

HOAs and Condo Associations Must Implement Safeguards to Prevent Election Fraud

BY GARY M. MARS



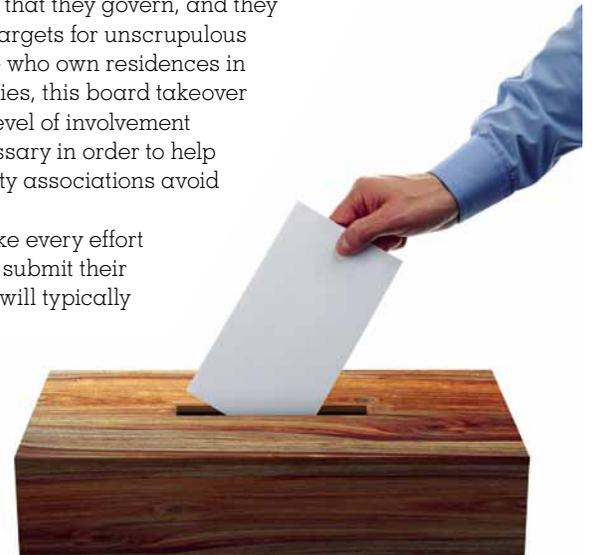
A RECENT CASE IN LAS VEGAS HAS SET A NEW bar for the heights to which criminals will go in their efforts to defraud condo associations and HOAs for contracts worth millions of dollars. A U.S. Justice Department investigation revealed that eleven homeowners and condominium associations in Las Vegas were defrauded of millions of dollars in a board of directors takeover scheme that took place from 2003 to 2009. Federal prosecutors are seeking jail time for the defendants in addition to approximately \$25 million in restitution, and 37 defendants have taken plea agreements and are facing prison sentences while the remaining four defendants are awaiting trial.

The defendants are accused of getting their straw unit buyers elected to community associations' boards of directors through forgery, bribery, ballot stuffing and dirty tricks, all with the help of a Kung Fu grandmaster to intimidate wary board members. As disclosed under his plea agreement, this martial arts expert admitted that the conspirators would rig the associations' board of director elections by using stolen and forged ballots so that they could win a majority voting control of the boards in order to secure lucrative contracts once control of the board and association was obtained. Co-conspirators traveled to Mexico to print phony ballots, used the master key at a condominium complex in order to remove ballots from mailboxes, and retrieved discarded ballots from a condominium's dumpsters.

Community association boards control the purse strings of the communities that they govern, and they have been long-standing targets for unscrupulous board members. For those who own residences in condo and HOA communities, this board takeover scheme underscores the level of involvement and vigilance that is necessary in order to help ensure that their community associations avoid this type of fraud.

Unit owners should make every effort to vote in all elections and submit their own ballots, as fraudsters will typically attempt to secure and utilize forged ballots from those who do not normally vote in the elections. They should also attend the election meeting and determine whether their ballot was counted or disallowed due to the submission of more than one ballot for their unit.

If association members believe that the integrity of their board of directors has been compromised, they should consult with highly experienced legal counsel in order to discuss and determine their next steps. Election recalls, court appointed receivers, and injunctions precluding boards from awarding contracts are among the measures that can be pursued, and criminal investigations by state and federal law enforcement are also possibilities that can come into play.



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