

ISSUE #1

Section 1: [Article III, Section 3.4] Age Restriction and Occupancy Qualification

Each Unit shall be occupied exclusively by persons fifty-five (55) years of age or older, and no person under the age of fifty-five (55) may reside in any Unit for more than fourteen (14) cumulative days in any calendar year, regardless of familial relationship, disability, or caregiving status. The Board of Directors may verify ages solely upon initial purchase without conducting periodic occupancy surveys.

MARKUP #1 ->

Section 2: [Article VIII, Section 8.1] Declarant Control of the Association

The Declarant shall have the exclusive right to appoint and remove all Officers and Directors of the Association and to exercise all powers of the Board of Directors until the earlier of ten (10) years after the recording of this Declaration or the conveyance of ninety-five percent (95%) of all Units in the expandable Condominium.

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Article III, Section 3.4 (p. 1): Defective HOPA 55+ Age Verification Procedure and Failure to Accommodate Live-In Disabled Family Members or Caregivers

Statutory / Legal Reference: 42 U.S.C. § 3607(b)(2)(C), 24 C.F.R. § 100.307 & N.H. Rev. Stat. Ann. § 354-A:15

Statutory Comparison: To qualify for the Housing for Older Persons Act (HOPA) exemption under 42 U.S.C. § 3607(b)(2)(C) and 24 C.F.R. § 100.307, a 55+ association must perform reliable age-verification surveys at least once every two years (not solely at initial purchase), and under the Fair Housing Act (42 U.S.C. § 3604(f)(3)(B)) and RSA 354-A:10 must grant reasonable accommodations for live-in caregivers or disabled adult dependents.

CURRENT WORDING IN DOCUMENT:

[Article III, Section 3.4] Age Restriction and Occupancy Qualification - Each Unit shall be occupied exclusively by persons fifty-five (55) years of age or older, and no person under the age of fifty-five (55) may reside in any Unit for more than fourteen (14) cumulative days in any calendar year, regardless of familial relationship, disability, or caregiving status. The Board of Directors may verify ages solely upon initial purchase without conducting periodic occupancy surveys.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Article III, Section 3.4 ([Article III, Section 3.4] Age Restriction and Occupancy Qualification - Each Unit shall be occupied exclusively by persons fifty-five (55) years of age or older, and no person under the age of fifty-five (55) may reside in any Unit for more than fourteen (14) cumulative days in any calendar year, regardless of familial relationship, disability, or caregiving status. The Board of Directors may verify ages solely upon initial purchase without conducting periodic occupancy surveys.) to conform with 42 U.S.C. § 3607(b)(2)(C), 24 C.F.R. § 100.307 & N.H. Rev. Stat. Ann. § 354-A:15 and the manual attorney audit recommendations for Atkinson Heights Condominium Association.