

Enforcement of Short-term Rental Bans: *Brown v. Montage at Mission Hills*

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Enforcement of short-term rental bans for common interest developments (“CID”) just got more complicated thanks to a recent California Court of Appeals decision.

In the recent case of *Brown v. Montage at Mission Hills* (Aug. 20, 2021, Nos. E074341, E075762) ___ Cal.App.5th ___ [2021 Cal. App. LEXIS 694].), the California Court of Appeal, Fourth District found that a CID cannot require a rental to be for a minimum term for homeowners who owned prior to the CID adopting that requirement pursuant to [Civil Code section 4740](#). In this case, Brown purchased a unit for the express purpose of renting it out as a short-term rental. Montage at Mission Hills later adopted a 30-day minimum rental period. Brown sued on the basis that she was exempt from that requirement because [Civil Code section 4740](#) provides that homeowners are not subject to governing document provisions that “prohibit[] the rental or leasing of any of the separate interests ... unless that governing document, or amendment thereto, was effective prior to the date the owner acquired title to their separate interest.”

The appellate court sided with Brown and found that minimum rental terms are rental prohibitions and not rental restrictions. Therefore, a short-term rental ban would not apply to homeowners who purchased prior to the ban’s adoption. The appellate court noted that “[t]he legislative history indicates that the Legislature’s intention was to ensure that owners maintained all rental and leasing rights they had at the time of purchase.”

What does this mean for your association?

If you have a minimum rental term in your governing documents it may not be enforceable against all homeowners, depending on the language of the provision and when it was adopted.

If you have questions about the enforceability of your association’s minimum rental term, please [contact us](#) or your association’s legal counsel for further guidance.

More text here.