

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

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Condo Smarts

Headline: Proxies

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Dear Condo Smarts: Our 179 unit strata recently held an emergency special general meeting to approve a special assessment for \$450,000 for an emergency roof repair. We were instructed by our property manager to submit our proxy by fax or mail to a specific location within 7 days to ensure our vote would be counted. We found out by letter that the resolution was approved and we received a letter demanding our portion of the special levy no later than May 1, 2008. In retrospect we should have refused and raised our many concerns over the procedures, but one of our council members who just returned from vacation has demanded that the meeting results be voided and that we have a properly convened SGM. The manager is refusing because the council have already signed the contract and it wouldn't make any difference at this point to the outcome. We're in a mess and our owners are fearing the worst case scenario, a nasty court dispute. Is an SGM by proxy legal?
Jenny Lo, Richmond

Dear Jenny: A special general meeting by proxy is not permitted by the Strata Act. It appears you have some confusion as to procedures and what rules of order your strata is using. Under some rules of order for societies, absentee ballots are permitted;

however, absentee ballots are not permitted under the Strata Property Act. The proxy form is simply a written document that authorizes a person to vote on the owners' behalf. You must have a person voting on your behalf at the meeting, which is why the proxy must appoint a person. That person cannot be a party that provides strata management services or an employee of the corporation. It is possible to agree to a waiver of a special general meeting, if: all eligible voters waiver, in writing, the holding of the meeting and consent, in writing, to the resolution, although I suspect that would be almost impossible in a 179 unit strata. A proxy may do anything an owner may do, unless limited or restricted in the written document. The strata cannot adopt a bylaw that limits the number of proxies a person may hold because they cannot dictate who you bestow your proxy upon, and it would be technically impossible to comply with bylaw enforcement procedures under section 135 of the Act. Your strata corporation should convene a proper Special General Meeting with the prescribed 20 days written notice period to properly ratify the resolution, otherwise you may have an unenforceable special levy. This would also be the right time to consult a strata lawyer to ensure you procedurally resolve this impasse.

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