
Condo Smarts

Headline: Are age bylaws enforceable any longer?

Topic: Age Restriction Bylaws

Publication / Date: Province, June 1, 2023

Written by: Tony Gioventu

Dear Tony: We have a situation in our strata corporation that has caused a fair amount of confusion. A 55+ resident has passed away and the younger spouse who is 48 remains in the unit. We passed our bylaw in 2021, and at the time the younger spouse was residing with the 55+ owner. So now we have owners insisting the younger spouse is no longer exempt, and she cannot remarry or extend her family and have the benefits of the exemption. The regulations recently adopted in the Act add to the confusion because they address occupants who are exempt as a specified resident but they don't address the issue of a change in family status of a person who is exempt because they were either a resident at the time the bylaw was passed, or if their family status changes. Is there a chance there might be some additional changes to these regulations to make this clear? Thank you for your recent columns on the changes but it is complicated for volunteer strata councils.

Eileen H. Qualicum

Dear Eileen: When Bill 44 was passed in November of 2022, there were two changes that affect age restriction bylaws. The first was obvious, bylaws were limited to 55 and over and accommodations had to be made for caregivers and live in support persons. The second more subtle change was the removal of the section that excluded Age Restriction bylaws from other laws such as the BC Human Rights Code. This was a significant change, as it now opens the door to unfair application or enforcement of an age restriction bylaw that violates family status, accommodation or the intent to accommodate.

While the Act made a provision that a person who is under the age restriction at the time a bylaw is passed is exempt from the bylaws, the regulation now classifies this person as a specified resident as well. The exempt

or specified residents may now have a change in family status which includes spousal relationships and children.

There are situations that are not contemplated that are already causing issues for strata corporations. In the situation where a specified resident such as a 55+ or exempted resident when a bylaw is passed, has a spouse or children, and the specified resident passes, or there is a separation and there is no longer a specified resident connected to the exemptions, what happens to the spouses and children?

Strata corporations and their legal advisors will be looking closely at the Human Rights Code and the constitution of their bylaws to navigate through some awkward situations. Undoubtedly we will see decisions from the Civil Resolution Tribunal, but in the short term exercise patience, accommodate residents and seek legal advice on your 55+ bylaws.