

Condo Smarts October 18th – 21st, 2017

Fraudulent Proxies

Dear Tony: Thank you for your column about the fraudulent proxies and voting results. Unfortunately the column did not get to the point of what we do with proxies that don't meet the requirements of the Act. Our strata had similar problems in the past and our solution was to make a copy of each of the proxies as they were registered and retain them as part of our records in the event there was a dispute. This resulted in several owners coming forward and requesting to see copies of the proxies and their claims they never issued a proxy for their meetings. If that occurs what happens to the vote that was taken at the meeting? Is it void or do we have to call another meeting?
Jas

Dear Jas: A proxy is a written document signed by an owner appointing an eligible person to act in their place at the meeting. Proxies are not absentee ballots and the proxy is the person who has registered in the proper form. There are pros and cons to proxies and how they are managed or permitted, but the alternative of no proxies would only mean far fewer owners would have a voice in their strata business. For the vast number of strata corporations proxies are well managed and honestly represented. A simple solution to identifying who represents proxies is to include the registration roster in the annual minutes. The names of the persons who registered in person or by proxy and who represented the proxies is information that may be included in the minutes of the meeting. In this method you avoid including any personal information on the proxy form that may disclose directions for a secret ballot or other instructions. By attending the meeting, owners and proxy holders consent to their name being included in the minutes. This provides disclosure to owners who have issued proxies and allows them to challenge the proceedings of the meeting, the voting results and the individuals who have fraudulently represented their strata lots. An error in registration does not automatically result in the reversal of the decisions at the meeting; however, if there are reasons to believe the meeting did result in a number of voting irregularities the best solution may be another meeting called to ratify the resolutions and take steps to prevent future abuses. If there are voting irregularities at meetings, any owner may make an application to the Civil Resolution Tribunal or the courts to challenge the results of the meeting and seek an order to reconvene the meeting or nullify the resolutions that were approved. One of the common misunderstandings about the registration process at a meeting is how votes are issued and who certifies proxies. Any person may act as a clerk at the registration desk. They may register owners and proxy holders and issue voting cards; however, there is no provision within the Strata Property Act or the Standard Bylaws that delegate's authority for the clerk to certify the proxies as valid. The delegated authority is created through the Act and bylaws to the president or vice president of council or the person elected to chair the meeting. Once the meeting is called to order, the chairperson approves that a quorum is present and certifies the proxies are valid. If there are any questions that relate to the validity of the proxies, the chairperson must then decide if proxy is certified and the voting card is issued.

Sincerely,

Tony Gioventu, Executive Director
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