

CAPISTRANO BAY DISTRICT  
AGENDA REPORT  
July 31, 2018

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*Old Business*

## ITEM 9c

### Eligibility Requirements for Board Members

The current eligibility requirements for qualifying as a District Board Member has been that of being registered to vote in the Beach Road community. Following some research, it appears that there is some question regarding an implied second requirement of *residency*.

The Elections Code and the Government Code do not use the term *residency* in their language but in considering the legislative intent, it seems reasonable to think that representatives and policy/decision makers of a residential community such as what exists here at Capistrano Bay District, should not only be registered voters but should also be *residents*. It has been confirmed by the OC Registrar of Voters that a person living elsewhere can change their voting address to the Beach Road community without actually residing there, thus opening the door for a non-resident, non-owner to be a Board member.

Given that the existing law is silent on the *residency* condition, District Counsel has been directed to research and provide an opinion. A secondary directive to Counsel by the Board is to opine on whether the Board could legally establish its own *residency policy* through the vehicle of an Ordinance or Resolution, presuming Counsel cannot successfully establish legislative intent for *residency* as a second requirement.

As of the Friday report circulation deadline, there is no reply from the attorney so his findings may not be available until Board meeting time on Tuesday.