

Condo Smarts November 23, 2022

General Meeting Defects

Dear Tony: Our strata corporation held a special general meeting 2 weeks ago where we considered proceeding with a wind-up process. A developer/buyer approached our council 6 months ago. We have held several information meetings since then and were asked to vote at a preliminary wind up meeting to authorize legal fees and proceed with the official meeting and resolutions to consider the offer. At the meeting 80.5% attending voted in favour of proceeding. As a commercial property owner, I was concerned by the procedures used at the meeting and the appointed real estate person who chaired our meeting. There appeared to be several conflicts and confusion over how the vote was taken and calculated. Please explain the voting process for a wind up and how votes are calculated. Is it not 80% of the strata corporation's total number of units? How do we challenge the meeting if this was not conducted properly? Cal W.

Dear Cal: A strata corporation may authorize the funds from the contingency reserve or by a special levy for legal fees for the purpose of proceeding with a special general meeting, to vote on the offer and conditions presented for the purchase of the corporation, known as winding up the strata corporation. The authorization to proceed with the meeting, retain a lawyer to prepare the resolutions with intention of a court application to ratify the vote and appoint a liquidator if the vote passes, is a 3 / 4 vote. A 3 / 4 vote, to authorize the funds for legal services, is based solely on those who attend a meeting and who vote in favour or are opposed at the time the vote is taken. 80.5% of those attending would generally pass a 3 / 4 vote; however, your strata corporation includes 8 commercial strata lots, which were only recognized as 1 vote per lot which was incorrect. Commercial /non residential strata lots are given proportional votes based on their area. The commercial units, along with several residential owners who voted against the resolution represented 28.85 votes opposed at the time the vote was taken, not 21 which were calculated. The resolution, if voting entitlement had been applied correctly, would not have passed. An 80% vote, required to approve a wind-up proceeding, is 80% minimum of the total number of votes shown on the schedule of voting entitlement, who must vote in favour. Anyone opposed, not attending or abstaining on an 80% vote is opposed. Certified proxies are eligible to be represented and voted on behalf of the owners, and proportional votes of commercial units must be calculated. In matters where there is a wind-up process, or a major special levy for repairs, an independent chairperson is frequently requested to ensure impartiality, is knowledgeable and experienced with the Strata Property Act, the application of the bylaws of a strata corporation, voting procedures, and the administration of voting entitlement. I would advise the strata corporation reconsider convening the meeting with new notice and the assistance of legal support to confirm voting procedures are conducted and calculated properly. Irregularities in voting results or procedures frequently occur, and may be challenged through the Civil Resolution Tribunal. No one is appointed to chair a meeting, they are elected by a majority vote at the meeting, if the president or vice president are unwilling or unable to act.

Tony Gioventu, Executive Director CHOA

Registration is now open for CHOA's Fall 2022 Education Program. Course highlights this season focus on Council Meetings, BC Human Rights Tribunal, The CRT, The Accessibility Act and Alterations. Go to: <https://choa.bc.ca/seminars/>

Kindly note CHOA is a member-based, non-profit association. If your strata is not currently a CHOA member please consider joining – membership details are posted on our website at: <https://www.choa.bc.ca/about-choa/join-choa/>

COVID-19: To prevent the spread of COVID-19 CHOA staff may be working remotely. During this time we are online and available by phone and email to assist with your strata questions. Please stay safe and healthy.