

Strata Living

Headline: For richer for poorer

Topic: Rental bylaws

Publication date: July 11, 2013

Publication: 24 Hours

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Dear Tony: We are wanting to buy a larger apartment because we have twins on the way in August. To sell our current home will result in a significant loss for us, and the strata corporation has a bylaw, which we voted in favour of, that prohibits rentals. We have asked the strata council for an exemption to rent until our home sells so we can purchase a new home and have enough cash flow to pay the mortgage in between. The strata council has denied our request. Do we have any other options?

Carol & John L. New Westminster

Dear Carol & John: I recently heard a council member refer to strata living as a marriage and the bylaws as owners' vows. In a strange sort of way this is a good analogy as they are both covenants. When strata corporations adopt bylaws that restrict the use of strata lots, they are entering into a covenant that will bind the future use and enjoyment of their strata lots and the common property. When everything is positive, prices are climbing and the building is new, the new owners are keen on protecting their investments and the intended lifestyles of their community and quick to adopt bylaws that affect pets, age and rentals. What we all fail to contemplate is the future. As buildings age and become more costly to operate and new owners start moving along, they start to feel the impact of the bylaw decisions they made. The strata council are elected to administer your property, but also to act in your best interest and enforce the bylaws. While the bylaw may have seemed appropriate at the time and now seems to be an unfair burden, the strata council does not have the ability to grant random exemptions. There is one specific provision allowed for in the Strata

Property Act where an exemption may be granted, and that is a hardship exemption under rental bylaws. Owners may apply in writing to council requesting a hardship exemption and stating the reason for the exemption. The strata council in exchange have an obligation to ensure they do not act unreasonably; however, they may request all relevant information, including personal financial information, to establish the veracity of the claim. Likewise, if you rent to the children or parents of you or your spouse, a family exemption may apply. Before you make a hardship application, as a first purchaser you should identify if the owner developer filed a rental disclosure statement, and whether that rental exemption is valid and extends to you. Prior to 2010, rental disclosure exemptions apply only to the first purchaser, and you may be the beneficiary of such an exemption. Request a copy of the rental disclosure exemption from your strata council, or contact the office of the Superintendent of Real Estate through the BC Financial Institutions Commission to order a copy at 604.660.3555.

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