

Condo Smarts

Headline: Administering Rental Bylaws

Topic: Rentals & Rental Bylaws

Publication date: February 5, 2014

Publication: The Province

Written by: Tony Gioventu

Dear Tony: How does a strata corporation administer a rental restriction bylaw? We are a 112-unit strata corporation that was constructed in 2004. It is mixed-use residential, with eight commercial units. Our bylaw is as follows: "The total number of rentals at any given time is 10 units. Anyone who wants to rent their unit must first submit an application in writing to the strata corporation for permission." To sort out our rental inventory, one of our council members did a review on occupancy in our building to discover we have 37 units. So now we are going through them one at a time to try to figure out who was first and how the rental applies. Several owners have indicated they are exempt from the bylaws and the strata bylaw does not apply. Our manager told us that yes, there may be exemptions, but because our bylaw says the "total number", we count those as rentals, and as a result, any of the non-exempt rentals would be in violation. This is confusing and our strata council really doesn't know what the correct answer is. We have had numerous responses from managers and realtors, and even two lawyers gave us conflicting information.

Leo C., Burnaby

Dear Leo: The administration of rental bylaws is demanding and complicated. Before you consider the enforcement of your bylaw, I would recommend you obtain a written legal opinion on its validity.

In reviewing Leo's strata minutes and land title filings, I discovered the strata corporation did not follow the proper procedure in adopting the rental bylaw in 2007.

When a mixed-use strata corporation adopts a bylaw amendment, both the residential and non-residential units must vote separately on a three-quarters vote resolution for it to be ratified. Your strata corporation did not do this.

Also, your bylaw uses the term "total number" of rentals. The strata corporation cannot limit the rental lease or use of a commercial property in this fashion. The rental bylaw applies only to the residential strata lots. Likewise, there are three exemptions from rental-restriction bylaws where those exemptions are not included in the count of rentals that applies to the limit. They are: (1) family rentals, where the unit is rented to a child or parent of the owner or owner's spouse; (2) hardship exemption rentals, where the strata corporation has granted an exemption to a person making a hardship exemption application, and (3) owner developer exemptions created by a valid rental disclosure statement filed by the developer who applies to the first purchasers for strata plans filed before Jan. 1 2010, and to strata lots for the periods described in the exemption of the rental disclosure for those strata plans filed since Jan. 1, 2010.

While you may only have 10 residential strata lots as permitted rentals, it is still quite possible that in addition, you will have many family rentals, hardship exemptions, and owner developer exemptions that will far exceed that number. These are not included in the count of 10. Strata managers, strata councils and owners of strata lots need to remember that whether your rental is included in the count of the rental bylaw, or even if there is no rental bylaw, the owner of

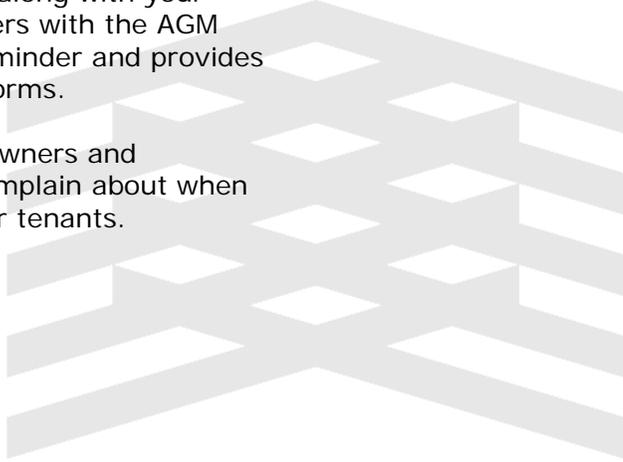
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the strata lot must still provide a copy of the completed Form K to the strata corporation, and the owner must provide their tenant with a copy of the strata corporation's bylaws and rules, which still apply to the tenant. Maintaining an inventory of your rentals is always a significant amount of work. One easy method is to annually include a copy of a Form K "Notice of Tenants Responsibilities" along with your rental bylaw to your owners with the AGM notice. This helps as a reminder and provides owners with the correct forms.

Well-informed strata lot owners and investors have little to complain about when things go wrong with their tenants.



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