

Condo Smarts

Headline: Proxy Sabotage

Topic: Proxies, Voting

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Dear Tony: I was the developer on a recent project and sold the 18 residential units and retained 2 commercial units as our head office. We gave notice of the first Annual meeting as soon as 50% of the units were sold and have fully complied with the *Act*. In addition to the approval of the annual budget, the owners requested a number of bylaws be added to the first AGM to deal with parking, storage lockers and barbeques on balconies. As the developer we agree to add the items to work cooperatively with the strata. At the first AGM last week, an owner who has been bullying everyone, refused to allow our representative to exercise the vote for our 2 commercial strata lots. She claimed that as the developer we were in a conflict of interest because we still owned units in the strata. This has occurred before and we understand this is not valid, but would appreciate a column to address the issue of conflict of interest at an annual or special general meeting that may affect voting rights.

CWR

Dear CWR: Denying someone a voting right as a proxy holder for any reason that is not permitted by the *Strata Property Act* is a serious matter for the strata corporation. There is no such provision in the *Act* about conflict of interest. The *Act* deems a person may be ineligible to vote for a strata lot for 2 reasons. It applies if there is a court action specifically against an identified strata lot where that strata lot is not permitted to attend those portions of a meeting where the lawsuit is discussed and voted on, and if a strata has a bylaw that establishes voting eligibility, if the strata is entitled to file a lien against a strata lot. These applications may only apply to a majority vote or 75% vote. Strata councils or managers who are administering the registration desk often believe they have the authority to determine if a proxy is valid or not and whether a person is an eligible voter. They do not. The

chairperson whether as the president or vice president of council or elected by the eligible voters present is the only person with the authority to deem whether a strata lot is an eligible voter and whether a proxy meets the requirements of the *Act*. Proxies must be in writing and signed by the person (owner) appointing the proxy. The owner may impose other conditions or directions on the proxy but the strata cannot. If the proxy or voter is valid because neither of the 2 earlier conditions apply, the proxy is exercised in the same manner as if the owner was standing there. It may be helpful to know that the bylaws of your strata will not be enforceable because both residential and non residential strata lots must separately vote by 75% vote to approve new bylaws for a strata corporation. By denying your proxies and voting rights, not only were your property rights denied, but the strata disqualified their ability to adopt and register new bylaws. Any owner may challenge the validity of proxy status or voting eligibility by applying to the Civil Resolution Tribunal. The Tribunal has the ability to order a strata corporation to do or stop doing something. That could include a requirement for the strata to call new meeting to address the agenda items and respect your voting rights.