



The End Of Apathy In Condo Association Voting?

Florida Adopts Online Voting

By Jay Roberts

Condominium Association ABC, Inc., manages ABC Condominium (a 100-unit project) and wants to update its pool, which was constructed 30 years ago. The proposal is well-received by the membership, and the association has the money for the project without levying any additional assessments. What's the problem? Well, the ABC Declaration of Condominium requires 75 percent of the total membership to approve material alterations to the common elements. A vote is held and the results are 60 "yes" votes, 2 "no" votes, and 38 owners failed to respond. Measure fails; apathy "wins" again. How do associations combat the issue of non-voters causing membership initiatives to fail?

During the 2015 legislative session, Florida amended the Condominium Act to provide for the ability of condominium owners to vote online for all

membership matters (see F.S. §718.128). To board members, community association managers, and owners who see membership efforts fail over and over due to lack of participation, the prospect of online voting is an alluring elixir.

Many communities rarely achieve a quorum let alone the necessary membership approval for important votes such as amending the documents, approving material alterations or reducing the financial reporting requirements. The convenience factor associated with online voting will increase membership participation for those owners who already know how to use a computer as well as for the future generation of owners who have spent their entire working lives on computers. Online voting should be especially useful across the Emerald Coast due to the large number of owners who are not permanent residents at the condominiums.

The ability to vote online can be established by a vote of the board of directors, after not

less than 14 days' notice is posted and sent to all owners. Associations cannot "force" owners to vote online; rather if owners prefer, they may still cast a ballot in person or mail, fax, or scan/email a limited proxy for all items other than election of directors, since the Condominium Act provides that director elections must be conducted by the two-envelope secret ballot method or online voting. Further, hard copies of notices for the meeting still must be sent to the owners (along with instructions for online voting) unless the association has obtained members' consent to receiving notice of meetings electronically and also uses online voting, which is a separate consent process from online voting.

When the Florida legislature passed the measure last year, the Department of Business and Professional Regulation's Division of Condominiums, Timeshares, and Mobile Homes adopted Florida Administrative Code

rules which implement section 718.128, Florida Statutes, (see F.A.C. 61b-23.00211).

Using the statutory and regulatory parameters, together with insight and designs from internet security advisors, the law firm of Becker & Poliakoff created BPBALLOT.COM, a secure electronic voting program allowing associations to cast their votes online. In addition to electing boards of directors, BPBALLOT.com can be used to conduct other membership votes such as votes to amend the governing documents, waive reserves and approve material alterations.

Only time will tell if community association members in the Sunshine State will embrace this new technology. Until then, this latest example of our Florida Statutes catching up with today's technology is a reason to celebrate. ■

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