

VOTE TO AMEND DECLARATION TO RESTRICT SHORT TERM RENTALS (“STR”)
FREQUENTLY ASKED QUESTIONS (FAQ)

Q1: What are we voting on and why?

A1: Over the past several months there has been a significant increase in concerns voiced by Fairways owners regarding the behavior of short term renters within Fairways. As a result, the Board is proposing Fairways homeowners be provided the opportunity to vote on whether to amend Section 6.16 of the Fairways Declaration, “Leasing or Renting Separate Interest,” in order to limit the leasing or rental time period within Fairways to a minimum of 28 days.

Q2: Does this amendment apply to all of Fairways or only my Special Benefit Area (“SBA”)?

A2: The ballots will first be counted to determine if the amendment is approved by a majority of the voting power of ALL of Fairways. If so, the amendment will be approved and apply to every SBA, except SBAs with a sub association and any new SBAs still within the development period with the California Department of Real Estate. (These exceptions include The Residence Club, Peninsula Park and The Signature at PGA WEST [Haciendas/Estates SBA & Villas SBA].)

If and only if the amendment is not approved by a majority of the voting power of all of Fairways, then the ballots will be counted for each individual SBA to determine if the amendment is approved by a majority of the voting power of the members of an individual SBA. If the amendment is not approved for all of Fairways (with the exceptions noted above) and any SBA approves the amendment, the amendment will apply only to those SBAs that vote to approve the amendment.

Q3: As a current owner (having purchased during the existing Governing Document provisions) how will this impact my ability to rent out MY home on a short-term basis?

A3: Current owners on title will be grandfathered under the proposed STR CC&Rs amendment and be allowed to rent under the previous (current) rental provisions. All owners at the time of recordation of the amendment will be able to rent even if they have never rented before as long as they comply with the Fairways and City requirements. The proposed amendment will not apply until a home is sold or title transfers. Once ownership title changes, the ability to utilize the home for a STR (less than 28 days) is restricted. If ownership title does not change, the amendment doesn’t have any effect on a home. Please refer to Question 5 for more detail on what constitutes a title transfer.

Q4: What does the term “grandfathered” mean?

A4: Grandfathered means someone or something that is exempt from a new law or regulation.

Q5: How will this change impact the NEXT owners of my home?

A5: When you list your home for sale you will need to disclose to prospective buyers that they are subject to the new rental restriction and may not rent or lease the home for less than 28 days.

The proposed amendment will reference that the 28 day minimum rental period is not applicable to the Separate Interest Owners of Record prior to the effective date of this amendment, if approved, or persons in escrow to purchase the lot on this date. A so-called “Grandfather Clause”. The rental restriction will come into effect upon certain transfers of title. Any change in title that meets the requirements of Civil Code section 4740(b) as it may be amended from time to time shall not be considered a transfer of title for purposes of this minimum rental period. For reference, Civil Code 4740(b) states the following:

“(b) For purposes of this section, the right to rent or lease the separate interest of an owner shall not be deemed to have terminated if the transfer by the owner of all or part of the separate interest meets at least one of the following conditions:

- (1) Pursuant to Section 62 or 480.3 of the Revenue and Taxation Code, the transfer is exempt, for purposes of reassessment by the county tax assessor.
- (2) Pursuant to subdivision (b) of, solely with respect to probate transfers, or subdivision (e), (f), or (g) of, Section 1102.2, the transfer is exempt from the requirements to prepare and deliver a Real Estate Transfer Disclosure Statement, as set forth in Section 1102.6.” *(Please note that this is subsection (c) in the current law but will change to be lettered as (b) as of January 1, 2021)*

For example, under current law, if a current homeowner chooses to transfer ownership into a revocable family trust, the grandfather clause would apply and the trust would still be able to rent the house for less than 28 days. If you have any questions regarding the application of this grandfathering provision to a specific transfer, please contact your own legal counsel.

Q6: How will this change to our Governing Documents (if implemented) impact our homes resale valuation?

A6: It’s difficult to quantify how the new restriction will affect resale values and the answer to this question is often debated between those who wish to restrict STR and those who do not want a change.

Q7: How will this amendment affect my monthly assessment?

A7: Neither the 2020 Fairways budget nor the SBA budgets anticipate any expenses for legal fees or contingencies for costs associated with enforcing this type of amendment if it is adopted, so adjustments to assessments may be needed. The Board will review this during the next budget cycle and adjust the assessments as necessary.

Q8: What threshold of homeowners must approve the proposed amendment in order for this proposed change to be adopted / pass?

A8: Owners representing at least a majority of the voting power of members must vote for approval. There is no quorum requirement for this vote pursuant to Article 2, Section 2.7.3 of the Association's Restated Bylaws. The ballots will first be counted to determine if the amendment is approved by a majority of the voting power of all of Fairways. If so, the amendment will be approved and apply to every SBA, except those exceptions noted above in #2.

If and only if the amendment is not approved by a majority of the voting power of all of Fairways, then the ballots will be counted for each individual SBA to determine if the amendment is approved by a majority of the voting power of the members of an individual SBA. If any SBA approves the amendment, the amendment will apply to that SBA.

Q9: What has Fairways done to address the issue of short term rentals?

A9: The Fairways Board in conjunction with our peer PGA WEST HOA Boards and Master Board has implemented a set of Combined Community Rules & Regulations which define a common set of rules to address noise, parking, and other PGA WEST community-wide neighbor concerns for improved Gates & Patrol consistency and use in generating citations. In addition, supplemental patrol staffing has been added during peak times for receipt of noise complaints.

Q10: What will NOT change with the adoption of this STVR proposal?

A10: Current owners will still be allowed to rent their homes for less than 28 days.