

Headline: How do rental bylaws work?

Topic: Bylaws

Publication / Date: Westcoast Condominium Magazine, Oct 16, 2015

Written by: Tony Gioventu

How many times have you heard the story "We were told we could rent our condo, but we found out the strata has a bylaw" or "we rented when we first bought the unit, but everything changed"? The landscape of rental bylaws in condo buildings is difficult to navigate at the best of times unless you have accurate information, and your strata understands how to administer rental bylaws. So can I rent my unit or not? Bylaws that prohibit or limit rentals are permitted for residential strata corporations or residential strata lots in a mixed use strata property. Whether it is a duplex, bare land strata, high rise or mid rise, a strata corporation by 3 / 4 vote resolution may vote to adopt bylaws that limit or prohibit rentals. If you are purchasing an existing strata lot that was filed before 2010, odds are you would be affected by a rental bylaw, or in the future the strata may adopt a rental bylaw that may change the use of your property.

There are 3 types of exemptions that apply to rental bylaws, and for the first time buyer or investor, it is critical to understand how they apply. An exemption that is created when the strata is first created is Rental Disclosure exemption filed by the owner developer. For strata corporations that were created and filed in the Land Title Registry before January 1, 2010, if the owner developer filed a rental disclosure they commonly identified the strata lots and but didn't set a limit on the time period, so the exemption from rental bylaws only applies to the owner developer and the first purchaser. If you purchased from the first buyer, this exemption won't apply to you. If the strata was filed on or after January 1st, 2010, the rental disclosure had to identify the strata lots and the date of expiry, but the difference is the exemption applies to whomever owns the strata lot until the expiry date, many of which are 99 years. When you request a Form B information Certificate from the strata, they must attach a copy of the rental disclosure if one exists.

The other 2 exemptions are family rentals and hardship exemptions. As an owner you may rent to the children or parents of you or your spouse. If you are experiencing a hardship such as a financial or medical hardship requiring you to rent your unit, you may apply to the strata corporation for an exemption from the bylaws. The strata will likely require you to provide evidence of your hardship and may request personal information; however, they must not unreasonably refuse the application. When a strata counts rentals to administer a bylaw limit, they may not include hardship, family rentals or owner developer exemptions as they are defined by the Act as being exempt from rental bylaws. Owners of strata lots must still provide a Form K "Notice of Tenant's Responsibilities" to the strata corporation, and you must also comply with occupant age restriction bylaws. An exemption from a rental bylaw is not an exemption from an enforceable age restriction bylaw.

Before you purchase and before you rent, obtain a copy of the strata rental bylaws and identify if there is an owner developer rental disclosure that may apply. If there is a rental bylaw, apply to council before you rent to confirm there are vacancies in the rental limit