

Condo Smarts March 27, 2019

How many tenants are there?

Dear Tony: We recently purchased into a highrise in Victoria and on the instructions of our Real Estate Agent we requested a Form B Information Certificate. The information was critical in making our decision as we have moved in with the intent of being in residence full time. One of our conditions was that the building did not have an excessive number of rentals. The building was constructed in 2008-2009, and we understand the strata bylaws limits the total number of rentals to 10% of the units being rented. On the Form B it shows there are only 8 rentals at this time with vacancies under the rental bylaw for more rentals. Since we have occupied the unit, we have discovered there are at least 28 rentals and several residents in the building with questionable ownership. Had we known this we would have looked at a different location. The property manager advised the only units they had rental forms were for the 8 rentals. What about all the other rentals? How does a buyer know the occupancy status of a building? Doesn't the strata corporation have an obligation to tell us all the information. Vanessa R.

Dear Vanessa: Whether a strata corporation was created before 2010 with limited rental exemptions or after 2010 where most strata lots are exempt from rentals, it does not alter the obligation of a strata corporation to disclose total the number of rentals. While it is a challenge to manage the changing landscape of rentals in a large building, every strata corporation must maintain a rental inventory of: rental units permitted under the bylaws, any rentals exempted by an owner developer exemption, any exempted under the definition of family status and any exempted under a hardship application. While the details of these exemptions are not included on a Form B, the total number of rentals is material to a buyer. Under the Strata Property Act, all rentals are counted, all landlords/tenants must provide a signed a Form K, Notice of Tenant's Responsibilities, and that total number must be disclosed to the buyers. You are correct, for some buyers the number of tenants may be a material condition of purchase. If a strata corporation is planning on enforcing or updating owners and tenants on new bylaws or rules, recognizing family exemptions for council eligibility, and correctly reporting the accurate number, the only solution is to maintain an updated rental inventory. A helpful practice is to include a rental update in the council minutes. For example, in your bylaw it could read as follows: there are currently 8 rentals under the rental bylaw, 14 owners renting as first purchaser under the owner developer rental disclosure exemption, and 6 family rentals. This is also important information for the council to track where the rentals may be specifically identified as the family members, which is a parent or child of an owner or the owner's spouse. It automatically creates an assignment of an owner's powers and duties under the Act which assigns the power and duties of the landlord under the Act, the bylaws and rules. This may include election to council and voting at general meetings, except to acquire or dispose of land, cancel or amend a strata plan or do anything that would affect the owner's interest in the strata lot or common property. The Form K is a crucial document for every type of rental as it may also be a written assignment and may identify whether this is a family rental, the relationship and the assignment of duties. A tenant declaring the owner is their parent and they are eligible to sit on council is not sufficient evidence. Council and managers must routinely update and review the rental information and inventory. If a tenant and owner are being uncooperative, a quick title search will answer the questions. If a Landlord does not provide a signed copy of the Form K and provide the tenant with the rules and bylaws within two weeks of the tenancy, the tenant is still bound by the bylaws and rules, but may within 90 days of learning of the landlord's failure to comply with giving notice, end the tenancy without penalty, and the landlord must pay the tenant's reasonable moving expenses to a maximum of one month's rent. A good motivation to complete the form and deliver it to your strata manager or council.

Tony Gioventu, Executive Director CHOA

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