

## POLICY ON POLITICAL ENDORSEMENTS AND RELATED COMMUNICATIONS OF THE ELDORADO COMMUNITY IMPROVEMENT ASSOCIATION

The following policy regarding how the Board will evaluate requests for political endorsements and related communications was adopted by the Board of Directors of the Eldorado Community Association, a New Mexico Non-profit Homeowners Association ("Association"), at a regular meeting of the Board of Directors. This policy will become effective on [date]: October 17, 2023.

The purpose of this Policy is to:

- guide the Board when requested to make political endorsements or engage in political activities,
- prevent the ECIA's facilities and communication tools from being considered public forums,
- ensure assessments paid by members are not used to support political activity,
- educate Directors, committees and members about their roles and
- protect the best interests of the Association

The BOARD hereby adopts the following Policy on political endorsements and related communications:

### A. *POLICY.*

1. **Non-endorsement.** ECIA will not endorse candidates for office of local governmental agencies including local metropolitan districts. It may propose residents to serve on resident advisory panels for these local governmental agencies, in an advisory capacity only.
2. **Communications not a public forum.** ECIA will not allow its newsletter, e-blasts, marquees, social media accounts or other methods of communication to be used for endorsement of political candidates or activities. The ECIA does not intend for any of these methods of communication to be open to the members or to the general public as a public forum.
3. **Announcements.** ECIA will allow neutral, informational announcements of non-commercial public meetings held on or near its property, which announcements may be limited in number or frequency. For example, the ECIA may restrict announcements of a political rally planned to be held in the Community Center to one announcement in the *Vistas* newsletter, and one eblast before the event. Daily or even weekly advance announcements via eblasts would not be allowed.
4. **Political advocacy.** On most political issues arising outside of the subdivision plat of Eldorado at Santa Fe, particularly where the Board reasonably believes ECIA members may have differences of opinion, the Board will not advocate or speak on behalf of the Association's members to other local government agencies or metro districts. Management staff also may not speak on behalf of the Association advocating for actions and policies not directly involved with the common property and the actions of the Association directly.

For example, the Board and staff may discuss and advocate for approval of a building permit to allow the Association to construct a recreational asset on the common areas like a playground

at the Community Center, but would not advocate for denial of a building permit for a commercial building proposed to be built off of the subdivision plat.

5. **Individual advocacy and action.** Board members and ECIA volunteers including but not limited to committee chairs have the right to engage in personal political activity so long as they make clear they are not speaking on behalf of the Board or the ECIA. Association members are encouraged to engage in individual political advocacy or to form voluntary associations for that purpose.

*B. FINDINGS and BASIS FOR POLICY:* The Board adopts this Policy based on the following findings:

1. **ECIA is an HOA, not a voluntary non-profit.** The Eldorado Community Improvement Association (ECIA) is a non-profit corporation, specifically a homeowners association as defined by the New Mexico HOA Act, Section 47-16-2(N), “an incorporated or unincorporated entity upon which maintenance and operational responsibilities are imposed and to which authority is granted in the declaration.” ECIA was created by Declarations recorded on all property in the Association. It is not a voluntary, charitable or social welfare association. Assessments are mandatory and must be paid by all property owners.
2. **Purpose of ECIA Assessments.** Assessments are calculated based on the budgeted annual cost of operating the community including funding for reserve and replacement items. Article V, Section 2 of the Declaration of Covenants for the ECIA defines the purpose of the mandatory assessments levied by the ECIA as “exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents and owners in The Properties and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the homes situated upon The Properties and to provide reasonable and necessary public services...”
3. **ECIA is not a local government or quasi-government agency.** When ECIA was originally formed in 1972, its developer built and owned the roads and the local water system. As the years passed, before transition to homeowner control of the Board, the roads in the subdivision of Eldorado at Santa Fe were deeded to Santa Fe County. Later on, the water system was taken over by the Eldorado Area Water and Sanitation Department, which is not affiliated with the ECIA. Santa Fe County is the local government with sole responsibility for zoning, building permits, crime, fire and life safety, waste management, public roads, and regulating utilities such as water, power, phones, and so on. None of these functions are the responsibility of, nor are they within the power of, the ECIA to regulate or control.
4. **Purpose of ECIA.** ECIA’s Articles of Incorporation state that “The purpose of the Eldorado Community Improvement Association, Inc...is to provide for the administration, maintenance, preservation, architectural control and improvement of the Lots and Common Properties...the Association will promote the health, safety, and welfare of the residents within the above-described property.” The ECIA is not a political, social welfare or other advocacy group which people join voluntarily for the purpose of influencing governmental policy or taking political action.

5. **Newsletter not an open forum.** Courts in other jurisdictions have held that, unless homeowners associations invite the general public to use their newsletters and other communication methods, those newsletters and other communications are not a forum for free speech. Therefore, homeowners associations may limit public speech in their newsletters and other communications without regard to content.

C. **CONCLUSIONS:** Based on the above findings, the Board makes the following conclusions, which are the basis for adoption of this Policy.

1. **Reason for adopting this Policy.** The Board finds it advisable to adopt a policy clarifying the limits of Board's political advocacy, endorsements, and the use of its newsletter and other communication methods, to provide guidance to the Board, management and members about how the ECIA may take action on activities not related to governing the Association, maintaining and operating the common areas and providing for architectural control and covenant compliance. The Board especially wishes to educate its members about the limits on ECIA's actions and activity regarding issues outside of the subdivision plat of Eldorado at Santa Fe.
2. **Best interest of the Association.** The Board believes it would not be in the best interest of the Association to take political positions on which members may have differing opinions, or to have residents lobbying it for various political actions. The Board further believes it would be detrimental to the effective governance of the Association for members to choose to run for election to the Board on a political platform to engage in advocacy.
3. **Protecting effectiveness of communication methods.** The Board concludes it would detract from the purpose of communicating with residents about ECIA's actions to open up to anyone as a public forum its newsletter and other communication methods.

D. **GENERAL**

1. This policy shall replace and supersede all previous policies, rules, and regulations regarding the subject matter of this policy. The governing documents of the Association control if they conflict with any provision of this policy.
2. The Board may amend this policy in the same way it makes any other policy. It may also vote to temporarily suspend any provisions of this Policy if necessary for the best interest of the Association.
3. In the event that a court of competent jurisdiction finds any portion of this policy void or otherwise unenforceable, the other provisions shall remain in full force and effect.

The undersigned hereby certifies that the foregoing policy was adopted and made a part of the minutes of the meeting of the Board of Directors of the Association conducted on the 17 day of October, 2023.

BOARD OF DIRECTORS OF THE  
ELDORADO COMMUNITY IMPROVEMENT ASSOCIATION

By: Amelia Adair  
Amelia Adair, President