

This is an electronic version of the By-Laws of the *Casa del Rey HOA* that has been created from the text of the original document. While intended to be an accurate transcription and to accurately reflect the officially recorded By-Laws, as amended, in case of any differences the officially recorded copy of the By-Laws (including any officially recorded amendments) is the definitive version.

This is a composite version of the By-Laws of the *Casa del Rey HOA*. While intended to accurately reflect the officially recorded By-Laws, as amended, in all material respects, in case of any differences the officially recorded copy of the By-Laws (including any officially recorded amendments) is the definitive version.

Original Version Adopted 09/08/77
Amendment 1 Recorded 10/27/80 in Santa Clara County Official Records Volume F687 Pages 169 - 172, file 6882769
Amendment 2 Recorded 06/02/82 in Santa Clara County Official Records Volume G820 Pages 68 - 70, file 7379458

Our By-Laws cover the topics of:

NAME AND LOCATION OF CORPORATION
PURPOSE
DEFINITIONS
MEMBERSHIP
TRANSFER OF MEMBERSHIP
INDEMNIFICATION OF OFFICERS AND DIRECTORS
MEETING OF MEMBERS
DIRECTORS
OFFICERS
FISCAL MANGEMENT
INSPECTION OF BOOKS AND RECORDS
AMENDMENT

BY-LAWS OF CASA DEL REY HOMEOWNERS ASSOCIATION
Including Amendments of August 18, 1980 and May 3, 1982

ARTICLE I

Name and Location of Corporation

The name of this Corporation is CASA DEL REY HOMEOWNERS ASSOCIATION. Its principal office is located at _____, City of Santa Clara, County of Santa Clara, State of California. The Board of Directors is hereby granted full power and authority to change said principal office from one location to another in said County.

ARTICLE II

Purpose

The purpose of this Corporation is to provide for maintenance, preservation, and architectural control of a Townhouse Project, consisting of the Common Areas and Common Facilities of the Townhouse Project, as set forth in its Articles of Incorporation and in the Declaration of Covenants, Conditions and Restrictions dated July 21, 1977, (hereinafter called the "Restrictions").

ARTICLE III
Definitions

Unless the context otherwise requires:

1. "Association" shall mean this Corporation.
2. "Board" shall mean the Board of Directors of this Association.
3. "By-Laws" shall mean these By-Laws.
4. "Common Areas" shall mean all the real property owned by the Association, together with all improvements and appurtenances, for the common use and enjoyment of the Owners.
5. "Common Facilities" shall mean the improvements owned by the Association located within the Common Area, and includes the storm drainage system, located within Lots 2 through 6, 14, 15, 18 through 30 and 38 in the Storm Drain Easement as shown on the recorded subdivision map of the Properties.
6. "Declarant" shall mean CASA DEL REY, a general partnership, the subdivider and developer of this Project, its successors and assigns if such successors or assigns should acquire more than one undeveloped LOT from the Declarant for the purpose of development.
7. "Member" shall mean on (sic) Owner, or holder of a membership in the Association, as provided in the Restrictions.
8. "Monthly Membership Charge", "Monthly Carrying Charge", or "Monthly Charge" shall mean the Owner's pro-rated share of the costs and fees of this Association, including, but not limited to, the Common Facilities, Common Area, taxes, maintenance, repairs, management, insurance, reserves, capital improvements, assessments, and all other charges which the Association may levy upon the Members in accordance with these By-Laws and the Restrictions.
9. "Mortgage" means a Deed of Trust as well as a mortgage in the conventional sense.
10. "Owner" or "Owners" shall mean the holder or holders of record fee title to a Lot. Owners, including Declarant, shall be entitled to exercise the rights and privileges of membership in the Association for themselves or by written designation of an agent for such Lot, signed by all holders of record fee title of such Lot.
11. "Project" and "Properties" shall mean the real property described in the Restrictions.
12. "Restrictions" shall mean the Declaration of Covenants, Conditions and Restrictions dated July 21, 1977.
13. "Rules" shall mean rules adopted by the Board of Directors of this Association.
14. "Vote" shall mean the vote of Owners or persons designated by the Owners entitled to vote at a duly held regular or special meeting of the members of the Association, and shall also mean the vote of Directors duly elected to serve on the Board of Directors at a duly held regular or special meeting of the Board, as its use in such context permits, unless otherwise provided herein.

ARTICLE IV
Members

The members shall consist of the Owners of Lots within the Properties.

There shall be two classes of membership:

Class A. Class A members shall be Owners (or designated agents of Owners) with the exception of Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B members shall be the Declarant (or designated agents of Declarant) and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and shall be converted to Class A membership on the happening of any of the following events, whichever occurs first in time:

- (a) When the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership;
- (b) Two (2) years from the date of the issuance of the subdivision public report for the development; or
- (c) On April 1, 1979.

ARTICLE V
Membership

[as amended August 18, 1980]

The owner of a lot shall automatically, upon becoming the owner of the same, be a member of the Association, and shall remain a member thereof until such time as his membership ceases for any reason. Membership shall be appurtenant to and may not be separated from ownership of a lot. Membership shall be held in accordance with the Articles and Bylaws of the Association.

ARTICLE VI
Transfer of Membership
[as amended August 18, 1980]

Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the lot to which it is appurtenant, and then only to the purchaser, (in the case of a sale), or mortgagee, (in the case of an encumbrance) of such lot. Membership passes automatically to the purchaser upon transfer of title to the lot. A mortgagee does not have membership rights until he becomes an owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. In the event the owner of any lot should fail or refuse to transfer the membership registered in his name to the purchaser of his lot, the Association shall have the right to record the transfer upon its books and thereupon any old membership outstanding in the name of the seller shall be null and void.

ARTICLE VII
Indemnification of Officers and Directors
[as amended August 18, 1980]

Each Director and Officer shall be indemnified by the Association and the members against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him by judgment of settlement in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or Officer of the Association, except in cases of fraud, gross negligence or bad faith of the Director or Officer in the performance of his duties.

ARTICLE VIII
Meeting of Members

Section 1 – Place of Meetings

Meetings of the membership shall be held at the principal office or place of business of the Association within the Project or at such other suitable place within the City of Santa Clara as may be designated by the Board.

Section 2 – Annual Meetings

The first annual meeting of the Association shall be held within thirty (30) days after fifty-one (51%) percent of the Lots have been sold or within six (6) months after the date of sale of the first Lot, whichever comes first. Thereafter, there shall be a meeting of the members on the third Monday of March of each year at 7:30 p.m., within the Project, or at such other reasonable place within the City of Santa Clara, or time (not more than sixty (60) days before or after such date) as may be designated by written notice of the Board delivered to the members not less than ten (10) days nor more than sixty (60) days prior to the date fixed for said meeting. More than ten (10) days prior to the annual meeting the Board shall deliver to all members an annual operating statement of the maintenance fund, itemizing receipts and disbursements for the preceding calendar year, the allocation thereof to each member, and the estimated maintenance for the coming calendar year.

Section 3 – Special Meetings

Special meetings of the members may be called at any time for the purpose of considering matters which, by the terms of these By-Laws, the Articles, or the Restrictions, require the approval of all or some of the members, or for any other reasonable purpose. Said meetings shall be called by written notice, signed by the President or by any two (2) members of the Board, or by the members having not less than one-fourth (1/4) of the total votes, or by members having not less than 15% of the total votes residing in members other than the Declarant, and delivered not less than ten (10) days prior to the date fixed for said meeting. Said notices shall specify the date, hour and place of the meeting, and the matters to be considered thereat.

Section 4 – Notice of Meetings

It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the hour and place where it is to be held, to each member of record, at his address as it appears on the membership book of the Association, or if no such address appears, at his last known place of address either personally or by mail. If the delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States Mail, postage prepaid, addressed to each such person at the last known address. Such address may be changed from time to time by notice in writing to the secretary. Notice by either such method shall be considered as notice served. Notice may be waived by a majority of a quorum of members attending in person or by proxy at which an emergency situation is discussed.

Section 5 – Quorum and Adjourned Meetings

The presence at a meeting of Members entitled to cast, or of proxies entitled to cast, fifty percent (50%) or more of the votes of each class of membership shall constitute a quorum for any action. If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than five (5) days and not more than thirty (30) days from the time the original meeting was called, at which subsequent meeting the quorum requirements shall be twenty-five percent (25%) of the members of record, either by person or by proxy.

Section 6 – Voting

At every meeting of the members, the members, including Declarant, shall have the right to vote as follows:

Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B members shall be entitled to three (3) votes for each Lot owned by it.

Any action by the Association which must have the approval of the Association membership before being undertaken shall require the vote or written assent of a prescribed percentage of each class of membership during the time that there are two outstanding classes of membership.

Where the vote or written consent of both classes of membership is made a prerequisite to the initiation of action by the Association, any requirement elsewhere in these By-Laws that the vote of the Declarant shall be excluded in any such determination shall not apply.

The majority of votes cast, in person or by proxy, shall decide any question brought before such meeting, unless the question is one upon which, by express provision of statute or of the Articles of Incorporation, or of the Restrictions, or of these By-Laws, a different vote is required, in which case such express provisions shall govern and control. Notwithstanding the foregoing provisions, at all elections of Directors (including voting on actions for the removal of Directors) of this Association, there shall be available to each Lot one (1) vote multiplied by the number of Directors to be elected, and all such votes may be cast for a single Director or may be distributed among the number to be voted for, or any two (2) or more of them, as the member may see fit. No member shall be eligible to vote or to be elected to the Board who is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association.

Section 7 – Proxies

Any proxy must be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot, or upon the death or incapacity of the member executing the proxy.

Section 8 – Order of Business

The order of business at all regularly scheduled meetings of the members shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of inspector of election.
- (g) Unfinished business.
- (h) New business.

ARTICLE IX Directors

Section 1 – Member and Qualifications [as amended May 3, 1982]

The affairs of the Association shall be managed by a board of three (3) directors, who **must** be members of the Association.

Section 2 – Term of Office
[as amended August 18, 1980]

At the 1980 annual meeting of the Association the Members shall elect three (3) Directors. The two (2) Directors receiving the highest number of votes will serve for a term of two (2) years. The term of office for the remaining one (1) Directors will be for one (1) year. At the expiration of the initial term of office of each Director, his successor shall be elected for a term of two (2) years.

Section 3 – Resignation; Removal of Directors

Any Director may resign at any time by giving written notice to the Secretary. Any Director who has been elected to office solely by the votes of members of the Association other than the Declarant may be removed from office prior to the expiration of his or her term of office only by the vote of at least a simple majority of the voting power residing in members other than the Declarant; provided however, that unless the entire Board of Directors is removed from office by the vote of Association members, an individual Director shall not be removed if the number of votes cast against his removal is greater than the quotient arrived at by dividing the total number of votes that may be cast under cumulative voting procedures by a divider equal to one plus the authorized number of Directors.

Section 4 – Compensation

No Director shall receive compensation for any service he may render to the Association as a Director. No remuneration shall be paid to a Director for services performed by him for the Association in any other capacity unless a resolution authorizing such remuneration shall have been unanimously adopted by the Board of Directors before the services were undertaken. However, any Director may be reimbursed for his actual expenses, if reasonable, incurred in the performance of his duties.

Section 5 – Vacancies
[as amended August 18, 1980]

A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve until the next annual meeting.

Section 6 – Nomination of Directors

Nominations for the election to the Board of Directors shall be made by a nominating committee. Nominations may also be made from the floor at the annual meeting. The nominating committee shall consist of a chairman who shall be a member of the Board, and two or more members of the Association, and shall be appointed by the Board at least ninety (90) days prior to each annual meeting of members at which an election of Directors is to be held to serve from their appointment until the close of the annual meeting. The nominating committee shall make as many nominations for elections as it shall determine, but no less than the number of vacancies to be filled.

Section 7 – Election of Directors

Election to the Board of Directors shall be by secret written ballot. Every member entitled to vote may cumulate his or her votes and give one (1) candidate a number of votes equal to the number of directors to be elected, multiplied by the number of votes to which such members are otherwise entitled, or distribute his votes in the same principal among as many candidates as he or she thinks fit. The candidates receiving the highest number of votes up to the number of directors to be elected shall be deemed elected. Notwithstanding any of the foregoing, at any election of Directors in which members of the Association other than the Declarant do not have a sufficient percentage of the voting power of the Association to elect one (1) Director through the cumulating of all of their votes, then in that event, there shall be an election of one (1) Director by members of the Association entitled to vote other than the Declarant, but the other Director or Directors to be elected shall be chosen by votes cast by any members of the Association entitled to vote.

Section 8 – Organization Meeting

The first meeting of a newly elected Board shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and at least three (3) days prior notice of such meeting shall be given to each newly elected Director at the meeting at which such Directors were elected.

Section 9 – Regular Meetings

Regular meetings of the Board may be held at such time and at a place within the Project as shall be determined from time to time by a majority of the Directors, but such meetings shall be held at least every three (3) months during each fiscal year. Notice of regular meetings of the Board shall be given to each Director, personally or by mail, telephone or telegraph, and shall be posted at a prominent place within the Common Area, at least three (3) days prior to the day named for such meeting.

Section 10 – Special Meetings

Special meetings of the Board may be called by written notice signed by the President or by any two (2) Directors. Notice shall state the time, place (as hereinabove provided for regular meetings) and purpose of the meeting. The notice shall be sent to all Directors and posted in a manner prescribed for notice of regular meetings not less than three (3) days prior to the scheduled day of the meeting.

Section 11 – Meeting to be Open; Exceptions

Regular and special meetings of the Board shall be open to all members of the Association; provided, however, members of the Association who are not Directors may not participate in any deliberations or discussion unless expressly so authorized by a vote of a majority of a quorum of the Board. The Board may, with approval of a majority of a quorum of its members, adjourn a meeting and reconvene in closed executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of similar nature; however, the nature of any and all business to be considered in executive session shall first be announced in open session.

Section 12 – Quorum

At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present shall be the acts of the Board. If at any meeting of the Board there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 13 – Powers and Duties of Board

The Board of Directors shall have, but not be limited to, the following powers and duties:

- (a) Enforcement of applicable provisions of the Restrictions, Articles, By-Laws and Rules of the Association for the ownership, management and control of the Project.
- (b) Payment of taxes and assessments which are, or could become, a lien upon the Common Area or Common Facilities.
- (c) Contracting for casualty, liability, and other insurance on behalf of the Association.
- (d) Contracting for goods and/or services for the Common Area, Common Facilities and interests of and for the Association, subject to the limitations as set forth hereafter in Section 14 of this Article IX.
- (e) Delegation of its powers to committees, officers or employees of the Association as expressly authorized by the Restrictions, Articles, or the By-Laws of the Association.
- (f) Preparation of budgets and financial statements for the Association as prescribed in the Restrictions, Articles or By-Laws of the Association.
- (g) Formulation of rules of operation of the Common Area and Common Facilities owned or controlled by the Association.
- (h) Initiation and execution of disciplinary proceedings against members of the Association for violations of provisions of the Restrictions, Articles, or By-Laws of the Association, in accordance with procedures set forth therein or herein.
- (i) Entering upon any privately-owned Lot in this Project as necessary in conjunction with construction, maintenance or emergency repair for the benefit of the Common Area or the Members of the Association in common.

Section 14 – Limitations on Powers of Board

The Board of Directors shall be prohibited from taking any of the following actions without first obtaining the vote or written assent of a majority of the voting power of the Association residing in members other than the Declarant:

- (a) Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than one (1) year, with the following exceptions:
 - (1) A management contract approved by the Federal Housing Administration (FHA) or Veterans Administration (VA).
 - (2) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.
 - (3) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration provided that the policy permits for short term cancellation (sic) by the insured.

- (b) Incurring aggregate expenditures for capital improvements to the Common Area or Common Facilities in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for that fiscal year.
- (c) [Oddly enough there is no section 14c in the By-Laws!]
- (d) Paying compensation to Directors or officers of the Association for services performed in the conduct of the Association business provided, however, that the Board may cause a Director or Officer to be reimbursed for expenses incurred in carrying on the business of the Association.

Section 15 – Power of Board to Fine or Suspend Member

Included in the powers of the Board to enforce the rules of the Association, these By-Laws, the Articles, or the Restrictions, is the power to levy a fine not to exceed \$100.00 for each offense or to suspend the use of the Common Facilities for not more than thirty (30) days for each offense, or both; provided, however, either of these measures must have been preceded by a proper hearing by the Board after giving the alleged offending member thirty (30) days notice in writing stating the time and place of the hearing and the nature of the alleged offense, and at the hearing giving the responding member the opportunity to be represented by Counsel, to present witnesses and to give evidence in his own behalf. Such remedies stated herein, and any other remedies as may be set forth in the Restrictions, these By-Laws, or in law or equity shall be deemed to be cumulative rather than alternate, and the exercise of one remedy shall not be considered a waiver or an election as to any other right or remedy as to that or any other particular offense or infraction.

ARTICLE X Officers

Section 1 – Designation

The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary.

Section 2 – Election of Officers

The officers of the Association shall be elected annually by the Board at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3 – President

The President shall be the chief executive officer of the Association. He shall preside at all meetings of the members and of the Board. He shall have all of the general powers and duties which are usually vested in the office of President of a corporation, including but not limited to, the power to appoint committees from among the membership from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4 – Vice President

The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board.

Section 5 – Secretary

The Secretary shall keep the Minutes of all meetings of the Board and the Minutes of all meetings of the members of the Association; he shall have custody of the seal of the Association; he shall have charge of the membership transfer books and of such other books and papers as the Board may direct; and he shall, in general, perform the duties incident to the office of Secretary.

Section 6 – Treasurer

The Treasurer shall have responsibility for corporate funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board.

Section 7 – Removal of Officers

Upon an affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

ARTICLE XI Fiscal management

Section 1 – Fiscal Year

The fiscal year of the Association shall begin on the first day of January of every year, except that the first fiscal year of the Association shall begin at the date of incorporation of the Association. The fiscal year shall be subject to change by the Board should corporate practice subsequently dictate.

Section 2 – Auditing

At the close of each fiscal year, the books and accounts of the Association shall be audited. An external audit by an independent certified public accountant shall be made for fiscal-year financial statements (other than budgets) of the Association for any fiscal year in which the gross income of the Association exceeds \$75,000.00. Within thirty (30) days of completion of the audit, the Association shall furnish its members with a copy of the audit report.

ARTICLE XII Inspection of Books and Records

Section 1 – Member’s Inspection

The membership register, books of account, minutes of meetings of the members, and minutes of the Board and of its committees shall be made available for inspection and copying by any member of the Association or by the member’s duly-appointed representative at any reasonable time and for a purpose reasonably related to his interest as a member, at the office of the Association or at some other place within the Project as the Board shall prescribe.

Section 2 – Rules for Inspecting Records

The Board shall establish reasonable rules with respect to

- (a) the notice to be given to the custodian of the records by the member desiring to make the inspection,
- (b) the hours and days of the week when such an inspection may be made, and
- (c) the payment of the cost of reproducing copies of documents requested by a member.

Section 3 – Director’s Right of Inspection

Every Director shall have the absolute right at any reasonable time to inspect all the books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents.

ARTICLE XIII Amendment

Section 1 – Required Percentage

Amendment of these By-Laws shall require the vote or written consent of members of the Association representing a majority of each class of members for so long as there are two classes of membership, and thereafter shall require the vote or written consent of a majority of the voting members other than the Declarant; provided, however, that the percentage of the voting power necessary to amend a specific clause or provision of these By-Laws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

IN WITNESS WHEREOF, we, being all of the Directors of the CASA DEL REY HOMEOWNERS ASSOCIATION, have hereunto set our hands this 8th day of September, 1977.

S. A. STEINDORF, Jr.
GORDON T. STEINDORF

TONY JELINCICH

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting Secretary of the CASA DEL REY HOMEOWNERS ASSOCIATION, a California Corporation, and,

THAT the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 8th day of September, 1977.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 8th day of September, 1977.

Secretary, GORDON T. STEINDORF

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