

Age-Qualified Housing Products



The Product: Housing and Lifestyle Targeted to 50+ Households

The product of primary focus in this report is housing and lifestyles that will attract “retiree” households to the Paso del Norte region. The goal is to attract households to purchase a primary or secondary home in this area and to spend time and money in the region.

This section provides a summary of the various forms of age-qualified housing in the US. The first part reviews all of the types of age-qualified housing.

Age-Qualified Housing Development Trends and Best Practices

Overview of Age-Qualified Housing

The age-qualified housing market has grown and changed dramatically in the past few years. One of the primary changes is that all forms of age-qualified housing products are oriented less toward services and caring for “seniors” and have moved more toward an emphasis on the lifestyle of adults at all ages and levels of ability. While terminology is difficult to change, many concur that the term “seniors housing” is out of date and out of touch with consumer preferences.

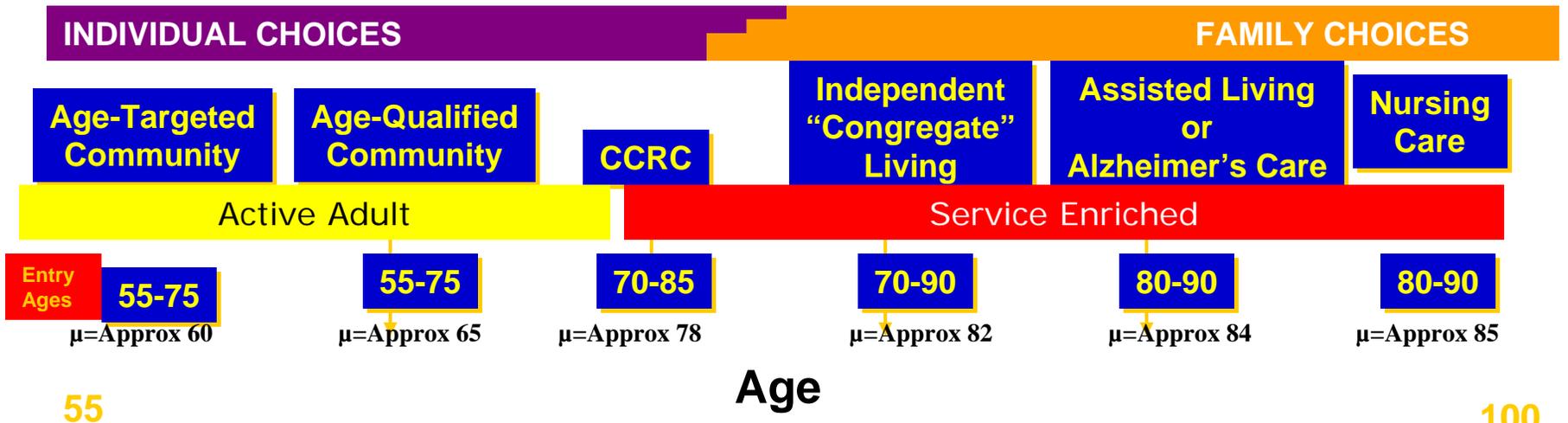
The most significant and sweeping change in the industry, at all levels of service, is the change from communities that are defined by the age of the inhabitants to communities that are defined by the lives and lifestyle of the inhabitants. The product may be reserved for persons who are 55+ years of age, yet in today’s market the emphasis is not on age, but rather on the quality of the living experience.

This change is seen in all levels of service including active adult, independent living, assisted living, programs for persons with Alzheimer’s disease, and nursing care properties.

Age-Qualified Housing Products in the United States - 2007

There is a comprehensive continuum of housing targeted to consumers 55+ years of age in the United States that ranges from few, if any, services to comprehensive health care services. The services, amenities, and forms of housing and the differences between the various age-qualified housing products become more blurred each day. Some forms that served the more independent resident a few years ago are serving people today who are older and are more likely to have some level of frailty. Properties, such as active adult communities, that originally captured younger households are appealing to households in their 50's as well as to those in their 80's.

The types of housing products can be categorized in a number of ways. One category, shown in the top line of the chart below, separates age-qualified housing into products where the resident makes the choice of moving to the community and where the family makes the choice for the resident. A second category, represented by the line that reads Active Adult to Service Enriched, divides properties by whether or not the individual receives specific services such as meals, transportation, emergency response, etc. Active adult properties typically do not provide services to individuals as part of their Home Owners Association (HOA) fees, with the exception of community maintenance and lawn and landscaping services. Service-enriched properties provide increasing levels of services beginning with transportation, dining and housekeeping for independent living and encompassing personal care services such as bathing, dressing, managing medications for assisted living, and health care services in nursing care.



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Classification of Age-Qualified Housing Properties

Age-Targeted or Age-Qualified

It is important to understand the terminology associated with age-qualified housing properties, but unfortunately there is not an accepted dictionary of terms and a single term may be used to define two distinctly different properties.

Housing for Older Persons Act. The Fair Housing Amendments Act (**Sec. 800. [42 U.S.C. 3601] Fair Housing Act**) is a law that defines the criteria by which communities may be designated for, marketed to and restricted to persons who are of a minimum age of 55 years (or 62 years) of age. Housing for older persons under the Fair Housing Act of 1988 is the only form for legal discrimination in the US.

From the Fair Housing Act of 1988...

- (2) As used in this section "housing for older persons" (HOPA) means housing --
- (A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
 - (B) intended for, and solely occupied by, persons 62 years of age or older; or
 - (C) intended and operated for occupancy by persons 55 years of age or older, and--
 - (i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;
 - (ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and
 - (iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--
 - (I) provide for verification by reliable surveys and affidavits; and
 - (II) include examples of the types of policies and procedures relevant to a termination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

The US government does not have a certification program or registration for 55+ communities. The developer/operator of the community must be knowledgeable of the requirements of the HOPA act and must be able to document compliance if challenged.

Age-Qualified Compared to Age-Targeted

Age-Qualified

- At least one person in household is 55+;
- Protected by Fair Housing Act;
- Can refuse occupancy to those younger than 55 years of age (or in some communities the minimum age is set at 62 years of age); and,
- Actively advertise that they provide housing for persons either 55 years of age and older or 62 years of age and older.

Age-Targeted

- Designed and marketed to mature consumers, but do not mention that age is a qualifying factor for residency;
- Product and covenants usually appeal to retirees and empty nesters and not to young families;
- Have no legal protections for discriminating against households who have younger occupants;
- Could not deny a sale to a family; and,
- Cannot refuse occupancy to anyone.

Many builders prefer to build age-targeted active adult housing because they believe they have an opportunity to capture a greater market share if they do not label the community as “active adult” or for persons who are a certain age or older. These communities are often identified by the way they market their homes because they often use language including: care-free living, maintenance-free living, ranch-style homes, and single-story living. An age-targeted community that does not comply with the requirements of the Housing for Older Persons Act is not protected by the law and may be subject to suits for discrimination.

Some developers build sections within their master-planned communities that have single-story homes and ultimately sell most of the homes to mature households, but they do not market the section as an age-qualified community.

Fair Housing Guide from NAHB

Q. Does HUD certify a community as “housing for older persons”?

A. No. Neither the FHA nor HOPA authorizes HUD to certify whether a particular community meets the qualifications. HUD will become involved in determining whether a 55+ housing community is in compliance when a person allegedly injured on the basis of familial status files a complaint against the community and the exemption is claimed as a defense, or when HUD commences its own investigation or files a complaint based on information that the agency has indicating a need for investigation.

7. Public posting in common areas of statements describing the facility or community as housing for persons 55 years of age or older.

In terms of advertising, a community wishing to demonstrate its intent to provide housing for persons 55 and older should be explicit in its communications. Simply referring to the community as one for “adult living” or as an “adult community” will not demonstrate an intent to provide housing for persons 55 and older. These descriptions are too vague. Instead, advertisements and communications should indicate that the community is intended specifically for persons 55 and older. HUD suggests the use of the terms “seniors housing” or “retirement community” when marketing age-restricted properties. These terms are consistent with an intent to provide housing for persons 55 and older.

2. The Courts

It is imperative that these policies and procedures be in place from the outset, before any discrimination may occur. The courts examine the overall actions of the community to determine whether or not the community demonstrated the requisite intent. They generally will look to HUD regulations for guidance when determining whether a community qualifies for the exemption. However, meeting only one of the factors listed above may not be sufficient to establish intent to provide housing for persons 55 or older.

www.nahb.org/50plus

In short, the courts try to ensure that entities seeking the exemption have made a conscious decision, on a going forward basis, to be 55+ housing and that the entities have taken steps to ensure their compliance with the statutory and regulatory requirements.

C. Determining Occupancy

Finally, 55+ housing must comply with HUD rules and procedures to verify occupancy of the units in the community.

HUD regulations require a community to verify occupancy using reliable surveys and affidavits and to develop procedures for routinely determining the occupancy of each unit. The procedures also must provide for regular updates (at least every two years) of the initial information supplied by occupants to ensure continuing compliance with the 80 percent occupancy requirement. The regulations consider the following forms of identification as reliable documentation to be used in determining the age of the occupants:

1. Driver’s license;
2. Birth certificate;
3. Passport;
4. Immigration card;
5. Military identification;
6. Any other state, local, national, or international official documents containing a birth date of comparable reliability; or
7. A certification in a lease, application, affidavit, or other document signed by any member of the household ages 18 or older asserting that at least one person in the unit is 55 years of age or older

In order for a community owner or manager to provide reliable surveys and affidavits in response to a complaint, one of the above forms of identification must be used to determine the age of the occupants in a unit. The regulations further provide that a summary of the occupancy data must be available for inspection if requested by any person and with reasonable notice.

Claiming the State or Federal Program Exemption

If HUD determines that housing provided under a federal or state program is specifically designed and operated to assist elderly persons, it may be exempt from the ban on familial status discrimination. It is important to note that housing constructed as part of a state or federal program must be designated by HUD as housing designed and operated specifically as housing for the elderly before it can qualify for the exemption. Even if the community would otherwise qualify for exemption under the 62+ or 55+ housing for older persons categories, if the housing receives state or federal funds, it must have HUD review and approval to qualify for this exemption.

Conclusion

Meeting the requirements of the HOPA exemption is a prerequisite for providing seniors housing. In order to avoid illegal discrimination against families with children, care should be taken to comply fully with the Fair Housing Act, HOPA, and the accompanying regulations.

Relevant laws and regulations and other helpful resources are available from the U.S. Department of Housing and Urban Development (HUD) at <http://www.hud.gov/offices/theo/seniors/index.cfm>.

For more information, visit the 50+ Housing Council Web site at www.nahb.org/50plus or contact the NAHB 50+ Housing Council at 800-368-5242 x8220 or 50plushousingcouncil@nahb.com.



Note: Nothing contained in this brochure is to be considered as the rendering of legal advice for specific cases, and readers are responsible for obtaining such advice from their own legal counsel. This publication is intended for educational and informational purposes only.

Fair Housing Pocket Guide: Understanding the Housing for Older Persons Exemption

Brought to you by the:



www.nahb.org/50plus

Active Adult or Service-Enriched

Active Adult and Service-Enriched Communities

Housing targeted to mature consumers is often categorized by the amount and type of services that are provided. Properties that do not provide services or that provide services solely related to the upkeep and maintenance of the communities' buildings and grounds are generally referred to as **active adult**. Communities that provide services to the individual such as dining, housekeeping, social programs, transportation, and possibly personal care assistance, are referred to as **service-enriched** communities.

Typical Labels for Active Adult and Service-Enriched Communities	
Active Adult	Service-Enriched
Age-Targeted Community (single-family homes, condominiums, manufactured homes) Age-Qualified Community (single-family homes, condominiums, manufactured homes) Seniors Apartments (multi-family housing)	Independent Living Community (usually multi-family, but single-family dwellings and condominiums are becoming more common) Assisted Living Community (multi-family) Nursing Care Residence (Nursing Home) Continuing Care Retirement Community (CCRC) - A combination of multiple service levels on a single campus.

Trends. The differences between active adult and service-enriched communities continue to lessen. Many service-enriched communities are beginning to provide services a la carte and/or add sections where services are not required as part of the monthly fee. Thus, these service-enriched properties offer products that are essentially "active adult." The households who move to an "active adult" area on a service-enriched campus, however, are usually older than the households who move to an active adult community. Many consumers have a stigma about moving to a community that is age-qualified because they fear it will make them appear older.

Product Types and Average Age at Move-In

The bottom line of the chart on page 4 shows the average age of most residents when moving to each of the product types. These categories are averages, and the actual ages of individuals moving to the communities vary significantly. An 85 year old may purchase a home in an active adult community, and there are many people younger than 60 years of age in assisted living residences. It is usually the health and abilities of an individual that determine the type of community to which they move.

Usually the positioning and age of a community affect the age of the people who move to the community. Communities that present a lively and opportunity-filled lifestyle, avoid ageist language and market their product as an active lifestyle generally attract younger households. Communities with smaller residences that focus marketing on the provision of care and services attract older households.

The longer a community has been open, the older the residents. When a community first opens, the majority of residents are near the average age at entry for the product, but as a community ages the average age of the existing residents increases. Incoming residents usually reflect the same age as existing residents in communities. Or, in other words, when the prospective residents visit older communities and see that the existing residents are older, they usually look for other communities where residents are more like themselves. Hence, new communities have younger residents and older communities have older residents.

Description of Age-Qualified Housing Products

The active adult and service-enriched housing products will be defined and described in this section. The Classification for the Seniors Housing Property Types will be from the classifications endorsed by the primary organizations who represent the seniors housing industry. These organizations include:

- American Association of Homes & Services for the Aging (AAHSA)
- American Health Care Association (AHCA)
- American Seniors Housing Association (ASHA)
- Assisted Living Federation of America (ALFA)
- National Center for Assisted Living (NCAL)
- National Investment Center for the Seniors Housing & Care Industries, Inc. (NIC)

Active Adult Community (endorsed definition)

Active Adult Communities

Definition. For sale single-family homes, town homes, cluster homes, mobile homes and condominiums with no specialized services, restricted to adults at least 55 years of age or older. Rental housing is not included in this category. Residents generally lead independent lifestyles; projects are not equipped to provide increased care as the individual ages. May include amenities such as a clubhouse, golf course and recreational spaces. Outdoor maintenance is normally included in the monthly homeowner's association or condominium fees.

Active adult communities are designed to attract the mature consumer who prefers to live in a neighborhood with others of the same age. Active adult communities may be age-targeted or age-qualified (age-restricted).

Age-targeted refers to a community that targets its product offering and marketing to persons 55-years-of-age and older, but does not choose to comply with the requirements of, nor enjoy the protections of, the Fair Housing Act of 1988 (see page 5).

Variations in Active Adult Communities (continued)

- **Amenities.** Amenities often seen in active adult communities include a club house, swimming pool, and fitness center. Large communities such as those developed by the Del Webb Division of Pulte Homes, Lennar Corporation, K. Hovnanian Companies, U.S. Homes, Robson Communities and others often have golf courses, restaurants and a variety of other facilities where residents may meet with and/or entertain others.
- **Services.** Active adult communities usually provide basic home owner association services related to maintaining the streets and central buildings. Some active adult communities provide lawn and landscaping services and maintenance of the exterior of the homes.
- **Gated, Guard-Gated Communities.** The level of perimeter security varies widely among active adult communities and often depends on their location. The majority of communities have an entrance gate that remains open and is there predominantly to provide a landmark and signage for the community. Some communities, particularly those in high-traffic areas, may have an electronic gate to restrict traffic flow to residents and their guests. A small proportion of communities employ security guards who operate the gates to the community. These communities tend to be located in more populated areas and may include higher priced homes.

The Market for Active Adult Communities

Active adult communities appear to be gaining in popularity, particularly because more communities are being built. Active adult communities are appearing in virtually every metropolitan area in the U.S., and thus are an option for people where the option was not available in most markets even just a few years ago.

Residents range from 55 to 80+ years of age. The amenities of the community, size and design of the homes, and positioning of the community influence the age and nature of the resident. Communities with amenities such as golf courses and other recreational amenities with larger, single-family homes are more likely to attract younger households compared to communities with small attached homes that focus on low-maintenance and community services.

The greater the number of active adult communities the greater the number of households likely to purchase in them. There are areas in Florida, for example in the Ocala area, where there are more than 30 different active adult communities in about a 30 mile radius. Once migration streams are established and growing, marketing for one property increases the opportunities for other properties as well.

Profile of Residents in Active Adult Communities

The profile of residents in each active adult community depends on a variety of factors including:

1. The age of the community: the age of residents in new communities is typically younger than the age of residents in older communities, because these residents will have lived there since the community opened. They may have had an average age of 63 years when they moved in, but after they have been there for 10 years their average age is 73 years.
2. The price of homes in communities: higher priced homes attract a more affluent market, that typically has a higher proportion of married couples.
3. The style of homes: small, single-story attached homes have a tendency to attract a slightly older age group, and more single-person households than communities with large detached homes.

Characteristics of Households in Active Adult Housing in the United States

- Average age: 73.7 years (this is in properties that have been opened for a number of years, not properties currently being marketed)
- Gender: 44 percent male, 56 percent female
- Marital status: 61 percent married, 23 percent widowed, 15 percent single or divorced
- Work for pay (part-time or full-time)
 - Residents younger than 65 years of age: 47 percent are working
 - Residents 65 years of age and older: 20 percent are working

Source: *Understanding Seniors Housing: Demand, Choices and Behavior, 2003, National Investment Center for the Seniors Housing & Care Industries.*

Profile of Residents in Active Adult Communities

- Race/Ethnicity: 98 percent Caucasian (with the exception of properties in markets where there is a high proportion of African-American households. The racial mix in the community generally more closely reflects the racial balance in the market area).
- There are few active adult communities in the United States that are located in markets that have high proportions of people of color. Across the United States, the proportion of home owners or residents in any form of age-qualified communities that are a race or ethnicity other than Caucasian is less than 3 percent.
- Evidence from a study of a few communities, however, suggests that African-American households will purchase the active adult housing product. Although only two properties would provide any information to us about the proportion of sales made to African-American households, these two properties reveal that the majority of their buyers are African-American. The Village at Collington in Maryland estimated that between 90 and 100 percent of the households in their three neighborhoods are African-American. The sales representatives at Victoria Falls estimated that 60 percent of their homeowners are African-American (the marketing agency handling the Victoria Falls account refused to verify the estimate of the sales staff).
- The acceptance of age-qualified housing by the Hispanic market has not been documented.

The Benefits of Active Adult Housing

Less Impact on Traffic

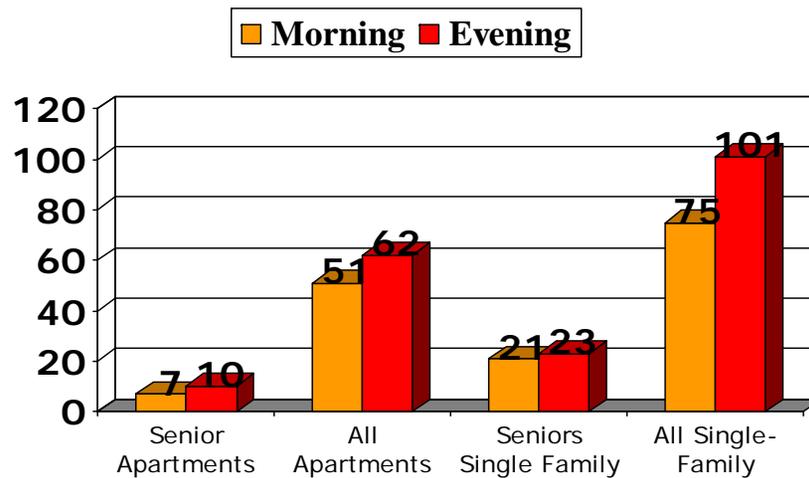
Building an active adult community of 100 single-family homes can produce \$3 million in local income, \$504,000 in taxes and other local revenue for local governments and 67 new jobs.

Active adult households generate fewer trips in their cars than the average household — especially at rush hour. They don't need to go to work at a specific time and they conveniently avoid getting entangled in rush hour traffic.

Less Impact on Water and Sewer Services

Local governments spend less on water and sewer services for residential developments that are age-qualified or age-targeted than they do on average households.

Average Number of Trips Generated Per 100 Housing Units: Morning and Evening Rush Hour



Source: Emrath, P., *Approving Seniors Housing: Facts That Matter*. Builderbooks.com, National Association of Home Builders, 1201 15th Street NW, Washington, DC 2005-2800

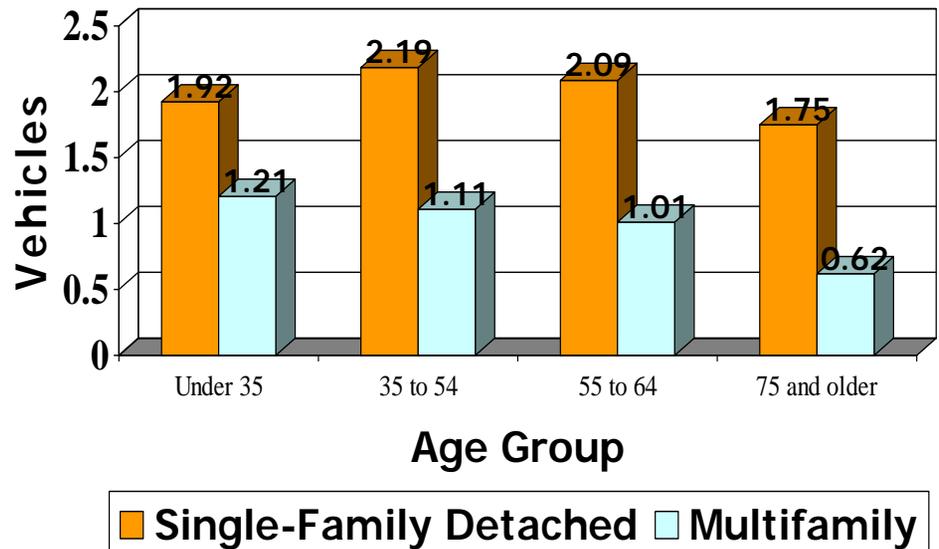
The Benefits of Active Adult Housing

Vehicles Per Household by Age of Household Head

Households headed by someone 55 to 64 years of age have slightly fewer vehicles per household than those 35 to 54 years of age, but households headed by someone 75 years of age and older have approximately 20 percent fewer vehicles per household.

Additionally, 55+ households are significantly less likely to travel on roadways during morning and evening commute times. If they don't have to travel at those times, they don't.

Number of Vehicles per Household by Age of Head of Household



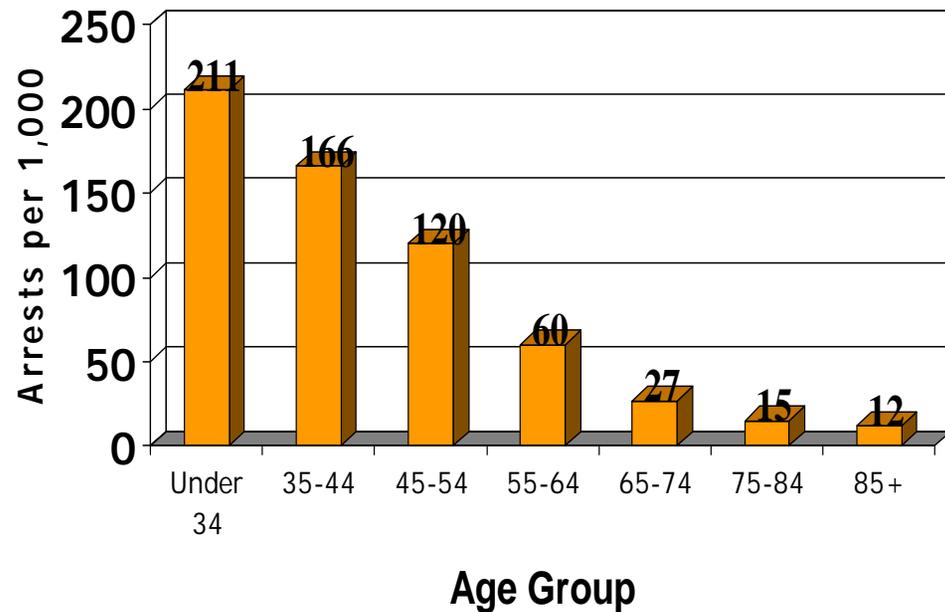
Source: Emrath, P., *Approving Seniors Housing: Facts That Matter*. Builderbooks.com, National Association of Home Builders, 1201 15th Street NW, Washington, DC 2005-2800

The Benefits of Active Adult Housing

Low Crime Rates

Households headed by someone 55 years of age and older are significantly less likely to be involved in crime. As age increases, the number of arrests per 1,000 individuals decreases.

Arrests per 1,000 Households by Age



Source: Emrath, P., *Approving Seniors Housing: Facts That Matter*. Builderbooks.com, National Association of Home Builders, 1201 15th Street NW, Washington, DC 2005-2800

The Benefits of Active Adult Housing

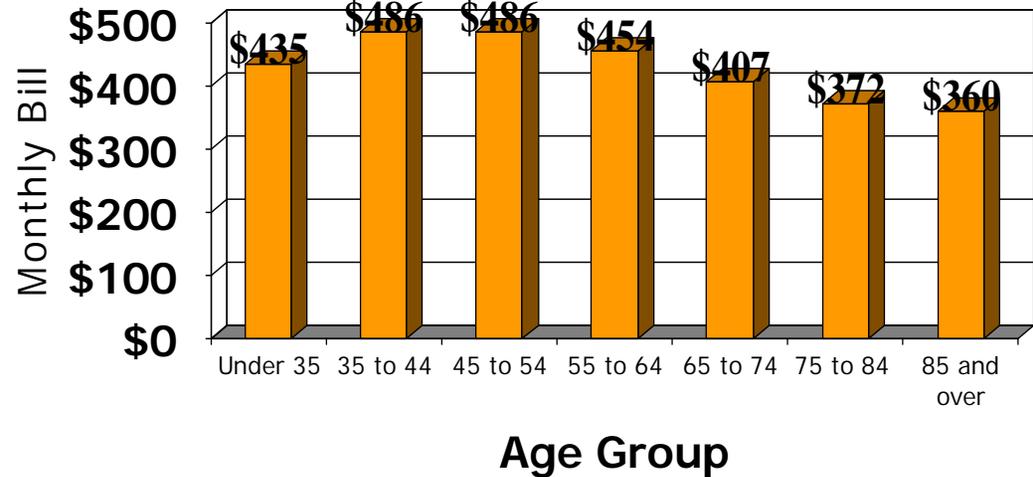
Low Use of Community Resources

Less Impact on Water and Sewer Services

Local governments spend less on water and sewer services for residential developments that are age-qualified or age-targeted than they do on average households.

The simple explanation is that there are fewer people in the household.

Average Water/Sewer Bills by Age of Household Head



Source: Emrath, P., *Approving Seniors Housing: Facts That Matter*. Builderbooks.com, National Association of Home Builders, 1201 15th Street NW, Washington, DC 2005-2800

Growth in Active Adult Housing in the United States

There are no censuses of active adult housing in the United States, with the exception of age-qualified senior apartments that are tracked by the American Seniors Housing Association. It is difficult to determine the number of active adult housing units and to monitor the growth of this sector of the industry for a variety of reasons.

1. Active adult housing developments that provide single-family homes are not monitored by any of the trade associations and are not required to register with any governmental agency. Consequently, there is not a central repository for information about active adult housing in the U.S.
2. Active adult housing developments range in size from as few as a dozen or so homes up to as many as 23,000 homes. Small builders of active adult properties, often do not advertise and simply sell their age-targeted homes by word of mouth.
3. Many developers, particularly those who develop age-targeted housing that is not in compliance with the *Housing for Older Persons Act*, do not use terms such as, active adult, 55+, age-qualified, or retirement community when promoting their product.
4. Age-targeted housing communities avoid using terms that define them as being for persons who are 55 years of age and older, even though that is the market they are trying to attract. Sometimes these developments can be identified via the words used to market them, such as carefree living, maintenance-free housing, ranch-style homes and lifestyle communities.
5. Often when many, if not most, of the active developments sell all of their homes, the central amenities are deeded to the homeowners association and the builder no longer markets the property. Thus, there is often not a central telephone number associated with the community, the community is not listed in the yellow pages directory for the area, and homes are sold by individual realtors or by the homeowners.