

Huachuca Military Base. However, the court noted that transient occupancy of a hotel is excluded from the provisions of the Arizona Residential Landlord and Tenant Act (A.R.S. §§ 33-1301 through 33-1381), and the property owners had presented no evidence to support their claim that the hotels were complying with the provisions of that act. No data was given to show that neither the hotel operators nor their patrons were subject to statutory termination notice requirements, and each could freely rent or terminate the stay with minimal notice. The court also reasoned that there would be a definitive building, structure, or specified rooms set aside for residential use, and noted no evidence was presented to indicate that this had been done.

The Tax Court issued an "Under Advisement Ruling" finding that the tax properties did not fall within Class Four pursuant to A.R.S. §42-12004, and thus were not entitled to "mixed use" classification pursuant to A.R.S. § 42-15010.

CONCLUSION:

Based on this research, the Department finds that the owner's use takes precedence over the tenant's use. Properties that are available for either short term or extended stay occupancy are considered to be used commercially and should be classified as Legal Class One. If there is sufficient evidence offered by the owner to document that all or part of the property is used solely for residential rental use, the Assessor may consider changing that portion of the property to Legal Class Four.

The following criteria must be met before a property can be considered to be "used solely for residential rental purposes":

- The property must be made available to the public subject to the laws governing the rental of dwelling units and the rights and obligations of the Arizona Residential Landlord and Tenant Act (A.R.S. §§ 33-1301 to 33-1381).

Note: This act specifically excludes "transient occupancy in a hotel, motel, or recreational lodging." It also excludes "occupancy by an employee of a landlord as a manager or custodian whose right to occupancy is conditional upon employment in and about the premises."

- The property must be available for residential rental use only, on a year round basis.
- The rental units must be specified as being available for use or actually used for residential rental purposes.
- The property owner has registered the property with the County Assessor as residential rental property as required under A.R.S. §§ 33-1901 and 33-1902.

EFFECTIVE DATE: June 1, 2004

This guideline will be incorporated in the next update of the Assessment Procedures Manual, at which time this guideline will be rescinded.