



## Condominium Law Q&A

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**Question** – I live in a 55+ condominium development in Stuart, Florida. I have questions regarding the rules for a community for older persons. (1) I hear there is an 80/20 rule governing the occupants. Eighty (80%) percent of the occupants must be 55 or over for a community to qualify as housing for older persons. Must the remaining 20% be under 55? If they are applying to purchase and they are both under 55, can the association refuse them, if the quota of 20% hasn't been filled? If they purchase, can they live here being under 55? (2) As a 55+ community, are there any activities that must be available to the residents? What must a 55+ community offer its residents? Is there somewhere I can look that defines the 55+ communities with all the rules and regulations? I'd like to get as much information on this as possible. Thank you. M.B., Stuart

**Answer** – In 1968, President Lyndon Johnson signed the Second Civil Rights Act, which prohibited housing discrimination based on race, color, religion, and national origin. The Act was later amended to add "sex" (gender) as a protected class. Then, in 1988, the Act was further amended to add handicap and familial status as additional protected classes. At the time of its enactment there were three types of "adult" communities:

- Any community specifically designated to assist elderly persons by a state or federal program;

- Any community intended for, or solely occupied by, persons sixty-two years of age or older.
- Any community intended and operated for occupancy by persons fifty-five years of age or older.

As to the third category, when enacted, at least 80% of the occupied units must be occupied by at least one person who is fifty-five years of age or older. The community had to demonstrate policies and procedures showing its intent to be housing for older persons, and the community had to have significant services and facilities designated to meet the physical and social needs of older persons. The last element proved difficult to implement and police and was later repealed. Accordingly, today, for a shared ownership community to qualify as an exempt community [can exclude families with children] it must have the authority within the recorded covenants, conditions and restrictions to maintain itself as housing for older persons and have at least one person in 80% of the occupied units who is 55 years of age or older. The 20% rule was designed as a fail safe mechanism to preclude individuals below the age of 55 from being forced to move if the spouse over age 55 died. Communities which qualify as "housing for older persons" must register with the Florida Commission on Human Relations and conduct a census every two years verifying that they meet the prerequisites of an exempt community.

**Question** – What is your impression of the following letter, which was sent from one unit owner to another?

“After our conversation this morning I thought it might be prudent to inform you of my own ‘quality of life’ issues, as you so clearly put it, over the wind chimes. I would very much desire that when you are using your bathroom vent off the main bedroom that you would consider turning it off in a timely fashion. When you leave it running for some period of time, I have found that the resultant hum and vibration from the vent causes me to have quite a headache. I would expect you to turn off the fan after use and not leave it running as it seems to be so often. Also, while on the subject of ‘noise pollution,’ I would like to bring to your attention that sitting on your patio with the radio playing so loudly that I have to shut my windows, might also be something you could address. I understand that you have the right to listen to the radio but you do not have the right to

invade my peace and quiet and my ‘quality of life’ by having the radio so loud, so would appreciate you to be more cognizant of this annoying problem. Keeping low noise levels is the endeavor of all who live in multi-dwelling homes as this is. I appreciate you taking care of these requests, just as I have done for your own request over the wind chimes.”

E.O. Boynton Beach

**Answer** – “No use or practice shall be allowed that is a source of annoyance to residents or occupants of units or that interferes with the peaceful possession or proper use of the property by its residents or occupants.” The foregoing quote from *New Neighborhoods*

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