



Demystifying the Proxy: Answers to Five Common Proxy-Related Questions

Community association annual meeting season is well under way. The notices have gone out and most included a proxy should owners be unable to attend. Despite their frequent use, proxies can be confusing. Therefore, we have provided answers to five common proxy-related questions:

1. What is a Proxy?

A proxy is a document that authorizes someone (a "proxy holder") to cast a vote on another person's behalf at a meeting of a corporation. For many community associations, proxies can be used to establish quorum at the meeting and/or vote on association business. The specifics on how they can be used will usually be found in the association's bylaws, otherwise the Georgia Non-Profit Corporations Code controls

A proxy can be general, directed or a combination of both. General proxies allow a member/owner to appoint a proxy holder to vote any way that proxy

holder chooses, while directed proxies require the proxy holder to vote as directed by the member/owner. Combination proxies allow the proxy holder to vote any way that proxy holder chooses on some matters and at the member/owner's direction on other matters.

To be valid, the proxy must (1) name the proxy holder, (2) be signed and dated by the member/owner giving the proxy, and (3) delivered to the designated officer or agent of the association before the start of the meeting. The member/owner can invalidate the proxy by attending the meeting, issuing a subsequent proxy with a later date, or notifying the designated officer or agent of the association that the proxy is revoked (before the meeting for which it will be used is called to order).

2. When is a Proxy Used?

As mentioned above, proxies can typically be used at annual and special membership meetings to establish quorum and/or vote on association business, including the election of directors. Regardless of whether the proxy is general, directed or a combination of both, it is important to remember that the appointed proxy holder must attend the meeting for the proxy to be used.

Boards and managers frequently confuse the terms *proxy*, *ballot* and *consent form*. A proxy greatly differs from a ballot or a consent form. Proxies are only used for membership meetings. Ballots and consent forms, on the other hand, can be used when membership action is taken without a meeting.

3. Who can be designated as a Proxy?

Some governing documents require that members/owners designate another member/owner as their proxy holder, but most governing documents do not contain such restrictions. Without any explicit restrictions on proxy designees, a member/owner can choose anyone they desire to attend the meeting as their proxy (i.e. the proxy holder does not need to live in the community). In any case, the member/owner must state the name of proxy holder on the proxy document. If a form proxy is provided with the annual meeting notice, it is common to see a blank space where a member/owner can fill in the specific name of the proxy holder. If no one is specifically designated, the member/owner designates an association officer-usually the president or secretary-to act as their proxy holder since officers generally attend membership meetings (and remember, the proxy must attend the meeting for it to be counted).

4. Why is a Proxy Used?

Proxies can help associations with low in-person attendance at membership meetings. This is because, if authorized, proxies help the association reach quorum, allowing the association to proceed with conducting official business. Without proxies, some associations would probably never reach quorum, preventing them from electing directors or holding votes on important community issues.

5. How can a Proxy be Submitted?

As stated above, proxies must be delivered to the designated association representative before the meeting (for which it is to be used) is called to order. It is also a common misconception that the original proxy must be turned in to be valid. Unless the association's governing documents say otherwise, a proxy is valid even if it is a copy, fax or other reliable reproduction of the original. Please keep in mind though, the reproduction must be a complete reproduction of the entire original writing or electronic transmission.

Overall, the use of proxies can be confusing, but keeping these common questions/answers in mind should help ensure a smoother, more stress-free annual meeting.

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