

## Condo Smarts December 7, 2022

### Age Restriction Changes

**Dear Tony:** Our strata corporation has a bylaw that requires occupants to be 45 and over. Do the changes affect this bylaw? Is there any kind of grandfathering for strata corporations who already have this bylaw? If we are required to change our bylaw, what happens to existing residents and owners? Are they grandfathered? Dolores B.

**Dear Dolores:** Age restriction bylaws were part of Bill 44 that came into full effect on Friday November 25th, 2022. The amendment applies to every strata corporation in BC. The only age restriction bylaw that is now enforceable applies to occupants who are 55 and over. If your strata corporation has any other type of age restriction, it will no longer be enforceable. You will be required to amend your bylaws to 55 and over to apply to occupancy of residents. There are also provisions requiring accommodation for care givers and live in support persons. If your strata corporation adopts a 55 and over bylaw, those persons who are residing in the strata corporation at the time the bylaw is passed at the general meeting are exempt from the bylaw. The bylaw is enforceable once it is filed in the Land Title Registry. Here are the amendments as passed. *The strata corporation must not pass a bylaw that restricts the age of persons who may reside in a strata lot except as permitted by subsection (2). (2) The strata corporation may pass a bylaw that requires one or more persons residing in a strata lot to have reached a specified age that is not less than 55 years. Limits to age restriction bylaws A requirement in a bylaw for one or more persons residing in a strata lot to have reached a specified age does not apply to any of the following persons: (a) a person who meets all of the following criteria: (i) immediately before the bylaw was passed, (A) the person resided in the strata lot, and (B) by residing in the strata lot, the person was not contravening any bylaw restricting the age of persons who may reside in the strata lot; (ii) the person continues to reside in the strata lot after the bylaw is passed; (b) a caregiver who resides in the strata lot for the purpose of providing care to another person who (i) resides in the strata lot, and (ii) is dependent on caregivers for continuing assistance or direction because of disability, illness or frailty; (c) a person in a prescribed class of persons.* There are a number of variations to age restriction bylaws, and each community will need to evaluate the implications of each limitation. A bylaw is not required to limit all occupants to 55 and over, it may simply require the principle occupant be 55 and over, which enables family members to reside with the owner as needed. While age restriction bylaws appear simple on the surface, I always recommend legal advice for bylaws that are restrictive covenants. If you adopt a 55 and over bylaw, this will also apply to tenants who rent a unit.

Tony Gioventu, Executive Director CHOA

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