

## A strata council's guide to rentals

**Webinar November 18, 2023 co-hosted by Hunter Boucher, Landlord BC and Wendy Wall, Vancouver Island Strata Owners Association (VISOA)**

During the webinar Wendy referenced several sections of the *Strata Property Act* (SPA) and Strata Property Regulations. See the information and links below.

### What does the *Strata Property Act* say about rentals?

Under the SPA, a "landlord" means an owner who rents a strata lot to a tenant and a tenant who rents a strata lot to a subtenant and a "tenant" means a person who rents all or part of a strata lot. Therefore, roommates could be tenants under the SPA. There are no definitions of rent, rental, or tenancy in the SPA. See [SPA definitions](#).

The strata corporation can't restrict rentals. Owners do not have to ask council for permission to rent their strata lot. [SPA 141](#) says:

The strata corporation must not screen tenants, establish screening criteria, require the approval of tenants, require the insertion of terms in tenancy agreements or otherwise restrict the rental of a strata lot.

For example, the strata corporation

- can't charge an administration or management fee to units that are rented
- can't charge higher move-in fees or strata fees
- can't require the owner to hire a rental manager for the unit, and
- can't set a minimum length of time for the tenancy.

If a bylaw or rule imposes a requirement that applies to landlords or tenants but does not apply to owners, the requirement is likely not permitted under SPA 141.

## Are bylaws permitted to ban short-term rental accommodations?

Strata bylaws can ban or restrict the use of strata lots for short term accommodations because it isn't a tenancy. Short term accommodation is a licence to occupy, not a tenancy. If the strata bylaw is properly written, and the strata council follows the bylaw enforcement process correctly, an owner in violation of the bylaw could be fined up to \$1,000 per day.

[Reg 7.1 \(1\)](#) says:

For the purposes of section 132 of the Act, the maximum amount that a strata corporation may set out in its bylaws as a fine for the contravention of a bylaw or rule is...in the case of a bylaw that prohibits or limits use of all or part of a residential strata lot for remuneration as vacation, travel or temporary accommodation, \$1 000 for each contravention of the bylaw.

Learn more about [Stratas and legislation about short-term rental accommodations in BC.](#)

## What paperwork does a strata corporation have to keep in relation to rentals?

- A List of owners and tenants – See [SPA s. 35 Strata corporation records](#)
- See [SPA s. 146](#) Landlord to give bylaws, rules and Notice of Tenant's Responsibilities to tenant (Form K)
- All SPA forms including the Form K are in the [SPA Regulations](#)
- Notice of Tenant's Responsibilities ([Form K](#))

## Can council enforce the bylaws and rules against tenants?

Yes. The strata council has a duty to enforce the bylaws and rules. [SPA s. 26](#) says:

Subject to this Act, the regulations and the bylaws, the council must exercise the powers and perform the duties of the strata corporation, including the enforcement of bylaws and rules.

The enforcement process is the same whether it's an owner or tenant. When a tenant has breached a bylaw or rule, the strata corporation must give the owner notice of the

complaint and any enforcement decisions council made such as imposing fines. Follow the steps in [SPA s. 135](#) “Complaint, right to answer and notice of decision”. It establishes a fair process so the person who allegedly broke a bylaw or rule has an opportunity to defend themselves, tell their side of the story, and provide a written response and evidence if they wish to.

### Can a tenant that breaks the bylaws be evicted?

Yes, in certain situations. Where a serious issue is ongoing, it may be helpful for council to inform the tenant and landlord that the SPA gives the strata corporation the authority to evict the tenant. If a tenant or landlord wasn't aware of this section of the SPA, this knowledge may help them resolve the issue on their own.

#### [SPA s. 137 Eviction by landlord](#)

137 A repeated or continuing contravention of a reasonable and significant bylaw or rule by a tenant of a residential strata lot is an event that allows the landlord to give the tenant a notice terminating the tenancy agreement under section 47 [*landlord's notice: cause*] of the [Residential Tenancy Act](#).

#### [SPA s. 138 Eviction by strata corporation](#)

138 (1) A repeated or continuing contravention of a reasonable and significant bylaw or rule by a tenant of a residential strata lot that seriously interferes with another person's use and enjoyment of a strata lot, the common property or the common assets is an event that allows the strata corporation to give the tenant a notice terminating the tenancy agreement under section 47 [*landlord's notice: cause*] of the [Residential Tenancy Act](#).

(2) An eviction under subsection (1) does not affect any rights of the landlord under the tenancy agreement.

The Residential Tenancy Branch [Policy Guideline 27 \(see part 9\)](#) has more information on this.

### What rights do tenants have under the Strata Property Act?

A landlord should be aware that a tenant can end a tenancy agreement without penalty if they have not been given a copy of the bylaws. [See SPA s. 146](#).

Council members should be aware that a tenant has the right to short-term exclusive use of common property such as use of a parking space. [See SPA s. 76 \(1\)](#)

Subject to section 71, the strata corporation may give an owner or tenant permission to exclusively use, or a special privilege in relation to, common assets or common property that is not designated as limited common property.

A tenant can make a complaint about another resident who allegedly broke a bylaw or rule. They might need a copy of the bylaws and rules. The owner or council may explain how to write an effective letter of complaint and what details should be included such as identifying which bylaw or rule they think was broken and the details of the alleged breach. [SPA s. 135 \(1\)\(d\)](#) calls this a “complaint about the contravention”.

Under [Standard Bylaw 26](#) “Participation by other than eligible voters”, tenants can attend an annual or special general meeting.

26 (1) Tenants and occupants may attend annual and special general meetings, whether or not they are eligible to vote.

(2) Persons who are not eligible to vote, including tenants and occupants, may participate in the discussion at the meeting, but only if permitted to do so by the chair of the meeting.

(3) Persons who are not eligible to vote, including tenants and occupants, must leave the meeting if requested to do so by a resolution passed by a majority vote at the meeting.

### **Can a landlord give their tenant additional rights?**

There are situations where a tenant could have powers such as the right to vote at an annual or special general meeting, and be elected as a council member. See [SPA s. 147](#) “Assignment of powers and duties to tenant” and [SPA s. 148](#) “Long term lease”.

### **What are a tenant’s obligations under the *Strata Property Act*?**

Tenants must comply with the SPA, bylaws, rules. For example, [Standard Bylaw 3](#) says:

An owner, tenant, occupant or visitor must not use a strata lot, the common property or common assets in a way that causes a nuisance or hazard to another

person, causes unreasonable noise, or unreasonably interferes with the rights of other persons to use and enjoy the common property, common assets or another strata lot.

[Standard Bylaw 4 \(2\)](#) says:

On request by the strata corporation, a tenant must inform the strata corporation of the tenant's name.

[Standard Bylaw 7](#) sets out when an owner, tenant, occupant or visitor must allow a person authorized by the strata corporation to enter the strata lot.

7 (1) An owner, tenant, occupant or visitor must allow a person authorized by the strata corporation to enter the strata lot

(a) in an emergency, without notice, to ensure safety or prevent significant loss or damage, and

(b) at a reasonable time, on 48 hours' written notice, to inspect, repair or maintain common property, common assets and any portions of a strata lot that are the responsibility of the strata corporation to repair and maintain under these bylaws or insure under section 149 of the Act.

(2) The notice referred to in subsection (1) (b) must include the date and approximate time of entry, and the reason for entry.

Strata owners and council members can find information about the *Strata Property Act*, Strata Bylaws and more at [www.visoa.bc.ca](http://www.visoa.bc.ca)

Find more information for landlords at [landlordbc.ca](http://landlordbc.ca)