



# Bringing Bright Ideas to the Neighborhood





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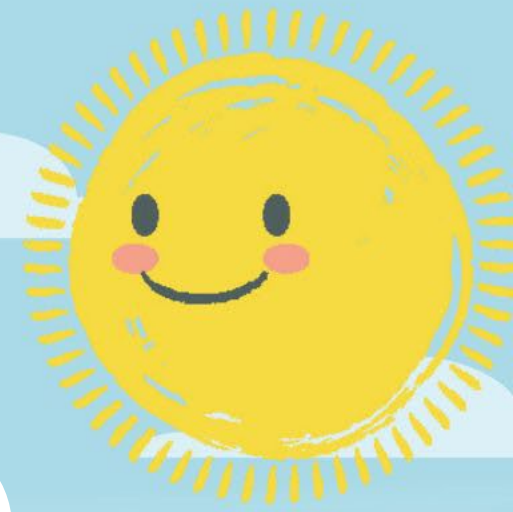
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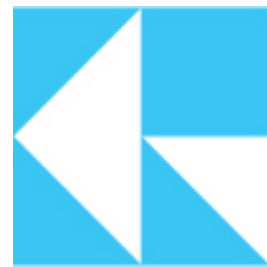


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Spinning Success:

## Unlocking Community Association Knowledge 2.0

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## Neighbor-to-Neighbor



Is it a neighbor-to-neighbor issue?

- Mr. B states he was in his backyard using his pool when Mr. and Mrs. C (who live next door) began playing loud music and smoking.
- Mr. B claims the Cs' conduct was based on Mr. B's sexual orientation and was designed to annoy Mr. B.
- Mr. C states that he has no knowledge of Mr. B's sexual orientation and was just trying to enjoy his own yard.

## Mystery #1

### Fair Housing

TRUE OR FALSE

Harassment and discrimination are the same thing.



Grass is King! Long Live the King!

*(I mean I mean for those of you who just got excited or said "hell ya it is!")*

TRUE or FALSE

All grass must be eliminated in Associations.



ENFORCEMENT

AFTER AB 130



LET'S PLAY STUMP THE LAWYER



Petitions and Recalls



## Mystery #2

# Neighbor-to-Neighbor



Is it a neighbor-to-neighbor issue?

- Mr. B states he was in his backyard using his pool when Mr. and Mrs. C (who live next door) began playing loud music and smoking.
- Mr. B claims the Cs' conduct was based on Mr. B's sexual orientation and was designed to annoy Mr. B.
- Mr. C states that he has no knowledge of Mr. B's sexual orientation and was just trying to enjoy his own yard.



# Neighbor-to-Neighbor

Wrong question to ask, should ask...

- **Is it a violation of the Association's Governing Documents or not?**
- Most often question is, does the act constitute a nuisance?
- Not all discomfort raises to the level of nuisance
- Does it impact more than 1 residence
- **BEWARE OF FAIR HOUSING ISSUES**

# Questions



# Grass is King! Long Live the King!

*(I mean lawns for those of you who just got excited  
or said "hell ya it is!")*

**TRUE or FALSE**

All grass must be eliminated in Associations.



# FALSE



# California HOA Water Restrictions:

## *AB 1572 and Common Area Turf Ban*

- Understanding the New Landscape Irrigation Laws
- Why This Matters:
  - California faces ongoing drought and water scarcity
  - Lawmakers targeting inefficient use of potable (drinkable) water
  - AB 1572 restricts turf irrigation across multiple property types
  - HOAs must adapt their landscaping practices

# Assembly Bill 1572 (AB 1572),

- Enacted in October 2023
- Introduces a phased prohibition on using potable (drinkable) water to irrigate **nonfunctional turf**—decorative grass not used for recreation or community events—on various property types in California, including homeowners association (HOA) common areas.
- Compliance deadline: 1/1/2029

# Definition of Nonfunctional Turf

- "nonfunctional turf" refers to:
  - Grass areas that are purely ornamental and not designated for:
  - Recreational use (e.g., sports fields, playgrounds, picnic areas, pet exercise zones) or community gatherings
  - Examples of nonfunctional turf include:
    - turf in street medians,
    - parking lot perimeters, and
    - narrow strips between sidewalks and streets.

# Exceptions

Potable water may still be used for irrigation in the following situations:

- To maintain the health of trees and other perennial non-turf plantings
- To address urgent health and safety concerns.

# Certification Requirements

- HOAs with over 5,000 square feet of irrigated common area must certify compliance to the State Water Resources Control Board (SWRCB) starting June 30, 2031, and every three years thereafter through 2040.
- Penalties: Non-compliance can result in fines up to \$500 per day and additional penalties imposed by local water suppliers

# Implications for HOAs

- Assess Landscapes: Identify areas of nonfunctional turf within common areas.
- Develop strategies to replace nonfunctional turf with drought tolerant or native landscaping.
- Explore available rebates and programs to offset conversion costs.
- Inform community members about the changes and benefits of sustainable landscaping.

# Fair Housing

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## TRUE OR FALSE

Harassment and discrimination are the same thing.

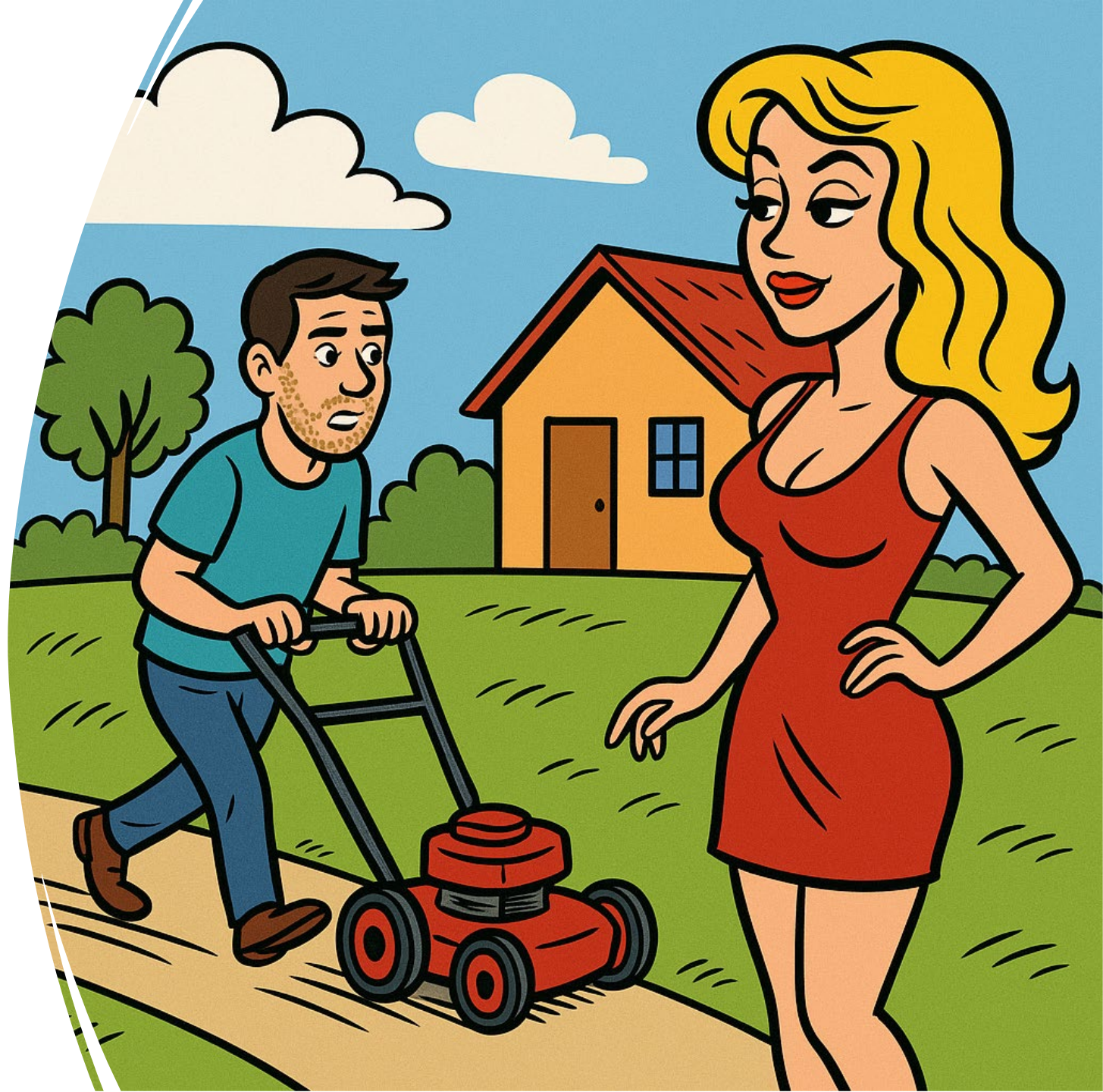


# Fair Housing

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**FALSE**

Harassment and  
discrimination are  
**NOT** the same thing.



# HARASSMENT CLAIMS

Ask “Is what they are claiming really ‘harassment’ or are they claiming discrimination?”

- Why is that an important question...
  - Fair housing regulations address both harassment and discrimination
  - To determine when the Board must act.

## Fair Housing Discrimination Claims

- Must take action to stop discriminatory housing practices which impact a protected class:
  - Complaints from owners, residents, employees or vendors
  - Conduct by the Board, Association or 3<sup>rd</sup> parties (management company or vendors)
  - Knew of should have known about
  - “Protected Classes”

# Investigate the Claim

- What do you do if you receive complains from owners or vendors of harassment which could violate Fair Housing regulations or which could impose liability on the Association and/or the Board of Directors?
  - Step 1 – Work with legal counsel
  - Step 2 – Determine if you are dealing with a potential Fair Housing violation
    - Factors to Evaluate:
      - Alleged harassment must be related to a person's membership in a protected class **(If not, may still be harassment, but doesn't require Association to intervene.)**
      - Board of Directors evaluate nature of the unwanted conduct, context in which incident occur, severity, scope, frequency, duration, and location of the conduct, and relationship of people involved.
      - Does not require physical or psychological harm, only that alleged harassment occurred.
    - Risk of failure to investigate a claim:
      - Person can file a complaint with HUD, which is referred to the State of California Civil Rights Department (CRD) for investigation and possible action.
      - California Civil Rights Department (CRD) enforces many of California's robust civil rights laws, including in the areas of employment, housing, business and public accommodations.



# Investigate the Claim

If the Board determines harassment exists – Hearing & Corrective Action

- Demand on harassing party they cease the harassment/behavior
- If continues, hold noticed hearings before taking further corrective action, such as:
  - Sending a cease-and-desist letter,
  - Levying fines,
  - Suspension of Privileges (as permitted in Governing Documents), or
  - Legal action.

**Extent of corrective action required is tied to authority and ability of the Board under law and the Association's Governing Documents.**

# Questions



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# Mystery #1

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# Mystery #1

**\$100 Amazon gift card!**



ENFORCEMENT

AFTER AB 130



What is AB 130?

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# Limitation on Monetary Penalties

- Fines are capped at the lesser of:
  - the association's stated fine schedule, or;
  - \$100 per violation.
- Exception for violations that may result in an adverse health or safety.
- To impose a health and safety related fine in excess of \$100:
  - board must make a written finding specifying the adverse health or safety impact of the violation
  - Finding must be *in open session*.
- *No Late Charge or interest on fines*





What constitutes "health and safety" violations that would allow fines in excess of \$100?

- Courts consider "health and safety" in terms of the well-being and protection of individuals from harm.
- Consult with counsel to determine if a specific type of violation constitutes a risk to health and safety not subject to the \$100 limitation on fines.

# Opportunity to Cure

- Members are given the opportunity to cure any violation prior to the hearing.
- If cured at the time of the hearing no disciplinary action may be taken.
- May not impose discipline if curing the violation would require more time than the period between the notice of the hearing and the hearing itself **and** if, prior to the hearing, the owner makes a financial commitment to cure the violation.



# HOA KAREN



## Can all violations be "cured"?

- There is a question regarding whether all violations can be cured
  - The damage caused by these types of violations has occurred (the disruption of others' quiet enjoyment of their property).
  - The fact that it is not happening at the time of the hearing does not "cure" that issue
- Associations should consult their counsel.
- The most effective form of enforcement may not be levying a fine, but seeking injunctive relief against the owner to prevent future short-term rentals in violation of the governing documents

# IDR?

- If the board and the member are not in agreement after the hearing:
  - a member shall have the opportunity to request internal dispute resolution..
- If, after the meet and confer, the board and the member agree on the matter:
  - the board must draft a written resolution, and
  - both the board and member of the dispute must sign it.
  - The signed resolution binds both the association and the member,
- Agreement is judicially enforceable as long as it is not in conflict with the law or the association's governing documents.





## Notification of Discipline:

- The period to provide written notification of any imposed discipline or monetary charges (i.e., fines) is reduced from 15 days to 14 days.

# HOA BOARD



What about fines levied prior to July 1, 2025?

- The law is not retroactive. Therefore, we believe that fines levied prior to July 1st, where the notice of hearing results was also mailed to the owner prior to that date, are effective and nothing further is required for those fines to comply with the law.

# Do we need to revise our fine and enforcement policy?



There is NO requirement that the association revise its policies.



The law is clear that an association can levy a fine of \$100 *or* the amount stated in the schedule of fines, whichever is less.



That implies that the schedule of fines can have amounts listed that exceed the \$100 max fine per violation, but the association just cannot levy a fine greater than \$100 per violation.

# When would you WANT to revise your policy?

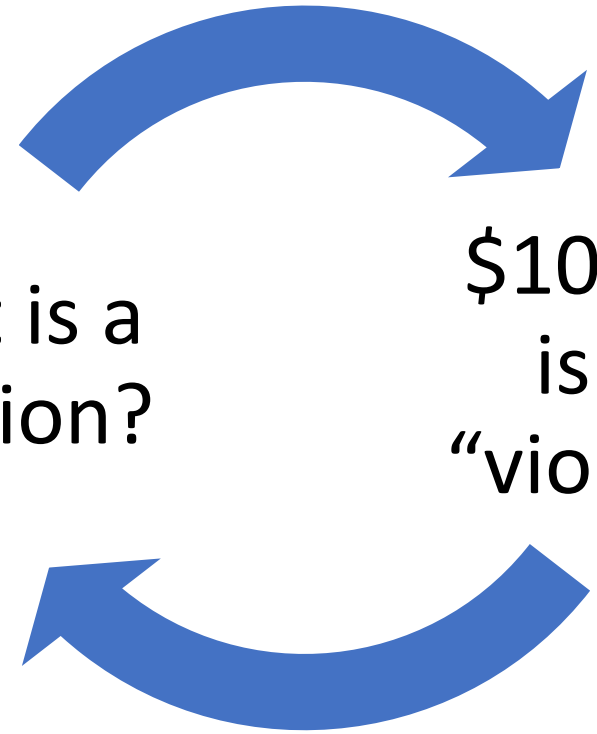
- To define terms
  - What is a violation?
  - What does “cure” mean?
    - How do we deal with repeat offenders?





What is a  
violation?

\$100 Cap  
is per  
"violation."



## What about escalating or ladder-based fine schedules?

- The law is clear that the maximum fine is \$100 per violation.
- Fines where the dollar amounts increase until the violation is cured are not permitted.



# SHORT TERM RENTAL

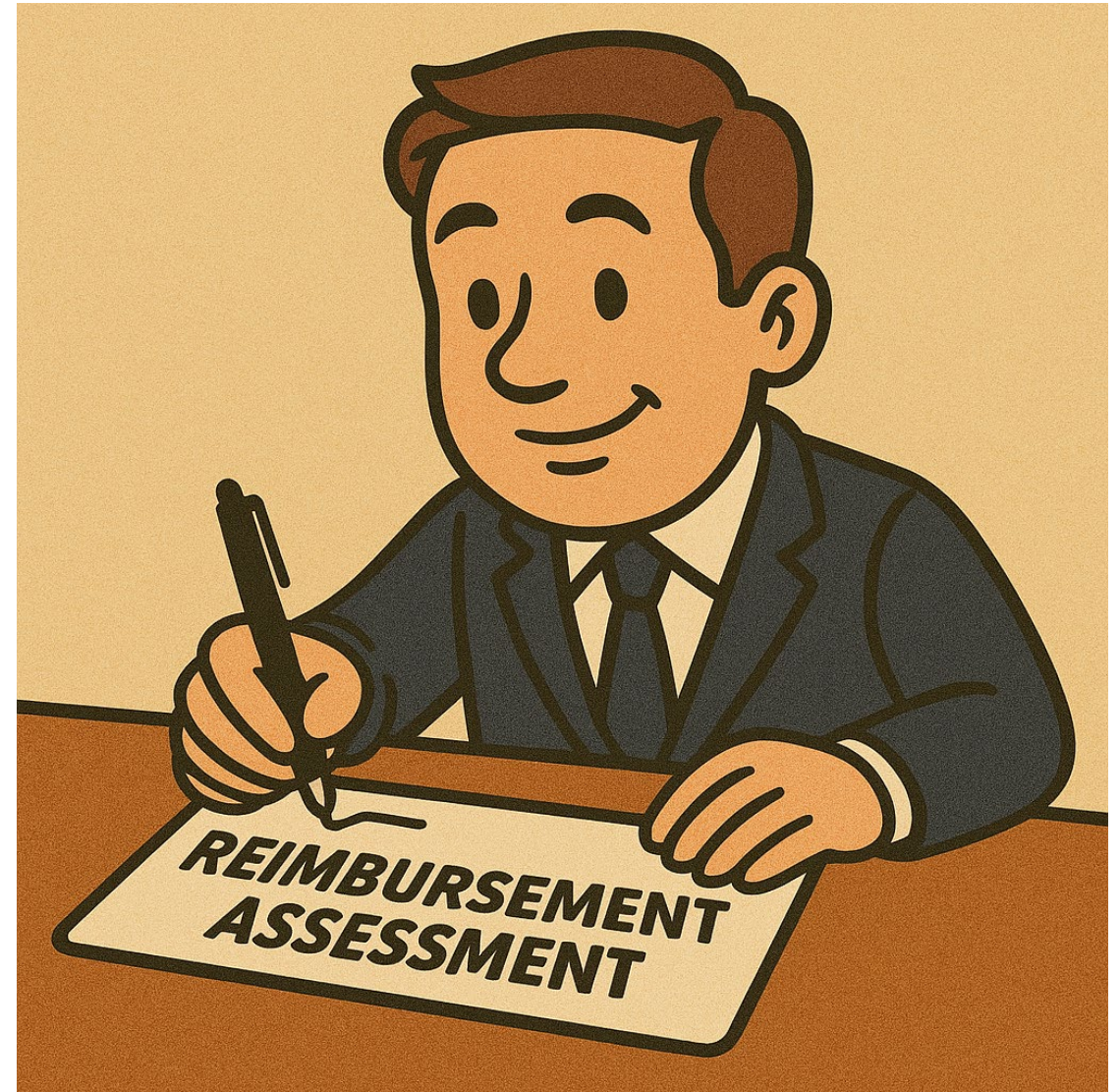


## Can Fines For Short Term Rentals Exceed \$100 Per Violation?

- No. But . . .
  - Consider adopting a clear definition of what constitutes a "violation," including whether each day a noncompliance remains uncured may be treated as a separate violation.
  - Consider is it a “Health and Safety” issue to have short term renters?

# Are reimbursement assessments still permitted?

- What about damage to the common area?
  - Damage to common area is not addressed by a fine, but rather by levying a reimbursement assessment for costs incurred to repair damage caused by an owner.
  - None of the changes to Sections 5850 or 5855 address or create any limitations on reimbursement assessments.





# Can associations recover attorney fees or other costs related to enforcement?

- Attorney fees are recoverable in a lawsuit, expenses incurred for attorney demand letters are not.
- Check Gov Docs to see if they allow for pre-litigation reimbursement of enforcement-related costs.
  - These may include not only attorney fees, but any fees or costs charged by management related to enforcement.

Will revoking owner privileges still be allowed for noncompliance?

- Yes.
- However, if the violation has been cured by the time of the hearing, **no** discipline can be imposed, including suspension of membership privileges.



# Questions



**LET'S PLAY  
STUMP THE  
LAWYER**





# Mystery #2





# Mystery #2

**Lunch with Robert & Nicole!!!**



# Petitions and Recalls



# What is a Petition?

- A request to do something, usually directed to someone in authority
- In an HOA
  - For Votes on
    - Recalls
    - Special Assessments
    - Governing Document Amendments
    - Overturning a rule change
  - Any other “lawful purpose” Other Actions Demanded
    - Hold a meeting?
    - Often other actions not authorized for direct member action



# Authority for Petitions

- Primarily Corporations Code-based
  - Corporations Code § 7510(e) [special meetings for a lawful purpose may be called by the members]
  - Corporations Code § 7511 [special meetings may be called upon written request]
- Some authority in Davis-Stirling Act
  - Civil Code § 4365 [members may petition for a vote of the members to reverse a rule change]
- Governing Documents
  - Bylaws in particular may authorize the members to call special meetings





# Is the Petition Valid?

- Lawful Purpose
- Request within Authority of Members
- Adequate % of Verified Signatures



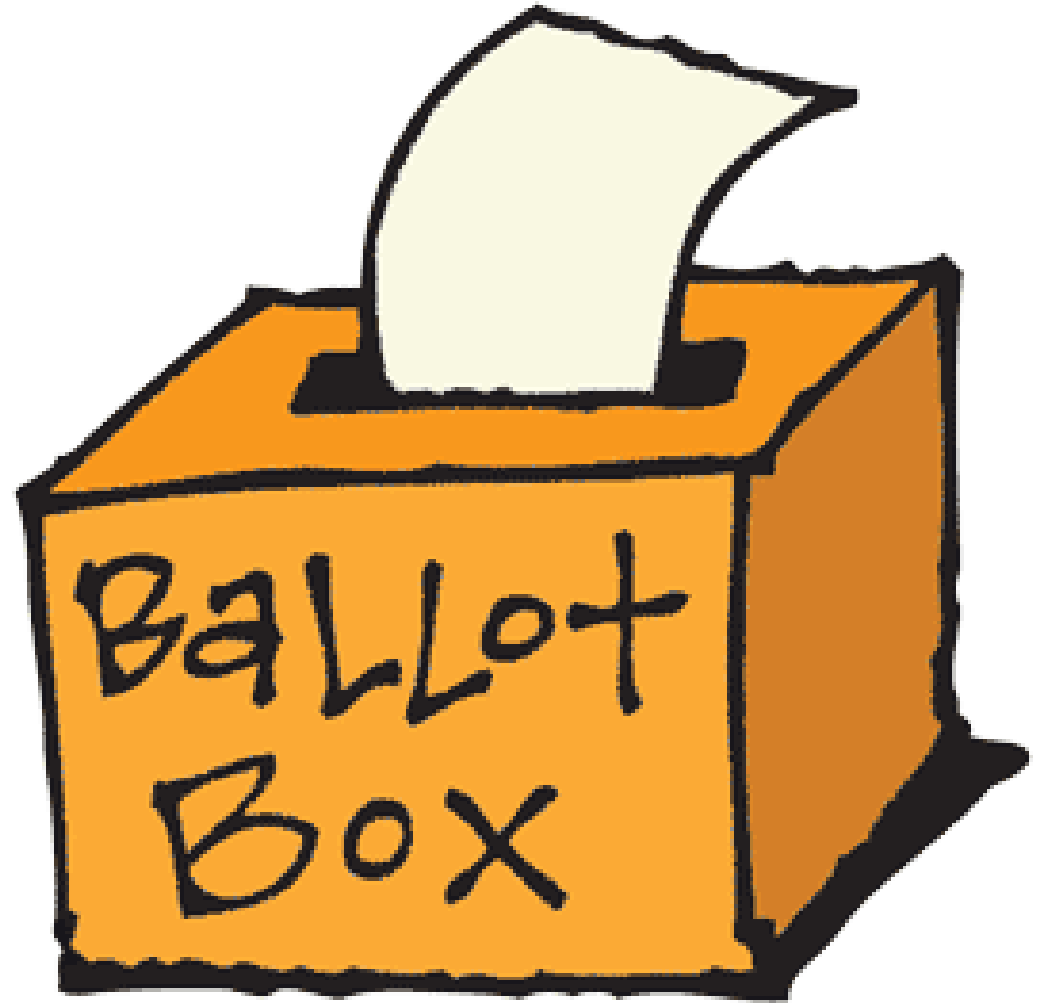
## Role of Counsel & Manager

- Remember who we represent
- Protect the process

# Timeline for Petitions

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- Response to Petition within 20 days of receipt
- Meeting shall be held “not less than 35 nor more than 150 days after receipt of the request.”
- Meeting on vote to reverse a rule change shall be held “not less than 35 days nor more than 90 days after receipt of a proper request.
- Factor in the 30-day voting period for votes that require secret balloting



# What can the Board do?

- Informational response
- Campaign
- Using Association resources



# Recalling the Board

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- Just a specific type of petition
- Consider having professional Inspector of Elections due to confrontational nature of recall process
  - Make sure V&E Rules authorize a professional to serve as I of E
- Removing One Director v Removing the Entire Board



# Questions

