



Giacoma Roberts & Daughdrill LLC

Brian E. Daughdrill
(404) 924-2854
bdaughdrill@grdlegal.com

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VIA

To:
Member, Tranquility at Carter's Lake Owners Association

RE: Short-term vacation rentals policy

Dear Sir or Madam:

Thank you for your inquiry into the leasing policy for Tranquility at Carter's Lake Owners Association (the "Association"). It is the position and policy of the Association that long-term rentals (defined as leases including and in excess of one-year are permitted; however, use of properties within the Association as short-term vacation rentals, including Airbnb, VRBO, or HomeAway, are not allowed under the Declaration of Covenants, Conditions & Easements (the "Declarations") and the Zoning Ordinances of Gilmer County.

Article VI of the Declaration mandates that "Homesites may be used for single-family residences only." However, the Declaration generally contemplate long-term rentals, which the Association treats as leases of twelve (12) months or longer. *See* Article II which provides that "Any Owner may delegate to the members of his family or **his tenants who reside on a Homesite**. . .". Likewise, Article VI of the Declaration provides that all Occupants are bound by the Declaration the same as Owners.

In contrast, the Declaration provide that "None of the covenants, restrictions or easements created or imposed by Declarant shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body." Article VIII. As such, the Declaration default to allowable uses under the local zoning regulations.

The Gilmer County Code of Ordinances (the "Ordinances") zones the properties within the Association as being R-1 residential, low-density district single-family detached residences. Sec. 62-171. Of the conditional uses for R-1 properties (a county zoning permit), subject to approval by the board of commissioners as required by Gilmer County Land Use Procedures and Standards Ordinance, a "bed and breakfast home" is defined as "any private, **owner-occupied residence** offering short-term overnight lodging accommodations and breakfast to not more than four guest rooms for compensation." Sec. 62-51, 62-172 (emphasis added). Because a short-term vacation rental would likely neither be owner-occupied nor providing breakfast to guests, it does not fall within the definition of a bed and breakfast home as defined by the Ordinances and would therefore be in violation of the Ordinances and subsequently, the Declaration.



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The Ordinances also specifically prohibit certain uses of R-1 properties, including but not limited to bed and breakfast inns, boarding homes, dormitories, rooming houses, hotels, or motels. Sec. 62-172. There is no process for obtaining conditional use of any of these prohibited uses. Further, the Ordinances mandate that the Gilmer County Planning Commission is “granted discretion if a use that is not specifically listed as a permitted use or conditional use is similar to any other use already allowed by the ordinance.” Sec. 62-221.

Any questions regarding the short-term vacation rental policy can be directed to the Association and its board.

Sincerely,
**GIACOMA ROBERTS
& DAUGHDRILL, LLC**

/s/ Brian E. Daughdrill

Brian E. Daughdrill, Esq.

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