LEGAL

What happens if there is no quorum at the annual meeting?

BY MARK FRIEDMAN, FLORIDA BAR CERTIFIED AS A SPECIALIST IN CONDOMINIUM AND PLANNED DEVELOPMENT LAW

What happens if you do not get a quorum at your annual meeting?

I have noted that there still appears to be some misunderstanding about this. If you come from a Florida homeowner's association before moving into a condominium, your expectations are based on a set of laws that are not applicable in the condominium setting.

Each Century Village condominium is a not-for-profit corporation and a condominium, and is required to try and hold the members' annual meeting. However, to conduct the annual meeting you must have a quorum present. The Condominium Act, Chapter 718, Florida Statutes, provides that a quorum is a majority of the voting interests "unless a lower number is provided in the bylaws". Therefore, most of your buildings, if not all, use a majority for a quorum (but check your bylaws). Sometimes, for whatever reason, there is no interest in attending the annual meeting or even sending in a proxy to obtain the quorum. This could be because nothing of significance is being voted on.

So, what happens if you do not have a quorum? You cannot hold an annual meeting.

What happens to your not-for-profit corporation if you are unable to hold your annual meeting? According to Section 617.0701, Florida Statutes, nothing happens to your corporation. "Failure to hold an annual meeting does not cause a forfeiture or give cause for dissolution of the corporation, nor does such failure affect otherwise valid corporate acts . . ."

The minute books should reflect the reason that there are no available minutes for an annual meeting in a given year, so that when a unit owner asks to inspect the minutes years from now, when no one remembers what happened, it will be clear that the minutes were not lost, there just was no annual meeting to report on.

That leads to the second most misunderstood issue regarding annual meetings, the election. If you cannot hold the annual meeting because of a lack of quorum what happens to the election? The Condominium Act is specific on this issue, and provides, "There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election." The election occurs along with the annual meeting but technically it is not part of the annual meeting.

By way of example to illustrate the foregoing, if you have a condominium with one hundred units, you will need fifty-one voting interests in attendance in person or by proxy to conduct the business of the annual meeting, such as voting on amendments, voting on alterations, etc. However, in a condominium with one hundred units you would only need a minimum of twenty voting interests to cast a ballot in the election of directors to have a valid election.

Note that if there are fewer candidates than board of director seats available for an election, a condominium is not required to hold an election and may merely announce the names of those who submitted timely notices of intent as the new board.

Mark D. Friedman, B.C.S. is recognized by the Florida Bar as a specialist in Condominium and Planned Development Law. This article is intended for educational purposes only and is not intended as legal advice. If you have had issues with your annual meeting or election, please contact your association's legal counsel. Mr. Friedman may be reached at MFriedman@BeckerLawyers.com