

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-280

Condo Smarts

Headline: Grandfathering

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Dear Condo Smarts: Our strata recently passed a number of new bylaws. I wholeheartedly supported them as they will improve our lifestyles here at the Emerald in North Vancouver. We passed a new rental bylaw that limits rentals to 5, an age bylaw that limits owners to 55 and over, and a pet bylaw that limits each unit to 1 dog or 1 cat. At our information meeting beforehand, our property manager told us not to worry because anyone underage, with extra pets or tenants would be grandfathered. Only 2 months have passed since the meeting and we, the strata council, are getting ourselves into some real disagreements over what that meant. If we're grandfathered does that mean the bylaw doesn't apply to us, so if we wanted to get an extra dog or cat that would be ok? What about tenants? Doesn't anyone who was a landlord at the time keep the rental suite until they sell it? If you could help us understand this we would be grateful. Muriel Walters

Dear Muriel: The term "grandfathered" is used extensively in publications and by strata councils, yet the term does not appear anywhere in either the Strata Property Act, Regulations or Standard Bylaws. There is a common misunderstanding that grandfathering exempts an owner from the new bylaw for as long as they own their suite; however, that is not the intent of the *Act*. The exemptions granted by the Strata Property Act are conditional. They allow for a

period or circumstance of exemption to accommodate those persons that would be affected by a new bylaw. Pets, rentals and age are the exact bylaws the exemptions apply to. Under the Act, pets, tenants, and owners not complying with the new bylaws, who are residing in a strata lot at the time the bylaw is passed, not when it's registered, are exempt from the bylaw until their residency/condition terminates. For example, if your strata passes a new pet bylaw that limits owners to 1 cat or 1 dog, and you have 2 dogs, then on the moving or passing of 1 of your dogs, you would be limited to only 1 dog. If a resident was 35 at the time, and the strata passed a 55 and over occupancy bylaw, then the 35-year-old could remain as long as they wish, but any new occupants or tenants would have to be 55 and over. In the case of a tenant, the current tenant at the time of passing the bylaw would be permitted to remain for whatever period they and their landlord agreed to, but if that tenant moves, the landlord would only be able to rent for 1 more year and at that time would either have to occupy the unit themselves, leave it vacant, or sell it. For an investor this is important to understand. As long as there are rental vacancies, according to the bylaw you could rent again, but if the quota was filled you cannot rent once your exemption expires. Don't confuse the often understood term of grandfathering as perpetual with the exemptions granted by the Act, which are only conditional.

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