

## UCO OFFICERS' REPORTS



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### The 80/20 Rule

Century Village is an "Age Restricted" community, this status limits who may reside in the community. The key word is "reside" as there is nothing to stop someone under the age of fifty-five (55) from purchasing in your association. But another issue that has become more common in recent years is residents under aged residing in units.

You may be aware that your Association Documents restrict anyone under the age of eighteen (18) from ever residing in units. Those under the age of eighteen will always be considered "guests" and will be held to the guest restrictions of your governing documents. Most of the Associations in Century Village restrict that no guest may stay overnight in a unit more than thirty (30) days per calendar year, otherwise they will be considered residents.

An exception to the age restriction often falls on the caveat that your governing documents require that only a single resident be over the age of fifty-five, and so long as the other resident is over the age of eighteen, they may reside in the unit.

Where the 80/20 rule comes into effect is to allow residents under the age of fifty-five to reside in a unit and still maintain your association's "age-restricted" status. Should your Association have someone residing in a unit with another who is of-age while they are "underaged" and the of-age person passes, you are not obligated to force

that underage person to leave the property.

You must protect your "age restricted" for various reasons, the most important being to maintain a civil expectation among the residents, and your tax filing.

"There continues to be confusion concerning what is often referred to as the 80/20 split. HOPA states that the minimum standard to obtain housing for persons who are 55 years of age or older status is that "at least 80%" of the occupied units be occupied by persons 55 years or older. There is no requirement that the remaining 20% of the occupied units be occupied by persons under the age of 55, nor is there a requirement that those units be used only for persons where at least one member of the household is 55 years of age or older. Communities may decline to permit any persons under the age of 55, may require that 100% of the units have at least one occupant who is 55 years of age or older, may permit up to 20% of the occupied units to be occupied by persons who are younger than 55 years of age, or set whatever requirements they wish, as long as "at least 80%" of the occupied units are occupied by one person 55 years of age or older, and so long as such requirements are not inconsistent with the overall intent to be housing for older persons."

Essentially the HUD is stating that the issue of the remaining 20% is to be governed by the association's governing documents (i.e. private contract law) and local ordinance. For instance, an association can determine that for the other 20% persons can be no younger than a different minimum age established for the community. Commonly in Florida, that age is set at 45. This would mean that no one in the community can be younger than 45.

Of course, this does not mean that you can't have people younger than the minimum age visit. If a resident's grandchildren come down, most communities will allow guests of any age for up to 15 days 2 times per year and may have other applicable exceptions as well.

Bottom line, read and understand your governing documents and consult your attorney when necessary