
Condo Smarts

Headline: Age Restriction Bylaws

Topic: Bylaws

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Written by: Tony Gioventu

Dear Tony: How do the new regulations grandfather people in our strata corporation with a 55 and over bylaw? Our bylaw reads, all occupants must be 55 and over. We are an intentional bare land community on Vancouver Island. Our community is not accustomed to children or families, other than summer visits that we restrict to a maximum of 14 days. How do we amend or manage our bylaw to keep the conditions the same?

JVB

Dear JVB: The regulations and application of the exemptions are a bit complicated. An existing bylaw that requires occupants to be 55 and over applies to new owners/occupants/tenants who move into the building, but the *Strata Property Act* overrides your limitations, and provides a number of circumstances where prescribed occupants under the regulations are exempt from the bylaw. The regulation establishes the requirement for a defined person that must reside in the strata lot, for the exemptions to apply. The term used is "a specified resident".

If you already have an existing bylaw, or adopt a new 55 and over age restriction bylaw, the specified person may be one of two parties. If they are over 55, the strata corporation must permit caregivers or support persons to reside with the person, and a child of the specified resident who is under 55, is also exempt from the bylaw. This basically qualifies adult children of residents over 55 as exempt. Any occupant over 55 who has a new spouse or marriage like relationship that is under 55 who resides with them is now exempt.

The second group is those persons the age of 19 or over who reside in the strata lot at the time a 55 and over bylaw is adopted. Those residents and their families, are exempt from the bylaw for the duration of their occupancy, and a change in family status where they

have expanded their family with more children, or the occupant over 19 has a new spouse or marriage like relationship who resides with them. Basically, a change in family status for the specified resident who was exempt from the bylaw, is not affected by the age restriction bylaw. This only applies when a 55 and over bylaw is adopted. If you adopted a 55 and over bylaw last year, and there was an owner/occupant/tenant in the strata lot at the time under 55, they are exempt from the bylaw. If they were over 19, any change in their family status is also exempt.

With the removal of the exemption provisions in the *Strata Property Act* in November under Bill 44, the application of The Human Rights Code in BC also now applies to age restriction bylaws. Consideration must be given to family status and accommodation for persons occupying strata lots or who intend to occupy a strata lot.