

Condo Smarts April 27th-30th, 2017

How Does Council Makes Decisions?

Dear Tony: At our first council meeting since the AGM, we spent 2 hours arguing about how strata councils make decisions at council meetings. We think the problem is the way the Act was written as it has two separate interpretations for majority votes. The definitions define a majority vote as a majority of those votes cast by eligible voters who are present in person or by proxy at the time the vote is taken and who have not abstained. The standard bylaw defines a majority vote as a majority of council members present in person at the meeting. These are not the same definitions and treat abstentions differently. Could you possibly clear this up before we have another round of council debates with nothing accomplished? Martin

Dear Martin: You are correct there are two different definitions and there could be even more if your strata amended its bylaws to different definitions. We have to start with the Strata Property Act which first states that “at an annual or special general meeting”, matters are decided by a majority vote, unless a different voting threshold is required or permitted by the Act or Regulations. This definition applies to general meetings, which is the definition in section 1 of the Act. It ensures owners may be represented in person or by proxy, and compels those who are eligible voters at the meeting, to vote in favour or opposed of a resolution or motion if they wish to have their vote matter. The definition also precludes any type of absentee or advance balloting at general meetings as it requires the vote calculation at the time the vote is taken by eligible voters present at the meeting. A majority vote for council is different for a variety of reasons. It requires that council members must be present in person, which includes electronic attendance if the council agree. Council members are not permitted to assign proxies as they are not representing their strata lot, as an individual they are elected to a position on council, and of course if a council member abstains their vote is technically a no, as the vote is based on the number of council members present. For example, under the standard bylaw, if 6 council members attend, at least 4 will have to vote in favour of the motion for it to pass, and this applies to every decision of council. The definition also helps resolve the issue of council members who are required to leave a meeting in the event of a conflict of interest. They are no longer present at the meeting, which should be recorded in the minutes, and the majority is reduced by that number. This is also the reason why the president or vice president is given a tie breaking vote. All council members vote on a motion, and if the result is a tie, the president or vice president has an additional vote to break the tie. That would also be recorded in the minutes. Before strata councils make any assumptions, it is essential that you read your bylaws first.

Sincerely, Tony Gioventu, Executive Director
Condominium Home Owners' Association (CHOA)
website: www.choa.bc.ca