
Condo Smarts

Headline: Proxy wars

Topic: Proxies

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Written by: Tony Gioventu

Dear Tony: We attended our annual meeting 2 weeks ago and one person was assigned 75 proxies. This person basically controlled our meeting, and the outcome of the voting was already determined before the meeting even started. The property manager announced at the beginning of meeting that more than 50% of the owners had already voted in favour of the budget, voted against the special levy for the leaking roof, and voted in favour of the nominated council members. The 32 owners that did attend were discouraged from participating. What's the point of attending the AGM when the outcome is already predetermined by a controlling group of owners who don't bother attending?

Jeremy W.

Dear Jeremy: There is a significant amount of misinformation and incorrect application of proxies at general meetings. A proxy is the person who has been assigned the voting rights for the meeting. It is not the form that is used. A proxy form provided in the notice package is only an optional form and an owner may use any form of written assignment to appoint a proxy (he person) to represent them at the meeting. This includes an email with an electronic signature.

The proxy may appoint any person other than an employee of the strata corporation, the strata manager, or employees of the strata management company. A proxy form is not a ballot, it only contains instructions on how the owner is directing the proxy (the person) to vote on their behalf, or whether there are any restrictions. Restrictions may be where a proxy is not entitled to vote on specific actions or amendments. The proxy (the person) must vote on each resolution or amendments and exercises their own level of discretion on voting assignments.

We would hope our proxies would vote as we have instructed; however, if there is a secret ballot, it is not possible to identify how any owner or proxy voted. If there is a dispute between the proxy instruction and how the proxy voted, that dispute is between the owner of the strata lot and the assigned proxy. An important reason why we issue proxies to people we trust to follow our instructions. The person who is the proxy must attend the meeting and must exercise the votes for the assigned strata lots.

Electronic meetings have required managers and councils to receive proxies in advance to certify the validity of the proxy and allocate the correct voting entitlements to each proxy; however, this has been abused and voting instructions have been precalculated and announced. Neither action is valid under the *Strata Property Act*. Votes are only calculated at the time the vote is taken. This requires a proxy (the person) to vote on each resolution at the time the vote is called, and prevents advance voting. When a person registers to vote, their voting card or virtual voting card if electronic identifies their voting representation and if they are acting as proxy for any strata lots.