

Condo Smarts

Headline: What's in a name? Problems with Proxies

Topic: Proxies

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Dear Condo Smarts: We have an ongoing conflict in our strata over when the strata council retires. Every year at our annual general meeting, the strata chairperson represents a large number of proxies. This is due to the design of the proxies that are sent out with the notice. The proxy defaults to the chairperson, if another person is not named. This year the strata elected an outside person to chair the meeting because we were voting on a new set of bylaws and a special levy for re-piping, and wanted to ensure we followed proper rules and procedures. It was argued at the meeting that the chairperson of council was no longer the chairperson and could not hold all of the proxies naming the chairperson. After two hours of debate, the elected chairperson entertained a motion that the meeting be terminated and the resolutions were to be postponed to a reconvened special general meeting, in order for the strata corporation to resolve the proxy issue. How can we prevent this abuse of proxies in the future? It is obvious to the owners that this is an unfair and abused privilege of the chairperson of the strata council.

Beth J. Victoria

Dear Beth: Your strata corporation obviously has an older set of bylaws, or has amended the Standard Bylaws of the Strata Property Act (the Act). To avoid this confusion, the Act changed the description of the council chairperson to President. The term chairperson is an active term of the role that the president, vice president or elected chairperson may be fulfilling for the purpose of the meeting, and property managers and other parties frequently act as the chairperson for strata corporations on a routine basis. Even if the president/vice president are not chairing the meeting, under the Act, they have an additional casting ballot as provided for in the bylaws, at either council meetings or general meetings in the event of a tie for majority votes, not the chairperson. An amendment to your bylaws clarifying the terms will help to clear the confusion for this part of the problem.

The second issue is how the proxy form is issued. The optional proxy form of the Strata Property Act, Form A, appoints a person, and specifically identifies the name of the appointee. Blank proxies that do not name a person can cause great confusion at registration desks. The complications of appointing a chairperson as proxy, is that the title is both a position and an active role. Not every chairperson is permitted to hold proxies, as it is not a specific person, and that person may easily change between the notice period and the convening of the meeting. Even though the strata owners assumed "John Smith Chairperson" would represent their proxy as president, what happens when "John Smith Chairperson" resigns from council 5 days before the meeting or is unwilling to act as the chairperson of the meeting? Who is now representing the proxies? As long as a proxy is in writing and signed by the person appointing the proxy, it may be in any papered form. Owners are not obliged to use the proxy form issued with the notice package, and the strata corporation cannot require the use of the issued form, as a condition of issuing a voting card to the proxy. The proxy is the appointed person, not the form.

When the notice package is created, the proposed resolutions, agenda items, forms and notices are determined by the strata council. If the strata council chooses to adopt the optional form or any other form of proxy sample to be issued with the notice, the council would make that decision by majority vote at the council meeting where the general meeting was planned. Unless the strata council has voted to delegate that specific authority to one or more council members, the decision rests with the council.

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