

## **Second Report of the CSD Advisory Committee on Voting to the CSD Board of Directors August 15, 2013**

### **Introduction:**

The Advisory Committee first reported to the Board in July. In that report the Committee identified its goals for a new voting system. They are:

- 1) To resolve the issue of who may vote at Fallen Leaf;
- 2) To increase the voter base at Fallen Leaf so that elections will be representative of the community as a whole;
- 3) To increase the number of people who may serve on the CSD Board;
- 4) To allow the younger generation to participate in CSD elections and Board membership; and
- 5) To allow non-resident voters to vote at their winter residence in general elections, but also vote in Fallen Leaf special elections.

To accomplish these goals the Committee made three recommendations. The first was to was to abandon the current system which restricts voting to people who declare Fallen Leaf to be their domicile. The second was to recommend a system that allowed registered voters as well as property owners to vote. The third was to recommend that each developed parcel in the district be allocated four votes. Undeveloped parcels are to be allocated two.

The recommendation to abandon the domicile voter system was based on the committee's belief that many potential voters will not vote at Fallen Leaf as long as the question of who may lawfully do so remains uncertain. A second reason is that anyone who declares Fallen Leaf as their domicile can only vote at Fallen Leaf, and not at their winter home.

The recommendation to use property ownership as an additional qualification for voting was made for several reasons. First, there is statutory authority allowing special district voting to be based on property ownership. Second, Fallen Leaf supports its Fire Department with a special assessment levied against all parcels within the district.<sup>1</sup> As a result, every parcel owner has a direct interest in the CSD's affairs, and should have a voice. Third, if the right to vote is to be expanded beyond registered voters, that expansion must be limited to a well defined group with a legitimate interest in Fallen Leaf affairs. The El Dorado County Assessor's Roll, which sets forth the people who pay property taxes within the district, provides a readymade list of those people.

The recommendation to provide each parcel with more than one vote is based on several assumptions. First, the Committee believes that four votes per cabin will more fairly reflect the average number of people in a cabin who, but for the uncertainty regarding domicile, would otherwise qualify as voters and would vote. Second, the person named on the assessor's roll is likely to be a senior member of that family. Restricting the vote to that person would, in effect,

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<sup>1</sup> A developed parcel pays a full assessment. Undeveloped parcels pay one half an assessment. Stanford Camp is the exception as they pay forty assessments although they have only three parcels.

lock out the younger generation. Third, providing more than one vote per cabin would permit cabins that are jointly owned to allocate votes to the families of the different owners. Finally, providing four votes per cabin would increase the voter base at Fallen Leaf.

The Committee has recently concluded a survey of the Fallen Leaf Community. The primary purpose of the survey was to determine if there is broad support for the voting framework which the Committee is recommending. However, the survey was also designed to determine if the assumptions upon which the Committee based its recommendations were accurate, and whether the additional expense associated with four votes per cabin would be justified.

### **The Survey Methodology:**

The Committee distributed the survey, accompanied by the Committee's first report to this Board, to as many community members as possible. The survey and the Committee's report were:

- Posted on the CSD's website;
- Mailed to every person on the El Dorado County Assessor's Roll;
- Emailed on two occasions to every person on the Fallen Leaf Protective Association's email list;
- Emailed on two occasions to every person the West Side Association's email list, and
- The Committee invited anyone who received the report and survey to pass it on to others who they believed would be interested.

The actual survey was conducted through Survey Monkey. The Committee's Survey Monkey account was turned over to an independent certified public accountant when the survey was opened for responses. The CPA changed the account password to one of his own so that no committee member could get into the account and alter the survey results. At the official close of the survey, on August 5, 2013, the accountant returned the Survey Monkey account by changing the password back to one that the Committee knew. The Committee has let the survey run since August 5<sup>th</sup>, and the results we are reporting are the total numbers. However, the numbers before and after the return of the survey to the committee are entirely consistent.

Hard copy survey responses were manually entered into Survey Monkey. The hard copies have been preserved, should anyone wish to check to see if their responses were accurately entered.

There were one hundred eighty five (185) survey responses at the point the accountant returned control of the survey to the Committee. There are currently a total of two hundred twenty three (223) responses.<sup>2</sup> Three survey responses are not included in the total number. One

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<sup>2</sup> A summary printout of the Survey responses is attached to this report. The preformatted summary report provided by Survey Monkey only includes those questions which are answered by checking a field. Hence, not all questions and responses are included in the summary. An example of a question that does not print out is "What is your name?" If the Board wishes to review individual answers, they are available subject our assurance that the identity of a respondent would be held in confidence.

of the three indicated that s/he was not responding because s/he believed the questions on the survey were too intrusive. Two other respondents voted both “yes” and “no,” thereby cancelling out their vote. However, those two respondents did include insightful comments in the comments section of the survey. These comments are addressed below.

The responses demonstrate that the survey is representative of the community. Geographically the responses were from all areas:

| Area                                    | No. of Responses | Percentage of Total Responses |
|---|------------------|-------------------------------|
| Emigrant Road:                          | 16               | 7.17%                         |
| East Side:                              | 51               | 23.87%                        |
| West Side:                              | 65               | 29.15%                        |
| South End:                              | 47               | 21.08%                        |
| Stanford Hill/Lily Lake/Glenn<br>Alpine | 44               | 19.73%                        |
| Total                                   | 223              |                               |

Both Forest Service Permittees and private owners were also represented:

| Ownership             | No. of Responses | Percentage of Total Responses |
|-----------------------|------------------|-------------------------------|
| Private Land          | 122              | 55.20%                        |
| Forest Service Permit | 100              | 45.25%                        |

### **The Survey Results:**

The survey demonstrates overwhelming support for the Committee's recommendation. Of the two hundred and twenty three responses, two hundred and seventeen (217), or 97.31% of the responses were positive. The “no” responses totaled six, or 2.69% of the total. However, even some “no” respondents indicated that they approved of the framework recommended, but voted “no” because they had questions regarding its implementation.

Other questions on the survey were designed to determine if allocating multiple votes to each parcel was necessary or even advisable. The goal of multiple votes was to accommodate cabins under multiple ownership, to reflect that a cabin would have more than one member of voting age, and to allow involvement of the younger generation. The survey establishes that multiple votes per parcel are necessary if we are to reach these goals.

For example, one hundred thirty three (133) of the survey respondents indicated that they were the person to whom El Dorado County mailed its tax bill. Of those, over ninety four percent

(94%) were age 50 years or older. Over sixty three percent (63%) were age 66 or over. We would have an electorate skewed heavily to the older generation if the only person who could vote was the person to whom El Dorado mailed its tax bill. Just as importantly, CSD Board members must be voters in the district to qualify for office. If Board membership were restricted to those on the Assessor's Roll, the younger generation would be shut out of the opportunity to serve.

Another example is multiple family ownership of cabins. Just over seventy nine percent (79%) of the respondents indicated that their cabin is shared by two or more family units. Forty one percent (43%) of the cabins are shared by four or more family units. Given those numbers, multiple votes per cabin will be required if multiple family units are to be given a voice in elections.

Finally, the survey demonstrates that allocating only one vote per cabin would under represent the number of persons of voting age in each cabin. Eighty three percent (83%) of the cabins have three or more persons of voting age. Over sixty five percent (65%) of the cabins have five or more persons of voting age. On balance, the assignment of four votes to each developed parcel brings our proposal as close as is practicable to the traditional standard of "one person, one vote."

In sum, the survey demonstrates that the community strongly supports the recommendation of the Committee, and allocating four votes per parcel is necessary if we are to achieve our goals.

That having been said, the Committee did consider the concerns of the "no" voters, most of whom were kind enough to provide reasons for their vote. Those reasons fall into six categories:

1. **Stanford Camp:** Three "no" votes expressed concern that Stanford would be given a disproportionate voting block. However, most of these respondents were under the misapprehension that Stanford was requesting one hundred sixty (160) votes, or four votes for each of their fire assessments. That is not the case. However, what number of votes Stanford should be allocated remains an unanswered question for the Committee, and will be discussed below in detail in the "Unresolved Issues" section of this report.

2. **The Expense and Appropriateness of the CSD maintaining the Voter List:** By statute, property based districts maintain the voting list themselves. It might be possible to draft a statute that transfers this task to El Dorado County Elections, but they will charge us if we do so. Doing it ourselves should save money. Furthermore, even if El Dorado County were to keep the list, they would not police it. County Elections will register anyone who swears they have a right to vote. If someone questions that right, the investigation is handled by law enforcement and/or the California Secretary of State. Therefore, having County Elections maintain the list will not bring stricter enforcement.

The integrity of the list comes from the fact that a voter registration list is open to the public, and anyone can obtain it to see who is registered. If they object to some registrations, that

complaint is brought to the appropriate authority. The CSD can bring additional transparency to this process by having the list readily available for inspection. For example, it could be kept in the General Manager's office and available to anyone.

**3. Some People Own More Property And So Are Unfairly Entitled To More Votes:**

The Committee believes that, with the possible exception of Stanford, all developed parcels should receive four votes, and all undeveloped parcels should be allocated two votes. Underlying this conclusion is the fact that, with the exception of Stanford, each developed parcel pays the same fire assessment. The same is true for undeveloped parcels, but they pay one half of an assessment. Since that tax falls equally on these parcels, the Committee believes that each should have a voice equal to the financial burden shouldered. It is true that some people own more than one parcel. Accordingly they pay more than one fire assessment. However, allocating votes in proportion to the financial obligation is fair, unless it would result in too large a block being placed under the control of a single person or entity. That will not occur here.

**4. Four Votes Are Not Enough:**

This objection is another way of supporting the concept of one person, one vote. Four votes may not allow everyone in a cabin to vote who is of voting age. However, a cabin may not be limited to four votes. The Committee's recommendation maintains the domicile based voter registration for those who believe they may register. In addition, our system goes further and creates a second means of establishing a right to vote. The four votes per cabin is designed to bring the opportunity of voting to those who fear that they cannot pass the domicile test, and yet have property interests to protect.

Four is a number which represented the Committee's best estimate of the average number of age eligible voters per cabin. It turns out that 84% of the cabins that responded have three or more voting age members, and 65% have five or more of voting age. Despite that, the Committee still recommends four as a number that is manageable, cost effective, and is likely to remain relatively stable over the years. In this way we anticipate that there will be smaller management and list updating burdens for both cabin owners and the CSD.

The alternative was to allow each cabin to identify an unlimited number of people who they believed were entitled to vote. We felt that giving cabin owners unfettered discretion could create two problems. It might invite exaggeration or the appearance of exaggeration, and pose the same problems that the community experienced in 2010. In addition, the cost of an election increases with the number of registered voters. We ultimately agreed on four votes as not only fair, but manageable and cost effective.

**5. There Is Inadequate Definition Of The Persons To Whom Votes Can Be Allocated:**

This is another issue that the Committee is still considering, and it is discussed below in the "Unresolved Issues" section of this report.

**6. This Proposal Doesn't Solve The "Domicile" Issue, And It Improperly Elevates A Purely Local Issue To The Level Of A State Issue:**

First, we have no right to redefine the meaning of "domicile." That is a legal concept which is rooted in the laws of our state and our nation. All we can do is, acting within the law, find a way to maximize voter inclusion without running afoul of the "domicile" roadblock. We have tried to accomplish this by creating an alternative method of qualifying to vote.

We attempted, with the help of El Dorado County Supervisor, Norma Santiago, to keep this issue at the county level. Unfortunately (but not unexpectedly) County Counsel is of the opinion that all issues regarding voter eligibility are governed by state statute, and cannot be overruled by county ordinance. Hence the need to take the problem to the level of the state legislature.

**The Path Forward:**

The Committee believes that we have accomplished the first stage of the task with which we were charged. We have identified a system of voting which we believe will serve the needs of Fallen Leaf. We have also determined that this solution has broad community support. The second stage, for which we need Board approval, is to attempt to turn the concept into law. If the Board passes a resolution providing us with the authority to go forward, we will do so.

The Committee has had two meetings with El Dorado County Supervisor Norma Santiago. She is enthusiastic about the proposal and will do whatever is in her power to assist us. She had hoped that it would be possible to enact our proposal at the county level, which would have made going to the California Legislature unnecessary. Towards that end she consulted with County Counsel. However, County Counsel is of the opinion that any solution has to be by state statute. The Committee agrees with this assessment.

Despite the need for a State solution, Ms. Santiago will remain involved. She believes that she will be able to muster the number of votes necessary to pass a County Board of Supervisor's resolution in support of our bill. This resolution would be an important step in our efforts with the Legislature. Ms. Santiago has also contacted the office of Assemblyperson Frank Bigelow on our behalf. Mr. Bigelow is the Assemblyperson for Fallen Leaf's district, and he has worked with Ms. Santiago in the past. The Committee has been advised by multiple persons that Mr. Bigelow is the person in the Assembly through whom we should attempt to work. If this Board chooses to go forward, we will have a meeting with Mr. Bigelow and his staff in early September.

It is the Committee's plan to work with Mr. Bigelow's office in a collaborative manner. We will not present Mr. Bigelow's office with a bill, and then ask them to enact it. Instead, we believe it will be more effective to first meet with them to explain the problems we face, our suggested framework, and then work together on the necessary language. At some point in the fall we anticipate having a bill ready to be introduced. It is our hope to have that bill drafted in time for it to be brought back to this Board for its review and approval before it is introduced. A

bill will have to be introduced by January. If this Board will not meet before January, a special Board meeting may have to be set.

The Committee cannot guarantee that the bill which is introduced will be enacted in the same form in which it was introduced. A wise person once said that if you like the law or sausage, you should never watch either of them being made.

### **Unresolved Issues:**

There are undoubtedly a number of issues which we have not anticipated, and which will have to be addressed. However, there are two issues, of which we are presently aware, and on which we are still working. These issues were also mentioned in the survey responses.

The first is Stanford Camp. Stanford pays forty (40) fire assessments, or forty times as much as any single parcel holder. Committee members spoke with Dave Bunnett to get his views on the proposed plan. David indicated that he believed the basic plan was good, but Stanford is asking that they be given one vote for each of their forty fire assessments. Stanford Camp consists of three parcels. Under the proposed plan Stanford would be allocated twelve votes. As a result, Stanford is asking for an increase of twenty eight votes above what they would otherwise receive. Even at that level, Stanford would receive one quarter of the votes per fire assessment that the balance of the lake would receive. Although Stanford pays nearly seven percent of the total fire tax, it would end up with approximately 3.5% of the votes.

In light of this, the sense of the Committee is that Stanford's request is not unreasonable, and is also not likely to be significant. The voter base at Fallen Leaf will increase to something over one thousand potential votes should the proposed plan be enacted. An increase of twenty eight votes among a pool of one thousand is not a dramatic shift of political power.

However, the committee is concerned that making a special rule for Stanford may decrease our chances of getting the legislature to accept our plan. The less uniform the application of the proposed law, and the larger the number of special interest exceptions to it, the greater the potential for concern among our legislators. This is one of the issues we hope to discuss with Assemblyman Bigelow's office to determine if our concern is well founded.

A suggestion was made by Supervisor Santiago's Chief of Staff. That suggestion was that we adopt weighted voting. Under that proposal each parcel would receive the greater of four votes or the number of fire assessments paid. Under that proposal Stanford would get forty votes, and anyone else who wished to do so, could pay five or more fire assessments to gain additional votes. The committee is still considering this proposal and would appreciate any feedback the Board may have at the Board public meeting.

A second issue that remains unresolved is the issue of to whom votes may be assigned. Under the proposed system the person who is on the Assessor's Roll is the default voter for all four votes allocated to that cabin. However, that person may assign those votes to other people. The purpose of this provision is to allow votes to be allocated among families who jointly own a cabin, and to permit votes to be allocated to the next generation. In that way members of that

generation can vote and also run for CSD Board membership. The difficult part of this problem is to define the class of persons to whom votes may be assigned.

Since its inception the Committee has struggled to define those who are so much a part of the Fallen Leaf Community that they should be able to vote here. We know who these people are. They are the people who would refer to a cabin at Fallen Leaf as “my cabin” or “my families’ cabin.” But, to this point we have not come up with a definition that is clear, yet also includes the full range of people who would fall into this group.

However, it may not be necessary to come up with a definition. Although this is a difficult drafting problem, it may not be a real life problem. Drafting a statute that limits the people to whom votes may be assigned is only necessary if there is a substantial risk that the person on the Assessor’s Roll will assign votes to someone who is not a member of the Fallen Leaf Community. The Committee believes that there is no incentive for the person on the Assessor’s Roll to assign votes to people who are outside of our community. For that reason, the Committee is weighing the option of not restricting the discretion of the default voter to assign votes. In lieu of a statute, we would rely on the good judgment of the people who will assign these votes, and the lack of incentive to assign votes inappropriately. Again, we would appreciate the Board’s input at the Labor Day meeting.

#### **Conclusion:**

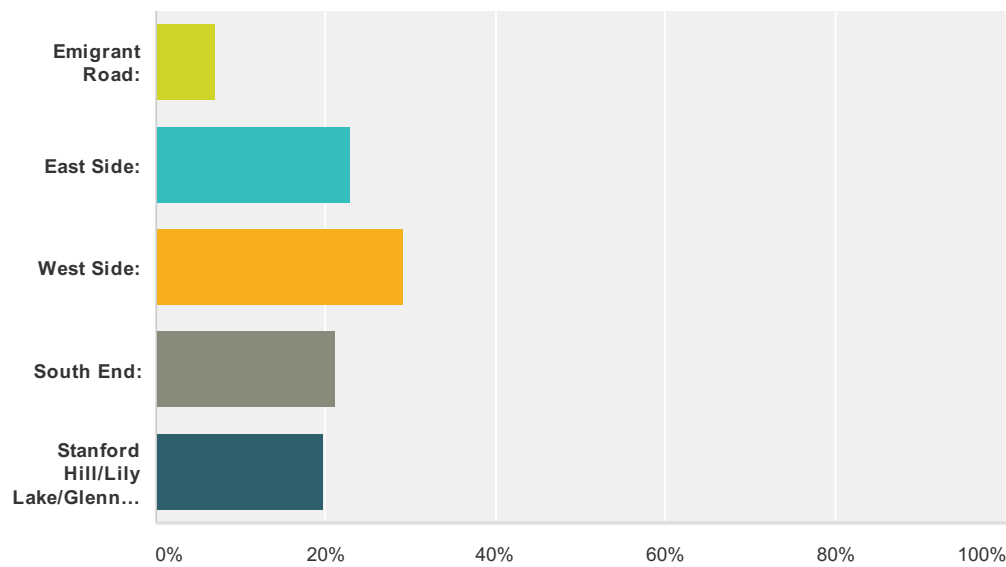
We request a resolution authorizing the Committee to pursue a legislative solution based, as far as feasible, on the framework set forth in this report and the Committee’s first report to the Board.

Ben Andersen, Chairman  
Ray Alden  
David Andersen  
Mike Casey  
Tom Beales  
Franz MacMaster  
Terry Wedler



Q4 Is your cabin located on

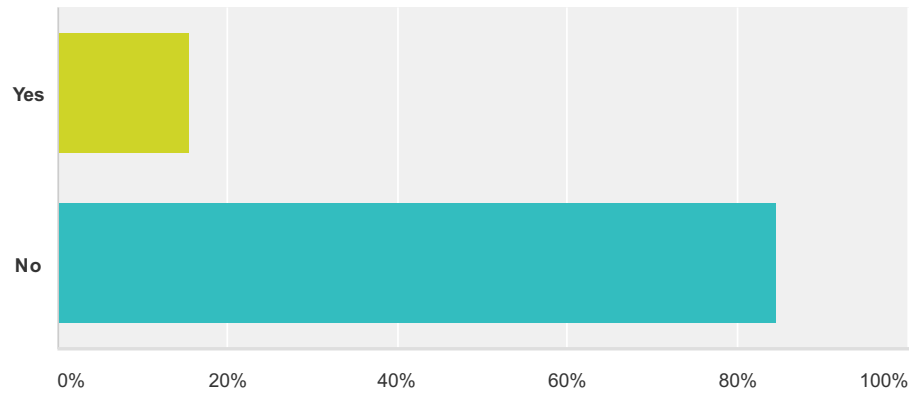
Answered: 223 Skipped: 0



| Answer Choices                       | Responses |     |
|--------------------------------------|-----------|-----|
| Emigrant Road:                       | 7.17%     | 16  |
| East Side:                           | 22.87%    | 51  |
| West Side:                           | 29.15%    | 65  |
| South End:                           | 21.08%    | 47  |
| Stanford Hill/Lily Lake/Glenn Alpine | 19.73%    | 44  |
| Total                                |           | 223 |

Q5 Are you currently a registered voter in El Dorado County?

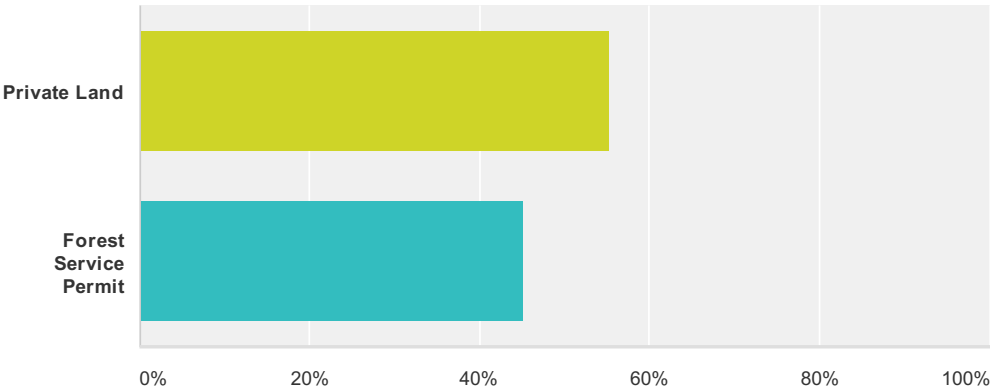
Answered: 220 Skipped: 3



| Answer Choices         | Responses |     |
|------------------------|-----------|-----|
| Yes                    | 15.45%    | 34  |
| No                     | 84.55%    | 186 |
| Total Respondents: 220 |           |     |

Q6 Is your cabin on private land or on Forest Service Permit land?

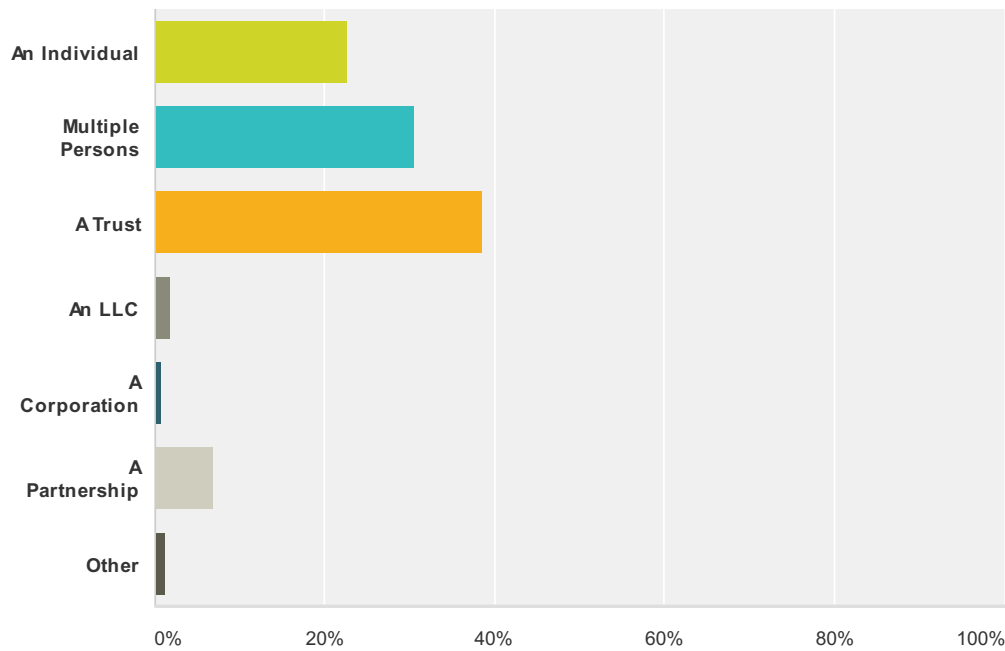
Answered: 221 Skipped: 2



| Answer Choices         | Responses |     |
|------------------------|-----------|-----|
| Private Land           | 55.20%    | 122 |
| Forest Service Permit  | 45.25%    | 100 |
| Total Respondents: 221 |           |     |

Q7 Is title your cabin in the name of:

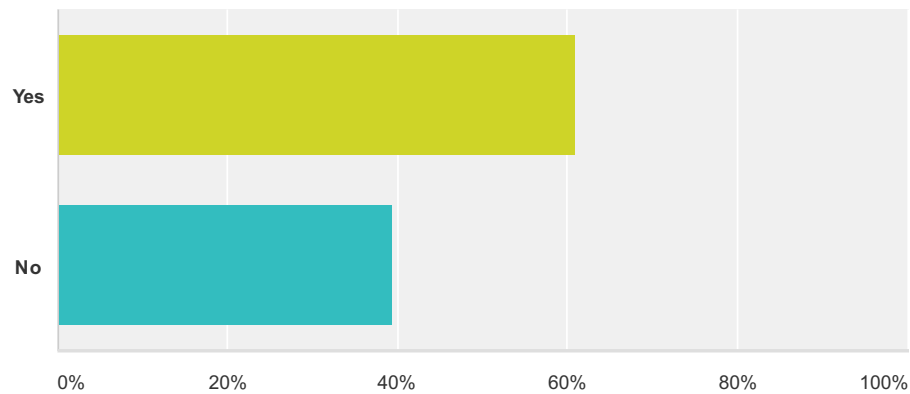
Answered: 220 Skipped: 3



| Answer Choices         | Responses |    |
|------------------------|-----------|----|
| An Individual          | 22.73%    | 50 |
| Multiple Persons       | 30.45%    | 67 |
| A Trust                | 38.64%    | 85 |
| An LLC                 | 1.82%     | 4  |
| A Corporation          | 0.91%     | 2  |
| A Partnership          | 6.82%     | 15 |
| Other                  | 1.36%     | 3  |
| Total Respondents: 220 |           |    |

Q8 Are you the person to whom El Dorado County mails its property tax bill?

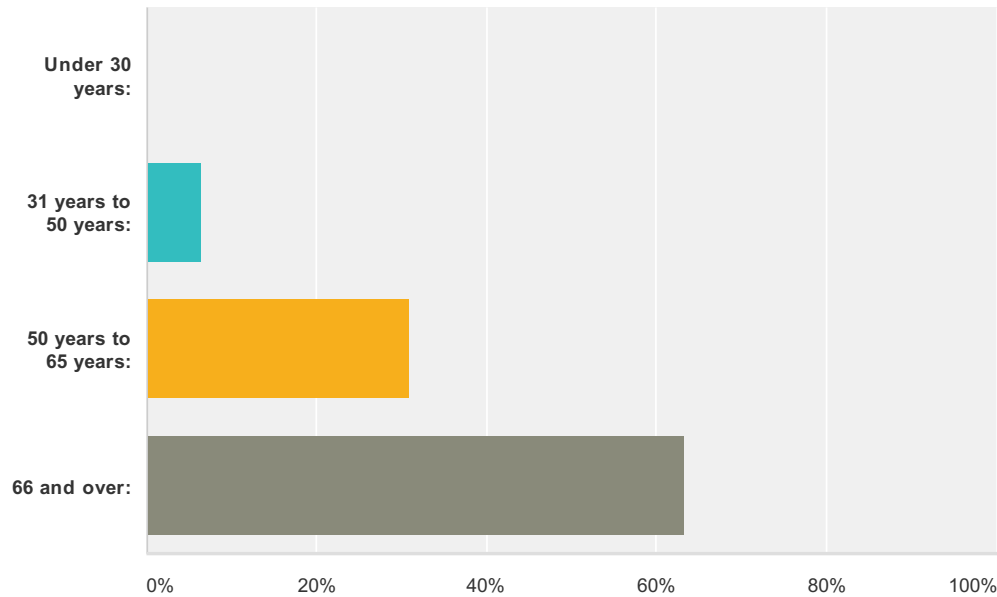
Answered: 219 Skipped: 4



| Answer Choices         | Responses |     |
|------------------------|-----------|-----|
| Yes                    | 60.73%    | 133 |
| No                     | 39.27%    | 86  |
| Total Respondents: 219 |           |     |

Q9 If you are the person to whom El Dorado mails its tax bill, what is your age:

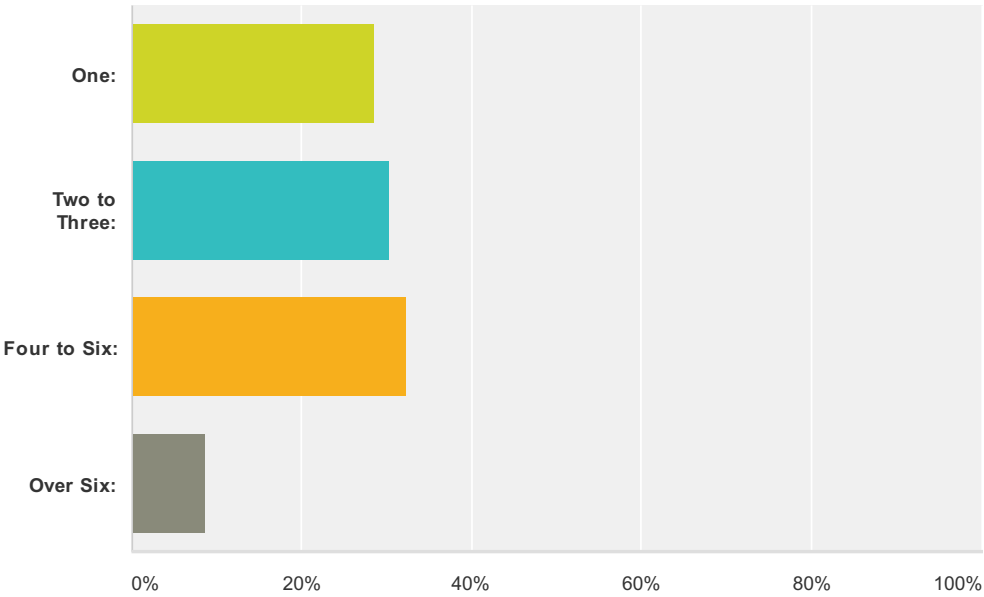
Answered: 139 Skipped: 84



| Answer Choices         | Responses |    |
|------------------------|-----------|----|
| Under 30 years:        | 0%        | 0  |
| 31 years to 50 years:  | 6.47%     | 9  |
| 50 years to 65 years:  | 30.94%    | 43 |
| 66 and over:           | 63.31%    | 88 |
| Total Respondents: 139 |           |    |

Q10 If more than one family unit shares your cabin, how many family units are there?

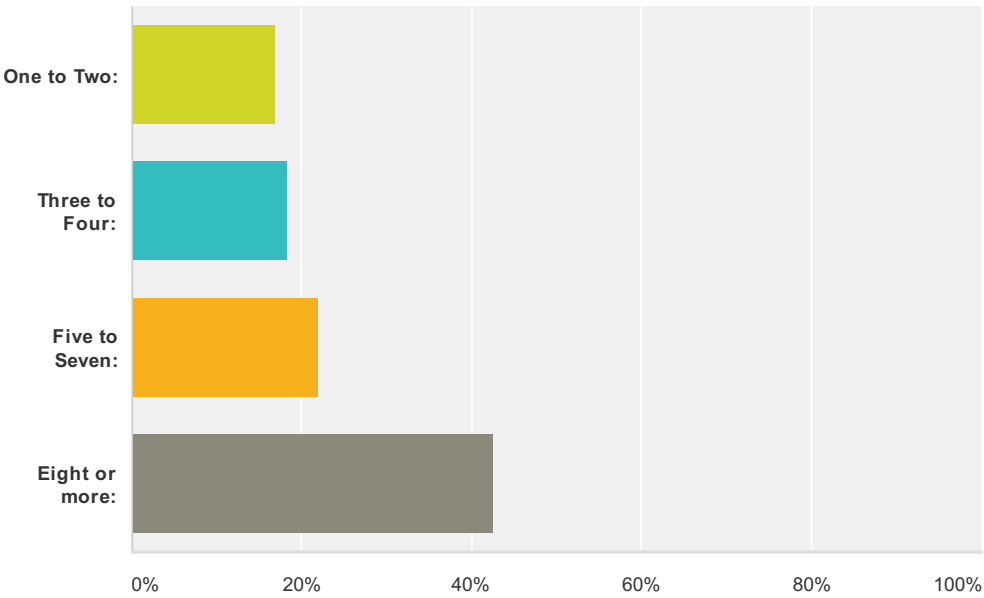
Answered: 217 Skipped: 6



| Answer Choices         | Responses |    |
|------------------------|-----------|----|
| One:                   | 28.57%    | 62 |
| Two to Three:          | 30.41%    | 66 |
| Four to Six:           | 32.26%    | 70 |
| Over Six:              | 8.76%     | 19 |
| Total Respondents: 217 |           |    |

Q11 Within those family units, how many people are of voting age (18 years old or over)?

Answered: 218 Skipped: 5

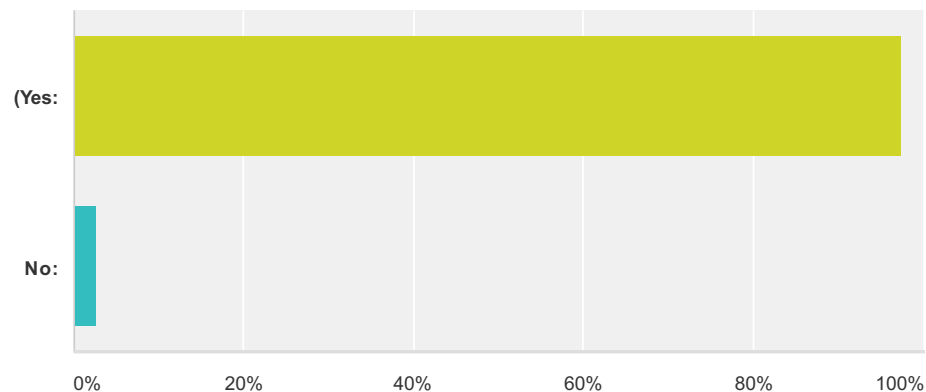


| Answer Choices         | Responses |    |
|------------------------|-----------|----|
| One to Two:            | 16.97%    | 37 |
| Three to Four:         | 18.35%    | 40 |
| Five to Seven:         | 22.02%    | 48 |
| Eight or more:         | 42.66%    | 93 |
| Total Respondents: 218 |           |    |



**Q12 The Proposed Voting Plan for Fallen Leaf CSD: Notwithstanding any other provision of law, qualified voters for Fallen Leaf Community Service District Elections shall consist of: 1. Registered voters in the District, and 2. Owners of property in the Fallen Leaf Community Services District who appear on the El Dorado County Assessor's Roll. This would include Forest Service Permit holders who also pay property taxes within El Dorado County and are on the Assessor's Roll. Each improved property shall be allotted four votes. Each unimproved property (meaning no cabin or residence) shall be allotted two votes. (As yet, the number of votes to be allotted to Stanford Camp has not been determined.)The person or persons listed on the last El Dorado County equalized assessment roll will cast the votes for that property unless that person or persons designate some other person in the cabin of voting age to cast some or all of those votes. If the property is held in the name by a corporation, an LLC, a partnership, trust, or some other legal entity, the legal representative of that property shall designate the individual or individuals who will cast the votes for that property. I approve of the proposed voting plan:**

Answered: 223 Skipped: 0



| Answer Choices         | Responses |     |
|------------------------|-----------|-----|
| (Yes:                  | 97.31%    | 217 |
| No:                    | 2.69%     | 6   |
| Total Respondents: 223 |           |     |