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by Beth Mulcahy, Esq.

When to Use Proxy Votes, Mail-in and Absentee Ballots

Fall is just around the corner; and at this time of year our firm starts receiving questions regarding voting at the annual meeting. Questions range from mail-in ballots to the most asked question, "Can we use proxy votes?" I have included a summary to best explain when you can use proxy ballots and when you can use mail-in/absentee ballots.

Set forth below is a summary of A.R.S. 33-1812 / Condo A.R.S. 33-1250:

Proxy voting is only allowed while the association is under developer control (time during which the developer may elect or appoint the board of directors).

After termination of developer control, proxy voting is prohibited. Votes by members may now be cast in person AND by mail-in ballot or absentee ballot for special meetings and annual meetings of the membership.

There are several requirements for **mail-in ballots/absentee ballots**:

1. The ballot must set forth each proposed action;
2. The ballot must provide an opportunity to vote for or against each proposed action;
3. The ballot is valid only for one specified election or meeting of the members and expires automatically after the completion of the election or meeting;
4. The ballot must specify the time and date by which the ballot must be delivered to the board of directors in order to be counted, which must be at least seven days after the date the board delivers the un-voted mail-in ballot to the member; and
5. The ballot must specify how many ballots must be returned to achieve a quorum and what percentage of approval is required to approve the action, other than for an election of directors. The ballot cannot authorize another person to cast votes on behalf of the member. Votes cast by ballot are valid for purposes of a quorum.

I hope this clarifies and makes your annual meeting preparation go more smoothly.

Sincerely,
Beth Mulcahy, Esq., Founder and Senior Partner