

Re: Amendments to the Strata Property Act Concerning Rentals Announcement

There has been a shortage of rental units for years in British Columbia. In order to address this, the Provincial Government recently passed legislation dealing with the rental provisions of the Strata Property Act ("SPA").

Under the old section 143 of the SPA, a rental restriction bylaw passed by a Strata Corporation did not apply to that strata lot until the strata lot was conveyed by the first owner after the developer or until the date that the rental period disclosed in the Rental Disclosure Statement expired, whichever was earlier. Essentially the first owner was always able to rent out the strata unit until the expiration of the rental period disclosed in the RDS, but not subsequent owners.

Pursuant to the amended Section 143 of the SPA, for a new RDS filed after December 31, 2009, a rental restriction bylaw will not apply to that strata lot until the date that the rental period disclosed in the RDS expires. This expiration is usually a long time away: perhaps 99 years or even indefinite.

Therefore, practically speaking, starting January 1, 2010, a new RDS will benefit every subsequent owner of that strata lot rather than just the first owner after the developer. All future owners will be able to rent the strata lot without being subject to any rental restriction bylaw for as long as the rental period disclosed in the new RDS allows them to.

This does not apply to strata buildings where the RDS was filed prior to Dec. 31, 2009.

COMMON QUESTIONS

We have had several questions to our recent email regarding the recent changes to the Strata Property Act and rental units. Below is a summary of the questions and our answers.

What is a "RDS"? - "RDS" is the Rental Disclosure Statement that is filed as part of the Disclosure Statement. Developers are required to provide a Disclosure Statement every time they sell 5 or more units, and a Rental Disclosure Statement is part of the Disclosure Statement.

How does this affect a buyer acquiring property already tenanted from original owner - It does not. The recent changes to the Strata Property Act only apply to Disclosure Statements filed after Dec. 31, 2009. There is no change for units in which the Disclosure Statement was filed prior to that time.

Does this mean that any new strata filed after January 1st of 2010, does not have the power to enforce rental restrictions? This is correct only if the Rental Disclosure Statement reserves the right to rent for a period of time (which most do). Developers may choose to file a RDS that prohibits rentals and in such a case, rentals shall not be allowed.

Does this apply only to No Rental restrictions or what about where strata set up a maximum number of units to be rented? As stated above, the changes have nothing to do with existing units, so current No Rental Restrictions are in effect and remain so.

Most every form 'B' I have seen says nothing about a date? It is the Rental Disclosure Statement that is relevant, not the Form B.