

Condo Smarts March 9, 2022 Buyer Beware!

Dear Tony: My family has been looking at several condos in Vancouver and in the process have read several sets of bylaws from these buildings. A common theme that we find quite confusing, is the language applied to the generic use of strata lots, in hopes the corporations can cast a broad net over a number of issues. When we asked our agent about the bylaws, the responses were unclear. We are concerned we may be purchasing a unit for specific purpose to only find out later the use of the strata lot is restricted. Here are a few examples. “*A strata lot is only intended for residential use, before renting a strata lot an owner must apply to council for permission, subject to the approval of council pets are permitted*”, and the most confusing, “*this is an adult only community.*” Are these types of bylaws enforceable? They seem to give strata council a fair amount of authority with no regulation or limitation? Theresa R.

Dear Theresa: All bylaw amendments adopted by a strata corporation must comply with the Strata Property Act and Regulations, the BC Human Rights Code and any other enactment of law. Strata corporations are permitted to adopt bylaws that limit or prohibit pets, short term rentals, age of occupants, and control the use and enjoyment of all property within a strata plan. Generic bylaws that attempt to limit use without being specific, or that leave the conditions of enforcement to the discretion of strata councils are often unenforceable, or not enforced fairly, resulting in disputes and confusion for owners, tenants, and buyers. Bylaws may also provide a level of information for owners where a bylaw may not necessarily be enforceable. A common example is a bylaw that advises all owners and tenants to maintain homeowner/landlord or tenant’s insurance. Strata corporations cannot impose conditions or restrictions on this type of insurance as the strata corporation cannot assume any of the insurable liabilities or risks associated with verifying a homeowner is sufficiently insured, or whether a policy has been renewed; however, it does provide the parties with a notice they are required to maintain their own insurance for the personal liability, betterments to a strata lot and their assets. Residential use only is a bylaw that simply affirms the classification of a strata lot. If a strata corporation wishes to prohibit short term accommodations, they may adopt a bylaw that specifically prohibits short term accommodations and defines the penalty, which if adopted into the bylaw may be as high as \$1,000 per day. Subject to the exemptions granted by the Act, a bylaw that limits or prohibits rentals must identify the specific number or percentage of rentals, the period of rental requirement and a method for how rentals are processed. Discretionary bylaws are complicated to enforce without specific limitations because they are applied to individuals and strata lots unfairly. If in doubt, an hour of your lawyer’s time to review your potential building bylaws is a valuable investment.

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/>

We bring together industry experts to discuss the many issues affecting BC’s strata community. Click here for a link to our archived webinars: <https://choa.bc.ca/resources/webinars/>

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.