

## Condo Q&A - Man Out-Foxes With Proxies. What Moxie!

Dec 11 2014

Practice Area: Community Associations

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*Dear Condo Q&A:*

*A candidate for the upcoming Board election may be pulling a fast one. He is going door to door getting proxy signatures which actually vote for himself! These aren't even on the official forms. Are these absentee votes legal?*

*Sincerely, "Let's Keep It Legal."*

Dear "Let's Keep it Legal":

Campaigning for proxies is democratic, and usually legal in Wisconsin condominiums. Assuming a Packer game or other life requirement means some people won't attend the meeting, what could be more conducive to discussing policy than ringing doorbells to explain why your neighbor should sign your form?

We often assist our Association clients in proxy campaigns and can share a few basic tips, [here](#).

One of the biggest problems we see is that some people don't know what a proxy is -- and is not. This can invalidate the best efforts.

### **A proxy is not an absentee ballot.**

The difference is crucial. Absentee ballots are not legal in Wisconsin condominium law unless the Declaration or Bylaws specifically authorizes them. Proxies, though, are usually legal. (There are some exceptions. For example, proxies are generally not valid at Board meetings.)

An absentee ballot is a vote sent in by a member who is not present at the meeting and who has no representative at the meeting. She just sends in a paper, marked, "ballot." Not legal!

A proxy is a written direction (actually, a power of attorney) from a member to her representative who actually attends the meeting and will vote pursuant to the member's direction. Sometimes, the direction is to vote a certain way on a specific issue. Sometimes the direction is to "use your judgment." It's the member's choice.

**Wisconsin condominiums do not have an official proxy form.**

You need not use any particular proxy form. You can write a proxy on the skin of a watermelon if it clearly expresses your intent to designate another person to vote in your place. As long as that other person brings the watermelon to the meeting and files it with the Secretary, it's legal (though, a little antagonistic, perhaps?) The Association Secretary should accept the proxy if it is not in violation of the Bylaws and is not obviously improper. An example of an obviously improper proxy would be one signed by someone who is not an owner.

Check for special proxy restrictions in your bylaws. Sometimes, the representative can hold only one proxy, or must be a member himself. (We have not seen any restrictions on fruit.)

**A proxy counts toward the quorum.**

If your Bylaws require, say, the attendance of 20 persons for a quorum to do business, each proxy is considered a "person." That is another good reason to campaign for proxies in advance. What is more wasteful than preparation for a meeting which cannot be conducted because there is no quorum?

**There is nothing wrong with a proxy campaign.**

Public companies often hire specialist companies to conduct proxy campaigns. There is no reason you can't ring door-bells. When the door opens, address issues and policies, not personalities. Tell the owner that if she decides to turn off the Packer game and attend the meeting, the proxy is torn up and she votes on her own.

**There is nothing wrong with a proxy campaign by Board members.**

They are citizens of the community, after all, and may have strong opinions derived from their volunteer service.

**There is more, of course.**

There are other rules and techniques, but you've got the basics. Note that proxies are a compromise in Wisconsin law. Parliamentarians tell us that the common law outlawed proxies on the theory that to vote, you must attend the meeting and hear the discussion before you vote. You must deliberate. Now, the law is that if you cannot attend, you can appoint another human to act in your place – but you can't simply send in a piece of paper.

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