

LEGAL



Housing for Older Persons

BY MARK FRIEDMAN, FLORIDA BAR CERTIFIED AS A SPECIALIST
IN CONDOMINIUM AND PLANNED DEVELOPMENT LAW

What does it mean to be housing for older persons community?

The Housing for Older Persons Act (HOPA), was signed into law by President Clinton on December 28, 1995, and amended the housing for older persons exemption against familial status discrimination. The HOPA modified the statutory definition of housing for older persons as housing intended and operated for occupancy by at least one person 55 years of age or older per occupied unit. It required that facilities or communities claiming the exemption establish age verification procedures. It established a good faith reliance defense or exemption against monetary damages for persons who illegally act in good faith to exclude children based on a legitimate belief that the housing facility or community was entitled to the exemption.

Age verification procedures.

In order to continue to qualify as a housing for older persons community, the association must satisfy each of the following requirements: a) at least 80 percent of the occupied units must be occupied by at least one person 55 years of age or older per unit; b) the association must publish and adhere to policies and procedures that demonstrate an intent to provide housing for persons 55 years or older; and c) the association

must comply with rules issued by the government for verification of occupancy through reliable surveys and affidavits. Children under the age of 18 may not permanently reside in the units designated as housing for older persons.

Documents to verify age

The following documents are considered reliable for age verification: birth certificate, drivers license, passport, immigration card, military identification, or any other state, local, national or international documentation, provided it contains current information about the age or birth.

Biennial Review

All condominiums must conduct a census once every two years. Since people move, divorce, and die, you cannot merely rely on existing records. You are required to take a new survey of the occupants of the condominium building every two years. This is done on a condominium-by-condominium basis and is not something that UCO or WPRF perform on your behalf.

What about Purchasers

The housing for older persons laws are occupancy restrictions, they are not ownership restrictions. Persons of any age may purchase and hold title to a condominium unit in your community. They just may not occupy the unit, if such

occupancy would violate occupancy restrictions.

What about good faith reliance noted in the first paragraph

The president can sign an affidavit stating that all of the steps were taken to designate the community as housing for older persons. The other Board members may then rely on that document.

What if residents are seasonal occupants of the unit?

The 55 or older occupant may be absent for a season without affecting the exempt status of the community. The unit would remain included in the calculation of the 80 percent occupancy requirement as long as the dwelling is not rented out, the owner/tenant returns on a periodic basis, and maintains legal and financial responsibility for the upkeep of the unit.

Mark D. Friedman, B.C.S. is a shareholder in the law firm of Becker and is recognized by the Florida Bar as a specialist in condominium and planned development law. This article is intended for educational purposes only and not as legal advice. Please contact your attorney if you have issues regarding your community's Housing for Older Persons status. Mr. Friedman may be contacted at MFriedman@Beckerlawyers.com



Dentistry Trusted & Caring 561-684-3505

5766 Okeechobee Blvd. • Across from CV & West Gate



We Listen, Care & Explain

The Latest Procedures, Instruments & Techniques Gentle, Private-Practice Dentist, J.H. Wolff, DMD.

Dental Implant Restoration • Extractions • Dentures • Crowns • Root Canal Therapy

Convenient Payment Options • Most Insurance Plans Accepted • Call Us Today For More Details



Dental Care To Fit Your Budget and Your Busy Schedule 0% Financing Available

Same Day Appointments • Emergencies Welcome • Saturday by Appointment

5766 Okeechobee Blvd. • West Palm Beach, FL 33417

561-684-3505 • SunriseDCFlorida.com • Now Open 7:45am-6pm