



Updated by 5th Amendment 7/27/22

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. i (p. 33): Occupancy or amenity restriction discriminates based on familial status / disability or imposes an overbroad age restriction under the Fair Housing Act and HOPA.

Statutory / Legal Reference: 42 U.S.C. §§ 3604(b), 3604(f), 3607(b)(2) & 24 C.F.R. §§ 100.304 - 100.307 (HOPA)

Statutory Comparison: The Fair Housing Act (42 U.S.C. § 3604(b)) prohibits familial-status discrimination against families with children - including adult-only rental age floors (e.g., 24+), mandatory hourly pool exclusions targeting all minors under 18, blanket Common Area parental-escort rules for children, and caps on grandchildren - unless the community actively qualifies as 55+ Housing for Older Persons under 42 U.S.C. § 3607(b)(2) and 24 C.F.R. §§ 100.304 - 100.307 (which regulates occupancy rather than fee-simple title ownership and does not authorize intrusive medical/disability disclosures for live-in caregivers under 42 U.S.C. § 3604(f)).

CURRENT WORDING IN DOCUMENT:

to protect the retirement character of the community. No children under the age of eighteen (18) years shall occupy any United provided however, that such children may visit and temporarily occupy such Unit for periods not to exceed thirty (30) days in any calendar year.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Any age-based occupancy restriction shall be enforceable only while the Association actively qualifies as "Housing for Older Persons" pursuant to 42 U.S.C. § 3607(b)(2)(C) and 24 C.F.R. §§ 100.304 - 100.307, including maintaining at least 80% occupancy of units by at least one person 55 years of age or older and conducting mandatory biennial age-verification surveys. Absent active HOPA qualification, no restriction shall discriminate on the basis of familial status.

ISSUE #1

(ed) Association Non-Liability. The Association shall not be liable to any Owner for any damages, losses or claims for personal injury or property damage including, but not limited to, loss of personal property, fixtures, and loss of use of any Unit, arising out of damage or destruction of a Cluster Building or any repair or replacement thereof. Owners shall be solely responsible for insuring the contents of their Units, as well as any loss of use of any Unit.

ARTICLE VIII GENERAL RESTRICTIONS

Section 1. Age Restriction. This Subdivision and each Lot therein are subject to the following restrictions:

a. Each Unit, if occupied, shall be occupied by at least one (1) person fifty-five (55) years of age or older; provided, however, that upon written petition, the Board of Directors of the Association may grant a waiver of this restriction if the result of such waiver would be that at least eighty percent (80%) of all the occupied Units in the Subdivision would be occupied by at least one (1) person fifty-five (55) years of age or older. The Board may grant such a waiver subject to such terms and conditions as the Board deems necessary to protect the retirement character of the community. No children under the age of eighteen (18) years shall occupy any United provided however, that such children may visit and temporarily occupy such Unit for periods not to exceed thirty (30) days in any calendar year. The term "Unit" as used herein shall mean such subdivision lot as established by a recorded plat, or other residential dwelling unit created on the Property.

b. The restrictions shall run with and bind the Subdivision and shall inure to benefit of and be enforceable by the Sun City Center Civic Association, Inc. and/or the owner of any real property subject to this Declaration, their respective legal representatives, heirs, successors and assigns.

The purpose of this restriction is to ensure that this Subdivision is designated and will be operated as a Community for Older Persons in compliance with the terms and provisions of the Federal Fair Housing Act (42 U.S.C. §§ 3601-3619). Notwithstanding any other provisions of this Declaration to the contrary, these age restrictions are covenants and restrictions that run with the land, and are not subject to revocation or amendment for a period of at least thirty (30) years from the date of recording this Declaration.

Section 2. Basketball Goals. No permanent or non-portable basketball goals may be erected or placed on any Lot or the Common Property; however, subject to approval of the Board of Directors, portable basketball goals are permitted, provided that the basketball goal shall be removed and stored out of public view and indoors (including in the garage) when not in use.

Section 3. Commercial Vehicles, Trailers, Boats and Parking. No oversized vehicle, truck, house or travel trailer, camper, mobile home, motor home, house trailer, horse trailer, boat trailer, trailer of any kind, recreational vehicle, boat, or other such vehicle or device shall be placed, parked, left or stored on any Lot or the Common Areas; provided, however, that this provision shall not apply to any such vehicle or device being kept in an enclosed garage. Further, the prohibition of parking shall not apply to the temporary parking of a vehicle used as a sales, service, or delivery vehicle, nor to any vehicle of the Declarant or its affiliates. Any vehicle or device parked in violation of these or other restrictions contained herein or in the Rules and Regulations now or hereafter adopted may be towed by the Association at the sole expense of the owner of such vehicle or device if such vehicle or device remains in violation for a period of twenty-four (24)