

Common Property

Newsletter for professionals in the facilities management sector.



The Alternate Proxy



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At training the other day, I received an interesting conundrum. The facts are as follows:

- The Owners Corporation had sought tenders in relation to maintenance and repairs;
- The Chairman of the Owners Corporation tendered for this job;
- The proxy's were given to the Chairman;
- The proxy's however said that if the Chairman was not in the meeting, an alternate person would be the holder of that persons proxy's;
- The Chairman left the room during the vote; and
- The Chairman won the tender.

The Owners Corporation is now upset that the Chairman may have acted improperly. The question is twofold:

- Did the Chairman act appropriately; and
- Can you have a proxy form with an alternate person?

In the first instance, the Chairman did act highly appropriately. When it came time to vote, any issue in relation to a conflict of interest disappeared when he left the room. He did not exercise his power of proxy to vote for himself.

In relation to the second question, all that is required is that the proxy is clearly identified on a proxy form. There is nothing under the Act to prevent two persons in the alternative from carrying a proxy. Provided the proxy is only used by one person, it is quite lawful.

The Chairman therefore can take on the tender and undertake the job.

**Cheers,
Bailey Compton
and The team at ACP/Leverage!**



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