

Condo Smarts

Headline: Air BnB: Who pays the cost?

Topic: Rentals and Rental Bylaws; Short-term Rentals

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Dear Tony: We purchased our condo in 2013 with the understanding that our strata corporation could not impose any rental bylaws. We started using our condo as an Air BnB in 2015 and in the summer of 2016 our strata corporation passed a bylaw that prohibits the business use of strata lots for Air BnB, VRBO or any other type of short term rentals. To date they have imposed over \$5,400 in fines against our strata lot and are trying to get us to pay \$1,700 for damage to the parking gate they claim was caused by one of our guests. Have we misunderstood the rental exemption? We purchased the strata lot because of the exemption and were assured by the developer that the strata could not prevent our use of the condo for any types of rentals. How much control do strata councils have over our property rights? We wouldn't have purchased the unit had we known.

Amir D.

Dear Amir: In 2010, the *Strata Property Act* changed to include an exemption for strata lot owners under a rental disclosure statement. The exemption is granted to any of the strata lots that are listed on the form for the period of time indicated, at which time the exemption expires. In your case your exemption extends until June 1, 2013; however, Air BnB and VRBO are not rentals as defined under the *Act* or the *Residential Tenancy Act* but are business activities such as short term hotel type use. In addition to the strata bylaws there may also be zoning issues. The specified use for your property may not permit short term hotel type accommodations. While the type of bylaw that prohibits or limits short term business type use in strata corporations are yet unchallenged, it is easy to challenge their enforceability by filing a complaint through the Civil Resolution Tribunal. Owners who are facing penalties and costs related to bylaw infractions may start a complaint through the CRT, and the CRT has

the authority to determine if the fines are valid, whether they were properly imposed or have been imposed fairly, whether the bylaw was passed and filed properly and if the bylaw is enforceable. The cost for a CRT application is under \$300 and a straightforward online process. Owners who are using their accommodations for Air BnB need to understand they will be responsible for any damages caused by their guests, and subject to any penalties that may also arise due to noise, smoking or matters that relate to nuisance. You may also be subject to penalties for parking violations or security violations and costs when a guest loses keys or fobs. If you are renting your strata lot as a long term tenancy, be aware that your potential tenants may be subletting or using your condo for an Air BnB. As the landlord/property owner, you will still be liable for any of the related penalties and costs. For more information on the Civil Resolution Tribunal go to www.civilresolutionbc.ca