

You may not realize it, but many condos are amending their "condo docs" to restrict the amount of units that can be leased (rental caps). This makes sense when the restriction is due to government financing rules such as FHA and does not approve loans where more than 50% of the units are leased (or in some instances, where no more than 65% are leased if no condo fees are overdue to the association).

Where this becomes an unfair restriction against tenants and restricting of fair housing ability to be able to locate where a person should be able to and not be discriminated against, is that homeowner associations are amending their documents to have their rental restriction against tenants to a much lower percentage than what government funding sources would approve (such as 20% or 30%), thereby FHA will deny loans to associations where they have adopted stringent restrictions regarding tenants. **A restriction lower than 50% serves no purpose except to exclude housing choice.**

What was said to me (informally behind the scenes) is they don't want "those people" - pointing towards Hartford - to come this way, by getting "FHA loans" - but nobody would ever admit to saying this is one of the reasons they want to have a stringent restriction (it keeps out tenants which they feel are "riff raff"). There is nothing wrong with having tenants renting at a condominium, if the tenant percentage is less than 50% (which percentage is a valid reason for a restriction), so that the association CAN allow potential buyers to obtain FHA, or meet conditions on VA loans, etc. It is overly stringent restrictions that cause potential buyers to NOT BE ABLE to obtain FHA, etc. Also serves their purpose to generally keep tenants out. Tenants are not bad people by virtue of not being an "owner," the negative attributes are not based on facts, but on bias. **Some states are starting to invalidate restrictions that are too stringent and have no valid reason for such level of restriction.**

The way condo documents accomplish these restrictions in order to keep tenants out is by having parameters which:

(1) units cannot be sold to a potential buyer unless the buyer agrees to occupy the unit for a minimum of two years (or similar); and

(2) that the association can only allow a certain percentage of units to be rented at any time (for instance 20%, 30%).

The goal is that over time as units are transferred, fewer and fewer will be occupied by any tenants. Condo institutes fight hard to maintain "freedom" from government interference in order to allow homeowner associations to do what they want (where it has come up in other states, and have managed to get some traction to dilute proposed legislation to help their associations do what they please). **But what associations really want (unintentionally or intentionally) is freedom to inappropriately discriminate.**

I feel that any restriction adopted that restricts rentals less than what FHA would approve, should be declared invalid and void by the State of CT. There is a misperception about renters at associations, and this is a way to try to keep them out as much as possible. This is wrong. Renters are often paying very high rents, and are simply going to work, coming home, quietly enjoying their evening, minding their own business, and may not realize behind the scenes they are being blamed for every association shortfall, from "dirty hallway carpet" to an unknown violator who is putting a non-recyclable item in the recycle barrel, to declining condo values, it is assumed it must be those tenants - they are an easy scapegoat.

And to my observation, they are conscientious as any owner. Another saying is that tenants are not as engaged; however, owners are often only engaged and involved once a year at the point of wanting to know if the condo fee is expected to go up at budget adoption. I have seen several articles where experience has shown assumptions that tenants being a problem in associations are largely unfounded and not legitimate.

A couple of states that have adopted laws of various strengths restricting an association's ability to limit rentals in various degrees, this is not meant to be comprehensive and statutes may be amended at times: California AB 3182 has adopted a raft of provisions; Florida Statutes Chapter 718. Also, lawsuits can come of this, for instance, Indiana Court of Appeals barred a rental ban because of its discriminatory effect on the availability of housing in violation of FHA - *Villas West II of Willows Ridge v McGlothlin* - due to disparity of impact; it was later overturned by the state's Supreme Court, but it outlined parameters and factors of how this tenant restriction can be questioned. Also, some states such as Virginia added provisions limiting the authority of a condominium association to restrict the rental of units Va.Code Sec 55-79.87.1 unless provided for in the declaration or bylaws.

Condo associations want to be self-governing, but stringent restrictions demonstrates overreach and abuse of their self-government powers that needs to be checked. The vulnerable people in our state who can't afford to purchase a property need their rights to be protected for housing choice, in neighborhoods, towns and complexes where they would choose to live and deserve to do so. Condo communities should not be allowed to weaponize their condo docs against a segment of the population.

from: West Hartford owner-occupied condo owner