
Condo Smarts

Headline: Confusion between rental bylaws and short-term accommodations

Topic: Rentals & Rental Bylaws

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Written by: Tony Gioventu

Dear Tony: Our strata owners and council are in a battle royal over the application of our rental bylaws and our short-term rental enforcement. There is obviously a record keeping issue because the council and manager cannot or will not provide an accurate disclosure of the number of units rented, and they appear to have grandfathered a number of owners from the bylaws entirely. Most owners now seem to disregard the bylaws, even though we have a limit of 10 rentals in our 110 unit mid rise, and a prohibition on short term rentals. Council have informed owners our rental bylaws are basically unenforceable. The source of the dispute appears to be around whether anyone is grandfathered from the bylaws that prohibit AirBnB's.

Kelly M. Kelowna

Dear Kelly: There is continued confusion between rental bylaws and short-term accommodation bylaws. Rental bylaws apply to tenancies that are greater than 30 days for residential units and subject to the limitations imposed by the bylaws, exemptions granted under the *Strata Property Act* (the Act) and provisions of the *Residential Tenancy Act*. Strata corporations may ratify bylaws that limit or restrict the number of rentals either by a specific number or percentage of units. This is a conventional rental bylaw and the Act sets out provisions for the administration of the bylaw and exemptions.

There are 3 exemptions from a rental bylaw.

1. If the unit is rented to the parent or child of an owner or owner's spouse that rental is exempt from the limit and count.
2. If the owner developer filed a rental disclosure statement intending to rent strata lots, for those strata corporations filed before January 1, 2010, the original purchaser is exempt from the rental limit until they sell or convey their strata

lot to a subsequent owner. For those strata corporations filed from January 1, 2010, the strata lots identified on the rental disclosure are exempt for the period shown on the disclosure. This exemption applies to the strata lot and does not affect ownership sequence.

3. The third exemption is where an owner makes an application to the strata corporation for an exemption due to a hardship.

In any of these 3 cases, the rental is exempt and is not included when determining the total rental count when enforcing the bylaw; however, every owner must complete and provide the strata corporation with a Form K notice of tenant's responsibilities. This ensures the tenants are in possession of the bylaws and rules, and the strata corporation is informed of the identity of the occupants and how to contact the occupants and tenants. If a strata corporation has properly amended their bylaws, the maximum penalty that may be imposed for the enforcement of a rental bylaw is \$500 per week.

Short term accommodations are not rentals. These are bylaws that apply to business activities of short-term hotel type use of strata lots. Strata corporations may prohibit short term accommodations and the maximum penalty permitted in a bylaw is \$1,000 per day. There are no exemptions or grandfathering granted by the Act for short term accommodations. Owner developer rental disclosure exemptions, family use or hardship do not apply. To ensure your strata corporation can reliably enforce both types of bylaws separately, consult with your lawyer to separate rental and short accommodation bylaws.