

## Condo Smarts December 21, 2022

### Consequences of Bylaw Amendments

**Dear Tony:** Our strata council are proposed we adopt a 55 and over bylaw for all residents, at our December 29th AGM. The reason is to limit the potential age of renters and avoid children in our building as our current bylaw is 19 and over. As a resident in the building who is 34 and recently married, I am concerned about the implications of this bylaw and how it would apply to current and future occupants and the potential effect on property values. My husband is selling his home in Edmonton and will move here; however, he will not be an occupant until February or March of 2023. Would this bylaw affect him as well. PJ.

**Dear PJ:** Strata corporations are permitted to adopt bylaws that regulate use and enjoyment of strata lots, common and limited common property, and for the administration of the corporation. Bylaws must comply with the Strata Property Act, The BC Human Rights Code and every other enactment of law. Every bylaw will have consequences for the owners, tenants, occupants, and the strata corporation. Adopting a bylaw to simply limit the age of occupants to 55 and over appears simple on the surface; however, if a strata corporation considers the consequences of a bylaw on property use, the reasonable effectiveness of enforcement and the implications to property value and conveyance, the specific applications of the bylaw may have unintended consequences. In PJ's example, she has a valid concern over the residency status of her husband. The Strata Property Act exempts persons who are living in a strata lot at the time the bylaw is passed. If her husband has not been a resident, and the bylaw amendment passes on December 29th, he is not exempt from the bylaw. This bylaw places both the strata corporation and the resident owner in a very awkward situation. Technically, he may be in violation of the bylaw. Are we intending the bylaw to prevent underage residents from marrying, or having children? Rental bylaws are no longer enforceable and 55 and over bylaws and residence exemptions apply to all occupants. Consider the impact on families of adult children where one of their family members under 55 is required to live with the 55 plus residents due to a health condition. Would they be permitted to be a resident after this bylaw is passed? What about grandparents who are required to accommodate at risk children? Bill 44 requires age restriction bylaws must accommodate live in care givers, and strata corporations may limit their bylaw to accommodate a broader age of residents. A common example is where the bylaw requires the principal resident must be 55 and over. Bylaws that are restrictive in nature of property use may also have implications on property value or the ability to sell quickly. While there will be a specific market for retirement communities, the market for those communities is also limited, and depending on the local listings, this may have an impact on your property values. Before your strata corporation considers a jump to 55 and over, consider the consequences.

Tony Gioventu, Executive Director CHOA

Kindly note CHOA is a member-based, non-profit association. If your strata is not currently a CHOA member please consider joining – membership details are posted on our website at: <https://www.choa.bc.ca/about-choa/join-choa/>

COVID-19: To prevent the spread of COVID-19 CHOA staff may be working remotely. During this time we are online and available by phone and email to assist with your strata questions. Please stay safe and healthy.