

Number: **BP 011**

Authority: Board of Directors  
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Initiating Dept./Div.: Administration



## **BOARD POLICY**

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### **POLICY FOR THE SUBMISSION AND TABULATION OF PROPOSITION 218 NOTICE PROTESTS**

#### **PURPOSE**

To establish a policy for handling protests related to fee or charge increases subject to Proposition 218, in accordance with Article XIID of the California Constitution and California Government Code Section 53755.

#### **POLICY**

This policy establishes the criteria for handling written protests of fee and charge increases subject to the Proposition 218 notification requirements and provides standards for the tabulation of protests in the event of a challenge or claim of irregularity.

The Board welcomes input from the community at any time, including during public hearings on proposed fee and charge increases. Any property owner and/or tenant of a parcel currently receiving sewer service from The District or reasonably served by Central San's recycled water pipelines may lodge a protest.

### **WRITTEN PROTESTS**

**Requirements for Validity.** To be valid, a written protest must:

1. Identify a parcel by either Assessor's Parcel Number or street address that currently receives sewer services from the District or is reasonably served by Central San's recycled water pipelines.
2. Clearly state its opposition to the proposed fees or charges;
3. Be timely received; and
4. Not have been withdrawn before close of the public hearing.

**Delivery to Central San.** Written protests should be directed to the Secretary of the District and may be delivered by any of the following methods and timing:

1. Methods of Delivery:
  - a. U.S. Postal Service
  - b. Email
  - c. Fax
  - d. Overnight mail service, or
  - e. Personal delivery.

Preferably, mailed or personally delivered protests will note on the envelope, "Sewer Service Charge Protest" or "Recycled Water Fee Protest," as applicable.

2. Timing of Delivery. Written protests must be received by the Secretary of the District:
  - a. Before the start of the public hearing
  - b. At the public hearing, or
  - c. By close of the public hearing.

No postmarks will be accepted.

**Confidentiality – Disclosure of Written Protests.** Written protests will be disclosed as follows:

1. Prior to Public Hearing. Upon the request of a property owner, the Secretary of the District will disclose the receipt of a written protest by a tenant for a particular property before the public hearing.
2. At Public Hearing. Written protests will be made available to the Board Members at the noticed public hearing and will be treated as public records.

## **VERBAL PROTESTS**

**Requirements for Validity.** To be valid and included in the final protest tabulation, a verbal protest must:

1. Be made during the public hearing by a record owner or tenant of a parcel that currently receives sewer services from the District or is reasonably served by Central San's recycled water pipelines; and
2. Clearly state its opposition to the proposed fees or charges.

## **PROVISIONS COMMON TO BOTH WRITTEN AND VERBAL PROTESTS**

### **Determination of Validity**

1. *Determining Validity.* The Secretary of the District shall determine the validity of all written and verbal protests based on the established rules and shall not accept as valid any written or verbal protest if the Secretary of the District determines that any requirements for validity have not been met. The Secretary of the District shall provide a report to the Board on the number of invalidated protests.
2. *No Appeal of Decision on Validity.* The Secretary of the District's decision that a written or verbal protest is not valid shall constitute a final action of the District and shall not be subject to any administrative appeal.

### **One Protest Per Parcel**

1. *Protests from Both Property Owner and Tenant.* Only one protest will be counted per parcel. If a protest is received from both the property owner and tenant, only the property owner's protest will be counted.
2. *Protests from Multiple Owners of Single Parcel.* If a parcel is owned by more than a single record owner, each owner may submit a protest, but only one protest will be counted per parcel and any single protest submitted in accordance with these rules will be sufficient to count as a protest for that parcel.

### **Withdrawal of Protests**

1. *Written Request to Secretary of the District.* Any person who submits a written protest may withdraw it by submitting to the Secretary of the District a written request before or during the public hearing that the protest be withdrawn.
2. *Property Owner Withdrawal of Tenant's Protest.* A property owner may withdraw the written or verbal protest of a tenant. The withdrawal of a protest shall identify the affected property by Assessor's Parcel Number or street address and the name of the record owner or tenant who submitted both the protest and the request that it be withdrawn.

**Determination of Majority Protest:** A majority protest exists if written and verbal protests are timely submitted and not withdrawn by the record owners or tenants of a majority of the parcels subject to the proposed fee or charge.