

Condominium Home Owners' Association

Serving BC's Strata Property Owners since 1976

Bulletin: 300-328

Condo Smarts

Headline: Hardship

Topic: Rentals and rental bylaws

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Dear Condo Smarts: Our small strata of 32 units has a rental bylaw that only permits three rentals. Since the downturn in the economy we have received five applications from owners claiming hardship due to job loss, financial pressures, relocation and loss of value. We have looked everywhere and cannot find any resources to help us define what a hardship is and how we can assess whether the claims are valid. Jay W., Prince George

Dear Jay: Hardship is a term created under the Strata Act that potentially permits an exemption to rental bylaws; however, it is not defined by the legislation. It is not defined because what constitutes a hardship for one person may not be a hardship for another. For example, if a person loses their job, and are unable to pay their strata fees and mortgage because they have no other financial resources, that may be reasonable grounds for a hardship. If a persons loses their job, but has no mortgage and substantial financial assets to support their lifestyle, that may not be a hardship. While the Act leaves little interpretation, it does provide you with tools to process the application. When a person applies for an exemption, there is a short window to respond with as little as two weeks after the application is given. It is important to

respond quickly, otherwise if you miss the dates the exemption is automatically given. In decision of *Als vs NW1067*, a number of precedents were established by the courts. A strata corporation is permitted to request copies of financial information and information regarding other grounds of the alleged hardship from an owner, that is necessary to establish whether the claim is credible. A loss of property value itself may not constitute hardship, but other compounding circumstances may. It is necessary for the strata to collect all relevant information before they can make a decision. Remember you must not unreasonably refuse. The courts have also quashed a bylaw that elevated the test to "undue" hardship. The Personal Information Protection Act also applies in these circumstances if your strata corporation has collected any personal information from the owner to assess the application. If you deny the claim, ensure that you have maintained copies of those records in accordance with the Privacy Legislation. You may find yourself in court defending such a claim. The strata is also permitted to limit the period of time of the exemption. The strata may limit the period and request that the exemption be renewed before the period would be extended.

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