

Section 1: [Master Declaration Article VIII, Section 8.11] Rental Cap of 15% and Minimum 6-Month Lease Term

No more than fifteen percent (15%) of the residential Lots in Bernardo Heights may be leased or rented at any given time, and no Owner may rent a room or Accessory Dwelling Unit while occupying the primary residence. Any lease for a period of less than one hundred eighty (180) days is strictly prohibited.

MARKUP #1 ->



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Master Declaration Article VIII, Section 8.11 (p. 1): Leasing, Retroactive Rental Cap, ADU Prohibition, or Tenant Screening Overreach: Clause imposes retroactive rental caps on non-consenting owners, bans ADUs/JADUs, compels tenant credit/criminal reports, or enforces unrecorded board leasing rules exceeding CA statutory authority.

Statutory / Legal Reference: Cal. Civ. Code §§ 4740, 4741, 4751

Statutory Comparison: Under Cal. Civ. Code §§ 4740, 4741, 4751 and Restatement (Third) of Property (Servitudes) §§ 6.5 & 6.7, an association may not enforce newly adopted rental caps or minimum lease terms retroactively against existing non-consenting owners, prohibit statutory Accessory Dwelling Units (ADUs/JADUs), compel disclosure of confidential tenant credit/criminal reports, or restrict leasing via unrecorded board resolution.

CURRENT WORDING IN DOCUMENT:

[Master Declaration Article VIII, Section 8.11] Rental Cap of 15% and Minimum 6-Month Lease Term - No more than fifteen percent (15%) of the residential Lots in Bernardo Heights may be leased or rented at any given time, and no Owner may rent a room or Accessory Dwelling Unit while occupying the primary residence. Any lease for a period of less than one hundred eighty (180) days is strictly prohibited.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Master Declaration Article VIII, Section 8.11 to grandfather existing non-consenting Owners under Cal. Civ. Code §§ 4740, 4741, 4751, exempt statutory ADUs/JADUs, limit tenant registration to basic contact/lease-term data, and require any leasing restriction to be adopted by recorded Declaration amendment.