

Condo Smarts

Headline: Our rental rights have changed!

Topic: Rentals and Rental Bylaws

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Dear Tony: Our strata corporation has changed our rental exemptions and we have lost the right to rent our units, even though the developer told us when we purchased that we would be able to rent for 100 years and there could be no limitation. As an investor we didn't think this could change so we didn't pay attention to the notice package. We received a notice last week that the rental disclosure had been amended and that when our tenants leave we have a year to rent and then we can no longer rent our units. This is insane? How could the government let this happen?

Carol W.

Dear Carol: In 2010 the Strata Property Act was amended for rental disclosures that permitted a developer to designate strata lots that would be exempt from rental bylaws for a definite period of time. Most developers set the time period at 50 or 100 years. This exemption provided for more flexibility of strata lots as rentals, and more options for investors. The legislation also provided for some flexibility if a strata community wanted to amend the Rental Disclosure Statement (RDS); however, that had to meet specific conditions. The owner developer may change the statement by changing the number of strata lots to be rented or the rental period for the strata lots, or both. The developer could do this if they own all of the strata lots, if not, the strata would be required to pass a $\frac{3}{4}$ vote resolution to approve amending the disclosure.

There is a quirky condition in the $\frac{3}{4}$ vote process that no one anticipated, and makes little sense. If you are an investor, and are currently renting out your strata lot, you are not an eligible voter at this meeting approving the amendment of the rental disclosure that would directly affect your interest. If 40% of the owners were renting, only 60% would be eligible to vote, and because it is a $\frac{3}{4}$ vote, a small number of those could

potentially make a decision that adversely affects investors who relied upon the owner developer's disclosure and marketing.

Even if the RDS is amended, the strata will still need the developer to agree and file the amendment. Afterwards the strata would still be required to pass a bylaw amendment that would limit or restrict rentals. Several strata corporations have approved the amendment to their rental disclosures because the communities ended up being owner occupied with no rentals. As a buyer, if this issue is raised, you may want to have your lawyer contact the developer before they consider such an amendment.

Marketing programs actively advertised "no rental bylaws and long term exemptions" to attract investors. The owner developer may be breaching your purchase and sale agreement if they now agree to change those conditions.