

# Condominium Home Owners Association

A non-profit association serving strata owners since 1976

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## Condo Smarts

Headline: Check renters' credentials

Topic: Rental bylaws & life estates

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Recently, a strata council in B.C.'s interior levied fines against an owner in their building for renting out his unit. The council thought he had violated a strata bylaw prohibiting rentals. However, the council was in error, as the renter was in fact a distant family member who had been granted a Life Estate. A Life Estate is a form of ownership generally granted by a will and it cannot be restricted or prohibited by a rental bylaw. In cases such as this, councils hopefully discuss the matter with the alleged offender and resolve it quickly and/or seek legal advice immediately. However, this council decided, without inquiring or seeking counsel, to not only to continue to impose the fines but also to refuse a Form F when the unit was sold as part of the estate, collecting almost \$2,500 in fines to permit the sale. The heirs of the estate are now proceeding with court action against the strata, an entirely unnecessary state of affairs.

**Strata Law:** A bylaw is not enforceable to the extent that it prohibits or restricts the right of an owner of a strata lot to freely sell, lease, mortgage or otherwise dispose of the strata lot or an interest in a strata lot. There may be a variety of conditions set on the life estate, but like any owner, the life tenant is generally responsible for the strata fees, bylaw fines, special levies and other related costs to the property.

**Tips:** In my travels across the province assisting strata corporations, I have discovered an overwhelming number of strata corporations with rental restriction bylaws that do not comply with the Act and are basically unenforceable. Rental bylaws are complicated and can be cumbersome. With literally thousands of life estates in the province, Strata Corporations should not only seek legal advice on the enforcement of their bylaws, but investigate the status of the tenant or owner before they proceed.

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