

Condo Smarts May 22, 2019 Counting Rental Units

Dear Tony: If a strata corporation has a bylaw that limits the number of rentals to 10 out of 100, how are they counted? Our strata council has advised owners there are no rental spaces available; however, I am included as one of the rentals and my unit is exempt from the bylaws. The strata corporation adopted a bylaw that sets all rentals included with the total count of rentals, but we were under the impression there were different types of rentals and they were counted separately. At this time, we have no one on the waiting list to rent a unit, but if there is a request, as a council member I want to confirm we are administering our bylaws correctly. Natalie R.

Dear Natalie: A strata corporation is permitted to adopt a bylaw that limits the number of rentals in a strata corporation either by a specific number or percentage. Unfortunately, this is often confused with the total number of rentals reported on a Form B Information Certificate. There are four variations of rentals if a rental bylaw applies. The first is those owners who have no exemption and are permitted rentals under the bylaw. The second is an exemption of a family rental. Family rentals are exempt from the bylaw for children or parents as tenants of the owner or the owner's spouse. The third are hardship rentals. Hardship rentals apply where an owner has made an application to the strata for an exemption based on a hardship. The fourth is the owner developer rental exemptions created when the developer filed a Rental Disclosure Statement. Prior to 2010, the exemption applied to the first purchaser, and as of January 1, 2010 the exemption applies to all strata lots identified on the Rental Disclosure for the time period set out in the filed form. Every strata corporation must have a copy of a Rental Disclosure if one was ever filed as it must be attached to a Form B Information Certificate.

If properly administered, a strata corporation maintains a rental inventory based on the different exemptions and those that are captured under a rental bylaw. The total number of rentals is what is reported on a Form B, as a buyer has an interest in the total number of rentals to determine the nature of the building occupancy before they invest or reside. For the purpose of the rental bylaws, it is common for a strata corporation to administer a bylaw with a limit of 10 rentals; however, when all of the types of rentals are identified, there may be 20 or 30 rentals. Under the Strata Property Act, a residential strata lot that has been rented is **not** considered as a rental unit in the limit of rentals if the strata lot is exempt for family and hardship exemptions, and owner developer exemptions are exempt from rental bylaws, and not included in the total count. It would be common in a strata corporation like yours with a 10-unit rental limit to have the following rental profile. Permitted rentals (10), family rentals (4), hardship exemptions (2), owner developer exemptions (5), total rentals reported on a Form B: (21). If your strata corporation has adopted a rental limitation bylaw, you will require an active inventory of the different types of rental use. Many buildings still have original owners pre 2010 that are likely still exempt from rental bylaws, and post 2010, small strata corporations of less than 10 units frequently do not have filed Rental Disclosure exemptions. Whether a strata corporation has adopted rental bylaws or every unit is exempted, every landlord must provide a strata corporation with a Form K, notice of Tenant's responsibilities, for every type of residential rental, and the strata corporation still reports all residential rentals.

Tony Gioventu, Executive Director CHOA

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