

CAPISTRANO BAY DISTRICT  
AGENDA REPORT  
*April 25, 2023*

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*Short Term Rentals*

## **ITEM 11a**

### Dealing with STR Violations (McNulty)

*Staff is awaiting an opinion by counsel as to whether the District can implement the plan being suggested below by Director McNulty. Hope to have a reply in time for our Tuesday meeting:*

#### Report from Last Month:

McNulty is advising a penalty program whereby the violating property owner, not the renter, must agree to appear before the Board of Directors and explain how the violation occurred and how action will be taken to prevent future repeat violations.

For this penalty, the rental owner would be fined \$1000 if he/she ignores the request to appear before the Board. If the owner is cooperative and complies with the order, no fine will be assessed.

The first question in this scenario relates to the District's ability to enforce payment. The City won't be able to back us up since this is outside of the City's own STR enforcement program so it would become a matter of the District placing a lien on the property. This can't be an arbitrary action, meaning the Board would have to first approve an ordinance creating the penalty action with all the necessary details describing the full scope of the intent with the ordinance, then post it for 30 days for public notification in the legal ads of a local newspaper, including a public awareness effort for our property owners, before action could be taken.

Once the District is postured to take action, should the violating rental owner choose to ignore the citation, the District can then bring legal action but this is not a free procedure. It involves legal counsel expense and District expense to process an actual lien and then there's no guarantee the fee will get paid until sometime in the future when the property sells and the lien gets paid during escrow.

Another way to pursue this would be based on the City's new STR enforcement program. Any renter violation committed here on BR is already a City violation and maybe the most effective course of action for us is to be proactive with the City and make sure, with EVERY VIOLATION, that the City is being assertive in recording violations and assessing fines.