

# How can a foreigner become the representative of his/her building in a multi-family housing complex?

*Invest Korea provides a summary of the government's authoritative interpretation on how foreign investment-related laws and regulations should be actually applied. The interpretations are the advice of the Ministry of Government Legislation on questions or conflicts regarding the meaning and interpretation of such laws and regulations.*



**If a foreigner who has been a tenant residing in a multi-family housing complex for six months or longer has filed alien registration and report of change of place of stay in accordance with the Immigration Act, can he/she become the representative of his/her building in the relevant multi-family housing complex in accordance with Article 50 (3) of the Enforcement Decree of the Housing Act?**



Yes, the foreigner can become the representative of his/her building in the relevant multi-family housing complex under Article 50 (3) of the Enforcement Decree of the Housing Act.



## Reason

Article 6 (2) of the Constitution of the Republic of Korea states that “The status of aliens shall be guaranteed as prescribed by international laws and treaties,” and many laws treat foreigners as equal to Korean nationals based on the tenet of the Constitution. In this regard, it can be interpreted that basic rights recognized only for Korean nationals such as voting rights or political rights including the right to hold public office are not recognized for foreigners even if there are no written regulations stating as such. However, in the case of laws concerning other rights, it shall be interpreted that there are no restrictions on foreigners if there are no written regulations explicitly restricting the rights of foreigners.

According to Article 50 (3) of the Enforcement Decree of the Housing Act which prescribes the qualifications of a representative of each building in a multi-family housing complex, a tenant who resided in a building for six months or longer after filing resident registration can be a representative of the building. The reason for this is to appoint a person who lived in a multi-family housing complex long enough to understand the conditions of the complex as the representative of a building because a residents’ representative council mediates the frequent conflicts of interest related to the management of a multi-family housing complex. Therefore, in respect to ‘resident’, there is no reason to discriminate foreigners from Korean nationals, and furthermore, the definition of tenant under Article 2 Subparagraph 12 of the Housing Act does not treat foreigners and Korean nationals differently or explicitly exclude foreigners. In this sense, it cannot be regarded that Article 50 (3) of the Enforcement Decree of the Housing Act prevents foreigners from becoming a representative of a building.

Also, the reason why qualification as a representative of a building is restricted to persons who filed resident registration at the relevant multi-family housing complex is because a resident registration can be an objective means to prove that a person has resided at a place for six months or longer. But because Article 88-2 (2) of the Immigration Control Act states that any alien registration and report on change of place of stay shall substitute for any resident registration and moving-in report, respectively, if a foreigner who basically cannot file resident registration filed alien registration and report on change of place of stay pursuant to Article 6 of the Resident Registration Act, it shall be considered that there is objective proof of residence, just like when resident registration was filed.

- Interpretation No. 15-0195 from the Ministry of Government Legislation
- Issued on: May 12, 2015

*Source: Ministry of Government Legislation, Translation: KOTRA*

*The Ministry of Government Legislation’s statutory interpretation provides an authoritative opinion on the interpretation of statutes, and does not have the binding force of a final court ruling. Therefore, the competent government authority may not adopt the interpretation in its entirety. If a final court ruling contradicts the Ministry of Government Legislation’s statutory interpretation, the court ruling shall prevail.*

*If you have further questions please contact*



+82-1600-7119

*or visit*



[www.investkorea.org](http://www.investkorea.org)