

## **OMBUDSMAN'S ELECTION SERVICES:**

### **Ombudsman and Department of Election Services for HOA and Condo Elections**

The Office of the Common Interest Community Ombudsman is authorized:

- “To provide *monitors* and *vote counting* services to common interest community associations, intended to result in fair elections for members and officers of a common interest community association
- when 15% of the total voting interests in a common interest community association, or
- six unit owners, whichever is greater
- *petition* the Ombudsperson to do so.” [29 Del. C. §2544 \(6\)](#).

#### **Fees:**

The statute requires us to “establish fees for election monitoring; vote counting or other services. The amount charged for each fee imposed must approximate and reasonably reflect all costs necessary to defray the expenses of providing the services. [29 Del. C. §2544 \(15\)](#).”

Since the statute authorizes us to “provide” “monitors and vote counting” services, we arranged with the State and County Departments of Election to provide some election services.

The Office of the Ombudsman person contracts with the HOA and Department of Elections to provide election services. An Association must contract for these services through the Office of the Ombudsperson.

The DOE will prepare an estimate to the DOJ, Office of the Ombudsperson. The DOJ may estimate additional fees for DOJ personnel and expenses. A fee approximating the actual cost associated with this service must be paid in advance to the Ombudsman’s Office.

The Department of Elections maintains a standard cost list of its election services. The DOE will estimate the costs, to the Ombudsman, in advance. The Office of the Ombudsperson also requires a \$35 fee for filing a “Contact & Complaint” form requesting election services, and may incur expenses of DOJ personnel.

The fees for services provided by the Office of the Ombudsperson (not including any fees required by the Department of Elections) are:

- Ombudsman's Time: \$55.00 per hour
- Department Of Justice staff volunteers: \$25 .00 per hour/per person

Fees are subject to change.

### **To Request Election Services:**

**Fill out the Ombudsman's "Contact & Complaint" form requesting election services.**

- Communities must petition the Ombudsman's Office with signatures of 15% of the voting interests of the community.
- Use online forms to create:
  - A "**Petition**" to the Ombudsman to provide Election services, Exhibit 1. [CLICK HERE for a form Petition](#);
  - A "**Resolution**" by the Board requesting the Ombudsman to provide election services, if the board is making the request. Exhibit 2. [CLICK HERE for a form Resolution](#);
  - Complete the "**Information Required from Community** for Ombudsperson's Election Services, Exhibit 3" from your governing documents. [CLICK HERE for a form Exhibit 3](#);
  - Complete a draft "**Agreement**" between the community, the Ombudsman and the Department of Elections for providing elections services, and agreeing to pay the Office of the Ombudsperson for the services provided. Exhibit 4. [CLICK HERE for a form Agreement](#).
  - Attach all the documents to a completed **Ombudsman's "Contact & Complaint" Form** with the election portions of the governing documents, and a check payable to the Office of the CIC Ombudsman for \$35.00 (administration fee). [CLICK HERE for a fillable copy of the Ombudsman's "Contact & Complaint" form](#). (See page 4, ¶ 2 to request Election Services.)
- The Ombudsman will contract with the DOE for the services the community desires.

- The community will pay the Ombudsman's Office, based on the DOE's estimate, and the Ombudsman's estimate of additional costs.
- The Department of Elections will provide services, that do not conflict with other scheduled State and national elections.
- The Ombudsman will pay the DOE according the estimate and the contract, and the community will reimburse the DOJ for excess expenses.

The Department of Elections does not accommodate HOA requests during times reserved for Federal, State, local and municipal elections. Please allow adequate lead-time, usually 30 days.

The Agreement between the parties describes the information and services to be provided and the role of each party, the DOE, the Ombudsman, and the Community Association.

**The Department of Elections can provide services for several types of elections:**

- Preparing scannable Secret Ballots which will be machine read at the Department;
- Voting Machines and trained poll workers;
- The Department of Elections can accommodate proxies and write-in votes from floor nominations;
- We can accommodate weighted votes like those in certain condominiums, based on size or category of units.

If your Community bylaws do not authorize ballots, voting by mail, or electronic voting, consider adopting a bylaw or amendment to the declaration, if necessary to authorize the style of voting. Your voting procedure must comply with your Governing Documents or the DUCIOA, the Unit Properties Act, the Delaware General Corporation Law, or a court order.

**The HOA will be responsible for:**

- Preparing notices and advertising to the community about the election.

- Determining each unit's eligibility to vote, following the community's Bylaws.  
**NOTE:** The DUCIOA does not permit suspension of voting rights for owners delinquent in paying their annual assessments. [25 Del. C. § 81-302 \(11\)](#). This applies to communities created or approved both before and after September 30, 2009. [25 Del. C. §81-119](#); 81-302 (a) (11).
- Determining the percentage of ownership or voting power, if other than 1 vote per unit, as in certain condominiums.
- Providing a draft-Ballot with positions and terms identified.
- Preparing any ballot questions.
- Providing the names and any information about the candidates and eligible voters.
- Identifying a contact person for the community.

**The Association must apply to the Office of the Ombudsperson *at least one month before the election.***

**The Association must supply:**

- **Governing Documents:** declarations, certificate of incorporation and bylaws and any other document discussing election procedure;
- **A Mailing List:** of the all eligible voters, with addresses, and email addresses if available, in Excel format.
- The **date of the election**
- A **check** payable to the Office of the Ombudsman upon receipt of the estimate from the Department of Elections.