

Leasing Restriction Amendment - Pro-s and Con-s

ACTION REQUESTED: Each household (HH): provide your feedback on how we proceed to implement a vote or drop this effort. To pass this Amendment will take 66% of 72 HHs to say ‘Yes’. (This equals 48 HH.). Less than 10% of FVW HHs have provided feedback to date.

The Leasing Restriction Amendment was introduced in Spring, 2023. The goal of this proposed Amendment to the FVW Codes, Covenants and Restrictions (CCRs) is to put a 20% cap on rentals in FVW. This has never been voted on and the statutes have changed since the Amendment was proposed.

The current Board has been vetting the Amendment since then and presents these simplified Pros and Cons Summary for your review.

We need feedback on whether to proceed with a vote. To go to the Next Steps toward a vote, we would need an attorney review followed by other regulated steps to amend our CCRs.

The Pros and Cons identify the Outcomes if the Amendment passes.

PRO	CON
A cap on rentals is potentially achievable after an estimated 8-10 years: after all ‘no’ voting and non-voting HHs are re-sold, and if no ‘hardship’ rentals allowed.	This Amendment will not limit the rentals to 14 (1). Short term estimate: at least 50% rentals allowable, if passed.
Current and new VA loans should not be affected by the amendment. (2)	HHs who voted ‘No’ and HHs who didn’t vote at all, can still rent. (1)
	‘Hardship’ leasing permit decisions (3) could tempt lawsuits against the FVW HOA.
	Administrative costs will rise with Board responsibility to track rentals, non-rentals, waiting lists, hardship requests etc. Transition from Board to Board invites confusion and errors.
	Potentially supports divisive neighborhood—those that can rent without a permit, and those that cannot
	Does NOT solve keeping up lawns and investment value of the neighborhood

Note: this table does not represent explicit legal advice but is a summary of research conducted by the Board in consulting the original attorney, real estate, property managers, mortgage company contacts, and 3 Community Association Managers.

NOT ONE Community was found to have rental restrictions (outside of the Florida 7 mo minimum rental, etc) as part of their CCRs. Condominiums do have them, but not single-family home communities in this area.

- (1) Due to FL 'grandfathering' statute FL statute 720.306(1)(h)1 protecting current homeowners not in agreement with a rental cap restriction.
- (2) Per VA Underwriter: Buyers with a VA loan must occupy their home for at least a year before they rent. For new VA loans, per a VA Underwriter and a mortgage lender, the VA and/or Title Companies in common practice DO NOT Look at HOA CCRs. See VA Loan Clarification Below.
- (3) Property Manager and Mortgage lender strongly advised that 'hardship' decisions to rent can be a target for litigation.

VA Loan Clarification

After speaking with a VA Underwriter and a VA Lender, we would like to clarify the information we received from Attorney Alexandra Amador, the author of the Lease Amendment. We apologize ahead of time for sharing what has turned out to be misinformation.

Summary:

- ⇒ The chances that the VA would look at FVW CCRs for rental restrictions is highly unlikely.
- ⇒ Neither current owners nor buyers are likely to be denied a loan because of the amendment according to the underwriter and lender.

Detail:

- 1) The VA Lending Handbook states that the VA can evaluate homes for mortgage loans in communities like ours.
 - a. The VA is allowed to look at investor concentration (too many leased properties) and "unreasonable" rules in an HOA.
- 2) According to a VA underwriter, it is **not** common practice to look at this for homes, because the VA loans are designed for owner-occupied primary residences.
- 3) Per the VA underwriter and the VA lender, a title company *may choose to* look at this, but the VA itself and the lenders usually do not look.