

Condo Smarts March 22-28, 2021

How Do We Count Proxy Votes Separately at a Meeting?

Dear Tony: What happens when owners get to a general meeting and the proxy votes have already been counted and the outcome of each resolution is already known? At our annual meeting last week, the property manager pointed out to everyone that the proxy votes for the annual budget, the approval of a contingency expense for roofing had already passed because so many proxy votes were issued in advance of the meeting. If that is true, what's the point of having a meeting? Why wouldn't we simply just send in ballots and save the cost and time? This does seem to seriously undermine the rights of owners though because we weren't allowed to propose amendments to the new rule on bicycle storage or the proposed budget, even though the Act permits the budget to be amended. As owners we are concerned our rights are being manipulated to prevent a fair voting and decision-making process. Claire W.

Dear Claire: The practice of pre-counting and reporting ballots is not permitted under the *Strata Property Act* as those votes are not yet counted and valid. There is no provision for absentee or written ballots and voting. This ensures strata owners either in person or by proxy are represented as registered eligible voters at meetings, are issued a voting card status in some electronic format, and their votes are counted and calculated representing their instructions. The definitions of the Act for majority and 3/4 votes requires that only those votes that have been passed for or against a resolution "at the time the vote is taken" and who have not abstained from voting are counted. When the vote is called, the chairperson will first determine in accordance with the bylaws how the vote is conducted, and then call for all those votes in favour, and then any votes opposed. This is the total number that is used to calculate whether the resolution has passed or not. Abstentions or persons who have not voted are not votes opposed, they are simply votes that have not been cast or counted. If proxies have been issued or assigned, they must identify who the proxy holder is representing those votes, and that person is registered like everyone other eligible voter and identified by the number of proxies and/or votes they are representing. It is important either in advance of the meeting or at the time of the registration proxy holders provide a copy of the proxies they have been assigned to the registrar who can verify they are a valid proxy, maintain a record for the strata corporation, and provide that information to the chairperson who in turns certifies the proxies and eligible voters when the meeting is called to order. Proxies may have restrictions imposed on them by owners, which is a privilege of the proxy holder not the strata corporation. In addition to the proxies, the Chairperson will need to be aware of any restrictions, however the voting instructions are irrelevant at this time as they only apply once the vote is taken, while many owners leave discretion to the proxy holder. Electronic meetings require more attention to detail to enable access to voting for all registered eligible voters, often because there are multiple access methods to the meeting. A scrutineer appointed by majority vote at the meeting enables the voting to be conducted, calculated, and reported to the chairperson, and the registrar of the meeting who signed in the eligible voters is often the best person to fulfill this task as they have access to the registration list and the eligible voters. Whatever platform is used, one key element to remember is the strata corporation must still identify who is voting at the time the vote is taken and this can be performed by calling the roll of registered voters, using a poll showing the virtual voting cards, or some other method permitted in the bylaws to verify accuracy. The requirement for electronic meetings did not discharge the obligation of strata corporations to comply with their bylaws, the Standard Bylaws or provisions of the Act. Owners may still propose amendments to majority vote resolutions, including the annual budget at an AGM prior to voting on the final resolutions, and the majority of owners control the proceedings at the meeting. Remember a principle of procedures at general meetings for strata corporations. "Matters are decided at a general meeting by a majority vote unless a different voting threshold is required".

Tony Gioventu, Executive Director CHOA

Covid-19 Notice: As a precautionary measure to prevent the spread of COVID-19 CHOA staff are working remotely and our offices are temporarily closed. We understand these are challenging times for strata corporations and we are here to help. Even though CHOA advisors are working remotely we are only a phone call or email away and able to assist you with hosting meetings and notice preparation.

Tuesday Lunch & Learn Live with CHOA: CHOA is hosting a series of webinars once a week, for the next few months. Join us each Tuesday as we bring together industry experts to discuss the many issues affecting BC's strata community. For more information visit our website at: <https://www.choa.bc.ca/seminars/>