

Condo Smarts January 27th-30th, 2016

Do My Rental Exemptions Change?

Dear Tony: Our strata corporation recently discussed voting to amend the rental disclosure statement that was filed by the developer to change the rental exemption to expire on January 1, 2017. The vote is being scheduled for our annual meeting in April. As I understand this, if the developer filed a rental disclosure for new developments after January 1, 2010, the strata lots would be exempt for that period. The developer's marketing indicated we would never have to worry about rental bylaws as the exemption extended to January 1st, 2100. If this is true, is it possible for a strata to amend a rental disclosure statement? Bob

Dear Bob: There are two periods of rental disclosure exemptions that buyers and owners need to understand. For a strata that was created before January 1, 2010, a rental disclosure exemption applies to only the first purchaser from the owner developer. This is the first conveyance where the strata lot is transferred to the name of the first owner. If the first owner sells their strata lot, the exemption expires. The second exemption is for rental disclosure exemptions that were filed from January 1, 2010 onward. These exemptions apply to the strata lot not the sequence of purchases, and must set out the time period of the exemption and the strata lots which are exempt. This is not a 100% guarantee that nothing will change. The *Strata Property Act* permits an amendment to the rental disclosure which could affect your ability as an investor to rent your strata lot. An owner developer may change the number of strata lots that may be rented and the rental period for the strata lots if they own all of the strata lots, or they have the approval of the strata corporation, which requires a $3/4$ vote resolution at a general meeting. This appears to be an unusual circumstance and unlikely to occur; however, if 90% of the buyers are resident owners and wish to change the intent of the use of the property, they may pass a vote to amend the statement and request the developer to file an amendment to the rental disclosure. The strata corporation is not permitted to file the amendment and the developer may decline the request, although once all of the units are sold that may not be a significant issue for the owner developer any longer. If you currently have renters, and the strata corporation is successful in approving a $3/4$ vote and the developer agrees to the amendment to January 1, 2017, the rental exemption would expire on that date. When your tenant leaves after the exemption expires, you would have 1 year to rent your strata lot and then you would then be subject to the strata bylaws. There is one other piece of information that as a strata corporation and an owner is important to consider. Under section 139 of the *Act*, a person who is currently renting their residential strata lot, the owner developer who may still own strata lots, and a person who owns a non-residential strata lot are NOT eligible voters for this $3/4$ vote resolution.

Sincerely,

Tony Gioventu, Executive Director
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