

Condo Smarts

Headline: Do I have to evict my tenants?

Topic: Rentals

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Dear Condo Smarts: I own three investment units in a condo building in Victoria. At the annual general meeting last week, the owners passed a bylaw that prohibits rentals and I have received a letter from the strata council advising that I have to evict my tenants. I find that these bylaws are not only unfair but they have created a serious hardship for at least one of my tenants who, as a special- needs senior, will have difficulty finding a new ground-floor suite to rent with special access for a wheelchair. Is there nothing that protects the rights of investors in condos and townhouses in B.C.?

- Diana Griffins, Edmonton, Alta.

Dear Diana: Investors need to take special precautions when purchasing strata-titled property. It is quite possible in the life of any strata that the strata may prohibit rentals. However, there are a number of exemptions that might protect investors' interests:

- When an investor purchases from the owner-developer, there is a condition that may exist known as an "exemption through the rental disclosure statement." If the owner-developer has properly filed a rental disclosure statement that complies with the conditions set out by the Strata Property Act, the first purchaser may be exempt from rental bylaws until the date of expiry of the rental disclosure. Terms like "indefinite" or "perpetual" may not meet the requirements of the Act, so get legal advice on the validity of the disclosure before investing.

- When a rental bylaw is properly ratified by the strata, it comes into effect the day it is filed at Land Titles Office but it does not apply to tenants who currently live in the strata lot. Your current tenants may not move for another 10 or 20 years and their tenancy would be exempt.
- Finally, if an owner makes an application to the strata to rent their unit based on hardship circumstances, the council must respond to the request, grant a hearing if requested and must reasonably grant the request. The council may request personal information to verify the conditions of the hardship and may limit the time period for the exemption.

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