

DID YOU KNOW?

Alberta Court Rules that Condominium Bylaws can Restrict Short-Term Rentals like Airbnb

SHORT TERM RENTALS AIRBNB

CONDOMINIUM SHORT TERM RENTAL REGULATION IN ALBERTA

- ❑ Owners who use those services to get short-term “renters” are considered the same as running a hotel.
- ❑ Alberta Condominium Act will take precedence over any bylaws. Generally all condos in Alberta have a business use bylaw that states that you need explicit board permission to run a business in the condo building. This is legal for a condo board to do.

Legislation News

Alberta court ruling pulls Airbnbs from condos

📅 5th March 2020 👤 Miles Hurley 📍 Airbnb, Alberta, condo, court, ruling

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Canada: An Alberta court has ruled that Airbnb’s offerings cannot operate in a block of condominiums.

This may give legislators wide powers over how to control these offerings due to their similarities to hotels.

The ruling was in response to an **Edmonton condominium board banning short-term rentals** in its buildings. It said that due to an existing bylaw forbidding commercial activity in condominium properties, boards across the city can remove short-term rentals without adding additional rules.

Erin Berney, condo board attorney, said: **“What the decision stands for is that you do not need a specific bylaw targeting Airbnb and short-term accommodations in order to validly restrict or prohibit them. You do not need to go out and pass new bylaws, which is difficult to do in ordinary circumstances.”**

On January 1, 2020, revised condominium governance regulations came into effect in Alberta.

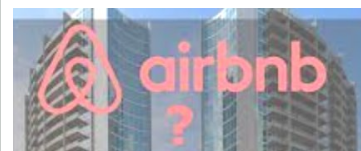


Province of Alberta

CONDOMINIUM PROPERTY ACT

CONDOMINIUM PROPERTY REGULATION

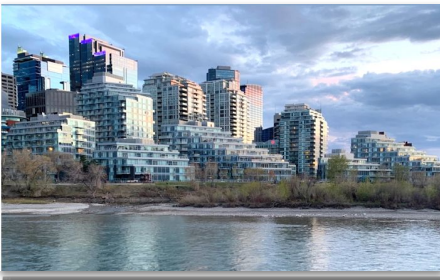
Alberta Regulation 168/2000



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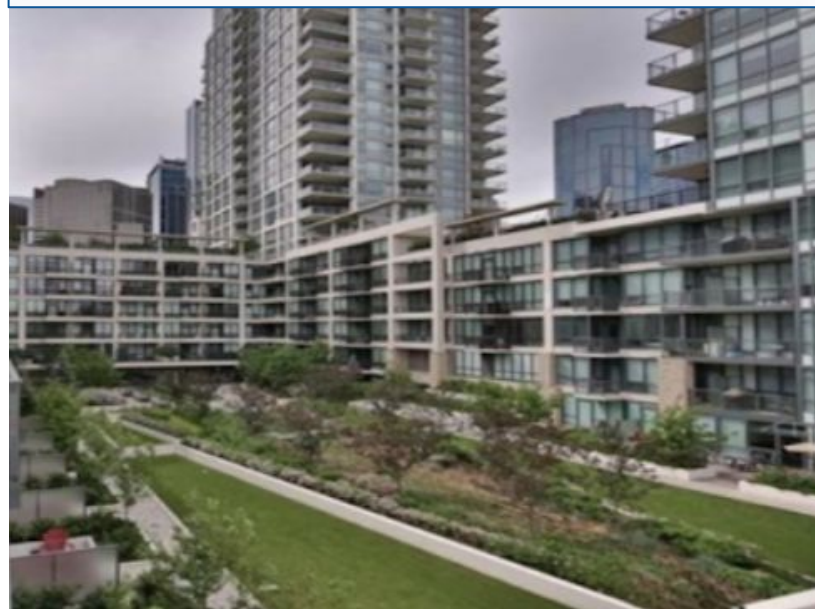
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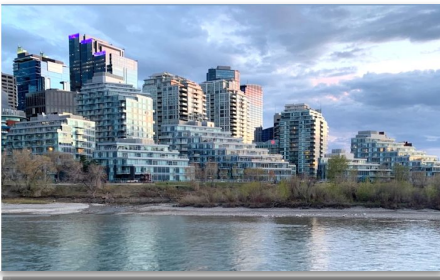
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DID YOU KNOW?

SHORT TERM RENTALS AIRBNB

New Homes / Homes

Condo boards cannot limit the number of rental units in building

But condo units used for short-term rental such as Airbnb, well, that's another story

Roberto Noce

Apr 01, 2021 • April 1, 2021 • 2 minute read • [Join the conversation](#)

However, condominium corporations do have the power to restrict short-term rentals such as Airbnb. The Airbnb arrangements are distinct from traditional residential leases. In a 2020 court decision, an Alberta Court of Queen's Bench justice said that people running Airbnb listings were essentially operating hotels. The Court concluded that Airbnb guests are not renters; they are the functional equivalent of hotel guests who are mere licensees.

In *Condominium Corporation No 042 5177 v Kuzio*, 2020 ABQB 152 [Kuzio], the Alberta Court of Queen's Bench determined that section 32(5) of the *Condominium Property Act* does not invalidate condominium bylaws that restrict or prohibit short-term rentals through web-based platforms such as Airbnb. Here, the Board of Directors of a condominium corporation sought an injunction against four unit owners listing their units on short-term accommodation websites, which the Board claimed was contrary to the corporation's bylaws.

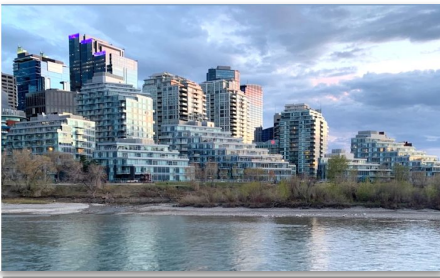
The Court first considered whether an individual who occupies a condominium unit for a short period enters into a lease or merely has a licence to occupy the unit. Noting that Airbnb renters are the functional equivalent of hotel guests, the Court concluded that rentals through online platforms like Airbnb, where the parties do not enter into a lease agreement, are licences.

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Legislation News

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Condominiums Can Ban Short Term Rentals

Stephanie D. Whyte
David S. Cumming

March 2, 2020

Alberta Court Rules that Condominium Bylaws can Restrict Short-Term Rentals like Airbnb

The much-anticipated **short-term rental decision**, *Condominium Corporation No. 042 5177 v. Kuzio*, was released on February 27, 2020. The result is that **a Condominium Corporation can, through its Bylaws, stop Owners from engaging in short-term rentals of their Units.**

In Alberta the *Condominium Property Act* ("Act") states that no bylaw can operate to prevent a lease or "other dealing" with a Unit. The question was whether a Condominium Corporation was offside the Act for stopping owners from offering their Units for short-term rental through web-based platforms such as VRBO, HomeAway or AirBnB.

Before the final decision, in October 2019 the Ten Lofts Condominium sought an interim injunction to stop the Owners involved from offering their Units out for short-term rentals. In this earlier **decision Justice Renke found that short-term occupants are not tenants, rather they are Customers, and therefore the relationship between the Owner and Occupant was not a lease but instead a licence.** Justice Belzil agreed with Justice Renke's analysis, finding that the right to alienate a Unit is not unrestricted and a Condominium Corporation does have the authority to prohibit short term rentals through its Bylaws.

The Bylaws for The Ten Lofts Condominium **prohibited the use of a Unit for any commercial or professional purpose** involving the attendance of the public at the Unit, and further required that a Unit be occupied as a "one-family residence".

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