 14, 2023, during a Board meeting, the PMA Board decided to hold  
12 an election to fill only three of the five PMA Director positions – to conclude on  
13 January 11, 2024.

14 36. During the same Board meeting, the PMA Board appointed Charles Moore to fill  
15 the fourth Director position.

16 37. Exhibit 9, attached hereto, is a true and correct copy of the Approved Minutes from  
17 the September 14, 2023, PMA Board Meeting, which I received from the property  
18 manager.

19 38. On October 12, 2023, during a Board meeting, the PMA Board decided that the  
20 election would conclude on February 8, 2024.

21 39. On October 16, 2023, the PMA issued a "Notice of Election and Call for  
22 Candidates" (Notice) to the members. The Notice stated that there would be an  
23 Annual Membership Meeting on February 8, 2024, "to conduct an election for three  
24 Board positions as called for in our Bylaws that were amended by the homeowners  
25 on May 13, 2021." Apparently, the PMA's October 16, 2023 "Notice of Election  
26 and Call for Candidates" excludes the two expired Director positions that are "being  
27 held by" Pat Eklund and Michael Christian from the February 8, 2024 election.  
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- 1 40. Exhibit 10, attached hereto, is a true and correct copy of the October 16, 2023,  
2 PMA Notice about the February 8, 2024, Member Election – to only fill three of the  
3 five PMA Director Positions.
- 4 41. The October 16, 2023, PMA “Notice of Election and Call for Candidates” included  
5 an attached “Nomination Application & Candidate Statement Form,” which stated:  
6 “I also certify that I am not seeking or engaged in legal action against the  
7 Association and/or the Board of Directors and/or any individual Board Member.”
- 8 42. Exhibit 11, attached hereto, is a true and correct copy of the October 16, 2023,  
9 PMA “Nomination Application & Candidate Statement Form.”
- 10 43. Apparently, the PMA Board decided to include this “certification statement” in an  
11 attempt to disqualify me as a nominee – because I had submitted a request for ADR  
12 on August 10, 2023, for the PMA’s failure to comply with the Member Petition.
- 13 44. On November 17, 2023, I emailed the PMA through the property manager to submit  
14 my Nomination Form. In the email, I stated:  
15 “By submitting this PMA Nomination Application, I am not  
16 condoning the PMA Board’s decision to only hold an election to fill  
17 three of the PMA’s Director positions – and to unlawfully allow Pat  
18 Eklund and Michael Christian to continue to ‘hold’ their positions  
19 that expired in May 2023. In addition, please note that the form’s  
20 statement of ‘I also certify that I am not seeking or engaged in legal  
21 action against the Association and/or Board of Directors and/or any  
22 individual Board Member’ is unlawful – and it has ruined the entire  
23 election process.”
- 24 45. Exhibit 12, attached hereto, is a true and correct copy of the November 16, 2023,  
25 email I sent to the PMA through Property Manager Brenda Dougan at Steward  
26 Property Services.
- 27 46. The Plaintiff alleges that the Defendant, Pointe Marin Association (“PMA”), is  
28 allowing Pat Eklund and Michael Christian to continue to indefinitely “hold onto”  
the two Director positions that expired in May 2023 – in violation of Civil Code  
Section 5100(a)(2) and the PMA “Original Bylaws,” Section 6.3. Civ. C. §  
5100(a)(2); the PMA “Original Bylaws,” § 6.3. In addition, the Plaintiff alleges



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that the Defendant, PMA, is unlawfully attempting to disqualify nominees who are  
"seeking or engaged in legal action" against the PMA from being candidates for  
Director positions – in violation of Civil Code Section 5150(c). But see Civ. C. §  
5105(c). Further, the Plaintiff alleges that the PMA is required to comply with the  
July 7, 2023, Member Petition – by holding an election to fill all five PMA Director  
positions, with staggered terms – instead of holding an election for only three of the  
Director positions – in violation of Corporations Code Section 7511; Civil Code  
Section 5100(a)(2); the PMA "Original Bylaws," Section 6.3; and the PMA  
"Amended Bylaws," Section 6.3. Corp. C. § 7511; Civ. C. § 5100(a)(2); the PMA  
"Original Bylaws," § 6.3; and the PMA "Amended Bylaws," § 6.3. As a result of  
the PMA's failure to act and its actions, the Plaintiff's rights, and indeed the rights  
of all of the Association's membership to fair elections and to vote and elect their  
choice of directors has been and is being violated.

47. The "first cause of action" accrued when the two PMA Director positions expired in  
May 2023.

48. The "second cause of action" accrued when the PMA provided the "Nomination  
Application & Candidate Statement Form" to the members on October 16, 2023.

49. The "third cause of action" accrued when the PMA provided the "Notice of  
Election and Call for Candidates" to the members on October 16, 2023.

50. The "fourth case of action" accrued when the PMA received the Member Petition  
on July 7, 2023.

The facts stated above are true based on my own knowledge, except as to those matters  
stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the state of California that the  
foregoing is true and correct.

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Dated: December 20, 2023

By: Catherine Rucker  
Catherine Rucker

# **Exhibit 1**

**The PMA “Articles of Incorporation”  
(Oct. 1, 2002)**

2469120

**FILED** RBO  
In the Office of the Secretary of State  
of the State of California

OCT - 1 2002

*Bill Jones*  
BILL JONES, Secretary of State

**ARTICLES OF INCORPORATION**  
**OF**  
**POINTE MARIN ASSOCIATION**

**ARTICLE 1**

The name of this corporation is Pointe Marin Association.

**ARTICLE 2**

- A. This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity, other than credit union business, for which a corporation may be organized under such law.
- B. The specific and primary purpose of this corporation is to be a residential real estate management association organized and operated to provide for the acquisition, construction, management, maintenance and care of property owned by this corporation, property commonly owned by the members of this corporation, and property owned by the members of this corporation (collectively, the "Association Property").
- C. No part of the net earnings of this corporation shall inure to the benefit of any private member other than by acquiring, constructing, or providing management, maintenance and care of Association Property and other than by a rebate of excess membership dues, fees or assessments.
- D. This corporation is an association formed to manage a common interest development under the Davis-Stirling Common Interest Development Act.
- E. The business office of the Association is located at 503 South Palm Drive, Novato, California. The office is not on the site of the common interest development. The front street and the nearest cross street of the physical location of the development are Ignacio Boulevard and Palmer Drive, respectively; and the zip code for the development is 94949-0000.
- F. This corporation does not have a managing agent.

**ARTICLE 3**


The name and address in the State of California of this corporation's initial agent for service of process is:

Robert Wainwright  
503 South Palm Drive  
Novato, CA 94949

ARTICLE 4

Notwithstanding any of the above statements of purposes and powers, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the specific purpose of this corporation.

Dated: Sept. 17, 2002

  
Robert Wainwright  
Sole Incorporator

# **Exhibit 2**

**The California Secretary of State  
Form SI-CID (filed Oct. 17, 2022)**



**Secretary of State  
Statement by Common Interest  
Development Association**

**SI-CID**

For Office Use Only

**-FILED-**

File No.: BA20221019450

Date Filed: 10/17/2022

**Fees - \$15.00;**

**Certification Fee (Optional) - \$5.00**

This Space For Office Use Only

**1a. Name of Association**

POINTE MARIN ASSOCIATION

**1b. Secretary of State Entity Number**

**C2469120**

**2a. The above-named Association is formed to manage a common interest development under the following law (select only one):**



**Davis-Stirling Common Interest Development Act.**  
(Complete items: 1-9)



**Commercial and Industrial Common Interest Development Act.**  
(Complete items: 1-4 and 6-9)

**2b. The above-named Association is (select only one):**



**Incorporated**



**Unincorporated**

**3. Street Address of the Business or Corporate Office of the Association, if any**

Street Address -- Do not list a P.O. Box	City (no abbreviation)	State	Zip Code	Telephone Number
1465 N. McDowell Blvd., Ste. 120	Petaluma	CA	94954	(707) 285-0600

**4. Street Address of Association's Onsite Office** (If different from the street address of the business or corporate office or, if no onsite office, the address of the Association's Responsible Officer or Managing Agent of the Association.)

Street Address -- Do not list a P.O. Box	City (no abbreviation)	State	Zip Code
If the address listed above is that of the Responsible Officer of the Association, check the following box: <input type="checkbox"/>		Telephone Number or Email Address	

**5. President of the Association - Davis-Stirling Associations ONLY** (Name, address and either the daytime telephone number or email address. The address and telephone number **must be different** from the address and telephone number of the Association's Onsite Office or Managing Agent. Note: Commercial and Industrial Associations do not need to provide this information.)

Name	Telephone Number or Email Address
<div style="background-color: black; height: 50px; width: 100%;"></div>	

**- CONTINUE ON NEXT PAGE -  
(Page 1 of 2)**

**Statement by Common Interest Development Association**  
(Page 2 of 2)

- 6. Association's Managing Agent, if any** (Name, street address, and daytime telephone number. For Davis-Stirling Associations, the address and telephone number **must be different** from the address and telephone number of the President of the Association.)

Name <b>Jeff Farnsworth</b>		Telephone Number <b>(707) 285-0600</b>	
Street Address – Do not list a P.O. Box <b>1465 N. McDowell Blvd., Ste.120</b>	City (no abbreviation) <b>Petaluma</b>	State <b>CA</b>	Zip Code <b>94954</b>

**7. Physical Location of the Common Interest Development**

Front Street <b>Ignacio Boulevard</b>	Nearest Cross Street <b>Palmer Drive</b>
City (If in an unincorporated area, enter the city closest in proximity.) <b>Novato</b>	County or Counties <b>Marin</b>

- 8. Type of Common Interest Development Managed by the Association - Check the applicable box:**  
(At least one of the types listed below must be checked. If Davis-Stirling Common Interest Development, refer to California Civil Code section 4100 for definitions. If Commercial and Industrial Common Interest Development, refer to California Civil Code section 6534 for definitions.)

<input type="checkbox"/> Community Apartment Project (Note: A Commercial and Industrial Development <b>cannot</b> be a Community Apartment Project.)
<input type="checkbox"/> Condominium Project
<input checked="" type="checkbox"/> Planned Development
<input type="checkbox"/> Stock Cooperative

**9. Separate Interests** (Note: Must have at least one Separate Interest. Do not enter zero or none, and do not leave blank.)

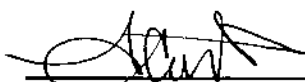
Number of Separate Interests in the Development <b>342</b>
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**Read, sign and date below** The information contained herein is true and correct.

9.7.22  
Date

Trisha Conte  
Type or Print Name of Person Completing the Form

Agent  
Title

  
Signature



# **Exhibit 3**

**The PMA “Original Bylaws,”  
Section 6.3 (Election of Directors)  
(Oct. 8, 2002)**

**BYLAWS  
OF  
POINTE MARIN ASSOCIATION  
(A California Nonprofit Mutual Benefit Corporation)**

(iii) The proposed action shall be considered approved by written ballot if: (a) within the time period specified, the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action; and (b) the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(iv) A written ballot may not be revoked.

#### ARTICLE 6 - Election and Term of Office of Members of the Board of Directors

6.1 Number. The Board shall consist of three directors who need not be Members of the Association.

6.2 Nomination. Except for the initial directors selected by the incorporators or the Members as provided in **Section 6.3** of these Bylaws, a nomination for election to the Board may be made by a nominating committee consisting of three persons. The nominating committee shall consist of a Chairman, who shall be a director, and two other persons who may either be Members of the Association or representatives of Declarant. Each member of the nominating committee shall be appointed by the Board to serve for a period of one year, and vacancies thereon shall be filled by the Board. The nominating committee may make as many nominations as it desires but not less than the number of positions to be filled. Nominations may be made from among Members or non-members.

Notwithstanding the foregoing, any Member present in person or by proxy at a meeting in which any directors are to be elected may place a name in nomination at the meeting prior to the vote.

The Board shall adopt procedures that provide for a reasonable opportunity for nominees to communicate their qualifications and reasons for candidacy to the Members and to solicit votes, and for a reasonable opportunity for all Members to choose among the nominees. Without authorization of the Board, no Association funds may be expended to support a nominee for director after there are more nominees than can be elected.

6.3 Election of Directors. The initial directors shall be elected either by the incorporator of the Association or by the Members as soon as practical after the incorporation of the Association and shall hold office until the first annual meeting of the Members as specified in **Section 5.2** of these Bylaws. At the first annual meeting, the Members shall elect directors to fill all positions on the Board. Unless the office is vacated sooner as provided in **Section 6.6** of these Bylaws, each director shall hold office until his or her term expires and a successor has been elected and qualified. The term of office of the two directors receiving the highest number of votes shall be two years, and the term for the remaining director shall be one year. Thereafter all directors shall be elected for two-year terms.

The election of directors shall be by secret written ballot; and, subject to the provision regarding specially-elected directors in **Section 6.5** of these Bylaws, the persons receiving the highest number of votes up to the number of positions to be filled shall be elected.

Any director may resign at anytime. The resignation shall be effective upon giving written notice to the president, secretary or Board unless the notice specifies a later effective date. resignation.

6.4 Cumulative Voting. The election of directors may be by cumulative voting as described herein, provided a Member has placed a candidate's name in nomination prior to the voting and

CERTIFICATE OF SECRETARY

I certify that:

I am the duly-elected and acting Secretary of Pointe Marin Association, a California nonprofit mutual benefit corporation; and the foregoing Bylaws are the Bylaws of this Corporation as adopted by the incorporator on October 8, 2002. They have not been amended or modified since that date.

This certificate is executed on October 8, 2002, at Novato, California.

Robert Wainwright  
Robert Wainwright, Secretary

# **Exhibit 4**

**The PMA “Amended Bylaws,”  
Sections 5.1 (Place of Meetings),  
5.2 (Annual Meetings),  
5.4 (Notice of Meetings) &  
6.3 (Election of Directors)  
(May 13, 2021)**

# **AMENDED BYLAWS OF POINTE MARIN ASSOCIATION**

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**(A California Nonprofit Mutual Benefit Corporation)**

Adopted August 20, 2002  
Amended May 13, 2021

**BYLAWS  
OF  
POINTE MARIN ASSOCIATION**

**(A California Nonprofit Mutual Benefit Corporation)**

**ARTICLE 1 - Definitions**

The definitions contained in **Article 1** of the Declaration of Restrictions (CC&Rs) that was recorded in Marin County, California, in connection with the residential development for which this Association was established are incorporated by reference and shall apply to those same terms as they may appear in these Bylaws unless the context indicates otherwise.

**ARTICLE 2 - Name**

The name of the Association is the Pointe Marin Association.

**ARTICLE 3 - Principal Office**

The principal office of the Association is located at such place as may be designated by the Board from time to time.

**ARTICLE 4 - Membership and Voting Rights**

The membership and voting rights provisions contained in **Sections 4.3, 4.4 and 4.5** of the Declaration are incorporated by reference.

**ARTICLE 5 - Meetings of Members**

5.1 Place of Meetings. All meetings of the Members annual and special, shall be held at a place within the Development as designated by the Board, provided that if there is not an available and appropriate place within the Development, the Board shall designate a meeting place as close as possible to the Development but in no event outside the County unless unusual conditions exist. In the event of a declared emergency or determined that in-person meetings are a public safety issue and/or risk by a Federal, State or local emergency, virtual meetings (e.g. telephone, internet, etc.) may be conducted provided that the deliberations and decisions are held in a fashion that allows board members to talk to one another contemporaneously and Members can listen and/or participate in the virtual meeting in real time. In the absence of any designation, the meetings of Members shall be held at the principal office of the Association.

5.2 Annual Meetings. Annual meetings shall be set by the Board to occur at such date and time as may be fixed by the Board.

5.3 Special Meetings. Special meetings of the Members may be called for any lawful purpose by the Board, the president, or by written request signed by Members representing at least 5% of the total voting power of the Association. A special meeting called by any Person (other than the Board) entitled to call a meeting shall be made by submitting a written request specifying the general nature of the business to be transacted to the president, any vice president or secretary of the Association. The officer receiving the request shall promptly cause notice to be given to the Members in the manner required by Section 5.4 of these Bylaws that a meeting will be held at a date, time and place fixed by the Board, which meeting shall be held not less than 35 days nor more than 90 days after receipt of the request. If the notice is not given within 20 days after the receipt of the request, the Person or Persons requesting the meeting may give the notice.

5.4 Notice of Meetings. Notice of all Members' meetings, annual or special, shall be given not less than ten or more than 90 days before the date of the meeting to each Member and to any Mortgagee who has requested in writing to receive such notice. Any Mortgagee, or its designated representative, shall be entitled to attend any such meeting but shall not be entitled to vote at the meeting. The notice shall be given personally or by first-class, registered or certified mail addressed to the Member or Mortgagee at the address of such Member or Mortgagee appearing on the books of the Association or be given by the Member or Mortgagee to the Association for purpose of notice. If no address appears or is given for any Member, notice may be given at the Association's principal office or by publication at least once in a newspaper of general circulation. The notice shall state the place, date and time of the meeting and shall specify those matters the Board intends to present for action by the Members, provided that except as otherwise provided by law; any proper matter may be presented at the meeting for action. If directors are to be elected at the meeting, the notice shall include the names of all those who are nominees at the time notice is given. In the case of a special meeting, the notice shall state the general nature of the business to be transacted and no other business may be transacted. In the case of the annual meeting, the notice shall state those matters that the Board intends, at the time the notice is given, to present to the Members for action; but any matter may be presented at the meeting for action subject to the special notice requirements described in Section 5.5 of these Bylaws. Notwithstanding the foregoing, the Members may vote only on those matters for which notice was given in any meeting where the quorum requirement as described in Section 5.8 of these Bylaws is less than one-third of the voting power of the Association and Members holding less than one-third actually attend.

5.5 Special Notice Requirements. Approval by the Members of any of the following proposals, other than by unanimous approval of those Members entitled to vote, shall not be valid unless the general nature of the proposal was stated in the notice or in any written waiver of the notice:

- (i) removing a director without cause;
- (ii) filling vacancies on the Board;
- (iii) amending the Articles;
- (iv) approving a contract or transaction between the Association and one or more directors, or between the Association and any entity in which a director has a material financial interest;



6.3 Election of Directors. Three (3) directors shall be elected to two-year terms in the even years; and, two (2) Directors will be elected in the odd years. The election of directors shall be by secret written ballot; and, the persons receiving the highest number of votes up to the number of positions to be filled for the election shall be elected.

To achieve the staggered terms, in 2021, the Association shall conduct an election for 3 Directors of which the top two candidates receiving the most votes will be elected to the odd year position which is a 2 year term (ending in 2023); and, the candidate receiving the third highest number of votes will be elected to a 1 year term (ending in 2022). In the event, after the close of nominations, only 2 candidates submit a nomination, the Board of Directors will appoint a Member to fill the 1 year term.

Any director may resign at any time. The resignation shall be effective upon giving written notice to the president, secretary or Board unless the notice specifies a later effective date resignation.

6.4 Vacancies. A vacancy or vacancies on the Board shall exist on the occurrence of any of the following:

- (i) the death of any director;
- (ii) the effective date of any director's resignation;
- (iii) the removal of a director by vote of the Members or by vote of a majority of all the votes entitled to be cast of all Members;
- (iv) the Declaration by resolution of the Board of a vacancy in the office of a director who has been declared of unsound mind by an order of court or convicted of a felony;
- (v) the increase in the authorized number of directors;
- (vi) the failure of the Members, at any meeting of the Members at which any director or directors are to be elected, to elect the number of directors required to be elected at that meeting;
- (vii) when a Director no longer is on the deed; or,
- (viii) when a director has missed three consecutive meetings over a six month rolling period.

Any vacancy on the Board may be filled by a majority of the directors then in office whether or not less than a quorum, or by a sole remaining director, except for a vacancy created by a removal of a director by a vote of the Members which vacancy shall be filled by a vote of the Members. In addition, the Members may fill any vacancy not filled by the directors. Any director elected to fill a vacancy shall hold office until the expiration of the term of his or her predecessor and until a successor has been elected and qualified.

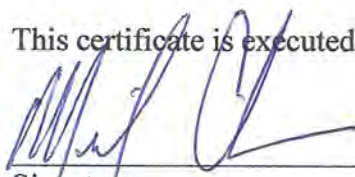
6.5 Compensation. A director shall not receive any compensation for any services rendered to the Association as a director, provided the directors may be reimbursed for actual out-of-pocket expenses incurred in the performance in his/her duty, provided such expenses were approved in advance by the Board.

CERTIFICATE OF  
SECRETARY

I certify that:

I am the duly-elected and acting Secretary of Pointe Marin Association, a California nonprofit mutual benefit corporation; and the foregoing Bylaws are the Bylaws of this Corporation as adopted by the incorporator on 5/13/21. They have not been amended or modified since that date.

This certificate is executed on 5/27/21 at Novato, California.

  
\_\_\_\_\_  
Signature

Michael Christman, Secretary  
Printed Name

# **Exhibit 5**

**The May 24, 2021, Letter from the PMA  
to the Members to Announce the  
May 13, 2021, Election Results**

# POINTE MARIN ASSOCIATION

May 24, 2021

To: Pointe Marin Homeowners

From: Brenda Dougan, Steward Property Services

Re: 2021 Reconvened Annual Membership Meeting Election Results

First, THANK YOU for voting in your 2021 Election! We conducted the Reconvened Annual Meeting of the Membership on May 13, 2021 with a quorum of 228 valid ballots. The results are as follows:

Board of Directors: Pat Eklund received 200 votes and Michael Christian received 196 votes. The following write-in votes were received: Hector Benitez (1), Margie Eisen (1), Stuart Hayre (3), James LaRocca (1), Charles Lawrence (1), Susan Lawrence (1), Greg Matz (3), Earl McCowen (2), and Michael Nann (1). It was noted that Pat Eklund and Michael Christian were re-elected to serve on the board of directors.

Amended Bylaws: A total of 214 YES votes and 15 NO votes were cast. The Amended Bylaws received more than a majority vote (172 YES votes) and were adopted. The signed amended Bylaws are available on our official website: [Pointe Marin — Home \(pointemarinhoa.com\)](http://PointeMarin—Home(pointemarinhoa.com))

IRS Resolution 70-604: A total of 216 YES votes and 11 NO votes were received and counted. It was noted the IRS Resolution 70-604 passed for the years 2019 and 2020.

We would like to thank Peter Chuck, Gary Musante and Greg Matz, homeowners, for serving as our inspector of elections; and, Nick Nolan, homeowner, for serving as an independent observer. Tom Fier, General Counsel for the Pointe Marin Association also observed and answered questions from the Inspector of Elections. The ballots were tabulated and the results were announced. It was noted that there was a total of 234 ballots received with 1 ballot unsigned; 2 ballots envelopes were received open and determined irregular; and, 4 homeowners submitted more than 1 ballot. The Inspector of Elections determined to accept the more recent ballot received from those 4 homeowners. The Inspector of Elections determined there was a total of 228 valid ballots.

Sincerely,

Brenda Dougan, CCAM  
Senior Community Association Manager  
bdougan@stewardprop.com



Steward Property Services, Inc. | 1465 N. McDowell Blvd., Ste. 120 | Petaluma, CA 94954  
Tel (707) 285-0600 | Fax (707) 285-0601 | [www.stewardprop.com](http://www.stewardprop.com)

# **Exhibit 6**

## **The July 7, 2023 “Member Petition” Language**

# Petition for a Special Meeting for an Election to Fill the Pointe Marin Association's Five Director Positions

## The Petition:

We, the undersigned Members of the Pointe Marin Association (PMA), are calling for a special meeting for the purpose of an election to fill all five (5) PMA Director positions.<sup>1</sup> According to Corporations Code Section 7511(a), the meeting for the election must occur within 90 days of the submission of this Petition. In addition, the PMA shall provide notice and ballots to ALL of the 342 sets of PMA Members, as required by Civil Code Section 5115(c). According to Article 6.3 of the PMA Bylaws and because "2023" is an odd-numbered year, the two candidates receiving the most votes shall be elected to 2-year terms, and the candidates receiving the third, fourth, and fifth highest number of votes shall be elected to 1-year terms.<sup>2</sup>

## Reasons for the Petition:

- PMA Directors Pat Eklund and Michael Christian were elected on May 13, 2021. At the time of the election, the PMA Bylaws specified 2-year terms for all PMA Directors.
- Directors Eklund and Christian failed to commence an election in 2022 for the three PMA Director positions that were open - at the time. In addition, they have failed to take any steps to commence the 2023 election – which will be for all five (5) Director positions.<sup>3</sup>
- On April 13, 2023, Directors Eklund and Christian proposed unreasonable fine increases to enforce the PMA's governing documents. For example, the current maximum fine amounts are \$50.00 for "per occurrence" and "continuing."<sup>4</sup> However, Directors Eklund and Christian proposed maximum fine amounts of \$4,000 per occurrence and \$1,000 per day.
- Only a complete Board, with five (5) Directors, should propose and adopt increases to the current PMA fines.
- Because the PMA Board has failed to call for elections and because of its unreasonable proposals to increase the fines, the Members are calling for a special meeting for the purpose of an election to fill all five (5) PMA Director positions. (Note: This is not a "petition for a recall election" because the PMA is required to hold an election for the seats that Directors Eklund and Christian have held since May 2021.)

	Printed Member Name	Member Signature	Street Address	Date
1				
2				
3				
4				
5				

<sup>1</sup> The "PMA Articles of Incorporation" (dated Oct. 1, 2002) states that the PMA is a "Nonprofit Mutual Benefit Corporation." As a result, Corporations Code Sections 7110-8910 apply. Corporations Code Section 7510(e) states: "[S]pecial meetings of members for any lawful purpose may be called by 5 percent or more of the members."

<sup>2</sup> PMA Bylaws (May 13, 2021).

<sup>3</sup> See the agenda for the May 11, 2023, PMA Board meeting.

<sup>4</sup> See the PMA Annual 2023 Policy Statement, page 5 of 15.

# **Exhibit 7**

**The July 10, 2023, Letter from the PMA  
to the Members to Announce the  
Amended Election Rules**

## POINTE MARIN ASSOCIATION

July 10, 2023

Dear PMA Member:

On June 7, 2023, the Pointe Marin Association Board of Directors adopted the attached Final Election Rules and Procedures. They are enclosed for your records.

These election rules were distributed to homeowners on March 22, 2023 asking for review and comments. These election rules include changes proposed by Catherine Rucker and agreed to by both sides as part of the settlement agreement in Rucker v Pointe Marin Association (Marin Sup. Ct. Case No. CIV 21000262). It also reflects member feedback given on previous draft versions and also recent changes in state law.

We received and considered comments from 4 homeowners, but the Board elected not to incorporate those comments for various reasons at this time. We certainly will have more time to look at the changes later in the year.

As you may remember, in 2021, the homeowners approved changing our CC&Rs to increase the number of Board Members to 5, but we have not been able to have an election since then in light of the pending litigation concerning the election rules.

We would like to move beyond the lawsuit and get on with the business at hand. To do that, we needed to approve the revised election rules as part of the settlement agreement in Rucker vs Pointe Marin Association. The Board of Directors did so on June 7, 2023.

We want to thank you for your involvement in updating our Election Rules and Procedures. We will also post the Final PMA Election Rules and Procedures on the official website: [www.Pointemarinhoa.com](http://www.Pointemarinhoa.com). Or, as always you can request them from Brenda Dougan, Steward Property Services directly through email: [bdougan@stewardprop.com](mailto:bdougan@stewardprop.com) and/or by phone: Dir (707) 285-0622.

Thank you,



Pat Eklund, President



Mike Christian, VP/Secretary

Attachment:

Signed PMA Final Election Rules and Procedures adopted on June 7, 2023



# **Exhibit 8**

**The July 25, 2023, Letter from PMA  
Attorney Tom Fier to the Members**

# tom fier

Attorney at Law

Telephone: (650) 572-1900  
Facsimile : (650) 572-8109

675 Mariners Island Boulevard  
Suite 106  
San Mateo, California 94404-1040

www.tomfier.com  
tomfier@tomfier.com

July 25, 2023

To: Members of Pointe Marin Association

Re: Petition for a Special Meeting for an Election

A Petition for an Election to fill Pointe Marin Association's five Director Positions was received by the property manager on July 7, 2023.

A meeting will be held on August 14, 2023 starting at 6:00 pm, pursuant to Corporations Code Section 7511(c), to specifically pass a resolution to hold an election for two (2) director positions. Currently, there are three (3) directors holding office.

This meeting will be held via zoom and in-person at:

**Physical Location - Steward Property Services, Inc. Office 1465 N. McDowell Blvd., Ste. 120, Petaluma, CA and**

**Zoom Teleconference <https://zoom.us/join>**

**Meeting ID: 964 2494 8394**

**Passcode: 499403**

**Dial in: +1 669 900 6833**

In order for the resolution to pass, a quorum must be obtained. There are 342 lots and the quorum requirement is 40% ( $342 \times 40\% = 137$ ); therefore, 137 is needed for the quorum. Assuming a quorum is obtained, then 137 approval votes are necessary for the resolution to pass.

This meeting will be conducted by Pat Eklund, President of the Association. If you have any questions, feel free to send the Board of Directors an email through Steward Property Services.

Sincerely,



TOM FIER

# **Exhibit 9**

**Approved Minutes from the  
September 14, 2023, PMA Board  
Meeting**

**Pointe Marin Association  
Board of Directors Meeting**

**Thursday, September 14, 2023, immediately following Special Meeting of the Membership at 6:00 p.m.  
In Person – Steward Property Services, Inc. 1465 N. McDowell Blvd., Suite 120, Petaluma, CA 94954  
& Zoom Teleconference**

**MINUTES**

**ESTABLISH QUORUM & CALL TO ORDER**

A quorum of the board was established. The meeting was called to order at 6:31 p.m.

**ROLL CALL**

- A. Board Members
  - Pat Eklund, President
  - Eric Vermillion
  - Michael Christian, Secretary
- B. Others Present
  - Brenda Dougan, CCAM, Steward Property Services, Inc.
  - 14 Homeowners

**APPROVAL OF AGENDA**

On motion duly made, seconded, and carried, the Board added under New Business (Appoint Chair for Architectural Committee), and unanimously approved the agenda as amended.

**BOARD COMMENTS**

Ms. Eklund thanked the owners for attending the meeting.

**HOMEOWNERS FORUM**

A homeowner stated since Ms. Rucker sent the petition for a board election, and not attending both special meetings of the membership, that this seems she is just causing trouble using her lawyer status and having the HOA spend money on legal expenses which is costing each homeowner. The same homeowner questioned if there was a way the homeowners could file a petition to remove her from the HOA. Another homeowner reported being frustrated with Ms. Rucker causing the HOA to spend HOA funds for legal expenses.

**APPROVAL OF MINUTES**

The minutes of the Executive Session meetings for July 14, 2023, and July 21, 2023, were unanimously approved as presented.

**FINANCIALS**

The financial reports for June 30, 2023 & July 31, 2023, were reviewed. The board reviewed operating and reserve accounts including income and expense and bank statements, the current year's actual operating revenues and expenses compared to the current year's budget, the check register, monthly general ledger, and delinquent assessment receivables which is outlined below:

- Total Cash as of July 31, 2023: \$338,363.23
- A. Cash Balances
  - 1. Operating Fund: \$197,150.45

2. Reserve Fund: \$141,212.78

B. Delinquencies: \$7,561.00

### **ASSESSMENT COLLECTIONS**

There were no motions for assignment to collections or filing liens on delinquent owners.

### **NEW BUSINESS**

Call for an Election of 3 Board Members (terms 2024 to 2026) for January 11, 2024 – After discussion it was determined the election of 3 board members will be held sometime in January 2024 as there are requirements for the election timeline.

Appoint Member to the Board of Directors – On duly motioned, seconded and carried, the Board appointed Chuck Moore to the Board of Directors.

Appoint Chair for Architectural Committee – On duly motioned, seconded and carried, the Board appointed newly appointed Board member Chuck Moore as Chair for the Architectural Committee.

The Meeting was adjourned at 7:14 p.m.

### **NEXT MEETING DATE**

The next board meeting is scheduled for Thursday, October 12, 2023, at 6:00 p.m.

*Respectfully submitted by Brenda Dougan, CCAM, Senior Community Association Manager.*

\_\_\_\_\_  
Secretary Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

# **Exhibit 10**

**The October 16, 2023, PMA Notice  
About the February 8, 2024, Member  
Election – to Only Fill Three of the Five  
PMA Director Positions**

# POINTE MARIN ASSOCIATION

## NOTICE OF ELECTION AND CALL FOR CANDIDATES

October 16, 2023

Dear Homeowners:

On October 12, 2023, the PMA Board of Directors rescheduled and called for an Annual Meeting of the Membership on February 8, 2024, at 6:00 pm held via Zoom Teleconference to conduct an election for three Board positions as called for in our Bylaws that were amended by the homeowners on May 13, 2021. In addition, the Board of Directors called for an election for the membership to adopt the IRS Revenue Ruling 70-604 Resolutions for 2021 - 2023.

If you would like to run for the Board of Directors, please read the attached instructions and complete, sign and return the attached Nomination and Candidate Statement Form. Candidate Statements will be distributed with the ballot/campaign materials, as submitted; they will not be changed or edited. Please return the completed Candidate Application and Statement Form to Steward Property Services, Inc. postmarked no later than **November 18, 2023**.

The ballot will include the IRS Revenue Ruling 70-604 Resolutions that allows excess membership income to be rolled over to the next year without being taxed and mailed no later than December 7, 2023. All completed ballots must be postmarked no later than January 13, 2024. If you have any questions, please email [bdougan@stewardprop.com](mailto:bdougan@stewardprop.com).

The copy of your revised Election Rules which were adopted by the Board of Directors on June 7, 2023, was previously sent to you on July 10, 2023, and should be kept with your important documents. You can find a copy on the Pointe Marin Association official website: [www.pointemarinhoa.com](http://www.pointemarinhoa.com) or request another copy by contacting [bdougan@stewardprop.com](mailto:bdougan@stewardprop.com).

Sincerely,

Brenda Dougan, CCAM  
Senior Community Association Manager  
on behalf of the PMA Board of Directors

Attachments:

Instructions for Nomination and Candidate Statement Form  
Nomination and Candidate Statement Form



Steward Property Services, Inc. | 1465 N. McDowell Blvd., Ste. 120 | Petaluma, CA 94954  
Tel (707) 285-0600 | Fax (707) 285-0601 | [www.stewardprop.com](http://www.stewardprop.com)

# **Exhibit 11**

**The October 16, 2023, PMA  
“Nomination Application & Candidate  
Statement Form”**



## Pointe Marin Association

### NOMINATION APPLICATION & CANDIDATE STATEMENT FORM

This form serves to nominate candidates and to allow candidates to make statements for inclusion in Association media. Candidates are not required to possess special skills or expertise; just an interest in ensuring Pointe Marin remains a nice place to live; and, the Association is governed fairly, respectfully and in a transparent and open manner.

Name: \_\_\_\_\_

Address: \_\_\_\_\_ Email: \_\_\_\_\_

Home phone: \_\_\_\_\_ Cell phone: \_\_\_\_\_

The following will be printed as submitted (unless it does not adhere to the rules stated earlier).

**Candidate Statement:** Education and Qualifications (up to 500 words):

I hereby submit my name in nomination for the Pointe Marin Association Board of Directors. I also certify that I am not seeking or engaged in legal action against the Association and/or the Board of Directors and/or any individual Board Member.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Please attach: Copy of the homeowners deed (if not previously submitted).


Please return to: Brenda Dougan at: [bdougan@stewardprop.com](mailto:bdougan@stewardprop.com) or the address below.



Steward Property Services, Inc. | 1465 N. McDowell Blvd., Ste. 120 | Petaluma, CA 94954  
Tel (707) 285-0600 | Fax (707) 285-0601 | [www.stewardprop.com](http://www.stewardprop.com)

# **Exhibit 12**

**Nov. 17, 2023, Email to the Property  
Manager, to Submit Nomination Form**

**From:** Catherine Rucker catherinerucker@me.com   
**Subject:** Email to Property Manager with my Nomination Form  
**Date:** November 17, 2023 at 2:09 PM  
**To:** Olga Dombrovskaya olgadsf@gmail.com

---



Begin forwarded message:

**From:** Catherine Rucker <catherinerucker@me.com>  
**Date:** November 17, 2023 at 1:50:16 PM PST  
**To:** Brenda Dougan <bdougan@stewardprop.com>  
**Cc:** Jeff Farnsworth <JFarnsworth@stewardprop.com>, Edward Teyssier <edwardtlp@sbcglobal.net>

Ms. Dougan,

By submitting this PMA Nomination Application, I am not condoning the PMA Board's decision to only hold an election to fill three of the PMA's Director positions - and to unlawfully allow Pat Eklund and Michael Christian to continue to "hold" their positions that expired in May 2023.

In addition, please note that the form's statement of "I also certify that I am not seeking or engaged in legal action against the Association and/or the Board of Directors and/or any individual Board Member" is unlawful - and it has ruined the entire election process.

Please also note that I had to use two copies of the form - because the text box for the "Candidate Statement" could not hold 500 words.

Please also let me know that this email was received.

Catherine Rucker

PMA Member Advocate

PMA Nomination Form for  
Catherine Rucker and copy of ...

