

What you need to know about: "Rental Restriction Bylaws"

What is a rental restriction bylaw? Under the *Strata Property Act* (SPA) a strata corporation is permitted to adopt a bylaw that limits or prohibits rentals in a residential strata corporation – a strata corporation is not permitted to limit or restrict the rental of commercial strata lots.

Administration of a rental restriction bylaw: If a strata corporation adopts a rental restriction bylaw they are permitted to limit the length of time the strata lot may be rented. The bylaw must indicate the process by which the bylaw is administered. If a strata corporation adopts a valid rental restriction bylaw that stipulates a specific number of strata lots that may be rented, it should be noted the allowable exemptions from the rental restriction bylaw (see below) are not included in the calculation when determining the number of strata lots rented. Therefore, a strata corporation has the potential of having more rented strata lots than a bylaw allows.

Other bylaws that may apply: Bylaws may provide for the control, management, maintenance, use and enjoyment of the strata lots, common property and common assets of the strata corporation and for the administration of the strata corporation. This means in addition to the possibility of a rental restriction bylaw a strata corporation may have other bylaws that apply in a rental situation. Some examples include pet restriction bylaws and age restriction bylaws.

Allowable exemptions from a rental restriction bylaw: The *Strata Property Act* specifically allows for three permitted exemptions from a rental restriction bylaw.

1. **Family:** A rental restriction bylaw does not apply to a family member of the strata lot owner. As defined by the SPA regulation 8.1 "family" means:

Definitions for section 142 of the Act

8.1 (1) For the purposes of section 142 of the Act, "family" and "family member" mean

- (a) a spouse of the owner,*
- (b) a parent or child of the owner, or*
- (c) a parent or child of the spouse of the owner.*

(2) In subsection (1), "spouse of the owner" includes an individual who has lived with the owner, for a period of at least 2 years at the relevant time, in a marriage-like relationship.

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2. **Hardship:** In accordance with SPA section 144 (noted below) an owner may apply to the strata corporation for an exemption from a rental restriction bylaw. The request must be made in writing and must indicate if the applicant wishes a hearing with strata council or not. The strata corporation must respond within a required timeline and may grant the exemption for a limited time.

Exemption from rental restriction bylaw

144 (1) *An owner may apply to the strata corporation for an exemption from a bylaw that prohibits or limits rentals on the grounds that the bylaw causes hardship to the owner.*

(2) *The application must be in writing and must state*

(a) *the reason the owner thinks an exemption should be made, and*

(b) *whether the owner wishes a hearing.*

(3) *If the owner wishes a hearing, the strata corporation must hear the owner or the owner's agent within 4 weeks after the date the application is given to the strata corporation.*

(4) *An exemption is allowed if*

(a) *the strata corporation does not give its decision in writing to the owner,*

(i) *if a hearing is held, within one week after the hearing, or*

(ii) *if no hearing is requested, within 2 weeks after the application is given to the strata corporation, or*

(b) *the owner requests a hearing under subsection (2) (b) and the strata corporation does not hold a hearing within 4 weeks after the date the application is given to the strata corporation.*

(5) *An exemption granted by the strata corporation may be for a limited time.*

(6) *The strata corporation must not unreasonably refuse to grant an exemption.*

3. **Rental Disclosure Statement (RDS):** A Rental Disclosure Statement (sometimes referred to as a "Form J") is filed by the Owner Developer with the Superintendent of Real Estate when a strata corporation is registered. Under the *Strata Property Act*, an Owner Developers must provide prospective purchasers with a copy of the RDS if the Owner Developer intends to rent or preserve the right to rent any of the residential units. The RDS describes the strata lots which may be rented; and sets out the date during which the rentals may occur.

- **Before January 1, 2010** – The exemption applied to the original strata lot owner only.
- **On or after January 10, 2010** – The exemption applies to the strata lot; as a result, any owner or subsequent owner in that time period is exempt until the expiry date indicated on the RDS

