

From: [Joe Schneider](#)
To: [Rogers, Natalie](#); [Alvarez, Eddie](#); [MacDonald, Dianna](#); [Stapp, Mark](#); [Fleming, Victoria](#); [Rogers, Chris](#); [Okrepkie, Jeff](#); [City Council Public Comments](#)
Cc: [Lisa Badenfort](#)
Subject: [EXTERNAL] North Bay Association of REALTORS® Public Comment on Short Term Rental Ordinance Amendments (Item 16.1 on June 6 City Council Meeting)
Date: Tuesday, May 30, 2023 4:00:57 PM
Attachments: [image001.png](#)
[LETTER - SRVR 0523 FINAL .pdf](#)

Mayor Rogers and Members of the Santa Rosa City Council:

Thank you for your commitment to our local housing economy, and for allowing us to provide input on the proposed Short-Term Rentals Ordinance (STR) amendments. **Attached**, please find our questions and concerns around the proposed amendments as well as the potential unintended consequences of passing these amendments.

We continue to urge the Council to **clarify and enforce effective management standards, refrain from arbitrary ownership restrictions and permit caps, and to ensure a transparent permit process that respects property rights and local economic vitality.**

- ***The Council's mandate is to consider the goals, objectives, benefits, and potential consequences of a citywide cap.*** Using rational planning standards, what are the “right” distribution, concentration, or citywide limits?
- Forcing owners who were ***previously permitted to operate multiple short-term rentals*** to choose which

property to keep upon renewal will cause harm to the owner's business and will not guarantee that home

goes back into the long-term rental housing stock.

- ***Assumptions about conversion to a long-term rental***; many units are not suitable for long-term use and will not be made so. ***Assumptions about owners*** have intensified rhetoric and failed to create a collaborative community of housing stakeholders. Property owners rent short-term for a variety of reasons: to supplement retirement income, to temporarily keep a unit in the family, to keep a home available for their own or other family member's occasional use, etc.

We are eager to work with the city to ensure that any changes to the current ordinance are ones that serve to strengthen Santa Rosa's housing economy while simultaneously creating safe and enjoyable neighborhoods for all.

Regards,

Joe Schneider

Government Affairs Director
North Bay Association of REALTORS®
475 Aviation Blvd., Suite 220
Santa Rosa, CA 95403
(M) 707-888-2459
joe@nba.realtor

May 30, 2023

RE: Short-Term Rentals Ordinance Amendments

Mayor Rogers and Members of the Santa Rosa City Council:

Thank you for your commitment to our local housing economy, and for allowing us to provide input on the proposed Short-Term Rentals Ordinance (STR) amendments. **We continue to urge the Council to clarify and enforce effective management standards, refrain from arbitrary ownership restrictions and permit caps, and to ensure a transparent permit process that respects property rights and local economic vitality.**

1. **What was the rationale and reason behind the 198 maximum permit cap? The Council's mandate is to consider the goals, objectives, benefits, and potential consequences of a citywide cap.** Using rational planning standards, what are the "right" distribution, concentration, or citywide limits?
 - a. As mentioned in the Planning Commission meeting, **198 units is less than 0.5% of the existing housing stock** in Santa Rosa.
 - b. By placing a cap on the maximum number of short-term rentals while the US economy teeters on the brink of recession, the City will exacerbate financial hardship for homeowners by unjustly prohibiting them from utilizing their home as an STR and earning what may be their only income opportunity.
2. **The proposed permit renewal process is inherently inequitable and unfair.**
 - a. Forcing owners who were **previously permitted to operate multiple short-term rentals** to choose which property to keep upon renewal will cause harm to the owner's business and will not guarantee that home goes back into the long-term rental housing stock.
 - b. Requiring a **1000-foot minimum distance between non-hosted properties presents major process problems.**
 - i. The City has previously issued permits with seemingly no long-term planning, rationale, or consideration for this new standard.
 - ii. **How will the city renew permits for owners, by no fault of their own, who happen to be within 1000 feet of another non-hosted STR? Which permit renewal will take precedence? Who will get to keep operating their STR, and why?**
 - iii. There is no equitable or fair way for the city to enforce this new limit with existing permit holders.
3. **Decision-Making & Supply: STRs have come under intense scrutiny as our housing supply crisis has deepened. Government must be the voice that overcomes rhetoric and assumptions, and stewards effective, data-driven solutions that resolve real problems.**
 - a. Decades of limited production have led to higher costs and fewer available units. Our housing crisis is rooted in decades of under-development, a fractured safety net, and other systemic forces that have resulted in a tense dynamic. Eager to identify available units, broad restrictions on STRs have been adopted, assuming a meaningful impact on supply or cost would result.
 - i. **The study conducted by Dr. Rob Eyer at the County's behest on the potential impact that STRs may have on housing prices and availability** found little to no connection or correlation (and no causality) between a rise in single-family housing units offered as short-term rentals and single-family home prices.¹
 - ii. **Assumptions about conversion to a long-term rental;** many units are not suitable for long-term use and will not be made so. **Assumptions about owners** have intensified rhetoric and failed to create a collaborative community of housing stakeholders. Property owners rent short-term for a variety of reasons: to supplement retirement income, to temporarily keep a unit in the family, to keep a home available for their own or other family member's occasional use, etc.

¹ Vacation Rentals and Home Prices Sonoma County, California, Economic Forensics and Analytics, Inc., <https://bit.ly/scvreyler>

With thoughtful planning and policy design, the City can balance and improve its housing landscape – upholding property rights while creating needed housing opportunities. Thank you for your consideration. We remain eager to serve as a resource and collaborator for a strong local housing economy. **Please contact us with any questions or opportunities for engagement at publicaffairs@northbayrealtors.org.**

Respectfully,



Carol A. Lexa, Past-President
Local Government Relations Committee, Chair

cc:

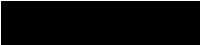
Vice Mayor Dianna MacDonald, District 3
Councilmember Eddie Alvarez, District 1
Councilmember Mark Stapp, District 2
Councilmember Victoria Fleming, District 4
Councilmember Chris Rogers, District 5
Councilmember Jeff Okrepkie, District 6
Maraskeshia Smith, City Manager



From: [Christine Culver](#)
To: [_CityCouncilListPublic](#)
Subject: [EXTERNAL] Short term rental - staff ask
Date: Thursday, June 1, 2023 4:53:15 PM

Please have staff add a a queue or waiting list of some kind for owners who would like to apply for a non-hosted short term rental permit in the future, if and when the current permits drop below 198.

Christine Culver



From: [Andrew Smith](#)
To: [City Council Public Comments](#)
Subject: [EXTERNAL] Short Term Rentals - City Council Meeting June 6, 2023
Date: Sunday, June 4, 2023 10:49:09 AM

The city of Santa Rosa has a housing shortage and still suffers from the Tubbs Fire. Despite thousands of homes rebuilt that were destroyed, additional housing is limited by resources.

Santa Rosa's housing costs going up despite mortgage rates increasing. People leaving our city due to housing costs. Schools losing students due to housing costs. And governments including Santa Rosa and Sonoma County having trouble recruiting due to housing costs despite good salaries and benefits.

Non-hosted STRs take away existing housing and drive up the cost of housing by investors willing to bid up the price as they can recoup their higher costs with short term rentals. So why would Santa Rosa want a housing policy that does this?

I would recommend the following for the STR program:

Keep the Hosted program as is for owners renting out their property while living there.

No more permits given to Non-hosted STRs.

Phase out the Non-Hosted STRs program over two (2) years to give those owners a chance to recoup their investment. Then owners decide whether to live in the property, lease it out on a yearly rental or sell it.

Andrew Smith
Santa Rosa

From: [Javier Tenorio](#)
To: [CityCouncilListPublic](#)
Subject: [EXTERNAL] short-term rental zoning code text amendments
Date: Sunday, June 4, 2023 8:57:47 PM

City Councilmembers,

This coming Tuesday you will be asked to vote on proposed amendments to the City's short-term rental (STR) ordinance. The amendments will include proposed changes recommended by the Santa Rosa Planning Commission. Although some of the recommendations seem like great ideas, they are not well thought out and could hurt hosted STRs such as my own.

- One amendment being proposed is to prohibit the use of outdoor fire pits at all STRs. Unfortunately, this ban cannot be enforced at hosted STRs such as my own. As a homeowner who lives in a hosted STR, I am entitled to use my gas grill and fire pit whether I have STR guests on my property or not. This ban was not well thought out and should be voted down. The Fire Chief and Fire Marshall have already proposed adequate restrictions that all can adhere to and the existing restrictions create a level playing field for ALL businesses in the hospitality industry such as hotels, STRs, Bed & Breakfasts, wineries, and restaurants who have outdoor fire pits.
- Another amendment being proposed is to update the code enforcement section of the STR ordinance, including increased penalties on infractions to align with California State STR violation maximums. The State violations maximums are much higher than what are already in place. These higher violation fees do not seem right because they would impact all offenders, whether minor or severe. Essentially, I can be charged thousands of dollars in fines for forgetting to update my STR web listing. Another STR who may severely violate the City ordinance by throwing a huge party will be charged the same fine as my minor offense. This simply does not make sense. A tiered or more well defined fee structure is required based on the severity of the offense.

I ask that you please take these examples into consideration when voting this coming Tuesday and not simply vote "Aye" to whatever is being proposed. Although these may be small details and insignificant to many, it matters to me, my family, and all other STR owners in this City.

Thank you,

Javier

From: [Dianne Yeakel](#)
To: [_CityCouncilListPublic](#)
Cc: [Alvarez, Eddie](#); [Stapp, Mark](#); [MacDonald, Dianna](#); [Fleming, Victoria](#); [Rogers, Chris](#); [Okrepkie, Jeff](#); [Rogers, Natalie](#); [Shaun Murphy](#)
Subject: [EXTERNAL] Owners and Renters Rights Association/City of Santa Rosa
Date: Monday, June 5, 2023 9:13:14 AM
Attachments: [2023.5.31.City Council.pdf](#)
[UPS Proof of Delivery Letter dated 5.31.23 to City Counsel Screenshot 2023-06-05 084534.png](#)
[ORRACity of Santa Rosa Zoning Code Text Amendments to Title 20 of the Santa Rosa City Code Chapter 20-48 Short-Term Rentals.msg](#)

Dear City Council Members:

Attached please find a copy of a letter dated May 31, 2023, from Shaun Murphy, Esq. on behalf of Owners and Renters Rights Association.

Respectfully,



PALM SPRINGS INDIAN WELLS ORANGE COUNTY SAN DIEGO NEW JERSEY NEW YORK

Dianne Yeakel
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May 31, 2023

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dmacdonald@srcity.org; vfleming@srcity.org; croggers@srcity.org;
JOkrepie@srcity.org; nrogers@srcity.org

Santa Rosa City Council
Santa Rosa City Hall
100 Santa Rosa Avenue
Santa Rosa, CA 95404

RE: City of Santa Rosa Zoning Code Text Amendments to Title 20 of the Santa Rosa City Code, Chapter 20-48, Short-Term Rentals

Dear Members of the City Council:

We represent the Owners and Renters Rights Association (“**ORRA**”). ORRA is a member association with an interest in the proposed text amendments to Title 20, Chapter 20-48, referenced above. As discussed below, ORRA objects to the proposed amendments because portions of the proposed amendments are unconstitutional, arbitrary and capricious, among other reasons.

Article I, Section 7(a) of the California constitution states: “A person may not be deprived of life, liberty or property without due process of law.” The Fourteenth Amendment to the United States Constitution has a parallel provision.

Article I, Section 19 of the California Constitution states: “Private property may be taken or damaged for a public use and only when just compensation ... has first been paid to ... the owner.” The Fifth Amendment to the United States Constitution, as applied to the states, has a parallel, though not identical, provision.

42 U.S.C. § 1983 states: “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by

SLOVAK BARON EMPEY MURPHY & PINKNEY LLP

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the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress "

California and federal law both provide that a property owner who has performed substantial work and incurred substantial liabilities, in good faith reliance upon the authorization by the government, acquires a vested property interest in the rights granted by the permit, license, or authorization. (*Avco Community Developers v. South Coast Regional Commission* (1976) 17 Cal.3d 785; *Dobbins v. City of Los Angeles* (1904) 195 U.S. 223).

Once a property owner has secured a vested right in the continued operation of a business in reliance on the government's authorization, the government may not, by virtue of a later change in the law, prevent the property owner from activities undertaken in compliance with the prior authorization.

Under California law, a vested right that affects a property owner's livelihood and economic future is deemed a "fundamental vested right," requiring both independent judicial review and a heightened level of scrutiny. Interference with the right to continue an established business is far more serious than denial of the right to establish a business in the first instance. (*Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 519).

The City of Santa Rosa has implicitly authorized the rental of private property, including single family homes, for decades. Title 3, Chapter 3-28 of the City Code requires the imposition and payment of transient occupancy tax by the operator for the rental of any property subject to Title 3. Chapter 3-28.010 defines "hotel" to mean "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 and includes any ... house ... or other similar structure or portion thereof." A residential, single-family house is within the definition of "hotel" under Chapter 3-28. Any owner renting their property for 30 consecutive days or less would therefore be required to collect and remit transient occupancy tax under Title 3.

Chapter 3-28 thereby authorizes homeowners to rent their single-family residence for 30 consecutive days or less so long as they register with the Tax Collector in accordance with Chapter 3-28.050 and remit the tax payments in accordance with Chapter 3-28.040. ORRA's members, or at least some of them, have been renting the properties they own for 30 consecutive or less for many years. They and other owners in Santa Rosa have made substantial investments in the purchase, modification, renovation, improvement, management, and marketing of their short-term rental properties.

After the City adopted a specific short-term rental ordinance in October 2021, ORRA's members lawfully obtained short-term rental permits from the City and have been operating in compliance with the City short-term rental ordinance. ORRA's members and other short-term rental operators have also made expenditures specifically required by the City to comply with the terms of the Short-Term Rental Ordinance. These

expenditures were material and substantial, and all were undertaken in good-faith reliance on the permits the City issued.

ORRA's members have also made long-term financial commitments and other decisions in good-faith reliance on the short-term rental ordinance including, but not limited to, mortgages, improvement loans, personal relocation, employment contracts and other actions affecting their livelihoods and those of their families. ORRA's members and other short-term rental operators have vested rights to continue to use their properties as short-term rentals based on the substantial expenditures in good-faith reliance on the provisions of the City Code as a by-right permitted use within all residential zones.

The City's Code allows prior nonconforming uses to continue after a zoning change. (Title 20, Division 6, Chapter 20-61.020.) Chapter 20-61.020, subparagraph A, provides: "Continued, transferred, or sold. Nonconforming uses may be continued, transferred, or sold, but only in compliance with the provisions of this Chapter." Under Chapter 20-61.020, a nonconforming use may continue so long as it does the use is not enlarged or discontinued for a continuous period of six months. (Chapter 20-61.020(B), (C)). ORRA's members and short-term rental permit holders have vested rights to continue to use their properties under the City's Zoning Code as a prior nonconforming use. (*Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal. 4th 533).

Once a use permit has been lawfully issued and the property owner's rights have vested, the power of a municipality to revoke it is limited to circumstances of compelling public necessity. The question of whether public necessity justified the City's attempted impairment of the vested rights of ORRA's members and other short-term rental operators is a question of law, requiring that the court find substantial evidence that short-term rentals in residential zones posed a danger or menace to the public health or safety, or constituted a public nuisance. (*Stewart Enterprises, Inc. v. City of Oakland* (2016) 248 Cal.App.4th 410). Considering that the City's proposed ordinance continues to allow them, it seems improbable that the City can meet that burden.

Some of the specific provisions of the proposed Text Amendments are also problematic. The limitation of 1 permit per person and 198 as the maximum number of Short-Term Rental Permits for Non-Hosted Rentals is not supported by substantial evidence. According to the Comprehensive Housing Market Analysis for Santa Rosa conducted by the U.S. Department of Housing and Urban Development, there are over 200,000 residential housing units in Santa Rosa. Allowing only 198 short-term rental permits is .09 percent. There is no data or study to justify limiting the total number of permits to less than 1% of the total housing stock in Santa Rosa.

By comparison, Sonoma County is contemplating a density cap of 10%. The majority of communities within the county, including Santa Rosa currently are well below that cap and Santa Rosa has the lowest rate of short-term rental properties. The City of Redding is contemplating a cap of 400 STRs at any one time. Redding has a substantially

smaller population than Santa Rosa, yet it is considering allowing 4 times the number of STRs. Palm Springs assigned a workgroup to study the impact of short-term rental density to balance the needs of visitors, residents, owners of rentals, and the revenue benefits to the city. The workgroup concluded that a 10% density cap in any single neighborhood would strike the proper balance. Without any analysis or study, the City's limitation is arbitrary and capricious; particularly when compared to other jurisdictions. There is no basis to justify the City's proposed limitation and it would be subject to legal challenge as an arbitrary and capricious regulation. The City should adopt a more rational threshold for short-term rental permits based on actual data and analysis.

The proposed Text Amendments also restrict guest visitation times, quiet hours, outdoor amplified sound, and require owners to install landline telephone service. These provisions apply only to short-term rental properties. The City does not require non-STR homeowners to install landline service, does not restrict guest visitation, and does not restrict amplified sound. The restriction on guest visitation is a violation of the right to privacy in the California constitution. (*City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123, 127-129 [the right to privacy is a fundamental constitutional right and may be abridged only when there is a compelling public need]; see also *Park Redlands Covenant Control Comm. v. Simon* (1986) 181 Cal. App. 3d 87, 97 [right to privacy as contained in the California Constitution was violated by a restrictive covenant affecting their home which limited the number of occupants to three and prevented guests from staying over]; *In re Rudy* (2004) 117 Cal. App. 4th 1124, 1133 [host and guest protected by the constitutional right to privacy have expectancy of privacy in the use and occupancy of a residence].) The City has not identified a compelling public need to restrict the right to privacy or to treat renters differently that it treats homeowners.

To decrease the risk of future litigation and delay, we strongly urge the City to further amend the proposed ordinances before presenting or adopting it.

Sincerely,

SBEMP LLP



BY: Shaun M. Murphy

SMM: DY

cc: ealvarez@srcity.org; MStapp@srcity.org; dmacdonald@srcity.org;
vfleming@srcity.org; crogers@srcity.org; JOkrepkie@srcity.org; nrogers@srcity.org

From: [Paralegal](#)
To: [City Council Public Comments](#)
Cc: bert@terrerilaw.com; "Front Desk"; [Alvarez, Eddie](#); [Stapp, Mark](#); [MacDonald, Dianna](#); [Fleming, Victoria](#); [Rogers, Chris](#); [Okrepkie, Jeff](#); [Rogers, Natalie](#)
Subject: [EXTERNAL] Agenda Item Number 16.1 | June 6, 2023 City Council Mtg
Date: Monday, June 5, 2023 4:50:49 PM
Attachments: [image001.png](#)
[2023.6.5 Ltr to City Council.pdf](#)

Good afternoon,

Please find attached Mr. Terreri's letter addressing the City Council regarding your Agenda Item # 16.1, to be heard tomorrow, June 6, 2023.

Sincerely,

Laurie A. Colestock
Paralegal

/lc
Attachment(s)

[PLEASE NOTE NEW ADDRESS: 115 Foss Creek Circle, Healdsburg, CA 95448](#)

The Law Offices of Herbert L. Terreri
A Professional Corporation
115 Foss Creek Circle
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HERBERT L. TERRERI**
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June 5, 2023

VIA ELECTRONIC TRANSMISSION TO:

Santa Rosa City Council (cc-comment@srcity.org)
ealvarez@srcity.org; MStapp@srcity.org;
dmacdonald@srcity.org; vfleming@srcity.org;
crogers@srcity.org; JOkrepkie@srcity.org;
nrogers@srcity.org

RE: City of Santa Rosa Zoning Code Text Amendments to Title 20
of the Santa Rosa City Code, Chapter 20-48, Short-Term Rentals

Dear Members of the City Council:

I represent an informal association of short term rental owners in the City of Santa Rosa with an interest in the proposed text amendments to Title 20, Chapter 20-48, referenced above. The affected parties include Amanda Hagar, owner of two short term rentals, and Bill and Lisa Eastman, owners of multiple STR properties. As discussed below, my clients object to the proposed amendments because portions of the proposed amendments are unconstitutional, arbitrary and capricious, among other reasons.

The City of Santa Rosa has allowed and encouraged short term rentals and has established rules and regulations for the safe operation of these short term rentals within the City of Santa Rosa for many years. My clients, and those similarly situated stand to lose their significant investment in the City of Santa Rosa if the proposed legislation referenced above goes through as proposed on June 6, 2023.

Chapter 3-28 authorizes homeowners to rent their single-family residence for 30 consecutive days or less so long as they register with the Tax Collector in accordance with Chapter 3-28.050 and remit the tax payments in accordance with Chapter 3-28.040. Ms. Hagar and the Eastmans have spent substantial sums, in reliance upon this simple straightforward regulation. For example, Ms. Hagar purchased two properties, renovated and furnished them, spending approximately \$70,000 for one such rental, and over \$100,000 for another. They have all complied with the lengthy application and renewal process and has paid all fees and taxes required to operate two STRs in the City of Santa Rosa. These sums would have been invested elsewhere, but for what can only be characterized as an invitation by the City of Santa Rosa, encouraging this investment in this community. My clients and other owners in Santa Rosa have made substantial investments in the purchase, modification, renovation, improvement, management, and marketing of their short-term rental properties. After the City adopted its specific short-term rental ordinance in October 2021.

Ms. Hagar and the Eastmans lawfully obtained multiple short-term rental permits from the City and have been operating in compliance with the City short-term rental ordinance. Ms. Hagar and the Eastmans, and other short-term rental operators, have also made expenditures specifically required by the City to comply with the terms of the Short-Term Rental Ordinance. These expenditures were material and substantial, and all were undertaken in good-faith reliance on the permits the City issued.

Ms. Hagar and the Eastmans, and those similarly situated have also made long-term financial commitments and other decisions in good-faith reliance on the short-term rental ordinance including, but not limited to, mortgages, improvement loans, personal relocation, employment contracts and other actions affecting their livelihoods and those of their families. Ms. Hagar, the Eastmans, and other short-term rental operators have vested rights to continue to use their properties as short-term rentals based on the substantial expenditures in good-faith reliance on the provisions of the City Code as a by-right permitted use within all residential zones.

Article I, Section 7(a) of the California constitution states: "A person may not be deprived of life, liberty or property without due process of law." The Fourteenth Amendment to the United States Constitution has a parallel provision.

Article I, Section 19 of the California Constitution states: "Private property may be taken or damaged for a public use and only when just compensation ... has first been paid to ... the owner." The Fifth Amendment to the United States Constitution, as applied to the states, has a parallel, though not identical, provision.

42 U.S.C. § 1983 states: "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress "

California and federal law both provide that a property owner who has performed substantial work and incurred substantial liabilities, in good faith reliance upon the authorization by the government, acquires a vested property interest in the rights granted by the permit, license, or authorization. (*Avco Community Developers v. South Coast Regional Commission* (1976) 17 Cal.3d 785; *Dobbins v. City of Los Angeles* (1904) 195 U.S. 223).

Once a property owner has secured a vested right in the continued operation of a business in reliance on the government's authorization, the government may not, by virtue of a later change in the law, prevent the property owner from activities undertaken in compliance with the prior authorization.

Under California law, a vested right that affects a property owner's livelihood and economic future is deemed a "fundamental vested right," requiring both independent judicial review and a heightened level of scrutiny. Interference with the right to continue an established business is far more serious than denial of the right to establish a business in the first instance. (*Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 519).

The City of Santa Rosa has implicitly authorized the rental of private property, including single family homes, for decades. Title 3, Chapter 3-28 of the City Code requires the imposition and payment of transient occupancy tax by the operator for the rental of any property subject to Title 3. Chapter 3-28.010 defines "hotel" to mean "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 and includes any ... house ... or other similar structure or portion thereof." A residential, single-family house is within the definition of "hotel" under Chapter 3-28. Any owner renting their property for 30 consecutive days or less would therefore be required to collect and remit transient occupancy tax under Title 3.

The City's Code allows prior nonconforming uses to continue after a zoning change. (Title 20, Division 6, Chapter 20-61.020.) Chapter 20-61.020, subparagraph A, provides: "Continued, transferred, or sold. Nonconforming uses may be continued, transferred, or sold, but only in compliance with the provisions of this Chapter." Under Chapter 20-61.020, a nonconforming use may continue so long as it does the use is not enlarged or discontinued for a continuous period of six months. (Chapter 20-61.020(B), (C)). Ms. Hagar and short-term rental permit holders have vested rights to continue to use their properties under the City's Zoning Code as a prior nonconforming use. (*Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal. 4th 533).

Once a use permit has been lawfully issued and the property owner's rights have vested, the power of a municipality to revoke it is limited to circumstances of compelling public necessity. The question of whether public necessity justified the City's attempted impairment of the vested rights of Ms. Hagar, the Eastmans, and other short-term rental operators is a question of law, requiring that the court find substantial evidence that short-term rentals in residential zones posed a danger or menace to the public health or safety, or constituted a public nuisance. (*Stewart Enterprises, Inc. v. City of Oakland* (2016) 248 Cal.App.4th 410). Considering that the City's proposed ordinance continues to allow them, it is improbable that the City can meet that burden.

The proposed limitation of 1 permit per person and 198 as the maximum number of Short-Term Rental Permits for Non-Hosted Rentals is not supported by substantial evidence. According to the Comprehensive Housing Market Analysis for Santa Rosa conducted by the U.S. Department of Housing and Urban Development, there are over 200,000 residential housing

units in Santa Rosa. Allowing only 198 short-term rental permits is .09 percent. There is no data or study to justify limiting the total number of permits to less than 1% of the total housing stock in Santa Rosa.

The limitation of 1 STR per person is also arbitrary and capricious and violates principles of equal protection. The Equal Protection Clause is offended where, as here, the statute's classification 'rests on grounds wholly irrelevant to the achievement of the State's objective. *Kadrmas v. Dickinson Pub. Sch.*, 487 U.S. 450, 462 (1988), citing *McGowan v. Maryland*, 366 U.S. 420, 425 (1961); *Kotch v. Board of River Port Pilot Comm'rs*, 330 U.S. 552, 556 (1947)." *Holt Civic Club v. Tuscaloosa*, 439 U.S. 60, 71 (1978).

If a property upon which an STR permit is sought meets all of the criteria for a permit, but is denied because that applicant owns one or more STRs within the City of Santa Rosa it is an impermissible restriction on use. The violation is more clear where, as here, a permit has already been issued to Ms. Hagar, the Eastmans, and those similarly situated. Under the proposed change in legislation, a current permit holder would be forced to choose between one or more of their lawfully permitted properties to retain only one permit. Allowing the use to continue on all properties until expiration of the annual permit does not cure this problem. The limitation to a single STR permit per person advances no valid government objective and exposes the City of Santa Rosa to litigation.

Local ordinances must comply with principles of equal protection to treat each property owner equally in regard to the use of their property, whether an existing permit holder, a corporation, LLC, or other entity. The City is simply discriminating against owners of an STR on that basis alone, and is treating those owners differently without any valid purpose. In the case of an individual holding more than a single STR, they may be better qualified to own and operate an STR having already done so with another permit. Rational restrictions to own additional STR permits may be enacted where a particular STR permit holder has shown a disregard for the regulations and has incurred multiple significant permit violations but no such requirement exists under the proposed ordinance. The proposed limitations are made more problematic under the specific codes and regulations in the City of Santa Rosa which includes an STR in the definition of a hotel.

The prohibition of limiting STR permits to individuals as opposed to a corporation or LLC also serves no valid State interest. The proposed Text Amendments also restrict guest visitation times, quiet hours, outdoor amplified sound, and require owners to install landline telephone service. These provisions apply only to short-term rental properties. The City does not require non-STR homeowners to install landline service, does not restrict guest visitation, and does not restrict amplified sound. The restriction on guest visitation is a violation of the right to privacy in the California constitution. (*City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123, 127-129 [the right to privacy is a fundamental constitutional right and may be abridged only

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when there is a compelling public need]; see also *Park Redlands Covenant Control Comm. v. Simon* (1986) 181 Cal. App. 3d 87, 97 [right to privacy as contained in the California Constitution was violated by a restrictive covenant affecting their home which limited the number of occupants to three and prevented guests from staying over]; *In re Rudy* (2004) 117 Cal. App. 4th 1124, 1133 [host and guest protected by the constitutional right to privacy have expectancy of privacy in the use and occupancy of a residence].) The City has not identified a compelling public need to restrict the right to privacy or to treat renters differently that it treats homeowners.

To decrease the risk of future litigation and delay, we strongly urge the City to further amend the proposed ordinances before presenting or adopting it.

Sincerely,



Herbert L. Terreri

HLT/lc
cc: Amanda Hagar

From: [Maureen Linde](#)
To: [_CityCouncilListPublic](#); [_PLANCOM - Planning Commission](#)
Cc: [Maureen Linde](#)
Subject: [EXTERNAL] June 6th, Tuesday, Meeting City Council-short term rentals
Date: Saturday, June 3, 2023 1:39:25 PM
Importance: High

As we meet this Tuesday to once again review the short term ordinance in Santa Rosa, I would like to share how other cities in Sonoma and Napa Counties have curtailed non-hosted short term rentals in their residential neighborhoods.

1. Cloverdale-only allows within a commercial zone.
2. Healdsburg-does not allow in residential neighborhoods. They state on their website: "There are a series of restrictions in place to ensure the residential character of our neighborhoods is protected".
3. Sonoma-does not allow in residential neighborhoods since 2017!!!!
4. Napa-only allows 41 non-hosted permits and the permit is transferable.
5. Rohnert Park-Can only rent out one single room.
6. Petaluma-only allows 90 days/year to rent. This was implemented in 2015!!!
7. Novato-The owner of the home must occupy it 60 days/year in order to rent it out.
8. Sebastopol-Only allows 30 days/year to rent.

Santa Rosa and Windsor are still dragging their feet on implementing a more stringent ordinance for non-hosted short term rentals. I would hope that you will look at the overwhelming majority of poll takers and zoom meetings where the citizens of this city vehemently oppose non-hosted short term rentals in a residential neighborhood.

Thank you,

Maureen Linde

From: [Short Term Rentals](#)
To: [Bolla, Rhonda](#); [Manis, Dina](#)
Cc: [Meads, Shari](#); [Crocker, Ashle](#)
Subject: FW: [EXTERNAL] Proposal topics
Date: Saturday, June 3, 2023 5:11:49 PM

Hi Rhonda and Dina,

Please see late correspondence for the STR item on the 6/6 CC agenda.

Thank you,
Jessica

Jessica Jones | Deputy Director - Planning

Planning and Economic Development Department | 100 Santa Rosa Avenue, Room 3 | Santa Rosa, CA 95404

Tel. (707) 543-3253 | Mobile (707) 292-0963 | jjones@srcity.org



From: Kristy Dominquez <wclvrentals@gmail.com>
Sent: Tuesday, May 30, 2023 4:24 PM
To: Short Term Rentals <shorttermrentals@srcity.org>
Subject: [EXTERNAL] Proposal topics

To whom it may concern,

We are respectfully reaching out as concerned property managers in Santa Rosa. We have been running and operating STRs in Santa Rosa since 2019. We have always abided by every rule set into place and been patient as the city navigated the ordinance now set into place.

With that being said, we have two very concerning issues we would like addressed in the upcoming meeting on June 6th.

1. No outdoor fire in STRs.

This rule is very disturbing to us. We have taken all precautions and measurements required by the city to ensure the safety of our guests as well as our city. We feel there is absolutely NO reason a guest should not be able to BBQ on their vacation. We keep all BBQ and fire pits several feet from anything combustible. We also only use GAS BBQ and fire pits. There is no real wood burning in any backyard. To take that away and allow everyone else in the city to continue using these items would be atrocious and discriminative towards our guests. As in saying they are not capable or responsible enough to operate a simple BBQ on a summer evening but everyone else in the city is???

2. Revoking already issues permits

We understand this has happened to multiple owners around the city.

We understand that mistakes are made, however, we are appalled that your resolution for YOUR mistake is to revoke the permit. We have a property that has been in good standing since your ordinance began, It has not had ONE complaint. You "mistakenly" issued a renewal permit to this property. We then opened the calendar for a YEAR once we received the renewal permit. Several weeks later you revoked the permit due to your mistake.

We now have several bookings for this home that were booked only AFTER you approved the renewal permit.

We are not able to cancel these bookings without a detrimental impact to our company. We would get penalized on every cancellation, charged outrageous fees for canceling, blocking other homes we manage, and more, resulting in devastating consequences for our other 20 homeowners. Including, but not limited to, Airbnb removing all of our listings from the site. They do not take cancellations lightly and the impact is horrendous.

We understand mistakes happen. We have been more than responsive to all of your requests. ***We are formally asking that the council include protection for the HOMEOWNER for once in this ordinance.*** We ask that should the planning department make such a mistake that they allow operation to continue for the property as issued on permit.

Again, we can not stress the impact on the homeowner (a new father) who had thought he was able to continue renting and depend on this income, as well as our company that will be directly impacted due to your mistake.

Thank you for your time and prompt response to these issues.

Warmest Wishes from Wine Country,
Kristy

Kristy Dominquez
Wine Country Vacation Rentals
WCLVRentals@gmail.com
707-237-1069

From: [Eric Fraser](#)
To: [CityCouncilListPublic](#); [Fleming, Victoria](#); [Rogers, Chris](#); [Alvarez, Eddie](#); [MacDonald, Dianna](#); [Rogers, Natalie](#); [Stapp, Mark](#); [Okrepkie, Jeff](#)
Cc: [Carter, Charles](#); [Holton, Jeffrey](#); [Weeks, Karen](#); [Cisco, Patti](#); [Sanders, Terrence](#); [Duggan, Vicki](#)
Subject: [EXTERNAL] 6/6/23 Council: Agenda Item 16.1 Short term rentals - Press Democrat Editorial
Date: Monday, June 5, 2023 12:18:20 PM

Following the Press Democrat editorial on Sunday June 4, 2023, here are our comments:

<https://www.pressdemocrat.com/article/opinion/pd-editorial-tighten-short-term-rental-rules/>

The sensationalistic Press Democrat does not disappoint. Under the surface they have much to gain by eliminating a few dozen non-hosted short-term rentals where the owner has more than one permit. It's not about the short-term rentals and their alleged transgressions of noise and "systemic effects on the housing market", but more about protecting status quo control over current "rent-seeking" schemes. The PD's income depends on asserting power over public opinion regarding most government revenue schemes including that emulate the lucrative "tourism industry", so it's no surprise that they would just fire away with undermining the short-term rental ecosystem. They've been doing it for years, and since they are paid money by the City, we see who their propaganda serves by connecting the dots between the policy positions of PED (City's Planning and Economic Development Department), specific benefactors (like the Arthouse, or the Metro Chamber), and the media.

Here are some of their propaganda tropes, in no particular order:

"A quick search on Airbnb shows rentals going from \$81 to more than \$650 a night". Obviously, a characterization like this requires rebuttal found by way of understanding the context of # bedrooms, booking date, amenities, etc. and requires understanding of the actual occupancy rate of that specific property.

"Party house" and "too many guests" are tropes commonly used against STRs, when facts show NO administrative citations issued to STRs for these issues since the First Urgency Ordinance of October 2021. These types of complaints are received frequently by the police and code enforcement for non-STR properties (long-term tenants, owners in residence, second/recreational homes). Remember that the only two "house parties" attributed to STRs since the First Urgency Ordinance, were proven to be pretextual government actions against property owners which resulted in no administrative citations against the owners once facts got out.

They cite the "city survey", which they say shows that most people responding live near a short-term rental, and want to see regulations tightened, without mentioning that on-line surveys like these cannot be used for statistical research because people can take the survey multiple times, lie, and both the city and organized groups can use the surveys as just a tool to

amplify propaganda and one-side presentations. Surely, the PD knows this already. Since there have been no administrative citations against STRs for quality-of-life complaints, it's not the "regulations" anti-STR zealots want to see tightened, but just the "screws", even if they "strip out the head". "Temper" professional management is a goal stated by the PD editorial.

They cite "systemic effects on the housing market creating inflationary pressure on housing prices and rents", without any factual support. It is the ultimate of propaganda tropes against STRs that buttress the main thrusts of the government/media wealth from rent-seeking that includes affordable housing, homelessness, and a variety of other social issues. On top of that, research shows positive benefits from a healthy STR ecosystem (one that allows the free market to meet demand with supply) because it attracts money into neighborhoods for new construction, higher maintenance standards, ADU construction and more. Since non-hosted STRs are only permitted in less than 0.30% (LESS THAN ONE THIRD OF ONE PERCENT) of residential housing units there are no "systemic effects on the housing market creating inflationary pressure on housing prices and rents" to be found. Period.

However, STRs help the middle class achieve economic parity in an area with escalating housing costs. The Press Democrat and the executive class of City employees (those hundreds of public servants in Santa Rosa making \$250,000 a year or more:

<https://transparentcalifornia.com/salaries/2022/santa-rosa/?page=1>, median individual income according to US Census is \$37,559 in 2020) are comfortable seeing the middle class eliminated so they can regale in the company of the upper financial class while claiming to help the economically challenged through policy. The City's SRTBIA program operates like a travel bureau for those uber-wealthy city servants, and substantially funds the political (candidate endorsements? YES!) Metro Chamber who is allowed to operate without financial oversight – those perks are worth lying for!

"I don't like my neighbor essentially running a business next to my home" is a quote they say they pulled from the City's online survey. Since almost half of the City's residents are renters, and therefore have engaged in a business contract, almost every property in the City is a business. The fluidity for a property to go from short term renters to longer term usage is plain to see in government documents (tax records), although it is thoroughly ignored by PED since it doesn't support their narrative. This trope is also a major one and used by the campaign "Homes not Hotels", with even a (former?) planning commissioner getting confused between building types. The facts are that not only are residential structures not "hotels" or "motels", but those with STR permits pivot between lease terms as well type of occupants (family members, friends of family, business people, evacuees, in-County visitors, visitors from outside the area, etc.) In addition to bookings on on-line platforms like AirBnB and VRBO (who are targeted with STR regulations served up by these government/media collusion) property owners frequently share space with short-term guests or allow people to use a vacation home when they are not using it even when not operating as a permitted STR.

Many businesses, including hosted STRs and probably non-hosted STRs, have a "by right" or "minor use permit" privilege to use their residential addresses. Hundreds of owners of residential property own multiple APNs, and from those portfolios they rent to long-term tenants or enjoy them as second or third homes. Except for the obligation to collect TOT and BIA, there is little that distinguishes a 1, 2, 3 ... 29 or 30 day furnished rental from a 31 or 45 or 60 day furnished rental, except demand.

Another mention in the PD is the regulatory change to prohibit outdoor burning. This important issue was, for the First Urgency Ordinance, a red herring. It was included alongside COVID, and "neighborhood character" as the rationale for the City to use an Urgency Ordinance scheme to regulate STRs. If STRs posed such a danger, why were those already registered with Finance NOT sent a notification at the beginning of the declared fire season in May, 2021? Why would open burning make it into the First Urgency Ordinance, and escape notice in the Second Urgency Ordinance? Since no threat has been foreseen using propane barbeques by SRFD, why would they be restricted now, and why only target STRs? The only conclusion is that anti-STR City policy makers want to make STRs less attractive to potential renters.

The PD Editorial makes no mention of:

- Further erosion of property rights
- Further erosion of visitors' rights
- Positive economic impacts on neighborhoods and the community from STRs
- Lack of due process and other civil rights violations in existing STR regulations

and many other fact-supported aspects of the City STR regulations that erode our democracy.

Looking forward to being of service.

Until we meet again,

Eric Fraser

TRUTH IN TOURISM

Truthintourism@gmail.com (Do not censor this email address on public document releases)

"Rent-seeking" refers to individuals and organizations who use government funds for self-enrichment, with little or no value delivered to the governed."

From: [Eric Fraser](#)
To: [CityCouncilListPublic](#); [Rogers, Natalie](#); [Rogers, Chris](#); [Alvarez, Eddie](#); [Fleming, Victoria](#); [MacDonald, Dianna](#); [Stapp, Mark](#); [Okrepkie, Jeff](#)
Cc: [Holton, Jeffrey](#); [Carter, Charles](#); [Sanders, Terrence](#); [Cisco, Patti](#); [Duggan, Vicki](#); [Weeks, Karen](#)
Subject: [EXTERNAL] 6/6/23 City Council Agenda 16.1, Short Term Rentals UPDATE Code Enforcement Research
Date: Monday, June 5, 2023 4:53:56 PM

Dear Mayor, City Manager, Council, Planning Commission, and concerned citizens,

Responsive documents from the City highlight the City's War on STRs and the extraordinary scrutiny and excessive fines, absent a stable administration and due process. This is a scandal of major proportions. I doubt that the jeopardy this represents is more valuable than the allegiance to party ideology may buy.

The update analysis shows 172 administrative citations (not 136 as claimed in the staff report) against STR properties since the First Urgency Ordinance. The additional citations appear to be more voided, dismissed, or other errant citations issued. None of them for quality of life issues. All of them evidence of the City's lack of concern for civil and due process rights.

Still, even more disturbing, is that it appears that around 50% of ALL citations issued by the City have been against STRs since the advent of the First Urgency Ordinance in October 2021. These are ALL for petty issues like defective advertisements among those in the permitting process. For those caught without a permit they get the brimstone of multiple fines, severe punishments, while being denied access because of the arbitrary proximity requirement.

According to public documents, the City 3rd-party processor for administrative citations - Data Ticket hasn't heard a single appeal since 2016 for any administrative citation, so it appears that PED is using a process specifically to target STRs to deny administrative review, reap more money for appeals and so forth. Is this quota driven?

Since targeting STRs by using Data Ticket, the number of appeals is up significantly, underscoring the basic attack on property owners' rights created by code enforcement's targeting. The abuse of using the Code Enforcement system for political purposes is startling. The facts of abuse are there, the City's motives for wanting to make a mountain from molehills is not fully contoured but will be.

Our next step will be to request documents for each citation and the related code enforcement files, even for those citations that we presume are not against STRs. We'll be able to get better details on actual revenue, circumstances, etc. and report back.

Source documents:

23-442 Public Document Planning/Code Enforcement workbook (2 tabs: source from responsive document and citation extraction worksheet):

https://docs.google.com/spreadsheets/d/1CFdQK4ot4x7KziP0zBiUZ0tvQsRZ64l_/edit?usp=sharing&oid=102595547649122913220&rtpof=true&sd=true

6/1/23 Planning/Code Enforcement report: See 6/1/23 email sent at 2:51 pm.

Looking forward to being of service.

Eric Fraser

TRUTH IN TOURISM

truthintourism@gmail.com

From: Eric Fraser
To: Rogers, Chris; Alvarez, Eddie; Rogers, Natalie; Fleming, Victoria; MacDonald, Dianna; Stapp, Mark; Okrepkie, Jeff; [_CityCouncilListPublic](#)
Cc: Weeks, Karen; Cisco, Patti; Carter, Charles; Duggan, Vicki; Sanders, Terrence; Holton, Jeffrey
Subject: [EXTERNAL] 6/6 CC Meeting, agenda item #16.1 Fwd: Follow-up from Meeting RE: Permit & Code Enforcement Processes, Cases, Administrative Citations, and Fines.
Date: Thursday, June 1, 2023 2:51:21 PM

Dear Mayor and City Council

Last week Truth in Tourism met with PED staff to review information related to STRs and more, in preparation for the 6/6/23 Public Hearing on STR regulations.

As exhausting and disheartening it is to rake through the muck that staff produces to demonize STRs, it has now become a CIVIC DUTY as this has become pivotal to the concept of honest and transparent governance. The City's approach to STR regulations transcends managing the imaginary threat posed by STRs, into violations of the Brown Act, FPPC regulations, CA Code and so forth that threaten basic rights.

This is one of several emails we will forward to you that includes our research about many aspects of STR regulations and related issues. We have noted the sources for our research, which are for the most part public documents received from the City in response to our requests.

So we soldier on in a defensive mode against the City's War on STRs, hopeful that peace, good governance using facts, and common sense visits our city.

Looking forward to being of Service,

Eric Fraser
TRUTH IN TOURISM
707.479-8247

----- Forwarded message -----

From: Eric Fraser <truthintourism@gmail.com>
Date: Tue, May 30, 2023 at 3:59 PM
Subject: Follow-up from Meeting RE: Permit & Code Enforcement Processes, Cases, Administrative Citations, and Fines.
To: Jones, Jessica <jjones@srcity.org>
Cc: Hartman, Clare <chartman@srcity.org>, Oswald, Jesse <joswald@srcity.org>, Kirk, Lou <lkirk@srcity.org>

Dear Jessica;

Here is the next set of questions we have, this time regarding permit & code enforcement processes, cases, administrative citations, and fines.

We are receiving our notes from the meeting and documents provided by your department via our PRA request (23-442). <https://cityofsantarosaca.nextrequest.com/requests/23-442>

Here is a link to a Google sheet that was created from a document responsive to 23-442 (pdf).
<https://docs.google.com/spreadsheets/d/1EdT74lFo6rH9QQ4yLJR1GB0NcfI57Rwy6lDwYwtbLU/edit?>

[usp=sharing](#)

From this, we learned from Planning data as of 4/27/23 which includes hosted and non-hosted:
STR Permits Issued or Approved: 222 with 2 renewal applications approved. The header statistics do not specify hosted vs. non-hosted so we will calculate that from the text to verify the staff report. Some permits were issued to addresses with no history or intention of short term renting, and others are hosted STRs but preserving their rights to a non-hosted permits as they are In Good Standing. We estimate that a majority of permits are for property owner's permanent addresses.

Denied: 9

Plan Review: 35 original applications with 31 renewal applications in plan review or pending.

Withdrawn: 23, however some of these were later submitted with corrections.

(These numbers differ from the 4/27/23 Planning Commission Staff Report <https://santa-rosa.legistar.com/MeetingDetail.aspx?ID=1065467&GUID=A149E3D7-2860-4A63-9977-2AED9C523F1C&Options=info|&Search=>)

There are 69,495 residential housing units in the City of Santa Rosa in 2021, according to the staff report, and current regulations limit the number of non-hosted STR permits to 198, or 0.28% of the City's housing units. This calculation differs significantly from the staff report.

There is no indication as to the occupancy rates of permitted STRs, as the city has been non-responsive to our requests for tax receipts and other public documents regarding occupancy rates since 2Q2021. Records assembled pre-2021 show most tax-paying STRs have occupancy rates less than 50%, from 0% - 70%+, with the average being ~30%.

You can review the individual TOT / BIA collection data collected from responsive public documents (per address for 2015-2021) here:

https://docs.google.com/spreadsheets/d/1qhXGpN_Q2t6wOR0ddo38uyDNRFCHplw/edit?usp=sharing&ouid=105129043762724748389&rtpof=true&sd=true (review many tabs)

- TOT/BIA collected from STRs make up about 20% of the revenue from all sources (hotels, motels, etc.)
- Most STRs are small mom/pop operations that are only offering rooms or homes occasionally to short term renters.

Code Enforcement Process

Jesse reiterated that Code Enforcement opens code enforcement cases based on complaints received. A 24/7 code enforcement hotline geared specifically for STR complaints was initiated several months ago but has received few complaints. What was the exact date of the hotline's launch?

We note 91 files in the 23-442 spreadsheet refer to enforcement cases for addresses not in the STR permitting process. This represents 75 addresses and most of the cases and administrative citations reference these addresses. 80 administrative citations were written against these 75 non-STR addresses from the 91 code enforcement cases.

Of the total 297 code enforcement cases and 153 administrative citations, these non-STR properties accounted for over 30% of the code enforcement cases and over 52% of the administrative citations.

This suggests that there are a number of disenfranchised property owners, most are Santa Rosa residents, who are being targeted by code enforcement for not having an STR permit while allegedly taking in short term guests booked through an online platform. Many of these property owners have In Good Standing or vest interests.

Only 6-8 code enforcement cases referenced noise, parties, or over-occupancies (aka “health and safety infractions or time-specific complaints”). However, 297 code enforcement files were opened. Therefore, at most 0.027% of code enforcement cases, once verified, may have resulted in health and safety infractions (8/297). Did any of these code enforcement files related to health and safety infractions result in an administrative citation? We could not find any.

REPEAT: No administrative citations were written due to time-specific health and safety violations against any permitted or non-permitted STRs.

288 code enforcement files related to minor violations like the accusation of not registering for a STR permit, installing improvements that look like something a STR owner would install (like new toilets, see CE22-0695), having a defective advertisement, or just outright fabrications from the complaining party. More than 97% of all complaints fall into this category.

Administrative Citations

Jesse said that the process for resolving an administrative citation follows the outline shown here: <https://www.srcity.org/3117/Resolving-a-Violation>. A code enforcement citation is like a parking citation in that once written, it can only be voided upon appeal. Please correct me if this is incorrect.

In examining the data, we find several cases where an administrative citation issued to an STR property skipped steps to allow the target to resolve a complaint, either under the timeframe allowed for a point-in-time complaint or using due process procedures that allow a minor issue to be resolved before an administrative citation is issued. However, we find several cases where administrative citations were voided. Were these “other” citations voided due to administrative review, formal or judicial appeals, staff errors, or “other” ?

Once one has received a citation, the public documents as well as information from those receiving citations, shows major swings in adjudication. Some are given formal or informal administrative reviews, there has been one contested permit denial to the Planning Commission, and we assume that there will be several judicial challenges. Due process, and other protections seem to have been an afterthought for the Urgency Ordinance, with Code Enforcement given wide latitude to translate and administer to the regulations, which were not clearly defined.

This “wide latitude” also refers to changes in personnel, we presume. It is baffling, since any one person should not be able to change legal administrative procedures on a whim.

The information in the public document:

297 Code Enforcement Files resulted in 153 Administrative Citations, or 51.5%, meaning that 48.5% of code enforcement files opened against STR properties were unfounded (maybe vexatious), duplicative, or satisfied through contact with the STR property owner, etc. How does this compare with other categories of complaints? This looks like STR owners are being harassed by code enforcement over trivial issues or even

targeted by vexatious parties who have an inside track with code enforcement.

Again, no administrative citations were found related to “health and safety infractions from point-in-time complaints” against permitted STRs.

153 Administrative Citations were issued against properties code enforcement claims have some nexus with STR permits.

Of the 153 citations, only 73 have been paid as of 5/15/23 according to the public document, with 52 considered “open”. Since many of those citations have excessive fines, or abusive processes, the push back from targeted parties has probably been fierce.

Oddly 28 administrative citations are “other” with no anticipated income because they are voided, or withdrawn upon successful appeal, etc. This represents 18.3% of all administrative citations. How does this number compare to other categories of administrative citations? Was code enforcement over-zealous in issuing administrative citations against STRs?

PED comes forward with the recommendation to increase the fines targeting STRs. SB60 (2021) amending Gov Code 36900, allows for an increase in fines for health and safety infractions for STRs, but does not extend that authority to minor violations, point-in-time complaints satisfied by the STR 24-hours contact, code enforcement infractions when the property does not have short-term guests, properties with owners in residence (hosted), failure to register for a permit, and other non-health & safety related infractions. Also, “hardship waivers” are also to be considered in the adjudication of STR-related administrative citations. How does the city propose to include new fines for major health & safety infractions (very rare, with no citations issued to date in Santa Rosa), while fairly adjudicating minor infractions (all administrative citations so far, with a 28% inaccuracy rate and dozens more unpaid and probably contested?

This workbook might help understand enforcement and adjudicating administrative citations: <https://docs.google.com/spreadsheets/d/1jGm1gYKaxMyBinKL4ap9RzJR1S7o4HaMx4F6rt8bdaw/edit?usp=sharing>

Three tabs: 1) Roles, 2) Terms/Glossary, 3) Enforcement Matrix

The bottom line is PED, through code enforcement, in concert with other schemes mostly likely in violation of the Brown Act, has inflated claims alleging STR's negative impacts using sophomoric surveys, and bloated code enforcement case files that have created defective or extortive administrative citations. The question is “why”?

Wouldn't it be easier and less disruptive to place restrictions on vexatious or unfounded complainers, or actually be the voice of reason in our neighborhoods? How about dialogue with the STR community using facts, free from anti-STR rhetoric, about common sense safety and quality of life requirements? Workshops?

Looking forward to being of service,

Eric Fraser
TRUTH IN TOURISM
707.479-8247