

Park Mediterrania HOA Board of Directors  
C/O Vintage Management Consultants  
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Subjects:

November 14, 2019 - Parking Permit Distribution and Board of Directors meeting  
Two Violations of our Bylaws  
Three Violation of California Civil Codes

Dear Park Mediterrania Board of Directors:

11/13/2019

On November 14, 2019, the evening of Parking Permit Distribution and a Board of Directors Meeting, Vintage Management Consultants and the Board of Directors will be in **two violations of our Bylaws** which state in part: "Article VI Section 4. Regular Meetings. Regular meetings of the board shall be held monthly at such place **within the properties** and of such time as may be fixed by resolution of the board. **Notice of the place and time of such meeting** shall be posted at a prominent place or places within the properties."

Number One of Two - Location **within the properties**

The VMC monthly invoice with due date 11/01/2019 states the location of the November 14, 2019 will be at Wendy's restaurant. Clearly in violation of the Bylaws. Maybe last year when I informed VMC holding the BOD meetings off the property was in violation of the Bylaws I was told the BOD decided to change the location to off the property. Clearly in violation of the Bylaws. The Bylaws state in part they are amended by vote of the members.

Number Two of Two - **Notice of the place and time of such meeting**

The notice was not "posted at a prominent place or places within the properties." Tomorrow is the November 14, 2019 BOD meeting. On the main driveway is a lockable bulletin board. The monthly BOD agenda should be posted there. Most months it is. But the November agenda was not.

Also, on November 14, 2019 VMC and the BOD will also be in **three violations of the California Civil Codes** that are part of the Davis-Stirling Act, the body of California Civil Code Sections governing HOAs:

**Number One of Three** - California Civil Code Section 4505

<https://findhoalaw.com/rights-ingress-egress-over-common-area/>

**RIGHTS OF INGRESS & EGRESS OVER COMMON AREA**

Unless otherwise provided in an association's **CC&Rs**, the association's members have legal rights of ingress, egress and support through and over the **common areas** located in the **common interest development** ("CID"). (*Civ. Code § 4505*.) The legal form of these rights (rights vs. easements) differ slightly based upon the category of CID and the ownership structure of the common areas:

[This year the BOD chose to deny parking permits for the parking spaces to many of the homeowners stating in the undated mailer **Parking Permit Distribution**: "Homeowner account **must** be current in HOA dues." The undated mailer **Parking And Traffic Rules & Regulations** in the **Permit Procedures** section states in part: "3. Any vehicles parked in the spaces with an incorrect or without a permit will be subject to tow at the owner's expense."]

[So, after the BOD has chosen to deny many of the homeowners (and those with tenants) parking permits for parking spaces in the common area, the BOD has clearly stated in writing that it will tow those homeowner (and tenant) vehicles without parking permits parked in spaces in the common area.

[California Civil Code section 4505 clearly gives the association's members legal rights of ingress, egress over the common area, therefore, towing those vehicles is a violation of California law.]

**Number Two of Three** - California Civil Code Section 4360

<https://findhoalaw.com/adopting-amending-operating-rules/>

**ADOPTING & AMENDING OPERATING RULES (AKA RULES & AND REGULATIONS)**

[Civil Code Section 4360](#) sets forth a specific procedure that a [board](#) must follow when seeking to adopt or amend an association's [operating rules](#) (to perform a "rule change"). That procedure includes the following primary requirements:

1. **Notice of Proposed Rule Change** – the board must provide [general notice](#) pursuant to [Civil Code Section 4045](#) of a proposed rule change at least twenty eight (28) days before making the rule change. The notice must include (1) the text of the proposed rule change, and (2) a description of the purpose and effect of the proposed rule change. This notice is not required where "the board determines that an immediate rule change is necessary to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the association." ([Civ. Code § 4360\(a\)](#).)
2. **Decision Made at Board Meeting** – the board's decision on whether to adopt or amend an operating rule must be made at a [board meeting](#) "after consideration of any comments made by association members." ([Civ. Code § 4360\(b\)](#).) The proposed rule adoption or amendment must have been listed as an [agenda item](#) for that meeting in order for the board to discuss or vote on it at the meeting. ([Civ. Code § 4930\(a\)](#); See also "[Board Meeting Agenda Requirements](#)." )
3. **Notice After Making Rule Change** – after the board makes a decision to adopt or amend an operating rule, the board must, "as soon as possible...but not more than 15 days after making the rule change," deliver [general notice](#) pursuant to [Civil Code Section 4045](#) of the rule change. ([Civ. Code § 4360\(b\)](#).)

[The current BOD violated State of California Civil Code requirements for Adopting & Amending Operating Rules. I have the BOD Agenda for 10/10/2019. The agenda does not mention parking permits. The current BOD skipped primary requirement #1 and #2 then implemented #3. The following link to one of my webpages shows how a previous BOD correctly adopted and amended our Rules & Regulations. <http://parkmediterrania.com/gov/r-and-r-parking-2007-02-22.pdf> The BOD letter dated February 22, 2007 has subject line: Proposed Changes to the Rules and Regulations Regarding Parking. The BOD letter states the Current Parking Rules than states the Proposed Parking Rules]

**Number Three of Three** - California Civil Code Sections 4920(d) and 4930(a)

<https://findhoalaw.com/board-meeting-agenda-requirements/>

**BOARD MEETING AGENDA REQUIREMENTS**

An agenda of items to be discussed or acted upon by the board at a [board meeting](#) must be included within the [notice of meeting](#) that is provided to the association's members. ([Civ. Code § 4920\(d\)](#).) The only exception to the agenda requirement is in the context of [emergency meetings](#) where no notice is required. ([Civ. Code § 4920\(b\)\(1\)](#).)

The Bylaws state in part for a notice to be "posted at a prominent place or places within the properties." On the main driveway is a lockable bulletin board. The monthly BOD agenda should be posted there. Most months it is. But the November agenda was not. It is supposed to be posted at least 4 days before the BOD meeting. Tomorrow is the November 14, 2019 BOD meeting.

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2019-11-13-lettertobod-bylaw-and-ca-civil-code-violations.docx