

Voting Rights

The Old HVLA Board majority had denied members the right to vote on the design, building and funding of the "Hartmann Event Center" and the right to vote on the replacement of a Director removed by recall. The "Real" issue was "legal interpretation". Member voting rights on capital improvements, the definition of a "capital improvement" and member voting to replace a Director removed by recall are a matter of "legal interpretation". The Old Majority, at the guidance of HVLA attorney, Jennifer Jacobsen (Baydaline & Jacobsen), took what is generally viewed as a narrow, conservative and Board-majority-favoring interpretation.

There are other HOA attorneys and HOA Industry factions that adhere to this same interpretation. However, there are yet other HOA attorneys and HOA Industry groups that recommend following a more balanced approach that tries to weigh the relative merits of both the Board-favored view plus the homeowner-favored view and strike a balance based on democratic principles.

Capital improvements are defined in various ways in different industries. Within the HOA field, capital improvements are typically any major purchase of property, improvement of property/buildings, or purchases of equipment over 5% of the total budget. HVLA never has had a clear definition of "capital improvements" and still does not. This has caused some of the current problems.

Both the "spirit" and, many believe, the intent of the current CA Corporations Code (Sec. 7224 regarding replacement of a Director removed by recall) is to allow for a member vote. Otherwise, why have a recall if the Board majority can simply fill the position with their favored candidate. Nevertheless, the Old Board Majority "appointed" Jim Jasmin to fill the vacancy created by Steve Greenberg's recall.

Baydaline and Jacobsen currently continue to be HVLA's representative law firm.