



VOTER REGISTRATION

INTRODUCTION

This booklet contains instructions on how to register as a member, and obtain voting privileges in, the Rancho Santa Fe Association. The articles of incorporation and bylaws of the Association establish four fundamental rules for determining membership:

1. Only holders of record title to real property affected by the Rancho Santa Fe Protection Covenant are eligible to exercise membership rights in the Association. A lot subject to the Covenant is often called a "building site."
2. Regardless of the number of building sites owned, only one membership is given per owner. An exception to this rule, described in further detail below, is provided for certain joint tenants, marital trusts and condominium owner associations.
3. Only individuals are permitted to be registered as members of the Association. This means that entities which hold title, such as corporations, partnerships and trust, must designate an individual to hold the entity's membership rights.
4. An individual must have a beneficial interest in the real property affected by the Covenant in order to be a member. Therefore, if record title is held by an entity, the individual member must have a beneficial interest in the entity which designates him or her.

The rules and registration forms are designed to provide a convenient registration method consistent with the four basic rules. Because of the variety of ownership methods, there are equally varied ways in which individuals are registered as members of the Association.

This booklet contains registration forms for the following types of real property ownership:

- Sole Owners, Co-Owners and Community Property
- Corporations
- Homeowner Associations
- Partnerships
- Trusts
- Decedent Estates
- Governmental Entities

This guide provides an overview of each of the registration forms. The following is a brief description of the rights and obligations that are afforded by Association membership.

RIGHTS AND OBLIGATIONS OF MEMBERS

Members of the Association have the following rights:

1. The right to vote at meetings of the members, including the right to vote for directions of the Association during the Association's annual election. Other matters that may from time to time be put to a vote of the members include proposals to amend the articles of incorporation or the bylaws of the Association.
2. The right to stand for election to the board of directors of the Association.
3. The right to apply for membership in the Rancho Santa Fe Golf Club and the Rancho Santa Fe Tennis Club. Each of these organizations has its own membership rules, as well as membership fees, but only members of the Association are entitled to apply.
4. The right to receive the benefits of, and to enforce, the Rancho Santa Fe Protective Covenant pursuant to its terms.
5. The right to receive pro rata the assets of the Association if it should ever be dissolved.

Together with the rights of membership are certain obligations which include:

1. The obligation to pay assessments as provided in the Rancho Santa Fe Protective Covenant at the times and in the manner prescribed by the board of directors.
2. The obligation to comply with all of the terms of the Rancho Santa Fe Protective Covenant and with the regulations adopted by the board of directors pursuant to the authority granted in the Covenant.

Membership in the Association can be suspended if a member does not pay assessments when due or if the real property represented by that member is not in full and complete compliance with all of the terms of the Rancho Santa Fe Protective Covenant and the regulations adopted by the board of directors. If a member fails either to pay assessments or comply with the Covenant, the Association may mail to the member a notice of delinquency, in the case of failure to pay assessments, or a notice of default, in the case of a failure to comply with the terms of the Covenant. If the delinquency or default is not corrected within the time stated in the notice, a penalty may be levied, and if not paid, the property represented by that member will be subject to a lien, in the amount of the penalty, upon which the Association may foreclose. The member may also be subject to suit by the Association in an effort to obtain compliance with the terms and conditions of the Covenant.

REGISTRATION PROCEDURES

The following sections describe how to use the registration forms provided at the back of this booklet. Each registration form applies to a different type of owner of title to real property.

Please read this portion of the booklet carefully before completing and returning to the Association a registration form.

A. Ownership by Individuals

When one or more individuals hold the record title to a building site, the registration form labelled "Sole Owner, Co-Owner and Community Property" must be used.

1. **Sole Individual Owner:** If an individual is a sole owner of the property, he or she simply checks the first box on the face of the form, prints his or her name on the space indicated, and dates and signs the form.
2. **Joint Ownership:** If more than one person holds the record title to the building site, each such person who owns at least a 34% "beneficial interest" (defined below) in the building site may register as a member. Co-ownership commonly results because the land is held as joint tenants or as community property. Persons who hold title in this fashion should each fill out separate forms. To complete the form, check the second box on the face of the form, print your name in the space indicated, and date and sign the form.

A "beneficial interest" is the right to control the sale of the building site. In the case of community property, or a joint tenancy when there are only two joint tenants, it is easy to determine that both the husband and wife, or both of the joint tenants, each have a 50% beneficial interest in the property. It follows that both the husband and wife, or both of the joint tenants, will be qualified to register as members of the Association.

When there are more than two joint tenants the computation becomes more complex. For example, if a grant deed merely lists three people as joint tenants, each of them will hold a 33⅓% beneficial interest in the building site, and so on. In such situations, no one person will own a 34% beneficial interest in the building site. Therefore only one of the joint tenants may register as a member and the joint tenants must among themselves decide which of them will be designated as the member.

It is also possible that a grant deed or quitclaim deed will state the percentage ownership of the joint tenants. In such cases, the percentage allocations in the grant deed or quitclaim deed will control in determining beneficial interest for membership purposes.

3. **Title Held by One Spouse and Other Spouse Claims Community Property Interest:**

The third category of individual ownership arises when the record title is held by only one spouse but the other spouse lawfully claims a community property interest in the building site. In such cases both spouses may register as members by completing separate registration forms as follows:

- a. The spouse which holds the record title will check the first box and complete the remainder of the front part of the form.
- b. The spouse which claims a community property interest but does not have record title will check the third box and complete the remainder of the front part of the form. In addition, the spouse claiming the community property interest must have the other spouse complete the affidavit on the reverse of the form. The purpose of this affidavit is for the spouse that has the record title to acknowledge that the other spouse has a community property interest. The affidavit is completed by filling in the name of the nonowner spouse on the first line of the affidavit, and the other spouse filling in the place and date of execution and signing the affidavit where indicated. This affidavit must be subscribed before a notary and the notary's seal must appear on the form.

B. Corporations

1. **Corporations in General:** When record title to a building site is held by a corporation, one individual may be registered as a member by completing the form labelled "Corporation." The individual who is to be designated as the member by the corporation must complete the front of the form, and a corporate officer must complete the back of the form. On the front of the form, the designee must write in the name of the corporation and then print and sign his or her name and date the form where indicated. On the reverse, a corporate officer must write in the name of the corporation and his or her office held, the state of incorporation, and certify the adoption of resolutions whereby the corporation designated its member by dating and signing the form.

Pursuant to the bylaws of the Association, it is necessary that the shareholders of the corporation vote to determine who will be the corporation's designees. Holders of the corporation vote to determine who will be the corporation's designee. Holders of at least 34% of the issued and outstanding shares of the corporation must vote for the designee. It is also necessary that the designee owns shares in the corporation. The Association will rely exclusively on the certificate of the officer of the corporation found on the reverse of the registration form in order to determine compliance with these requirements. It is not the policy of the Association to require any further proof of the voting by the shareholders or the share ownership of the designee.

2. **Condominium Homeowner Associations:** Homeowner associations for condominiums and other common interest developments must use the "Homeowner Association" registration form. Homeowner associations may designate two individuals as members of the Association on behalf of all owners of units within the common interest development. The two designees must each be names on, and sign, the front of the registration form. On the reverse of the form an officer of the homeowner association must write the name of the homeowner association and his or her office held, the nature of the entity (e.g., corporation, unincorporated association, et seq.) and the state of organization and certify the adoption of resolutions whereby the homeowners association designated its members, and date and sign the form. Owners of units may not hold separate memberships in the Association.

C. Partnerships

Where title to a building site is held by a partnership, one individual may be registered as a member on the registration form labelled "Partnership." The front of the form is completed by the individual who is designated by the partnership as its member. That person fills in the name of the partnership, prints their name in the space indicated, and then dates and signs the form. The reverse of the form is to be completed by managing or other responsible partner or partners in the partnership. On the reverse of the form the name of the person to be designated as a member, and the form is then dated and signed by the appropriate partner or partners.

The bylaws of the Association provide that the individual designated by a partnership as its member must be chosen by a vote of not less than the partners holding 34% of the interests in the partnership who are eligible to vote on management matters of the partnership under the partnership agreement, and that the individual must be a partner. As defined in the bylaws, an interest in a partnership consists of the right of the partners to receive distributions other than liquidating distributions; limited partners in a limited partnership are not considered to hold an interest in the partnership for voting purposes. The Association will rely on the partner's certificate on the reverse of the registration form in determining compliance with these provisions. It is not the policy of the Association to require any further proof of these matters.

D. Trusts

1. **Trusts in General:** Where record title to a building site is held by trustees of a trust, one individual may be registered as a member on the registration form labelled "Trust." The face of the form is to be completed by the individual designated by the trust as its member. The name of the trust must be provided, the name of the designee printed in the space indicated and the form dated and signed by the designee. The reverse of the form is to be completed by one of the trustees of the trust. The trustee must at a minimum provide the name of the trust, check the first box on the form, and then date and sign the form where indicated.

The bylaws of the Association provide that the individual designated on behalf of a trust must own an interest in the trust and that the individual must be selected by

persons holding not less than 34% of the interests in the trust. As defined in the bylaws, an interest in a trust is defined as a current right to receive distributions from income earned upon the corpus of the trust or, if no income is to be distributed currently from the trust, a right to receive at some future time the income and corpus of the trust. The Association will rely upon the trustee's certificate on the reverse of the registration form in determining compliance with these provisions. It is the policy of the Association not to require any further proof of these matters.

2. **Marital Trusts:** There are special provisions for the registration of a member when record title to a building site is held by a "marital trust." A marital trust does not simply mean that both the husband and wife are trustees or are beneficiaries of the trust. A marital trust is defined in California Civil Code section 5110.150 as, generally, a trust into which community property contributed to the trust will continue to carry with it community property rights. The Association's bylaws provide that a building site held in this type of marital trust will be treated for membership purposes as if it were community property. Therefore, a building site held in marital trust entitles both the husband and the wife to register as members of the Association.

To indicate this on the registration form, check both the first and second boxes on the certificate of trustee on the reverse of the registration form. (The second box states, "The Trust meets the requirements of California Civil Code section 5110.150.") Separate registration forms should be filled out for each of the husband and wife and the certificate of trustee on the reverse of each form should be completed with both boxes checked.

The determination of whether a building site is held in a marital trust is a legal question and you may want to consult your attorney. Generally speaking, a marital trust exists only when the building site contributed to the trust was owned as community property prior to the time it was contributed into the trust. The following situations do not necessarily create a marital trust:

- a. Where the trustee of a trust, who is not a spouse of either the husband or wife who wish to be members, uses cash in the trust to purchase the building site.
- b. Where a husband and wife who do not live in a community property state purchase their building site before they move to California.
- c. Where a husband and wife have each signed a premarital agreement to keep their estates separate and separate funds are contributed to a trust to buy the building site.

Moreover, some standard living trusts created to avoid probate will not necessarily be considered marital trusts.

E. Decedent Estates

When a building site is owned by the executor or executrix under the will of a deceased person, or the administrator of the estate of a deceased person, one individual designated as the member on behalf of the decedent's estate may be registered on the form labelled "Decedent's Estate." The front of the form is completed by the person to be designated as a member, and the back of the form is completed by the person who is the executor or executrix of the will or the administrator of the estate of the deceased person. On the front of the form is the name of the decedent is provided, and that person then dates and signs the form. On the back of the form, the executor/ executrix/ administrator, as the case may be, fills in the name of the deceased person and the name of the person designated as a member in the spaces indicated, and then dates and signs the form. The executor/ executrix/ administrator may designate himself or herself as the member if he or she wishes.

A designation on behalf of a decedent's estate should not be confused with a designation on behalf of a decedent's trust. If the will of a person who owns a building site provides that the property is to be placed into a trust, it is the trustees of that trust who are to make the designation, not the executor/ executrix of the will or the administrator of the estate. In such situations, see the instructions provided under Section D above entitled "TRUSTS."

F. Governmental Entities

From time to time, governmental entities acquire record title in building site in Rancho Santa Fe. Under such circumstances, one individual may be designated as a member on the form labelled "Governmental Entity." The front of the form is to be completed by the individual designated as the member, and the back of the form is to be completed by a responsible or authorized officer of the governmental entity. On the face of the form, the name of the governmental entity is provided, the name of the designee is printed in the space provided, and the designee then dates and signs the form. On the reverse of the form, the responsible officer provides the name of the governmental entity and the office of the officer, and attests to the adoption of resolutions designating the member and then dates and signs the form where indicated. The governmental officer may designate himself or herself as the member if he or she is so authorized.

DISPUTES CONCERNING REGISTRATION

Occasionally, more than one individual may claim to be the lawfully designated member on behalf of an entity or a group of joint owners holding record title to a building site. In such circumstances, the bylaws of the Association provide that while the dispute is pending, no individual will be granted membership in the Association on behalf of the record title holder until (i) the competing claimants prove to the satisfaction of the Board of Directors of the Association that the dispute is resolved and an individual is designated as a member or (ii) a judgement is rendered in a court of competent jurisdiction to determine which individual is lawfully designated as the member on behalf of the record

title holder or (iii) the Board of Directors of the Association determines, in its sole discretion, who is the lawfully designated member on behalf of the record owner. The bylaws further provide that if the Association is named as a party in any lawsuit to resolve a dispute over competing claimants for membership, that the prevailing party in the litigation will be awarded their attorneys' fees. The purpose of this attorneys' fee provision is to discourage persons from joining the Association in any litigation over who is the lawfully designated member of the Association.

ASSISTANCE

If you have any questions concerning the procedure for registration as a member of the Association, or if you need assistance in filling out the registration forms, you should feel free to contact the Association Controller at the Association's offices at (858) 756-1174.