

Not So Fast: Why Under-55 Buyers Can't Just Move In

Thanks to RON SANDLER for the information for this story.

Century Village East is a renowned active-adult 55+ condominium community, but a common misconception about the so-called "20% rule" is creating confusion among some residents and board members.

Recently, questions have arisen about whether associations can allow residents under the age of 55 to move in under a federal guideline that permits up to 20% of units to be occupied by younger individuals. However, experts and community leaders are urging associations to tread carefully.

Not a Free Pass for Under-55 Buyers

"People often misinterpret the 20% provision as permission to routinely approve applicants under 55," said one longtime board member. "That's simply not how the law works."

At the heart of the matter is the Housing for Older Persons Act (HOPA), a federal statute that allows communities to maintain age-restricted status if at least 80% of units have one resident who is 55 or older. But this doesn't mean the remaining 20% can be freely filled with younger residents.

"The 20% allowance is there to handle exceptional circumstances," the board member explained. "For example, if a 55+ spouse passes away and the surviving partner is under 55, the law provides some flexibility so they aren't forced to leave their home."

Consistency Is Key

While some may be tempted to see the rule as a loophole, associations that enforce the age restriction strictly—and consistently—are best positioned to protect the character and legal status of their community.

"Our building has a very clear policy," said the same board member. "If an applicant is even a day under 55 at the time of closing or start of lease, we do not approve the sale or rental. We've had cases where buyers were close to qualifying, and we advised them to delay the closing until they met the requirement."

Why such a firm stance? “Once you start making exceptions, it sets a precedent,” they explained. “That can lead to legal challenges and erode the 55+ status of the entire community.”

What Boards Should Do

Board members are encouraged to:

- Review their governing documents for specific language tied to age restrictions
- Consult legal counsel before approving any under-55 applicants
- Educate fellow directors and residents about the correct interpretation of the 20% rule
- Apply the age rule consistently and document any exceptions made for qualified hardship cases

“Being compassionate doesn’t mean being careless,” the board member emphasized. “We want to support residents while also upholding the law and protecting the nature of our 55+ community.”

As questions persist, clarity is key. Century Village East remains a vibrant, welcoming place for older adults, and understanding the true intent of the 20% rule is essential to keeping it that way.