

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-312

Condo Smarts

Headline: Power of attorney

Topic: Voting

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Dear Condo Smarts: I have acted as the president of a strata in BC for over 15 years. Our strata recently encountered a problem that not only affects strata owners but all property owners in BC. One of our senior owners who has been in and out of hospital several times in the past year assigned her power of attorney to her son. Without any understanding of the assignment, he took her to his lawyer to have the paperwork drawn up and she essentially gave control over all of her property to her son. We became aware of this in December when her son showed up at the meeting to vote on behalf of his mother. When we requested a proxy he gave us a copy of the power of attorney clearly identifying the power over the property including the voting assignment. We discovered that he sold the unit in December when the movers showed up three days before the end of the year. One of our owners visiting his mother in hospital said she was unaware of the sale, and he has not indicated to her where she will reside when she is released next week. How can we better protect our seniors in our communities? Doreen Brooks

the assignment of power of attorney to any party. Paul Mendes, a lawyer with Lesperance Mendes in Vancouver, has advice for anyone considering assigning their power of attorney over their affairs or property. "Before anyone gives a power of attorney or agrees to act as a power of attorney, the people who are involved should first sit down with their legal advisors. Identify the purpose of the power of attorney, what the objective of the assignment is, and any risks associated with the assignment. Before you sign, make sure the scope of the power of attorney conforms with your objectives."

One of the things everyone must remember about a power of attorney is that a person basically gets to do whatever they want within the limitations of the assignment. Make sure you use your own legal counsel when appointing someone as your power of attorney, and if you are being appointed as the power of attorney, confirm the person is competent to make the assignment.

Dear Doreen: Your letter raises two serious issues. The first is for the strata corporation. How do you know if someone is an eligible voter if they have power of attorney or are the executor of an estate? Demand proof and in writing. The assignment of voting rights, or obligations to pay fees or taxes or manage the estate will be set out in the assignments. Like any voting assignment or proxy, it has to be in writing. No documentation? No vote. The other issue that is much more serious is

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