

Condo Smarts

Headline: Rental Bylaws

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Dear Condo Smarts: My parents have lived in our Okanagan Condo for eight years, and our strata council adopted a new bylaw on March 15th that limits rentals to one. Being committed owners to the strata we supported the bylaw, but my parents have just received a notice from our manager that they are in violation of the rental bylaw and have 60 days to leave the property otherwise fines will be imposed. The letter says there is already one unit rented and they do not qualify. This is a terrifying hardship for my parents who have been good residents, but one council member resents the fact that they live in the penthouse unit and is always complaining about my mother's plants and gardens. Her goal has always been to force the tenants out and find a way to move in. We think we're right on this position to defend our parents so they can remain, but can the strata really force a tenant to leave when the bylaws change. Mark D, Tsawwassen

Dear Mark: There are several types of rentals that are exempt under the Strata Property Act, and different conditions on who is affected when a new bylaw is passed. A tenant who resides in a strata lot when a new rental restriction bylaw is adopted is exempt from the bylaw. Once that tenant leaves, if there are no other rental vacancies, the owner may still rent for an additional year without penalty. In addition, the Act exempts family members from rental restriction bylaws,

and they are the children or parents of you or your spouse. So under both conditions, you and your parents are exempt from the bylaws in any case. There is an additional change under Bill 8 that exempts family and hardship rentals from bylaw counts. This exemption along with the exemption of owner developer rental exemptions for 1st purchasers has a dramatic impact on many strata corporations in the province. For example, if your strata permits 15 rentals, none of those counted within the limit can include family rentals, hardship exemptions, or the owner developer rental exemptions. As many strata corporations have adopted bylaws that stipulate family rentals and hardship exemptions as part of the rental count, they now find themselves in a conflict with the Strata Property Act as a result of the amendments introduced under Bill 8, if they are applying family or hardship rentals to their bylaw limitation counts. In the event that a landlord rents a strata lot contrary to the Act or bylaws, there is one other provision to remember. If an agreement for the rental of a residential strata lot contravenes a bylaw that prohibits or limits rentals, the tenant is not in contravention of the bylaw, and may within 90 days of learning of the landlords contravention, end the tenancy agreement without penalty.

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