

**Condo Smarts**

Headline: Counting Ballots/Secret Ballots

Topic: Voting

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**Dear Tony:** We have a special general meeting coming up in mid July that will include 4 special resolutions. All of them will be controversial as two are for major repairs requiring special levies and the other 2 are petitioned items for bylaw amendments removing our age and rental restriction bylaws. The council have been debating the type of voting we will conduct, and the president has decided we will do the voting by ballot; however, he has also insisted that we write the number of each unit on the ballot. What happens when we distribute these ballots and the owners refuse to include their unit numbers? We are not sure we can insist upon a record of how each unit has voted.

*Claire M. Langley*

**Dear Claire:** The *Strata Property Act* (the Act), the Schedule of Standard Bylaws of the Act and any bylaw amendments that your strata corporation has adopted will likely provide the answers you are seeking. The Schedule of Standard Bylaws contain a provision that allows for voting by show of voting cards, a precise count if requested, secret ballot or some other method. Under section 27 of the Standard Bylaws, if a precise count is requested, the chair must decide on the method; however, an election of council or any other vote must be held by secret ballot, if the secret ballot is requested by an eligible voter.

As permitted by the Act, many strata corporations have amended section 27 of the Standard Bylaws, and have placed the decision on the method of voting, solely on the responsibility of the chairperson, which may or may not require that a secret ballot is mandatory if requested. If a strata corporation

removes the ability for the owners to demand a secret ballot it creates an atmosphere of accountability which may be either positive for those people who are collecting proxies which will now have a record of they voted, or negative for those people afraid of recriminations if they do not vote for the popular decision, whether appropriate or not. The chairperson is limited by the authority they are granted through the bylaws and the Act. Section 50 of the Act essentially rests the balance of authority of the meeting within the majority of the eligible voting quorum at the meeting. Your bylaws do not grant the decision making authority of voting procedures to your chairperson. If any eligible voter at the meeting requests a secret ballot, the ballot must be conducted by secret ballot. Secret requires that the ballot does not have strata lot numbers or identifying information where possible, the parties have the opportunity to use a secure voting booth and ballot box, each proxy and eligible vote must have a separate ballot, and the scrutineers who count ballots are compelled to confidentiality. It will not always be possible to maintain clear ballots, because commercial strata lots have different voting thresholds which will have to be identified on the ballots to ensure their votes are properly counted. If the owners vote to destroy the ballots after the meeting, immediately destroy them. If the owners do not vote to destroy the ballots, seal them in an envelope and retain them in a secure location until they are required for future access or destroyed.

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