

My 55+ Community Is Discriminating Against Me. What Power Do I Have?

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Q: My husband and I own a condo in a 55-plus community on Long Island. He likes to golf, while I like to use the complex's outdoor pool. Our homeowners association just made a rule that single owners can bring a guest to the pool, but married couples have to bring their spouse, or no one at all. The rule allows single owners to bring guests as young as 16 years old. I would like to bring my daughter or my sister, but the board has denied my request. We all pay the same HOA fees. Can I do anything about this policy? Isn't this discrimination against married couples?

A: If the policy stipulates different rules for married couples and single people, you might have a discrimination case, because in New York State marital status is a protected class.

But first, let's make sure that this rule was properly adopted by the HOA's board of directors. You can start by requesting a copy of the house rules or other governing documents. You can also ask to see the minutes of the meeting where this topic was discussed and voted upon, and the board's justification for adopting the policy.

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“If it’s not in the house rules or the bylaws, this is not a rule they can enforce,” said Jonathan Roman, a [real estate lawyer](#) who works on Long Island.

If the policy was adopted in accordance with the board’s proper procedures, you can oppose it in writing. Recruit like-minded residents and write a letter to the board explaining that you believe the rule is unfair and should not be enforced. There is strength in numbers.

The question as to whether this policy is discriminatory and whether you’d be successful in pursuing a legal case depends in part on whether the policy makes a reference to marital status.

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“It’s discriminatory if it singles out married and single people,” said Andrew Lieb, a lawyer who practices on Long Island and handles discrimination cases. New York state’s [human rights law](#) prohibits stipulating conditions on housing that concern marital status, the printing and circulating of limitations on housing that make references to marital status (among other characteristics including race, sex and national origin).

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Even without a reference to marital status, the policy could still be discriminatory, though it would be more difficult to prove, Mr. Lieb said.

You can go to the state Division of Human Rights with your complaint, or consult a lawyer and show them the board’s pool guest policy.

“If they said, ‘Lady, you’re married,’ I would 100 percent take that case before you finished your sentence,” Mr. Lieb said.

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