

PALOS VERDES PENINSULA

Judge: Lawsuit must wait until results of vote are in

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Residents of the Palos Verdes Homes Association will have to reach 50 percent participation in the association's board elections for at least one more year to have their votes counted.

In the first out-of-chambers hearing for the lawsuit filed against the homes association by the Residents for Open Board Elections, Los Angeles Superior Court Judge Ruth Kwan decided to wait to take action until the next hearing date on Feb. 15, when she will review the Jan. 9 election results.

If a quorum of 50 percent voter participation is not reached, Kwan said she may order the association to lower the quorum — just not as low as ROBE requested.

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"ROBE was formed in 2015 to restore open democratic elections and give our residents in PVE and Miral este a voice in PVHA governance," ROBE member John Harbison said in an email. "The statements made by the judge (on Thursday) are encouraging and suggest that is within reach. But we need everyone to get out, vote and be heard."

The PVHA argued Thursday that former board candidate L. Reid Schott, who filed the lawsuit along with ROBE, did not have standing to bring legal action without the support of PVHA board members. But Kwan sided with ROBE, saying he did have standing because he is part of the association.

ROBE filed the lawsuit in May this year, after the January election was voided because of low turnout, leaving ballots unopened and uncounted. The suit calls for the quorum to be lowered to 25 percent and the top five vote-getters to be appointed to the board, according to the court documents.

The Palos Verdes Homes Association, along with the city's Art Jury, is a powerful arm of the community apart from city government. It enforces deed restrictions and architectural standards in the exclusive coastal community.

Its bylaws state that an election is valid only when 50 percent of PVHA members participate — which hasn't happened since 2009. In 2017's election, just 1,589 votes of the 2,711 needed to reach a quorum were cast.

When a quorum is not reached, the association doesn't open or count any of the ballots, and current board members keep their seats. The terms are supposed to be for three years and when there is an opening on the board and no quorum is reached, the existing board members appoint new members to the board.

According to Harbison, Kwan suggested at the hearing that the board extend the election another 30 days and mail multiple ballots when a quorum is not reached by the annual meeting because that is an option in the bylaws.

"I am gratified that the judge recognized the ap-

pearance of impropriety by having board members reappoint themselves year after year," said Jeff Lewis, an attorney representing ROBE.

Board members have argued that they would have to change nearly 100-year-old bylaws to lower the quorum, which would require a two-thirds majority vote from association members, unlikely given the the low voter turnouts. There have been 14 quorums from 1981 to 2001 and only four from 2001 to 2017, according to court documents.

According to a declaration in court documents by Sidney Croft, a lawyer for the association, the board of directors believes that a low turnout suggests voters are satisfied with the current process and board.

"PVHA is a closely knit community, and I believe the low voter turnout for recent elections indicates the association members' satisfaction with the status quo," Croft wrote in his declaration.

Croft declined to comment on the pending litigation. Board President Philip Frengs did not immediately respond to a request for comment.