



November 8, 2019

Via Electronic Mail

Re: Public Comment on November 2019 Agenda – LCP-3-PGR-18-0093-1
Friday, November 15 Agenda Item F8a.

Dear Commissioners and Interested Persons:

We are writing to urge the Commission to reject the request by the City of Pacific Grove to certify the portion of its Local Coastal Program (LCP-3-PGR-18-0093-1) that will severely and unfairly restrict the rights of home-sharers in Pacific Grove.

The Goldwater Institute is widely regarded as the nation’s foremost defender of the rights of home-sharers—persons who rent out their homes or parts of their homes on a short-term basis to visitors. The Institute’s position has long been that while local communities can and should prevent nuisances such as noise or traffic problems, it is both unjust and counterproductive to impose absolute prohibitions or arbitrary restrictions on short-term rentals. After all, cities do not ban all backyard barbecues just because some of them get noisy sometimes, or forbid people from having Superbowl parties just because a few people cause traffic problems. Prohibiting nuisances or dangerous property uses on a case-by-case basis is a good thing. Total bans or arbitrary and unfair restrictions that deprive responsible and conscientious property owners of their rights are not.

Pacific Grove chose the latter. It attempted to completely prohibit short-term rentals in much of the City, even by people who are careful to prevent nuisances or other neighborhood harms, and even by people who have invested much time and money into making their homes attractive places to rent. Remarkably, it even held a “lottery” to determine which homeowners would be allowed to continue renting out their property and which would not. As a consequence, people who had never had a single complaint against them lost their rights to rent their homes—while others who may have had numerous complaints were allowed to continue renting their homes.

This is particularly problematic in the Coastal Zone. The City passed and has been enforcing Ordinance 18-005 (which, among other things, imposes a 15% density cap, zones of exclusion, processes for determining “over-dense” blocks, and a lottery that arbitrarily deprives homeowners of their rights to rent), without first submitting it to the Coastal Commission for approval. Indeed, the City has been restricting short-term rentals in the Coastal Zone for years, in open defiance of the Coastal Act, despite the fact that this Commission has made clear that “regulation of short-term/vacation rentals ... constitutes development to which the Coastal Act and LCPs must apply.”

The Institute filed lawsuits on behalf of some of these affected property owners. That case is still pending in the Monterey County Superior Court. In June, 2019, the Court ruled that the City had violated the Coastal Act by failing to obtain the Commission's approval of its short-term rental regulations and lottery.

We strongly agree with the Coastal Commission staff that short-term rentals “play a critical role in providing lower-cost accommodations” as well as a reasonable, environmentally-friendly means for visitors to access California's coastline—an alternative to the construction of large hotels and other developments. This is hard to measure quantitatively, given that visitors who, through short-term rentals, enjoy California's coastal communities without causing nuisances or other problems, are never even noticed. But we do know that short-term rentals are not a significant source of nuisances for local communities, and in fact actually benefit these communities, because visitors typically shop at local businesses and eat at local restaurants that they likely would not visit if they were staying at—and eating at—large hotels.

Data shows that short-term rentals improve local economies and make communities such as those on the California coast more livable. Data also refutes the oft-heard claim that short-term rentals drive up housing costs. Pacific Grove has long suffered from a lack of affordable housing, and there is no evidence that short-term rentals have caused or increased this lack. On the contrary, short-term rentals enable many residents to afford their mortgages and other bills that they would otherwise find too expensive. And they provide an incentive to restore and better maintain homes in the coastal area, by giving residents an opportunity to profit from responsible property use—in a manner that allows more visitors to enjoy the beach.

While this Commission has supported limiting the number of short-term rentals when necessary, it has also implored cities to adopt only “reasonable and balanced regulations that can be tailored to address the specific issues” of the community, rather than overregulating or banning the practice outright. Indeed, many of the short-term rental regulations that the Commission has approved in the past focus on abating actual disturbances through nuisance restrictions, parking requirements, occupancy limitations, and mandatory emergency contacts, or mechanisms for tax collection, instead of arbitrary, one-size-fits-all regulations that are not aimed at mitigating demonstrable problems.

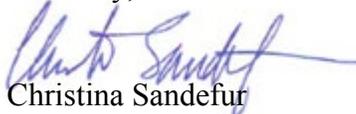
In Pacific Grove, short-term rentals make up only about four percent of the City's housing stock. The idea that the City will be “overwhelmed with STRs” is therefore baseless. Short-term rentals benefit the community by minimizing the number of second homes that remain vacant for extended periods. Indeed, City staff determined that 70 percent of licensed short-term rentals in Pacific Grove are second homes, and that 51 percent of those owners would leave those homes vacant if they could not rent them on a short-term basis. For all of these reasons and more, City staff determined that short-term rentals are residential uses and are not anathema to Pacific Grove being a “city of homes.”

Nevertheless, the City chose to reduce the number of short-term rentals through its lottery mechanism—which the City is now asking the Commission to retroactively approve—under which considerations of individual merit were not involved. Instead, dozens of homeowners who had been responsibly renting for years suddenly and unfairly lost the ability to offer their homes for short-term rental—and also lost their substantial investments to improve their homes for renters, and the ability to generate income that helps them and their families. These are not the kinds of “reasonable regulations tailored to address specific problems” that the Commission has supported in the past.

Opposition to short-term rentals tends to come either from local NIMBYs or from entrenched interests such as the hotel industry, who wish to outlaw competition. The Commission should not serve these interests. NIMBY fears that short-term rentals will cause the City to “lose its residential character” are a euphemism for a desire to exclude outsiders from the community—and from access to the Coastal Zone—to serve the aesthetic desires of a fortunate few. And the interests of the hotel industry should not be an excuse for depriving Pacific Grove homeowners of the right to responsibly use their property for short-term rentals. California’s coast invites visitors from across the world, and short-term rentals are an effective, environmentally friendly, and non-intrusive means of serving that need. Short-term rentals should be regulated like all other residential uses: if people cause nuisances or disruptions, they should be subject to penalty under existing anti-nuisance laws. But imposing blanket bans and one-size-fits-all restrictions that harm innocent property owners is unjust and counterproductive.

We urge the Commission not to approve the City's arbitrary lottery.

Sincerely,



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at the Goldwater Institute