ISSUE #1

Section 5.4 - Sample Provision Excerpt (Public Preview)

Time-Shares. No Unit shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time-sharing agreement, plan, Hughes Gill Cochrane Tinetti, P.C.

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 5.4 (p. 1): 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. While an association may prohibit transient or short-term rentals of 30 days or less, requiring a minimum lease term exceeding 30 days functions as an impermissible rental restriction. Furthermore, under Cal. Civ. Code § 4740, rental prohibitions do not apply to owners who acquired title prior to the effective date of the restriction.

CURRENT WORDING IN DOCUMENT:

Time-Shares. No Unit shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time-sharing agreement, plan, Hughes Gill Cochrane Tinetti, P.C.

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 Unit (JADU) occupied or rented in accordance with Civil Code § 4741(d) - (e) shall not be construed as a separate interest for purposes of any rental cap.