

THE HUMAN RIGHTS CODE

Human Rights Code

- The Human Rights Code of Ontario was implemented to codify the basic rights of all citizens of our province
- The preamble to the Code includes the following statement which is particularly appropriate for corporations:

“... it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community ...”

- The Code states that every individual has a right to be free from discrimination on the basis of, “*race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, handicap or the receipt of public assistance*” in respect of the provision of accommodation, employment, services or facilities, memberships in associations and in the work place

The Act

- The Act states that, “*An owner may make reasonable use of the common elements subject to his Act, the declaration, the by-laws and the rules*” s.116
- The Act allows corporations to pass by-laws to create “occupancy standards” for units, including the number of persons that may reside within a particular type of unit, s.56 (1) & (2)
- The Act also permits corporation’s to levy extra assessments against a unit where the occupants are violating the Occupancy Standards by-law for any increases in the cost of utilities and/or maintenance charges that result from the violation, s.52 (4)
- However the Act does not exempt corporations from the application of the Code in respect of the enforcement of these provisions. If, for example, a corporation attempted to use its Occupancy Standards by-law to require an owner to reduce the number of family members living within their unit, that might be interpreted as discriminatory on the basis of family status. Under the Code, the term “family” is not necessarily limited to our traditional notion of a family (ie. mother and/or father and children), but is broad enough to include other dependents such as grandparents, nieces, nephews, brothers and sisters.
- The Act guarantees the right of all residents to make “*reasonable use*” of the common elements and most declarations expand this to the “*full use*” of the common elements. Physically challenged members of the community such as those who require a wheelchair, have arthritis or some other medical problem that restricts their mobility enjoy that right as well. Corporations must be sensitive to the needs of their physically challenged members and may have to accommodate their needs.
- The Act assists corporations in this regard by making it clear that alterations to common elements that are necessary in order to comply with , “*...the requirements of any general or special Act or regulations...*”, are not considered to be “alterations” to the common elements. This could, in the author’s opinion, apply to alterations to common elements necessary to accommodate physically challenged residents, such as the installation of self-opening doors in lobbies and recreational areas, where such changes are required to accommodate an owner’s needs, s.97 (2) (a).
- In addition the Act makes it much easier for corporations to grant consent to owners to make alterations to the exclusive use common elements allocated to their units as well as other common elements (ie. wheelchair ramps), s.98 (1)



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