

Strata Living

Headline: Adult Only Complex
Topic: Age Restriction Bylaws
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Dear Tony: We live in Adult only complex. Our bylaws stipulate that children may be allowed to a visit in a period of no more than 14 consecutive days at any given time and that all owners must be adults. We do not permit rentals so that is a problem we do not have to consider. A new owner moved in June 1, and she has two children 9 and 11 years old. The strata council have given her notice of our bylaws and advised that she will have to move in the next month or we will proceed with enforcing our bylaws. Her lawyer has contacted us and advised we do not have an enforceable rental bylaw and that should we take any action he has been instructed to respond accordingly. Is there a reason why our bylaw is unenforceable?

Nancy A.

Dear Nancy: The Strata Property Act does permit a strata corporation to adopt bylaws relating to age restrictions but there are specific conditions required. An age restriction bylaw may restrict the age of the person who occupies a strata lot, not ownership. By requiring owners to be "adult only" the strata corporation has a problem in that the bylaw likely contravenes Section 121 of the Act, "a bylaw is not enforceable to the extent that it : (c) prohibits or restricts the right of an owner of a strata lot to freely sell, lease, mortgage or otherwise dispose of the strata lot or an interest in the strata lot. In addition to the bylaw limiting the age of

ownership, the bylaw does not set an age. While the bylaw does say "adults only" it does not define a specific age. It is also a potential problem with respects to rentals and the *Residential Tenancy Act* and discriminating based upon the undefined age of an occupant. A critical consideration when writing bylaws is the application of other laws, such as The *Residential Tenancy Act*, the Human Rights Code, The Real Estate Services Act. I would recommend that your strata corporation seek legal advice on the enforceability of the bylaw and your enforcement with the new owner.

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