

## Short-Term Rental Restrictions Proposed on July 28

The July 28 proposal would add property use restrictions to DMMA CC&Rs, reducing the property rights of Desert Mountain owners, possibly without their consent.

If Desert Mountain were a condo HOA, that would be illegal. Here's why:

Arizona adopted the Uniform Condominium Act in 1986. The UCA and Arizona Revised Statutes 33-1227D prohibit any change in property use restrictions in a condo HOA without unanimous consent of the owners:

### **Arizona Revised Statutes § 33-1227D:**

Except to the extent expressly permitted or required by other provisions of this chapter, an amendment [to the CC&Rs] shall not create or increase special declarant rights, increase the number of units or change the boundaries of any unit, the allocated interests of a unit or the uses to which any unit is restricted, in the absence of unanimous consent of the unit owners.

But Desert Mountain is a *Planned Unit Development* HOA. The Arizona law that applies to PUD HOAs is different. PUD HOAs can take property rights from owners without their consent. That's because Arizona has never adopted the Uniform Planned Community Act.

### **Uniform Planned Community Act § 2-117(d):**

Except to the extent expressly permitted or required by other provisions of this Act, no amendment [to the CC&Rs] may or increase the special declarant rights, increase the number of units, change the boundaries of any unit, the allocated interests of a unit, or the uses to which any unit is restricted, in the absence of unanimous consent of the unit owners.

There's an easy way to give owners in Desert Mountain's HOA the same protection all condo HOA owners in Arizona have had for many years. Simply add Section 2-117(d) to DMMA bylaws.

Every conservative can agree: An HOA should not take property rights without consent of the owner. An amendment to DMMA bylaws could give DM owners the same protection every condo owner in Arizona enjoys.

The DMMA Board isn't going to call a meeting and vote on rent restrictions. But we could. Under our bylaws, 10% of DM members could call a special meeting of members to consider adopting a change to our bylaws. In our case, 238 members would be required to call that special meeting. A mailing to our list of the 700 who objected to the July 28 proposal should produce the required 238 responses. The proposed change: Add Section 2-117(d) of the Uniform Planned Community Act to our bylaws. That section prohibits any new restriction on owner property without consent of the owner. Every owner in an Arizona condo HOA now has that protection. DM is a PUD (Planned Unit Development) HOA. So DM owners aren't currently protected. We can change that.

Amending the DMMA bylaws requires only a majority vote of members.