
Condo Smarts

Headline: Who is exempt from 55+ bylaws?

Topic: Bylaws

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Written by: Tony Gioventu

Dear Tony: Our building of 88 units passed a 55 and over bylaw first week of January. It has not been filed yet and our strata council has some questions about the application of the bylaw because we had two units that sold last week, and neither of the buyers are 55 and over but both intend on living in our community. Who is exempt from 55+ bylaws, and what is the time frame they apply to occupants? Would a sale of a strata lot be exempt from the bylaw even though it was passed before the buyer had completed their purchase? The buyers claim they had no notice of the bylaw amendment.

Marilyn W. Surrey

Dear Marilyn: The *Strata Property Act* creates an exemption period for 55 and over bylaws. The occupants at the time the bylaw is passed, which was at your annual general meeting first week of January, are exempt from the bylaw. The bylaw only becomes enforceable once it has been filed in the Land Title Registry, but the exemptions are triggered by the date the bylaw amendment was passed.

When a purchaser requests a Form B Information Certificate from the strata corporation, the corporation must disclose specific information in 2 separate sections of the form, that relate to bylaws. Specifically the Form B asks: Has notice been given of a general meeting dealing with amendments of bylaws and are there any bylaw amendments not yet filed in the Land Title Registry?

A Form B is only valid for the moment it is issued. It represents the information up to that date. If a buyer requests a Form B more than 21 days prior to closing, it is possible they would not receive notice or disclosure of the meeting including the proposed bylaw amendment. There may have been an error or omission in the Form B

the strata corporation issued. Start with confirming if the buyer requested a Form B, when it was issued, and if the form was completed correctly. Your strata corporation may have a requirement to accommodate the buyer.

A critical step in adopting age restriction bylaws is completing an inventory of every occupant on the day of the general meeting. If the bylaw is passed, a strata corporation may only enforce the bylaw if they have created a register of occupants who are exempt. Subsequent buyers and tenants are easily tracked, but current families and extended families may be difficult to confirm after the date. Not all age restriction bylaws are the same. Occupancy, family status, accommodation for live in support and caregivers may have varied definitions depending on your community plans. Before you adopt a new age restriction bylaw, consult with a lawyer on the enforceability. Buyers beware. If you requested a Form B more than 21 days prior to closing, you may not have full disclosure of the strata corporation's plans.