

THE MANITOBA  
HUMAN RIGHTS  
COMMISSION



LA COMMISSION DES  
DROITS DE LA PERSONNE  
DU MANITOBA

# You Can Support Human Rights in Condominium Housing

## Your rights Your obligations

Guidelines on condominium housing  
under *The Human Rights Code* (Manitoba)  
for condominium corporations, management  
companies and condominium unit owners

## Introduction

This guideline is the Manitoba Human Rights Commission's interpretation of the provisions of *The Human Rights Code* ("*The Code*") with respect to condominium housing.

It has information for condominium corporations, building or property management companies and condominium unit owners about rights and responsibilities under *The Code*.

This guide is subject to the specific language of *The Human Rights Code*, and to interpretations by adjudicators and the courts.

### **What is *The Human Rights Code*?**

*The Code* is the provincial human rights law that protects individuals and groups in Manitoba from discrimination. It is administered by the Manitoba Human Rights Commission.

*The Human Rights Code* sets out a process for filing a human rights complaint. There is no charge for filing a human rights complaint or for seeking advice about a human rights concern.

*The Code* has special status over all other laws of the Province of Manitoba. This means, for example, that it is not enough if a condominium corporation meets the requirements of legislation such as *The Condominium Act* or *The Buildings and Mobile Homes Act*, if the result still unreasonably discriminates against a condominium unit owner based on that unit owner's disability. (For further information, please see the discussion on reasonable accommodation later in these guidelines.)

**What does *The Human Rights Code* say about discrimination in condominium housing?**

*The Code* prohibits discrimination in the purchase of “real property”, such as condominium property. Discrimination in the sale of real estate, housing or any residential or commercial premises, or in any term or condition attached to the transaction, is against *The Code* if the property "has been advertised or otherwise publicly represented as being available for purchase or acquisition."

If a condominium property is available to the public for purchase, it must be equally available to all members of the public without discrimination. This means, for example, that a condominium corporation or owner or agent cannot discriminate against a possible purchaser based on a protected characteristic, such as ancestry.

In a situation where a condominium property is sold to a family member without being publicly advertised, *The Code* would not apply.

Discrimination under *The Code* includes failing to reasonably accommodate special needs that are based on protected characteristics, such as disability. Harassment based on a protected characteristic, such as sex, is also prohibited.

*The Code* prohibits discrimination in the provision of services, such as the services provided in the management of the condominium building or complex. It also prohibits discrimination in employment, including the employment of caretakers or other staff by the condominium corporation. Discrimination in advertisements is prohibited, including signs or ads about condominium units for sale.

Discrimination is also prohibited in rental housing, including the leasing of a condominium unit by its owner. (For further information on discrimination and rental housing, please see Manitoba Human Rights Commission guidelines on rental housing “You Can Support Human Rights in Rental Housing: Your rights; Your obligations”.)

**What are the protected characteristics under *The Code*?**

*The Code* prohibits discrimination based on the following characteristics:

- ancestry, including race and colour;
- nationality;
- ethnic origin;
- religion;
- age;
- sex, including pregnancy and gender identity;
- gender-determined characteristics;
- sexual orientation;
- marital or family status;
- source of income;
- political belief; and
- physical or mental disability.

In addition to these listed protected characteristics, *The Code* also prohibits discrimination that is based on group stereotypes rather than on individual merit. For example, the Manitoba Human Rights Commission accepts complaints on the basis of criminal record or disadvantaged social condition or status.

### **Who is legally responsible for discrimination?**

*The Code* does not only place responsibility for a discriminatory act on a person whose conduct is discriminatory. A condominium corporation or agent can be responsible for the actions of its employees.

Condominium corporations, condominium boards of directors, and agents are encouraged to inform themselves and their employees about the requirements of *The Human Rights Code* and to ensure that their obligations under *The Code* are being met. (See also the sample policy on “Protection from Discrimination and Harassment” at the end of these guidelines.)

### **What if there is no intention to discriminate?**

It is possible to discriminate without intending to violate the law. Systemic discrimination is a form of discrimination that is often not intended, and takes place when a policy or practice that seems neutral has a greater negative effect on some people based on their protected characteristic. For example, it is not contrary to *The Code* to specify in a condominium agreement that no pets are allowed. However, if condominium corporations, caretakers or agents apply this rule to condominium unit owners or their visitors who rely on animal assistants, such as guide dogs, the result may be discrimination based on disability.

### **What is prohibited harassment in condominium housing?**

Under *The Code*, it is illegal for anyone responsible for a condominium property to harass a unit owner, tenant, guest, or employee on the basis of any of the protected characteristics under *The Code*, including ancestry, national origin, sex (including pregnancy and gender identity), sexual orientation, religion and disability.

It is also contrary to *The Code* for anyone responsible for a condominium property to knowingly permit, or fail to take reasonable steps to terminate, harassment of one participant by another participant - such as one unit owner by another unit owner. (Please also see the sample policies on discrimination and harassment at the end of these guidelines.)

### **What must a condominium corporation do to reasonably accommodate special needs of a condominium unit owner that are based on a protected characteristic?**

Reasonable accommodation under *The Code* requires that condominium corporations or agents respond to requests from condominium unit owners for accommodation of special needs based on protected grounds, such as disability, by:

- engaging in an adequate process to determine whether reasonable accommodation can be made; and
- providing sufficient effort and measures (to the point of “undue hardship”) towards meeting the obligation to accommodate.

Reasonable accommodation often involves a simple change to how something is done that takes into account a special need a person or group has that is based on a protected characteristic. An example is a condominium corporation installing a flashing smoke detector in the unit of a condominium unit owner who is deaf.

Where a condominium corporation relies on undue hardship as the reason for not providing an accommodation, a mere belief that accommodation would create a hardship is not enough. The condominium corporation must be able to show adequate evidence of the hardship, such as unreasonable cost. (For further information, please see the Manitoba Human Rights Commission guidelines “Reasonable Accommodation: You can remove barriers to equality of opportunity and participation”.)

### **What are some examples of reasonable accommodation in condominium housing?**

The following are examples of reasonable accommodation of unit owner's special needs that are based on protected characteristics.

- A condominium owner with severe allergies wishes to replace the carpet in her unit with hardwood flooring at her own expense. The condominium agreement sets out that the floors in question will be carpeted.

The unit owner identifies her need to the condominium corporation and provides a letter from her allergist. The information is treated confidentially, and after the condominium corporation determines that the requested change would not cause an undue hardship, the unit owner is allowed to install the hardwood flooring.

- A condominium corporation approves a budget for renovations of the front entrance and lobby of its complex. A condominium unit owner who uses a wheelchair notes that no provision has been made to install a power-assist door opener at the building's entrance. He requests a modification to the plan to include an automatic door opener for the front entrance.

The condo corporation determines that an automatic door opener could be installed. For cost and design reasons, however, it selects a different automatic door opener than that suggested by the condo owner, which still reasonably accommodates the unit owner's special needs.

- A condominium corporation's social committee decorates the entrance and lobby area of the condominium building with Christmas decorations each December. At the request of a Jewish unit owner, the social committee includes a menorah and "Happy Hanukkah" greeting in its seasonal decorations.
- A condominium owner who is blind requests that the condominium corporation provide a safe relief area for her guide dog. The corporation consults with her on a suitable location, and designates an area as the relief area for the service dog. The relief area is accessible, free of traffic and in a safe location. It has a safe noise level, a suitably absorbent surface and a receptacle for disposal of dog waste. The caretaker of the condominium building is asked to keep the short path to the relief area shoveled. The condominium corporation follows up two weeks later to ensure that the accommodation is working.

### **What about "For Sale" signs and ads?**

Discriminatory signs and statements, such as those contained in newspaper ads or "For Sale" signs, are prohibited by *The Human Rights Code*.

Newspapers may refuse to print an ad if it is in violation of the law. If a newspaper or other media organization publishes a discriminatory ad, it may be subject to a human rights complaint.

**What about “55+” or “adults only” target marketing of condominium housing?**

There is no specific exception in *The Code* for “55+” or “adults only” condominium housing. The general *Human Rights Code* provisions will apply. This means that discrimination in condominium housing based on age is prohibited, unless the discrimination is with *bona fide* and reasonable cause or meets the requirements for a “Special Program” under *The Code*.

**What are “Special Programs” in condominium housing?**

An example of a Special Program in condominium housing is a building designed for seniors that has supportive features, such as level entrances, elevators, physical and recreational facilities, and transportation to medical facilities and shopping.

Special Programs assist individuals or groups to overcome the disadvantage which discrimination creates, and are permitted under *The Human Rights Code*. Special Programs help groups that have been disadvantaged by discrimination to achieve equality of opportunity. (For further information, please see Manitoba Human Rights Commission policy “Special Programs”.)

**Can a condominium have rules that bar minors from commonly owned recreational facilities?**

Recreational facilities in condominium corporations are part of the occupancy of a condominium unit. Condominium rules governing the use of commonly owned recreational facilities, such as swimming pools, exercise rooms and whirlpools, must not unreasonably discriminate on the basis of age and/or family status.

**What about threats or harm to someone who complains about discrimination?**

*The Human Rights Code* protects the right of a person or group to file a complaint alleging discrimination. It is illegal to threaten to cause, or to cause, a detriment or harm or loss of benefit to someone because they have filed a complaint, or are participating in a proceeding under *The Code*. A person or group so threatened or harmed may file a “reprisal complaint” under *The Human Rights Code*.

**Can condominium corporations restrict families with children?**

It is contrary to *The Human Rights Code* for a condominium corporation to restrict families with children to certain floors or units within a building or complex.

Condominium corporations wanting to ensure a quiet environment can include clauses in the condominium agreement which address unreasonable noise from condominium unit owners, but must not adopt standards which unreasonably discriminate based on age or family status. Reasonable noise from children must not be the basis for any detrimental treatment of unit owners.

## Sample Policy on Discrimination and Harassment

123 Condominium Corporation Ltd.: Protection from Discrimination and Harassment

### Policy

123 Condominium Corporation is committed to providing for the purchase and lawful occupancy of its condominium units, and the enjoyment of common areas free of unreasonable discrimination, including harassment. This is in keeping with its obligations under *The Human Rights Code*.

Condominium unit owners and lawful occupants have the right to occupy the condominium units of 123 Condominium Corporation Ltd., and to enjoy its common areas (and their guests, to visit), without being treated differently, to their disadvantage and without reasonable cause, on the basis of a characteristic protected under *The Human Rights Code*. They also have the right not to be harassed based on a protected characteristic.

Characteristics protected under *The Human Rights Code* are ancestry (including colour and perceived race), nationality, ethnic origin, religion, age, sex (including pregnancy and gender identity), sexual orientation, marital or family status, source of income, political belief, and physical or mental disability.

Unit owners also have the right to reasonable accommodation of special needs which are based on any of these protected grounds, such as religion or disability.

## Procedure

Unit owners, who believe that they have been discriminated against or harassed in the purchase or occupation of condominium housing with 123 Condominium Corporation Ltd., are asked to please report the problem to *[insert name, phone number and address of designated representative.]*

Unit owners who require reasonable accommodation of a special need, which is based on a protected characteristic, are asked to please make their request to *[insert name, phone number and address of designated person]*. Reasonable supportive information with respect to the accommodation request may be required.

123 Condominium Corporation Ltd will take a unit owner's complaint or request seriously, and will respond to the unit owner in a timely manner, after looking into the matter.

For further information, unit owners may also wish to contact the Manitoba Human Rights Commission, at 945-3007 (Winnipeg), or 1-888-884-8681 (toll-free).

**Who can I call for more information?**

For further information, contact the Manitoba Human Rights Commission office in your area. Please also ask about our seminars on reasonable accommodation and other human rights topics and visit our website at <http://www.manitoba.ca/hrc>

Our offices locations are:

Winnipeg: 700 -175 Hargrave Street  
Winnipeg, MB R3C 3R8  
Phone: (204) 945-3007  
Fax: 204-945-1292

Brandon: Rm 341 - 340 Ninth Street  
Brandon, MB R7A 6C2  
Phone: (204) 726-6261  
Fax: 204-726-6035

The Pas: 2nd Floor - Otineka Mall  
P.O. Box 2550  
The Pas, MB R9A 1M4  
Phone: (204) 627-8270  
Fax: 204-623-5404

TOLL FREE: 1-888-884-8681  
TTY: 1-888-897-2811

If there is any conflict between these guidelines and *The Human Rights Code*, *The Human Rights Code* prevails.

**[www.manitoba.ca/hrc](http://www.manitoba.ca/hrc)**

*Le présent guide est également disponible en français*

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