

Short Term Rentals

July 17, 2023

ITEM 6

To: Board of Directors of Capistrano Bay Community Services District

From: Toni Nelson, resident of Capistrano Beach, founder of Capo Cares

RE: Presentation to Board of Directors, Tuesday, August 1st, 2023, 6:30 PM

Thank you for giving us the opportunity to attend your Board of Directors meeting and present some important information regarding Dana Point's Short Term Rental (STR) Program and its impact on coastal zone residents, and particularly on those who live on Beach Road. We are preparing a brief PowerPoint presentation which we will provide to you as soon as possible. I have attached for your review a copy of the California Coastal Commission's Notice of Pending Revocation Request concerning a request, filed on my behalf and that of fellow coastal zone resident Roger Malcolm, to revoke the City's STR program.

In short, we contend that the City submitted materially false and misleading information to the Coastal Commission which materially impacted the CCC's decision of November 16th, 2022 authorizing STRs in the Coastal Zone, and has engaged in conduct which has resulted in an undue concentration of STRs in non-HOA neighborhoods in Dana Point. Unless this CDP is revoked or adjusted, Beach Road will experience an approximately 22% concentration of STRs in your community. Almost one of every four homes on the Road will be permitted to allow 2-day vacation rentals.

Specifically, our revocation request is based on the following facts:

1. The City provided incomplete, inaccurate, or erroneous information as to the total number of housing units, and particularly the number of HOAs (28 were reported vs. 53 actual) and the number of housing units in HOAs (2,648 vs. 4,216 actual), which led the CCC to allow 115 STRs in the Coastal Zone, believing that this would represent about a 2% saturation rate.
2. The City staff made statements and provided information leading the CCC to believe that very few HOAs banned STRs (when they almost all do so) and included Beach Road as an HOA in their calculations, claiming that 91% of existing STRs were located in HOAs. This was simply false.
3. The City staff was aware or certainly should have been aware that Beach Road is not an HOA and that the special district has no power to create CC&Rs to ban or restrict HOA activity. In fact, Manager Donal Russell had sent a clarifying letter to the CCC and the City staff correcting the record prior to the de novo hearing, but no attempt was made to correct the false statement.
4. Following the de novo hearing, City Staff actively engaged and assisted HOAs in certifying their STR bans. To date, 17 HOAs representing 1,547 housing units have certified their HOA bans with the City's assistance.

The ordinance itself and many public comments by Planning Commissioners and City Councilmen have repeatedly confirmed the city's intention to work to restrict STRs to non-HOA areas and those few HOAs that allow them. This unfortunately leaves all 115 STRs concentrated in a very small number of neighborhoods. According to our math, STR concentration of STRs in Monarch Hills (an HOA that allows 7-day rentals, will be 14%). On Beach Road, saturation will be an unheard of 22% - almost one of every four homes will be STRs. The small part of the coastal district that remains will have a concentration rate of 7% or worse. The city has yet to provide a detailed analysis of the number of homes that are actually

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eligible to become STRs. Once mobile homes, affordable housing and other ineligible multi-units are removed, that number will be very small.

For these reasons, we submitted a revocation request to the CCC and a follow up letter asking them to at least adjust the number of STRs allowed to represent the concentration they intended – 2% of housing units that could actually become STRs, not 2% of a number that includes the large number of HOA housing units which now legally ban STRs. At the de novo hearing, several Commissioners expressed their appreciation of the fact that Dana Point already has almost 2,000 tourist accommodations. In fact, they started their discussion suggesting that 1%, or 55 STRs, would be sufficient for Dana Point, since we provide far more hotel rooms than most coastal cities. They eventually agreed to a 2% saturation rate only after former Mayor Muller insisted that he could not accept less without Council approval.

Despite several public and private appeals to the City Council about the unfairness of the resultant concentration in such a narrow band of our city, the Council failed to act. Our District representative, Michael Villar, called for a request for a CCC amendment to reflect the new (accurate) numbers, but his motion failed to get a second.

Our questions for your community are as follows:

1. Are you and your residents okay with the fact that almost 1 in 4 of your homes will soon be permitted to host 2-day short term rentals?
2. If so, would you like to formally be designated as a community where STRs are allowed? Would you be willing to share the 115 STRs with Monarch Hills, leaving the rest of the coastal zone protected?
3. If not, would you like to join us and support our revocation/modification request with the CCC?

Short term rentals are a commercial use that has been increasingly inflicted on residential neighborhoods in the last couple of decades. Such investments can be extremely lucrative and there is strong incentive to monetize otherwise residential properties in otherwise residential neighborhoods. In some, perhaps many cases, neighbors don't mind, STR owners are responsible, and all guests are respectful and responsible. But in many other cases the opposite is true, and nuisances become intolerable. Even without nuisances, many residents resent the impact on their quality of life and possibly property values, and simply want neighbors, and not a mini-hotel (even a *well run* mini-hotel) next door.

In 2016, when the city attempted to allow 2-day STRs throughout the City, a citizens' referendum effort managed to collect 4,000 signatures in 3 weeks and the Council overturned the ordinance. The Council has been asked repeatedly but has refused to put the STR issue to a vote of the people. We believe the vast majority of Dana Point residents would vote no on STRs. They prefer that their residential neighborhoods remain residential.

We recognize that Beach Road is a historic and very special community with a unique form of governance. We honor and respect your right to make your own decisions on this matter, and respectfully ask that you listen to our presentation and help us by clarifying Beach Road's position on this important matter.

Thank you and best regards, *Toni Nelson*