



## Instruction Guide 16

# What to Know about Age Restriction Bylaws

**Caution and Disclaimer:** Please note that this Guide has not been updated to take into account legislative amendments and court decisions that have occurred since it was prepared in 2000. For example, certain legislative amendments came into force on January 1, 2010 and the Guides have not been updated to reflect those amendments. The reader should review the current legislation or seek professional advice in order to obtain a full understanding of the current provisions of the *Strata Property Act*. Neither the Superintendent of Real Estate, nor any other authority of the government of the Province of British Columbia, is liable for any inaccurate or incomplete information in this Guide.

**Important Notice:** This Instruction Guide has been prepared by the Superintendent of Real Estate to provide information about the *Strata Property Act* (the "Act"). This is only a guide to certain parts of the Act and Regulations. Please consult the Act and Regulations to determine the complete and precise requirements of the Act and Regulations. In addition, please remember when reviewing statements about the Standard Bylaws that they may not apply until January 1, 2002, and even when they do apply, they may have been amended or removed if the strata corporation has filed bylaw amendments in the Land Title Office. Please check all filed bylaw amendments to determine whether and how the Standard Bylaws may have been amended.

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### 1. Age Restriction Bylaws

An age restriction bylaw is a bylaw of the strata corporation which requires that some or all of the persons occupying a strata lot be over a certain age.

Age restriction bylaws are not prohibited by the Act, but they may be unenforceable in certain circumstances if:

- they contravene the Act, Regulations or any other laws, including the Human Rights Code.

[Please refer to Instruction Guide 13, "How to Create or Amend Bylaws and Rules" and Instruction Guide 14, "How to Enforce Bylaws and Rules" for a more detailed explanation of how bylaws and rules may be unenforceable.]

2. **Provisions of the Human Rights Code**

The Human Rights Code contains provisions prohibiting discrimination on certain grounds in relation to both the purchase and the rental of a property.

The discriminatory grounds that are prohibited in relation to the purchase of a property include factors such as race, colour, ancestry, religion etc., but do not include age or family status.

Only the provisions of the Human Rights Code that relate to tenancy prevent discrimination on the basis of age or family status (with one exception noted below).

The Human Rights Code therefore only applies to prevent discrimination based on age or family status in relation to tenancies.

3. **55+ Exception**

The provisions of the Human Rights Code respecting discrimination based on age and family status do not apply to rental premises if the age restriction is set at persons 55 years of age or older, or to two or more persons at least one of whom is 55 years of age or older.

4. **Application of the Human Rights Code**

Bylaws that restrict occupancy based on age or family status are unenforceable against **renters** unless the entire development is limited to persons 55 years and older (or a couple, one of whom is 55).

It is therefore not possible for a strata development that permits rentals to prevent strata lots from being occupied by children in the rental suites.

Age and family status restriction bylaws can apply to owners. Thus, a bylaw that prevents children can apply to owners who occupy a strata lot.

<b>Person</b>	<b>Age Restriction for an Age Less Than 55 (ie. No one Under 19)</b>	<b>Age Restriction for Age 55 and Over</b>
Owner	Age restriction applies	Age restriction applies
Tenant	Age restriction does not apply	Age restriction applies

## 5. Grandfathering

An age restriction bylaw does not apply to a person who resides in the strata lot at the time the bylaw is passed and who continues to reside there after the bylaw is passed.

### **References:**

Sections of the Act: 121, 123(2)

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