

CHARLES R. HOOSE
P.O. Box 2247
Capistrano Beach, California 92624
(949) 496-3755

ITEM NO. M.1

REC'D NOV 28 2012

November 28, 2012

Attn: Board of Directors
Capistrano Bay District
35000 Beach Road
Capistrano Beach, CA 92624

Re: **Dana Point Council Process on Short Term Vacation Rentals**

Dear Board Members:

I am writing you to request that the Capistrano Bay District engage in this process and provide relevant information to the City Council. Our district management team is greatly burdened by this intense commercial use. Our personnel are forced to act as processing agents, in addition to dealing with all the issues that this use brings to our private community.

The District is acting as an employee to these properties and is providing a special service to a small group of property owners. Our mandate from the County of Orange does not allow special services to a separate segment of our district. District revenue spent on services must be for the benefit of the entire community. This requirement becomes extremely important due to revenue that comes to the District from our property taxes.

I believe that it is essential to provide this information to the Council, so they will have a complete understanding of all the issues that our private community must deal with in accommodating this illegal commercial use.

Due to the nature of this subject, I would suggest that the Board engage the services of Douglas Evertz, an attorney with Stradling, Yocca Carlson and Rauth. Mr. Evertz worked for us on this issue in 2007 when the city first addressed it. He is well acquainted with our situation and would not need much time to get current with the city's process on the subject.

For reference purposes, I have included a copy of Mr. Evertz' letter to the City and a copy of the letter from our District to the property owners of Beach Road.

Board Members of Capistrano Bay District

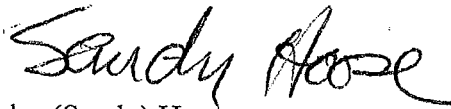
November 28, 2012

Page Two

I sincerely hope that the Board shares my concern for this subject as I believe that it is one of the most important issues that our community has ever faced. This intense commercial use is a huge burden on many residents and home owners. It degrades our quality of life and is not compatible with a private residential neighborhood. It also has severe negative impact on our property values.

Would you please place this on your agenda for the December meeting. Thank you for your consideration of my comments.

Sincerely,

A handwritten signature in cursive script that reads "Sandy Hoose". The signature is written in black ink and is positioned above the printed name.

Charles (Sandy) Hoose

CAPISTRANO BAY DISTRICT



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Board of Directors

J. Southwick Pres.
R. Bancroft Vice Pres.
A. Martinez
L. Laster
K. Bell

Manager
D.S. Russell

June 8, 2007.

Property Owner Notice

Re: Short-Term Rental Properties Within the Capistrano Bay District

Dear Resident,

On behalf of the Board of Directors of the Capistrano Bay District, this letter is being mailed to you as a courtesy to bring to your attention an issue that effects many beach communities, including our own. The issue is the nature and extent to which short-term rentals of less than 30 days are considered by local jurisdictions in residential beachfront communities.

In a City Council Meeting in January, the City of Dana Point reported receiving complaints from coastal communities in Dana Point, including permanent residents along Beach Road. The litany of complaints stem from short-term rental activity, particularly in the summer months, which strains parking and traffic resources. Other complaints and problems include disorderly conduct and disturbances, including noise, parties and drunkenness.

The District has always attempted to address issues in the community within its powers granted by the California Government Code, taking proactive measures to correct a problem. While the District is empowered to regulate parking and intervene on disorderly conduct, it does not have legal authority to curb vacation rentals and will not intimate that it ever wants to do so. Jurisdiction on the short-term rental issue lies entirely with the City.

By the City's own public disclosure, City laws prohibit frequent (short term) rental activity in residentially zoned communities for periods of less than 30 days. The City, however, has admitted that it has been negligent in enforcing those laws anywhere within its jurisdiction including along Beach Road for a number of years.

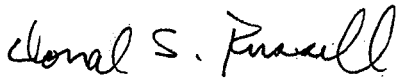
The City is currently studying short-term rentals and the nature and extent to which they will be allowed on an ongoing basis. By way of example, some beachfront cities have a comprehensive process in place which allows vacation rentals upon obtaining a permit from the city. The cities allowing such rentals usually do so to derive revenue in the form of transient occupancy taxes with strict accounting and enforcement. Other cities, however, prohibit short-term rentals and aggressively enforce the prohibition.

As the District has no authority to either allow or disallow short-term rentals, the District is requesting that the City acknowledge its obligations and oversight responsibilities over short-term rentals. If the existing City laws remain in place, it is the District's position that those laws should be enforced. Conversely, if the City is going to allow short-term rentals, the City should amend its laws and provide oversight of the rental units consistent with the newly adopted laws.

The District maintains, as it is empowered by the California Government Code, that it can neither support the continuing enterprise of short-term rentals if City code deems it unlawful and, conversely, it will not endorse the abolishment of short-term rentals because it has no powers to do so, maintaining that it is entirely the jurisdiction of the City of Dana Point.

If you have an opinion one way or the other regarding the subject, please send the City a letter or email. You may also contact the City Clerk of the City of Dana Point and request notice of any upcoming workshops and meetings where this subject will be considered or go to the City's website at www.danapoint.org and follow the agenda postings.

Sincerely,



Donal S. Russell, Manager
Capistrano Bay Community Services District



Jerry Southwick, President
CBCSD Board of Directors

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FACSIMILE (858) 720-2180

May 18, 2007

RECEIVED MAY 22 2007

VIA OVERNIGHT DELIVERY

City Council, City of Dana Point
Doug Chotkevys, City Manager
33282 Golden Lantern
Dana Point, California 92629

Re: *Short Term Rental Properties Within Capistrano Bay District /
Beach Road, Capistrano Beach*

Dear Honorable Mayor, City Council Members and Mr. Chotkevys:

This law firm serves as special counsel to the Capistrano Bay District ("District"), a Community Services District formed, existing and operating pursuant to the Community Services Law, Government Code section 61000 *et seq.* The District's jurisdiction includes that area along Beach Road in Capistrano Beach. There are 179 homes within the District's beach front residentially zoned community. We are writing to request that the City enforce its existing laws, which preclude short-term rentals, and take affirmative steps to address the chronic problems the permanent residents within the District are experiencing as a result of short-term vacation rentals.

Permanent residents within the community serviced by the District have raised repeated concerns associated with the proliferation of short-term rentals. Specifically, short-term rental activity within the community has, particularly in the summer months, strained parking and traffic resources. Vacation rentals are also the source of disorderly conduct and disturbances, including excessive noise, litter, loud offensive language, public drunkenness, secondhand smoke, speeding, minor theft, and possibly, illegal drugs.

We understand that pursuant to Section 3.25.020 of the City's Municipal Code, the use of a residential home to house "transients" for a period of thirty (30) days or less is a "hotel" use. The City's current zoning code does not permit "hotel" uses in residential districts, such as the area secured by the District.

We understand the City is currently investigating methods by which to deal with this problem, including amending the City's zoning ordinance to require that owners obtain short-term rental permits from the City. Newport Beach, for example, adopted such a procedure which provides

City Council, City of Dana Point
Doug Chotkevys, City Manager
May 18, 2007
Page Two

"guidelines" that must be followed and the imposition of penalties for a violation of these guidelines. The District requests, however, that the City not amend the zoning ordinance, as allowing short-term rentals along Beach Road has resulted in the loss of neighborhood continuity due to the mix of short-term/vacation uses and permanent residential use.

While some cities do have a comprehensive process in place which allows vacation rentals upon obtaining a permit, many coastal communities expressly prohibit short-term vacation rentals due to the incompatible mix of uses and the resulting negative impacts from short-term rentals. For example, we understand Huntington Beach prohibits vacation rentals of single family dwellings. Violations are handled by the City's Code Enforcement Division. If the owner continues to rent a home after receiving notification from Code Enforcement, the City of Huntington Beach will issue a citation and, if necessary, prosecute the owner for violation of the City's Municipal Code.

The District requests that the City similarly enforce its existing laws. Permanent residents living along Beach Road purchased their homes on the expectation that uses within the community would be consistent with the City's adopted Municipal/Zoning Code. District representatives have heard suggestions to the effect that if the District has concerns about negative impacts associated with short-term rentals, the District should take some proactive measures to remedy the situation. The District, however, has no land use jurisdiction to remedy the problem. Specifically, the District may only exercise those powers identified in Government Code section 61100, i.e., trash collection, flood protection, construction and maintenance of streets, and security related services. The District has no land use jurisdiction and/or legal ability to stop the current illegal practice of short-term rentals along Beach Road.

On behalf of the Board of Directors of the District, we respectfully request that the City begin taking proactive measures to enforce its existing laws and stop the practice of short term rentals along Beach Road. Please keep us apprised of any actions or meetings the City may pursue or schedule in addressing this issue.

Very truly yours,

STRADLING YOCCA CARLSON & RAUTH


Douglas J. Evertz

DJE:lm

cc: Board of Directors, Capistrano Bay District
 Don Russell, General Manager, Capistrano Bay District
 Patrick Munoz, City Attorney, City of Dana Point