

ENFORCEMENT PROCEDURE FOR AGE VIOLATIONS

Bay Village is a Senior Community. As such, Federal Law now requires that the Association must have procedures for routinely ascertaining the ages of occupants with a Driver's License, Birth Certificate, Passport, Immigration Card, Military Identification, any other state, local, national, or international official documents containing a birth date of comparable reliability, or a certification by an adult member of the household regarding ages of the residents. The information must be updated every two years. If a resident has already provided satisfactory proof of age, the Association may rely on that supporting documentation in subsequent surveys.

Additionally, if the Association receives a complaint of an age violations, it must investigate.

What follows is the procedure that the Architectural Committee has adopted for enforcing the senior status of Bay Village.

Again, the Architectural Committee is required to update its records every two years and to investigate if an age violation complaint is received.

To determine if there is a violation of the senior status, the Architectural Committee must gather the following information from each occupant (permanent or temporary) of each home. A member of the Architectural Committee can either interview the occupants to obtain the following information or ask that each occupant complete the attach form.

INFORMATION THAT THE ARCHITECTURAL COMMITTEE IS OBLIGATED TO OBTAIN FROM EACH OCCUPANT (PERMANENT AND TEMPORARY) TO DETERMINE IF THERE IS AN AGE VIOLATION

STEP 1

A. Get the names and ages of everyone at the residence, which can be verified with a birth certificate, drivers license, passport, immigration card, military identification, any other state, local, national, or international official documents containing a birth date of comparable reliability, or a sworn written statement (if the individual is obviously 18 years or older) witnessed by a notary.

B. Is someone over the age of 55 (Qualified Resident (QR)) living at the residence?

B.1 If yes, go to step 4.

B.2 If no, was there someone over the age of 55 living at the residence at some point?

B.2.1 If yes, find out why that person(s) is no longer living at the residence, go to step 2.

B.2.2 If no, end of inquiry, and a violation is indicated.

STEP 2

A. Is the reason that the person(s) 55 or older is no longer living at the residence due to death?

A.1 If yes, obtain the date(s) of death of the person(s) 55 or older, verified by a death certificate and go to step 3

A.2 If no, continue with question B.

B. Is the reason that the person(s) 55 or older is no longer living at the residence due to hospitalization?

B.1 If yes, obtain the date(s) the person(s) 55 or older was hospitalized and go to step 3

B.2 If no, continue with question C

C. Is the reason that the person(s) 55 or older is no longer living at the residence due to a prolonged absence?

C.1 If yes, obtain the date(s) of the prolonged absence(s) for person(s) 55 or older began and reason for prolonged absence, and go to step 3

C.2 If no, continue with question D.

D. Is the reason that the person(s) 55 or older is no longer living at the residence due to dissolution of marriage with another individual living at the residence?

D.1 If yes, obtain the date of dissolution of marriage and verify name of former spouse and go to step 3

D.2 If no, end of inquiry, as violation indicated.

STEP 3

A. Obtain date that each individual residing at the residence began residing there, and go to step 4

STEP 4

- A. For each person under the age of 45, inquire whether they are married or single; and if married, the name of their spouse.
- B. For each person under the age of 45, inquire whether they are living like a spouse with another resident, and if so the name of the person with whom they are so co-habiting.
- C. For each person under the age of 45, inquire whether they are a registered domestic partner and if so, the name of their registered domestic partner.
- D. For each person under the age of 45, ask if they are providing economic support, and if so to identify each person for whom they are providing primary economic support.
- E. For each person under the age of 45, the name of their mother, father, grandmothers (maternal & paternal), and grandfathers (maternal & paternal).
- F. Is any person residing at the residence been hired to provide live-in, long term or terminal medical treatment or assistance with tasks of daily living; and if so, for whom?
- G. Is any person residing at the residence a family member providing live-in, long term or terminal medical treatment or assistance with tasks of daily living for another family member: and if so, for whom?
- H. For each person under the age of 45, inquire whether they are suffering from a disability¹, and if so that they provide a letter from their treating physician describing that disability, and how long the disability is expected to continue.

¹ CC 54 refers to Government Code Section 12926 for definition of Disability and that Section provides the following definition of Mental Disability and Physical Disability

(i) "Mental disability" includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) "Major life activities" shall be broadly construed and shall

include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(k) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

I. If any person at the residence under the age of 55, claims not to reside there, but has stayed at the residence more than 60 days in a year, have them provide proof of residence elsewhere, such as a lease, utility bills in their name, an affidavit signed under penalty of perjury before a notary by a roommate, or affidavit signed under penalty of perjury by the individual before a notary.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

ONCE THE ARCHITECTURAL COMMITTEE OBTAINS THE ABOVE INFORMATION FROM EACH OCCUPANT (PERMANENT OR TEMPORARY), THE ARCHITECTURAL COMMITTEE WILL APPLY THE FOLLOWING TESTS TO DETERMINE WHETHER OCCUPANTS SATISFY SENIOR STATUS

First Test

If someone 55 or older was residing at the residence, but is not currently there due to death, hospitalization, prolonged absence, or dissolution of marriage. For each person living there determine whether they were living there prior to the identified event. If there is at least one person 55 or older living at the residence go to the Second Test.

Name	Prior to QR's death	Prior to QR's hospitalization	Prior to QR's prolonged absence	If ex-spouse, prior to dissolution of marriage with QR
John Doe	Yes or No	Yes or No	Yes or No	Yes or No

For an individual named in table above, if any answer in the table is yes go to second test. If for an individual all answers in the above table are no, go to third test

Second Test

Whether or not someone 55 resides at the residence, if there are others under the age of 55 living at the residence, for each such resident, does any of the following apply

Name	45 years or older	Spouse of QR	Living like husband or wife of QR or Registered Domestic Partner of QR	Providing primary physical or economic support for QR
John Doe	Yes or No	Yes or No	Yes or No	Yes or No

If the answer to any of the questions under the second test is yes, the resident under age 55 is a Qualified Permanent Resident ("QPR"). If none of the answers is yes, go to third test.

Third Test

Name	Child of QR	Grandchild of QR	Child of QPR	Grandchild of QPR
John Doe	Yes or No	Yes or No	Yes or No	Yes or No

If the answer to any of the questions in the above table is yes, go to the Fourth Test. If all answers in the above table are no, go to Fifth Test

Fourth Test

Does the child or grandchild suffer from a disability as defined in footnote 1 above. If no, go to Fifth Test. If yes, the resident is a QPR and can stay subject to the following conditions.

Conditions for continued residency when QPR based on Third and Fourth Tests.

1. If disability ends, can require QPR to vacate after QPR’s receipt of six month notice to do so.
2. If Homeowner’s Board finds based on credible and objective evidence that the QPR is likely to pose a significant threat to the safety of others and that situation cannot be ameliorated through reasonable accommodations. The procedure stated in Civil Code Section 51.3 must be followed in making this determination.

Fifth Test

Test for permitted health care resident (PHCR)

Name	Hired to provide live-in, long term or terminal medical treatment or assistance with tasks of daily living to QR	Family member providing live-in, long term or terminal medical treatment or assistance with tasks of daily living to QR
John Doe	Yes or No	Yes or No

If answer to either question is yes, then resident can continue to reside at unit as long as QR residing there, or if QR hospitalized, for a period of ninety days if QR expected to return within that period, and additional ninety days of QR’s hospitalization if QR requests in writing to Board. If all answers no, go to Sixth Test.

Sixth Test

Test for permitted guest

If there is a QR or a QPR at the resident, and an occupant, who is neither a QR or QPR has resided at the residence less than sixty (60) days in a calendar year, the occupant is not violating the age restriction. But if an occupant who does not qualify as a QR or a QPR resided at the residence for more than sixty (60) days and the occupant does not provide sufficient proof of residence elsewhere, the occupant is violating the age restriction.