

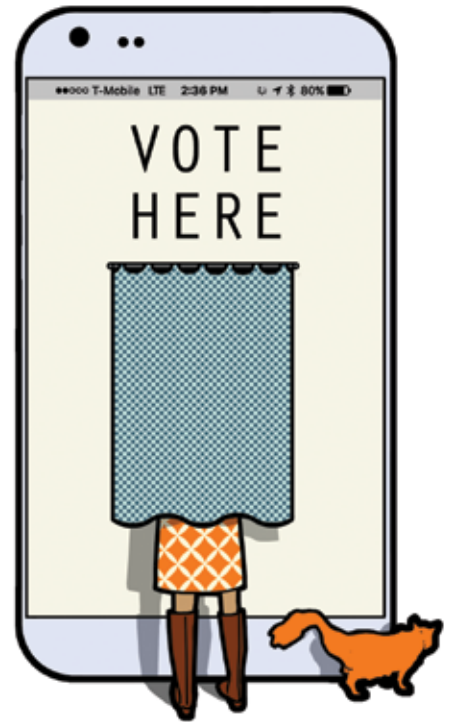


**Denise Lash**  
 B.Sc., LL.B., ACCI, FCCI.  
 Founder  
 Lash Condo Law

**Electronic Voting**

# Electronic Voting Trumps the Power of Substitution

Now Unit Owners Can Vote for Themselves, Rather Than Allowing Proxies That Consolidate Power in the Hands of a Few Individuals



As of November 2017, the amendments to the Condominium Act allow condominium corporations to permit unit owners to vote by ‘telephonic or electronic means’. As a result of these amendments, some condominium corporations have started using electronic voting for owners’ meetings and are no longer using proxies.

Many condominium corporations, though, have not started using electronic voting for their owners’ meetings either because they are not aware of what electronic voting is or may be confusing this process with the process of online proxies.

Since 2007, the use of electronic voting for condominium communities has been used successfully in the United States. Those states that have adopted electronic voting (now over 20 states), no longer have issues involving proxy manipulation or fraud. The process of holding meetings is focused on the business of the community and not on the registration process.

Like any new process, it is sometimes difficult to move away from what we are accustomed to and shift into new and unfamiliar territory. However, the Condominium Act was amended to introduce electronic voting in Ontario as of November 2017 for good reason. Management and directors should embrace this new technology.

Responsible boards should be encouraging unit owners to vote for themselves, rather than allowing proxies to consolidate power in the hands of a few individuals.

For condo managers, reducing the work load and the frustration of dealing with proxies for every owners’ meeting goes a long way in streamlining the meeting process.

**What is the difference between Electronic Voting and Online Proxy Voting?**

*Online Proxy Voting:*

- Proxy forms are required to be completed by unit owners via email.

- Proxies give the proxyholder the right to vote for the proxy, subject to any items where the proxy has directed his/her vote.
- The proxyholder must show up at the meeting in order for the proxy to be used, or the proxy must allow “the power of substitution” for a substitute proxyholder.
- Proxies must be reviewed at the meeting by the scrutineers. This means that managers must print out proxies that were received and also need to review each proxy to determine if the proxies are valid or not.

*Electronic Voting:*

- Unit owners vote on-line using a secure web-based platform.
- Voting can take place prior to the meeting and also at the meeting itself. (at the corporation’s option)
- No scrutineers are needed for electronic ballots.
- No proxies need to be used for meetings.

ILLUSTRATION BY JASON SCHNEIDER

- Eliminates the need for distribution, collection and managing proxies.

## What is required to do Electronic Voting?

### Step 1: *The Electronic Voting By-law*

This is a new type of by-law introduced as of November 2017, which can be put in place with a simple majority at an owners' meeting.

This means a majority vote of those units represented in person or by proxy at an owners meeting, as long as there is a quorum (25%). For example, if the corporation has 100 units, the quorum for the meeting would be 25 units (25%) and the by-law will pass with 13 units voting in favour of the by-law.

Once this by-law is confirmed by the owners and registered, you are now ready to start doing electronic voting and the electronic voting process can be used at the next owners meeting.

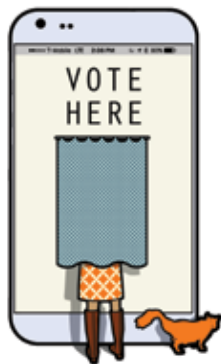
### Step Two: *Revise your documentation.*

Since the Condominium Act does not require that proxies be sent with notice packages or be sent at all, management will need to advise owners that they can vote on-line without the requirement to complete proxies if they are unable to attend a meeting. Management should be revising notice packages to include information about the process of electronic voting and remove references to proxies. Although, owners are still permitted to complete a proxy and you will need to accept them if they are provided prior to or at the meeting, once owners start doing electronic voting, management may find that there are very few, if any, proxies received.

Remember, electronic voting counts towards quorum and owners have the option (similar to a proxy) to have their electronic ballot counts towards quorum only or they can vote on an item (such as confirming a standard unit by-law or the election of directors)

### Step Three: *Choose your on-line voting service provider for Electronic Voting.*

Remember this is a new process for voting for condominium corporations in Ontario.



Management will need to advise owners that they can vote on-line without the requirement to complete proxies if they are unable to attend a meeting

When choosing a provider consider the following:

Do they have experience with condominium corporations and associations? How long have they been providing those services? Do their staff understand Ontario condominium law and condo management responsibilities?

### What services are provided?

When looking at prices find out whether the price is "self-service" or full service. For condo managers, having the self-service option will more than likely not work. We all know the many new added responsibilities that condo managers now have. The last thing a manager needs is to be burdened with trying to learn how to operate on-line voting using a self-service option. In our experience, most are opting

for the full-service option.

Make sure that you are using a provider that does on-line voting and not electronic proxy voting. The idea here is to make things more streamlined, cost effective and easier for management and the board. Removing the need for proxies will free up management's time and allow them to do more important tasks.

Does your service provider help with revising your notices and provide wording and guidance to you? You will definitely need this the first time around. See what the full-service option includes.

### Step Four: *Designate who will work with the service provider.*

This person will be required to provide owner emails, approve the setup of the ballot, determine the start and end date of the vote and answer a list of questions that the service provider will ask at the start.

Since it may take a day or so to coordinate this, start the process now so you are ready to go when your next meeting is scheduled.

### Step Five: *Notice goes out and voting starts.*

The service provider should be giving the designated person ongoing reports and coordinating ongoing messaging to owners, to ensure that the vote is successful and quorum is reached well before the meeting date.

### Step Six: *Registration at the meeting.*

Depending when you have decided to cut off the time for Electronic Voting, a final report will be provided by the service provider to the designated person at the cut off time. The report will show who has voted and what the total count is for each item. Since the ballot will be a secret ballot, the designated person will not be able to see how each owner has voted; only the total votes for each item and total votes for each candidate, where there is an election will be shown.

The report forms the electronic ballot and record that must be kept for 90 days in accordance with the Condominium Act. After that point, the report can be destroyed similar to paper ballots and proxies.

