

## RENTAL RESTRICTIONS

Rental restrictions are a controversial but effective means of restricting the number of units which can be rented in a community association. From the perspective of owners who rent their units, rental restrictions are often perceived as an unfair restriction of property rights. By contrast, owners who live in their units fear that renters will reduce their quality of life and affect their property values. Many owner-occupiers fear that tenants do not take pride in their community and are less likely to be active in association affairs. Other owner-occupiers fear that their association will have difficulty enforcing standards of community behavior upon tenants who are naturally more transient than owners. Renters can also affect association finances. As the percentage of tenant-occupied units increases, associations pay higher insurance premiums and unit owners find it more difficult obtaining resale financing.

Associations can restrict the number of renter-occupied units in a variety of ways. Often, associations will adopt an amendment to their bylaws by a vote of a supermajority of unit owners. These amendments restrict the percentage of units rented to between 20 and 30 percent.

Associations with more than 30 percent of units rented find it much more difficult to obtain mortgage financing. This is the percentage at which secondary mortgage lenders designate a community association as non owner-occupied.

Another option is to pass an amendment limiting the maximum number of units that one investor-owner may purchase. This prevents any one investor from purchasing and renting a large group of units, while giving owner-occupiers the option to rent. Other associations have passed amendments which require a minimum period of occupancy before a unit owner may rent out his or her unit. This often deters investor-owners from purchasing units at the association.

In many associations, the Board of Directors is given discretion to grant unit owners the right to rent out their units because of special circumstances. This provides some leeway for owner-occupiers to rent out their units in the case of family or financial emergencies.

Whatever method an association chooses, rental restrictions should also require that renters receive a copy of the association's governing documents. In addition, the Board of Directors should insist

upon a copy of all rental agreements for the association records. Many times, problems can be resolved by clear lines of communication between the renters and owners. It is important that renters understand that the association's governing documents restrict their own behavior, not just the behaviors of their landlords.

Before passing a rental amendment, associations should take an honest look at the treatment of renters in their community. Are renters invited to social gatherings and association meetings? If not, owner-occupiers should be sensitive to renters' desire to be part of the community association. Renters should feel like members of the community rather than second class citizens. By fostering renter involvement, associations sometimes find that a rental amendment is not necessary. Renters who are active in their communities are likely to stay longer and take pride in their association. These simple steps may eliminate the need for a rental restriction.

~Jason Grosz~  
Law Clerk @  
Vial Fotheringham Law

