From: Andy Doves
To: "Darren Mclean"
Subject: RE: EGM Ineligible Voters
Date: Thursday, 14 October 2021 10:13:00

Hi Darren

EGM Voting
I find that difficult to believe given that you have presumably read the relevant regulation and the Schedule 1 definition of "body corporate debt", as both are noted verbatim in my below email.
Could you please enlighten me as to why you and Mike Murray think the regulations do not apply?

Committee Voting
You haven't mentioned this aspect of my email but do you also believe that Lot 3032 was eligible to vote at your committee meeting on 21/9/21?

Cheers Andy

From: Darren Mclean <darren.mclean@pico.com>
Sent: Thursday, 14 October 2021 07:13
To: Andy Doves <dovesadd@bigpond.com>
Subject: RE: EGM Ineligible Voters

Hi Andy,

With reference to below I checked with Mike Murray and it is only the overdue levies that make a lot owner ineligible to vote, of which there was only one lot "present" at the meeting which is reflected in the minutes sent out today.

Regards,

Darren

From: Darren Mclean
Sent: Monday, 4 October 2021 2:28 PM
To: Andy Doves <dovesadd@bigpond.com>
Subject: RE: EGM Ineligible Voters

Hi Andy, thanks I will look into below.
Regards,
Darren

From: Andy Doves <dovesadd@bigpond.com>
Sent: Friday, 1 October 2021 2:59 PM
To: Darren Mclean <darren.mclean@pico.com>
Subject: EGM Ineligible Voters

Hi Darren
At the very commencement of last night's EGM I sent you the list of the 17 lot owners who were unfinancial and therefore ineligible to vote.
You delayed the meeting, checked with your committee and then advised the meeting that there was only 1 lot owner unfinancial, presumably Lot 3036 as it was the only one owing levies.
Michael Murray of Value Strata Management confirmed your finding. I insisted that your finding was incorrect and my objection was dismissed and the meeting was continued.

I can now confirm that your finding **regarding ineligible lot owners** is at odds with the following regulations.

Displacement or disentitlement of right to vote

92 (2) A person does not have the right to exercise a vote for a particular lot on a motion, other than a motion for which a resolution without dissent is required, or for choosing a member of the committee, **if the owner of the lot owes a body corporate debt** in relation to the lot at the time of the meeting.

Schedule 1 Dictionary

body corporate debt means a following amount owed by a lot owner to the body corporate—
(a) a contribution or an instalment of a contribution;
(b) a penalty for not paying a contribution or an instalment of a contribution by the date for payment;
(c) another amount associated with the ownership of a lot.
Examples of another amount—
• an annual payment for parking under an exclusive use by-law
• an amount owing to the body corporate for lawn mowing services arranged by the body corporate on behalf of the owner

Conclusion : I think that if an amount owed for lawn mowing qualifies as a body corporate debt then so does an amount owed for utilities.

Furthermore, in relation to one committee member on that list of unfinancial lot owners, Lot 3032, I note in addition to the above that the following regulation applies, in particular 11 (2) (d)

Eligibility to be a voting member (of the committee)

11 (2) However, a person who is otherwise eligible under subsection (1) to be a voting member of the **committee is ineligible to be a voting member of the committee if the person is—**
(a) a body corporate manager, service contractor or letting agent; or
(b) an associate of a body corporate manager, service contractor or letting agent, other than an owner of a lot who is the associate of a letting agent merely because the letting agent, in conducting the agent's letting agent business, acts for the owner; or
(c) a person, other than a letting agent for the scheme, who conducts a letting agent business for the scheme; or
(d) a member of the body corporate **who owes a body corporate debt** in relation to a lot or lots owned by the

person at the time voting members are chosen; or
(e) a person nominated by a member mentioned in
paragraph (d).

And again, Schedule 1 Dictionary applies
body corporate debt means a following amount owed by a lot owner to the body corporate—
(a) a contribution or an instalment of a contribution;
(b) a penalty for not paying a contribution or an instalment of a contribution by the date for payment;
(c) another amount associated with the ownership of a lot.
Examples of another amount—
• an annual payment for parking under an exclusive use by-law
• an amount owing to the body corporate for lawn mowing services arranged by the body corporate on behalf of the owner

Conclusion : The owner of lot 3032 was ineligible to vote at the EGM and at any committee meetings held since the due date of the utilities invoice.

If I am correct with the above conclusions I would appreciate:
1. a correction of the voting numbers;
2. a notification of the correct number of ineligible voters; and,
3. an apology for the embarrassment caused to me;
and all of this circulated to all lot owners.

Perhaps you can do some part of these requests in the minutes but I expect all three requests to be at least noted in the covering email distributing the minutes.
Andy Doves
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