

Attention: It's HOA 'meeting season'

Posted: Saturday, Dec. 18, 2010

The community association industry is in the midst of what is commonly known as "meeting season."

Traditionally, annual meetings for HOAs are held near the end or at the beginning of the calendar year. Every year questions arise on annual meeting procedures. Many questions revolve around the issues of proxy forms and ballots - often confused.

Proxy form: This is used by an owner who cannot attend the meeting in person, but still wants to cast a vote. It is a document signed by a property owner by which he or she gives another person (who will be at the meeting) the authority to cast the owner's votes on whatever issues arise. Most HOAs send proxy forms out to owners along with the Notice of Meeting.

It is very important for owners to either attend the meeting in person, or appoint someone as their proxy (using the proxy form) to vote on their behalf. No action or votes can be taken at an annual meeting unless the HOA's quorum requirements are met, and proxies count toward the quorum requirement. A quorum is a minimum percentage of owners that must be present at a meeting in order for business to be conducted. The quorum requirements are typically specified in the HOA's bylaws.

Ballot: This is a form on which an owner (or their appointed proxy) casts their vote on whatever issues are on the agenda for the meeting. Each owner attending the meeting should be given a ballot as they check in with the HOA's secretary, and anyone who attends and presents a properly executed proxy form should be provided with a ballot as well.

Occasionally, we will see a proxy form that authorizes or instructs the proxy (the person authorized to cast the owner's vote) to vote in a specific manner - e.g., for or against a certain person running for the board of directors.

We refer to these forms as "directed proxies," as the person appointed as proxy is directed by the owner to vote in a particular manner. A person who provides the secretary with a directed

COLUMNISTS »

Michael Hunter



Charlotte attorney Michael Hunter specializes in community and condominium association law for the firm of Horack Talley.

proxy should still be given a ballot to cast the owner's vote. A proxy form is not a ballot.

The most common problem I see facing community associations is apathy. Too few people want to take an interest or active role in what happens in their community, or how it is managed. If you can't attend the annual meeting of your HOA, at least familiarize yourself with the issues, and give your proxy form to someone to make your voice heard.

Follow-up to recent column

Note on previous column: A couple of readers questioned my conclusion that an HOA board had the authority to use a \$600,000 "budget surplus" to pay for capital improvement projects, citing a N.C. law that requires HOAs to return any surplus funds remaining after payment of "common expenses" to members of the HOA.

The Planned Community Act defines common expenses as "expenditures made by or financial liabilities of the association, together with any allocations to reserves." Capital improvement projects are expenditures, as are routine maintenance expenses. In that case, the board chose to use the fund remaining after operating expenses to pay for playgrounds and street improvements; thus, there was no budget surplus to return to HOA members.

Charlotte attorney Michael Hunter focuses on community and condominium association law for the firm of Horack Talley. E-mail questions to home@charlotteobserver.com.



Subscribe to The Charlotte Observer.