

## STR Report - Aug17 Ken

**Q: Does Big Elk Meadows allow Short Term Rentals?**

**A: Big Elk does not allow members to have non-member guests that pay a fee to use their residence and/ or community facilities. As an HOA, all members are bound by our Declaration of Covenants.**

Having talked with our attorney last year and a 2nd attorney last week, there was consistency in their opinion and advice. If the title includes the word "rental", then it's a rental...and unless you specifically exclude it by title, it's allowed. Colorado precedent case and county regs don't support that viewpoint but I'll accept. I come away realizing that chasing this title is fools error. It's unnecessary. It's the wrong target.

County Land Use Regulations....the regs....place use titles such as Bed & Breakfast, Short Term Rentals and Vacation Rentals under the land use category Lodging.

Within our Declaration of Covenants, there is a statement of prohibition regarding property use. It does not allow a certain use. There is no trendy title for that certain use and instead, wisely, there is descriptive and appropriate language to identify the subject and intent that provides a clear interpretation and that withstands the test of time.

Our Declaration defines "guest" to mean

any person who is not a member of BEMA and who is invited by a member to use their residence and/ or community facilities at Big Elk Meadows without payment of a fee to the member for such use.

We can certainly have guests and they can certainly spend the night but we cannot have guests that pay to spend the night. T

he intent is clear. No lodging. No trendy titles. Just that we cannot use our properties for lodging guests.

Here's an example scenario that our Declaration does not allow: "Hey, we're going to be away and our place is available. You can load up your family and use the house and the amenities. \$100/ night." This is lodging. Not allowed.

Lodging is a temporary accommodation. A short stay. And the appropriate and most used term to describe those that stay is "guest". It's hospitality language. Same as for B&B or motel. They're guests.

What do the county regulations say about lodging?

Boulder County: overnight accommodations for transient guests

Larimer County: dwelling rented to transient guests for short term

Our Declaration and the county regs speak the same language. Our Declaration is clear. We cannot have non-member paying guests. No lodging.

With this prohibition already existing in our current Declaration, the Board has the authority to expound and further explain it in our other governing docs by adding a definition for "lodging" and also a statement that activity in the category of lodging is not allowed. It's just further clarification and reminder for what we are provided in our existing Declaration.