

Condo Smarts

Headline: Restricted proxy meeting deemed invalid!

Topic: Proxies, Annual General Meeting

Publication / Date: The Province, Oct 22, 2020

Written by: Tony Gioventu

Dear Tony: Our strata manager has issued notice of our Annual General Meeting and advised their company will only do our AGM by restricted proxy. No one will be able to attend the meeting in person or electronically or be eligible to vote at the meeting. Many of us owners are not satisfied with this option as we feel it violates our rights to attend a meeting, vote on matters and raise questions that relate to our strata corporation expenses and actions during the year. What happens if many owners simply refuse to participate and then challenge the results of the meeting? Can the property manager impose these conditions? Our strata council has basically remained silent and let the property manager run the show. Hope you can shed some light on this situation.

Marc D. New Westminster

Dear Marc: As I have written in many previous columns and CHOA has also provided through webinars and available publications, there is no such meeting as a restricted proxy meeting. Even if all the owners consent to providing a proxy, where they have imposed restrictions to ensure their voting directions are executed, the person who has been assigned as the proxy must still comply with the Act and the bylaws of the strata corporation.

There must still be notice of the meeting, the location whether in person if it is possible with the assembly restrictions or electronically, and the corporation must register all eligible voters including proxies plus issue voting cards and make motions for the resolutions, and show the voting outcome and minutes produced of all the decisions. This is no different than any other general meeting. The recent Civil Resolution Tribunal decision on October 14, of Shen vs EPS 3177, has deemed the AGM held in May of 2020 invalid because

owners were not permitted to register, receive a voting card, participate in the meeting and vote on the resolutions.

On April 17, 2020 the provincial government announced a provision for strata corporations by telephone or any other electronic method, to hold annual or special general meetings if the method permits all persons participating in the meeting to communicate with each other during the meeting. There was a short period of time before the order that permitted electronic meetings where many strata corporations had already issued their notice of meeting but were suddenly unable to convene the meeting and did not have a bylaw that permitted electronic meetings. The strata corporations in this short window permitted owners to submit a proxy that was restricted so their directions were upheld and enabled the strata corporation to complete their meeting rather than postpone.

If your strata corporation cannot meet in person due to assembly restrictions, you are enabled by the provincial order to hold your meeting electronically. Many strata corporations regardless of the number of units have found this method successful and easy to manage with a greater number of owners participating. Permitting owners to provide a restricted or directed proxy is a convenience for the owners, not a condition the strata corporation may impose, and the strata corporation cannot impose a proxy holder. The strata may include as a courtesy the name of a council member willing to represent a proxy, but owners may assign their proxy to any person except the property manager or an employee of the corporation.

Eligible owners and their proxy holders are entitled to attend any general meetings, register, obtain a voting card, make motions and vote on each of the

resolutions. Electronic meetings require coordinated, advanced planning to ensure they run effectively and an information meeting a week before your AGM will enable owners who are issuing proxies decide on their voting instructions and nominated council members, but they don't replace the requirements for a properly convened meeting. Go to choa.bc.ca and click on COVID- 19 Bulletins for guides on managing electronic meetings and archived webinars.