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Children should be seen and not heard?
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Tomorrow marks the fourth year since you settled into your condominium unit, and you have no regrets about the trendy condo you've owned and lived in for the past year! Well, maybe there is one slight problem with the new neighbours next door. One day, the neighbour confronted you in the elevator about your kids making too much noise.

The children have definitely not been doing anything out of the ordinary, as it's expected that children will have day-to-day temper tantrums, cry, and jump around when playing. Surely this is a common occurrence in a condominium built for families. However much to your dismay, you received a verbal telephone warning and several letters in the mail from the Board of Directors reinforcing their complaints. The letters maintain that the noise from your apartment violates the quiet enjoyment of unit owners as set out in the Rules made by the Board of Directors of your Condominium who have sole discretion. What are you to do now? You've already done your best to keep the noise level down and are certain your neighbours are overreacting anyway! Can the Board of Directors continue harassing you? Can you be sued or even evicted from the condo unit you have owned or rented for the past 4 years if you don't comply with the warnings?

The *Condominium Act* requires that any rules made by a condominium's Board of Directors must be reasonable and must promote the safety, security or welfare of the owners and of the property or be for the purpose of preventing unreasonable interference with the use and enjoyment of each unit. Residing in a "family-friendly" condominium, meaning there are no bylaws prohibiting children from living in any of the units, it would seem unreasonable for the Board of Directors to solely determine that

your children are disturbing the quiet enjoyment of your neighbour.

According to city bylaws, household noise must be kept within noise level guidelines between 7pm and 7am. As the majority of the noise coming from your unit occurs in the day-time and there is no city bylaw infraction, it seems unjust for the Board of Directors to enforce a rule for noise during the day. Giving sole discretion to the Board of Directors could result in practices that are: inconsistently enforced against unit owners; conflict with more reasonable city bylaws; and possibly lead to discrimination. However, unless a rule is clearly unreasonable or contrary to human rights legislation, there is little that can be done and the rule will stand.

In the eyes of most, it is reasonable that common youthful noises will emanate from many of the units in a "family-friendly" condominium, and anybody who is fussy about children or household noise in general should live in an adult only complex or avoid living in a condominium altogether. However, a Board of Directors may not view a situation this way, and may use the rules of your condominium in manner that is unfair to you.

***For more information about this or any other real estate law related topics please do not hesitate to contact
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