

Agenda Item #16

Short-Term Vacation Rentals – Action Item

Ad Hoc Committee on Short Term Vacation Rentals Final Report Prepared by Helen Boyden, Chair, Based on Committee Records

The Committee met seven times during the period January to June 2014. As of the fourth meeting, March 26, 2014, the committee membership was changed to be a stakeholders committee. The minutes of the March 26, April 23, May 28 and June 25, 2014 are posted on the LJCPA website. The May and June minutes have supplemental material attached.

At the end of this summary of Committee hearings are the committee recommendations with respect to what the problems were and what solutions the committee agreed upon. Following that is the agenda for the June 25 meeting detailing the solutions that were proposed during the course of the hearings. One or more committee members prepared suggested motions for committee review.

The Committee received over 100 letters and many oral presentations from the following classes of individuals and groups:

- Local residents disturbed by activities and noise from Short Term Vacation Rentals (STVRs), including the 30-day Club
- Property owners renting their properties on a short term basis for all or part of the year without using a professional management company
- Property owners renting their properties on a short term basis for all or part of the year who use the services of a professional management company
- Local short term vacation rental professional management companies
- Pacific Beach residents wishing to work with La Jolla

The Committee received oral and written communications from various City officials:

- Mr. Fred Zuckermann made a presentation on the City of San Diego's Community Assisted Party Program (CAPP) and told of other ways that residents could deal with the problem, e.g., citizen arrests and Small Claims Court suits. He offered his services gratis to help.
- The City Attorney in 2007 issued an opinion saying there were no prohibitions or restrictions on STVRs in the San Diego Municipal Code other than those for all properties. He cited recent Coastal Commission decisions saying 30-day limits could not be imposed but allowing various permitting restrictions. He stated that the San Diego Municipal Code (SDMC) could be amended, but that restrictions in the Coastal Impact Zone would have to be approved by the California Coastal Commission and that it has rarely approved an actual prohibition on short-term rentals in residential areas. He listed some regulations that have been adopted in some jurisdictions and listed some minimum information to be included in any proposal to ban short-term rentals.
- In June 2014, the current City Attorney wrote that neither the SDMC nor case law had changed since 2007 with respect to these issues, validating the 2007 opinion.
- Earlier this year, Development Services Department (DSD) Senior Planner Chris Larson sent information stating that City did not impose specific restrictions on STRV properties.

Formal presentations were made by the 30-day Club and representatives of local professional STVR management companies: The 30-day Club presented testimony about the noise from these rented premises, too many parked cars, too many turnovers disrupting the neighborhood. Although several requests were made, no complete inventory of the problem properties was presented through the last meeting of the committee on June 25th, 2014. The 30-day Club wanted a permanent solution not dependent on permits or fees, namely a 30-day minimum rental. Representatives of the San Diego Vacation Rental Managers Alliance described workable permitting processes in other cities, cited the use of fees to support enforcement, and proposed accountability standards for owners and renters. The Alliance cited the financial benefit in Transient Occupancy Tax (TOT) to the City and stated that these private home renters were in a different category from those who stayed in hotels.

Others described the ineffectiveness of the CAPP program. Owners who do not go through agency were concerned that regulations not be onerous. Others stated they relied on rentals as personal income.

Committee members were made aware of restrictions and regulations in effect in the following localities.

- The City Attorney (2007) provided examples of restrictions pending before the California Coastal Commission, allowed in, or not allowed in Encinitas, Imperial Beach, Solana Beach, Humboldt County, San Luis Obispo County., Coronado,
- Mr. Costello provided information on various restrictions on STVRs in effect in: Maui County, HI; Cannon Beach, OR; San Luis Obispo County, CA; Mendocino County, CA; Santa Fe, NM; Palm Springs, CA; on court decided zoning issues in Sandy, UT; Cannon Beach and Carmel-by the Sea, CA and additional approaches in: Napa County, Dana Point; Coronado, Imperial Beach, San Francisco; County of San Luis Obispo; Santa Barbara; Healdsburg, CA; also referencing prohibitions in North Miami Beach, FL; and New York City.

In reviewing the two documents below, you will note that there was no unanimity on any of the motions to do with solutions.

The Committee approved motions to strengthen the CAPP program and to establish a permit process, (including specifications). Motions specifying time-frames (30 or 7 day minimums) and frequency (12 per year) failed. No motions were made with respect to zoning changes, grandfathering in properties or changing definitions of “boarders” and “visitors” in the San Diego Municipal Code that were listed as possibilities on the June Agenda.

The Committee submits the following recommendations made on April 23 and June 25 for review by the LJCPA trustees.

Ad Hoc Committee on Short Term Vacation Rental Actions Taken (as documented in the Minutes)

April 23, 2014

The following motion was passed:

A motion was made to adopt the summary of problems to include:

1. Inadequate enforcement of current regulations
2. Threshold for enforcement is too high to be effective (Costello amendment)
3. Burden of enforcement is imposed on neighbors, not the City or the Industry (Costello amendment)
4. Party House Events
5. Site Specific Events such as noise and parking
6. Frequent turnover of renters
7. Conversion of Single Family Neighborhoods to "tourist zones"
8. Inadequate supervision by "on site management." (Costello amendment)

The motion (Fitzgerald/Weiermann) was approved 5-0.

May 28, 2014 _ No Motions made

June 25, 2014

The following motion was passed:

The Committee recommends that the City make best efforts within available resources to substantially improve real-time police response times to citizen complaints regarding offending properties and to focus more rigorous Code Enforcement efforts on the offending property owners.

(Fitzgerald, Weierman 4-1-0). [For: Boyden, Fitzgerald, Steck, Weierman; Against: Costello]

The following motion was passed:

- To strengthen the Community-Assisted Party Program (CAPP) , the Ad Hoc Committee recommends: Substantially increase the fines (amount TBD) for CAPP violations. Dedicate the revenue from fines collected to CAPP enforcement and public outreach
- Once a house has been designated as CAPP-, require the property owner to place a substantial, non-interest-bearing security deposit (amount TBD) in escrow with the City that would be forfeited if there is a subsequent CAPP violation. This security deposit would be returned to the property owner after a period (e.g. 1-2 years) with no CAPP violation.
- To expedite the CAPP process for problem properties, allow verifiable neighbor/resident documentation (e.g. video evidence and audio recordings/decibel measurements) to be sufficient to initiate/warrant a CAPP violation.
- The City develop/implement a proactive community education/outreach program regarding CAPP, utilizing all available resources, including conventional/social media, the City website, police community relations officers, and community organizations/groups, etc.
- Additionally, 2 violations within 90 days would put a property into a CAPP classification.

(Fitzgerald, Steck 4-1-0) [For: Boyden, Fitzgerald, Steck, Weierman; Against: Costello]

The following motion was passed:

To more effectively deal with the identified problems associated with short-term rentals in single-family residential zones and to protect the residential character of these area, the Ad Hoc Committee recommends that the City of San Diego: adopt the following changes to the Municipal Code and City policies/regulations:

Establish a comprehensive permit process for short-term rentals, (similar to that outlined to the Committee by the San Diego Vacation Rental Managers Alliance) including establishing a formal a code-of-conduct for renters, property owners and managers and requiring permit numbers to be displayed on all listings for the property in question.

(Fitzgerald/Steck: 4-1-0) For: Boyden, Fitzgerald, Steck, Weierman; against: Costello]

The following motion was passed:

To supplement the description of the permit process (see previous motion) as follows:

- To establish city and community identification of all rental properties in each area/neighborhood, whether the property is being managed by owner or by a professional manager;
- Formalize a code-of-conduct for owners, property managers, and tenants
- Facilitate collection of all applicable TOT taxes by the City;
- Allow for the use of fines/permit revocation to discourage/punish violations and to reinforce the code-of-conduct. All or part of the revenue from the permits/fines could be dedicated to fund the creation/administration of the permit process, funding Neighborhood Code Enforcement, and funding related community outreach programs;
- Provide for a 24/7 contact person for each rental property to address problems in real time.

(Weierman/Fitzgerald 4-1-0) [For: Boyden, Fitzgerald, Steck, Weierman; Against: Costello]

Additionally, two motions to limit the length and frequency of STVRs failed.

Failed Motion: That vacation rentals be limited to 30 days or more and that there be no more than 12 rentals in any 12 month period.

(Costello, Fitzgerald) (1-4-0) [For: Costello; against: Boyden, Fitzgerald Steck, Weierman]

Failed motion: To require a 7 day minimum stay for short-term rentals and that no more than 12 rentals occur in a 12 month period.

(Fitzgerald/Steck 2-2-1) [For: Fitzgerald, Steck; Against: Costello, Weierman; Abstain: Boyden]

June 25 Agenda Included for Reference Only

**Ad Hoc Stakeholders Committee on Short-Term Vacation Rentals
La Jolla Community Planning Association
Draft Agenda Wednesday, June 25, 2014--5:00 PM to 6:30 PM
La Jolla Recreation Center, 615 Prospect Street**

1. Call to Order
2. Adopt Agenda
3. Review of May 28, 2014 minutes
4. Public Comment (2 minute limit on items not on the agenda, within purview of the Committee) No discussion, debate or action on these items.
5. Chair Report
 - a. All Public Comment on Short Term Vacation Rentals has been closed—Meeting is reserved for Committee Deliberations
 - b. Need for closure on this issues
6. Report – Information Only – No discussion, debate or action on this item.
 - a. Update or report on Request for additional information from the 30-day Club –letter sent 5-19-2014 – in writing
 - b. Other, in writing
7. **Solutions to improve the CAPP program -- Action Item - Consideration of whether to recommend specific solutions to the CAPP program – Public Comment closed**
 - a. Financial considerations
 - Request larger budget for CAPP enforcement and Code Compliance
 - Increase fines for violations-devote to CAPP
 - Enforce Collection of the Transient Occupancy Tax
 - Require a deposit after the property is CAPPED
 - b. Operational considerations
 - Give noise related reports higher priority in identified problem neighborhoods
 - Improve Code Compliance response
 - Remove police officer discretion in response to incidents, applying specific criteria to all categories of properties
 - Allow neighbor documentation by video and decibel meters to remove police from the equation
 - Reduce the standards for a property to be CAPPED
 - Emulate procedures at Darlington House and the Thursday Club
 - c. Public Information
 - Educate residents about the CAPP program via newspaper articles, letters, using neighborhood watch and social media, police community relations officers
 - Improve sandiego.gov website for easier access to information
 - d. Institute a pilot program for improvement of CAPP

8. Modifications to the San Diego Municipal Code-- Action Item – Public Comment closed -Consideration of whether to recommend changes to the SDMC to address problems associated with short-term vacation rentals in single family residential zones, focusing on consideration of those presented to date, namely:
 - a. Establish a permit process for short term rentals, including fees dedicated to covering the cost of the permitting process and enforcement thereof.
 - Establish a system of graduated fines/permit revocation to deal with violations
 - Establish a program for education and standards for owners and renters
 - Limit the number of occupants and cars allowed
 - Limit the number per year, regulate interval between rentals per property
 - Procedures for trash collection
 - Contact persons required 24/7
 - Establish standards for rental agreements
 - b. Zoning issues
 - Establish a new zone category which permits short-term rentals—otherwise not allowed
 - Restrict the number of short-term rentals by number allowed in a given area, or require a certain distance between short-term rental properties
 - Restrict ratio of short-term rentals to those with continuing occupants
 - Coastal vs non Coastal properties
 - Regulations should apply equally to all properties
 - Define these properties as a business
 - c. Grandfather-in properties put into short term vacation rentals prior to a given date
 - d. Establish minimum rental terms: 3 days, 5 days, 7 days, and 30 days have been suggested
 - e. Modify the definitions of boarders and lodgers to align with that for visitor accommodations [ref SDMC 141.0301 and 131.0422 and 113.0103]
9. Future hearings on this issue
10. Adjournment 6:30 PM