

Condo Smarts

Headline: Proxy battles

Topic: Proxies

Publication / Date: The Province, Dec 3, 2015

Written by: Tony Gioventu

Dear Tony: Our strata has an ongoing problem with one person who always shows up with 35 proxies. As a result this person is always has the final say in the outcome of our votes and who ends up on council. While they always vote in favour of the resolutions, their favourite 6 people are always elected to council so we have no other voices who represent the owners. We had a group of owners who signed a petition to prohibit the use of the proxies for the election of council. In spite of our request, the council did not include a restricted proxy, so once again the same person influenced the election of council. How does a strata corporation prevent an owner from hogging all the proxies?

The concerned owners of Emerald Court.

Dear Owners: A strata corporation does not have the authority to restrict, limit or prohibit proxies. A proxy is an instrument for the benefit of an owner to be represented by their assigned proxy holder at the meeting. Unless the owner has placed a restrictions or limitations on the proxy, the proxy holder may do anything that person can do, including vote, propose and second motions, and participate in the discussion.

The proxy form itself, which must be in writing and signed by the person appointing the proxy can be a general proxy or it may be dated only for a specific meeting. When a person registers, they present the proxy along with their identity which may be recorded in the registry and they are issued voting cards and the proxy is returned back to the proxy holder.

If there is a restriction on the proxy, for example, the proxy is not authorized to be used for a specific resolution or action such as the election of council, this information must be recorded on the registration list so the chair of the meeting does not count their vote on

that matter, or if a secret ballot is called, ballots are not issued to any of the proxies with restrictions.

If the strata is issuing ballots on registration with the voting cards, avoid writing "35" on one set of ballots indicating 35 votes. What happens when a secret ballot is called? The 35 votes are no longer secret. We commonly see the resolutions of the agenda also placed on the proxy forms as instructions for proxy holders. These are intended for the use of the proxy holder and this information is not recorded by the strata corporation or pre-voted as it would violate the principles of a secret ballot and voting instructions are not an absentee vote. The proxy holder must still exercise the vote.

If you want to change council, get your owners out to meetings. Emerald Court has 138 strata lots and barely one third of your owners show up at the meetings. If enough owners attend the meeting and vote for change, the 35 proxies may be irrelevant.