

## Out Out Damn Renters!

Let's face it, most of us have been renters for at least a brief period of time in our lives. To be concise, the concept of "renting" or the status of being a "tenant" or "renter" is not necessarily a bad thing. If it were, we all must consider ourselves, in some respects, less than desirable. In short, it is not fair to label all renters as "trouble." With that said, there are few topics that cause as much concern as renters. Consequently, I have given considerable thought to the issues that arise when a common interest community experiences a large number of renter occupied units.

Whether we like it or not, ownership generally carries a greater sense of responsibility than renting (I am reminded of the last time I rented a car for a trip to Las Vegas....). Renters are typically more transient than owners and tend to be younger than those who are "putting down roots."

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Further, everyone reading this article can probably recall a late night party at a rental unit, or even a visit from the police to quiet things down. Again, such incidents are not limited to rental situations, but I think we will agree that there are frequent and common problems associated with a rental environment.

For the record, you should know that in Florida, an absolute ban on rentals was upheld when challenged in court by a disgruntled condominium unit owner. The court indicated that the covenant contained in the Declaration of Covenants, Conditions, and Restrictions was reasonable, and furthered the objectives and purposes for which the condominium was created.

Personally, I believe that a complete ban on rentals is too harsh. For one, the ability to rent one's home can serve a useful purpose if the owner is called away from home for an extended period of time (e.g., military service, charitable service, illness, etc.). Many associations are adopting "rental caps," or limitations on the number of units that can be non-owner occupied at any given time. Common rental caps are set at 20 to 30 percent of the units. Some associations have adopted 10 percent non-owner occupied caps.

It is beyond the scope of this article to go into too much detail about rental caps, but association members should be cautioned that any rental restriction may reduce the marketability of your unit when you attempt to sell it. This issue should be discussed with both your property manager and attorney.

There are other useful options besides capping or completely banning rentals. Associations should consider the following restrictions—to be adopted by duly approved amendment to the governing documents:

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1. Require that all rentals be of the entire living unit and expressly prohibit the rental of single rooms or other dormitory type arrangements.
2. Require that all rentals be for a minimum lease term (at least six months).
3. Require that all association members use an approved lease form which allows the association to enforce its covenants against a tenant in court.
4. Require that owners occupy their unit for at least 12 months prior to making it available as a

rental. This simple restriction greatly discourages investors from purchasing in a particular community.

The reality is that you will always have renters in your community. Treat them with respect. Get to know them. Do not discriminate against them with respect to services or amenities. Note, however, that both the absentee owner and their tenants do not get use rights of the common facilities simultaneously. Typically, all benefits of

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ownership (other than voting) are transferred to the tenant and the owner is divested of such rights during the period of tenancy.

In sum, there are several steps that a community can

take to help reduce the transient, and sometimes unpleasant, atmosphere that is often attributable to renters. The strategies mentioned in this article should only be adopted after close review of your community’s needs and problems. While the renter “problem” will never go away entirely, changing one’s governing documents and one’s preconceived notions about renters will go a long way towards making your community strong and more livable.

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