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M E M O R A N D U M

DATE: September 18, 2017

TO: Council President Myrtle Cole
City Attorney Mara Elliott

FROM: Councilmember Christopher Ward, Third Council District
Council President Pro Tem Mark Kersey, Fifth Council District
Councilmember Scott Sherman, Seventh Council District
Councilmember David Alvarez, Eighth Council District

SUBJECT: Proposed Short Term Rental Policies and Strategies

Christopher Ward
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The issue of monitoring and regulating San Diego's short-term rental (STR) industry has been debated for years at City Council hearings, town halls, and other public forums.

STRs bring a number of benefits to homeowners, those who operate them, their visitors, and the surrounding neighborhoods. Many San Diegans use STRs as a way to help afford their own home by renting an accessory unit, a spare room, or their entire home when they are out of town themselves. In a housing market which presents affordability challenges, short-term rentals can alleviate the housing burden for the families that operate them by allowing new revenue streams to help make ends meet.

In addition, STRs play a valuable role in San Diego's local economy by providing additional affordable options for visitors. They make San Diego more accessible to tourists and visiting family members, and bring their collective spending power to our unique neighborhoods and support our main street small businesses. Studies show STRs have had a total economic impact of nearly \$300 million to the region's economy in direct and indirect spending, and has supported approximately 2,000 jobs for San Diego residents.

At the same time, the opportunity to use properties as STRs has taken entire houses, condos, and apartments off of the long-term housing market and, in some instances, they have become neighborhood nuisances. Without regulation, these STR opportunities could diminish neighborhood quality of life and exacerbate San Diego's housing crisis by reducing supply and in turn increasing prices.

Clear policies and procedures will make certain that citywide STR activity is regulated. We believe San Diego's policies should be developed with easy-to-follow regulations designed to provide protections for San Diegans and clarity of expectations for owners, operators, and renters of STR units. Common-sense measures to preserve the character of San Diego's neighborhoods while allowing property owners to rent their homes in a manner they see fit, will benefit both the City and its residents.

Maximum compliance with registration should be sought through an easy-to-use online permitting process. The program must also include adequate resources for 24/7/365 dedicated Police Investigative Service Officers (PISOs) who are self-sustained via permitting fees and anticipated penalties to assure the public that STRs will not create quality of life issues in our neighborhoods.

The following policies and strategies should provide the framework for the necessary elements of an ordinance that ensures San Diego's neighborhoods are protected, local jobs are preserved, and the STR industry can lawfully operate. We seek to balance the economic opportunity created by short-term rentals with the need to maintain supply of long-term rental housing stock available at a range of prices. Additionally, we seek to protect the rights and safety of owners, guests, and neighbors of STRs while providing a level playing field for individuals and companies in the short-term rental market.

A. STR Zoning Regulations

The City must amend its Zoning Ordinance to define Short-Term Rentals as a land use category, clarify where renting all or a portion of one's primary residence or "home sharing" shall be an allowed use, and provide supplemental standards for their operation.

We recommend defining short term rentals as any stays of 29 nights or fewer. Stays of 30 or more nights would not be considered STRs nor subject to these regulations.

Within the Coastal Zone and Historic Districts, we recommend requiring a 3-night minimum stay for STRs. The California Coastal Commission has clearly indicated support for short-term rentals, such as a December 2, 2015 letter to the San Diego Planning Commission saying "[short-term rentals] represent a high priority visitor-serving use that should be promoted as a means to provide overnight accommodation and support increased coastal access opportunities."

B. STR Building Occupancy and Code Standards

The City must provide building occupancy and code standards for the operation of STRs. We recommend that occupancy limits for STRs be consistent with California's '2+2' standard (two adult occupants per bedroom, plus two in the home) and require homes with more than four bedrooms to obtain a Process II Neighborhood Use Permit.

No STR permit shall be issued to an applicant whose property has outstanding code violations.

C. STR Permitting Requirements

The City must create a comprehensive online permitting and enforcement process for whole home Short Term Rentals, and require a permit for all STRs. Whole home STRs shall be permitted as a limited use, and "Short-term vacation rental" permits shall be capped at three

per homeowner, subject to a permit/registration fee, and subject to a fee to support the creation of housing. Entity applying for the permit must have ownership in the property for at least one year before application. If applying for a permit for a property that is also used as the applicant's primary residence, the one year ownership requirement is not applied. Permit must be assigned to an individual not commercial operator. Permit fee shall escalate, with the first permit at \$100, second permit at \$250, and third permit at \$500.

The permit shall be prominently displayed on the front facade of the property in a location clearly visible from the street during all periods of occupancy and contain the permit number, 24/7 contact information for the owner or in-town property manager and occupancy limit.

Residents also must provide each tenant with a "Good Neighbor Code of Conduct" that defines the parameters of the stay (i.e. occupancy limits, noise, trash and parking regulations) and presents potential fines and penalties for non-compliance.

D. STR Fees and Taxation

To pay for the enforcement of STR regulations, the City must establish a fee to obtain short-term rental permits which would be in addition to the Transient Occupancy Taxes and Rental Unit Business Taxes operators currently pay. A portion of these fees and taxes should be dedicated towards paying for law and/or code enforcement officers who will work nights and weekends to respond to complaints as they occur.

Additionally, we recommend that the City establish an impact fee on STR activity and dedicate those revenues to creation and/or preservation of affordable housing. We suggest a fee of \$5.00 per rental night of STRs be deposited into a new affordable housing fund that may be remitted to and managed by the San Diego Housing Commission.

E. STR Enforcement

Using the City's Administrative Citation Policy, Police Investigative Service Officers (PISOs) should issue citations to homeowners and renters for noise and other verified nuisances. Fines should escalate (\$1,000 fine to renter and initial \$1,000 fine to property owner, escalating to \$2,500 for second offense and \$5,000 for third offense), and result in the revocation of rental permits for a third verified offense in a 365-day period. Additionally, verified operation of an STR shall be considered a violation of the Municipal Code and will be subject to civil penalties and/or judicial remedies.

We look forward to working with you to further develop responsible policy and oversight of the Short Term Rental industry.

cc:

Mayor Kevin Faulconer
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