

Senate Bill 150 and the Impact on Rental Restrictions Why Associations Must Evaluate their Rental Restrictions NOW

Introduction

Community Associations have traditionally encountered problems with renters in their communities. Because renters do not have an ownership interest in their units and the Association, they may feel less invested in the community. This often results in renters failing to (1) comply with the Association's CC&Rs and/or (2) properly adhere to the Association's rules and regulations. Associations that have high quantities of renters typically find themselves paying more in enforcement costs compared to those Associations that have smaller renter populations.

As a result of this unfortunate situation, Associations have adopted various forms of rental limitations purporting to preserve the quality of life in their communities and to protect the financial health of their Associations.

Background of Senate Bill 150

The California Association of Realtors ("CAR") has viewed these rental limitations negatively. CAR maintains that such rental limitations have restricted their ability to sell homes to investors wanting to take advantage of a down market. As a result, CAR has sponsored Senate Bill 150 ("SB 150") which effectively exempts owners in a Community Association from any rental restrictions that were not in effect prior to the date the owner bought into the community. The justification for this bill is based on the California Legislature's belief that "the right to rent or lease real property owned is a valuable property right that should be protected, irrespective of whether the real property is located within or outside a [Community Association]."

Effect of Senate Bill 150

SB 150 will take effect January 1, 2012 and will add Section 1360.2 to the California Civil Code. SB150 generally provides that:

- (1) Any amendments to CC&Rs that would prohibit rentals are effective only as to owners who purchased after the amendment was already recorded and in effect.
- (2) Rental "prohibitions" are outlawed. (It is not clear whether less serious restrictions, such as rental period minimums, will be permitted.)
- (3) Owners must provide buyers with a statement describing any provision in the Association's governing documents that prohibits renting or leasing of units within the community.



Recommendation

If your Association desires to restrict rentals, or to ensure that adequate restrictions are in place to preserve various characteristics of your community with respect to renters, your Association should immediately evaluate the strength of the rental restrictions contained in your governing documents, if any. After January 1, 2012, Associations will not be able to impose the types of rental restrictions that they have utilized over the years. To ensure that your Association's rental restrictions stand on the strongest legal footing, they should be contained in your Association's recorded CC&Rs, not your Associations rules and regulations.

This resource is available for download in our website's library, located at <http://www.tinnellylaw.com/library.html>

The Tinnelly Law Group was established in 1989 to provide quality, cost-efficient legal representation to Southern California Community Associations. The firm's success is evidenced by its continual growth, its reputation for quality service, and its recognition by the Community Association Industry as one of California's most experienced general counsel firms.

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