

# Kimball, Tirey & St. John LLP

## A Landlord's Guide to Vacation Rentals in California

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Some landlords owning rental property in vacation areas have increased revenue by changing long-term rentals to short-term vacation rentals. Vacation renters are often willing to pay more per night than long-term tenants. With internet platforms such as HomeAway.com, VRBO, AirBnB.com, and FlipKey.com, reaching potential vacation renters is easier. However, before becoming a short-term vacation rental landlord, property owners should be aware of requirements, restrictions and risks unique to vacation rentals.

### **LOCAL ORDINANCES**

Municipalities may prohibit or regulate short-term rentals.

Municipal laws vary significantly across the state, and may include:

- **Transient Occupancy Taxes (TOT).** Most municipalities impose transient occupancy taxes on short-term rentals of 30 days or less. For information about transient occupancy taxes for any specific geographic area, Google “transient occupancy taxes” and the name of the city. Also Google “transient occupancy taxes” and the name of the county. (Sometimes transient occupancy taxes are assessed by cities, and sometimes they are assessed by counties).
- **Minimum rental periods.** Some municipalities impose minimum rental time periods (e.g. one-month or one-week tenancies).
- **Zoning ordinances.** Some municipalities limit short-term vacation rentals to specific geographic areas, prohibit short-term rental homes near other short-term rentals, impose a maximum number of vacation rental days or vacation rental occupants, or otherwise regulate short-term rentals in single family residences and/or multi-family residences.
- **Registration and Licensing.** Many municipalities require landlords obtain business licenses or other special licenses to operate short-term vacation rentals.

Landlords should review their city or county's municipal code, or consult with an attorney to determine the local laws governing short-term rentals in their community. AirBnB lists some city regulations at <https://www.airbnb.com/help/responsible-hosting>.

### **COVENANTS, CONDITIONS, AND RESTRICTIONS (CC&Rs) AND HOMEOWNERS ASSOCIATIONS (HOAs)**

Owners of properties governed by homeowners associations must also be concerned about HOA rules and restrictions. HOA owners should review both the CC&Rs and rules and regulations to determine whether there are restrictions or regulations on their rental activities. Some HOAs prohibit rentals of less than 30 days. Other HOAs require the owner to provide tenant information to the HOA management company.

Additionally, to avoid conflict with neighbors and the HOA, vacation renters should be made aware of the HOA rules and regulations. A vacation renter's noncompliance with HOA rules can result in fines and other significant expense to the property owner.

## **OTHER CONSIDERATIONS**

Vacation renters pose challenges to landlords that they should carefully consider before operating a vacation rental.

- Vacationers are transient by nature, want to “have a good time,” and have fewer incentives to treat the community and its members with respect. This may result in property damage and conflict with neighbors. Vacation renter headaches can be reduced through careful screening, and educating vacation renters about property-specific issues and concerns (e.g. quiet hours, parking restrictions, trash can rules, and emphasizing that renters are expected to be respectful of neighbors).
- By increasing the number of tenants revolving through the property, vacation renters can increase the chance that bed bugs could become a problem at the property. Bed bugs are costly to exterminate. Tenants often deny causation, and refuse or simply can't afford to cover the expense.

## **USE A VACATION RENTAL AGREEMENT**

A standard rental agreement is usually not the best choice for a vacation rental.

- California law distinguishes between lease terms exceeding 30 days (“standard rentals”) and terms of 30 days or less (“short-term rentals”)<sup>1</sup>. Many California laws that protect standard rental tenants do not apply to short-term rentals<sup>2</sup>. A standard rental agreement may reference laws not applicable to short-term vacation rentals, and grant an occupant rights that are not required to be granted to a vacation renter.
- A standard rental agreement typically doesn't address multiple payments before the tenant takes possession (and vacation rental tenants typically make an initial deposit, then pay the remainder of the amount due before taking possession of the property).
- A standard rental agreement typically doesn't address other issues unique to vacation rentals, such as check in times, check out times, remedies if a tenant is several hours late in checking out (causing a problem for the next occupant scheduled to take possession), specify the nonrefundable cleaning charge (not allowed in a standard rental agreement), list furnishings, address transient occupancy taxes, nor address cancellation policies.

Landlords engaging in short-term rentals should use a lease tailored specifically for vacation rentals. KTS clients can purchase a short-term vacation rental agreement template.

## **CONCLUSION**

Before becoming a short-term vacation rental landlord, property owners should become familiar with and comply with local laws and regulations, and HOA requirements and restrictions. Vacation rental owners should also be proactive in avoiding vacation rental problems, and utilize a vacation rental agreement.

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<sup>1</sup> Cal. Civ. Code §1940

<sup>2</sup> Cal. Civ. Code §§ 1940-1954.1

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