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Let’s Do Basic Condo/HOA Math: Calculating Whether You Have Enough Votes

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Are you absolutely, positively sure you're calculating the “winning” number of votes when your owners have to vote on something like a bylaws amendment or a special assessment?

Here, our experts give the basics on how to determine if something up for an owners' vote has passed.

What to Do When the Numbers Aren't Even

Let's say you have 157 units and need a supermajority to approve an amendment. Doing the math turns up 103.62 units needed to pass. Using the standard rule of rounding up when a number is above .50, do you round up to needing 104 units voting yes?

What if the math is different and you have 161 units, and your supermajority needed comes to 106.26? Do you use the standard rule of rounding down when a number is below .50, making 106 votes enough?

Or let's say you have 157 units, and something being voted on needs 50 percent. That's 78.5 units. So do you need 79 votes? Or is 78 close enough?

Always Round Up

Our experts unanimously agree that you always round up when calculating whether a vote has passed.

“Never round down,” advises Julie McGhee Howard, co-founder and managing partner of NowackHoward LLC in Atlanta, who at any given time represents hundreds of condos and HOAs throughout Georgia. “If you need 101.1 or 101.2 votes to pass something, you don't have that with 101 votes. You have it with 102, but not 101.”

Zuly Maribona, LCAM, the Bonita Springs, Fla.-based senior vice president and partner at KW Property Management who oversees the company's southwest Florida, Jacksonville, Orlando, Tampa, and North Carolina operations, advocates caution. “Always round up,” she recommends. “If you're unsure, go to the next best safe option, so I'd always round up.

“It's similar to when we're doing mailings to meet the statutory requirements for notices,” adds Maribona. “If something requires 30 or 60 days' notice and the final day falls on a Saturday or Sunday, you don't count back a day but forward a day to the next business day. So I'd always say round up.”

That's also the advice of Noelle Hicks, CCAL, a Houston-based shareholder at Roberts Markel Weinberg Butler Hailey PC, who represents condos and HOAs throughout Texas and has been named to the National Black Lawyers Top 100. “I think I'd follow what I've seen courts do and let standard math round up,” she says.

“If it's a 100.2 that's needed, for good practices and good measure, I'd probably go ahead and round up,” she adds. “There's probably a provision in the Business Organizations Code in Texas saying that you follow general corporate law principles, and I think any good corporate lawyer would do the same thing—round up.

“You don't want a homeowner to come in and challenge any sort of quorumor election because of a few tenths,” states Hicks. “So in terms of making sure everything's on the up and up and good general practices, I'd round up.”

Cary Devorsetz, a partner at Alderman, Devorsetz & Hora PLLC in Washington, D.C., who for 20 years has been representing condos, HOAs, and co-ops in the district, agrees. “Out of an abundance of caution, if quorum is 6.5 unit owners, it's 7 that you need. You don't round down, you round up.

“If it's 6.25 and you round down to 6, you haven't achieved 6.22—6 is not 6.25,” he adds. “However imperfect the math turns out to be, you need to meet that threshold. I'm not aware of a finding that you were close enough.

“And why would you even let that be a nugget for someone to argue?” asks Devorsetz. “If you want to keep your nose clean, you round up. Arguably, you could end up paying $100,000 in legal fees to maybe be found right instead of taking the more conservative and cautious approach in the first place.”