

Condo Smarts February 2, 2022

What is Grandfathering?

Dear Tony: Our strata has been plagued with short term accommodation problems. The occupants have damaged property, violated numerous bylaws and now lost keys and Fobs for building access. The cost to the strata corporation and security risk for our owners is endless. Long term rentals are fine and we have no restrictions, but we passed a bylaw in December to prohibit short term accommodations and now the owner of 3 units is claiming the developer gave them a grandfathering provision. There is no evidence of this, and we cannot find any reference to grandfathering in the Act. Before we enforce and start fining \$1,000 a day, is it possible they are exempt? Rayleen A.

Dear Rayleen: Since 2010, the *Strata Property Act* and *Real Estate Development Marketing Act* make provisions for exemptions of rentals of strata lots, when declared and filed by the owner developer. This is a Form J, rental disclosure filed in the disclosure statement of sale with the Superintendent of Real Estate. It applies to your strata corporation as filed in 2011; however, it only provides an exemption from rental bylaws for the defined strata lots, not short-term accommodations which are business/hotel activities. This could be a source of possible confusion. The term grandfathering does not appear in the *Act*. The *Act* provides for several conditional exemptions such as rentals bylaws, age restrictions, and pet restrictions. Unless your bylaws have created other special exemptions, which might not be enforceable if they are treating owners and tenants differently, the exemptions are based on simple conditions. If you have a pet, are under the proposed age, or have a tenant when a new related bylaw passes restricting those conditions, the bylaw does not apply to the existing relationships at the time the bylaw is passed. But these are conditional, and once the extra pet, under age person, or tenant departs, the bylaws come into effect. Any new pets must comply with the bylaws, new residents must comply with the age restriction, and within 1 year of the existing tenant leaving, the landlord must comply with the new rental bylaw. Short term accommodations do not have such exemptions. In addition to local government bylaws across the province, the owner must comply with the new bylaws effective the day it is filed in the Land Title Registry. The City of Vancouver also prohibits an owner from operating a hotel type service and using multiple units for short term accommodations. The BnB must be from their principle residence. Every strata must also apply the BC Human Rights Code when enforcing bylaws. There is an obligation to accommodate owners, tenants and occupants for a variety of conditions that relate to health, access, assistance and support animals.

Tony Gioventu, Executive Director CHOA

Kindly note CHOA is a member-based, non-profit association. If your strata is not currently a CHOA member please consider joining – membership details are posted on our website at: <https://www.choa.bc.ca/about-choa/join-choa/>

Effective December 20, 2021 the Province extended strata corporations' ability to hold electronic meetings, without a strata bylaw, beyond December 31, 2021. This new extension will be in effect until December 31, 2022 unless the *COVID-19 Related Measures Act* is repealed before then. Thus, strata corporations are encouraged to adopt strata bylaws allowing electronic meetings if they wish to continue having that option.

Updated strata housing information related to the Province's Restart Plan and COVID-19 is also available at: <https://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing/covid-19-and-strata-housing/covid-19-information-for-strata-housing>.

Tuesday Lunch & Learn Live with CHOA: CHOA is hosting a series of webinars. Join us on the following Tuesdays as we bring together industry experts to discuss the many issues affecting BC's strata community. January 25th: Communications and Fibre Optic Installations, February 15th: Pets, Pet Bylaws and The BC Human Rights Code, February 22th: Winding up a strata corporation. **Registration will open January 15th at <https://www.choa.bc.ca/seminars/>**

COVID-19: To prevent the spread of COVID-19 CHOA staff may be working remotely. During this time we are online and available by phone and email to assist with your strata questions. Please stay safe and healthy.