

How Can Proxy Voters Vote Secretly?

By Ron Gould, Director CCC#43

IN THE spring 2008 edition of Condominium Manager Magazine, James Davidson LLB, wrote an excellent article: “Are Proxies Confidential?”



This article proved to be most useful when questions related to access to proxy ballots arose in the fall of 2008, at the Annual General Meeting of CCC#43, which is comprised of 308 highrise units and 20 townhouses. At this meeting, a secret ballot was cast for the election of directors, by all owners present. However the proxy ballots cast were not secret, in that they identified the name of the owner and the owner’s choices from among the candidates.

Prior to voting for the directors at this AGM, through a vote by show of hands, a majority of the owners present voted that the ranking of the candidates for director should be disclosed, but not the detailed vote count for each candidate. Subsequently, both the regular and the proxy votes were counted in a private room by three

volunteer owners, selected at random at the meeting and the ranking of the candidates announced.

Following the AGM, the board received a request from an owner to personally review the proxy ballots. On the basis of the proxy article in the CM magazine, as well as the decision of the owners at the AGM not to release detailed information on the results, the requestor was advised that direct access to the proxy ballots could not be granted, but that the owner could ask the condominium’s lawyer to review the proxy ballots and report on the correctness of the votes cast, at the owner’s expense.

The new board of directors agreed to explore ways to minimize future ballot problems and to ensure that all owners, without exception, would have the right to a secret ballot. As a director, and former Assistant Chief Electoral Officer of Canada, I was asked to develop a ballot format that would preserve the secrecy of the vote for proxy voters.

The format that was proposed was discussed with, and amended by, the board of directors as to content;

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with the management company as to format and costs, and with the condominium lawyer to ensure that the provisions of the *Condominium Act* were met.

The final design and format consists of a two-part ballot, which is somewhat similar to mail-in ballots used at Federal and Provincial elections.

The first part consists of a 9 x 12 inch, (or other size) Proxy Envelope on which is printed all of the information required by the *Condominium Act*, as well as the voting instructions. The owner or owners provide information about their unit number, print and sign their names on the outside of this envelope; this being the only place where the owner/proxy voter is identified. (See sample envelope.)

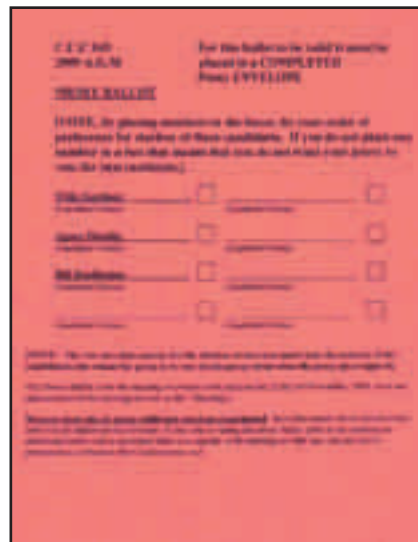
The second part is the 8 1/2 x 11 inch (or other size paper) ballot form itself, which contains the voting instructions and clearly indicates in bold letters that this ballot is invalid if it is not enclosed and submitted in the proxy envelope. It is important that this be stressed in bold letters, to avoid receiving proxy ballots that have to be rejected because the owner/voter cannot be identified. Depending on the timing and nature of the election preprinted names of candidates or space for write-in names, or other options are printed on this ballot. (See sample proxy ballot.) To clearly identify it as a proxy ballot a different colour of

paper from the envelope and from the regular ballots can be used.

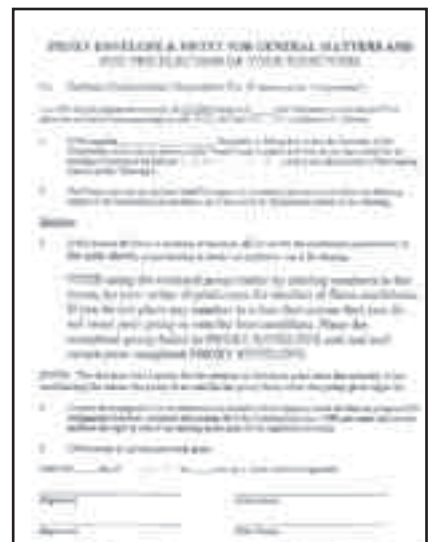
The cost of printing the ballot envelope can be minimized if it is designed generically so that it can be used for multiple voting purposes over several years. We have used this system only for the election of directors, but the envelope could easily be adapted for other votes such as bylaw amendments. Only the proxy ballot itself needs to be specific to each type of vote.

This secret proxy ballot was first used at the 2009 Annual General Meeting of CCC#43 without any of the problems encountered in 2008 arising. ■

Ron Gould, CM retired from Elections Canada in 2001 after 20 years' service. Since 1984, when he was a member of the OAS and Canadian monitoring missions in El Salvador, he has participated in more than 100 election missions in over 70 countries. Gould is considered one of the leading world experts on the organization and management of elections. Gould published one book entitled "A Guide for Election Observers" and he was one of the three authors of "Strengthening Democracy: A Parliamentary Perspective", which was published in 1995. He has undertaken specific studies at Laval University, Carleton University, McGill University, Queens University and at the Public Service Commission in Canada.



Sample Proxy Ballot (supplied by author)



Sample Envelope (supplied by author)