

**Condo Smarts**

Headline: Vacation Rental by Owner

Topic: Rentals and Rental Bylaws

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**Dear Tony:** We had several people in our building who had been advertising on the "Vacation Rental by Owner" web site, and who have been routinely renting their units out on short term one, three and five day rentals. Since this activity has started our building has experienced increased security problems, and an increase in noise complaints from the full time occupants. Is a strata corporation permitted to adopt a bylaw that prohibits short term rentals? We want to stop this problem.

*Gloria M. Victoria*

**Dear Gloria:** The *Strata Property Act* permits a strata corporation to adopt bylaws that limit the number of rentals, prohibits rentals and restricts the period of time for which residential strata lots may be rented. The strata corporation may permit, limit or restrict rentals, and you may adopt a bylaw that sets out a specific period of time for rentals. Those bylaws may include maximum periods that will help to make units available for owners to apply for rental benefits if there is a limit and rental waiting list; however, that may be contrary to the best interests of a strata corporation, because you could be limiting rental periods to long term reliable tenants who are good neighbours and it doesn't necessarily solve the short term rental issue. While rental bylaws may limit the number of rentals, the exemptions to rental bylaws still apply to family members, hardship and owner developer exemptions. As a result, this could be ineffective in dealing with short term rentals, especially in buildings with rental disclosure exemptions applied as of January 1, 2010. It is possible that all strata lots may be exempt for a long term period. Because the use and enjoyment of strata lots is controlled by strata bylaws, the alternative is a bylaw that prohibits short term rentals and commercial/business activities within residential strata lots.

If owners are permitted to rent their units in the short term, they will require business licenses, and they may also be placing their unit or a group of units in a separate status for taxation purposes within the strata corporation. For example,

hotel/agency rental pools, are a commercial enterprise and the strata corporation may be obliged to collect GST on the strata fees paid for those strata lots. Short term rentals also pose other problems for strata corporations. Many buildings have exclusive security systems which may be compromised with multiple, frequent users accessing the buildings, as well as the ongoing problems associated with parking use, visitor parking, noise and nuisance complaints, and personal security issues. It is difficult to address bylaw violations because of the short term use, and complicated for the strata corporation to gather evidence to enforce the bylaws against the owner, in the absence of the perpetrators.

Before your strata corporation adopts any new bylaws that limit short term rentals, or restrictions on business use of residential units, it is important to understand that there are circumstances where strata properties are also located in high tourism designated areas and they may have covenants or permits to operate or requiring them to operate hotel type short term rentals. Bylaws that impose restrictive covenants on use and occupancy of property, such as rental and age bylaws can be complicated or even impossible to administer and enforce if they are not drafted properly. Seek legal advice on rental amendments before you adopt new bylaws.

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