

Mendocino County

JUN 15 2022

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Planning commissioners, a look at your ordinance:

Resolution of.

**MENDOCINO COUNTY PLANNING COMMISSION PROVIDING  
CLARIFICATION REGRADING INTERPRETATION OF  
THE APPLICABILITY OF SECTION 20.164.015  
TO VACATION RENTALS**

WHEREAS, a substantial and increasing share of the County's existing housing stock is being used as Vacation Rentals in residential zoning districts and, thereby reducing the ability of residents to engage in the quiet enjoyment of the neighborhoods; and

Your first Whereas tells us this is more than just a housing issue to you.

“thereby reducing the ability residents to engage in the private enjoyment of the neighborhoods”. I will look closer to the data to support this claim, so far, I have not seen it.

WHEREAS, the proliferation of internet based vacation rental services, such as Airbnb and VRBO, have resulted in a significant increase in the number of vacation rentals and the intensity of use of existing vacation rentals and the ability for an operator to operate many vacation rentals simultaneously; and

Yes, the internet has changed the world.

WHEREAS, these internet based vacation rental services essentially function as hotels, wherein vacation rentals are rented out to a very large number of visitors from an increasing pool of vacation homes in Mendocino County many of which are owned by businesses or out of County owners; and

**No, they do not function as hotels, few motels have full kitchen units, and offer the visitor the privacy most vacation rentals have. In the United States, even foreigners can own property**

WHEREAS, the Zoning Ordinance does not offer specific regulations for vacation rentals, instead the following definition has been interpreted by staff to apply to whole house vacation rentals:

20.164.015 - Residential and Agricultural Use Types (L) Room & Board: *“The renting of not more than two (2) rooms for occupancy by transient guests for compensation or profit, provided the parcel has frontage on a publicly maintained road. A Major Use Permit is required if the parcel does not have frontage on a publicly maintained road.”*

*You may want to look at the history, in 1987 the draft ordinance dealt with vacation rentals, left out to keep it vague.*

WHEREAS, the zoning ordinance requires that a vacation rental be found to be “*accessory, incidental and subordinate to the principally established residential use of the property*”.

I think this is totally inaccurate and does not make sense. See below.

Whereas 8.

WHEREAS, County staff has in the past interpreted section 20.164.015 to apply to whole house rentals and has made the finding that such rentals are accessory, incidental and subordinate to the principally permitted residential use of the property.

**Virtually all vacation rentals are “whole house”. If not, they sure would not be potential long-term rentals. Most have full kitchens.**

WHEREAS, the County interpretation was initiated prior to the proliferation of internet based vacation rental services such as Airbnb and VRBO. These services have allowed vacation rentals to proliferate and become the primary use of many residential properties throughout the County. Often there is no existent residential use on these properties; and

They call this progress in some areas.

WHEREAS, vacation rentals have become inconsistent with the Mendocino County Code Chapter 20.048, as whole house vacation rentals no longer qualify as an insubordinate and incidental use to an allowed residential use. These vacation rentals have replaced the residential use with a commercial visitor serving use; and

know of no vacation rentals that are not “whole houses”

WHEREAS, a significant share (over 3%) of the County’s housing stock has been converted to legal (registered) vacation rentals and an unknown additional number of housing units have been converted to vacation rental units illegally.

Ok will Still have questions on your data.

WHEREAS, the rental of residential units as vacation rentals has decreased the supply of units available for sale or rent and thereby contributed to rising housing costs and rising rental rates in Mendocino County;

First part may be true, but no data I saw to back it up, and I am not sure you can connect the dots to rising prices. How much impact is unknown?

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WHEREAS, the lack of available and affordable housing for Mendocino County's workforce creates an impediment to retaining and recruiting residents and employees; and  
ok

WHEREAS, the increasing use of the County's housing stock for Vacation Rentals effectively results in mini-hotels, without adequate oversight, in residential zoning districts; and  
Who would determine "adequate oversight"? many are managed by local companies.

WHEREAS, the Board of Supervisors is working to develop a comprehensive vacation rental ordinance; and

One must be suspect on this. Your process should be in an update of the general plan, housing element, inland and coastal with adequate public input.

WHEREAS, the Mendocino County Planning Commission desires to develop appropriate regulations for Vacation Rentals in both the Inland and Coastal areas of the County; and

Need to be fair to all on this.

WHEREAS, the existing interpretation of 20.164.015 - Residential and Agricultural Use Types (L) Room & Board poses a threat to the health, safety and welfare of the citizens of Mendocino County.

Really? Come on now. "a threat to the health, safety, and welfare of the citizens of Mendocino County. Quite a stretch on this one.

I could go into the untold number of pot grows, but again that is another story.

NOW, THEREFORE, THE MENDOCINO COUNTY PLANNING COMMISSION ORDAINS AS FOLLOWS:

**Section 1. Findings.**

The findings just don't hold up. "The above recitals are true and correct" they just plain are not.

Paul Clark  
Property and business owner Mendocino and Fort Bragg

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# California Land Use & Development Law Report

LEGAL COMMENTARY ON PLANNING AND DEVELOPMENT

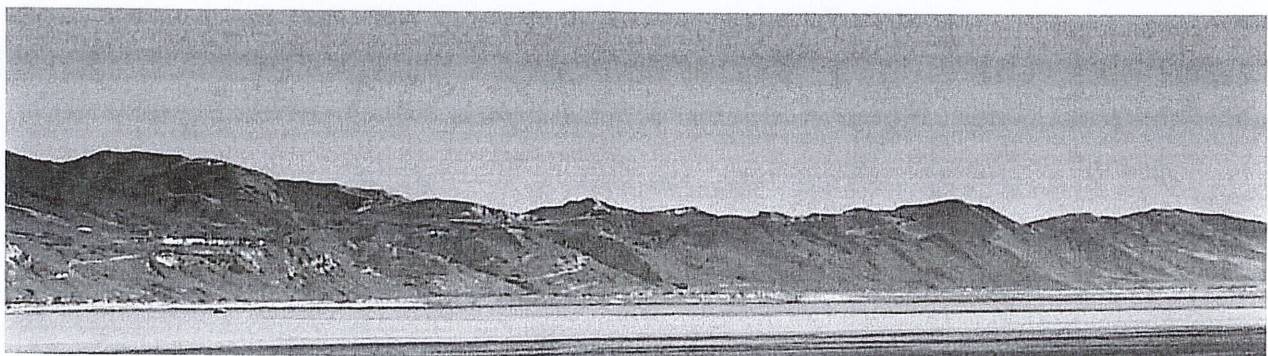
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## City's Ban on Short-Term Vacation Rentals in Coastal Zone Violated Coastal Act

By Jacob Aronson on June 8, 2021

A city's ban on short-term vacation rentals in the coastal zone constitutes "development" under the California Coastal Act. Therefore, the Coastal Commission must first approve a coastal development permit, an amendment to the city's certified local coastal program, or an amendment waiver before such a ban can be imposed. *Kracke v. City of Santa Barbara*, 63 Cal. App. 5th 1089 (2021).

Until 2015, the City of Santa Barbara allowed short-term vacation rentals as long as the owner registered the unit with the city, obtained a business license, and paid transient occupancy taxes. In 2015, the City Council directed its staff to regulate short-term rentals as hotels under the city's zoning code. Because the zoning code did not permit hotels in most residential districts, the city's action was effectively a ban on short-term rentals in most residential areas. As a result, the number of short-term rentals in the coastal zone dropped from 114 to 6. The owner of a company that managed short-term rentals filed a petition for writ of mandate challenging the city's new policy.





The Coastal Act requires a coastal development permit for any “development” in the coastal zone. “Development” is defined in the statute to include changes in the density or intensity of use of land and changes in the intensity of access to water. Courts have interpreted the term broadly to encompass any impediments to access, not merely physical alterations.

The court of appeal held that the city’s change in policy “necessarily” changed the intensity of use of and access to land and water in the coastal zone. Accordingly, the city was required to first obtain Coastal Commission’s approval, either through a coastal development permit, an amendment to its certified local coastal program, or an amendment waiver.

The court explained that the reduction in the number of short-term rentals in the coastal zone was inconsistent with the Coastal Act’s goal of improving the availability of lower cost accommodations along the coast. Further, the court explained, its decision was consistent with **Greenfield v. Mandalay Shores Community Association**, 21 Cal. App. 5th 896 (2018), in which the court of appeal held that a homeowner’s association’s ban on short-term vacation rentals was “development” under the Coastal Act because it changed the intensity of use and access to single-family residences in the coastal zone.

The court’s decision is also consistent with the Coastal Commission’s policy. In 2016, the Coastal Commission sent a guidance letter to local governments explaining its position that regulation of short-term vacation rentals constituted development under the Coastal Act. (The Coastal Commission filed an amicus brief supporting the petitioner.)

The court’s decision in this case reinforces the broad powers of the Coastal Commission

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over local policies that impede access to the coastal zone. This case, together with the court's 2018 decision in *Greenfield*, hold that any restrictions on short-term vacation rentals in the coastal zone—whether by a private entity or a local government—are subject to the Coastal Act and must be approved by the Coastal Commission.

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Legal Commentary on Planning and Development

**Perkins Coie LLP**

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