

Condo Smarts

Headline: Changes to the Act & Bylaws
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Dear Condo Smarts: We have an owner who is challenging us on our new pet bylaws. Our strata adopted a new bylaw in January that limits the number of pets to one per strata lot. There are a number of owners had had more than one pet at the time, and we understand that those pets existing in the strata lot at that time, are exempt until they either pass away move with their owners. This guy has brought in another dog in May, and has cited the new amendments to the Act that stipulate that bylaws have no effect until they are filed in the land title office. Does this mean that even if a strata passes a bylaw that prohibits pets, an owner get out and get a new dog that night after the meeting and they are going to be grandfathered with the other pets? Barbara Morin, Kamloops

Dear Barbara: The new amendments to the Act address the issue of enforceability of bylaws. Bylaws cannot be enforced by the strata council until they are filed in the Land Title Registry, but there is a separate provision that impacts the exemptions. There is a limit that applies to pet, age and rental bylaws that occurs at the moment they are passed by 3/4 vote at either an annual or special general meeting. Even though the strata cannot enforce them and impose fines or penalties until they are filed, the bylaws

come into effect at that time and only those existing relationships of age, pets or tenancy are exempt. Technically once you file the bylaw, provided it is enforceable, the council has the authority to enforce the bylaw against the person who has brought in the additional pet after the meeting. As the Act reads, a bylaw that prohibits a pet does not apply to a pet living with an owner, tenant, or occupant at the time the bylaw is passed and which continues to live there after the bylaw is passed. The same condition applies to tenants where a new bylaw that limits or prohibits rentals may apply to them, and even then a landlord has a one-year extension beyond the new bylaws when that current tenant leaves. An important concept that strata owners and councils need to understand is that the term "grandfathering" does not appear in our legislation. Many times the term grandfathering implies a perpetual exemption, whereas, most of the exemptions in the Act are provisional, and may be triggered by a series of events. An updated version of the Strata Property Instruction Guides has been posted to the FICOM web site and have useful explanations on the common use of the Act, Regulations and Bylaws. Go to:
http://www.fic.gov.bc.ca/responsibilities/strataowners/instruction_guides.htm

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