

## Condo Smarts November 1, 2020 Townhouse and Bare Land Bylaws

**Dear Tony:** Are strata corporations that are townhouses and bare land strata permitted to adopt bylaws that limit rentals or Air BnB? Our townhouse complex in Vernon received a circular from a neighbouring property that advised rental bylaws were not enforceable in a townhouse complex, but we cannot find any legislative changes or notices that verify this issue. We have had a number of tenants in our complex over the years that have all been wonderful residents to a maximum of 10% (5) of our units and we really don't want to increase the number of tenants as we already struggle with sufficient council members as a self-managed strata. Any updates would be appreciated. Melissa A.

**Dear Melissa:** Rental bylaws may apply to any residential strata lots in any strata corporation; however, there are several exemptions that are a bit complicated to administer. If your strata corporation was filed in Land Titles before January 1, 2010, and the developer filed a rental disclosure statement exempting strata lots from rentals, only the first purchaser from the developer is automatically exempt from rental bylaws. If your strata corporation was filed after January 1, 2010, and the owner developer filed a rental exemption for strata lots, those strata lots are exempted for the period shown on the rental disclosure. These vary from 10-99 years and apply to every subsequent owner for the period remaining. Every strata corporation is required to have a copy of the rental disclosure statement that is filed with the Superintendent of Real Estate. In addition to these exemptions there are 2 other provisions. Family members defined as the children or parents of the owner or the owner's spouse is also exempt from rental bylaws, and in the event an owner experiences a hardship, most often medical/financially related, the strata corporation has to reasonably grant an exemption from the bylaws. If properly enforced and reported, most strata corporations with rental bylaws rarely reach their limits in any case. While the owner developer, family and hardship rentals are all exemptions, they are still reported on the total number of rentals on a Form B Information Certificate so an owner or buyer is aware of the potential number of rentals in the building, but they are not included when calculating the total number of permitted rentals. For example, in your strata corporation you have 5 rentals, but also have 3 family rentals, so currently there are 8 units rented under the bylaws and the exemptions, even with a 5-unit limit. I found a copy of the circular that was sent around in Vernon and it has also popped up in Kamloops, Prince George and on Vancouver Island this week. It originates from a condo blog site that is replete with errors and misinformation. The site also indicates that bare land strata corporations are only regulated by the Bare Land Strata Regulations, also incorrect. The Strata Property Act applies to all strata corporations, with additional regulations for bare land strata. I would encourage readers to source information from established associations such as CHOA and the BC Government Housing web site. Most strata corporations across BC do not limit or restrict rentals. Tenants are a crucial part of our communities, and if respected and managed well, ensure our residential communities are fully occupied with stable residents. In many strata corporations, landlords have delegated their authority for their tenants to also support the strata corporation and serve on strata council as building residents. Tenants are subject to the bylaws and rules of a strata corporation and can be fined or subject to an application to the Civil Resolution Tribunal for bylaw enforcement in the same manner as owners. For an added layer of protection for the strata corporation and other owners and residents, the Act makes owners responsible for any costs associated with tenants that relate to bylaw enforcement or damages, so it is important for strata councils to always copy notice of bylaw enforcement and complaints to owners and landlords as well as tenants. Short term accommodations such as Air BnB create a different thread of problems for strata corporations and are not a rental bylaw. They are controlled or limited through a short-term accommodation business use bylaw as they are not tenancies and regulated or licensed through local governments. Strata corporations are permitted to prohibit short term rental

accommodations, unless they are subject to a zoning covenant that is frequently found in resort areas.

Tony Gioventu, Executive Director CHOA

**Covid-19 Notice:** As a precautionary measure to prevent the spread of COVID-19 CHOA staff are working remotely and our offices are temporarily closed. We understand these are challenging times for strata corporations and we are here to help. Even though CHOA advisors are working remotely we are only a phone call or email away and able to assist you with hosting meetings and notice preparation.

**Tuesday Lunch & Learn Live with CHOA:** CHOA is hosting a series of webinars once a week, for the next few months. Join us each Tuesday as we bring together industry experts to discuss the many issues affecting BC's strata community. For more information visit our website at:

<https://www.choa.bc.ca/seminars/>