



# All in the Family - Single Family Restrictions in Condominiums

By [Barbara Holmes](#) on December 05, 2011



The courts have once again confirmed that restrictions in a condominium corporation's documents, which state that all units must be occupied by a single family, thus excluding unrelated roomers and/or boarders, are valid restrictions.

In the case of [Nipissing Condominium Corporation No. 4 and Kilfoyl et al.](#), (which was subsequently confirmed by the [Court of Appeal](#)) the corporation's declaration restricted the use of the condominium to a "one-family residence". The declaration went on to further define "one-family residence" as "a unit occupied or intended to be occupied as a residence by one family alone, including guests and containing one kitchen, provided that no roomers or boarders are allowed". "Family" was defined in the declaration as "a social unit consisting of parent(s) and their children, whether natural or adopted and includes other relatives if living with the primary group."

When the corporation sought to enforce that provision against owners who had leased their unit to a number of unrelated students, the owners challenged the provision as being contrary to the [Human Rights Code](#). The *Human Rights Code* provides that "every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, disability or the receipt of public assistance". The Court determined that the declaration did not infringe on any of the grounds listed in the *Human Rights Code*, including family status, and that the occupancy of the unit by unrelated roomers and/or boarders was in contravention of the declaration.

The Court noted that as the number of units with multiple tenants increased, the condominium corporation "began to experience a rise in the complaints about excessive noise, littering, parking problems, damage to property and an increase in common expenses."

More recently, in the case of [Chan v. TSCC No. 1834](#), another unit owner leased the unit to unrelated persons and installed separate locks on each of the three bedrooms to facilitate such rental. This was a breach of the rules of the corporation that stated that units could only be used as a "private single-family residence". In this case, there was no definition of either "family" or "single-family residence" contained in the condominium documents. The owner's argument that the tenants should be entitled to occupy the unit as they were not roomers or boarders, but rather living together as friends, was not accepted by the Court. In fact, the Court disbelieved the owner's claim that the three individuals were friends. This case is noteworthy as the condominium corporation was



## Condo Reporter

Heenan Blaikie

successful even though the single-family restriction was not contained in the declaration but only in a rule, and that no definition of "single-family" or "family" was set out in the rules.

The occupancy of units by unrelated individuals is a particular concern for those condominiums that are located close to university or college campuses. The foregoing decisions will be welcomed by those owners who occupy their units as a single-family residence and expect that their condo community will be a family community and not a project filled with boarders and/or roomers. If there is no single family restriction in the corporation's declaration, the corporation should be including this restriction in its rules.

---

The articles and comments contained in this publication provide general information only. They should not be regarded or relied upon as legal advice or opinions. © Heenan Blaikie LLP.