
Strata Living

Headline: Air B&B and Short Term Rentals
Topics: Rentals and Rental Bylaws
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Dear Tony: Our strata council wrote and amended their rental bylaw this year at the AGM in June to include an exclusion on short term rentals. They have decided to prohibit Air B&B, rentals that are less than 30 days, and home exchanges. The bylaw came into effect on July 1, but several owners had already committed to the short term stays through a rental company. The council have refused to budge on their position and are imposing a fine of \$200 per day for each rental. Our owners just see this as a cash grab from a mean spirited strata council and everyone is refusing to pay the fines. How do we make a fair bylaw and get out of this mess?

Karen W.

Dear Karen: The *Strata Property Act* grants a one year exemption to a bylaw that prohibits or limits rentals in a strata. The exemption applies one year after a current tenant vacates, or for a unit with no tenants, 1 year after the bylaw is approved.

By adopting this as a rental bylaw, the exemption may apply; however, short term use of property such as Air B&B and hotel type short term stays is not a rental bylaw as the use of the property does not create a "tenancy" under the definitions of the *Residential Tenancy Act*. Short term rentals under your rental bylaw also imposes obligations on the strata and owners to maintain Form K Notice of Tenant's responsibilities and to maintain a tenant registry even though they are not tenants, making the duties virtually impossible.

The use of residential strata lots for Air B&B and hotel accommodations is a business activity and strata corporations generally adopt a business activity bylaw that controls or limits the use and access of residential

strata lots. Under a "business activity" bylaw there would be no exemption granted by the Act, and the owners of residential strata lots would be required to comply with the bylaw.

Regarding the fines, the act only permits fining for ongoing violations of once every 7 days, but even this area is a complicated. If the same short term rental was in your unit for 5 days in violation of the bylaws, it would be only 1 fine every 7 days; however, if you had 5 separate rentals over 5 days, each one could be treated as a separate violation and subject to daily fines. The best resolution is for your council to consult with a lawyer on an enforceable bylaw that would apply to short term rentals as business activities.