



Can Condominiums Prevent Short-Term Leasing Of Units?

By Rod Escayola on October 26, 2010



Recently, owners living in an exclusive condominium complex downtown asked me whether there was anything that could be done to prevent short-term leasing of condo units in their complex.

Short-term rentals can indeed be quite problematic for a condominium corporation and its owners. We have dealt with many compliance issues which involve units in which there are short-term rentals and often this can have a direct impact on the safety, security and welfare of the residents in the corporation. This coming and going of short term visitors detracts from the corporation's ability to create a sense of community which many owners seek and cherish. In addition, the constant flow of moves inevitably has an impact on the building's wear and tear. One only has to think of the need to replace carpets more frequently and the problems many corporation's encounter with damages to the common elements.

Thankfully there is something that condominium corporations can do to prevent this.

The Condominium in question had passed a *Rule* prohibiting "hotel, boarding or lodging house as well as "transient" use of a unit". Simply stated, the condominium Rule prevented owners from renting their units for less than six (6) months more than once for any particular period of twelve (12) consecutive months.

The Rule provided for some exceptions, including an exception allowing an owner to lease for a short period of time when he or she had a bona fide intention of occupying the unit upon the expiry of the lease, for instance promptly after the completion of the sale of the unit. The Rule was also worded in such a way as to allow a retired couple who chose to spend four or five months in the south to lease the unit for the period of their absence or to allow a businessperson, assigned for a three or four month contract to a location outside the city, to lease his or her unit during the period of the assignment.

Ontario Courts have upheld the Condominium's right to adopt and enforce *Rules* prohibiting short-term or transient rental. In upholding these *Rules* the Court noted security and other problems inherent to such short term leases. Moreover, it has long been established that courts will respect and uphold reasonable condominium rules such as the one prohibiting transient rentals.



Condo Reporter

Heenan Blaikie

The Condominium Act also imposes obligations on anyone wishing to lease their unit.

Section 83 of the Act provides that every owner of a unit who leases the unit shall, within thirty (30) days of entering into the lease, notify the corporation that the unit is leased and shall provide the corporation with the lessee's name, the owner's address and a copy of the lease or summary of lease.

Often, the answer to many issues affecting the lives of condominium residents can be found in the proper drafting and implementation of a rule. Corporations should be reviewing rules on a yearly basis and thinking about some of the challenges they encountered during the year which could be dealt with simply by incorporating simple wording into a rule.

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