

Condo Smarts August 8th, 2018

What's in the name?

Dear Tony: We have a situation in our strata that needs clarification. Our property manager always chairs our meetings and refuses to allow owners to participate in the process. The minutes always indicate the president of our council chairs the meetings, and the property manager is the facilitator, but the president never speaks and the manager makes all the decisions. He even cast an additional ballot at our recent AGM to pass the budget because there was a tie. Several members protested that this was a conflict of interest because the budget included a substantial increase for the management company. The manager also decides on who our executive will be so we end up with the same person as president every year. The president does little about the behaviour of the manager and the remaining 6 council members are ready to resign. Who is in charge of our strata corporation? The manager or the strata council? Mae K.

Dear Mae: The decision of who is effectively in charge of your strata corporation is a majority vote decision of a strata council. Your authority is subject to the decisions and directions of owners at any general meeting. A common example is the approval of the annual budget. The owners approve the annual budget at your annual general meeting, the council then have the authority and obligation to approve expenses and implement the contracts and services necessary for the operation of your strata corporation. The increase for strata management fees is not an automatic approval of the contract increases. This simply authorizes the strata council to vote on and negotiate and amendments or changes to the strata management contract. The increase is not automatically applied. An additional casting ballot is applied in the event there is a tie at a general meeting or council meeting for a majority vote. The additional casting ballot can only be applied by the president of council, or failing the president, the vice president of council. This is different than many society rules of order because every council member including the president will cast a ballot at the meeting, if a tie results, the president is granted an additional ballot to break the tie. Titles are important. The Strata Property Act grants the additional ballot only to the president or vice president. An elected chairperson for a meeting does not have the authority to cast a tie breaking ballot. There is no such role as a facilitator in either the Act or your bylaws. The person who is convening the meeting, accepting motions, calling for votes, certifying the proxies, deciding on procedures is the chairperson. If the manager did cast the original ballot to break the budget tie, they were in violation of the Act, your bylaws, and yes in conflict of interest for applying an unlawful decision where they were to benefit. Many experienced strata managers chair general meetings for their strata corporations and do a fine job; however, before they take on the role, the president and vice president will need to either decline or be absent, and the owners by majority vote must elect the manager to chair the meeting. At your council meetings the same conditions apply, and all decisions at council meetings are made by a majority vote of those council members present at the meeting. Who is in charge of your strata corporation? You as council members, and it is time you take control and require all decisions at council meetings are conducted by majority vote, the chair of general meetings is elected by the owners. The election of your president, vice president, secretary and treasurer are all elected by majority vote, not appointed by the manager.

Sincerely,

Tony Gioventu, Executive Director
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