

Condo Smarts August 22nd, 2018

Who decides a proxy is valid or not?

Dear Tony: I recently attended the Annual General Meeting of our strata corporation and was given 2 proxies from my neighbours. When I registered to vote for myself and the 2 owners, I was told by the property manager that my proxies were not valid because they were not the proxies issued by the strata corporation with the notice. I pointed out the legislation makes no such requirement but he refused to issue voting cards for the two owners. When the meeting was called to order I raised this matter with the chair as a point of order and the chairperson said the decision had already been made by the property manager before the meeting started and it was out of his hands. We had one controversial resolution for a communications lease that was passed by one vote, and had my neighbour's proxies been allowed, the resolution would have failed. Was I correct in my understanding of the Act that we don't need to use the proxy the strata corporation issues? Most important, who has the authority to determine whether a proxy is valid or not? We were feeling bullied by the property manager.

Michael J., Richmond

Dear Michael: Strata corporations may issue an optional proxy form when they send out their notice of meeting; however, a proxy in any written form is still valid if it is in writing and signed by the person appointing the proxy. While it is not necessary, the proxy should also identify the strata lot number or unit number and the strata plan number so it is easy to identify the owner assigning the proxy from the owner's list. Many owners and investors who do not reside in the city often issue general proxies to their representatives or agents who act on their behalf. These proxies could endure for a number of years and are not required to be in the form that was issued by the strata corporation or a separate proxy for each meeting. The proxy is the property of proxy holder and the owner, and is not collected at the time of registration. It may contain special instructions to the proxy holder on how the owner wishes them to vote, or it may contain restrictions which the registrar of the meeting will have to record on the registration records to enable the chairperson to identify if any eligible voter by proxy has been imposed any restrictions.

At the point of registration, owners register and are issued a voting card. Any person eligible to hold a proxy registers for those units they have been given a proxy and are issued a separate voting card for each proxy. To ensure accuracy, it is ideal if the voting cards identify the strata lot number for each registered owner and proxy. This is essential in strata corporations with commercial units as each commercial unit has a different vote allocation based on the size of the strata lot and commercial units are generally not counted as 1 vote per strata lot. If there is a discrepancy with a proxy at the time of registration, that proxy is held to the beginning of the meeting when either the president or vice president chairs the meeting, or a chair is elected. There are only two parties with authority to make decisions at general meetings. The voting quorum who vote on resolutions and the chairperson of the meeting who convenes the meeting, establishes the validity of proxies and procedures and is required to determine whether an amendment to a three-quarters, 80% or unanimous vote is permitted. Even then, the eligible voters present in person or by proxy have the ability to challenge a decision of the chair. When people make claims of authority at general meetings, challenge them to provide evidence. If the owners who issued proxies wish to challenge the decision of the property manager and chairperson as their eligible votes were denied, they could make an application to the Civil Resolution Tribunal. Go to www.civilresolutionbc.ca

Sincerely,

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

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