

Section USE AND OCCUPANCY OF RESIDENCES - Sample Provision Excerpt (Public Preview)

USE AND OCCUPANCY OF RESIDENCES

1.
Any agreement for the leasing or rental of a Lot shall provide that the terms of such lease shall be subject in all respects to the provisions of the Declaration, the Articles, the Bylaws, the Community Rules and Regulations and any applicable agreements between the Association and any Federal Agencies

ISSUE #1

MARKUP #1 ->



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. USE AND OCCUPANCY OF RESIDENCES (p. 5): Rental restriction conflicts with California Civil Code §§ 4740 and 4741 (AB 3182) protections regarding rental caps, minimum lease durations, or ADU/JADU exemptions.

Statutory / Legal Reference: Cal. Civ. Code § 4740 & 4741 (AB 3182)

Statutory Comparison: Under Cal. Civ. Code § 4741 (AB 3182), common interest developments may not adopt or enforce provisions that prohibit the rental or leasing of separate interests, restrict rentals to less than 25% of the separate interests in the development, or count an Accessory Dwelling Unit (ADU) or Junior Accessory Dwelling Unit (JADU) as a separate interest for rental-cap purposes.

CURRENT WORDING IN DOCUMENT:

USE AND OCCUPANCY OF RESIDENCES 1. Any agreement for the leasing or rental of a Lot shall provide that the terms of such lease shall be subject in all respects to the provisions of the Declaration, the Articles, the Bylaws, the Community Rules and Regulations and any applicable agreements between the Association and any Federal Agencies.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to California Civil Code §§ 4740 and 4741, any limitation on the total number of rented separate interests shall not be less than twenty-five percent (25%) of the separate interests in the development; any minimum lease duration requirement shall only prohibit transient or short-term rentals of thirty (30) days or less; and an Accessory Dwelling Unit (ADU) or Junior Accessory Dwelling...