

Condominium Home Owners Association

A non-profit association serving strata owners since 1976

Bulletin: 400-026

August 10, 2005

Waiver for Notice/Holding of a Special General Meeting

Strata Property Act Section 44

44 (1) *The strata corporation does not have to hold a special general meeting to consider a resolution if all eligible voters waive, in writing, the holding of the meeting and consent, in writing, to the resolution.*

(2) *If 2 or more persons share one vote with respect to a strata lot, all of them must consent to the waiver of the meeting and to the resolution under subsection (1).*

While the *Strata Property Act* does not give specific direction in the waiver of notice for a strata to hold a meeting, the same conditions if applied would follow from section 44, thereby meeting the standard required by the Act for waiver of conducting a meeting, which includes notice. Use the checklist to determine that your strata have met the conditions required by the Act.

Checklist:

- 1) Have the resolutions been properly prepared and is the wording complete? For example: a special levy for emergency/urgent repairs would have to meet the requirements of section 108 of the Act. Legal advice is recommended to ensure the proper wording of resolutions.
- 2) Has every eligible voter signed the waiver and consented to the resolution? For requirements of a unanimous vote this would require every registered owner/voter.
- 3) Like the minutes of a special general meeting, this waiver forms part of the records and minute of the strata corporation. It is important to maintain a copy of the resolutions that were passed/failed by the waiver for council's future direction and actions.

Sample Resolution:

The owners, strata plan ABC 1234, by 3/4 resolution, signed by a waiver of notice in accordance with section 44 of the *Strata Property Act*, hereby approve the expense of (\$money amount) from the contingency reserve fund for the purpose of (authorized use of the funds)

I the undersigned owner, agree in writing with the waiver of notice and consent to the resolution.

Strata Lot #	Name of Owners/Voters	Signature of All Owners/eligible voters
--------------	-----------------------	-----------------------------------------

Note: *The practical result of this process imposes a greater voting threshold than if a meeting were actually convened. To pass a resolution requires the waiver and consent of all eligible voters whereas a 3/4 vote at a general meeting is only passed by 3/4 of those eligible voters present at the meeting in person or by proxy who vote for or against a resolution and who have not abstained. Please refer to your bylaws to determine the status of an eligible voter.*

For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email office@choa.bc.ca.

page 1

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.

The different voting thresholds of the *Strata Property Act*

There are three voting thresholds used in the *Strata Property Act* by a strata corporation at either an Annual or Special General Meeting.

1. Majority Vote

The *Strata Property Act* definition: “**majority vote**” means a vote cast in favour of a resolution by more than ½ of the votes cast by eligible voters who are present in person or by proxy at the time the vote is taken and who have not abstained from voting.

Examples of when a majority vote is taken are the following:

- Approval of the annual budget (Act 50)
- Approval or amendment of the agenda at a general meeting (Act 50)
- Amendments to majority votes (Act 50)
- Election of Strata Council
- Budget surpluses under (Act 105)
- General proceedings at Annual or Special general meetings. (Act 50)
- Direction or restriction to a strata council. (Act 27)
- Approving Minutes of previous general meetings (Act 50)
- Appoint of scrutineers for counting ballots at general meetings (Act 50)
- Electing a person to chair a general meeting (Bylaw 25)
- Removing a council member at a general meeting (Bylaw 11)
- Ratifying Rules that have been previously passed by council (Act 125)

2. 3/4 vote

The *Strata Property Act* definition: “**3/4 vote**” means a vote in favour of a resolution by at least ¾ of the votes cast by eligible voters who are present in person or by proxy at the time the vote is taken and who have not abstained from voting.

Examples of when a ¾ resolution is required are:

- Amendments to the Bylaws of the Corporation (Act 128)
- Change in use of the common property (Act 71)
- Special levies (Act 108)
- Non emergency use of the contingency reserve funds (Act 97)
- Proceeding with court actions (Act 171)
- Not complying with allocation of surpluses (Act 105)
- Rescheduling an AGM to approve a budget longer than 30 days (Act 104)
- Designation of Limited Common Property (Act 74)
- Termination of a management agreement. (Act 39 (1))

For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email office@choa.bc.ca.

page 2

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.

Enclosed is a specific list of sections from the *Act* that require a $\frac{3}{4}$ resolution:

11	82	128	233
33	93	139	235
34	96	159	260
39	97	171	262
45	102	172	269
50	104	193	273
51	105	197	282
52	108	207	283
59	111	213	
71	128	226	

74
75
78
79
80

Note: check the regulations as there are some voting thresholds also stipulated there

3. Unanimous votes

The *Strata Property Act* definition: **“unanimous votes”** means a vote in favour of a resolution by all the votes of all the eligible voters;

Unanimous votes characteristically involve a dramatic change for the strata corporation and the procedures and filing are complicated. It is recommended that strata corporations undertaking unanimous votes proceed under the advice of a lawyer.

Examples of unanimous votes are:

- Amending the strata plan (Act 261)
- Amending the strata plan and changing the schedule of unit entitlement (Act 261)
- Amending the strata plan to convert property held by the strata into a strata lot (Act 262)
- Amending the strata plan to add a strata lot to common property (Act 263)
- Cancellation of a strata plan (Act 272 to 275)
- Winding up of Strata Corporation (Act 276 to 285)
- Removal of designation of limited common property on the Strata Plan (Act 75)
- Restriction on contracting powers of the developer (Act 10)
- Amending the Strata Plan to designate Limited Common Property (Act 257)
- Amend the Strata Plan to add to, consolidate or divide a strata lot (Act 259)

The *Strata Property Act*, Regulations, and the Bylaws of your strata corporation may be amended or change frequently. It is recommended that the reader refer to an official, current version of the *Strata Property Act & Regulations* and current filed bylaw amendments of your strata plan in the Land Title Office.

For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email office@choa.bc.ca.

page 3

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.