
Condo Smarts

Headline: Bylaws for electronic meetings

Topic: Annual General Meeting / Special General Meeting

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Written by: Tony Gioventu

Dear Tony: Our strata management company is encouraging us to adopt a bylaw to permit electronic council meetings and general meetings once the Covid restrictions are over. Our strata council held our Annual General Meeting this year electronically and while there were more voters in attendance than normal, there was also a significant amount of confusion over voting calculations and how proxies were handled, whether amendments could be made, and a significant limit to communication between the owners attending. While we want to reserve the option of electronic meetings, we do not want to be forced into the long-term requirement for electronic meetings unless as a matter of convenience or emergency where it is the only option.

Tina W. Victoria

Dear Tina: The emergency orders that permit electronic meetings currently applies to either an annual or special general meetings. The *Standard Bylaws of the Strata Property Act*, and most strata corporation bylaws, already grant a provision for council meetings to be electronic.

The fundamental requirement is that all council members must be able to freely communicate with each other. The conditions for electronic bylaws for general meetings are much more demanding as the limitations on electronic meetings can affect or limit methods of voting, registration, issuing of voting cards and how balloting is conducted.

An electronic meeting bylaw is well worth the investment of time and legal advice to ensure your strata corporation has the flexibility to respond to the needs of your owners when there are no other options,

or the electronic meeting is the quickest or most convenient solution when a single issue arises.

Collective, in-person gatherings are still important in maintaining community development, communication, and dialogue between owners, and encouraging owners to take leadership roles to serve on their strata councils and committees. Electronic meeting bylaws are not the default and do not replace in-person meetings. They are an option a strata corporation may consider if all the conditions can be met and a prudent back up plan.

Several limitations have been acknowledged with electronic meetings; however, these are easily overcome if the bylaws clearly define the technical requirements for the notice packages, how eligible voters and proxies will be registered and issued voting cards, and how the voting will be conducted.

Secret ballots pose limitations as they require the ability for eligible voters to cast ballots without the meeting participants or strata corporation identifying how they have exercised their vote. This may require either an exemption for secret ballots during electronic meetings or a method to appoint an independent scrutineer who receives and calculates votes, reports the total result to the chairperson and strata corporation, and then destroys the communication or ballots received from the eligible voter. It is simple to administer a secret ballot in a common room where everyone is gathered and issued voting cards to identify who is voting, but a common oversight by councils and managers is the use of polling that does not identify eligible voters who have been registered and the number of votes they are representing. If you cannot identify who is voting, the risk of ineligible voters or voting irregularities becomes a problem. Participant function polling on Zoom is a simple option as it permits the host/chairperson to

identify who has voted, how many votes they have cast and the results.

Proxies and proxy management is also a commonly abused process during this emergency period. A proxy may be issued by an owner and the owner may impose restrictions on the proxy to ensure their votes are cast according to the instructions. Strata corporations cannot impose a restricted or proxy only meeting.

Whether a meeting is in-person or electronic, the same requirements of the *Act* apply for: notice, registration, issuing of voting cards, voting, amendments to resolutions, when votes are counted, how the votes are administered, and the voting thresholds. Except for commercial strata lots, a strata corporation cannot amend the definitions or requirements of voting definitions for majority votes, 3/4 votes, 80% or unanimous votes.

The only votes counted are those that are cast at the time the vote is taken. This requires the assigned proxy holders to cast those votes they have been assigned during the voting period. There is no provision for absentee or advanced balloting. When the votes are taken you must count and calculate all those in favour and all opposed, to determine the calculations on majority and 3/4 votes and all those in favour for 80% and Unanimous votes. For 80% and unanimous votes, any vote that is not in favour, abstained or not voting is automatically a vote against. Consider a bylaw for electronic meetings and invest in legal advice to ensure your bylaw will meet the needs of your community.