

Proposed revision to Section 2.3 of the Rules & Regulations

2.3 Renting or Leasing a Residence, Accessory Dwelling Unit (“ADU”) or Junior Accessory Dwelling Unit (“JADU”):

In accordance with Civil Code section 4741(a) “[a]n owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits, has the effect of prohibiting, or unreasonably restricts the rental or leasing of any of the separate interests, accessory dwelling units, or junior accessory dwelling units in that common interest development to a renter, lessee, or tenant.”

Section 4741(f) provides “[a] common interest development shall comply with the prohibition on rental restrictions specified in this section on and after January 1, 2021, regardless of whether the common interest development has revised their governing documents to comply with this section. However, a common interest development shall amend their governing documents to conform to the requirements of this section no later than December 31, 2021.”

Article 2, Section 2.6.2(ii) of the CC&Rs states in pertinent part that “[t]he lease or rental [of a Residence] must be to a single family.” Article 1, Section 1.54 of the CC&Rs defines the term “Single Family” as “a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of persons who share a common household in a Residence . . .”

Article 2, Section 2.6.2(iii) of the CC&Rs also provides that “[t]he rental shall apply to not less than an entire Residence including its appurtenant rights to use the Common Facilities (except that voting rights in the Association may not be transferred to a tenant or lessee).”

Article 2, Section 2.6.1 of the CC&Rs states in pertinent part that during the period of a lease or rental of a Residence neither the Owner nor his or her family or other parties claiming use rights through Owner shall be entitled to use the Association’s Common Facilities unless the Owner-Lessor is a Qualifying Resident who is contemporaneously residing in another Residence within the Development. “Owner-lessors who are not contemporaneously residing in another Residence, shall surrender his or her Recreational Facilities cards to the Association for the period of delegation, and any issuance of cards to Qualifying Resident tenants or contract purchasers will be conditioned upon such surrender.

Until further guidance is issued by the Legislature or the courts, the Association will comply with the directives of Section 4741, or successor statute, and adopts the following operating rule in light of Section 4741(a):

The Owner of a Lot may rent or lease the entire Residence, a permitted accessory dwelling unit (“ADU”), or a permitted Junior Accessory Dwelling Unit (“JADU”) on such Lot to a tenant from time to time, subject to the provisions outlined in the CC&Rs and these Rules. The term “permitted” ADU or JADU refers to an ADU or JADU that meets the requirements of Government Code sections 65852.2 or 65852.22, has been permitted by the City of Indio, and has been approved by SCSHCA pursuant to SCSHCA’s design review and approval process as described in the Governing Documents.

At least one Qualifying Resident must reside on the Lot throughout the entire rental period. All other occupants of the Lot must be either a Qualified Permanent Resident(s), or a Permitted Health Care Provider(s), as defined in the CC&Rs and California Civil Code. The following limitations shall apply to all rental agreements and leases of a Residence, permitted ADU, or permitted JADU within SCSHCA:

- *The rental or lease shall be for a period of thirty-one (31) consecutive days or more.*
- *The rental agreement, or lease, must acknowledge the sole right of the tenant, rather than the Owner, to use the Common Areas and Common Facilities during the period of the tenancy unless the Owner remains in occupancy on the Lot. (Owner voting rights in SCSHCA may not be transferred to a tenant, or lessee.)*
- *All rentals shall be evidenced by a written rental agreement, or written lease, which shall provide that the tenant is subject to the terms of the Governing Documents.*

- *If the Owner does not remain in occupancy on the Lot, the Owner must sign an Assignment of Privileges form to transfer Use Rights to tenant (see 2.3.1 for more detail).*

2.3.1 Assignment of Privileges: If the Owner rents or leases all of the dwellings located on their Lot thereby not remaining in residency on their Lot, the Owner of said Lot must agree to sign an Assignment of Privileges form. The Assignment of Privileges form serves as the Owner's acknowledgement that he/she has rented or leased all of the dwellings located on their Lot, the Owner does not intend to reside on the Lot, and the Owner has assigned all use rights and privileges for SCSHCA common areas, clubhouses and other amenities to the Owner's tenants or lessees. Under such circumstances neither the Owner nor his/her guests will be permitted to use the Common Areas and Recreational Facilities. However, the golf course when open for general public play and the Shadows Restaurant are available to the Owner and his/her guests; the Owner and his/her guests will be responsible to pay the applicable public rates for use and will not be entitled to any Owner discounted prices for golf, golf merchandise and food (except for promotional offers made available to the general public).

The Owner's voting rights for SCSHCA related elections will remain with the Owner(s) throughout the term of any rental agreement or lease.

[The rest of Rule section 2.3 remains unchanged.]

If and to the extent it is determined, by any applicable law, including, but not limited to, court decisions or legislative guidance, that Article 2, Sections 2.6.1 and 2.6.2 (ii) and (iii) conform with Section 4741, or successor statute, this rule will be rescinded automatically and the Association will enforce Article II, Sections 2.6.1 and 2.6.2 (ii) and (iii) of the CC&Rs as originally adopted, to the full extent as permitted by law.