

Condo Smarts

Headline: Rentals – It's all in the Date
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Written by: Tony Gioventu

Dear Condo Smarts: We recently purchased a unit in a new development in Vancouver. In our purchase documents we were provided with a form that indicates the developer and the strata owners will be exempt from rental bylaws until January 1, 2055. We were told by the agent that the bylaw basically exempted all the strata lots in the complex from a rental restriction bylaw, regardless of who the owner was. Our strata is now talking about a rental restriction bylaw that would prohibit rentals, except for family and hardship rentals. They argue that in the future this will help to reduce tenants. When the current first-time owners sell their units, those strata lots would no longer be exempt from the bylaws. This information is contrary to the advice we received when we purchased. Could you please clarify the situation for our strata before we end up squandering money on needless disputes in the courts. We can't imagine that this must be left up to a broad level of interpretation. Nicole S.

Dear Nicole: The *Strata Property Act & Regulations* were amended in December of 2009. The amendments changed how the exemptions for owner developer rental filings would be administered. When a strata plan is created, and prior to the first conveyance of the strata and for the purpose of marketing, the owner developer is required to file a form "J" rental disclosure statement. This form discloses the intention of the owner developer to either use some or all of the units as rentals, and to set out the exemptions that are passed along to the purchasers.

Prior to January 1, 2010, a rental disclosure that was filed with the Superintendent of Real Estate, only exempted the owner developer and the first purchaser to the period stipulated in the form. In many cases, the form often reads, "the owner developer intendeds to rent or lease strata lots (1-109) indefinitely, or it may set a specific date in the future." Either form is acceptable if they set out a period of time. That exemption, if properly filed in a form J will exempt the owner developer and only the first purchasers of strata lots (1-109) for that period of time. If a first purchaser sells their unit, the exemption expires and the subsequent owners are now bound by any rental limitation or restriction bylaws. If the rental disclosure

in the proper form was filed after December 31, 2009, the conditions are different. The rental disclosure form must identify the strata lots that are intended to be exempt, and the period with a specific date of termination of the exemption. When the owner developer sells the unit to the first purchaser, that exemption applies to the first purchaser. The next sale is where there is a significant difference in the exemption. When the first purchaser sells the unit to a 2nd or subsequent purchaser, the exemption still applies to the end date. In summary, the exemption for forms filed after December 31, 2009 now apply to the strata lot and not the status of the owner.

The application of rental bylaws, rental lists and enforcement is a daunting task for every strata council and strata manager. The strata has to maintain a complete list of all rentals, and also a status of each rental to ensure the bylaws are properly enforced. Family rentals, hardship exemption rentals, and exemptions under owner developer filings are not included with the count of rentals within the bylaw limitations, complicating the administration of the rental bylaw inventory.

To answer Nicole's question, I had to obtain a copy of the rental disclosure statement that is filed with the Superintendent of Real Estate. The owner developer in their case, filed the rental disclosure in November of 2009. For Nicole's strata, once a first purchaser sells their unit, the subsequent purchasers will not be exempt from any rental restriction if their strata adopts a rental restriction/prohibition bylaw. Rental disclosure statements can still be valid for purchasers who are still the first owners dating back to the 70's, so it is important and a requirement of Section 35 of the *Strata Property Act* to maintain a copy of the registered document. To obtain a copy of your strata's rental disclosure statement, contact the Superintendent of Real Estate at: 604 953-5200 or 866 206-3030.

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