

## DLG Prevails in Jury Trial in Challenge to Short-Term Rental Ban

August 15, 2018 jonathan dessaules

Dessaules Law Group attorneys recently prevailed in a jury trial in a lawsuit brought against an HOA challenging the validity of a short-term rental ban. The HOA's Board of Directors obtained the approval of more than 75% of the owners to adopt the ban on rentals of less than six (6) months and recorded the proposed amendment. Five property owners voted against the ban.

The original CC&Rs did not contain any rental restrictions and allowed for amendment if 75% of the owners voted in support of its amendment. DLG argued that, notwithstanding the 75% amendment provision, unanimous consent of all owners (that is, 100%) was necessary because the rental ban was a new and material restriction that was substantial and unforeseeable in the original CC&Rs. The case went to the jury to decide whether rental restrictions prohibiting rentals of less than six (6) months was a substantial and foreseeable change.

The jury, after deliberating just over one hour following a two-day trial, returned a verdict finding that the proposed amendment was invalid because it was new prohibition that was not contemplated in the original CC&Rs.

We believe this was the first case of this nature to be tried to a jury in Arizona.