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## Condo Smarts

Headline: The danger of restrictive bylaws

Topic: Bylaws

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**Dear Tony:** Our strata corporation has a set a minimum of 30 days for any rentals, otherwise they will be deemed to be a short term rental and subject to fines and penalties. We now find there are a number of units in the building that have been rented for the summer to the end of August, and there are all sorts of problems with noise, security and parking. One person has rented 3 of the units for 90 days, so we suspect it's someone using them for Air BnB's and skipping past our bylaws. How do we fix this problem? Our bylaw is the same as the City of Vancouver, but that does not seem to have any effect.

*James M.*

**Dear James:** Strata corporations must exercise care in the adoption of bylaws that set conditions or restrictions and do not necessarily reflect the definitions of the *Strata Property Act or Regulations*. We often have the impression by adding limitations or restrictions we may be creating is stronger or more enforceable bylaw with fewer exemptions. If we look at decisions in the courts or the Civil Resolution Tribunal in BC, we discover this is the opposite effect.

The definition of a short term accommodation in the *Regulations or the Act* do not use the term short, or set any period of limitations. Instead they define the purpose of use, as the definition of short term accommodations: *"a bylaw that prohibits or limits the use of all or part of a residential strata lot for remuneration as vacation, travel or temporary accommodation"*.

To date there is no specified time period in a decision from the courts or the tribunal; however, municipal bylaws set time periods for the purpose of their bylaw enforcement. Both the definition of a short term accommodation and time periods consistent with local

government bylaws as a minimum condition within your bylaws may be a better solution to address both frequent short term use and persons attempting to bypass the application of the regulations.

A similar condition also exists in bylaws that apply to damages, insurance deductibles and claims. An insurance bylaw is recommended for strata corporations to ensure everyone is aware of the personal insurance obligations and the likelihood that they will be responsible for a deductible in the event they are found responsible for a claim. Strata corporations often feel the need to impose a condition of "neglect" to make owners liable for claims; however, the test that applied and proven is much higher and may disqualify the simple actions of owners who were not managing their property or assets in a manner that resulted in claims. Bylaws often seem to have little potential impact to councils, but when a claim of a \$100,000 deductible or \$10,000 of short term accommodation fines are in dispute, a well drafted bylaw will be critical for a successful outcome.