

It'll take written request to see board vote totals

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Q. Our condominium association recently had the annual election for board members. We had four vacancies and five candidates for these positions. A representative of the management company counted the ballots, but no request for representatives from each of our three buildings on the property was made to review the count.

The names of the four winning candidates were announced before the close of the meeting, but the total number of votes cast for each of the five candidates was not mentioned.

The next morning I asked our property manager for the total vote count for each candidate, but was told I would have to submit a written request and give a proper reason for this information. I don't understand why this request is necessary. When we vote for national and local offices, the total vote for candidates are announced on television or the newspaper. Why should board member vote totals be so secretive?

A. The Illinois Condominium Property Act states that a unit owner must submit a written request to inspect and copy ballots and proxies for the last annual board election. The owner must state a proper purpose for the request under Section 19(e) of the act. Management is correct in demanding the written request. As a practical matter, management must keep a record of people who seek to inspect important documents such as election information. Your request may simply indicate your concern about the fairness of the election, particularly if the results were not announced to the membership.

Candidates for board election at your association should have been aware that Section 18(b)(10) of the Condominium Act grants a candidate for election to the board or the candidate's representative the right to be present at the counting of ballots at each election.

Management should not have counted the ballots in secret. To remove any suspicions, candidates should be present to see the vote count. The better practice for elections is to retain an outside accounting or election firm to tabulate the votes.

Q. When a unit owner in a condominium association issues a proxy for a vote to a board member, but marks the votes for specific candidates of his choice, can that board member use the proxy to vote for someone else or additional candidates other than those chosen by the owner who issued the proxy?

A. No. The purpose of a directed proxy, which you describe, is to permit the owner to designate a proxy to vote for his or her particular choices.

Section 18(a)(18) of the Condominium Act states that the association proxy must give the unit owner the opportunity to express a preference for any of the known candidates for the board. This language does not state that the proxy holder has the authority to cast votes for any candidate who is not the preferred choice of the unit owner. If the owner fails to designate any choice from the board candidates, the proxy holder has full discretion to cast the votes.

Q. Last year I bought a unit in a condominium conversion in a multi-building development. At a recent board meeting, the owners were advised that, due to utility cost increases, the operating budget had a deficiency of several hundred thousand dollars.

Apparently, our management company failed to advise the board of this budget problem until recently. To make up the deficiency, the board has increased assessments by more than 40 percent in the form of a special assessment.

Obviously, the board failed to prepare a realistic budget. Is management also financially responsible for this problem due to their failure to submit monthly financial reports?

A. The board is responsible for the problem. Management may not have met its contractual obligation to the association.

Your question shows the need for monthly board meetings, particularly for new associations. If the management contract required monthly financial statements, and most well drafted agreements have this requirement, management should have advised the board of the deficiency before the problem reached its current level.

Utility cost increases are difficult to predict. Boards and management must carefully examine monthly budget figures to identify cost increases that exceed budget levels.

Many boards have been required to increase assessments to cover unexpected utility expenses. The amount of this increase, however, raises a legitimate question as to whether this management company accurately reviewed expenses from the previous year to prepare the current year's budget.

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