

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-225

Condo Smarts

Headline: New rules not enforceable

Topic: Rentals

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Dear Condo Smarts: We bought our condo a few years ago planning to retire to Vancouver Island in 2010.

The developer told us we were a rental condo and that we would never be affected by strata bylaws.

Now the strata have adopted both an age restriction bylaw that owners must be 55 and over and that rentals are prohibited.

We received a rather nasty letter from our strata council advising that if our 42-year-old tenant of four years was not evicted immediately we would be fined \$500 a week and would lose our home through a court ordered sale.

There have never been any complaints with our tenant and we're seriously concerned about our investment.

As we live in the east, it's rather tough to defend ourselves from a long distance. Is there anything we can do?

-- *Bill & Doreen Edgecomb, Oakville, Ontario.*

Dear Bill & Doreen: When someone purchases directly from the developer, they may be exempted for a specific period of time from rental bylaws, depending on the terms of the rental disclosure filed by the developer.

In your case, the developer exempted you from rental bylaws until June 1, 2025.

This only applies to the first owner.

Even if the rental bylaw did apply — which it does not — the status of your tenant would still be exempt.

Your tenant resided in the strata lot before the bylaw was adopted, and the bylaw will only apply to your strata lot one year after your tenant ceases to occupy the lot.

Age restriction bylaws can still apply, but this particular age bylaw is unenforceable.

The strata corporation cannot adopt a bylaw that prohibits or restricts the rights of owners to sell, lease, mortgage or otherwise dispose of their interest.

This bylaw limits the age of owners, and age restriction bylaws apply to those who reside in strata lots.

Likewise, age restriction bylaws do not apply to those persons living in a strata lot at the time the bylaw is passed.

Finally, a lien cannot be filed against a strata lot for bylaw fines.

The strata corporation must give you written notice of the particulars of the bylaw complaint and opportunity for a hearing if requested.

You need a lawyer to provide advice and representation on your behalf at the strata meetings.

As well, CHOA provides a number of information bulletins on bylaws and enforcement that are available on request.

For more information on CHOA resources and benefits visit www.choa.bc.ca
or contact the office at 1-877-353-2462 or email office@choa.bc.ca.

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