



REAL ESTATE UPDATE: NEW YEAR, NEW CHANGES

Presented By:

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Today we will cover:

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| 1 | Removal of Strata Rental Restriction Bylaws |
| 2 | Renovictions |
| 3 | Prohibition on the Purchase of Residential Property by Non-Canadians Act |



REMOVAL OF STRATA RENTAL RESTRICTION BYLAWS

Rental Restrictions... *a thing of the past*



- As of November 24, 2022 Strata Corporations:
 - can no longer have a bylaw restricting or banning long-term rentals (residential tenancies)
 - can still have age-restriction bylaws limiting residents to age 55 and over
 - can still have bylaws restricting or banning short-term accommodation



- Distinction: rentals versus license to occupy



- 121(1)(c) of the *Strata Property Act*:

an unenforceable bylaw includes those that “*prohibits or restricts the right of an owner of a strata lot to freely sell, lease, mortgage or otherwise dispose of the strata lot or an interest in the strata lot*”



RENOVICTIONS

Renovictions – What?



- An eviction that is carried out to renovate or repair a rental unit.



- Most renovations can be carried out without ending tenancies, and with only minor disruption to tenants.
 - Cosmetic renovations (painting, flooring, cabinet)



- Must be extensive such that it would not be possible to carry them out while the rental unit is occupied.

Renovictions – Why?

- Section 49(6) of the *RTA* provides that a landlord can serve a 4 Month Notice to End a Tenancy if they are going:
 - demolish the rental unit (complete/partial and irreversible destruction of the rental unit so that the rental unit ceases to exist)
 - convert the residential property to strata lots under the *Strata Property Act*;
 - convert the residential property into a not for profit housing cooperative under the *Cooperative Association Act*;
 - convert the rental unit for use by a caretaker, manager or superintendent of the residential property; or
 - convert the rental unit to a non-residential use.

Renovictions – When?

- Section 49.2 of the *RTA* requirements to end a tenancy for renovations or repairs:
 - the landlord has all the necessary permits and approvals required by law
 - the renovations or repairs require the unit(s) to be vacant
 - the renovations or repairs are necessary to prolong or sustain the use of the rental unit(s) or the building where the rental unit(s) are located
 - the only reasonable way to achieve the necessary vacancy is to end the tenancy agreement

Landlord intends in good faith to renovate or repair the rental unit(s)



Renovictions – How?

- Once the Four Month Notice is Issued:
 1. Tenant has 30 days to dispute the notice;
 2. If disputed:
 1. there will be a dispute resolution hearing;
 2. arbitrator will weigh that evidence;
 3. onus on the landlord on a balance of probabilities; and
 4. if the tenancy ends the tenant will have 4 months to vacate the rental unit.



Renovictions – Good faith



- honest intent to renovate or repair the rental unit so extensively that it must be vacant



- not trying to deceive anyone



- no ulterior motive



- **bad faith example:** landlord applies for an order to end a tenancy for renovations or repairs, but their intention is to re-rent the unit for higher rent without carrying out renovations or repairs that require the vacancy of the unit



Renovictions – What if the Notice not is disputed?

- Potential liability if basis of Notice not carried out

pay the tenant an additional amount equal to 12 times the monthly rent payable under the tenancy agreement if the landlord does not renovate or repair the rental unit in the manner specified on the Four Month Notice

OR

landlord does not begin working on the renovations or repairs within a reasonable amount of time after the effective date of that notice

- **unless** there are extenuating circumstances

Renovictions – How to mitigate risk?



- Mutual Agreement to End Tenancy



- Negotiation



- If a landlord and tenant mutually agree to end the tenancy with a buyout, the tenant is not entitled to receive any compensation that would be required





PROHIBITION ON THE PURCHASE OF RESIDENTIAL PROPERTY BY NON- CANADIANS ACT

Prohibition on the Purchase of Residential Property by Non-Canadians Act

- Ban is in effect from January 1, 2023 – December 31, 2024
- Does not apply when non-Canadian has become liable under an agreement before January 1, 2023
 - Pre-Sales

Prohibition on the Purchase of Residential Property by Non-Canadians Act

- **Non-Canadians**
 - Individual
 - Companies “controlled” by Non-Canadians (3% equity or voting shares)
- Does not include foreign nationals, refugees, or individuals registered under *Indian Act*
- Foreigner can purchase with Canadian/PR spouse

Prohibition on the Purchase of Residential Property by Non-Canadians Act

- **Residential Property**
 - Census Metropolitan Areas and Agglomerations (> 10,000 population)
 - Includes vacant properties zoned for residential use or mixed use



Prohibition on the Purchase of Residential Property by Non-Canadians Act

- **Purchase**
 - The acquisition, with or without conditions, of a legal or equitable interest or real right in residential property
- **Exceptions**
 - Acquisition from death, divorce/separation, gift
 - Rental by tenant
 - Transfer under trust created before January 1, 2023
 - Transfer resulting from exercise of security interest by secured creditor

Exemptions

Students	Temporary Workers
<ul style="list-style-type: none">• \$500,000 purchase price limit• First purchase only• Filed income taxes for at least 5 years before purchase/physical presence in Canada for minimum of 244 days for each year	<ul style="list-style-type: none">• Worked full-time for a minimum of 3 of the 4 years before purchase with a valid work permit• Filed income tax returns• First purchase only

Criminal Offence



- Includes anyone who knowingly counsels, induces, aids or abets or attempts to counsel, induce, aid or abet a non-Canadian to purchase, indirectly or directly, residential property



- Guilty of an offence and liable on summary conviction to a fine of not more than \$10,000



- Directors, officers, senior officials and managers of a company who direct, authorize, assent to, acquiesce or participate in purchase also personally liable

Sale Order

- Offending property can be sold by court
- Non-Canadian only receives maximum of their purchase price



QUESTIONS?

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THANK YOU



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