

Condo Smarts

Headline: Can we hold a meeting by proxy?

Topic: Proxies, Annual General Meeting/Special General Meeting

Publication / Date: The Province, Nov 8, 2018

Written by: Tony Gioventu

Dear Tony: Our strata council has decided to avoid holding a meeting to discuss a major change in the use of our property. We are a gated community and the current council don't want to pay for the gate maintenance any longer and wants to remove the gate. They have sent out a notice with a proxy form and mail in ballot that requires each owner to vote yes or no, and they advise they will inform the owners of the decision by November 15th. Is this permitted?

Daria B. Vernon

Dear Daria: The *Strata Property Act* does not permit a mail-in ballot or proxy vote only meeting. The intention of the legislation is to ensure eligible voters have the opportunity to discuss the proposed resolutions, or at the very least require every eligible voter to consent to waiving notice of a meeting and any proposed resolutions.

Any significant change in the use or appearance of common property, or a common asset, requires the approval of a 3/4 vote resolution at an annual or special general meeting. The exact wording of what is being approved or altered must be included in the wording of the resolution to confirm the strata council has the authority to proceed with the changes, if the resolution passes.

If a strata corporation is unable to hold a meeting due to time constraints or in the case of vacation properties where owners are only present in the summer, the strata corporation may issue a notice of waiver of meeting. A notice of waiver works well for small strata corporations as it enables expedient decisions, but for large strata corporations such as yours over 100 units, it is difficult for the waiver to pass.

A notice of waiver requires every eligible voter to agree, in writing, that they are waiving notice of a meeting and that they agree to the resolution. In addition, if there is more than one person on title, all of them must consent to the waiver of meeting and the resolution. If one strata lot does not agree or simply does not respond, the proposed resolution does not pass.

I would advise anyone implementing a waiver of notice to confirm your ownership list is up to date or it may be necessary to conduct title searches to confirm the names of all owners on title. When the strata corporation issues a form that indicates this is a waiver of notice of meeting it requires all eligible voters, including multiple owners to sign, consent and return the form. The strata corporation must retain copies of the waivers and consents. Any owner, tenant or person authorized in writing by the owner or tenant is entitled to view or request a copy of the waivers and consents.

If a Form B Information Certificate is request during this period, the strata corporation must disclose if a waiver of notice has been issued for a 3/4 vote, and any 3/4 resolution that has been passed but not yet filed in the Land Title Registry if required. A waiver of notice proceeding is much more complicated than simply sending out a notice. Speak to a professional before you send out your waiver.