

Condo Smarts September 19, 2018

Militant Council President

Dear Tony: Our recent AGM lasted only 20 minutes before the owners engaged in a massive confrontation with the president of our council. He started the meeting by stating the room was only booked for hour at the community centre and as a result he limited debate on any agenda items to 5 minutes. He then proceeded to decide that proxies could not be used for the election of council and would not accept any amendments to the annual budget. The owners accused him of bullying and demanded he remove himself from the meeting at which time he declared the meeting over and left with no business conducted. He is refusing to respond to any owners or current council members. This is the second condo I have in where a council president has acted like a bully. What is a reasonable method of dealing with these people. CW, Esquimalt

Dear CW: There is nothing in the act or bylaws that gives a chairperson absolute authority. Anything the chairperson declares is subject to the owners challenging the decision. This is done by challenging the chair. Section 50 of the Strata Property Act deems that at annual or special general meetings, matters are decided by a majority vote of the eligible voters present in person or by proxy unless a higher voting threshold is required. For example, a chairperson has decided to limit debate on an agenda item and the owners wish to continue discussing the item and asking more questions. Any eligible voter may challenge the decision of a chairperson by simply rising and saying, I challenge the chair and move that debate be continued. The chairperson calls for a seconder to the motion, and if there a seconder the chair calls for the vote and the majority decision prevails. If they vote yes to continue discussion the discussion continues, if they vote no the discussion ends and the vote on the resolution is called. There is no debate on a motion to challenge the chair. The chairperson is not in the position to debate, they facilitate the procedures and the motions of the meeting.

A limit of time to debate resolutions is a good idea if it is managed well. If the debate requires continued discussion, the chair decides whether it is reasonable to continue; however, any eligible voter may also make a motion to call the vote if the debate on the issue has been exhausted. Procedures that promote good decision making, comply with the Act and the bylaws of the strata corporation, and respect the voting rights of the owners is what is essential. Only an owner issuing a proxy has the authority to limit the use of the proxy. Instructions on a proxy direct the proxy holder to vote in a prescribed manner. That is entirely between the strata lot owner and the proxy holder. There is no way to monitor how a proxy holder has voted if a secret ballot has been called as a ballot must be issued for each voting card issued, and that includes proxies. If an owner has restricted their proxy it will specifically be itemized on the proxy. For example, to prevent one person from gathering a controlling group of proxies and influencing the outcome of council elections, you will occasionally see owners who restrict proxies so they cannot be used for the election of council.

Because you did not elect a new council at your meeting, your council members are required to convene a council meeting and issue a notice of Special General meeting to be held within 30 days so the owners can vote on your annual budget and elect a new council. Bullies are only enabled if we give them our power. Aggressive behaviour, abusive language, manipulative tactics, withholding of information and character attacks on challengers are all signs of bullying. The best solution, don't engage and elect alternate candidates to your strata council. If meetings are respectful, address resolutions and motions in a business-like manner and enable the participation of all owners, they will run smoothly and contribute significantly to the harmony of your community.

Sincerely,

Tony Gioventu, Executive Director
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