



December 13, 2022

2022 STRATA PROPERTY ACT AMENDMENTS

Below is accurate information of what has changed in the Strata Property Act due to Bill 44 passing.

The amendments to the Strata Property Act (SPA) introduced as Bill 44 became law as of November 24, 2022. Those amendments will bring about significant changes to The Chelsea Gardens Community.

The legislation addresses but is not limited to:

1. An abolishment of the ability of strata corporations to prohibit or limit the rental of strata lots;
2. The prohibition of age restriction bylaws except where based on 55 years of age.

The below is written by a lawyer later there will be layman's term explanation.

Rental Bylaws:

As of November 25, 2022 any bylaw which restricts or limits the rental of strata lots is now unenforceable.

Sections 139 to 144 of the SPA (dealing with rental restrictions and the exceptions have been repealed.) This eliminates the ability of strata corporations to have such a bylaw.

Existing bylaws are affected by s.121 of the SPA. That section prohibits any bylaw which "restricts the right of an owner of a strata lot to freely sell, lease, mortgage or otherwise dispose of the strata lot or an interest in the strata lot". The old exception applicable to rental bylaws under s.121(2)(a) has also been repealed, making any existing bylaws to be unenforceable under that section. This change does not affect bylaws pertaining to short term accommodation as they are not tenancies, but rather licenses. Such bylaws will remain in effect. A new section 141 has been enacted. It provides as follows: The strata corporation must not screen tenants, establish screening criteria, require the approval of tenants, require the insertion of terms in tenancy agreements or otherwise restrict the rental of a strata lot.

This means that strata corporations will be unable to have any control over who a strata lot is rented to, nor will strata corporations be able to impose requirements on an owner as a precondition to renting. The only requirement that a strata corporation will be able to impose with respect to the process of renting a strata lot is that the owner submit a Form K (S.146 of the SPA remains in force) or that the tenant provide certain information such as their name and contact information.



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Prohibitions on subletting would also appear to run contrary to section 141. Tenants, however, are required to comply with the bylaws. Like owners, they can be fined for breaches and can be ordered by the Civil Resolution Tribunal to stop behaviour which is in contravention of the bylaws. Changes to the residential tenancy regime to allow strata corporations to employ the eviction provisions of s.138 of the SPA have also been promised.

Age Bylaws:

Section .123 of the SPA, which addressed both pet and age bylaws, has also been amended. It now addresses only pets and contains virtually identical provisions to what was in the prior s.123.

A new section 123.1 has been enacted to address age bylaws. It provides:

(1) The strata corporation must not pass a bylaw that restricts the age of persons who may reside in a strata lot except as permitted by subsection (2).

(2) The strata corporation may pass a bylaw that requires one or more persons residing in a strata lot to have reached a specified age that is not less than 55 years.

For strata corporations who do not currently have an age restriction bylaw, this means that if they wish to enact one the only age which they may use is 55. Bylaws referring to 19, 40 or even 60 are not permitted. Therefore, the current age restriction bylaw of 19 is no longer enforceable. This means that if a strata corporation has a bylaw that refers to an age other than 55 it must either:

- (a) enact a new bylaw which uses 55; or
- (b) have no age bylaw at all.

There are three exemptions set out in s.123.2 of the SPA to an enforceable age restriction bylaw. Those are:

1. any person who was living in the strata lot before the bylaw was passed (and was not contravening a prior age bylaw);
2. a caregiver providing support to a person who “is dependent on caregivers for continuing assistance or direction because of disability, illness or frailty”; and
3. any other exemptions permitted by regulation (none currently exist).

Laymen’s Terms Explanation of what it means for Chelsea Gardens

In summary, Chelsea Gardens used to be a non-rental community. With this Bill 44 passed rentals are now allowed **without** any restrictions. Chelsea Gardens once was a 19 plus age



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restricted community and now it is not. If Chelsea Ownership wants to remain an adult community, they must pass an age restriction bylaw and the only type of bylaw that is enforceable is a bylaw that uses the age of 55.

As this community is mixed with different ages, 19 being the youngest, this makes it more of a challenge to determine what kind of 55+ bylaw to propose to the Ownership. The Council and Crossroads have received many questions from the Ownership of Chelsea of what can be done to prevent kids and remain an adult only community. Owners are to also understand that if a bylaw successfully passes, then the current Owners are grandfathered to the current no age restriction bylaw, until they leave Chelsea Gardens.

POINT FORM INFORMATION:

- Rentals are now allowed
- The Strata cannot screen tenants
- The Strata cannot make specific terms for tenancy agreements – such as duration of the lease.
- Form K's (Notice of Tenants Responsibilities) will be required for all tenancies
- Vacation, travel, or temporary accommodation are not rentals as defined in the ACT, therefore, use restriction bylaws against them remain enforceable. (Short term rentals identified set out in municipal bylaws which is 30 days)
- Age Restriction bylaw of 19+ is not enforceable
- 55+ bylaw is the only type of bylaw that is enforceable
- If we pass a bylaw of 55+ anyone currently under 55 will be grandfathered

The Council believes that the Owners need to have a choice on this and if we were to bring a variety of different bylaws to an SGM to vote on, then we do not believe any option will receive a full 3/4 vote. It is much easier to defeat a bylaw amendment resolution than it is to pass.

Therefore, it was decided to conduct a survey for Owners to bring attention to Council on how they feel on what type of 55+ age restriction bylaw should be presented at an SGM.

Separate to this information package is a Survey that is requested to be filled out and sent back to the Chelsea Gardens Office, Council/Crossroads mailboxes or to Crossroads at jesse@crpm.ca. The Survey will ask to identify who is completing the survey, so we do not get multiple votes from the same strata lot. This is important as the survey will identify what bylaw proposal the Council will bring forward at a near future SGM.



Chelsea Gardens Age Restriction Bylaw Survey:

As the new bill passed Section 123.1 of the Strata Property Act now reads:

(1) The strata corporation must not pass a bylaw that restricts the age of persons who may reside in a strata lot except as permitted by subsection (2).

(2) The strata corporation may pass a bylaw that requires one or more persons residing in a strata lot to have reached a specified age that is not less than 55 years.

Council is contemplating several different options of bylaw amendments to be brought forward at the SGM. However, having too many options may make it difficult to pass a ¾ vote. It is very important that you fill this survey out and submit it to Council or management so that Council can accurately provide 1 or 2 options for the Owners to vote at an SGM, **which will be held in January 2023.**

Note: due to Owners wanting this done as soon as possible the below options are not yet confirmed with the lawyers.

Please **Select** the option(s) that you believe is best suited for Chelsea Gardens and, or your personal preference, from the Following:

- 1. Restricts to only 1 occupant must be 55+ (this means if 1 person is 55 or older any other occupant can be any age.) **Kids Allowed**
- 2. Restricts 2 occupants must be 55+ (this means if 2 persons are 55 or older other occupants can be any age.) **Kids Allowed**
- 3. Restricts the entire household occupancy to be 55+ (this means no occupant can be under 55.) **No Kids**
- 4. No person under the age of 55 years may occupy a strata lot other than a spouse of the occupant, or an individual which lived and cohabited with the occupant for a period of at least 2 years at the relevant time, in a marriage like relationship. **No Kids**

Date: _____ Name: _____ Unit: _____

Signature: _____

This survey is to be submitted no later than **December 23rd, 2022, at 4:00PM.**

filled out and send back to the Chelsea Gardens Office, Council/Crossroads mailboxes or to Crossroads at jesse@crpm.ca