

## Condo Smarts May 11<sup>th</sup> – 14<sup>th</sup>, 2016

### Does a Strata Rental Terminate When a Unit Sells?

Dear Tony: Our strata corporation has a bylaw that permits up to strata lot 8 rentals at any time. The bylaw is fairly straightforward and stipulates that owners wishing to rent must apply in writing and are placed on a priority list. The term of rentals is for the term of each tenancy, at which time a person who rented their unit is placed at the bottom of the waiting list if there is one. Our property manager has interpreted this to mean that when a strata lot is sold the tenancy also terminates, because the owner who made the application has sold their unit. This does not seem fair to the tenants who would suddenly find themselves without a home. What would happen if this was an estate? Would the tenants be automatically evicted? The Strata Council

Dear Strata Council: For some reason, strata councils and property managers forget the basic principle of strata bylaws: bylaws must still comply with the BC Human Rights Code and every other enactment of law, including the Residential Tenancy Act (RTA). The RTA makes it clear that not every sale will end a residential tenancy. Absent a tenant's agreement to vacate, the Act requires a landlord to provide the tenant with at least two clear months' termination notice when a rental property has sold. In addition, the notice cannot be issued until all of the sale conditions have been satisfied and the buyer has made a written request to the owner to end the tenancy because the buyer or their close family member intends (in good faith) to occupy the property. Alternatively, some buyers may not wish to end the tenancy right away, in which case the tenancy continues under the existing tenancy agreement despite the change in ownership. It is worth noting that your bylaws permit 8 strata lot rentals, not 8 owners of strata lots. Lisa Mackie, a strata lawyer with Alexander Holburn in Vancouver, suggests that buyers and sellers address the buyer's intended use of the rental property at the outset of negotiations. *"Buyers should be clear about their intention to live in or lease out the rental property. When a buyer intends to move in, the vendor must get moving in accordance with the RTA's strict early termination procedures. Although a strata corporation's rental bylaws are certainly "laws of the land", these laws do not override a landlord's rights or obligations under the RTA."*

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