

INVESTING - RENTALS IN STRATA PROPERTIES (Part I)

Investing in strata properties is generally thought to be the most trouble free way of being a landlord. After all, it is much easier being a landlord if you are not relying on your tenant to keep up the lawn and garden maintenance. In most strata developments almost all exterior maintenance is the task of the Strata Corporation, unless you are in a strata where the units are not attached to one another. In that case, the exterior maintenance of the house may be the owners' responsibility.

Before investing in a strata property that you intend on renting, you should be sure rentals are allowed in the complex. Sometimes, rentals are allowed but restricted to a certain number of units. Your realtor can provide an up-to-date copy of the rules, regulations and bylaws of any development in which you are interested in purchasing.

You should also be aware that if there are rentals allowed when you buy a strata property that is not a guarantee that you will always be able to. Strata Corporations can propose a no rental rule at some time in the future. Such a proposal must be brought forward at the Annual General Meeting of the Strata Corporation or at a Special Meeting and ample notice (20 days) must be given in writing to each and every owner. After discussion, a vote must be taken and a minimum of 75% of the vote must be in favour of the no rental resolution in order to make it effective. Of course, if you are a landlord owner your vote is counted too. The more investor owners there are in a complex the less likely it is that such a proposal would get approval.

If a Rental Disclosure Statement was filed by the original Developer, and it most often is, then the original buyer may have the right to rent their unit out as long as they own it, or until the expiry date shown on the Rental Disclosure Statement, whichever comes first, even if a no rentals rule has been passed by the Strata Corporation. Subsequent purchasers do not have that same assurance, especially if the Rental Disclosure Statement was filed on or after July 1, 2000.

Buyers who were not original Buyers who bought in complexes that filed Rental Disclosures under the old Condominium Act have less protection. As of January 1, 2006 if a Strata Corporation votes to restrict or eliminate rentals then the owner will only be permitted to continue renting the unit out for a period of one more year.

There are special circumstances whereby a rental restriction or prohibition bylaw cannot be enforced. For instance a family member cannot be prevented from renting such a unit. A family member is defined as the spouse, parent or child of the owner or the parent or child of the owners' spouse. Two year marriage-like

relationships are considered to be classified as spouses, including relationships of those of the same gender.

The other exception to rent restriction bylaws is if not being permitted to rent the unit presents a hardship to the owner. The Strata Property Act does not define hardship. The owner has to apply to the Strata Council in writing and the owner must be permitted the opportunity to be heard in person at that meeting. If such an exemption is permitted strata corporations often restrict the duration of that hardship rental period.

You can readily see this matter is complicated one. Buyers and current owners faced with a rent restriction are best advised to seek the advice of an experienced strata lawyer.

In my next column I will discuss the effect of rent restrictions on resale values and how age restrictions impact rentals.

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