We Must Ensure Elections are Fair

My friends and neighbors, the Wilde Lake Village Board leadership is moving quickly to completely overhaul Wilde Lake election policies and procedures. This will include willfully ignoring sections of our governing documents that have guided Wilde Lake elections since the 1960's. I am going to go into quite a bit of detail here, but I wanted to put a summary up front so that no one misses what is going on.

TLDR Summary:

- Last Spring, the Maryland General Assembly passed, and the Governor signed a law that changes (in part) who can serve on an HOA election committee.
- The Wilde Lake Village Board leadership would like to use this law to create election procedures that they believe are "fair," but directly contradict sections of the Wilde Lake Community Association governing documents.
- This would expose the Community Association to election challenges, possibly resulting in findings of conducting an improper election, and lawsuits for violating the fundamental duties of a Maryland corporation.
- These changes are anticipated to be discussed at the November 3, 2025 board meeting, and could possibly be voted on that night.\

Last Spring, the Maryland General Assembly passed and Governor Moore signed into law Senate Bill 758 (https://mgaleg.maryland.gov/2025RS/chapters_noln/Ch_512_sb0758T.pdf) This bill spoke to two issues: the cost charged for HOA members to review HOA financial documents and HOA elections. With respect to cost incurred to review financial documents, the new law states that members cannot be charged for obtaining HOA financial documents (unless the documents are located in a depository).

The part of the law regarding HOA elections states that elections must be conducted, including ballot counting and election certification, by an "independent party". An independent party is defined by the law as:

1. Not a candidate in the HOA election.
2. Does not have a conflict of interest regarding any candidate in the election.
3. Unless property management for a HOA, or parent association of the HOA is owned by the HOA, representatives of the HOA property management are not independent parties.

4. A lot owner of an HOA is an independent party if:

a. Complies with 1-3 above
b. Does not electioneer for any candidate
c. Is not subject to objection by more than 25% of the eligible voting members of the association.

As far as I know, Wilde Lake has always conducted its elections consistent with the above requirements.

Additional language in the law states the following:

> *Section 11B-118(B) Individuals conducting an election shall make reasonable efforts to ensure that the election is fair and that there is accountability for the process and the results of the election*.

And,

> *Section 11B-118(D) Provisions of the governing documents, rules, or regulations of a homeowners association relating to the conduct of elections that are inconsistent with the requirements of this section are void an unenforceable*.

I believe the straightforward understanding of these two subsections mean that individuals conducting elections must ensure the elections are fair. To my mind, that includes:

- Vetting all candidate's nominating petitions,
- having a sufficient number of ballots for the elections,
- ensuring the time, place, and location of the election is well communicated
- counting the election results in a transparent manner.

If there is language in a Homeowners Association's governing documents that are in conflict with the new law, for example, that sitting board members can serve on the elections committee, those sections would now become void an unenforceable.

The Wilde Lake Village Board Chair has a dramatically different interpretation of the law. In an email to the Wilde Lake Village Board Vice-Chair (and copied to the entire board), Dr. Rathbun stated that the "2025 legislature passed a new provision of the HOA Act governing elections." She then goes on to say the issue at the top of her list is to eliminate the requirement for tenants to produce a lease in order to vote. The October 3, 2025 email to the Village Board Vice-Chair (and copied to the entire board), Dr. Rathbun states:

Francis,

The 2025 legislature passed a new provision of the HOA Act governing elections, and it is now in effect. We will need to review our election procedures and make revisions before January to comply with the new law. Probably all the villages have election rules that will need to be changed.

The issue of tenants getting their right to vote is top of our list, because of the problems we have had in the last two elections. We have been requiring tenants to prove they have a lease by bringing a copy of it to the office. Maryland law is explicit that an oral lease is just as valid as a written lease and must be honored. A written lease is only required if the term of the lease is more than 2 years. In addition, all the rental apartment complexes in Wilde Lake require that you sign a lease before you can occupy the property. I am not sure about condominiums in Wilde Lake, but most condos require an individual owner to file a lease with the condo board or manager before the tenant occupies the property so they have a written agreement with the tenant that they will abide by the condo rules. That only leaves single family detached properties to be covered, and if the property records show a different owner than the person occupying the property as a primary residence, it is fair to say that there is at least a verbal lease.

Oakland Mills has the right idea with this. If you can show a driver's license or Maryland voter card with your name and the specific address, you have a right to vote. If you do not reside at the address, the Maryland SDAT property records will show that you are an owner and you have a right to vote. This would also catch new owners whose deed has not been recorded yet. The only risk is that a previous owner would vote when they no longer had the right, but I don't think that would be much of a problem.

We should change the voting list to leave the name of the tenant blank, instead of putting the address in the line. This would allow the name to be filled in at the time of voting which gives us better records.

Another thing that needs changing in all the villages is the 45 day residency requirement. You are not old enough to remember this, but at the time Columbia was established most states had residency requirements for voting that went from 30 days to as much as a year or more. The Supreme Court decided that this was unconstitutional. If you move to Maryland today, you have a maximum of 30 days to change your driver's license. When you go to get your license they will also register you to vote if you want. I think this 45 day requirement in the property documents is void by law, just like the requirement that a lease be in writing.

The Articles of Incorporation and the Bylaws specify that the Board decides how to determine eligibility to vote. We can fix these problems as we review our 2025 election rules in preparation for 2026. Would you be willing to take the lead in reviewing the rules?

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To be clear, the Wilde Lake Village Board leadership wants to completely rewrite the Election Procedures. The Village Board Chair also wants to remove requirements written in our HOA Articles of Incorporation (charter) because she feels they are unfair. I believe this action would be well beyond to the spirit, intent, and specific language of the amended HOA Act. There is a clearly defined method to amend our charter, and what the WLVB Chair proposed bypasses that process.

In addition, to willfully ignore sections of our governing documents places the Wilde Lake Community Association in peril. This is because Maryland corporate law requires board members to comply with the duty of obedience. This duty requires board members to follow their Charter and Bylaws. If the novel interpretation of the amended HOA Act is pursued as the Wilde Lake Board Chair wants, it could result in charges of conducting an improper election and open the Wilde Lake Community Association to lawsuits from members (residents and tenants in Wilde Lake).

I also want to make clear, I believe that there are many sections of our governing documents that I feel are unfair (one vote per property, single year terms for Village Board and Columbia Council Representative, people living outside the village voting in the election, etc…) in addition to the issue raised Village Board Chair. However, the concept of fairness is highly subjective and may change from year to year on the Wilde Lake Village Board.

I believe that a slower, reasoned approach is warranted. Moving forward, the Wilde Lake Community Association should review the election procedures to verify they are in compliance with the amended HOA act. With respect to changing election procedures that also contradict language in our governing documents, we must submit those changes to the Maryland Attorney General's Consumer Protection Office. This office is charged with overseeing the HOA Act, and getting an opinion from this office is critical to ensure the Village Board is not acting beyond its duty of obedience.

Wilde Lake residents should be aware that the Wilde Lake Village Board Chair intends to present the newly revised Wilde Lake Election Procedures as soon as the November 3, 2025 meeting. Each time a new policy or procedure has been introduced this board year, the Board Chair has asked for a vote on the procedure after only a few minutes of discussion by the board. I strongly recommend this procedure not be voted on until Wilde Lake residents have the opportunity to read and comment (with or without suggested changes) on the procedure.

Wilde Lake residents need to know that the way the next Village Election is conducted will be different than in the past. Some of those changes may improve how elections are conducted and are welcome. However, any changes that contradict our governing documents must be approved by the Maryland Attorney General prior to implementation. Doing anything less would be reckless.