

Condo Smarts November 15, 2020

Counting Ballots & Reporting Results at a General Meeting is Essential

Dear Tony: What happens when a strata council and manager adjourn a general meeting, count the ballots over the next week and then send the results out to the owners 3 weeks later? The strata corporation sent out a notice of meeting electronic special general meeting, with 2 special levies that totalled 1.1 million dollars in our 104-unit strata. The levies ranged from \$6,894 to \$14,050 and are due January 15th, 2021. There were 71 owners, 35 by proxy and 46 in person. The results were: 51 in favour 16 opposed, and 4 abstained. We have spoken to 20 people who all claim they voted against the levy, mostly because there are no specs set up by an engineer and no plans for a bidding process. This leaves us in an awkward position as to whether we challenge the meeting results through the Tribunal, and whether the council, who were also re-elected by 7 of 11 nominations, could withhold the voting results for so long? We also have the problem that no one is admitting who counted the ballots. Rafael B.

Dear DD: *The Strata Property Act* does not make any specific requirements to announce the votes. Those governance requirements are in the Standard Bylaws and any amended bylaws of a strata corporation. There are provisions within the *Act & Bylaws* that do require the announcement or publication of the result of the votes, or they cannot be enacted upon by the owners. The most critical is the reconsideration of a 3/4 vote and the election of council. Section 51 of the *Act*, permits 25% of the owners to sign a petition to demand a special general meeting to reconsider the vote if less than 50% of the strata corporation's votes were in favour of the resolution. For many strata corporations, there are frequently fewer than 50% of the owners who attend in person or by proxy and the 3/4 vote results are always less than 50% in favour. Based on your minutes, your owners would have been eligible to sign a petition demanding a special general meeting to reconsider the vote. While it did pass by 3/4 vote only 51 of 104 voted in favour. Less than 50% of the strata corporation's votes. Had the owners been aware of the voting results they could have petitioned for a meeting.

Under the *Standard Bylaws* as well as most strata corporation bylaws including yours, the term of office of council members ends at the end of the annual general meeting at which the new council are elected. That language indicates the council are elected at the meeting. If the results were not counted and reported, you have a potential problem over a period of time where there was no council elected until the minutes were reported, and more important the council were not elected at the meeting. There is also the provision in the bylaws that requires the chairperson of the meeting to respond to a precise count if requested. The outcome of each vote, including the number of votes for and against the resolution if a precise count is requested, must be announced by the chair and recorded in the minutes of the meeting. Electronic meetings do provide some challenges for voting, but appointing scrutineers to count ballots, planning in advance of how voting will be conducted, and announcing the results of the votes during the meeting is essential for accuracy in minutes and to enable owners to respond to the results.

When a strata corporation convenes an annual or special general meeting, they have an obligation to comply with the *Act*, *Standard Bylaws* and any *Bylaw* amendments of the corporation. This includes registration of voters, certification of proxies, consideration of the agenda items such as reports, budgets, proposed resolutions, and election of council, the counting of the voting, the results. If a strata corporation informs owners they can only issue a proxy and cannot attend a meeting, they are either in violation of the *Act* and their bylaws by not permitting owners to attend either in person if permitted, or electronically, if they convene the meeting. If the strata corporation does not convene the meeting, none of the votes or proxies could be valid as the meeting was not called to order to establish the registration of eligible voters and eligible

proxies. Everyone wants convenient meetings with few complications. Electronic meetings are an easy solution to ensure everyone's voting rights are enabled and the business of the strata corporation can be safely conducted.

Tony Gioventu, Executive Director CHOA

Covid-19 Notice: As a precautionary measure to prevent the spread of COVID-19 CHOA staff are working remotely and our offices are temporarily closed. We understand these are challenging times for strata corporations and we are here to help. Even though CHOA advisors are working remotely we are only a phone call or email away and able to assist you with hosting meetings and notice preparation.

Tuesday Lunch & Learn Live with CHOA: CHOA is hosting a series of webinars once a week, for the next few months. Join us each Tuesday as we bring together industry experts to discuss the many issues affecting BC's strata community. For more information visit our website at:
<https://www.choa.bc.ca/seminars/>