

## PROXIES AND ANOTHER VIEW TO CONSIDER

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We are so fortunate, or unfortunate, depending on your point of view, that we can't and don't really use proxies for much in Nevada any more.

Why, you ask! Election of our Directors **MUST** be done by written secret ballots, budget ratification meetings are done by ballots since 50% plus 1 of the owners must show up to vote the budget down, and you don't even need a quorum any longer to approve the minutes from last year's Members meeting. Can an owner use a proxy at the budget ratification if they make their own in the correct format and have the proxy holder bring it to the meeting, yes, but it must follow the provisions set aside in NRS 82 for proxies.

So what is the "another view" in the title of this short article. I attended a seminar recently where the attorney stated that if another owner has given you their proxy to attend a meeting that **you have to vote it (turn it in) regardless of what you hear at the meeting** that may change your mind and you don't want to vote the proxy.

I told the attorney that they could take me before the Real Estate Division, but if I in my heart of hearts did not feel it was appropriate to carry the other owners vote forward that I would not do so. I wasn't able to change the attorney's view point, but please be sure that you know how the attorney for the association feels before you unilaterally make a decision on what is right and appropriate.

As you know, only certain people can carry a proxy forward to a meeting and the proxy must be directed, or in other words, they tell you how to vote the ballot that is given to you at the meeting, stapled to the proxy and you vote. The proxy itself is not a vote and cannot be treated as one. Many managers are having the ballots attached to the proxy at sign in so that when the election inspectors start the counting, they can look to ensure that the ballot has been completed as instructed.

If you find yourself or an owner finds him or herself in the above situation, disagreeing with the owner who has a signed you the proxy holder, it is a tough situation to be in.

In trying to think through how to handle the issue, I decided that I would put the instructions on how this would be treated on the cover letter that goes out to all of the owners with the notice and proxies.

It does not hurt to get a quick opinion from the HOA's legal counsel on how they feel before you end up with issues, but the proxy holder **CANNOT** change the proxy regardless of how they feel. A directed proxy tells the proxy holder how to vote and that vote cannot be changed.