

From: Dana Point <danapointbeachvacation@gmail.com>

Sent: Monday, May 9, 2022 1:52 PM

To: Belinda Deines <BDeines@DanaPoint.org>

Subject: PUBLIC COMMENT, Meeting 05/09/2022, Reference: Coastal Development Permit CDP22-0010 to establish a Short-Term Rental Program.

Please confirm this email is received and the correct person received my statement for the meeting this evening 5/9/2022. Thanks

----- Beginning of statement-----

PUBLIC COMMENT, Meeting 05/09/2022, Reference: Coastal Development Permit CDP22-0010 to establish a Short-Term Rental Program.

To the City of Dana Point and the Planning Commission.

Unfortunately, I cannot attend tonight's meeting due to a work commitment. I have been unable to participate in-person to many of these meetings due to my work schedule, but I have kept up with all activities. I want to make sure that my comments are added to the record so that the City and the Planning Commission know my stance on the subject. I may not be there physically, but I have an opinion, and I care greatly about the city and the work that the planning commission has done.

First, I want to thank everyone that has worked hard to research, study, listen and put together a plan that best suits the city of Dana Point, our neighbors, and the guests that visit our lovely city. I know this is not an easy job as there are many heated opinions on both sides of the argument. I appreciate the calm and level-headed approach to the facts and the law to determine the best course of action.

I prefer that the city of Dana Point is known as a welcoming city and not an elitist city. I know that was part of the charm that made me initially move to Dana Point. The beach vibe, the casual, relaxed lifestyle, and the friendliness of your neighbor and the community.

As a short-term rental owner, I have always been about respecting my neighbors and following guidelines for both the well-being of my house but also my community. I like the direction that the current STR plan is proposing.

In reviewing the documents, I agree to many of the rules and had already applied them to my STR. I do feel that there are a few items that may have issues long-term. The three strikes in the course of your permit and the one permit per owner. I am sure, just like other short-term rental owners, I plan on living in Dana Point for a long time and plan on keeping my permit in good standing. A limit of three incidents over the lifetime of the permit seems disproportionate to the length of time that one may reside and operate an STR in Dana Point. I also see a problem if an individual against STRs decides to create false reports. I'm not sure how the city plans to handle that, and hopefully, that would be few and far between.

On the note of one-owner-one permit, I'm not sure legally how that would stand with the current laws supporting STRs. I'm against any lawsuit that might cost the city money. I hope this has been considered

when deciding on the one-owner-one STR regulation.

I would also like to note that I did not see any mention of how current STR permit holders fit into this new regulation. I would like to have some clarification and documented statement of how that will be handled to avoid any confusion.

Thank you again.

Sincerely,
Sherri Cuono

Agenda Item No. 3
Date: 5/9/22

From: Ryan Bundy <Ryan@avarisource.com>
Sent: Friday, May 6, 2022 4:27 PM
To: Comment <Comment@danapoint.org>
Subject: STR Expansion

As a Capo Beach resident and local business owner, please do not sell out our neighborhood to STR investors. This stands to only make it harder for workers (which we rely on for our local economy) to afford to live in the area. We've already dealt with the Sober Living houses taking over our streets- please limit STRs to residents or find some way to control corporations/investors from continuing to exploit our town.

Best regards,

Ryan Bundy

Managing Member



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Agenda Item No. 3
Date: 5/9/22

To the Planning Commission and Dana Point City Council

The proposed STR policy is unfair to Dana Point's residents and discriminates against its minority and lower income residents. The impact will be felt primarily in districts without many HOA's that prohibit them. Powerful real estate interests and STR advocates appear to have more influence with the Planning Commission than its residents.

Allowing STR's in Dana Point's residential neighborhoods has been a contentious issue in Dana Point for many years. It culminated in the Referendum whereby 4,000 voters rejected an STR policy like the one about to be adopted by the Planning Commission. **Once again, the Council will not give residents the opportunity they deserve to vote on the proposed policy. It would appear that the Planning Commission and the Council do not think it would be approved by the voters and they would be right.**

Dana Point is a small city. **The STR policy being proposed will undoubtedly alter the character of its residential neighborhoods and over time will destroy them.** Cities throughout the country are fighting back against the negative effects STRs are having in their communities. As other cities have found out the hard way, enforcement is virtually impossible and the collection of TOT to offset costs is problematic. Why should the city have to subsidize the extremely profitable STR and real estate industries?

Residents concerned about the STR policy have attempted to work with the Planning Commission at its workshops. However, the Commission has ignored or rejected provisions proposed by residents. The Commission needs to go back to the drawing boards and do better for the residents of Dana Point.

Betty Hill

Capistrano Beach Resident

Agenda Item No. 3
Date: 5/9/22

From: m hodson <hodson_mike@yahoo.com>

Sent: Thursday, May 5, 2022 9:54 AM

To: Comment <Comment@danapoint.org>

Subject: Short Term Rentals (STR)

Something as significant as STRs should be voted on district by district. It is something that could forever change the value and culture of Dana Point.

Agenda Item No. 3
Date: 5/9/22

Mark Zanides
Dana Point, CA. 92629
mzanides@gmail.com

May 9, 2021

The Dana Point City Council and Planning Commission
comments@danapoint.org

Dear Council Members and Planning Commissioners:

I write to address the Community Development Department's Report to the Dana Point Planning Commission seeking adoption of a proposed resolution approving Coastal Development Permit CDP 22-0010 to establish a Short Term Rental Program. establishing a short term rental program.

This Commission should not adopt the proposed resolution, for all of the reasons I set forth my letter of April 11, 2022 to the Council and Planning Commission. I will not needlessly reiterate the points I made therein.

A. This Commission Should Reject the Staff Request to "Find STRs are Permitted as a Residential Use"

As I stated in my letter of April 11:

So let us be clear: what the Council has directed the staff and Planning Commission to propose is to fundamentally alter the zoning in Dana Point and to burden residents who purchased homes in districts zoned residential with commercial operations in their neighborhoods. Make no mistake about it, Airbnb, Vrbo and the owners of these STRs are in business. They earn untold millions of dollars per year in Dana Point. Indeed, Chapter 5.38, which purports to govern STRs, is found in the City's Business Code. It follows that STRs cannot be permitted in areas zoned residential absent a change to the zoning code.

In the face of these [and other] objections, the staff now want to do a 180 degree about face, and reject the City's long standing legal position that STRs are not permitted in residential areas. The staff states:

Rather than continuing to take the position STRs are not currently permitted as part of approved residential uses (which would be subject to a legal challenge), staff

is recommending that the Planning Commission recognize the trend in reported cases is to find STRS are permitted a part of any residential use. As such, there is no need for any LCP amendment, or any other zoning amendment, because the use is already permitted with any residentially zoned property. In order to comply with the Coastal Act, a CDP is proposed to allow the regulation of STRS, which we must presume (sic) are already legally authorized by the existing zoning and the City's LCP. Staff report at 2-3.

This is an extraordinary change, and entirely unjustified. Indeed, it is hard to know where to start addressing this ridiculous proposal.

This recommendation must be rejected, for several reasons.

1. There is no ambiguity in the City Codes. The prohibit STRs in residential neighborhoods.
2. The City has always interpreted the Codes to prohibit STRS in residential neighborhoods.
3. This Commission is not empowered to change the City Code.
4. Even if it were empowered to change the Code, which it is not, this Commission is not competent to make a legal determination of whether the putative basis for the new interpretation is legally correct and/or required by the authorities cited [actually mis-cited] by the staff.

1. The City Codes Bar STRs in Residential Neighborhoods.

The City Codes define different sorts of living accommodations.

Dana Point Municipal Code Section 9.75.270 Definitions of Use.

The following terms are utilized in the use charts for Chapters [9.09](#) through [9.23](#) and are defined here for reference.

Bed and Breakfast Inn — shall mean a large single-family dwelling unit, sometimes a small hotel, which provides lodging and breakfast for temporary overnight occupants for compensation.

Guest Room — any room which is used or designed to provide transient occupancy and sleeping accommodations for one or more guests. Guest rooms occur in hotels, motels, time-shared, bed and breakfast, private clubs, lodges, fraternal organizations, and other transient occupancy uses. (Added by Ord. 93-16, 11/23/93; amended by Ord. 94-09, 5/24/94)

Hotel — shall mean a structure or group of structures containing six (6) or more guest rooms or suites offering transient lodging accommodations to the general public, with most rooms gaining access through a common lobby and an interior hallway(s). Such a facility may include incidental services that customarily are provided by a hotel such as food service, recreational facilities, retail services provided for the convenience of hotel guests.

But that is not the only definition of “hotel”. Section 3.25.020 of the Municipal Code defines hotel:

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

(b) “Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes, but is not limited to, any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof, duplex, triplex, single-family dwelling units except any private dwelling house or other individually-owned single-family dwelling rented only infrequently and incidental to normal occupancy or any timeshare as set out in California

Emphasis Supplied.

What is a transient? The Code also defines “Transient”:

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

“Transient” means any person who occupies or is entitled to occupy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel is a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, an uninterrupted period of time extending both prior and subsequent to the effective date of this Chapter may be considered. **Dana Point Municipal Code Section 3.25.020 Definitions.** (Emphasis Supplied.)

So, are accommodations for transients permitted in residential areas in Dana Point? No they are not. See Zoning Code Section 9.09.020 et. seq.

2. The City Has Always Interpreted the City Codes to Bar STRs in Residential Neighborhoods

I am not alone in my interpretation. I understand that this has been the City's position since it has first addressed this issue in or about January of 2007. The City staff reports referenced below are examples of this stated position.

04/02/2013 City Council Meeting Agenda Item 8 Staff Report link: <https://www.danapoint.org/Home/ShowDocument/11839>. The following paragraph from this report have consistently been restated by City staff since the first City Council meeting on STRs on 01/30/2007:

Status of Existing Short-Term Rentals

As the Council is aware, it is estimated that over 250 short term rentals are operating in the City. Per the Council's direction pending the review of this issue, staff has not expended resources taking action against persons operating such uses, even though they are currently prohibited by the City's zoning code. Understand, that to legally operate, all regulations must be complied with, and in the regulatory process proposed, this means a short term use must be in a zone approved by the proposed Zone Text Amendment and must comply with the proposed operating regulations ordinance. Knowing there will be a need for existing operations to have time to come into compliance with the proposed regulations, and also knowing there may be some (perhaps significant) delay in obtaining Coastal Commission approval, the current proposal is structured so that all existing operators will be expected to obtain a Short Term Rental Permit by January 15, 2014. This will give them time to come into compliance with the operating regulations ordinance. In addition, by that time the Zone Text Amendment ordinance for areas outside the Coastal Zone will presumably be effective. The Coastal Commission's approval of the Zone Text Amendment ordinance within the Coastal Zone is outside the control of the Council, and will likely not occur (if at all) until well after January 15, 2014. Persons operating short term rentals in the Coastal Zone will be expected to comply with the operating regulations ordinance by January 15, 2014. However, in the event that the Coastal Commission does not approve the Local Coastal Plan Amendment associated with the proposed Zone Text Amendment, short term rental uses in the Coastal Zone will remain illegal (and presumably action to preclude them will follow). Importantly, compliance with the operating regulations ordinance, including obtaining a Short Term Rental Permit, will not be deemed sufficient to allow a short term rental use to continue in the event the Coastal Commission denies the Zone Text Amendment in Coastal Zone districts. Hence, any person desiring to operate a short term rental prior to all zoning changes becoming effective will be doing so at their own risk, knowing they are violating current City regulations which may not be changed if the Coastal Commission does not grant its approval.

Of course when the City Council approved the STR ordinance in 2016, the City Attorney not only advised that it must be done by Ordinance, but also that a Zone Text Amendment was required.

See:

09/06/2016 City Council Meeting Agenda Item 6 Staff Report link: <https://www.danapoint.org/Home/ShowDocument/19277>. This staff report is for the second reading of the STR ordinance after it was modified to include changes recommended by the Coastal Commission.

My recollection is that the City Attorney's publicly stated reason for concluding that STRs are banned is that Dana Point is a permissive zoning city, which means that unless specifically permitted, an activity is prohibited. Since STRs were not expressly permitted, they are prohibited.

All of that is a correct statement, as far as it goes. But this is not the only reason that STRs have been banned in Dana Point. As I have demonstrated above, a more comprehensive textual analysis of all of the City Codes leads to the inescapable conclusion that the Codes ban STRs in residential neighborhoods.

3. This Commission is Not Authorized Either to Change the City Codes or the City's Interpretation of Them.

First, the interpretation of the meaning of the City Codes is a question of law. Neither the City staff nor the Planning Commission is competent to render a legal judgment as to the meaning of the City codes in this context. This made abundantly clear by the staff's misreading of the holdings of the cases on which it purports to rely.¹

More importantly, even if it were inclined to want to act in this matter, especially in the demonstrated absence of staff's the competency to do so, I do not believe this Commission is authorized to substitute its judgment for that of the City Council in a matter of such importance. Rather, this Commission should decline the staff's invitation to adopt this Resolution and refer the matter to the City Council.

As the cases reflect, any decision the City takes may seriously impact the City's legal options in the future. Indeed, the significance of this decision to alter the City's interpretation of its own statutes cannot be overstated, as the courts have repeatedly observed that a city's interpretation of its own statutes is entitled to great weight. See, e.g. (*MHC Operating Limited Partnership v. City of San Jose* (2003) 106 Cal.App.4th 204, 219.)

Finally, neither the Planning Commission nor the City Council should accord any weight to the threat of lawsuits by private parties claiming the right to unfettered STRs in residential neighborhoods. If this were a sound argument, one would have expected such a lawsuit by now none has been filed to my knowledge. The staff is essentially recommending that in the face of some imagined threat based on its misreading of cases interpreting statutes entirely unlike ours, the City should preemptively surrender its

¹ It is not necessary to detail the staff's misreading of the cases. Suffice it to say that

correct and longstanding legal position and donate our residential neighborhoods to commercial out of town interests.

This is cowardice, plain and simple. It is the nature of city government that some disgruntled persons may make legal claims inconsistent with the city ordinances and the public interest of the residents. It is the City's duty to use all of its considerable resources to protect the public interest, not preemptively to surrender in the face of the mere chimerical possibility of a lawsuit.

B. The Planning Commission Has Presented No Data on the Likely Negative Impact on Housing this STR Program Will Create

1. The Staff Still Does Not Know How Many Unpermitted STR Exist

Residents have complained about unpermitted STRS for years. Virtually no enforcement action has been taken against them. The staff has claimed that there are none or very few. Prior to the April 11 Planning Commission meeting, the staff asserted:

During the public hearing phase for increasing the regulations of Chapter 5.38 and updating the STR program, common concerns were heard regarding the City's efforts to enforce unpermitted STRs. (sic) Residents referenced the online tool AirDNA for identifying these STR advertisements. It has been mentioned in multiple City meetings that over 300 illegally operating STRs can be found utilizing this online tool. AirDNA scrapes both AirBnB and VRBO advertisements to determine potential market viability for those looking to buy a home to utilize as an STR. This platform aids investors by providing data to determine if an area is a strong market to invest in. City staff conducted a thorough review of the data presented on AirDNA to determine the validity of the information on this website.

I filed a Public Records Access (PRA) request to see what records were obtained by the staff in this "thorough review" of the data presented. The records produced reflect only that the staff canvassed the online platforms and found that none advertised short term rentals. This is not surprising since unpermitted STRs are not legal. Never mind that it is common knowledge in Dana Point that all you need to do is advertise as a 30 day rental to escape code enforcement "scrutiny."

What the staff apparently did NOT do is actually investigate whether these ads for 30 day rentals actually resulted in short term rentals, as many in town have asserted. No interviews with neighbors were conducted. No other investigative steps were taken..

Citizens, however, have found plenty of evidence in comments on Airbnb sites on some of these properties reporting that they enjoyed a wonderful week or weekend in Dana

Point. At the meeting on April 11 the staff reported it had identified 6 illegal STRs of the 205 properties listed. They also said that 142 of them were listed as 30 day rentals. I received no data on what, if any, follow-up investigation was conducted on these.

The fact that the staff decided these properties (69% of the listings) needed no further scrutiny is evidence astonishing, and reveals its incompetence. Is it reasonable to assume that 69% of STR customers in Dana Point (142 of 205 listings) are booking 30 day vacations? Per Airbnb, listings in excess of 28 days increased from 14% to 24% of listings during the pandemic. Airbnb across the US has experienced nothing close to the 69% of “long term” listings experienced by Dana Point. Surely any competent auditor would find this highly unusual.

This would be simply sad if not so important. Simply put, as of now this Commission does not know how many unpermitted STRs there are in Dana Point. It would be negligent to adopt an STR program without this information since it bears so directly on the likely impact of the proposed STR plan.

Moreover, it would be simply irresponsible to trust a code enforcement staff that couldn't even ensure that valid insurance liability covered STRs, with the important task of enforcing these regulations. The fact that the regulations contain NO provision for auditing TOT nor the 60 day restrictions on primary STRs is further evidence that poor enforcement will continue. Indeed, the regulations do not even address how it will be determined that primary STRs are indeed principal residences. These are hardly “strengthened” or “improved” regulations.

As I have previously pointed out, there is a very direct way to address the issue of illegal STRs. Any STR program should require the marketing platforms to collect the TOT from properly licensed units. Most coastal cities have this requirement.² The excuse that the platforms don't provide unit by unit data does not preclude the City from requiring detailed information from property owners. The current “honor” system clearly invites cheating.

2. The Staff Has Not Presented Any Data Assessing the Likely Impact of the STR Plan On Existing Housing Stock

We are all aware that there is a housing shortage in California, and it is particularly acute in expensive coastal cities such as ours. The STR subcommittee and staff have been studying the STR issue for nearly four years now. This proposed plan will add untold numbers of STRs to our City. I have seen no data whatsoever on the likely negative impact that the proposed STR program will have on housing, particularly lower income housing, in our city. I am unaware of any data or analysis presented by the staff

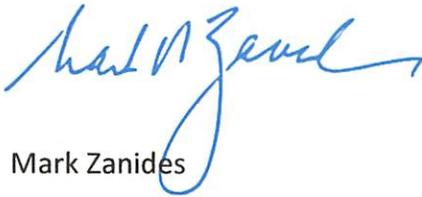
² Santa Monica successfully defended this requirement. So the Council and City Attorney cannot credibly claim it will cause legal problems.

addressing the likely impact of this plan on housing, particularly lower and middle income housing. Impacts on housing stock were a significant factor in the reduced STRs allowed in the recent Laguna Beach ordinance approved by the CCC. The CCC requires such an impact statement. Its absence is quite significant.

Conclusion

For all of the reasons stated above and in my April 11 letter, I oppose this recommendation: this Commission should not adopt this Resolution.

Very Truly Yours,



Mark Zanides

Agenda Item No. 3
Date: 5/9/22

From: james kelly <caroljim22742@cox.net>

Sent: Monday, May 9, 2022 3:43 PM

To: Belinda Deines <BDeines@DanaPoint.org>

Subject: May 9th ,2022 Dana Point Planning Commission mtg, comment STR item 3.

Importance: High

We opposed the resolution approving the Coastal Development Permit CDP22-0010 to establish a Short-Term Rental program for the following reasons:

1. This changes the residential zoning to Commercial. (Air B & B's) are profit business
- 2 There is no Short-Term Rental limits on condos. Some buildings are built as apartment buildings, to get permits, and are turned into condo's latter.
3. The California Coastal Commission encourages hotels that provide low-income rooms. A good example would be the Marina Inn at the Harbor. Most STR's are not low income, particularly those with ocean views.
4. There is no cap on Home Stay Short-term rentals or Primary Home stays.
5. Once STR's are permitted in the coastal zone the Coastal Commission may not allow these STR units to be discontinued.

We feel this issue should be voted on by the voters of Dana Point.

Jim and Carol Kelly, Santa Clara Ave, Lantern District

Agenda Item No. _____3_____

Date: _____5-9-22_____

May 9, 2022

To: Dana Point Planning Commission and City Council members

From: Toni Nelson

RE: Planning Commission proposed resolution on Short term rentals, 5/9/22 agenda item 3

I was very saddened to read the staff report on the above agenda item. One more time, our City appears to be putting real estate interests above those of residents. Instead of fighting to preserve the zoning code which has existed since 1989 and does not permit short term rentals, our City Attorney seems very eager to capitulate based on 3 legal cases in cities that have very different zoning and circumstances. I find this hard to understand. Why do other cities consistently fight for their citizens and work to preserve residential neighborhoods, but Dana Point does not?

In the case of sober living homes, Costa Mesa's ordinance has been upheld through many legal cases and appeals, but that's not good enough for Dana Point. Unlike other SoCal cities who acted to protect both vulnerable addicts and residential neighborhoods, Dana Point still refuses to enact the highly defensible Costa Mesa sober living ordinance. Yet, in the case of short term rentals, the City has quickly jumped to thinly justified conclusions on cases that appear to have little bearing on our City and have been subject to little legal scrutiny and no appeals. It's hard to understand why we are rushing to enact new regulations against the clear interests of ordinary citizens but in favor of real estate investors, 64% of whom (based on current permits) don't even reside in our City.

Worse, it seems that the City has more than doubled down on permitted STRs, reclassifying those in multi-family homes as "homestays" with no caps at all. This will move several investor STRs to the homestay category, increasing the number of investor permits that can be authorized. In 2020 Dana Point had 7,122 multi-family units (duplexes or above). Allowing 1 unit per building, (I used an average of 3 for the 2-4 units and 5 for the 5+ units in the housing element chart shown below), the City could allow as many as 2,400 additional "home stay" STRs in Dana Point, assuming most are not in HOAs. The City was unable to provide data on this, but as you know, there are many multi-unit dwellings in both Capo Beach and Lantern District. This will worsen the burden on the two districts that already account for 73% of STRs.

**TABLE H-8
HOUSING STOCK COMPOSITION IN DANA POINT IN 2010 AND 2020**

| Unit Type | 2010 | | 2020 | |
|------------------|---------------|-------------|---------------|-------------|
| | Units | Percent | Units | Percent |
| 1 unit, detached | 8,706 | 54.6% | 8,801 | 54.4% |
| 1 unit, attached | 1,995 | 12.5% | 2,074 | 12.8% |
| 2 to 4 units | 2,633 | 16.5% | 2,676 | 16.5% |
| 5+ units | 2,372 | 14.9% | 2,372 | 14.7% |
| Mobile homes | 232 | 1.5% | 249 | 1.5% |
| Total | 15,938 | 100% | 16,172 | 100% |

Source: 2010 and 2020 DOF Population and Housing Estimates

In addition, there are no caps on condos until the primary permit cap is met. Therefore, the 4 unit condo building being erected in Capo Beach right now, could become 4 new STRs.

Obviously, this significantly expands the program, well beyond anything the CCC required for Laguna Beach. Why is that necessary? And why are you comfortable with two districts bearing the brunt of STRs for the whole city simply because we don't have HOAs. Are you really under the misinterpretation that we don't want protections from commercial businesses next door? If you have any doubts, how about allowing us to vote on the final regulations? That would be real democracy in action, and you could be sure that you are fairly and accurately representing your constituents.

I also wonder if you have sufficiently thought through some of the regulations, which appear to have more holes than Swiss cheese. Here are just a few:

1. A property owner can only obtain one STR permit, but there is no provision to prevent spouses or members of the same family from owning separate units.
2. One of the purposes of the regulation review was to prevent "corporate ownership" but there are no exclusions for LLCs or any other form of corporate ownership.
3. There is nothing to preclude those who have violated our regulations in the past from obtaining a permit. Essentially, we will reward those who have flouted our regulations by trusting them with a permit.
4. Primary STRs are allowed without caps but there are no provisions outlining how the City will determine that an owner is indeed a primary owner.
5. Primary STRs will be allowed 60 days of rental per year but there are no regulations outlining how or even if this will be audited.
6. There are no provisions for auditing that homestays are indeed homestays.
7. There are no provisions for auditing TOT to ensure that all taxes are paid.
8. There are no provisions to prevent clustering of STRs on one block or street, essentially changing the essential character of a neighborhood.
9. There is no real effort to prevent illegal STRs or follow up on the inordinate number that purport to be 30 day rentals.
10. While neighbors will be given phone numbers to contact (shifting some of the burden for enforcement from police and code enforcement to neighbors) there is no provision for accepting videos, photographs or noise recordings from witnesses. In fact, in one of the public meetings, residents were told that only police or code enforcement evidence would be accepted for the purposes of fines and other action. Evidentiary rules that seem to hold in criminal cases will not hold in the case of witnesses to loud parties that invariably get very quiet when police show up.
11. The most egregious "hole" is the complete failure to assess the impact of STRs on Dana Point's scarce housing stock. While we blithely prepare a housing element to provide for housing at all income levels, and support United Way's financial literacy program to prevent homelessness, we also provide incentives for landlords to evict working families in order to turn apartments into more lucrative short term rentals.
12. There is no mechanism for Council to provide oversight of STR enforcement. How did the City fail to keep up to date insurance records to protect itself from liability? How did it fail to document home inspections, or conduct any additional ones as allowed by the regulations? If we had trouble controlling 131 legal permits and a whole lot of illegal ones, how will we avoid a disaster when STRs of all types are operating all over the City?

In short, the Planning Commission may be taking action tonight that will change the character and quality of life in many of Dana Point's neighborhoods in a significant way. These are of course, not the favored HOA neighborhoods, but these are citizens nonetheless and should be afforded the same privileges and protections as are extended to those who live in HOA s. You will be tossing out a legal stance upheld for 3 decades. Without benefit of a City Council review or vote, you will be changing residential life for many Dana Point citizens forever, and in many cases, significantly harming their property values.

This is a burdensome responsibility for unelected officials, especially considering how many regulatory holes have not been filled. I hope the Commissioners will send this back to the City Council which is ultimately responsible for this action, and I sincerely hope the Council will seek an independent legal review and take action to address the many holes in this program before moving forward.

Item No. 3

Date: 5/9/22

May 9, 2022
For Public Comment
Planning Commission Meeting

Re: Short Term Rental Program

To Dana Point Planning Commission,

We appreciate the City's efforts at working with homeowners who reside close to STR owners, and recognize it is a delicate balance. We think your four step process for resolution is a good idea, but we have had trouble with working it out as intended. Therefore we want to share our story to help the City improve the program.

We are full time residents and our bedroom faces a neighborhood that is generally very quiet at night. Unfortunately we have had several noise nuisance incidents over the last few years with an adjacent STR neighbor, whose overnight guests are outside talking and laughing loudly, as they continue to party after 10PM. This could be any day of the week. As per the City guidance, we have followed the steps to mitigate the situation by first contacting our neighbor directly. We have met face to face a couple of times, however at the last meeting the STR neighbor became verbally abusive, and offered unreasonable solutions such as "just close your window". Sadly, the STR neighbor would not even acknowledge violation of the City noise ordinance. After that confrontation, we contacted Code Enforcement and shared multiple communications between us and the STR owner regarding noise nuisances after 10PM. At one point, we even escalated to the Short-Term Rental Hotline per your guidelines. Unfortunately we have never heard a resolution from the City and we have continued to experience noise nuisance violations. Finally, we spoke with our immediate neighbors, and they acknowledged that they also hear loud noises from the STR guest's after 10PM.

It is our intent to find a workable solution prior to the peak short term rental season. We are upset that we have to continue to initiate contact with the STR owner almost every time they have overnight guests, and ask them to bring the noise/party inside after 10 PM. The ordinance clearly states, "NO outside noise from the short-term rental shall be heard during quiet hours of 10:00 PM till 7:00 AM." That seems fair for both parties, **however the onus is on us to either handle it proactively or literally get out of bed and deal with it.** We just want the STR noise ordinance abided by and enforced. Please help us find a more successful solution.

May we propose that you allow private mediated meetings with the City, the STR owner and offended residents to resolve these types of situations? What else do you suggest we do at this point?

Thank you for your consideration.

Item No. 3

Date: 5/9/22