

Strata Living

Headline: What is grandfathering?

Topic: Bylaws, Pets

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Dear Tony: We have a simple question that relates to pets. After we moved into our home, the strata passed a bylaw that identified certain strata lots with pets as being grandfathered in accordance with the Strata Property Act. The bylaw, written by a council member, reads: "at the time of registration, strata lots 11, 19, 33 and 42 are hereby grandfathered from the pet restriction bylaw, in accordance with the provisions of the Act". We were subsequently told by council that our unit was grandfathered. Since that time one of our dogs has passed, so we purchased a new dog, and last week receive notice of bylaw violation from the strata council advising of potential fines of \$200 a week as long as we have the new pet. The property manager advised that the exemption only applied to the pets that were in the building at the time, and once a pet left the building permanently it could not return. What's the point of grandfathering anything if this is the result?

Karen Ryder.

Dear Karen: The word grandfathering does not appear anywhere in the Strata Property Act, Regulations or Schedule of Standard Bylaws. There is good reason for this. The provisions of the Strata Property Act & Regulations don't actually grandfather exemptions. These are conditional exemptions that apply to pets, rentals and age restrictions. For pet bylaws, when a

strata corporation amends their bylaws limiting the number of pets per strata lot, those pets residing in the strata lot at the time the bylaw is passed, are exempt until that pet is no longer a resident of the building. Once that pet leaves the property permanently, an owner cannot replace that pet if it is contrary to the bylaws. Your strata corporation have unfortunately created a complication by using the term grandfathering and applying it to specific strata lots. It is difficult to understand what provisions of the Act apply as suggested in the bylaw, and to the 4 specific strata lots that have been grandfathered, which is not consistent with the conditional exemptions created by the Act. Before you and your council end up in a nasty dispute, I would advise you seek a written legal opinion from a lawyer specializing in strata legislation. The term grandfathering itself does not clarify the conditions of the exemptions, so an amendment to the bylaw may also be necessary to clear up the confusion.

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