

## **Public Comments – Item 2 – Short-Term Rental Workshop**

-----Original Message-----

From: Susan Hill <susanhatchardhill@gmail.com>

Sent: Friday, January 29, 2021 3:53 PM

To: STR <STR@danapoint.org>

Subject: We live in Dana Point and want to be informed of City actions relative to STR

My husband and I have lived in Dana Point for almost 10 years. We enjoy the small town feeling of Dana Point and do not like the encroachment of Corporate developers who are changing the 'feel' of our small town.

We believe that short term rentals should only occur in areas of the city zoned for commercial activities and should not occur within areas zoned as residential. If STR's are allowed in areas zoned as residential, what is the purpose of having areas zoned as residential? STR's are a form of business and should only be allowed in commercially zoned portions of the City.

Please include us in any future discussions of STR's.

Thank you

Lee and Susan Hill  
32392 Via Antibes  
Dana Point, CA  
92629

Email: [sahatchard@msn.com](mailto:sahatchard@msn.com)  
[Lelandrayhill@gmail.com](mailto:Lelandrayhill@gmail.com)

Thank you,  
Lee and Susan Hill

On Sat, Jan 30, 2021 at 2:46 PM Terry Walsh <[terenceewalsh@gmail.com](mailto:terenceewalsh@gmail.com)> wrote:

Brenda: I would like to provide input on the current study on STRs at the planning commission. Could/would you send this to the proper person? Or just let me know and I will be happy to send it directly. Thanks in advance.

Terry

### **City of Dana Point Short Term Rentals**

Dana Point is not all in the coastal zone and all of it is not controlled by the Coastal Commission. There is no reason to make all of Dana Point bow to the direction of the Coastal Commission. We could easily have two areas in town.

1. Residential neighborhoods outside the Coastal Zone, STRs will not be permitted.

2. Within the Coastal Zone they may be permitted.

Under no circumstances should any STR program be implemented or tested just because it is a revenue source for the city.

The last attempts to resolve this issue failed due to lack of enforcement by the city. The rules were vague and not enforced. The person responsible did not return calls.

Creating new rules with the understanding that "THIS TIME WE WILL ENFORCE THEM" is tough to believe.

Suggestions:

The owners of the property, the real estate agents and the city government are the ones getting money from this program. The residents living near the STR are the ones that take the abuse. The responsibility is on this group to assure everything is communicated properly and that there are people available when problems arise.

It should be the responsibility of the owners to assure:

The rules are included in all rental agreements.

The rules are posted prominently in the living unit.

The rules including the contact telephone numbers-both owner or agent and the city hot line are provided to all residents living near the rental unit.

The telephone must be answered by a person 24/7 during the term of the rental.

Progressive discipline should be used. (not just three complaints)

Example:

First complaint or Step 1- Letter to owner and agent with complaint.

Second complaint within one year- Second step- Letter and hearing with committee.

Third complaint-Second step- Hearing and fine and possible loss of approval from city. .

Establish a committee of homeowners/citizens. The responsibilities can be spelled out and approved by the City Council. Rulings of fines and or loss of permits can be appealed.

Tax STRs more than the normal bed tax.

Could provide rebates if there are no complaints.

-----Original Message-----

From: Betha Everett <danacondo@aol.com>

Sent: Saturday, February 6, 2021 3:27 PM

To: STR <STR@danapoint.org>  
Subject: STR

I am hoping that the Coastal Commission and the city of Dana Point will support "Niguel Beach Terrace" to return again to participating in STR since we are in the Headlands Coastal Zone.

NBT has great coastal access for all guests that come to enjoy the beach. It is such a great location for STR.

So handy to get to beach . . . right down steps to Salt Creek Beach/Strand Beach.

In 2016 there were 100 owners doing STRs in that complex before it was stopped by the city of Dana Point. There are a total of 368 condos in the entire complex, plus a year round heated pool, two spas, and one clubhouse .

Doing STR was a very positive experience for everyone during those 16 years. The owners that did participate in STR invested lots of \$\$\$ in making improvements and upgrades in their property.

The entire complex took on a more updated look with owners taking more pride in their ownership.

My husband and I attended a meeting several years ago in Huntington Beach with a member of the Coastal Commission speaking concerning STRs rights.

It was announced at that meeting by one speaker from the Coastal Commission "STR cannot be stopped in the Coastal Zone". I have never forgotten that one special comment.

My desire is to bring back STR. As for me, it was a very positive experience. I met so many wonderful guests and they all fell in love with the city of Dana Point, Strand Beach & Salt Creek Beach.

My hope is we can bring STRs back as I am looking forward to enjoying this fun again in our "Headlands Coastal Zone".

Thank you.  
Sincerely,  
Betha Everett

-----Original Message-----

From: Betha Everett <danacondo@aol.com>  
Sent: Wednesday, February 10, 2021 7:40 PM

To: STR <str@danapoint.org>  
Subject: STR meetings

I am very interested in support for the future of STRs success for the city of Dana Point.

There are so many families with children out of state that have a desire to come to Dana Point for a week or two, for a vacation to enjoy the beach.

They deserve that right also as the ocean and beach belongs to everyone to enjoy, not just residents of Dana Point.

There are some vacation properties in Dana Point that are available for 30 days, they is mostly booked by retired senior citizens.

It is very difficult for families with school age children to come here to vacation for 30 days, as it is too long to be away from sports and other school activities.

STRs will allow families the opportunity to come and vacation for less than 30 days, which is much more desirable for young families.

This gives a very important choice for families with children to visit the beach/ocean in Dana Point.

Thank you.  
Sincerely.

Sent from my iPhone  
Betha Everett  
949.310.3703  
[Danacondo@aol.com](mailto:Danacondo@aol.com)

**From:** Fred Ross <fredblue66@gmail.com>  
**Sent:** Tuesday, February 16, 2021 12:08 PM  
**To:** STR <str@danapoint.org>  
**Subject:** Public comments on STR

Please accept this letter to the Planning commission. Please read aloud at the meeting if I am not approved to attend.

--

Fred Ross

NBT



2/16/2021

**City Of Dana Point Planning Commission**

**STR sub-committee**

**Subj: Request for Public comments on STR**

To Whom it May Concern

**\*\*Please read this letter at the meeting\*\***

Let me start by asking everyone a simple question. **"How many of you have taken a 30 day vacation?"**

1.8 million people **visit Dana Point** each **year**, spending \$600.5 million and generating \$35.3 million in local and state taxes. No surprise then that 39.3%, or 1 in 3 **Dana Point** jobs are supported by **tourism**

Keep in mind, Dana Point is a tiny city with only 34,000+ full time residents, many of whom commute to other cities for sources of employment.

**In short - Dana Point is all about tourism.**

Think about the key events of the City.

The massive harbor upgrade project will bring more people to Dana Point.

The Annual Ohana music festival, Blues festival, Festival of Whales, 4<sup>th</sup> of July celebrations and Ocean Institute special events draw thousands to the city every year.

Did you know that The 10% hotel bed tax, known as Transient Occupancy Tax ("TOT"), remains the City's largest revenue source, projected at \$12.75 million for FY20, or 32.4% of revenue.

According to recent studies conducted and published by the city, only 22% of the population think STR's is even worthy of regulation or discussion.

**So why is this issue taking so much time to resolve?**

The fact is that only a handful of loud voices out of the 34,000+ residents are against regulated STR. These voices spread false information about STR's. If these voices had their way, there would be NO tourists in Dana Point and it would become a backwater enclave for a handful of senior and elderly who were lucky enough to buy property here 30 or more years ago. I guess they would prefer that property taxes be doubled and or sales tax increased to generate enough money to run the city.

**Ask yourself, is that what you really want?**

Here is the reality folks, in 2021 the most pressing issue for the City of Dana Point post Covid -19, is to rebuild tourism and to support all local business that caters to tourists.

Right now, the city has approximately 1900 hotel beds. These hotels depend on large events and conventions for 80% of their revenues. Not only are there not enough rooms to satisfy the demand, typical hotel rooms made it difficult for small families to enjoy our beaches and harbor

Our local Hotels and resorts do NOT cater to a small family's.

The issue of allowing STR's, is not about zoning. It is about NIMBYism (Not in my backyard). Some loud voices in our tourist community simply do not like tourists. They tolerate tourists as long as "those people" stay out of their neighborhood.

**Does it make you wonder why they want to live in a tourist town, if they do not like tourists?**

STR's cater to small families. Often Mom, Dad and 1or 2 kids. Many come to escape the bitter cold for a week or two. They are looking for a comfortable home for a week or two.

In my opinion, The real issue of STR's is do you want to encourage families to visit Dana Point or not?

**Please approve the pilot project to make Dana Point affordable for family visitors.**

Respectfully

Fred Ross

-----Original Message-----

From: Love Flower <loveflower91@yahoo.com>

Sent: Tuesday, February 16, 2021 1:27 PM

To: STR <str@danapoint.org>

Subject: Short term rentals please present at meeting

Dear Planning Commission,

Living near a short term rental for the past few years has been very challenging. Most nights the renters have loud parties after 10pm. A family member must go ask them to hold down the noise so children can sleep.

Some rentors ignore this and come to these STRs to party. Parking problems are often noted. Please do not support expanding these rentals as they adversely affect the quality of life of the neighbors.

Sincerely yours

Laurie Woll

**From:** Patricia Happy <[phappy@hcpsocal.org](mailto:phappy@hcpsocal.org)>

**Sent:** Wednesday, February 17, 2021 11:58 AM

**To:** STR <[str@danapoint.org](mailto:str@danapoint.org)>

**Subject:** STR comment for 2/22/21 meeting

I would like the following comment read aloud at the public meeting held by the Planning Commission on 2/22/21:

As a long-time homeowner in District 5, I oppose short term rentals unless the homeowner lives on the premises. STR's belong in commercial or mixed-use areas only-NOT residential neighborhoods. Investors buying up homes with the goal of profits from using it as an STR squeeze out individuals and families looking to buy or rent and live in our community and have their children attend our schools. Changing residential zoning to offer mini-hotels/STRs affects our quality of life and property values and this should not be allowed without a vote of the people. The City has created work arounds to go against the majority of residents who oppose the proliferation of STRs by issuing "conditional" permits and "pilot programs" since 2013. Please stop encroaching on our residential zoning.

Thank you,

Patricia J.M. Happy

34571 Camino el Molino

Capistrano Beach, CA 92624

**From:** William Ballinger <[w.ballinger@williamballinger.com](mailto:w.ballinger@williamballinger.com)>

**Sent:** Wednesday, February 17, 2021 6:07 PM

**To:** Johnathan Ciampa <[JCiampa@danapoint.org](mailto:JCiampa@danapoint.org)>

**Cc:** Johnathan Ciampa <[JCiampa@danapoint.org](mailto:JCiampa@danapoint.org)>; STR <[str@danapoint.org](mailto:str@danapoint.org)>; Brenda Wisneski <[BWisneski@DanaPoint.org](mailto:BWisneski@DanaPoint.org)>; Janelle Orsi <[janelle.orsi@gmail.com](mailto:janelle.orsi@gmail.com)>

**Subject:** Re: Planning Commission STR Public Workshop on February 22, 2021 at 6:00 p.m. in the City Council Chambers and Virtual Participation via Zoom

Dear Johnathan:

Thank you for the invitation to participate in this process. Creating and implementing short-term rental policies requires the balancing of competing interests. I have attached an informative "guidebook" from the Sustainable Economies Law Center (Berkley, CA) that deals with equitably regulating short-term rentals. I think it will be helpful to our process and I encourage everyone to review it.

I look forward to working with you.

Best regards,

Bill Ballinger

**William W. Ballinger**

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**Sustainable  
Economies  
Law Center**

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## **REGULATING SHORT-TERM RENTALS: A Guidebook for Equitable Policy**

March 2016



## CREDITS

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### About SELC:

**Sustainable Economies Law Center (SELC)** is a nonprofit that charts the legal territory of the new economy, educates people about the possibilities and limits of creative economic structures, and advocates for laws that clear the way for community resilience.

*\*(this publication does not necessarily represent their positions)*



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## EXECUTIVE SUMMARY

Sooner or later, nearly every city will need to address the rapid spread of short-term rentals. Though the activity itself is not new, in recent years, companies including Airbnb, VRBO, Flipkey, and Homeaway have facilitated and mainstreamed short-term rentals to a point where local governments are taking note, and taking action.

Sustainable Economies Law Center (SELC) offers the following recommendations to assist policymakers with the process of drafting a local short-term rental ordinance. SELC's goal is for local governments to craft short-term rental policies that generate inclusive opportunities for local wealth-creation, while balancing the needs of all members of the community. Ideally, the result will be an equitable policy that protects public interests, including housing affordability, health and safety, neighborhood quality, and municipal revenues, while retaining reasonable latitude for city residents to host and earn money from short-term guests.

A short-term rental (STR) refers to a room or housing unit that is rented to a person or group for a short period of time, typically under 30 nights. The legality of STRs is being questioned in cities across the country because most local planning codes define STRs as a commercial activity akin to bed and breakfasts or inns, and typically prohibit them in residential areas without proper permitting and licensing.

In addition to legal questions, STRs raise important questions about local priorities and the larger role STRs play in cities and neighborhoods. The staunchest proponents of STRs argue that hosting short-term guests enables residents to offset the cost of housing, make efficient use of otherwise unused space, and benefit directly from tourism dollars and cultural exchange. Others are less convinced of the benefits of STRs, arguing that the short-term rental of residential units negatively impacts local housing stock, neighborhood quality, public tax revenues, and conventional hotels.

In cities with high housing demand, the most contentious issue tends to be the impact of STRs on housing availability and affordability. Though STRs may help some hosts occasionally rent a portion of their primary residence, thus offsetting mortgages and rent with the added income, a significant number of hosts are using STR platforms to rent multiple homes or entire apartment complexes to transient occupants instead of housing local residents. In many cases, STRs create a monetary incentive to shift the use of housing from long-term residential use to transient use, and without appropriate regulation, STRs will continue to reduce the amount of housing available to long-term residents – thereby increasing the cost of owning or renting in any impacted area.

In light of the complexity of STR issues, SELC sees a need for municipalities to respond with nuanced and comprehensive public policy. We offer this set of issue analyses and policy recommendations to assist policymakers, advocates, and residents in shaping such regulations. We emphasize that there is no one-size-fits-all STR regulation. In fact, of the existing local STR regulations, no two are exactly alike – and for good reason. Each city must regu-



## EXECUTIVE SUMMARY, CONT.

late STRs according to its unique set of circumstances and priorities, and should arrive at an appropriate and equitable policy through open dialogue with the diversity of stakeholders involved. The following are key considerations cities should factor into an STR ordinance.

In crafting an equitable STR policy, we recommend that municipalities focus on how STRs:

- Impact the supply and affordability of housing;
- Provide economic benefit to those with economic need; and
- Affect neighborhood quality.

To address these issues, we recommend that municipalities take the following measures, where appropriate:

- Set clear definitions that distinguish STRs from commercial hotels;
- Limit STRs to primary residences, distinguishing them from vacation rentals;
- Require registration and recordkeeping;
- Institute a cap on rental nights per year;
- Establish protections and complaint procedures for guests and neighbors;
- Limit crowding, noise, and parking strains; and
- Collect transient occupancy tax.

## I. INTRODUCTION



Sooner or later, nearly every city will need to address the rapid spread of short-term rentals, such as those facilitated by online platforms including Airbnb, VRBO, Flipkey, and Homeaway. To help local policymakers and advocates draft comprehensive and equitable short-term rental ordinances, Sustainable Economies Law Center (SELC) has conducted a broad survey of local short-term rental policies that have emerged over the past four years, offering this set of issue analyses and recommendations. SELC's goal is for STR policies to generate inclusive opportunities for local wealth-creation, while still balancing the needs of all members of the community.

***SELC's goal is for STR policies to generate inclusive opportunities for local wealth-creation, while still balancing the needs of all members of the community.***

To create an equitable and appropriate short-term rental policy, each city must regulate short-term rentals according to its unique social and economic circumstances and priorities, and should craft solutions through open dialogue with the diversity of stakeholders involved. Ideally, the result will be a policy that protects public interests such as housing affordability, municipal revenues, health and safety, parking, and the quality and character of neighborhoods, while retaining reasonable latitude for city residents to host and earn money from short-term guests.

## II. BACKGROUND

### WHAT IS A SHORT-TERM RENTAL?

A short-term rental (STR) refers to a room or housing unit that is rented to a person or group for a short period of time, typically under 30 nights. STRs are distinct from long-term rentals in that the room or unit is rented on a nightly or weekly basis, whereas long-term rentals must exceed the minimum number of nights required by local laws. Due to the brief nature of STR stays, STR guests are typically transient occupants such as travelers who would otherwise stay in a hotel or similar accommodation. Long-term rentals, on the other hand, typically house individuals who work, attend school, or otherwise wish to “permanently” reside in the city.

### STRS ARE NOT NEW

STRs are garnering more attention by the day, as are the online platforms that facilitate connections and/or payments between STR guests and hosts. But hosting short-term guests is not a new phenomenon, nor was it invented by these platforms. Before these platforms became available, travelers who wanted a different type of vacation experience were already opting to stay with locals rather than in hotels, in order to more fully experience the culture, food, and lifestyle of the region. Locals who hosted backpackers, “couch surfers,” pilgrims, and touring cyclists often did and continue to do so in exchange for money or skill trades, to be an ambassador of their locale, or simply to interact with visitors from faraway places.

### STRS ON THE RISE

Within the past several years, both the *number* of properties available for short-term rental, and the *frequency* with which they are rented, have skyrocketed, transforming the activity from a casual and occasional practice to an increasingly formalized and pervasive activity in cities from San Francisco to Paris. Online platforms have played an essential role in the STR boom, enabling millions of people around the world to list and browse rentals, and to connect, coordinate, and transmit payments through one interface.

The most popular platform, Airbnb, self-reported that from 2013 to 2014, STR bookings in Nashville increased 365 percent, stays in New Orleans increased by 340 percent, and stays in Portland, Maine increased by 328 percent.<sup>1</sup> With such a sudden increase in STR activity and lack of corresponding regulatory action, it's no wonder cities are now feeling the effects of STRs on housing and rental markets, public tax revenues, and neighborhood quality.

San Francisco is one of many cities where STRs have caused heated controversy, particularly around tenant evictions and conversion of residential units to commercial use. A

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1. Airbnb Unveils Top 10 Trending U.S. Travel Destinations for Summer 2014, Airbnb (May 1, 2014), <https://www.airbnb.com/press/news/airbnb-unveils-top-10-trending-u-s-travel-destinations-for-summer-2014>.

## BACKGROUND CONT.

recent memo from the San Francisco Budget and Legislative Analyst states that between November 2013 and February 2015, the city had an estimated 5,249 to 6,113 Airbnb listings – all during a time when STRs were still illegal.<sup>2</sup> Not including STR units listed on other platforms or sites, Airbnb units alone were said to amount to 11 to 23.2 percent of the city's vacant units, entire homes listed on Airbnb were estimated to remove 14.8 percent of the total rental housing available for rent citywide, and private and shared rooms that might otherwise be occupied by roommates were estimated to take even more units off the rental market.<sup>3</sup> The same memo stated that STRs could lead to tenant evictions, because hosts have a financial incentive to leave the long-term rental market and enter the short-term rental market. In fact, the memo revealed that neighborhoods with the most intense STR activity also had high numbers of evictions.<sup>4</sup>

Numerous other studies and data scraping exposés have continued to illustrate the scope of STR use and impact in other cities including San Francisco, New Orleans, Nashville, New York, and Los Angeles.<sup>5</sup> New York state Attorney General Eric Schneiderman, known for his early investigation of the STR impacts, released a report showing that Airbnb rentals in New York City increased from 2,650 in 2010 to 16,500 in 2014, with nearly three-quarters of these listings in violation of city or state laws.<sup>6</sup> A Los Angeles study showed that 90 percent of Airbnb revenues are generated not by hosts who share a room in their homes, but by hosts who rent out *entire* units, and by leasing companies who rent out two or more entire units.<sup>7</sup> Short-term renting in Los Angeles has also removed 7,316 rental units from the market, which amounts to the equivalent of seven years' of affordable housing construction.<sup>8</sup>

Because STR platforms refuse to release detailed usage data, the full extent of STR impacts is still unclear. Despite that, the handful of public and independent investigations into STR impacts on housing, neighborhoods, and tax revenues – though painting only a partial picture – provide valuable insights into how STRs are changing cities on the ground. These investigations also provide clues about what cities can do to encourage fair use of STRs, minimize harms, and penalize those who violate regulations.

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2. San Francisco Budget and Legislative Analyst's Office, Analysis of the impact of short-term rentals on housing, 11 (May 13, 2015), available at <http://www.sfbos.org/Modules/ShowDocument.aspx?documentid=52601>.

3. Ibid.

4. Ibid at 30-31.

5. See, for example: Anti-Eviction Mapping Project. Last viewed November 24, 2015. <http://www.antievictionmappingproject.net/airbnbmap.html>. Inside Airbnb. Last viewed November 24, 2015. <http://inside-airbnb.com>. And, Airbnb and San Francisco: Descriptive Statistics and Academic Research. Alex Marqusee. April 12, 2015.

6. Office of New York State Attorney General Eric Schneiderman, Airbnb in the city, 6 (October 2014).

7. Roy Samaan, Airbnb, Rising Rent, And The Housing Crisis In Los Angeles, 3 (March 2015), available at <http://www.laane.org/airbnb-report>.

8. Ibid.



### III. POSITIVE & NEGATIVE IMPACTS OF SHORT-TERM RENTALS

STRs can have a positive impact on cities, in that they can:

- **Contribute to local wealth** by giving residents the opportunity to earn money from hosting tourists. Fewer tourism dollars go to large corporate hotel chains, and more dollars stay within the community;
- **Make efficient use of space** by allowing residents to host guests in a room or unit when it might otherwise be unused;
- **Prevent economic hardship and displacement** by allowing some residents to use STR revenue to make ends meet and stay in their homes;
- **Provide both tourists and hosts with valuable social and cultural exchange;** and
- **Spread tourist dollars beyond typical hotel and tourism districts** by attracting travelers to less frequented neighborhoods and businesses.

At the same time, STRs can have a negative impact on cities, in that they can:

- **Take long-term rental units off the market,** creating a scarcity of housing options, and pushing up prices;
- **Incentivize property owners to keep rooms and units vacant or even evict long-term tenants** in order to make higher profit per night from short-term renters;
- **Unfairly compete with established hotels, inns, and bed and breakfasts** when STRs are not subject to the same level of taxation or regulation;
- **Reduce transient occupancy tax, or “hotel tax” revenues for the city** when STR hosts evade the tax or avoid remitting the tax on the grounds that they are not operating a hotel;
- **Violate residential zoning codes** that are intended to limit noise, traffic, parking shortages, and activities incompatible with the character of a neighborhood;
- **Adversely impact community cohesion** because vacation rentals house a revolving circuit of transient occupants who are not connected to or invested in the community; and
- **Reinforce class, gender, and racial inequities,** because online platforms make it easy for users to act on biases when selecting hosts or guests, and because the opportunity to rent living space to short-term guests, like most other economic opportunities, disproportionately privileges the privileged.

## IV. CURRENT LAW



Many municipal codes prohibit residents from hosting short-term guests in exchange for payment unless residents comply with all regulations applicable to commercial hotels and bed and breakfasts.

These laws tend to require zoning approval, compliance with health, building, and safety laws, and payment of a transient occupancy tax (TOT), also known as a "hotel tax." Given that such laws are generally designed for commercial hotels, in the absence of a local ordinance that tailors such laws to STRs, these local laws effectively ban STRs.

Meanwhile, a growing number of cities and counties have crafted local ordinances that both legalize some form

of STRs and impose limitations and regulatory processes that protect public interests. These cities and counties include Austin, San Francisco, Portland, Nashville, Santa Monica, Madison, and many others. Interestingly, of the dozens of new and emerging STR ordinances around the U.S., no two regulations are exactly alike. Indeed, the differences among them may lend valuable insight into each city's political priorities, social and economic values, and in some cases, their most influential stakeholders. Each municipality should calibrate its STR ordinance to its particular social and economic circumstances, but there are several basic considerations that all cities and counties should take into account when drafting such a policy. These considerations are outlined below.

***Interestingly, of the dozens of new and emerging STR laws around the U.S., no two regulations are exactly alike. Indeed, the differences among them may lend valuable insight into each city's political priorities, social and economic values, and in some cases, their most influential stakeholders.***

## V. SELC'S RECOMMENDATIONS: THE BASIC COMPONENTS OF AN STR ORDINANCE



Local governments can benefit from adopting more nuanced regulations that simultaneously lift any outright ban on STRs, channel STR income-earning opportunities to those who need them, and restrict STRs in ways that reduce negative externalities. We believe that such short-term rental regulations must be comprehensive. Therefore, in this section, we highlight some of the key elements of a short-term rental policy, and include examples from local STR regulations throughout the county. Policymakers and advocates should adapt these recommendations to local contexts, and involve a diverse set of stakeholders in doing so. The result should be an STR regulation that fairly and accurately reflects local needs and priorities.

Though adoption of these or similar recommendations ultimately depends on local context, we encourage policymakers to still consider the principles that underlie these recommendations. That includes setting definitions that effectively frame the issues; creating restrictions that preserve housing affordability; devising registration, record-keeping, and reporting processes that encourage compliance and facilitate effective enforcement; and including measures to ensure the safety of guests, the preservation of neighborhood quality, and the protection of public revenues.

### A. ESTABLISH CLEAR DEFINITIONS

We recommend that municipalities establish clear definitions that distinguish a “Short-Term Rental” from a long-term rental, as well as describe the qualities that set STRs apart from their more commercial counterparts, including a “Hotel,” “Motel,” “Boarding House,” or a “Bed and Breakfast.” In addition to drawing distinctions between STRs and other activities or establishments, regulators must also address variations among STRs, including whether or not the unit is the host’s primary residence, and whether or not



## SELG RECOMMENDATIONS, CONT.

the STR is occupied by the host during a guest's stay. Though a municipality's definition of STRs can include more embellishment, our recommended basic definition of STRs and STR subcategories are as follows:

**Short-Term Rental (STR)** is the rental of a primary residence or portion thereof for a period of less than 30 nights, for which the guest compensates an owner or lessee of the unit.<sup>9</sup>

**Primary Residence:** A housing unit in which an owner or lessee resides for the majority of the year.<sup>10</sup>

**Hosted Primary Residence STRs:** An STR unit is a Hosted Primary Residence STR if the owner or lessee who is hosting a short-term guest occupies that dwelling unit as his or her primary residence for the majority of the year, and if the owner or lessee hosts one or more guests in a bedroom or some portion of the unit and is generally present for the duration of the rental period.<sup>11</sup>

**Un-Hosted Primary Residence STRs:** A unit is an Un-Hosted Primary Residence STR if the owner or lessee occupies the dwelling unit as his or her primary residence for the majority of the year, but leaves his or her unit for a period of time – for example, over a weekend, when traveling for work, or while on vacation – and rents out all or part of the unit in his or her absence.

**Vacation Rentals:** A Vacation Rental is an entire residential unit that is not a primary residence and is rented to guests on a short-term basis, typically under 30 nights.<sup>12</sup>

## B. REQUIRE REGISTRATION AND RECORDKEEPING

### Proof of Primary Residency:

We recommend that all STRs be limited to primary residences. As defined above, a primary residence is a housing unit in which a renter or owner resides for the majority of the year. By definition, a person may have only one primary residence, and it follows that a person may have only one STR address.

9. Though we define short-term as less than 30 nights, a common requirement for tenancy, the minimum number of nights for tenancy could be based on existing local tenancy laws if those are more appropriate.

10. We suggest defining majority as a minimum of nine months, with variations depending on local circumstances. If a municipality has an existing definition of primary residence, it could be referenced here.

11. We define “generally present” as having the host present for an average of 6 hours out of any 24-hour period.

12. The Sustainable Economies Law Center does not consider Vacation Rentals to be short-term rentals, but considers them a separate category of transient accommodations. See “Setting Caps on the Number of Rental Nights Per Year” in Section C for a description of how Austin, TX, and Nashville, TN regulate vacation rentals as a separate and distinct activity. See: Austin, Tx., City Land Development Code § 25-2-793 (2014), and Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, § 6.28.030.Q. (2015).



An STR registration process should require hosts to provide records demonstrating that the unit is their primary residence. We recommend that cities follow the example of San Francisco and require hosts to show that the unit is listed as the applicant's residence on at least two of the following documents in order to register: motor vehicle registration, driver's license, voter registration, or a utility bill.<sup>13</sup> Though the documents listed in San Francisco's administrative code should provide sufficient evidence of primary residency, cities could add to the list of acceptable documentation federal and state tax returns that reflect the address of the residential unit in question. If primary residency is in dispute, regulators could resort to using the various factors that the IRS uses to determine principal residency.

### **Registration:**

Enforcing the provisions of an STR ordinance, particularly caps on the number of units per host, rental nights per year, payment of transient occupancy taxes, and other recommendations outlined below, necessitates that hosts be accountable to some form of local oversight. By requiring STR hosts to register with the Planning Department or some similar office, cities will identify a unit being used for short-term rental, a point person for complaints, and a party who will be held liable for violations. We suggest that cities keep the registration process relatively simple to encourage participation. A primary objective of registration should be to collect basic information from hosts and to open a line of communication between hosts and the city. As discussed below, we do not recommend that approval of registration be contingent on inspection.

### **Cost of Registration:**

We suggest that cities keep both registration costs and subsequent renewal fees as low as possible by relying on registration fees only to cover the administrative cost of processing registrations, as in Anaheim, CA.<sup>14</sup> If registration costs are kept low, cities can factor the costs of fielding complaints and enforcing STR laws into the tax rate and fines for violations. That way, hosts who comply with the law or only engage in short-term rental occasionally will not bear the cost of oversight for those who do not comply.

### **Registration Renewal:**

Registration renewal could be required yearly (as in Anaheim<sup>15</sup> and Dana Point, CA<sup>16</sup>), every two years (as in St. Helena, CA<sup>17</sup> and for Type A STRs in Portland, OR<sup>18</sup>), or follow a model like Maui County, HI, where permits are valid for one year but are extended to two years if there are no recorded complaints.<sup>19</sup> We recommend that cities follow a responsive approach similar to Maui County's, where permits are valid for two years unless

13. San Francisco, Cal., Administrative Code ch. 41A, § 41A.5.(g)(3)(A) (2015).

14. Anaheim, Cal., Municipal Code ch. 4.05, § 4.05.090 (2014).

15. Anaheim, Cal., Municipal Code ch. 4.05, § 4.05.070 (2014).

16. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.055 (2013).

17. St. Helena, Cal., Municipal Code ch. 17.134, § 17.134.060(F) (2012).

18. Portland, Or., City Code & Charter ch. 33.207, § 33.207.040(C) (2015).

19. Maui County, Haw., County Code ch. 19.65, § 19.65.070(A) (2012).

## SELC RECOMMENDATIONS, CONT.

there are complaints of violation, in which case permits would have to be renewed more frequently. Unless regulators rely on yearly permit renewals to inform them of the number of active STRs, this process would be an effective way to reward law-abiding hosts and reduce paperwork for regulators.

In an effort to encourage compliance with its short-term rental laws, Portland, OR has included a provision in its permitting policy wherein an STR permit can be revoked for failure to comply with the city's set of STR rules.<sup>20</sup> We recommend that cities adopt a provision similar to Portland's, including withholding permit renewal for a certain amount of time after a host is found to be in violation of STR laws.

### **Reporting and Recordkeeping:**

To assist with the oversight and enforcement of ordinance requirements, a city may want to require hosts to keep records of guest names, guest contact information, dates of stay, indication of the host's presence or absence during the stay, and revenue earned. Cities already requiring this level of detail in recordkeeping include Madison, WI<sup>21</sup> and Portland, OR, the latter requiring hosts to also maintain guests' license plate numbers (if traveling by car) and a record of the room assigned to each guest.<sup>22</sup> Cities could require hosts to maintain the records for at least two years and make them available to the city upon request when the host is suspected of a violation, or in the event of a randomized inspection.<sup>23</sup> An alternative process could require hosts to regularly submit reports to the city regarding the number of hosted and un-hosted nights the STR was rented, as is required in San Francisco.<sup>24</sup>

However, the major online STR platforms already collect host, guest, and usage information, and if a city decides to require hosts to record and report that data, it could also require the STR intermediaries themselves to make some information – such as the number of STR units per host, and the number of nights rented per unit – available to the Planning Department or other oversight office as a condition for operating in their jurisdiction. Cities could require platforms to regularly submit a blanket report of all STR activity in their jurisdiction, or to submit the information of suspected violators only as requested by the city. Santa Monica, CA requires STR intermediaries to "Disclose to the City on a regular basis each home-sharing and vacation rental listing located in the City, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay."<sup>25</sup> We recommend that other cities wishing to improve recordkeeping and reporting follow suit.

Requiring STR platforms to report the information of their customers to local government could cause concerns about the information privacy of STR platform users. To

20. Portland, Or., City Code & Charter ch. 33.207, § 33.207.040(D) (2015).

21. Madison, Wis., Code of Ordinances ch. 28 § 28.151 "Tourist Rooming House" (h) (2014).

22. Portland, Or., City Code & Charter ch. 33.207, § 33.207.060 (2015).

23. Cities may want to require STR hosts to retain records for more than two years in some circumstances, such as if they city adopts a private right of action.

24. San Francisco, Cal., Administrative Code ch. 41A, § 41A.5(g)(3)(C) (2015).

25. Santa Monica, Cal., Municipal Code ch. 6.20, § 6.20.050(b) (2015)

## SELC RECOMMENDATIONS, CONT.

address privacy concerns, these intermediaries could require all users, prior to starting or continuing to use the service, to authorize the platform to share STR usage data with local governments, either regularly or in the event of a suspected violation. If a provision for STR intermediaries to report data were added to a local ordinance, it would also make sense for a host to list, on the municipality's STR registration application and in subsequent reporting and permit renewal, all the platforms that he or she uses to book an STR. Adding this question to STR registration would help authorities to cross check the self-reported information of suspected violators with data on multiple platforms – improving both the reliability of information and facility of enforcement.

Some will argue that requiring STR platforms to report host, guest, and usage data to the city would unduly burden only those platforms that collect such data, and cause STR hosts to migrate to platforms that do not collect this information. However, municipalities might consider reporting as a requirement for operating in their jurisdiction, particularly because without this information, local governments would be unable to effectively enforce STR laws. In fact, the San Francisco Planning Department itself admitted only months after the city's STR law went into effect that booking data from STR platforms was necessary for the effective enforcement of yearly caps and other provisions of the ordinance.

Without reporting from the STR platforms, tracking and regulating STR units to ensure hosts are licensed, registered, and in compliance will remain extremely difficult and require significant public resources – something most cities are unable or reluctant to dedicate to STRs.

### **Advertisement:**

To assist with enforcement, a city should require that hosts include the STR registration or permit number on all advertisements. Municipalities that require disclosure of this information on advertisements include Austin, TX,<sup>26</sup> Maui County, HI,<sup>27</sup> Dana Point, CA,<sup>28</sup> San Francisco, CA,<sup>29</sup> and St. Helena, CA.<sup>30</sup> We recommend that cities require all STR advertisements, including listings on STR platforms, to include a valid permit number.

In addition to requiring hosts to verify the legality of their listed STR with a valid permit number, cities could also place responsibility on the STR platforms to list only registered STR units, and to remove the listings of any violators. A 2015 ballot initiative in San Francisco proposed placing such responsibility on any STR platform operating in the city, requiring that all listed units be registered with the city, creating a daily penalty for STR platforms that list unregistered units, and mandating that platforms remove the listing of any unit that has surpassed the yearly rental cap.<sup>31</sup> Maui County places some degree of responsibility on STR platforms by requiring any intermediary advertising an STR-

26 Austin, Tx., City Land Development Code § 25-2-791(F) (2014).

27. Maui County, Haw., County Code ch. 19.65, § 19.65.040(A) (2012).

28. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.080(a)(8) (2013).

29. San Francisco, Cal., Administrative Code ch. 41A, § 41A.5(g)(1)(F) (2015).

30. St. Helena, Cal., Municipal Code ch. 17.134, § 17.134.040(N) (2012).

31. City of San Francisco Initiative to Restrict Short-Term Rentals, Proposition F (November 2015).



## SELCT RECOMMENDATIONS, CONT.

within the county to include or link to the municipality's STR policies.<sup>32</sup> We believe that, in addition to informing their users of the law, STR platforms should also be responsible for requiring proof that listed STRs comply with the law (e.g., by requiring a valid permit number), and removing listings that are in violation of local laws, such as a yearly cap.

### C. ESTABLISH PROTECTIONS FOR THE SUPPLY AND AFFORDABILITY OF HOUSING

STRs can escalate housing costs in at least two ways: 1) each room or unit regularly used for STRs removes from the market a room or unit that might otherwise have been offered to a long-term tenant, and 2) the ability to derive income from a housing unit raises its value, raises the tenant's ability to pay for expensive housing, and thereby raises prevailing housing prices.

Cities have the power to protect multiple public interests by, for example, setting caps on the number of allowed STR units per host and number of nights per year that an STR unit may be rented to short-term guests. We recommend that cities allow all residents to engage in a limited amount of STR activity within their primary residences, but to set parameters based on the interests the city is aiming to protect.

#### **Preventing Speculation - STRs for Cost-Sharing, Not Profit-Making:**

A San Francisco Planning Commission memo framed the STR issue succinctly: "The critical questions for policy makers seeking to protect housing are: when does STR make more efficient use of unused resources and when does it incentivize the conversion of residential space to tourist use?"<sup>33</sup> If the underlying purpose of STRs is helping residents offset the costs associated with owning or renting their home, an STR ordinance should include provisions that prevent people from buying or renting units with the primary goal of earning STR income.

In order to deter individuals or entities from buying or renting a unit with the intention to subsequently turn a profit from its short-term rental, a city could require that a resident have occupied the unit for a minimum number of months or years before hosting STR guests. San Francisco's STR regulations require residents to have occupied their unit for at least 60 days prior to hosting STR guests, which starts to address the issue, but is ultimately too short a time period to effectively deter such speculation.<sup>34</sup> Furthermore, in cities experiencing rapid gentrification, requiring a certain length of time of owner or tenant occupancy prior to being eligible to host STR guests could channel STR income-generating opportunities to longer-term residents who risk being crowded out by newer and often wealthier neighbors. Cities may find that directing the income-generating power

<sup>32</sup> Maui County, Haw., County Code ch. 19.65, § 19.65.040(B) (2012).

<sup>33</sup> San Francisco Planning Commission. Administrative Code Text Change Recommendations to Board of Supervisors, 10 (April 23, 2015). See: <http://commissions.sfplanning.org/cpcpackets/2014-001033PCA.pdf>.

<sup>34</sup> San Francisco, Cal., Administrative Code ch. 41A, § 41A.4. "Permanent Resident" (2015).

## SELB RECOMMENDATIONS, CONT.

of STRs to longer-term residents could provide those residents with the economic boost necessary to combat threats of displacement.

In many circumstances, property owners may find STRs to be a more lucrative option than long-term rentals. In order to reduce any incentive to evict tenants, STR regulations must pay special attention to rent-controlled units and units that have recently been

***If the underlying purpose of STRs is helping residents offset the costs associated with owning or renting their home, an STR ordinance should include provisions that prevent people from buying or renting units with the primary goal of earning STR income.***

subject to an eviction. To preserve the integrity of rent-controlled units, cities can limit the amount that residents of rent-controlled housing may charge for short-term rental of their dwelling. San Francisco's STR ordinance, though it allows renters to host short-term guests, limits the amount that a tenant in a rent-controlled unit may charge short-term guests to the equivalent of what the tenant pays to the landlord each month.<sup>35</sup> In order to reduce a property owner's incentive to evict tenants in order to engage in short-term rental, cities with high housing

demand could prohibit units that have recently been subject to an eviction from being registered as an STR.<sup>36</sup> A number of high-level San Francisco policymakers recommended instituting such a limitation, suggesting that units that have been subject to an Ellis Act Eviction within the last five years be barred from registering as an STR. Other California cities with high housing demand could find that adopting a similar restriction on STR registration for recent Ellis Act Eviction units could be a powerful way to prevent the tenant abuses and displacement caused by unfettered STR activity.

### **Preventing Conversion of Housing Stock & Preserving Residential Use:**

Cities should adopt regulations that prevent the physical conversion of residential housing to transient use. For example, Portland prohibits remodeling or structurally altering units that would prevent the structure from being used as a residence in the future. Portland even prohibits changes that would make a unit appear "less residential," for example installation of more than three parking spaces, paving of required setbacks, and commercial-type exterior lighting.<sup>37</sup>

Maui County has attempted to protect housing for permanent residents by deterring

35. San Francisco, Cal., Administrative Code ch. 41A, § 41A.4., § 41A.5. (g)(1)(G) (2015).

36. San Francisco Planning Commission. Administrative Code Text Change Recommendations to Board of Supervisors pp. 2, 16. (April 23, 2015). See: <http://commissions.sfplanning.org/cpcpackets/2014-001033PCA.pdf>.

37. Portland, Or., City Code & Charter ch. 33.207, § 33.207.050(B)(9) (2014).

## SELIC RECOMMENDATIONS, CONT.

the construction of new homes that are primarily intended for rental to transient guests. The region does so by prohibiting short-term rental of single-family structures that were constructed less than 5 years prior to the date of application for an STR permit.<sup>38</sup>

### Setting Caps on the Number of Rental Nights Per Year:

In addition to limiting short-term rentals to primary residences, we recommend that all cities (with limited exceptions) set a baseline cap on Un-Hosted STR nights per year.

In cities where housing supply and affordability is a primary concern, this cap could be relatively low, for example, 30 nights per year, as is the case in Madison, WI.<sup>39</sup> In cities



where housing supply is not a major public concern, these caps could be considerably higher and adapted over time as the housing climate changes. Capping the number of Un-Hosted STR nights per year could encourage residents who leave town for months on end to rent their homes to longer-term tenants, including city residents who are transitioning between rental units, or to workers, students, or academics staying for a season or semester.

Unlike Madison, WI, which limits Un-Hosted STRs to 30 nights per year, but allows an unlimited number of Hosted STR nights per year,<sup>40</sup> and unlike Santa Monica, which prohibits Un-Hosted STRs but allows unlimited Hosted Primary Residence STR nights per year,<sup>41</sup> we believe that the ideal STR ordinance places a *total cap* on both Hosted STR nights per year and Un-Hosted STR nights per year.

We recommend a cap on both Hosted and Un-Hosted STRs for two reasons. The first reason

is that regulators currently face a great challenge in distinguishing between STRs with a host present and STRs that are un-hosted. Indeed, since San Francisco legalized unlimited Hosted STR nights per year, the city's Planning Department has reported that it is "virtually impossible" to discern law-abiding hosts from scofflaws, stating that in order to effectively enforce the law, the department would require a straight cap on the number of days any unit can be rented out per year (i.e. a cap on both Hosted and Un-Hosted STRs).<sup>42</sup> As long as STR platforms refuse to make STR records available to regulators, and as long as regulating agencies are limited in staff capacity to audit and confirm self-reported information, this challenge is likely to persist.

38. Maui County, Haw., County Code ch. 19.65, § 19.65.030(O) (2012).

39. Madison, Wis., Code of Ordinances ch. 28, § 28.151 "Tourist Rooming House"(e) (2014).

40. Madison, Wis., Code of Ordinances ch. 28, § 28.151 "Tourist Rooming House"(f) (2014).

41. Santa Monica, Cal., Municipal Code ch. 6.20, § 6.20.010(a) (2015).

42. Phil Matier and Andy Ross, 'No way of enforcing' Airbnb law, S.F. planning memo says (March 22, 2015), <http://www.sfchronicle.com/bayarea/matier-ross/article/No-way-of-enforcing-Airbnb-law-S-F-planning-6151592.php>.



## SELC RECOMMENDATIONS, CONT.

The second reason is that an STR host engaging in Hosted Primary Residence STR activities has one or more bedrooms unused and available for travelers (presuming, of course, that the host is offering an entire room, rather than a living room couch or portion of some other shared space). If a cap were placed on the number of permissible Hosted Primary Residence STR nights per year, and a host reached that cap, the host would be prohibited from renting to transient guests for the remainder of the year, and would have an economic incentive to rent the unused bedroom to long-term tenants.

The STR regulations in Austin, TX, and Nashville, TN, bring up an interesting question of how to limit STR activity. Austin includes Vacation Rentals as one of several types of STR units, and limits their density by capping the number of permissible rental units per census tract.<sup>43</sup> Similarly, Nashville places a 3% cap on the percentage of non-owner occupied single-family and two-family Vacation Rentals allowed to legally operate in each census tract of the county.<sup>44</sup> Though a density

cap may be an approach worth investigating for cities interested in better regulating Vacation Rentals, we do not advocate for caps on the total number of permitted Primary Residence STRs, as that would place a haphazard limit on who can benefit from limited rental of their primary residences to short-term guests. Instead, we recommend that cities wishing to legalize but limit STR activity restrict STRs to primary residences, and then cap the number of permitted STR rental nights per year.

***There may be situations where a city will want to refrain from capping STRs in any form, such as in a city wanting to encourage tourism and where housing is in relatively abundant supply. However, in the absence of adequate protections for housing affordability, STRs could escalate housing costs and ultimately drive out lower-income and even middle-income residents.***

43. Austin, Tx., City Land Development Code § 25-2-793 (2014). Austin classifies its STRs into three types, and the density cap applies only to Type 2 STRs. A Type 2 STR is similar to what is referred to in this brief as a Vacation Rental. Type 2 STRs must be single-family, detached residential structures; cannot be not owner-occupied or associated with an owner-occupied principal residential unit; and cannot include the rental of less than the entire dwelling unit. On February 23, 2016, Austin City Council voted to ban all Type 2 STRs, and the City plans to phase out any existing Type 2 STRs in residential areas by 2022. As of this writing, the final ordinance language has not been released.

44. Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, § 6.28.030(Q) (2015). The Nashville metro area provides an online map illustrating the density of registered non-owner-occupied STRs in each census tract. Property owners interested in applying for a non-owner-occupied STR permit can use this map as a tool to determine their eligibility.

## SELCT RECOMMENDATIONS, CONT.

There may be situations where a city will want to refrain from capping STRs in any form, such as in a city wanting to encourage tourism and where housing is in relatively abundant supply. However, in the absence of adequate protections for housing affordability, STRs could escalate housing costs and ultimately drive out lower-income and even middle-income residents.

Below, in Section VI, we explore some creative and as yet untested opportunities for cities to create selective exemptions to STR caps in order to use STRs as a lever for economic development that does not cause or exacerbate resident displacement.

### D. CREATE PROTECTIONS FOR THE WELLBEING OF GUESTS

#### Health and Safety Standards:

Cities should require STR hosts to adhere to basic standards for health and safety of their guests. For example, the city could deny an STR permit to an applicant whose residential unit has outstanding Planning, Building, Housing, Fire, Health, Police, or other applicable City code violations that would make their residence unsafe for short-term guests. In addition, cities could require hosts to apply basic safety precautions such as working smoke detectors in every bedroom, a carbon monoxide detector, and an evacuation plan that identifies all exits.

A city may also want to require that hosts provide guests with basic information, including proof of STR registration, a list of the minimum safety requirements, instructions for lodging a complaint, and the name and contact information for the host and/or another responsible party that could assist guests with any problems that arise during the stay.

#### Inspections:

Municipalities such as Austin, TX,<sup>45</sup> Tillamook County, OR,<sup>46</sup> and St. Helena<sup>47</sup> and Dana Point,<sup>48</sup> CA require inspection by the Fire Department, Planning Department, Bureau of Development Services, or a building official. Some of these cities provide a building and safety self-check list for hosts to prepare for the inspection.

We do not advocate for an inspection requirement, but might urge cities to create a self-inspection checklist that hosts can submit along with registration. Inspections would greatly raise the administrative costs for the city and hosts, creating undue barriers particularly for people who would only host guests during one to two weeks per year. A city may, however, wish to require inspections when guests file health & safety complaints.

45. Austin, Tx., City Land Development Code § 25-2-791 (2014). Note that the inspection requirement applies only to Vacation Rentals and multifamily unit STRs; it does not apply to Hosted Primary Residence STRs.

46. Tillamook County, Or., Ordinance 69, Section 9(a)(B) (2012).

47. St. Helena, Cal., Municipal Code ch. 17.134, § 17.134.040(F) (2012), and at § 17.134.080(B).

48. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.080(a)(3) (2013).



## SELC RECOMMENDATIONS, CONT.

Where STRs are arranged through select online portals, it is important to acknowledge that the safety and wellbeing of guests is already partially supported by the guests' access to information and reviews of the hosts. As bookings and profits are largely based on good reviews from past guests, hosts are incentivized to provide safe and clean accommodations in order to maintain a good reputation in the review and rating system.

### **Insurance:**

To ensure that guests have recourse in the event that they are injured during an STR stay, cities should require that hosts are covered by an appropriate insurance policy.

Some examples could include general liability insurance, a homeowners' insurance endorsement, coverage through their STR platform, or other insurance appropriate to cover injuries to STR guests or other losses or damages that could result from the operation of an STR. San Francisco requires that hosts carry liability insurance for claims up to \$500,000, or to conduct STR transactions through an STR platform that provides equal or greater coverage.<sup>49</sup> Nashville, TN requires STR permit applications to include proof of homeowner's fire, hazard, and liability insurance, with liability insurance covering no less than \$1,000,000 per occurrence.<sup>50</sup> Dana Point, CA requires proof of general liability insurance with a minimum of \$1,000,000 in coverage, along with an agreement to indemnify and hold the city harmless for any liability claims.<sup>51</sup> Further, the city of Dana Point requires STR permit holders to provide current proof of general liability insurance during each annual permit renewal.<sup>52</sup>

## **E. ESTABLISH OVERSIGHT, COMPLAINT, AND SANCTION PROCEDURES FOR THE WELLBEING OF NEIGHBORS**

### **Oversight:**

Enforcement of an STR ordinance can present challenges, particularly in enforcing a cap on nights rented. Without access to transactional data from online STR portals, cities must rely primarily on hosts' own self-reporting, complaints by neighbors, and its own investigations of suspected violations. As such, a city could require online STR intermediaries to release, regularly or upon the city's request, information about the number of nights per year that any listed unit in their city was rented to short-term guests and the income received by the host. The city could also mandate that intermediaries do all reporting electronically and in a standardized format to make it easier for cities to aggregate data from multiple platforms. Of course, there are already dozens of companies and websites facilitating STRs, and it would be too large a burden on cities to discover and work with all of them. That being said, even just requiring the biggest players to report data could have a big impact on the ability of local regulators to oversee STR activity.

49. San Francisco, Cal., Administrative Code ch. 41A, § 41A.5(g)(1)(D) (2015).

50. Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, § 6.28.030.D.2. (2015).

51. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.050(d) (2013).

52. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.055 (2013).

## SELC RECOMMENDATIONS, CONT.

### Avoiding and Addressing Conflict:

Cities should create channels for neighbors to file complaints about nuisance or STRs believed to be in violation of rental caps. To make neighbors aware of area STRs, an STR ordinance could require that residents applying for an STR permit or license notify adjacent neighbors, as is the case in Nashville, TN, where a permit applicant must provide proof of written notification to any property owner sharing a common wall or a common driveway with the applicant's unit.<sup>53</sup>

For cases where neighbors are disgruntled about STR activity, but a host is neither in violation of an ordinance nor creating an objective nuisance, we also recommend that cities help fund community mediation services, to give neighbors low-cost conflict resolution mechanisms.

### Complaints and Grievances:

A city should establish an accessible system for guests, neighbors, and other stakeholders to bring to the city's attention any host that is in violation of the ordinance or otherwise creating a nuisance or health and safety risk. Prior to resulting in sanctions, the grievance process should give hosts a reasonable opportunity to respond to the city to demonstrate compliance and/or explain measures the host will take to eliminate the concern. For example, Nashville, TN gives the department of codes administration the ability to revoke a host's STR permit if reports of code violation have been received, but not without providing fifteen days prior written notice of the alleged violations to the host and providing him or her the right to appeal the permit denial or revocation.<sup>54</sup>



In addition to creating such a grievance process, a city may also consider creating a private right of action that gives certain stakeholders standing to bring a complaint in court, provided that the stakeholder has already taken a complaint to the city, and the city failed to respond within a specified amount of time. San Francisco's STR ordinance contains a private right of action wherein, following a determination that the STR ordinance has been violated, an interested party (defined as the city, county, unit owner, certain housing nonprofits, homeowners association associated with the STR unit, permanent resident of the building where the alleged STR is located, or permanent resident or owner of a property within 100 feet of the property containing the alleged STR) can

53. Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, § 6.28.030.D.3. (2015).

54. Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, §§ 6.28.030.R.2., 6.28.030.R.3., 6.28.030.R.4. (2015).

## SELC RECOMMENDATIONS, CONT.

bring civil suit against the host for monetary and injunctive relief. In such a suit, the interested party is entitled to attorney's fees if it prevails in the suit.<sup>55</sup>

### **Sanctions:**

We recommend that cities create a graduated scale of sanctions for hosts who are in violation of STR regulations or who are the subject of multiple complaints.

Sanctions might include:

- Reducing the number of nights per year that a host may rent to STR guests;
- Prohibiting un-hosted nights, particularly where neighbors have complained that guests have created a nuisance;
- Inspection of the unit and a requirement that the host pay for costs of inspection;
- Suspension or revocation of the STR registration or permit;
- Fines that increase with the number of violations. For example, Dana Point, CA may penalize a host \$250 for a violation. If, within a single year, the host has multiple violations, the fines rise to \$500, then to \$1,000, and eventually result in revocation of the STR permit;<sup>56</sup> or
- Ineligibility to reapply for an STR permit for some extended period of time. For example, Nashville, TN imposes a one year waiting period on hosts found operating an STR without a permit,<sup>57</sup> and Maui County, HI makes a violator ineligible to apply for a permit for five years.<sup>58</sup>

STR platforms should also be subject to sanctions for violation an STR ordinance. For example, San Francisco's STR ordinance states that any hosting platform violating its responsibilities under the code shall be subject to the city's administrative penalties and enforcement provisions, including payment of civil penalties of up to \$1,000 per day for the period of noncompliance.<sup>59</sup>

## F. PRESERVE NEIGHBORHOOD QUALITY

Cities play an important role in shaping the livability of neighborhoods, and STRs have the potential to both positively and negatively affect neighborhoods. On the positive side, visitors bring income to a neighborhood, both through payments to STR hosts and by potentially patronizing neighborhood businesses. However, many residential areas are zoned with the goal of preserving a quiet "neighborhood feeling" and promoting social cohesion among neighbors. A constant stream of STR guests can undermine both neighborhood character and simple infrastructure, such as adequate supply of street parking.

55. San Francisco, Cal., Administrative Code ch. 41A §§ 41A.4.; 41A.5.(d) (2015).

56. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.090(b) (2013).

57. Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, § 6.28.030.R.6.b. (2015).

58. Maui County, Haw., County Code ch. 19.65, § 19.65.080(D) (2012).

59. San Francisco, Cal., Administrative Code ch. 41A § 41A.5.(g)(4)(C) (2015).



### Limiting Crowding and Noise:

Cities may want to limit the purposes for which residents may host guests. For example, Dana Point, CA,<sup>60</sup> Anaheim, CA,<sup>61</sup> and Maui County, HI<sup>62</sup> all limit or prohibit hosting of weddings, parties, and other similar gatherings. St. Helena, CA further specifies that a party may be no larger than twice the number of guests, with a maximum of 20 party guests.<sup>63</sup> Both Maui County and St. Helena also impose quiet hours at night.<sup>64</sup>

### Managing Parking:

In an effort to address parking concerns, Maui County, HI<sup>65</sup>, Dana Point, CA<sup>66</sup>, and Anaheim, CA<sup>67</sup> have all required hosts to provide off-street parking for STR guests. Because these requirements could bar residents of transit-oriented units, dense developments, or smaller lots from hosting short-term guests, we recommend against off-street parking requirements for STRs.

## G. PRESERVE PUBLIC TAX REVENUES AND LEVEL THE PLAYING FIELD BETWEEN STRS AND COMMERCIAL HOTELS

### Taxing STRs:

Cities attract visitors by investing in and cultivating welcoming public spaces, tourist attractions, and basic infrastructure. Cities' efforts to create welcoming environments for visitors provide substantial private benefit to hotels, B&Bs, and STR hosts. By charging a Transient Occupancy Tax (TOT) or "hotel tax," cities can recoup part of this benefit and invest travelers' dollars back into the city.

The hotel tax can be a substantial source of income for cities, generating approximately \$226 million in annual revenue for Washington D.C., \$274 million in San Francisco, and \$536 million in New York City in recent fiscal years.<sup>68</sup> Transient occupancy taxes from STR stays hosted through Airbnb are estimated to amount to roughly \$11 million per year in San Francisco,<sup>69</sup> and according to a 2014 estimate published by Airbnb, New York City STRs operating through its platform could generate \$21 million in annual TOT revenues

60. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.080(a)(7) (2013).

61. Anaheim, Cal., Municipal Code ch. 4.05, § 4.05.100.0107 (2014).

62. Maui County, Haw., County Code ch. 19.65, § 19.65.030(Q)(4) (2012).

63. St. Helena, Cal., Municipal Code ch. 17.134, § 17.134.040(J)(4) (2012).

64. See Maui County, Haw., County Code ch. 19.65, § 19.65.030(Q)(1) (2012), and St. Helena, Cal., Municipal Code ch. 17.134, § 17.134.040(J)(1) (2012).

65. Maui County, Haw., County Code ch. 19.65, § 19.65.030(Q)(3) (2012).

66. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.080(a)(5) (2013).

67. Anaheim, Cal., Municipal Code ch. 4.05, § 4.05.100.0105 (2014).

68. Alison Griswold, *Why Airbnb Desperately Wants to Pay Hotel Taxes. And why some cities won't let it* (February 13, 2015), [http://www.slate.com/articles/business/moneybox/2015/02/airbnb\\_hotel\\_taxes\\_why\\_does\\_the\\_sharing\\_economy\\_startup\\_want\\_to\\_pay\\_them.html](http://www.slate.com/articles/business/moneybox/2015/02/airbnb_hotel_taxes_why_does_the_sharing_economy_startup_want_to_pay_them.html).

69. *Ibid.*

## SELC RECOMMENDATIONS, CONT.

for the city.<sup>70</sup> If the projected TOT was calculated for all STR units, including those listed independently or facilitated by platforms other than Airbnb, the amount of annual TOT revenues for municipalities like San Francisco and New York City would likely be considerably higher.

Most cities with new STR ordinances require hosts to pay TOT. Due to the adverse effects STRs can have on housing affordability and displacement, we believe that cities should designate all or most of the TOT collected from STR activity toward affordable housing initiatives and other economic support services for low-income, unemployed, and underemployed residents. This could include investing TOT revenues into community land trusts, which are nonprofit housing providers that create permanently affordable homes for low-income residents.<sup>71</sup> In cities where effective enforcement of STR regulations requires additional funds not provided by sanctions and fees, a municipality might also consider directing a portion of the TOT from STR activity toward improving oversight and compliance.

### **Collecting Taxes Through Intermediaries:**

To ensure payment of taxes, cities should require that the third party facilitators of STRs collect and remit the TOT in the same way that these platforms could be required to report residents' STR activity to cities. STR platforms are in the best position to know who is hosting, which units are being rented, and how much revenue is earned. Additionally, because these platforms transfer payments from guests to hosts, they can withhold and remit the taxes with relative ease.

San Francisco's ordinance was the first to require STR platforms and services to collect the city's 14% TOT from guest fees and remit the revenue to the city. In addition, San Francisco requires STR platforms to maintain and make available to the city a record demonstrating that the TOT has been remitted, and the platforms will remain liable for the failure of a user to comply with the requirements of the Business and Tax Regulations Code.<sup>72</sup> Santa Monica, CA, Portland, OR, and Multnomah County, OR have also required STR intermediaries to collect and remit a TOT.<sup>73</sup>

70. David Hantman, \$21 million more for New York (April 14, 2014), <http://publicpolicy.airbnb.com/21-million-new-york/>.

71. Community Land Trusts sell or lease homes to low- and middle-income residents while permanently retaining ownership of the underlying land. Through this dual ownership system, CLTs insulate the value of housing from the fluctuating value of land and can preserve the affordability of housing even in areas with substantial increases in land value.

72. San Francisco, Cal., Administrative Code ch. 41A § 41.A.5.(g)(4)(B) (2015).

73. The City of Santa Monica charges a 14% TOT. (Santa Monica, Cal., Municipal Code ch. 6.20, § 6.20.020(a)(3) (2015), and at ch. 6.68, § 6.68.020 (2004).) The City of Portland charges a 6% TOT, and Multnomah County charges 5.5% TOT. See: <http://www.portlandoregon.gov/revenue/29976>.



## SAN FRANCISCO: A CASE STUDY

For cities wishing to address the housing affordability issues exacerbated by STRs, it is helpful to use San Francisco as a case study of what not to do. Even those elements of San Francisco's STR ordinance that were intended to address housing affordability and availability were included without the reporting and enforcement mechanisms necessary for their success. Added to that, the San Francisco ordinance only focused on preventing *units*, but not *rooms*, from being removed from the long-term rental market.

### **ATTEMPT TO PROTECT THE SUPPLY OF UNITS: ONE SUCCESS AND ONE FAILURE**

San Francisco has attempted to prevent the conversion of residential units into primarily transient use by setting a cap on the number of nights per year that a whole unit may be rented to short-term guests. The city's short-term rental ordinance, which went into effect on February 1, 2015, limits STRs to primary residences, allows an unlimited number of hosted short-term stays (when the host concurrently resides in the unit) and places a 90-night cap on the number of un-hosted nights per year that a unit may be rented to short-term guests.

Though the 90-night cap on un-hosted rentals was likely prompted by the need to prevent the removal of residential units from the market, in the end it is incredibly difficult for regulators to tell the difference between a short-term rental stay that was hosted versus one that was un-hosted, even with regular self-reporting requirements. Some San Francisco regulators say that their ability to reliably distinguish between hosted



## SAN FRANCISCO: A CASE STUDY, CONTINUED

and un-hosted short-term rentals, as well as the frequency of use, could be greatly improved with access to booking data from the short-term rental platforms. However, STR platforms have refused to release this data, and the great majority of San Francisco's STR hosts remain unregistered and outside the reach of the city's new rules. As such, and so long as the city lacks mechanisms for reliable reporting and effective enforcement, the provision allowing STR hosts to rent to short-term guests for up to 365 nights

per year *so long as they are present during the stay* essentially opens the doors for year-round un-hosted STRs.



In the end, the element of San Francisco's ordinance that would most effectively reduce the conversion of residential units is actually its restriction of STRs to *primary residences*. By restricting STRs to *primary residences*, the ordinance allows only individuals who actually live in a unit to host short-term guests in an extra room, or to rent out the entire unit to short-term guests for up to 90 nights per year when they are away from their homes. It does not, however, incentivize landlords to evict tenants or permit individuals who own multiple residential units to keep those units empty of tenants in order to rent to short-term guests.<sup>74</sup>

### SAN FRANCISCO'S FAILURE TO PROTECT THE SUPPLY OF ROOMS:

As stated above, allowing hosts to engage in unlimited Hosted Primary Residence short-term rentals can reduce the availability and affordability of housing units if unaccompanied by proper reporting and enforcement mechanisms.<sup>75</sup> But allowing year-round hosted STRs is also problematic for another reason: it creates an incentive for renters and owners to remove rooms from the long-term rental market. If a city does not place a limit on Hosted Primary Residence STRs, people who might otherwise seek a housemate might opt to earn more flexibility or more income per night by using rooms primarily for short-term rental. However bedrooms for rent within a unit are a key source of affordable housing for single individuals, couples, students, and others who cannot afford to rent entire units. Therefore, in cities that are experiencing severe housing pressures, we recommend setting a limit on the number of nights per year that rooms can be rented to short-term guests, whether hosted or un-hosted.

74. Such units would be considered Vacation Rentals, and we recommend that cities where low-income and middle-income households experience difficulty finding affordable housing units strictly limit or even ban Vacation Rentals. See definition of Vacation Rentals in Section V.A.

75. See definition of Hosted Primary Residence STRs in Section V.A.

## VI. GOING BEYOND IMPACT MITIGATION: RESTORATIVE APPROACHES TO REGULATING STRS



Although the recommendations above are aimed at mitigating potential harms of STRs, they do not solve the underlying economic imbalances that are damaging communities and motivating the pushback against STR platforms. We believe that it is the responsibility of cities to find ways to address wealth inequality, income inequality, affordable housing shortages, unemployment, under-employment, and poverty. Rather than focusing solely on mitigating the harms of STRs, cities could see STRs as a lever for economic change that can repair persisting economic problems already impacting communities. Indeed, the widespread use of STRs has encroached substantially upon domains under cities' control, namely land use laws and controls on housing supply. For this reason, cities can legitimately maintain their claim on such domains, and perhaps even go as far as prohibit private companies from brokering STRs.

Below, we offer three bold and creative approaches for municipalities interested in harnessing the economic benefits of STRs in addressing local economic issues. That we know of, no city has yet experimented with the following approaches.

### **Approach #1: Raising STR Caps on the Basis of Financial Need**

Gentrification is a powerful economic and cultural process of neighborhood change. The patterns of gentrification can be found in the US and in districts, towns, and cities around the world. Complex and multifaceted, gentrification can occur at differing rates and for different reasons. One main factor, of course, is wealth and income disparities. Cities concerned by the disruptive and exclusionary effects of gentrification could consider STRs as either an agent of gentrification, or a lever against it.



## GOING BEYOND IMPACT MITIGATION, CONT.

Allowing high-income residents to earn additional income from STRs might intensify the process of gentrification, but allowing low-income residents to earn income from STRs has the potential to protect residents who might otherwise be displaced. Though regulating STRs on a household-by-household basis could be challenging to manage, cities could help low-income long-term residents use STR income to keep pace with increasingly expensive surroundings, remain in place, and benefit from – rather than be displaced by – the economic development of the area.

As STRs have become increasingly popular, many anecdotes have emerged of families, senior citizens, and other individuals avoiding foreclosure or eviction as a result of income generated by hosting short-term guests. Ideally, the potential for residents to use STR income to stay in place would not be fully lost if STR activity was limited by regulation. STR regulation could, in fact, offer cities a lever to create income opportunities for populations that are most impacted by unemployment and underemployment. Cities could even use this lever to selectively raise caps on the number of STR nights per year for households that meet objective financial need criteria.

Granting exemptions to STR caps on a household-by-household basis challenges cities to develop clear objective criteria on which to review applications, and makes the granting of exemptions somewhat more akin to a form of public benefit, like unemployment benefits. An application process might require the applicant to show that he or she has recently become unemployed, recently lost unemployment payments or other public benefits, or recently had a substantial increase in monthly rent. A cap exemption could also be time-limited, recognizing that the exemption acts as a temporary bridge for an individual or household seeking to get back on its feet after a financial blow. Any strategy for raising caps on a household-by-household basis should be carefully reviewed for compliance with constitutional due process provisions.

Selectively raising caps on a household-by-household basis would create substantial administrative costs for a city, but these costs should be seen in the context of the city's economic stabilization and development strategies. Furthermore, the administrative costs of such a program could be offset by TOT if the costs were passed to STR hosts through added STR taxes.

### **Approach #2: Keeping Wealth Local with a Municipally-Owned STR Platform**

In order to recapture wealth that is leaving cities through payments to absentee STR platforms such as Airbnb, cities can prohibit the use of these STR companies, and require that residents use a municipally owned platform with functionality similar to that of Airbnb and other leading STR intermediaries. While this solution may prove difficult to implement at the level of a single city, it would become more financially viable if multiple large cities formed a partnership to jointly invest in the development and ongoing maintenance of the software. The financial return to cities would be nearly guaranteed, given that fees users

## GOING BEYOND IMPACT MITIGATION, CONT.

are accustomed and willing to pay to existing STR platforms would instead go directly to the City, providing funds for administration, affordable housing, or investment in other city programs. A substantial benefit of a municipal STR platform would be its facilitation of oversight and enforcement, because compliance with the law, including TOT remittances, reporting, and permit renewal, could be carried out directly through the platform.

### **Approach #3: Building Community Wealth Through a Sharing Economy Trust**

Another bold strategy for using STRs to build community wealth is for a City to create a permanent trust for the collection, investment, and distribution of fees from STR bookings, much in the same way that the Alaska Permanent Fund pays all Alaska residents annual dividends from mineral, gas, and oil revenues.<sup>76</sup> Such a trust would ensure that all city residents benefit from the economic wealth brought by tourism and travel, and the trust could also align residents around the goal of ensuring an adequate supply of housing for all. Peter Barnes's book, *With Liberty and Dividends for All*, describes a variety of strategies for creating trusts that pay universal dividends derived from fees collected on the use of other assets, such as the atmosphere and intellectual property. In this vision, as the recipients of dividends from multiple sources, citizens would ultimately accumulate what amounts to a universal basic income.

We offer this idea because of its potential political viability in comparison to approaches that focus primarily on setting caps and investing tax revenue in affordable housing development. During a 1999 referendum, 83% of Alaskan voters voted to keep the Alaska Permanent Fund in place, demonstrating the potential for universal dividend systems to inspire support from citizens across the political spectrum.

To illustrate how this might work with STRs: Imagine that the City of San Francisco chartered a corporation called the "San Francisco Sharing Economy Trust." The stated purpose of the Trust is to support the long-term creation and preservation of an adequate housing supply for a socio-economically diverse city. Once chartered, the Trust would be somewhat insulated from the dynamics of electoral politics, enabling trustees to make decisions that serve the Trust's purposes, while remaining accountable to San Francisco residents, who are the beneficiaries of the Trust. The Trust could be empowered to determine the City's caps on STR rentals, and, separate from the 14% TOT already collected by the City, the Trust would be empowered to collect an additional percentage of all revenue from STRs. Ideally, the City would mandate that all STR bookings of housing within its borders be made through a municipally-owned or Trust-owned booking platform, rather than a for-profit platform like Airbnb. As such, the 10% to 20% booking fee normally collected by companies like Airbnb could go to the Trust. The Trust could then raise and lower the fee based on the Trust's assessment of housing unit supply in the city. When housing is in short supply, the Trust might raise the booking fee as high

76. For more information about the Alaska Permanent Fund, see <http://pfd.alaska.gov/>.

## GOING BEYOND IMPACT MITIGATION, CONT.

as 30% to 40%, thereby giving STR hosts an incentive to put rooms back on the market for long-term rental. Because higher fees could ultimately bring higher dividends to city residents, residents will directly benefit from the Trust's efforts to preserve the housing supply.

There are at least three options for the management of the Trust's funds:

1. The Trust could retain all STR booking income and invest it (in the form of loans) in housing developments and purchases designed to preserve long-term affordability, such as projects stewarded by community land trusts. When the loans begin to pay a return, that income will be divided equally among all city residents and direct-deposited into their bank accounts.
2. The Trust could distribute STR booking income as dividends to residents, without the intermediate step of investing it in affordable housing development.
3. The Trust could strike a balance between the two options above, investing some STR booking income and making direct distributions of the rest.

Like its Alaskan counterpart, the San Francisco Sharing Economy Trust could create an online system to administer the funds. City residents could also use the online system to register and prove their residency in order to receive the dividend deposit. The Trust could set similar eligibility requirements to Alaska's Fund,<sup>77</sup> such as requiring that someone have lived in the city for at least one year prior to receiving a dividend.

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<sup>77</sup>. See Alaska's residency verification information here: <http://pfd.alaska.gov/Eligibility/EstablishingResidency>.

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-----Original Message-----

From: Maryellen Marsh <marshmellon8@gmail.com>

Sent: Friday, February 19, 2021 8:51 AM

To: STR <str@danapoint.org>

Subject: STRs

I would like my comment read at the meeting.

I'm a 30 year resident of Capistrano Beach and I love this town. We raised our children here and have always enjoyed the small neighborhood feel. Allowing STRs would comprise our neighborhoods, changing them to party zones for anyone who is willing to pay the price.

We know our neighbors in Capistrano Beach and it has always been a safe place for our families to live. Let's not destroy everything we've worked for by allowing STRs here. Thank you,

Maryellen Marsh

Sent from my iPhone

Maryellen

**From:** Ellis Kupferman <ekupferman1@gmail.com>

**Sent:** Friday, February 19, 2021 10:51 AM

**To:** STR <str@danapoint.org>

**Subject:** Letter for Planning Commission

Council Not Listening to Residents on STRs

Ellis Kupferman, Dana Point

This letter to the editor is in response to the short-term rental "advertorial" authored by Jeff Rosaler, Community Development Manager of the City of Dana Point in the 2/12-2/18 edition of the Dana Point Times.

Mr. Rosaler once again fully demonstrates the city council of Dana Point is not listening to residents regarding STRs. Mr. Rosaler over simplifies the history of STRs in Dana Point, as if residents aren't familiar with the attempted STR coups of the past, and present. His recount only underscores that majority residents do not want unrestricted STRs and will fight to keep them out of residential neighborhoods. Yet the city council continues to sell unrestricted STRs throughout Dana Point. And now they are spending taxpayer dollars on "advertorials" to push their agenda under the guise of city staff, who are supposed to remain neutral.

In his LTE a few weeks ago, Dana Point resident, Steve Didier noted the city council could protect residential neighborhoods right now by at least banning STRs outside the Coastal Zone, where 90+ percent of the existing 141 short-term rentals are located. Yet in his, or council's, taxpayer funded advertorial, Mr. Rosaler tries to justify why the California Coastal Commission should dictate STR policy outside the Coastal Zone. He then telegraphs exactly what is to come.

Mr. Rosaler suggests any future program will discourage absentee "corporate" ownership. Mr. Rosaler, and the city council, are playing with semantics here. They are not listening to residents who have stated

loud and clear since 2016 that they do not want any form of absentee ownership...corporate, individual, partnership, or otherwise. Read between the lines people. Mr. Rosaler later states the city will “consider possibly allowing permits” for all forms of STRs in a “pilot program.” The city has decades of experience with unrestricted STRs. The proposed “pilot program” is just another ruse to expand STRs before another referendum or ballot initiative prohibits them again.

Mr. Rosaler has made it abundantly clear that the city council wants all manner of STRs in residential neighborhoods, even outside the Coastal Zone. Thank you for telegraphing what we can expect. But hey, maybe I'm wrong and the city council will at least limit their STR “pilot program” to the home stay model. But their history, and Mr. Rosaler’s propaganda, strongly suggest otherwise.

-----Original Message-----

From: Michael McKnight <joaniemcknight@mac.com>

Sent: Friday, February 19, 2021 3:18 PM

To: STR <str@danapoint.org>

Cc: Joanie McKnight <Joaniemcknight@mac.com>

Subject: Planning Commission letter regarding STR's

Please allow the planning commission to review this letter prior to the Feb 22/21 meeting at 6:00?

Please respond that you received this and forwarded it?

Thank You

Joanie McKnight  
34134 Selva Road #245  
Dana Point, Ca. 92629  
949 493 6746

I am responding to the “Advertorial” in the Dana Point Times about the article “Striving to Develop a STR Program for Residents and Visitors” by Jeff Rosaler , Community Development manager City of Dana Point.

Three types of STR’s are proposed in the article under the new plan. Primary homeowner residence, non primary rental residence and rental of a portion of the home. That pretty much means everywhere and any type of residence! Nothing in the article discusses zoning changes or defines STR’s as a business.

The last time a that interested parties were “invited” to be part of the Pilot Program, it doesn’t say who was invited or how that process occurred. Were the local hotels who are hurting badly right now invited? Were any long term renters? Young families and Singles are priced out of the rentals already? STR’s in peak time can make landlords decide the money is too good to continue long term rentals. Is there any attempt to preserve/create affordable housing? What will be the status of the new housing in what looks like mixed use property being built in Dana Point now? Laguna Beach bans all STR’s except in comercial , coastal zones, none in residential zones. This is after after various attempts to please everyone. Most other beach cities with an abundance of hotels have also restricted STR.s

I live in Niguel Beach Terrace above Strands Beach and have a unique and personal view as to what can go wrong with “regulated” and unregulated STR/VR programs. NBT became the “beta test site” for what could go wrong!! The “vacation “parties all night, up or downstairs. Bachelor parties, multi family gatherings, etc...You couldn’t get in the pool or Jacuzzi, because it was so crowded with understandably rowdy kids/teens and vacationers. There was no lifeguard & parents often not watching their kids. Then our HOA board filled up with STR owners who proceeded to upgrade siding, windows, doors, etc...in sections with THEIR units using OUR association fees, under the guise of “maintenance” versus capital improvements to bypass a 2/3 vote. They wanted to hire lifeguards at our expense & if we hadn’t stopped them via litigation & election battle, we probably would have ended up paying for on site management 24hours to handle complaints & night time check in like a time share or hotel!! We’re 1/2 hour away from Disneyland & Seaworld, & there’s an elevator(fennicula?) to the beach we share with the Ritz & Strands!!!

Enforcement of regulations as a joke!! It only works if your neighbors become the people ratting you out!! Makes for a lovely neighborhood? Talk about polarized communities with “I have a right to make money with my property vs I have a right to a peaceful neighborhood where I actually know who is next door or upstairs/downstairs. People wouldn’t speak to each other and there was open hostility.

We voted out a board that tried to change the CC&R’s with a vote against them and another against changing the CC&R’s. We now allow it for 30 consecutive days or more only and this seemed to solve the problem for our community. Owners may try to bypass these rules and it is still up to neighbors to turn them in, which nobody wants to do so it settled down considerably. Asking an enforcement officer to go around checking and hoping for true answers does not work. People lie and that forces neighbors to take videos etc.. and the hostility begins again. 30+ days has made many owners decide to just long term rent. Affordability is still a problem as many are priced out with rents between \$2-3,000!

Instead of a pilot program, learn from the past and other beach communities. Primary residence only or 30+ days only minimizes the problems while allowing hotels to survive and rents to become more affordable. Declare mixed use zoning for STR residences, especially in the unfinished projects underway. Either way, allow the town to vote on this very important issue on whatever plan is proposed.

Thank you  
Joanie McKnight  
Niguel Beach Terrace  
34134 Selva Road #245  
Dana Point, Ca. 92629  
949-493-6746

**From:** lori stephens <dp-lori@sbcglobal.net>  
**Sent:** Saturday, February 20, 2021 9:59 AM  
**To:** STR <str@danapoint.org>  
**Subject:** please block the str's in Dana Point

Hello, we are 25 year residents in the Dana Knolls region. We are lending our voices to the NO on short term rentals in residential regions of Dana Point. We are concerned about increased noise, traffic/parking, in our quiet community. Thank you, Lori and Gary Stephens

**From:** denise iger <ddiger@hotmail.com>  
**Sent:** Saturday, February 20, 2021 2:46 PM  
**To:** STR <str@danapoint.org>  
**Subject:** Planning Commission Workshop - comments regarding STRs

Thank you for the opportunity to provide my comments regarding short-term rentals (STRs) in Dana Point. I have owned a home and lived in Dana Point for approximately 10 years. I am also a lawyer and have represented homeowners association exclusively for the past 25 years.

At a time when other cities are looking at ways to eliminate short-term rentals, I am baffled by Dana Point's continued insistence on opening the door to outside property investors and the myriad of problems that come with short term rentals.

Over the last several years in my law practice, the single most requested amendment to my HOA clients' governing documents has been a ban on STRs. This is not happening by accident. The notion that "most out of town STRs landlords do a good job" is simply untrue. Frequently we find that some of the out-of-town landlords are in fact out of the country. They use online booking and do little more than arrange for the cleaning crew between visits. Neighbors are left to call the HOA, call the police, lock their children indoors, close their windows to block out the noise and smoke, pick up the trash left behind, and hope the next renters will be more respectful. In extreme situations neighbors find people passed out in the street, naked in the jacuzzi, or mistakenly trying to enter the wrong home in the middle of the night.

The solution being proposed seems to be citations and fines. HOAs have that power too, and guess what? It does not work. STR landlords do not do this to make the world a better place. They do it for money. A fine is just a business expense. It can be made up with an increase in the rental rate. Maybe the landlord will not rent to that specific group again; or maybe they will. VRBO and Airbnb are not doing any screening, so who knows.

I hear that people say that they cannot afford to live here without renting their place out as an STR. I simply do not believe this to be true. Long-term roommates or ADUs are the solution to the affordability crisis. What these people are talking about is the ability to live here and also travel the world while their home is being rented. This is not the same thing. We do in fact have a housing shortage and an affordability crisis. STRs contribute to that problem.



Maybe we can stop inviting problems into our residential communities and instead support the existing hotels and resorts that responsibly bring guests, and their wallets to this wonderful town.

Denise Iger

**From:** taryn tennant <ttennant76@gmail.com>

**Sent:** Sunday, February 21, 2021 7:25 AM

**To:** STR <str@danapoint.org>

**Subject:** STRs in Dana Point

I am a resident of 9 years in Dana Point and I am tired of seeing our council sell out our neighborhoods. We all want to live in safe, friendly areas with neighbors we can know and work with to make our area better. Allowing any continued encroachment of STRs into our neighborhoods is to effectively rewrite the zoning laws. An STR that is never lived in by a resident is a hotel and should not be allowed in our neighborhoods. Additionally, they get a pass on the regulations that our hotels are required to meet.

Please stop selling out to STR owners and follow our zoning laws.

Concerned Resident

Taryn Tennant

**From:** Lisa Silva <silvacpas@msn.com>

**Sent:** Sunday, February 21, 2021 10:04 AM

**To:** STR <str@danapoint.org>

**Subject:** Fw: Dana Point Short Term Rentals Public Input Needed – South OC Beaches

To Planning Commission

I am in total support for allowing guests STRs for comfort.

They deserve the choice of enjoying STR rentals in beautiful Dana Point . Why Not?

They do not come here to party; they come for all the coastal activities available for them and to dine in our fabulous restaurants and shop at our local merchants.

I have also observed a few past home owners that were not STR but long term rentals that have been inconsiderate, so to say that only STR guests behavior is negative, has not been my observation.

Personally, how could I be rude to anyone when this is such a special experience for them ? I hope we all will share their enthusiasm and make them feel welcome.

I have been a homeowner here for the past 20 years, and I appreciate the city asking for residents to share their comments for developing this new pilot program for STR.

By allowing more STR, I feel more money will be put into our community keep up the beautification, and also keep our home prices competitive.

Let's show our support.

I know they will enjoy Dana Point with such beautiful coastal beaches and so many other activities to enjoy.

I am for STR so we can offer affordable accommodations to enjoy our beach /ocean vacations for everyone 🏖️

Sincerely,  
Jeri

-----Original Message-----

From: Pat Kun <patfkun@gmail.com>  
Sent: Sunday, February 21, 2021 11:47 AM  
To: STR <str@danapoint.org>  
Subject: STR

I am opposed to short term rentals in Dana Point.  
Thank you,  
Pat Kun  
29 Via Monarca  
Dana Point, CA 92629

Sent from my iPhone

-----Original Message-----

From: Eirlys Kunny <eirlysk@icloud.com>  
Sent: Sunday, February 21, 2021 11:48 AM  
To: STR <str@danapoint.org>  
Subject: NO, NO, NO!

It's bad enough living close to Craft House! Autos starting up late, and especially one young man that works there. He drives a noisy Camaro and wakes me up when leaving late at night. Have reported it to the Craft House and the City but to no avail. Not fair when one pays so much in property taxes!

Sent from my iPad

-----Original Message-----

From: Brenda Anderson <brendaanderson@cox.net>  
Sent: Sunday, February 21, 2021 12:42 PM  
To: STR <str@danapoint.org>  
Subject: Please do not vote for STR's in Dana Point

As a resident and homeowner in Dana Point for nearly 45 years, I respectfully request that the city council vote against allowing STR's in Dana Point. There are so many reasons why this is not good for our

city. A three page document has been presented to the council that states many of those reasons. STR's are businesses and we did not buy our home in a residential neighborhood to be next to a commercial business. It is outrageous that this is even being considered with the data against STR's. Many homeowners in Dana Point are protected because they own property in neighborhoods with HOA's. But, many neighborhoods in Dana Point do not have HOA's. It doesn't seem fair or legal that what is allowed for one neighborhood isn't allowed for another.

Please vote against STR's  
Brenda Anderson

**From:** Betty Hill <bettyhill@savedanapoint.com>

**Sent:** Sunday, February 21, 2021 1:20 PM

**To:** STR <str@danapoint.org>

**Subject:** STR Comment Letter

This Planning Commission must be honest with the residents of Dana Point regarding an STR program. The vast majority of residents will not be operating an STR. Yet, residents will bear all burdens and take all the risks while the STR operators will receive all the benefits. How is that fair ?

- Residents will be giving up the zoning protection that prohibits STRs from operating in their neighborhoods.
- Residents will be risking their family's safety and quality of living.
- Residents risk the property value of their homes, which is their most important investment.
- Long Term renters could lose their homes because STRs have been shown to adversely impact housing.

Any outcome in this process is inherently unfair. But, that explains a lot: It explains why so much money was donated by STR operators and real estate PACS to help elect City Councilmen. And that may be why current Councilmen voted against allowing a public vote knowing it wouldn't pass.

But the ultimate unfairness is that most residents are probably unaware of this STR proposal. Adopting an STR program will affect every resident and change the character of Dana Point's family-oriented neighborhoods. Residents, not STR operators, should have the final say.

RESIDENTS DESERVE A VOTE.

Betty Hill, Resident Capistrano Beach

-----Original Message-----

From: RICHARDJOHNSON <randsindm@mchsi.com>

Sent: Sunday, February 21, 2021 1:34 PM



To: STR <str@danapoint.org>  
Subject: Please approve Short Term Rentals

We own a coastal property in Dana Point and would appreciate the opportunity to do short term rentals in the future. Thank you!!!!!!  
Rick and Shirley Johnson

**From:** Toni Nelson <tonidn1@gmail.com>  
**Sent:** Sunday, February 21, 2021 2:59 PM  
**To:** STR <str@danapoint.org>  
**Subject:** letter re notice of STR worships

This letter was read at last week's City Council meeting, but is relevant to the STR pilot program. Please add this to your public comments section on the STR link on the website and forward it to Planning Commissioners.

Thank you,

Toni Nelson

February 16, 2021

To: City Council

From: Toni Nelson, Capistrano Beach

As you know, a Planning Commission subcommittee is currently engaged in public outreach for the proposed expansion of the City's short term vacation rental program. I was among several residents who were fortunate enough to be invited to participate in one of only four stakeholder meetings. While these were quite productive, key stakeholder groups such as long term renters, who represent 38% of Dana Point residents, were not included. The impact of short term rentals on long term rental housing stock is well documented. It's vital that those occupying rental housing understand that landlords may have an incentive to convert housing into more lucrative short term rentals. Nor was any outreach directed to our many existing and proposed new hotel owners and operators, who have a huge stake in the market for visitor accommodations.

Many of our 34,000 residents have no idea that an expanded STR program is coming and their residential zoning may soon change. Because every household is affected by the possibility of having a short term rental next door, it's vital that the City do a better job of outreach. All public agencies typically notify all affected neighbors of potential zoning changes or new developments. Every household that may be affected by short term rentals should be similarly noticed. This should include those who live in HOA communities since, as we know, illegal STRs have and will likely continue to emerge even in neighborhoods that have protective CC&Rs.

I strongly request that the City send notices to all residents and not simply rely on social media and local advertising to get the word out. It's simply not adequate notice. A great many of the 4,000 people who signed the referendum overturning the last STR ordinance had no idea that their zoning had been

changed. This is inexcusable. Just as every STR owner was notified, the same courtesy should be extended to every resident, especially since you've voted to not allow citizens to vote on this issue.

I recognize that the Planning Commission and not the Council is manning the STR subcommittee, but they are doing so at your direction. Please take steps to mail notices to *all* households, ensuring that every person who rents or owns a home in Dana Point is advised of a program that has the potential to seriously affect available housing stock, property values and their quality of life.

**From:** Annette Szlachta <annetteszlachta@gmail.com>

**Sent:** Sunday, February 21, 2021 3:16 PM

**To:** STR <str@danapoint.org>

**Subject:** public comment for 2/22/21 meeting

STR public comment for distribution to planning commissioners and city website posting

I attended the January 2021 STR stakeholders' meeting, and what I learned informs my opinion regarding short-term rentals in Dana Point.

1. The city hasn't shown commitment to an STR program that prioritizes the well-being of all constituents. Most important is the commonweal of the city's residents, comprising property owners and long-term renters, whose opportunity to remain here would be imperiled by an STR program. The fiscal prosperity of the city is also important via the collection of the transient occupancy tax, which the hotels collect up front and consistently. The same cannot be said for grandfathered STRs and certainly not for illegal STRs.

2. The hotels have been great neighbors, and it would be to the city's financial benefit to court their goodwill, not introduce competition that would financially hurt the hotels and thus the city.

I am against short-term rentals in any part of Dana Point.

Thank you for your attention to this matter.

Annette Szlachta-McGinn

Intera Way, DP

**From:** Joseph Jaeger <joseph.jaeger@sbcglobal.net>

**Sent:** Sunday, February 21, 2021 3:48 PM

**To:** STR <str@danapoint.org>

**Subject:** Opposition to Expanding STR's in Dana Point

I am writing to state my opposition to expanding STR's in Dana Point. STR's are businesses (mini-hotels) that belong in commercial or mixed use areas - not residential neighborhoods.

STR's negatively impact a neighborhood's property values and quality of life.

The majority of STR's in Dana Point are owned by investors. In fact 64% of the investor owned STR's in Dana Point are not Dana Point residents. With a critical housing

shortage in Dana Point, particularly for low income individuals; permitting investors to buy up residential housing stock will only make matters worse.

STR's also compete with Dana Point's hotels.

The City Council majority seems intent on placing the interests of investors, the majority of whom are not residents of Dana Point, ahead of the interests of Dana Point residents.

Given the dramatic impact an expansion of STR's will have on Dana Point's residential neighborhoods, Dana Point residents should be allowed a vote on any change in policy.

Joe Jaeger

Monarch Beach

**From:** LISA SILVA <adbatime@gmail.com>

**Sent:** Sunday, February 21, 2021 4:10 PM

**To:** STR <str@danapoint.org>

**Subject:** In Support of STR

Thank you for continuing your efforts in the STR evaluation for the best interest of the City of Dana Point.

I have units with direct access to Strands Beach and would love to be able to get permitted to allow my guests STR to experience wonderful vacations and all the tourists events, shopping and harbor attractions the great city of DP has to offer.

Dana Point is a very unique place and I feel it is the best beach vacation spot in Orange County, with its abundant shop and large marina, it beckons for tourists to come and enjoy. In my experience, DP does not attract the young college crowds; it attracts nice families from all over the state and world even. It is not like Huntington Beach or Newport and never will be. We are a quaint marina town much like a West Coast Martha's vineyard.

I currently rent my units furnished on a monthly basis. Is that really any different? They are all either vacationers or snow birds coming from back East.

Please help the economy of Dana Point! and reconsidered allowing more STR is this wonderful town.

Much appreciated,

Lisa

-----Original Message-----

From: William Smith <williamjsmith@cox.net>

Sent: Sunday, February 21, 2021 4:25 PM

To: STR <str@danapoint.org>

Subject: Ban Short-Term Rentals in Dana Point

Commissioners:

I am writing to ask you to ban short-term rentals in Dana Point.

I am a long-term resident of Dana Point and live in Ritz Pointe Estates. I believe that STR's negatively impact my overall safety, property value, and quality of life.

In Ritz Pointe we are close to the Monarch Hills Condos where I believe there are both permitted and unpermitted STR's. These STR's somehow exist despite the fact that our Master Association CC&R's ban rentals for less than 30 days.

Our experience is that the STR's create additional traffic (cars, bikes and pedestrians), parking issues, trash, noise, and probably crime into our neighborhood. For example, I have had my paper stolen multiple times over the last few years. Also, every year we have experienced more and more strangers accessing the beach trail through the streets in our neighborhood.

Also, with the approval of multiple new hotels in the Lantern District and Harbor (which will be required to have some affordable rooms) we probably will have an excess of short-term visitor accommodations in the not too distant future. Any excess could lead to unfilled rooms at our local hotels; reduced ROI and less investment in our top hotel properties.

Finally, if the hundreds of new apartments being built in Central Dana Point are allowed to function as STR's our downtown could turn into a tourist zoo and totally change the peaceful and desirable character of our city center.

Please protect the safety, property values, and the quality of life of Dana Point property owners and residents by voting to ban short-term rentals in Dana Point!

Respectfully,  
William J. Smith

**From:** denise iger <ddiger@hotmail.com>  
**Sent:** Sunday, February 21, 2021 4:43 PM  
**To:** STR <str@danapoint.org>  
**Subject:** Re: Planning Commission Workshop - comments regarding STRs

I am unable to attend the meeting on February 22nd because of a client meeting. To the extent that Barbara Wilson, or any other attendee, is willing to read my comments aloud, I consent to such action.

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**From:** denise iger <[ddiger@hotmail.com](mailto:ddiger@hotmail.com)>  
**Sent:** Saturday, February 20, 2021 2:45 PM  
**To:** [str@danapoint.org](mailto:str@danapoint.org) <[str@danapoint.org](mailto:str@danapoint.org)>  
**Subject:** Planning Commission Workshop - comments regarding STRs



Thank you for the opportunity to provide my comments regarding short-term rentals (STRs) in Dana Point. I have owned a home and lived in Dana Point for approximately 10 years. I am also a lawyer and have represented homeowners association exclusively for the past 25 years.

At a time when other cities are looking at ways to eliminate short-term rentals, I am baffled by Dana Point's continued insistence on opening the door to outside property investors and the myriad of problems that come with short term rentals.

Over the last several years in my law practice, the single most requested amendment to my HOA clients' governing documents has been a ban on STRs. This is not happening by accident. The notion that "most out of town STRs landlords do a good job" is simply untrue. Frequently we find that some of the out-of-town landlords are in fact out of the country. They use online booking and do little more than arrange for the cleaning crew between visits. Neighbors are left to call the HOA, call the police, lock their children indoors, close their windows to block out the noise and smoke, pick up the trash left behind, and hope the next renters will be more respectful. In extreme situations neighbors find people passed out in the street, naked in the jacuzzi, or mistakenly trying to enter the wrong home in the middle of the night.

The solution being proposed seems to be citations and fines. HOAs have that power too, and guess what? It does not work. STR landlords do not do this to make the world a better place. They do it for money. A fine is just a business expense. It can be made up with an increase in the rental rate. Maybe the landlord will not rent to that specific group again; or maybe they will. VRBO and Airbnb are not doing any screening, so who knows.

I hear that people say that they cannot afford to live here without renting their place out as an STR. I simply do not believe this to be true. Long-term roommates or ADUs are the solution to the affordability crisis. What these people are talking about is the ability to live here and also travel the world while their home is being rented. This is not the same thing. We do in fact have a housing shortage and an affordability crisis. STRs contribute to that problem.

Maybe we can stop inviting problems into our residential communities and instead support the existing hotels and resorts that responsibly bring guests, and their wallets to this wonderful town.

Denise Iger

**From:** jameskellyjr@cox.net <jameskellyjr@cox.net>

**Sent:** Sunday, February 21, 2021 6:58 PM

**To:** STR <str@danapoint.org>

**Subject:** 2/22/21 STR Public comment to Planning Commission:

Public comment to Planning Commission:

Attn: Planning Commissioners.

As you work on a proposed Short Term Rental Pilot Program, we have some concerns as 30-year residents in District 4.

The city has demonstrated its inability to oversee the behavior of STR's since the city has had difficulty in collecting fines. (over a 3-year period only \$27,000 or 22% of assessed penalties were actually collected).

Do not increase short-term rentals in residential neighborhoods when the city is already having difficulty collecting fines and responding to and enforcing violations.

Some STR owners are using partitioned kitchens and living areas in order to have them count as living spaces to increase the number of guests allowed. This should not be allowed.

STR Guests may have large parties and occupy all the parking in the residential neighborhoods.

STR guests do not move their cars during street cleaning days; thus, polluting our harbor and ocean.

Most of the STR noise problems occur at night, and an outside investor is not going to drive to the site at midnight to handle the problem. Therefore, it will increase the need for police intervention, therefore we will need hire & train more police.

Hotels are built in commercial zones and can handle these problems.

Members of the planning commission and city council members who are involved In the STR study should not be allowed to have an STR permits since this would be a conflict of interest.

Residents will not know who is coming in and out of the neighborhood two or three times a week.

Hotels have the staff to handle the conduct and security of their guests, Short Term Rentals owners do not. This will increase the work load for the police thus requiring us to hire more police people.

**Residential areas should not be rezoned to allow short term rentals.**

Jim & Carol Kelly

District 4

Santa Clara Ave.

**From:** Carol Wilson <cwilsoncapo@outlook.com>

**Sent:** Sunday, February 21, 2021 8:55 PM

**To:** STR <str@danapoint.org>

**Subject:** STR comments for Feb 22 meeting Planning commission

Here are my comments for the meeting Monday Feb 22 of the planning commission.

Thank you,

Carol Wilson

February 21, 2021

To the Dana Point Planning Commission

Re: STR's

Dana Point along with many OC cities is drastically non-compliant with the affordable housing goals. These units consist of rental units also. In the city of Dana Point, the Lantern District and Capistrano Beach have by far the most STR's. As has been proven by many studies in other cities across California, STR's have a big impact on affordable housing. Adding more STR's exacerbates this problem.

The pool of long term rental units are impacted when they get converted to a STR. Currently in DP just finding a rental, especially one that is affordable is very difficult. Finding any unit below \$2000 per month is extremely rare. All the new apartments being currently built downtown DP are starting at around \$3200 per month. Even though 15% are designated as low income, what will that be for a one bedroom or studio unit, \$2500? Consider someone working at a minimum wage of \$15 per hour for 40 hours a week. That is \$600 per week or \$2600 per month. Take out taxes, SSI, CA short term disability and that monthly income is reduced to \$1919. So right now without sharing the rent with a spouse or other person it is pretty impossible for anyone to live in Dana Point on minimum wage, and note the \$15 is not fully implemented yet. If workers can not live local, it makes it that more difficult for small businesses to find the workers they need to keep their business going. Most owners with rentals whether they be large commercial apartments or individual owners who rent units look for income ratios of earnings to monthly rent to not fall below 50% and most are looking for 60% or more that would be equivalent to \$48,000 per year or \$4000 per month to qualify or an hourly rate of around \$23.00. Even renting a room in a house or apartment from another party where you share the rent is upwards of \$1000 or more and often that is a shared bath as well.

As the Planning Commission considers any new proposals to add STR's to Dana Point, the affordability needs to be a major component of any consideration of adding additional STR's. Please consider the impact on rentals in Dana Point as you look at any new STR plans.

Thank you,

Carol Wilson

Capistrano Beach Resident

**From:** Cynthia Carol <cynthiacarol9@gmail.com>

**Sent:** Sunday, February 21, 2021 10:08 PM

**To:** STR <str@danapoint.org>

**Subject:** Input on Short Term Rentals

Hello,

My name is Cynthia Carol and I have been a resident of Dana Point for over 30 years.

While I understand both sides of the argument on vacation rentals, it seems the fair and just consideration here, should be one of compromise.

I believe a viable way to achieve this goal is through binding rules and regulations which must be adhered to by all owners and property managers of STR's. Those in opposition of STR's deserve this out of fairness. What does not seem equitable is an outright ban of STR's because those in opposition do not want guests or vacationers in their neighborhood. Dana Point is an amazing place to live and also a lovely vacation destination.

When vacationing in the mountains, Hawaii or traveling internationally with my family, I'm always grateful to be able to stay in a vacation rental.

I have no doubt that many who oppose vacation rentals in Dana Point also enjoy vacation rentals when they travel. The data showing an increase in popularity of STR's would support this.

The concerns of those who oppose STR's should be heard. The most common concerns should be addressed with fair and just rules. While unfortunately we can't make everyone happy we can take actions that support both sides without devastating either side.

Thank you for your consideration,

Cynthia Carol

**From:** Roger Malcolm <rjm.carbonfiber@gmail.com>

**Sent:** Sunday, February 21, 2021 10:23 PM

**To:** STR <str@danapoint.org>

**Subject:** Short Term Rental Dana Point 2/21/21

Roger Malcolm  
Capistrano Beach  
Resident Homeowner

Dana Point Short Term Rental

I am writing to the Dana Point City Planning Commission regarding STR in our community.

Rather than write a logical, factual, explanatory, impassioned letter, I will keep this simple.

What is wrong with our city council members, who are entrusted with preserving our community, that they even consider allowing STR interests?  
Why do they care about the "interests" of "investors"?



Why do they not understand “community”?

I live in Capistrano Beach. With my family.  
I am not a visitor. I am a residential property owner.  
I pay for the privilege of owning and living here.  
I bought my home here to live in it, not to rent it out.  
To live in it.

I care about my neighbors who likewise live here.  
I do not care about “investors” and STR “interests” who want to be small time hoteliers.  
They obviously have open contempt for our concept of “community” and “neighborhood”.  
Those terms are to them simply areas to be exploited for their petty financial gain.

I have endured STR next door to me, until the city finally fined the owner to the point they ceased operation.  
The “visitors”, who seem to be so highly valued by the STR “interests”, were comfortable having raging parties beginning at midnight and continuing until daylight.  
Those “visitors” were sticking needles in their veins and injecting drugs, then throwing their used needles into my yard. I have young children.  
What kind of people do things like that? The kind of people who are allowed to do things like that by the STR interests. The kind of people who do not live here.  
The kind of people the city enables by not only allowing them to be in our neighborhoods but actually inviting them here.

STR has no place in our neighborhood, no place in our community.

It should not be a consideration to allow them, much less find a way to accommodate them.

I have asked the city council before, and I will ask again: please do not prostitute our community, because that is exactly what it is to allow STR.

Roger Malcolm  
Resident and Home Owner  
Capistrano Beach, California.

-----Original Message-----

From: SUSAN Hill <sahatchard@msn.com>  
Sent: Monday, February 22, 2021 7:45 AM  
To: STR <str@danapoint.org>  
Cc: SUSAN Hill <sahatchard@msn.com>; Lee Hill <lelandrayhill@gmail.com>  
Subject: Dana Point Workshop Re Short Term Rentals

Dear Dana Point Planning Commissioners,

My husband and I have lived in Dana Point for close to 10 years. We moved here because we fell in love with the lovely small town coastal feeling Dana Point emanated. There was a clearly defined downtown business area and recreational harbor filled with wonderful restaurants, small shops, Bed and Breakfast Inns along with large and small hotels serving the area. Also, there were lovely defined residential areas too. That is what drew us to buy our home in Dana Point.

We liked that businesses did not intrude into clearly defined residential areas. Residential zoned communities were areas where people could raise their families, establish friendships with neighbors and enjoy life on beautiful quiet streets. Inns and hotels were located within commercially defined areas where adequate parking and supportive facilities are available and not interspersed between single family residences.

In our view, Short Term Rentals change all of that. Guests who rent short term rentals are not familiar or are unwilling to comply with local rules about noise levels, parking, loud music, litter and trash, pets running freely, etc etc etc. They are on vacation and ready to party in areas where permanent residences are trying to live their everyday lives in their homes. The two are like oil and water. They don't mix no matter how many requirements the City attempts to place on owners of the STR homes. Many of these homeowners are not individuals, but rather are corporate entities whose interest center on making profits vs ensuring calm quiet residential communities.

There is a reason why areas were originally zoned Residential and other areas zoned Commercial. Residential zoned areas are where homeowners and renters with one year plus leases live. Commercially zoned areas are where businesses operate. STR belong only in areas that are zoned Commercial since they are businesses. They do not belong in residential areas.

To make exceptions to this will fundamentally change the lovely nature of our beautiful coastal town. I've heard a Planning Commissioner recently describe Dana Point as a tourist destination. We object to that description. Dana Point is NOT only a tourist destination. It is a community of long term residents and we don't want our City to be one big tourist destination. It is our home where we pay taxes and vote.

As I understand it, we have 7 new hotels who want to move into our area. The Coastal Commission requires each of these hotels to include rooms and facilities to serve moderately priced visitors. We don't need to allow more STR's to operate in our residential communities. Besides, one could argue that STR's will cannibalize current and future hotel revenues.

If you allow STR's into residentially zoned areas, what is the purpose of commercial zoning? Commercial zones are where STR businesses should operate. Residential zones areas are where permanent residents live. There is no reason to combine the two zones to allow short term rentals.

We hope you decide to allow STR's only in commercially zoned areas. No exceptions.  
Thank you.

Susan and Lee Hill  
32392 Via Antibes  
Dana Point, CA  
92629

**From:** mark zanides <mzanides@gmail.com>

**Sent:** Monday, February 22, 2021 8:10 AM

**To:** STR <str@danapoint.org>

**Subject:** Comments on STR Pilot Program

Please see attached letter.

**Mark Zanides**

33851 Valencia Place  
Dana Point, CA. 92629  
mzanides@gmail.com

February 22, 2021

The Dana Point Planning Commission  
[str@danapoint.org](mailto:str@danapoint.org)

You have requested input with regard to the so- called "pilot program" for STRs.

**1. Any STR Program Should Be Put to a Vote of the People of Dana Point**

I believe a majority of Dana Point residents oppose STRs, but in any case the issue should be put to a vote of the people. In 2016 over 4,000 residents signed a referendum opposing the City Council's ill-considered ordinance authorizing STRs. The signatures were gathered in less than three weeks. After the results were certified, the City Council declined to place the issue on a ballot, thus depriving the residents of the opportunity to vote directly on this issue. No one was surprised at the cowardice of the City Council: a majority operate at the behest of real estate interests, not the residents of Dana Point. The Council knew that STRs would be soundly defeated, and made a tactical retreat to live to fight another day.

As you are also aware, a majority of residents recently polled object to STRs. Notwithstanding the clear and substantial opposition to STRs, the City Council has decided to move forward with a pilot program and decided not to put any STR program to a public vote.<sup>1</sup> Thus, the STR Phoenix has arisen.

As I understand it, this "pilot program" will, if enacted, permit an additional untold number of STRs and extend the conditional use permits for the existing STRs. This is simply a method to introduce STRs and evade citizen scrutiny of this important issue. I observe that the three Council members who support the Pilot Program have a total of 27% of STRs in their three districts combined. This is hardly representative democracy.

Simply put, this Commission should recommend to the City Council that any program which extends the existing STR permits and authorizes any additional permits should be put to a vote of the citizens of Dana Point. No program is worthy of passage if not approved by a majority of voters. And even if you could fashion an STR ordinance that is acceptable to the voters, many in town would support locking it in, so that it could not be changed by the next Council majority at

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<sup>1</sup> Notwithstanding that Mayor Federico campaigned on a promise to put the matter to a vote of the residents, he has reneged on his public campaign promise and voted against putting the matter to a vote of residents.

its whim. Regrettably, it appears that we don't have a history in Dana Point of electing City Councils that can be trusted to represent the desires of residents.

If you come up with an acceptable ordinance it will be acceptable to the residents. To avoid a vote simply is a craven cave in to the foreign real estate interests which appear to have an outsized influence in our town.

## **2. STRs are Businesses and Be Treated Accordingly**

STRs are a zoning issue. Residents who purchased homes in districts zoned residential should not be burdened by a commercial operation in their neighborhoods. Make no mistake about it, Airbnb, Vrbo and the owners of these STRs are in business, as is evidenced by the permit scheme in the City's Business Code.

It follows that STRs cannot be permitted in areas zoned residential. I would permit home stay STRs. The Santa Monica ordinance is the model here. The Santa Monica ordinance has two additional advantages. First, it requires the rental agents to keep records, and collect the TOT. Our City has neither required records nor collected the TOT. Second, this ordinance was challenged by Airbnb and Vrbo in court and Santa Monica prevailed in a hard fought victory. The excuse that "this would invite litigation" which we so often hear from our City Attorney would not be applicable.

I would permit limited STRs in the commercial and mixed - use districts. Like Laguna Beach, I would limit them: Laguna Beach's new rules require that no more than 20% of units within a multi-unit building be converted into short-term lodging. For buildings with five or fewer units, there would be a maximum of one short-term rental available. Dana Point could make its own judgment here.

In this connection, some, including Mr. Federico, have raised the issue of whether it should be permissible for Dana Point residents to own a second property which is an STR. The question is a red herring, as the vast majority of STRs are owned by foreign, i.e. not Dana Point, investors. In any case, this question is not relevant. It matters not **who** is committing the zoning violation. The only relevant question is whether the use is a permitted use. Would you agree that a Dana Point resident could open a gas station, bowling alley, restaurant or massage parlor in a residential district? I think not.

I would permit a Dana Point resident who lives in half of their duplex or triplex to rent out the other half on a short term basis as long as the resident was present throughout the entire duration of the short term stay.

## **3. The City Should Eliminate Existing Short Term Rental Permits.**

So, if the Council insists on a "pilot program", it should be a limited program for resident owners who apply and if necessary win a lottery to be able to participate.

I would sunset these permits in one year, which should be ample time for the permit holders to determine what to do with these properties. I do not agree that they should be grandfathered in: on what principled basis should we victimize the neighbors of these STRs? I see none. These



permits were limited, conditional use permits. The City clearly disclosed that the conditional permits did **not** confer a property right or any expectation of permanence.

There remains one large problem. The City has not enforced the law to extirpate unregistered STRs. Code Enforcement has been unwilling or unable to do so, and the City Attorney has sat on his hands for years. I needn't speculate on whether this is by design, by incompetence or some measure of both. But the tools are there. The City's nuisance lawsuits against sober living homes provide a simple and effective tool. In this regard, I would request that you review the cost of this litigation. I suspect that Rutan is feasting on City and that there are plenty of other lawyers who could do the same job for considerably less money.

**4. The Coastal Commission Has Not Taken a Position Supporting Either Non Home Stay STRs or the City Council's Proposed Pilot Program.**

Apparently some City Council members are claiming that the Coastal Commission is in support of a non-home stay STRs and that somehow this compels or at a minimum encourages the city to move ahead with non home stay STRs. Mr. Federico has written me:

“The CCC offered us a very unique (sic) opportunity to try a program for three years.”

During his campaign for City Council, Mr. Frost has also told me that the CCC has, in his words to me, effectively “required” the City to provide STRs.

The claims by Frost and Federico are inaccurate and highly misleading. It is true that the CCC spoke to the STR Subcommittee and the staff. I am informed and believe that the CCC staff did not encourage unlimited STR pilot program for three years. Rather, the CCC staff suggested a pilot program for home shares only, since CCC seeks to open the coast to an underserved population, and wants to see more affordable STRs. It also seeks to preserve rental housing stock because California has a housing crisis. It would be inconsistent with the goals of the CCC to encourage programs that would incentivize investor purchases of expensive STRs such as those that predominate our current STR program.

Accordingly, I am informed that all staff agreed in principle to this home share pilot program to collect data for 3 years, i.e. to track the number of home shares, rental costs, how often used, etc. At that time the CCC said preserving long term rental stock was very important because California has a housing crisis.

I am advised that there was absolutely no discussion about anything other than home shares when the Subcommittee met with CCC staff. Federico's statement implying the CCC offered a “unique” opportunity for a pilot program of anything other than home shares is simply inaccurate and misleading.<sup>2</sup>

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<sup>2</sup> For the same reasons Mr. Federico's claim that he “made sure the new pilot program was opened up beyond home stay so that the existing 146 permits could also be governed by the new policy” is also misleading. The CCC never contemplated that these would be included in the pilot program. As far as I am aware the existing 146 permits were not discussed with the Coastal Commission.

As for Frost's misbegotten notion, I note that on October 7, 2020 the Coastal Commission unanimously approved the Laguna Beach proposed zone text amendment in respect of its STR ordinance. That ordinance does not permit unfettered STRs, but rather establishes a home stay scheme and permits limited STRs in commercial and mixed use districts. This hardly supports the notion that the CCC is somehow requiring or even encouraging non home stay STRs and further belies Mr. Federico's claim that the CCC gave Dana Point a "very unique opportunity" for its pilot STR program was erroneous.

**5. Any Pilot Program Will Likely Require a Zone Text Amendment and This Commission Should Determine the Legal Requirements for Any Pilot Program**

The City Council appears to assume that its proposed short term rental pilot program including the existing 146 STRs informally permitted by the City but otherwise unapproved by the Coastal Commission, needs only CCC approval and nothing more to operate. I strongly suspect that belief is incorrect. By enacting section 5.38 of the DP Business Code the City has recognized that STRs are businesses. STRs, like all other businesses, must be located and operating only in areas of the City specifically permitted by the zoning code since the zoning code is a permissive code which prohibits any use not specified as allowable. The City has already acknowledged that STRs require specific zoning permission: in 2016 it passed such a zoning code amendment and then rescinded it after the referendum was presented to City council. Therefore, operating an STR business in an area of the city zoned exclusively for residential use (and therefore prohibiting business operations) violates the City zoning code, irrespective of CCC permission.

I see no reason why naming it a "pilot program" changes this analysis. At a minimum, the Planning Commission should request that Council get a fully researched legal opinion as to whether it is even legal for City Council to adopt a "Pilot Program" for STRs without a zone text amendment and approval by the Coastal Commission.

**6. The City Has Not Demonstrated An Ability or Willingness to Enforce Existing Regulations and No Pilot Program Should Be Approved Until It Does So**

The short term pilot idea seems predicated on the notion that somehow this Commission can fashion "more strict regulations than are currently in place" and that these "more strict regulations" will somehow render the pilot program acceptable. That's poppycock, for three reasons.

First, let's be honest. The City has not and does not now enforce the existing, lamentably weak regulations on the books. It has no mechanism for collection TOTs. It does not collect approximately 80% of the fines it purports to levy. The fines it does collect are too small to deter illegal behavior. To my knowledge, the City has never revoked a permit for non-payment of fines, or for any other reason, despite regulations permitting such action. And, of course, the City does not effectively enforce the ban on non permitted STRs.

In short, the City's failure to enforce existing regulations is shameful and embarrassing. Before this Commission makes any proposal for a new STR program, it must audit STR compliance by the staff and be prepared to address: a) the [in] adequacy of enforcement of behavior guidelines (particularly in the wee hours of the morning when many nuisances occur); b) the inadequacy of the current fines for non compliance by STR permit holders, c) why the staff has only collected approximately 20% of the STR fines it has levied and d) what principled basis there is for

believing that the staff is willing and able to enforce any STR regulations adopted, including specifically, the behavior regulations.

Second, as Denise Iger's letter explains, regulations don't work. No coastal city has been able adequately to police the disruption occasioned by STRs.

Third, the notion that "regulations" make STRs acceptable is itself nonsense. I don't want even a well regulated business in my neighborhood. The point is that having a business fundamentally alters the character of the residential experience. No "regulations" can change that fact.

#### **7. This Commission Must Survey All Stakeholders, Including Hotels and Long Term Renters**

First, it is singularly inappropriate to push so hard now for an STR ordinance. There is no urgency to hold this event during a pandemic. Our hotel TOT revenues are down. Demand for STRs is down. It is inadvisable to attempt to solicit significant public input at such a time when residents are reluctant to appear in person, unless, of course, you'd actually like to suppress such input.

My review of this Commission's work on this issue so far make is clear to me that it is dedicated to accommodating investors and cares little for residents. In prior meetings, residents' many letters were neither read into the record nor referenced by the Commissioners. Of course this Commission showed great deference to the STR investors who made recorded public comments.

As for the recent survey, it pales in significance compared to the nearly 4000 referendum signatures. It is customary that the real estate interests promoting STRs will deluge the staff with pro STR submissions. Unless it wishes to toady completely to these interests, this Commission should reach out to each of the persons who supported the referendum petition in 2016 and solicit the reason for their opposition to STRs.

Moreover, this Commission should reach out to Dana Point residents who live within one block of each current STR, permitted or not, and solicit their views on STRs. I suspect that non owner occupied STRs will not find much support.

The Planning Commission should aos reach out to our existing hoteliers and request their views on the likely effect of expansion of even a "pilot" program of STRs, including, specifically, what the financial impact on our hotels has been and will be if an STR program is widely implemented. Why you have apparently not done so to date is inexplicable. Our hotels are the predominant source of our financial well being. To disregard and disrespect the interests of our corporate good citizens is unacceptable.

As well, you should reach out to long term renters. I live in the Lantern District, which is comprised of about 55% long term renters. What effect will this STR program have on them?

Finally, what effort has this Commission [or City Council for that matter] made to learn from the experiences of other coastal cities? Why is Dana Point apparently alone in insisting on subjecting its residents to STRs when the vast majority of coastal cities have substantially restricted STRs? What does this Commission and this Council know that all these other coastal cities have missed? Why, as Denise Iger says, is she repeatedly requested for help in curbing STRs in those HOAs which have permitted them?

### Summary

To discharge its duties with integrity, this Commission must not be, or be seen to be, merely a means for the City Council to justify its preordained decision to expand STRs in Dana Point without voter approval. Frankly, the performance of this Commission to has not dispelled that grave concern. I hope and trust the Commission will operate with independence and rigor in the days to come.

Very Truly Yours,



Mark Zarides



-----Original Message-----

From: Laurie Beylik <lbeylik@icloud.com>

Sent: Monday, February 22, 2021 8:34 AM

To: STR <str@danapoint.org>

Subject: STR workshop, please read this into the record if possible. Thank you.

Honorable Commissioners and community members,

Thank you for the opportunity to give input into this very important topic. It is unlikely I will be able to participate in real-time, as I plan to be out of town.

My name is Laurie Beylik and I have been a resident of Dana Point for thirty-eight years, I've lived on Blue Lantern St., for sixteen years. I own 35083 Beach Road it is a permitted STR, since the inception of the permitting process.

My mom built this house to live in, it is a four bedroom, three 1/2 bath, with a detached "granny unit", that my onsite property overseer resides in, she is seventy years young and our eyes and ears. My manager Miriam Rupke, pays taxes and does all bookings with very stringent requirements. I hired Miriam's company "Sand & Surf Vacation Rentals", because her strict policies of screening guests, all of our guests have to sign and acknowledge a ten page contract, we do not do instant bookings. I lived in the "granny unit" for nearly five years and am well aware of how disruptive unruly guests can be, if there is little to no oversight.

I was very excited and encouraged when the permit process was instituted, as I believed it could solve a lot of issues. I already had all of the regulations in place, no parties, no over occupancy, my neighbors have my personal phone and contact information, since I respect deeply my neighbors right to the quiet enjoyment of their home. I believe a strict enforcement of codes will help weed out bad actors, which every responsible owner and manager, I know agrees with and wants.

If one has nothing to loose, one might be less likely to follow the rules. Think if liquor stores or restaurants had no license or permit to lose, some would pay little attention to following any rules, others would because they know it's simply the right and honorable thing to do. I have never had a complaint regarding my guests.

We cater to guest families and mature guests. I have guests that have been welcomed to my house for over ten years for their annual California trips. One group of ladies are a quilting group that consists of twelve ladies between fifty five and seventy four. They are all quiet and respectful. I've had guests that were able to have a family reunion, with their eighty year old grandmother, suffering from stage three cancer, it was unlikely they would ever have this opportunity again. Being able to offer only a home shared STR would affect the type of intimate family experience we currently cater to. I've stayed in home shared vacation rentals with my significant other, it can work well under some circumstances but it is not conducive to intimate family reunions to have a stranger in your midst. It is awkward for both the owner and family.

Thank all of you for participating in this workshop, I value and respect everyone's opinion and experience.

Respectfully, Laurie Beylik

**From:** Christy Abraham <tellchristy@aol.com>  
**Sent:** Monday, February 22, 2021 9:53 AM  
**To:** STR <str@danapoint.org>  
**Subject:** Homeowner and approval of STR/meeting tonight

Hello Planning Commission,

I am a homeowner on Beach Road in Capistrano Beach. **We are very in favor of Short Term Rentals in this area.** We have owned our home for 26 years on Beach Road.

Prior to owning our home we were Short Term Renters for 10 years on Beach Road. We stayed there for several weeks a year with our children and we fell in love with the area. After we purchased our home we decided to continue renting it out on a short term basis so that others could enjoy the beach, beauty of nightly sunsets and the freedom of wandering the sands with family members. Our most cherished memories are weeks at the beach with our kids and their friends.

Beach Rentals in California, on the coast specifically, offer the opportunity for **everyone to experience the beach life** for at least a week. We are so grateful to have found this slice of heaven and are delighted to share it with others that appreciate it's beauty. For over 23 years we have had a great following of families and renters from all over the world that come to the Dana Point Community. Our renters have left us a bounty of letters and notes on how they love the Harbor, The Old Mission, Restaurants, Shopping in San Clemente....it's an incredible gift to share this vibrant and serene community and its irresistible lifestyle.

For the last four years we have been restricted from sharing all this because of the Permit Moratorium. It's a tragedy. Our neighbors rent their homes but we cannot. We have never violated a noise or parking ordinance and our renters, like most that I've met in the area, are family oriented people that come to Beach Road to enjoy the quiet and peace that the beach offers.

We hope you consider Phase 2 of your plan as soon as possible and allow ordinance compliant families like ours to have a permit to continue sharing what we love doing. Sharing our community with others should be a goal of it's citizens not a violation. I believe this can be handled properly and orderly so that we can all achieve a "win" for everyone.

Thank you,

Christy Abraham

310-245-8700

**From:** Kurt Bjorkman <Kurt@ranchlb.com>  
**Sent:** Monday, February 22, 2021 1:25 PM  
**To:** STR <str@danapoint.org>  
**Cc:** jacobjorkman@gmail.com  
**Subject:** My comments for tonight's STR workshop

Thanks!

February 22, 2021

Dear City of Dana Point,

I live here in Dana Point with my family – my wife and I with two boys. We own our home and consider the day we got our keys in 2015 one of the best days of our lives. Owning a single-family home in Dana Point (the best city in California if you ask me) was something we thought was never going to be attainable for us, but with hard work and faith we made it happen.

My career for the past 25 years has been in the hotel business. Currently I am the General Manager of a resort just up the street in Laguna Beach, where I have worked for the past 11 years. My arguments against short term lodging come from two perspectives, that of a homeowner and that from the business side of hospitality. I will not go into hyper detail on the many nuanced details of each – those are and continue to be well articulated by many others, but my main points from each perspective are:

1. The Dana Point homeowner.

This is the most important for me and my family and as well for our neighbors where we share a community of 1970's single-family "California ranch style" homes and an amazing public / community park. Having respect for us as homeowners and some appreciation that having a transiently occupied home right next door gives us cause for concern. Noise, smoking, drinking, parking, and parties are all realities for an STR in south OC. If the owner or "property manager" is not on site, it is up to the actual residents to enforce or report violations of any STR municipal code. That's a job none of us want or think is fair to be asked of any homeowner. We count on our residential areas to be just that – residential.

And the topic of residential displacement is very real. For those who rent homes, the experience is tenuous and financially trepidatious when a homeowner can simply not renew a lease because it is more financially viable to turn their home into an STR and force the renter to look for another home – usually outside the city due to high costs. With state mandates on new housing being imposed, it does not make sense to reduce the residential home inventory – a home being operated as an STR will not count when the state starts tabulating residential homes to determine fines on not building new residential units.

2. The Business of Hospitality

As any business owner in California understands, opening and running a business – especially one that serves visitors- is not easy nor cheap. From my unique experience, developing and operating a hotel is exceptionally difficult. From ADA requirements, Cal-OSHA laws, ABC regulations and training, wage and hour laws – you name it, it takes a lot to run a hotel in California, especially coastal cities that fall into California Coastal

Commission territory where they also have a say in how you run your business. While it is all fairly difficult and expensive to design and operate a hotel in California – all of (ok, most of!) these regulations keep our employees safe, our communities pristine, guests properly taken care of and create an environment that promote exceptional overnight accommodation experiences that enrich our communities, employees and visitors.

Short Term Lodging – at least un-regulated Short Term Lodging does none of the above. Why should someone be able to quite literally open a mini-hotel with none of the rules mentioned above? Why are they exempt from ADA laws? Who is making sure the home is safe to stay in? I can quite literally put my home on any “home-share” platform and be up and running in less than a week with zero requirements from the town I live in. That is not OK, I do not think as a city government it is OK with you, and it is certainly not fair to the hotels that have spent years and untold amounts of money to get a real hotel open in Dana Point.

Short Term Lodging, especially those that are unregulated also do not help the hotel and hospitality businesses that make Dana Point home. Regardless of what the STR lobby will tell you, it DOES have an impact on overnight accommodations. They DO compete for the same customers hotels are marketing to. By supporting STR's, the city would be telling local hotels and resorts that their financial commitment to Dana Point is not important enough to protect. Imagine if the same happened to restaurants (and why should it not -why are STR's uniquely special in this regard?) – imagine that any home suddenly becomes a restaurant – why would anyone go thru the process of starting a “real” restaurant if all you have to do is buy a house? Same thing with STR's – it really is. Apply this to almost any other business – it does not make any sense.

Am I totally opposed to STR's? No. I think the idea is quite creative and in the right circumstances can be positive for all constituents. However those circumstances are extremely important – with the Dana Point residential homeowners and operators of resorts and hotels having the most weight with any new municipal codes being considered for STR's in Dana Point. Please follow what was done in Laguna Beach – where some STR's who were operating legally are allowed to continue and any new STR's being allowed only in certain areas that will not impact the lives of full-time residents. And the city, regardless of direction on this matter must hire someone to focus on code enforcement specific to STRs. Maybe a fee can be imposed on any Dana Point STR overnight accommodation (like a BID fee or portion of TOT) that would pay for this position.

Thanks for reading and thanks for continuing to make Dana Point such an incredible California coastal town!!

Kurt and Jacquelyn Bjorkman

**From:** Alan Bell <alanbellesq@gmail.com>

**Sent:** Monday, February 22, 2021 1:27 PM

**To:** STR <str@danapoint.org>

**Subject:** For tonights planning commission meeting

This is my comment for tonight's planning commission meeting. Please send this to the planning commission and post this on the website:

## Comment to Planning Commission, 2/22/21

My name is Alan Bell, Capistrano Beach. I think the Planning Commission has this process completely backwards. If you really want an effective pilot program, how about first asking "do full time unsupervised mini-hotels make sense in residential areas?" Here's a clue: just about every Dana Point HOA says NO. Why would you think those who *don't* live in HOAs would say yes? And if you need another clue, just look at the 4,000 signatures that were gathered in less than 3 weeks overturning the 2016 ordinance.

Dana Point's current zoning does not allow businesses to operate in residential areas. You can't allow retail stores or barber shops or mini hotels in our neighborhoods without changing the zoning we were promised when we bought our homes. The City has permissive zoning. This means that anything not explicitly permitted is not allowed. Rentals of less than 30 days are illegal. Let's make this abundantly clear. **You are proposing a change in the property rights of every homeowner in Dana Point in order to grant new property rights to short term rental investors, most of whom don't even live here.**

The existing STRs are actually violating our zoning. There was no legal basis for letting them operate for 7 years, and now Council will grant them at least another 3 years. What a boon for these 144 investors! And most don't even live or vote here. They must be very special people indeed.

And why won't they let us vote on STRs? Federico, Muller, and Viczorek voted in July to **deny citizens a vote** on a zoning change that will affect the quality of life and property values for *every* resident of Dana Point. I find that stunning. Other cities have Councils that actually work for residents. Why does Dana Point's Council seem to put residents last? Does it have anything to do with the real estate and developer PACs that so heavily supported their elections, buying ugly smear ads to denigrate pro-resident candidates?

Let's be clear. STRs are a nuisance for residents. We didn't want them in 2016 and we don't want them now. **Who would knowingly risk the quiet enjoyment of their home or its property value by moving next door to a full time STR?**

How about putting residents first for a change? Keep neighborhoods for neighbors. Protect our residential zoning.

**From:** Diana Schwarz <olemediainc@gmail.com>

**Sent:** Monday, February 22, 2021 2:10 PM

**To:** STR <str@danapoint.org>; Allison Peterson <APeterson@DanaPoint.org>

**Subject:** letter to be read on record at tonight's meeting

Please see the attached letter that I would like to be read on record at tonight's meeting.

Thank you,

Diana



February 22, 2021

Dear City Council/Planning Commission members,

I would like to add my personal perspective read into the record regarding the STR pilot program being discussed at tonight's meeting and bring my concerns to light as a 20 year resident of Dana Point.

1. Residents should be allowed to vote on matters that could have potentially wide reaching and long lasting affects in our community. By allowing the City Council alone to make this decision is essentially silencing and disregarding over 30,000 residents. We should all have a vote in this matter to make a more informed decision for all our residents. To do otherwise casts a dark shadow over our City Council and the way business is handled in our town.
2. The timing of this is just terrible and discussions should've been tabled until next year. We're in the middle of a pandemic, trying to return to normalcy. Our residents have experienced isolation, fear, financial hardship, job loss, of no fault of their own. We've sacrificed so much for the greater good of our communities, but you want to open a revolving door to STR's and allow more 2-3 day stays of people coming in and out during a health crisis. Have our efforts to keep our community as safe as possible been for nothing?
3. This pandemic has amplified our housing crisis considerably, no one is moving due to moratoriums on eviction or fear of the unknown. The inventory is so limited I myself have been unable to find suitable housing to relocate for my disabled daughter, and I started looking prior to the pandemic. This STR program would only exasperate the situation.

I brought up my concerns with the housing shortage and the burden STR's place on that dilemma last year when I spoke with our newly elected candidate, Mike Frost, and now I address them with you. I have had a decade of experience with STR's in my own neighborhood, at one point I had three surrounding me. As much as the owners tried to control the negative impacts they had on our neighborhood, we still had house party disturbances, lack of respect from weekend renters and we even had someone setup one as a hospice. My children had to see a woman that had passed away being carted out in a body bag while they waited for the school bus. Traumatized doesn't even begin to describe what we had to go through on that one. But sadly, many people will take advantage of something they're not bound to or responsible for in the long run.

I respectfully request that you take this into consideration before making any decisions on this matter and think long and hard about the impacts on the general community.

Thank you,  
Diana Schwarz  
34034 Colegio Dr.

**From:** lynn smith <smittycapobeach@hotmail.com>

**Sent:** Monday, February 22, 2021 2:03 PM

**To:** STR <str@danapoint.org>

**Subject:** STR'S

To: Dana Point City Council,

I could write a long letter about the unfair route that some of the city council members are taking to allow a free-for-all city wide on STR's. but the main points are:

- 1) some city council members own a few or many str's in our city, that is a CONFLICT of interest when setting rules and regulations and voting that they are the only ones to vote on the issue, to not let the citizens vote on the ordinance should not be legal.
- 2) the small member city council members should not vote on the str ordinance, if they are really serving the community they would gladly put it to vote on the ballot. they do not/and should not speak for all. residents need to vote the issue up or down.
- 3) the CCC is not pressing the city to allow the str's. see laguna beach ordinance that the ccc approved.
- 4) 4000 people signed a referendum on the str ordinance and got it overturned. citizens have a right to vote on it , we have a right to a quality of life in the city.
- 5) most str owners do not live in the community and do not care about the-quality-o- life mandat for the residents both renters and home owners. only their \$\$\$\$\$\$
- 6) str owners took a chance on the legal aspect of putting a str on the property and can't be "bailed out" if they cannot create an str on the property. they knew when they bought the property. i guess they figured they could "buy" the city council to do their bidding.

If you are an str owner and on the city council, you should excuse yourself from the vote, period.

these str businesses belong in the commercial zone PERIOD

thank you

lynn smith

capistrano beach

**From:** Carlos N. Olvera <olveracn@gmail.com>

**Sent:** Monday, February 22, 2021 2:09 PM

**To:** STR <str@danapoint.org>

**Subject:** Comment

The biggest complaint I see, or read, is no supervision. And this may be a valid complaint and also may not be high enough for police response.

The STR business is not only chain operators but individual home owners, and is a big business. Make the industry police themselves.

The industry should have a 24/ 7 office in the city and a member of the Chamber of Commerce to facilitate complaints. It should be an office that is "licensed" by the city. They collect fees based on the number of bedrooms from all permitted STR paid for by the operator or home owner.

They should maintain a log of every STR, the in and outs, the complaints which can be reviewed by DP Code Enforcement.

A string of validated complaints is reason to revoke the STR permit for X numbers of days or months.

STR is a business. Start treating it like a business.

Oh yes, the city can also fine the "office" for not complying with their licenses. Poor response, the city can close the office. No office, no STRs

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cno ...

**From:** Barbara Wilson <barbarawilsonrealty@gmail.com>

**Sent:** Monday, February 22, 2021 2:33 PM

**To:** STR <str@danapoint.org>

**Subject:** Letter to Planning Commission for 2/22 Meeting

I would like to be allowed to read this letter at tonight's meeting.

Thank You

Barbara Wilson

Barbara Wilson  
Dana Point resident

The purpose of this meeting is to gather input to improve regulations for short term vacation rentals, under the false assumption that this will make them acceptable in residential neighborhoods. It seems you have the cart before the horse. Before considering how to regulate an STR program, should you not first determine whether they are wanted at all, and in which areas they might be appropriate?

If Dana Point's program will include properties in the coastal zone, it is necessary to consult the CCC, which has legal jurisdiction. The Director of Planning has confirmed that a CDP and a hearing at the CCC is necessary before a pilot program can be enacted. Why then, did Council strike this language from the resolution they passed at the July 21<sup>st</sup> 2020 council meeting? Is there an intention to circumvent the CCC? The City Attorney, when questioned by Councilman Wyatt in the same meeting, clearly suggested that such a move would be "technically illegal", but that didn't stop the Council from striking any such reference after comments decrying what they called the Coastal Commission's "interference."

Some have referenced the notion that the CCC has given us a "special opportunity" to expand STRs through a 3-year pilot program. It was abundantly clear that the opportunity suggested by CCC staff in their meeting with former Councilmembers Lewis and Wyatt was limited to a pilot program for home stay STRs only. The Coastal Commission recently approved an ordinance in Laguna Beach which limits new STRs to homestays and a small percentage in mixed use and commercial areas. They have completely shifted the stance they held years ago, understanding that California's need for public access to the beach should not interfere with a city's requirement to provide ample housing stock for residents.

In suggesting that the CCC is now fine with expanding the pilot program to include all forms of STRs, including full time investor-owned rentals, the Council clearly stepped out of bounds. Now, they are suggesting that holding a public workshop during a pandemic to attempt to strengthen code enforcement regulations will somehow make the program palatable to residents, most of whom probably have no idea this is even happening. The majority of residents surveyed, along with the 4,000 who signed the referendum, clearly feel this is not the solution. Even perfectly enforced mini-hotels are still unsupervised mini-hotels. Who would want one next door to their primary residence?

The Planning Commission is well aware of legal zoning requirements. I therefore ask you tonight: does the 3-year pilot program require CCC approval or not?

**From:** Traci Ross <soonertraci@gmail.com>

**Sent:** Monday, February 22, 2021 2:34 PM

**To:** STR <str@danapoint.org>

**Subject:** Question for STR meeting! Urgent!

Please ask the city council and the city attorney the following:

Will the City require permit applications to include HOA approval IF THE HOA IS INSIDE THE COASTAL ZONE?

If yes, please describe the legal justification for such a requirement when a precedent to the contrary has already been set forth in *Greenfield vs. Mandalay Shores* in 2018?

REGARDING the issue as to whether HOA's located in coastal zones under the Commission's jurisdiction may similarly regulate STRs. California's Second District Court of Appeal found that HOA's located in the coastal zone do not enjoy similar discretion and deference. In *Greenfield v. Mandalay Shores* (2018) 21 Cal.App.5th 896, the court held that the decision to ban or regulate short term rentals, such as Airbnb's, must be made by the City and the Coastal Commission, and not the HOA.

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Traci Ross

**From:** Toni Nelson <tonidn1@gmail.com>

**Sent:** Monday, February 22, 2021 3:09 PM

**To:** STR <str@danapoint.org>

**Subject:** Comment for STR workshop tonight

Please distribute this comment to Planning Commissioners and post it on the city website along with other correspondence on this issue. Thank you, Toni Nelson

Planning Commission written comment 2/21/21: STR Workshop

Toni Nelson, Capistrano Beach

Short term rentals are a very contentious issue in Dana Point. I believe this is mainly because of a fundamental unfairness in terms of how various constituencies are being treated.

First, there is a disparity in how the City intends to treat HOA residents as opposed to those who do not live in HOAs. Virtually every HOA in the City bans STRs for the same reason most citizens object to them – an unsupervised mini hotel with constant comings and goings is simply incompatible with residential uses. The City intends to honor the CC&Rs of HOA properties, as they should, but seems to have no respect for the zoning in non-HOA areas. HOA residents have the added advantage that changes to their CC&Rs are always put to a vote of all residents. In most cases, it takes 2/3rds to actually change them. For the rest of us, in the non-HOA class, our zoning can be changed fundamentally by the votes of just 3 Councilmen. All homeowners in Dana Point purchased their homes thinking they were buying in residential areas. They had no reason to worry that the City would one day consider overturning that



zoning to give special property rights to investors. Zoning exists to separate commercial, industrial and residential uses. ***It is unfair to honor zoning for some citizens but overturn it for others.***

Ironically, even HOA residents can't rely on their favored status, as illegal STRs crop up everywhere – even in HOA communities. The communities of Niguel Beach Terrace and Monarch Hills in particular, experience chronic illegal activity. There were 450 citations for illegal STRs issued by Code enforcement in the period 2017-2019. This number is likely significantly understated, as code enforcement officers tended to issue citations once per week, not for every day an illegal STR was operating, as is allowed in the business code.

A second type of discrimination has been facilitated by the fact that we are now separated into voting districts. Instead of being allowed five votes for all Council members, we have only one. Those of us in the primary non-HOA areas, Lantern District and Capistrano Beach, have no recourse against the 3 Council members who have denied us a vote on this issue and seem intent on expanding all types of STRs in Dana Point. If we are unhappy about this, we can neither vote against them nor directly recall them. Ironically, districting was established to give better representation to minorities. ***Lantern District, the area with the largest percentage of minorities, will likely be unfairly burdened with the loss of housing stock, especially for the 55% who rent their homes. Three Councilmen, who represent 3 districts that account for only 25% of STRs between them, will make a decision for two other districts that will suffer 75% of the burden.*** This is hardly representative government. It is grossly unfair to certain districts and minorities, effectively treating thousands of people as second class citizens.

A third type of unfairness exists because ***ordinary residents, the people who live, go to school, vote in Dana Point and have a significant stake in the community, will bear all the costs of STRs*** – lost housing stock, nuisances, disruption of daily lives, parking issues, potential loss of property value -- ***but get NO benefits. All the financial benefits accrue to STR investors and their managers.*** Since most investors aren't present during the rentals, and a majority don't even live in Dana Point, they avoid the nuisances borne by their neighbors and never have to face those who are inconvenienced by their business on an ongoing business. Imagine the audacity of making money by running a business that creates nuisances that are borne, not by you, the business owner, but by others? ***Even if you succeed in creating a robust enforcement plan, why would most homeowners want to live next door to something that requires robust enforcement?*** Even a well run, well enforced STR is still (except in rare instances) an unsupervised mini-hotel. The burden of its existence in a residential area is borne by the neighbors, not the STR investor. ***Any program that foists all the costs on one group while granting all the benefits to another is clearly inequitable and should be rejected by any fair minded leader.***

There is some financial benefit to the City from TOT charged to STR clients, but this is marginal once you deduct the cost of personnel and overhead for police complaints (553 in 3 years), code enforcement complaints (532 in 3 years, mostly for illegal STRs), Host Compliance contracts, and legal and collection costs for unpaid penalties (78% unpaid of \$122,000 in the 3 years examined). And that excludes the lost revenue to hotels that may have otherwise been booked, not to mention the huge intangible cost of unhappy citizens who feel their City Council has abandoned them since they belong in a "second class" category. If the City really can't live without the additional revenue, how about supporting our bread and butter hotel industry which has been reeling from the pandemic? After all, hotels pay their taxes on time and supervise their guests 24/7 in commercial areas with little additional enforcement from the City and without burdening their neighbors. Has anyone asked hotel owners and managers what they

think of an expanded STR program? **Why is the hotel industry not considered an “STR interested party”?**

I simply don't understand why the City would want to create a program that so clearly creates winners and losers. **Are all citizens of the city to be treated equally or do you become second class because you don't live in an HOA, or one of the districts won by the Council majority?** Why would they bend over backwards for a small number of investors (many of whom aren't Dana Point citizens) while angering a huge number of actual citizens who have a real stake in our community and a right to the quiet enjoyment of their homes? Why not simply put STRs where the CCC has already agreed they belong – in supervised homestay rentals, or in mixed use or commercial areas where there is already an expectation of commercial activity?

Given the unavoidable nuisances and inherent unfairness of forcing STRs on residents who do not want them, the City is creating unnecessary contention and will force residents to once again, overturn an unpopular ordinance. Isn't it easier to simply treat all constituents equally and with respect, honoring their residential zoning and letting *them* decide if they want to change it? Dana Point is a pro-business community and that's a good thing. We want our businesses to make money, but they should operate in commercial and mixed use areas, and not be allowed to burden residential neighbors unfairly.

Dana Point families have a right to expect that their Council members will work to protect their residential neighborhoods. Please honor residential zoning for all citizens; renounce this effort to force an unwelcome zoning change; and refrain from granting new rights to a privileged investor class. Stop picking winners and losers and unfairly burdening the neighbors of STRs. **We need a Council that treats all constituents fairly and equally.**

-----Original Message-----

From: Gerald Derloshon <jderloshon@outlook.com>

Sent: Monday, February 22, 2021 3:19 PM

To: STR <str@danapoint.org>

Subject: STR public comment in advance of 2/22/21 Public Zoom Meeting

2/22/21

To City of Dana Point

We are 20+ year residents of Dana Point.

We have had more than one bad experience in our neighbor concerning STRs. On one occasion, an Uber driver woke us up at 12:30 a.m. in an attempt to deliver luggage intended for the address below us — same house number, different street. On other occasions STR occupants in our community have gathered in groups and smoked cigarettes and cigars in the street where the offending smoke could be detected in our home. In addition, our community pool rules and parking regulations have been violated by transient STR occupants.

We live in a community of single family residences governed by CC&Rs and Rules and Regulations. We chose to move to such a community where association CC&Rs and Rules & Regulations would help keep

our neighborhoods looking their best, and where a sense of neighborhood and community would be enhanced.

A long-standing rule in our association prohibits STRs of less than 30 days, and in spite of that, the City granted an out-of-area non-occupant owner a STR Permit, who advertises and runs a STR income-producing business from the home at 24796 Seamist Way, Dana Point. This is wrong. The permit should be pulled. The STR, located a few houses from our own, has people transitioning in and out throughout the year.

Our HOA board efforts to resolve the matter through normal means of correspondence, and even fining the homeowner have not resolved the matter, even though the homeowner received a copy of association documents prohibiting rentals of less than 30 days.

Furthermore, the City collects a TOT from the owner, making the home a business, and our CC&Rs clearly state that homes are to be used as residences, not as businesses. Language citing an STR as a “business” is used in Dana Point city documents and as such, issuing a STR permit here was wrong. What gives the City the right to issue a permit for something that is prohibited by a Homeowners’ Association CC&Rs and Rules and Regulations.

Summary: The City of Dana Point should not approve STR permits in communities governed by HOAs whose CC&Rs and/or Rules and Regulations do not allow them, and should immediately withdraw such permits when it learns that the permits conflict with HOA CC&Rs and/or Rules and Regulations.

Debbie & Jerry Derloshon  
24826 Dana Point Drive  
Dana Point Ca. 92629

**From:** Sandie Iverson <sandie6449@gmail.com>  
**Sent:** Monday, February 22, 2021 3:39 PM  
**To:** STR <str@danapoint.org>  
**Subject:** Please Read Letter to Planning Commission

## Letter to Planning Commission, 2/22/21

Sandie Iverson, Capistrano Beach

Hardly a day goes by in Dana Point when there isn’t someone on Facebook or Next Door seeking long term rental housing. There is little to no rental housing available in our city and surrounding communities plus hardly anything is affordable.

California has a severe housing shortage and by 2018 we ranked 49<sup>th</sup> in housing units per resident. The shortage is estimated to be 3 to 4 million units so is it any wonder Dana Point residents are having trouble finding housing?

According to demographic data on the City's website, 38% of Dana Point citizens live in rental housing. In Lantern District, a whopping 55% are renters. Lantern, along with Capo Beach, account for the vast majority, (75%) of existing STRs. This is not surprising, since these are the two districts with almost no HOAs. District 1 has 29 STRs, with all but 3 in condos in Monarch Hills. District 2 has 6 and District 3 has only 2. Isn't it ironic that the representatives of those districts, Muller, Viczorek and Federico, are the 3 Councilmen who voted to deny us a vote on whether residents want STRs. They are secure in the knowledge that such a policy will have little impact in their own districts, while unfairly encouraging investors to convert needed housing into mini hotels in Lantern and Capo.

Almost half of the current STRs are located in multi-unit housing. This is another sign that renters will be unfairly burdened. Think of the incentive to a landlord to evict long term residents and it will be much more lucrative to convert to full time vacation rentals. *So what if residents lose their housing, especially low-income renters?*

This is exactly why the Coastal Commission did an about-face on STRs. Our Council, staff and even our Planning Commissioners have been insisting that they're only pushing STRs because the CCC is making them and we know this is false. The CCC is on record saying that STRs pose a threat to housing stock and cause nuisances in neighborhoods. That's why they've been pushing home stays and limited STRs in commercial areas only. They were just fine with a home stay program in Dana Point. It's Council, not the CCC, that changed that.

Renters need to be considered in this process or your workshops are a sham. And please stop blaming the CCC for pushing STRs. They are being pushed by investors along with some of our Council members and no one else.

**From:** Steve Didier <stevedidier1@gmail.com>

**Sent:** Monday, February 22, 2021 3:57 PM

**To:** STR <str@danapoint.org>

**Subject:** No on STRs

Please read into the PC record. I am currently out of town, visiting a national park and staying in a socially distanced cabin at Zion National Park, not an STR. If I could be there, I would vehemently express my disapproval in person for unrestricted STRs in Dana Point. You have undoubtedly read my prior letters and LTEs to the Dana Point times. Dana Point has enough hotel serving enterprises in commercial zones. Don't force them on residential zones. Do what is right, not what may be popular among your friend or investment groups. Deep down you know what is right.

Steve Didier

Dana Point

-----Original Message-----

**From:** Kim Tarantino <kim.a.tarantino@gmail.com>

**Sent:** Monday, February 22, 2021 3:57 PM

**To:** STR <str@danapoint.org>

**Subject:** Written comment for Planning Commission meeting for Feb 22, 2021

Please forward this to the commissioners and post on the city site designated for these comments

Thank you,

Kim

Planning Commission written comment for Feb 22, 2021 STR Workshop

Kim Tarantino, Capistrano Beach

I am perplexed by the Dana Point City Council's apparent eagerness to expand the number of short-term rentals (STRs) offered in our residential neighborhoods. I'm very concerned that this contentious issue is not being decided by Dana Point residents but potentially by three councilmembers.

Short-term rental platforms are one component of "the sharing economy" and are also referred to as "internet-based service firms (IBSFs)". Often IBSFs consider themselves innovative, thus exempt from the rules and regulations that their traditional counterparts must abide by. A perfect example is Airbnb's STR reservation service. This service, like the other STR service providers, facilitates property owners operating a hotel business in a non-business-zoned neighborhood. It is a business model built by ignoring local zoning restrictions, an option not available to traditional hotels. Why would our city encourage this disregard for rules and regulations? How have our neighboring cities responded to STRs in residential neighborhoods?

A very quick Google search shows that most of our neighboring cities prohibit short-term rentals in residentially zoned neighborhoods. And for good reasons. These reasons can be found with another relatively quick Google search. Using the query: "short term rental issues in residential neighborhoods", many links result. These links lead to reports and studies highlighting the multiple problems STRs bring to a neighborhood. Some of the problems, starting with the day-to-day concerns of the neighbors:

- Residents feel uncomfortable and unsafe with waves of strangers coming and going. The possibility of above-average noise, parking shortages, and other transient-related disruptive activity adds an extraordinary layer of stress compared to living in an STR-free neighborhood. As one resident living near an STR said "All we can do is hope that the visitors will behave."
- Impact on property values. A REALTOR Magazine article cited in a Travel On The House post stated that "A single-family home or condo unit next door to a short-term rental – where the occupants change every few days – will take longer to sell and bring in lower offers."
- Loss of long-term housing. A distressing effect of STRs is the number of long-term rental properties being converted to STR use. This results in higher housing costs for residents needing long-term rentals (defined as greater than 30 days). As more STRs are allowed, STR price-per-night will decrease (the forces of supply and demand) and long-term rental rates will increase as availability decreases.

Can the City expect a transient occupancy tax (TOT) windfall from STR guests?

Many people are under the impression that STR guests add a large number of guests, over and above the number of visitors a city would likely receive if there were no STRs. Two studies including one by Morgan Stanley Research found that 96% - 98% of Airbnb customers said that they would have continued to their planned destination even if an STR was not available. I would imagine those studies would find the same results when surveying customers of VRBO and other hosting operators.

Hotels are an important component of our city's economic structure. They also have a very transparent, efficient, and effective TOT collection process. Are the STR-hosting platforms as transparent, efficient, and effective? If Airbnb is representative of the STR platforms, the answer would be "no". Twelve Airbnb tax agreements were made public in 2017. Dan Bucks, a former executive director of the Multistate Tax Commission, found that these agreements "undermine tax fairness, transparency, and the rule of law". He also noted "They block tax agencies from verifying the accuracy of Airbnb payments." A search of Dana Point's public records shows that of the 532 citations issued for the period 2017 – 2019, 74 were for unpaid TOT that the City was aware of. City staff have confirmed that TOT is collected on the honor system, with no means of confirming the accuracy of the amount due.

Perhaps the City should question whether it can afford to increase the number of STRs. The apparently opaque TOT collection process that possibly reduces TOT due, the additional code enforcement costs, the possible decrease of



property values and related property taxes as homeowners flee the neighborhoods, allowing those neighborhoods to become mini-hotel enclaves. Long term renters will likely be priced out of the rental market as supply of long-term rentals dwindle.

Also consider the fallout of the precedent: maybe Marriott will challenge the policy preventing them from setting up their own STR-like operation in residential neighborhoods.

The real question is: is the City Council's priority to make Dana Point a tourist accommodation or a place to live?

City Council's resistance to allowing residents to vote on this issue is troubling. Why are the councilmembers afraid of allowing their constituents to voice their preferences? What are we not being told? Not allowing a vote suggests impropriety.

**From:** J. Schad <emjackdad@gmail.com>

**Sent:** Monday, February 22, 2021 4:05 PM

**To:** STR <str@danapoint.org>

**Subject:** Public Comment for Short term rental meeting 2/22/21

TO: City of Dana Point Planning Commission/Short Term Rental Committee

From : Jim Schad. Doheny Village Property Owner and Resident.

RE: CommissionMeeting 2/22/21 regarding Short Term Rentals (hereto referred to as "STR(s))

Dear Members; Thank you for taking up the topic of STRs. I believe that many residents of Dana Point are inherently against STRs, and I also believe that many of said residents do not have all of the facts about STRs, yet they believe many of the misconceptions about STRs. I do not have any affiliation with any aspect of any STR. I humbly ask that this commission address the following issues regarding STRs in Dana Point:

1. STRs have a reputation in Dana Point for being continuous "frat party" affairs, and yet I have not seen hard data to confirm or deny this. Can this committee comment on the actual number of complaints annually with STRs?
2. What is the current of STR complaint/code enforcement guideleines and what can be done to improve enforcement guideleines? I believe that strict enforcement policies can be better deterrents that require minimum stay requirements. Haas the committee considered enforcement guidelines that range from preventing a public nuisance, shutting down an STR that has become a public nuisance in real time, and penalties for property owners that do not monitor their STRs.
3. Study to pros and cons of "majority rule" if the general public is ever allowed to vote on STRs. In this instance I believe "majority rule" voting would not be fair to STR proponents who are in the very minority of this issue.
4. There have been suggestions of requiring the owner to be/live on the premises that are deemed an STR, as well as suggestions of 30 night minimums. These types of policies appear to be in the public interest but may also preclude many potential

renters from coming to Dana Point. Does this committee have a stated position on these policies? They could be viewed as just another way to keep STR's from being viable in Dana Point.

5. What is the revenue to the city from STR's vs. hotels?
6. The recent (and ongoing covid crisis) has changed the way people travel and vacation. "Stay-cations" or local, smaller venues are more attractive than hotels and motels. Has the committee studied the long-term effects of Covid on the hospitality industry, and would there be a potential to increase the number of STRs in Dana Point to make up for lost hotel/motel revenue that Dana Point receives?
7. Is there a plan to bring rogue STRs into compliance?

I do not expect the committee to answer all these questions tonight, but I would like to know they will be taken into consideration and addressed at some point. I would also encourage residents to get involved in this process and offer my time to the committee in any way that is needed to get a complete picture of the STR situation and it's true impacts on Dana Point.

Sincerely – Jim Schad (949) 315-5653