

Policy No.: P100-15-5	Type of Policy: Board Business
Policy Title: Proposition 218 Receipt, Tabulation and Validation of Written Protests	
Policy Description: Defines guidelines for receiving, tabulating and validating written protests of proposed changes to utility charges.	
Approval Date: 9/1/2015	Last Review Date: 2015
Approval Resolution No.: 73-15	Next Review Date: 2019
Rescinded Resolution No.: 28-12	Rescinded Resolution Date: 6/19/2015

It is the policy of the Board of Directors of Dublin San Ramon Services District:

When notice of a public hearing with respect to a sewer service or water rate has been given by the District pursuant to Proposition 218 (Section 6 of Article XIII D of the California Constitution), that the following shall apply:

The District and its Board of Directors welcome and will consider input from the community at any time, including during the public hearing on the proposed charges. However, in accordance with Proposition 218 as described herein, only valid written protests that are timely received will be counted as formal protests of a proposed water or sewer charge.

The District Secretary is hereby appointed as the recipient, tabulator and validator of written protests; the District Secretary may at his or her discretion retain the services of a third party to assist him or her with receipt, tabulation and validation.

Receipt of Written Protests

1. Any record property owner or tenant-customer of a parcel receiving a property-related service desiring to submit a written protest shall submit that written protest to the District Secretary. Protests may be submitted by personal delivery, the U.S. Postal Service, or other delivery services addressed to the District Secretary at 7051 Dublin Boulevard, Dublin, CA 94568. Written protests

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submitted in this fashion should note on the envelope "Protest of Proposed Charge" so as to help ensure proper handling when received by the District. Protests may also be submitted electronically, either in the form of a .pdf document attached to an email addressed to the email address provided in the notice of the proposed charge, or by fax sent to the fax number provided in the notice of the proposed charge.

2. The deadline for receipt of hand-delivered protests shall be the close of the public comment period at the Board meeting at which the rate decision is made.
3. The deadline for the receipt of mailed protests, delivered protests or electronically sent protests (fax, .pdf documents, etc.) shall be 5:00 p.m. on the date of the Board meeting at which the rate decision is made). Postmarks or other indications of the date on which the protest was sent to the District will not be accepted as evidence of timely delivery.
4. Any protest not received by the District before the deadlines identified above, whether or not placed in the mail or electronically transmitted prior to the deadline, shall not be counted.
5. A valid protest must be in writing and:
 - Identify the affected property by either assessor's parcel number, street address, or customer account number;
 - Identify the name of the record property owner or tenant-customer;
 - Clearly state that the transmittal is a protest to the proposed charges;
 - Identify what proposed charges are being protested; and
 - Bear the original signature of the record property owner or tenant-customer. In the case of electronically delivered protests, a scanned signature of the property owner or tenant-customer will be accepted, subject to later verification if necessary as described below.
6. Only one protest will be counted per parcel served by the District. For a parcel of which there is a single owner and a single tenant-customer, only one protest will be counted, even if protests are received from both the property owner and tenant-customer. For a parcel owned by more than a single record owner, or occupied by more than one tenant-customer, or both, each record owner and each tenant-customer may submit a written protest in accordance with this policy, but only one protest will be counted for that parcel.

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7. The protest may not be altered or withdrawn by anyone other than the signatory. Any person who submits a protest may withdraw it by submitting to the Secretary of the District a written request (in any of the formats specified above) that the protest be withdrawn before the deadline for receipt of the original protest. The withdrawal of a protest shall contain the same information as specified above for a valid protest.
8. Unless and to the extent that the person submitting the written protest waives, in writing, the right to have his or her personal information withheld from disclosure, protests received by a public agency pursuant to Proposition 218 are currently not subject to disclosure because Government Code section 6254.16 bars the disclosure of personal information about utility customers, and because the requirements of Proposition 218 can be met without disclosing such information¹. Accordingly, all protests received by the District, except those that state on the face of the protest that the protestant waives the right to have his or her personal information withheld from disclosure, shall be maintained in confidence and will not be open to public review.

Tabulation of Written Protests

1. When directed by the Board and after the latest deadline for receipt of protests, the District Secretary shall complete the tabulation of all protests received and shall report the results of the tabulation to the Board of Directors upon completion.
2. If tabulation of the protests received demonstrates that the number received is less than one-half of the parcels served by the District with respect to the charge which is the subject of the protest, then the District Secretary shall advise the Board that there is an absence of a majority protest, and, therefore, there is no need to determine the validity of each individual written protest. For the purposes of this provision, all protests will be presumptively assumed to be validly submitted.
3. If tabulation of the protests received demonstrates that the number received is greater than one-half of the parcels served by the District with respect to the charge which is the subject of the protest, then the Secretary of the District shall advise the Board that a validation of the protests is required and when that validation will be completed. In conducting such validation, the District Secretary

¹ *Morgan v. Imperial Irrigation District* (2014) 223 Cal.App.4th 892, 920-922.

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may, in his or her discretion, require that the original of a written protest submitted electronically be produced in order to verify the original signature is genuine.

Validation of Written Protests

1. A majority protest exists if valid protests are timely submitted and not withdrawn by the record owners or tenant-customers of a majority of the parcels subject to the proposed charge, a majority being equal to greater than fifty percent (50%).
2. In the event there is an apparently successful majority protest, the District Secretary, or his or her designated representative, shall determine the validity of all protests. The District Secretary shall not determine as valid any protest if the District Secretary determines that any of the following conditions exist:
 - o The protest does not contain all of the information specified above;
 - o The protest was not received prior to the deadlines identified above;
 - o A request to withdraw the protest was received prior to the deadlines identified above; or
 - o The protest was altered by someone other than the record property owner or tenant-customer whose signature appears on it.
3. The District Secretary’s determination that a protest is not valid (or does not apply to a specific charge) shall constitute a final action of the District subject to appropriate judicial review.