



#### Village Inn Plaza Phase 5

Limitation on TOV's Terms of Condominium Residential Occupancy decided by Colorado Supreme Court.

# VAIL HOMEOWNERS ASSOCIATION

April 23, 2022

## Court Ruling Notice:

### TOV Condominium Occupancy Limitations

The Colorado Supreme Court, on April 12, denied the Town of Vail's request for it to review the Colorado Court of Appeals decision that confirmed the invalidity of the occupancy restriction the Town of Vail sought to enforce against Phase 5 of the Village Inn Plaza Condominium Association.

A TOV regulation required certain condominium associations to make their units available for short-term rental. Over the 30 years that the regulation existed, it had never been enforced until the Village Inn Plaza Phase 5 association came into controversy with the Town of Vail over occupancy issues that involved livability conflicts between residential and commercial uses within the Phase 5 building.

The [Colorado Supreme Court](#) affirmed the [Colorado Appellate Court](#) decision to uphold a [Eagle County District Court](#) opinion that the short-term residential occupancy restriction the TOV sought to enforce against the Phase 5 Condominium Association was invalid and unenforceable on the basis that it is discriminatory under the Colorado Common Interest Ownership Act (CCIOA). CCIOA is a set of laws that govern the formation, management, powers and operation of common interest condominium home owners' associations in Colorado.

The Phase 5 case began in 2014. The Town has been represented by the office of the Vail Town Attorney and an associate of a private firm of which the Town Attorney is affiliated.

The Vail Homeowners Association, subsequent to the Appellate Court decision, made a Colorado Open Records Act (CORA) requested of the TOV for an accounting of the fees expended upon this litigation. At the time, the request was denied on the basis of “on-going litigation.” The case is now decided, while the assessment and payment of fees remain at issue.

These court decisions are important to the interest of condominium associations throughout the Vail community as the Vail Town Council is considering the potential of adopting short-term rental regulations. The implication of the court decision is that occupancy regulations must not discriminate against condominium ownership.

The Vail Homeowners Association believes the Town of Vail should exhibit the highest standards of transparency and ethical behavior in the conduct of its affairs.

\*\*\*\*\*

VHA provides clear and concise discussions of matters affecting the Vail community in the belief that an informed citizenry will be an engaged citizenry. We intend to promote more citizen involvement and community discussions of issues facing the Town. If these are issues that concern you, please make your views known to [town officials](#). Public discussion of current issues by concerned citizens creates an environment to further our community initiatives. We heartily encourage your input in shaping the road ahead.

\*\*\*\*\*

Join VHA as a Paid-Subscriber or Member. Contact:

**[vailhomeownersassoc@gmail.com](mailto:vailhomeownersassoc@gmail.com)**  
Post Office Box 238 Vail, Colorado 81658  
Telephone: (970) 331-2099 Email: [vha@vail.net](mailto:vha@vail.net) Website: [www.vailhomeowners.com](http://www.vailhomeowners.com)  
Copyright: 2022