

Condo Smarts October 20, 2021

Directing a Strata Council

Dear Tony: At our recent AGM our owners approved a special levy for balcony repairs with a specified contractor who had bid on the project. Two owners attempted to hijack the meeting and impose their own contractor on the project under a section of the Act that permits owners to direct or restrict council. After a significant confrontation, the motion was defeated, but it raised a significant issue for our manager and president who was chairing the meeting. What is the purpose of this section of the Act? It could easily be abused and allow voters to alter resolutions, creating havoc at meetings. Donelda M.

Dear Donelda: You are referring to Section 27 of the Strata Property Act. This provision enables owners, when necessary, to give specific directions or impose restrictions on the council. These may occur in a variety of 2 methods depending on the voting thresholds or demands for a special general meeting or agenda resolutions. At a general meeting, matters to be voted on must be included on the agenda and with the notice. This includes majority vote items which may be amended at the general meeting, and the specific wording of any 3/4, 80% or unanimous votes, which have strict limitations to amendments.

A direction or restriction in most cases is a separate agenda item and unless it was part of the agenda as a petition item or separate resolution is not permitted; however, if it is an amendment to a majority vote it may be permitted. A common example is the directions involving the expense of contingency funds. With recent amendments to the Act, it now requires only a majority vote if a recommended item is in the depreciation report. Depreciation reports estimate cost and timing, but prices and conditions always fluctuate. For example, a proposed expense and resolution for a roof replacement in 2023 at \$150,000 may be recommended. These are commonly proposed as simple resolutions without details. If this is proposed as a majority vote resolution at a general meeting, the owners may amend the resolution to instruct council to seek multiple bids, retain a consultant to set specifications for bidding, or legal review before the council proceeds.

If there are special levies, bylaw amendments, approval to significant changes to use or appearance of common property, these would require a 3/4 vote and such a direction or change to the resolution is not a permitted amendment or direction into the agenda as it would be a significant amendment to the resolutions. Caution must be exercised for any other voting thresholds as amendments are not permitted if they significantly change the resolutions. The intent of section 27 is to ensure owners have the ability to petition for special general meetings, petition to add resolutions to the agenda, and with the exception of bylaw enforcement, direct their strata councils on the conduct of business, but with proper notice of such directions to all owners in advance of the meeting. When these types of amendments are proposed, it is the role of the chairperson to advise the direction is not permitted as it was not included with notice, or as an amendment to a 3/4 vote is significant and not permitted. Strata corporations must also exercise caution in a tendering process for contracts as they may expose themselves to lawsuits from the bidding companies for failing to act fairly or within the scope of the documents issued by the corporation.

Tony Gioventu, Executive Director CHOA

Always include your strata plan number if you are requesting assistance.

Kindly note CHOA is a member-based, non-profit association. If your strata is not currently a CHOA member please consider joining – membership details are posted on our website at:

<https://www.choa.bc.ca/about-choa/join-choa/>

Join us this Fall in the ‘Condo Classroom’: Both weekday and weekend registration options for the convenience of attendees! For more information visit our website at:

<https://www.choa.bc.ca/seminars/>

COVID-19: To prevent the spread of COVID-19 CHOA staff may be working remotely. During this time we are online and available by phone and email to assist with your strata questions. Please stay safe and healthy.