

Condominium Home Owners' Association

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Bulletin: 300-199

Condo Smarts

Headline: Family status trumps bylaw

Topic: Bylaws - rentals and definition of family

Publication date: October 15, 2006

Publication: The Province

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Dear Condo Smarts: We live in an owner-occupied condo building of 58 units. Our strata has never allowed rentals, and until recently no one has ever attempted to challenge the bylaw. That being said, we have two residents, one of whom is on title and the partner, who is not. They are not legally married and they plan on travelling for two years and want to rent out their unit. They did not ask our permission but simply informed us that they would be renting the unit to the partner's parents. Our bylaw prohibits any rentals.

They have claimed family status and that we cannot discriminate against their same-sex relationship; therefore, they are exempt. So what's the point of our rental bylaws if they can't be enforced?

We are fining them the maximum allowed of \$500 per week, but hope you can provide a clear answer so we can avoid a messy conflict.

-- M.J., New Westminster

Dear MJ: It might be time for your strata council to obtain a copy of the *Strata Property Act* & Regulations and review the section on rentals.

The Act sets out exemptions that do not require your strata's permission. One of those is family rentals. The bylaws may either limit or restrict the number of rentals, but this does not apply to a family member as defined by the regulations. For the

purposes of rental exemptions, family and a family member means: the spouse of an owner, a parent or child of the owner, or the owner's spouse. A spouse of an owner includes an individual who has lived with and cohabited with the owner of a period of two years, including a marriage-like relationship between persons of the same gender.

Provided they gave you the properly completed form K, they have met the requirements of the Act. They are not in violation of the bylaws. Your strata council may request verification of the relationship to ensure the family status is valid. This should serve as a reminder to all strata corporations that their bylaws do not override the act, regulations or B.C. Human Rights Code. Before you try to enforce your bylaws, ensure they are valid.

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