

# **Winnipeg Condominium Corporation #85**

## **Information Fact Sheet**

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### **CONSIDERATIONS FOR TENANT OCCUPIED CONDO UNITS**

An investor must recognize that although they are a non-resident owner, they and their tenants must comply with the provisions of *the Condominium Act*, the applicable Condominium Declaration and Condominium By-Laws as well as the rules and regulations established by the Condominium Corporation and *the Residential Tenancies Act*. Under the Residential Tenancies Act, a tenant is defined as: a person who occupies or is entitled to occupy a rental unit under a tenancy agreement and includes his or her heirs, assigns and personal representatives, but does not include a government agency that pays rent of a person in connection with that person's right to occupy the rental unit.

A tenancy is defined as a written, oral or implied agreement between a landlord and a tenant for occupancy of a rental unit. Basically, if a unit owner is allowing someone to reside in their unit and are receiving some sort of compensation from that person it could be maintained that a tenancy exists.

Most Declaration's usually provide for a Leasing Agreement that is required to be signed by the tenant stating that they will comply with the legislation and regulations of the Condominium Corporation. An example of such an agreement would be:

*I/We \_\_\_\_\_ covenant and agree with the Landlord and the Corporation that I, members of my household and my guests from time to time, will in using the Unit rented by me will abide by the Declaration, the By-Laws and rules and regulations of the Corporation during the term of my tenancy.*

### **CHECK WITH YOUR CONDO BOARD OR MANAGEMENT COMPANY FOR ADDITIONAL RESTRICTIONS**

It is important that you provide your tenant with a copy of the Condominium Declaration and By-Laws along with the rules and regulations established by the Condominium Corporation so that the tenant is aware of the rights and responsibilities that come with Condominium living.

And, if you are considering renting your condominium, ensure you check with your Board of Directors or the management company to confirm whether there are stipulations for leasing. Some condominiums have restrictions pertaining to tenant occupied units with respect to items such as parking assignments, pet regulations, etc.

All unit owners and residents must be registered in the Condominium Corporation records to facilitate communication by the Board of Directors and/or management company with the owners and tenants. This will help ensure the Corporation receives the required documentation such as proof of unit owner insurance coverage, fire code regulation certifications (fireplace inspection labels, smoke alarm inspections, etc.) and to facilitate necessary common element maintenance inspections. The resident and unit owners contact information is also very important in the event that an emergency necessitates access to the unit.

Finally, it is important to note that under the new Condominium Act 202(1) an owner must "Within 30 days after entering into a tenancy agreement in respect of his or her unit, a unit owner must give the Condominium Corporation a written notice stating that the unit is rented and indicating the tenant's name, the unit owner's address and the name of the unit owner's designated representative for tenancy matters, if any.

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### **THERE ARE SPECIFIC FIRE ALARM REQUIREMENTS FOR “LANDLORDS”**

The City of Winnipeg Fire Prevention By-Laws require that a rental unit contain an acceptable smoke alarm which is one that is sealed and has a permanent connection to an electrical circuit with no disruption between the over-current device and the smoke alarm or one that is powered by a non-removable ten-year lithium battery.

As a Landlord you are required to make sure you have met this requirement. The smoke alarm and its installation must be approved by the Fire Paramedic Service.

It is mandatory to carry out an annual fire inspection and access to the unit is required for this. Failure to comply could result in the City issuing a fine.

Should you have any concerns regarding smoke alarm installation, you may contact the City of Winnipeg Fire Prevention Department at 204-986-6358 or by email at [fireinspections@winnipeg.ca](mailto:fireinspections@winnipeg.ca)

### **ACT PROVIDES FOR A LEASING LEVY**

Under the new act a Corporation is also not allowed to prohibit owners from renting their units. However, it limits the amount of the leasing levy specifying that they may collect a levy of up to \$1,500 from the owners. This levy can only be used by the Corporation to pay for repairs to common elements or for extraordinary cleaning of common elements necessitated by the tenancy or lease. The balance must be returned to owners at the end of the tenancy or lease. At this time, there is no leasing levy in place for Paddington Green.

### **CONDO CORPORATION MAY COLLECT RENT DIRECTLY FROM TENANTS**

Should the Unit owner be in default of common element fees *the Condominium Act* allows the Corporation to direct the tenant to pay the rent to the corporation until the outstanding balance of the common element fees have been paid (Form 9). The Corporation must give receipt to the tenant for any rental amounts paid to it and the corporation must also provide a receipt to the unit owner or the unit owner's designated representative for tenancy matters.

### **CORPORATION HAS THE RIGHT TO EVICT A TENANT**

Subsection 205 (4) of the Condominium Act gives the Corporation the right to evict a tenant if they have contravened the corporation's declaration, by-laws or rules (Form 10). They can also evict a tenant if the tenant did not meet their obligations under *the Residential Tenancies Act*. Under the Residential Tenancy Act the tenant has a duty to:

- Maintain cleanliness in the common areas (s.70)
- Take care and repair damage to the common areas (s. 72(1))
- Not to disturb others (s.73)
- Not to impair safety or interfere with rights (s.74)

A notice of termination must also be provided to the owner of the unit.

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### **INSURANCE CONSIDERATIONS**

A unit owner who is renting out their unit needs to arrange for a “special rider” or endorsement to their unit owner insurance which allows for and provides coverage for the unit as a rental. In addition to the usual unit owner coverages an extension can be bought to cover rental income from the unit should a covered claim render the unit unlivable and lead to cessation of rental income. The unit owner’s insurance can be rendered invalid if the insurer is not aware that the unit is being used as a rental. This means if there is a claim and the insurer did not know the unit was a rental they can deny coverage for the claim.

The prudent unit owner who is renting out his or her unit should also do their best to ensure that their tenant carries insurance. The unit owner is responsible for the actions of the tenant should the tenant not have the proper insurance.

Ultimately the unit owner is responsible for the actions of the tenant. If the tenant does not have insurance and causes damage it will fall on the unit owner/landlord to remedy the situation depending on the nature of damage and facts of the situation. This may include being responsible for the Corporation deductible which in some cases can be several thousands of dollars.

Whether you are a unit owner and thinking about renting out your unit or purchasing a unit for investment purposes or whether you are on a board dealing with issues around Rental units there is a lot to consider.