

Condo Smarts

Headline: Rental Disclosure
Topic: Rentals and rental bylaws
Publication date: Aug 5, 2012
Publication: The Province
Written by: Tony Gioventu

Dear Condo Smarts: When we bought our condo from the developer in 2007 we were advised by the sales person that the developer had filed a form required by the Act that would exempt us from rental bylaws. Our strata council were under the same impression for the past 5 years. So, the owners in 2009 adopted a rental restriction bylaw that limited the number of rentals, authorized under the bylaw to 5 strata lots. Our newly elected strata council have taken a view that the rental disclosure statement does not apply once a rental bylaw is filed and that it only applies to the developer. We are confident that the exemption is valid, but are asking if you could explain the rental disclosure exemption process in your column so our new council could easily understand it. *Pamela B. West Vancouver*

Dear Pamela: Under the Strata Property Act, strata corporations are permitted to adopt bylaws that limit the number of rentals or the percentage of rentals. The bylaw must also identify the procedure in administering the limit. There are three different exemptions. Family members, who are identified as children or parents of the owner or owners' spouse, hardship rentals, granted under section 144 of the Act, and strata lots that are identified and exempted under section 143 of the Act that relate to the owner developer exemption created by a rental disclosure statement (RDS). Where a strata corporation was created and the strata plan was filed prior to January 1, 2010, the owner developer was entitled to file a rental disclosure statement that set out a period of time and identified specific strata lots that were intended to be rented. It is necessary to read each RDS to confirm they identify the strata lots being exempt and the time period. For the strata lots that are exempted in this time period, only the first

purchaser that was conveyed the strata lot from the owner developer is exempt. A period of time may have included the phrase "indefinite", but even that has a finite period for most owners as the strata lot would eventually be sold or transferred to a subsequent owner or heir.

For strata corporations filed and created on or after January 1, 2010, the exemptions are different. The period of time must now be an exact date, setting out the exemption period and expiry, as required by the Form J, but the exemption is different. The exemption applies to the strata lot, as a result, any owner or subsequent owner in that time period is exempt until the expiry date posted. The strata corporation is required to retain a copy of the filed rental disclosure statement, which is filed with the Superintendent of Real Estate through the Financial Institutions Commission. The strata council provided me with a copy of the form, and unfortunately for Pamela's strata corporation, the RDS did not grant an exemption to anyone. They will need to seek legal advice on what was intended and how the units were sold to them originally. In both sections where it identifies the number of units to be rented or intending to rent it only shows "nil" and it does not list any strata lots that are exempt. If you are buying a new strata lot or considering a presale purchase agreement, confirm in writing in the contract that a RDS that meets the requirements of the Act for an exemption will be or is included with the filed Disclosure Statement.

**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.**

No part of this publication may be reproduced without the prior written permission of CHOA

This publication contains general information only and is not intended as legal advice. Use of this publication is at your own risk. CHOA will not be liable to you or any other person for any loss or damage arising from, connected with or relating to the use of this publication or any information contained herein by you or any other person.