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## Brown Act Violations and Demand for Inclusion in April 9, 2025 Agenda Packet

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**From** HermosaBeachPropertyOwner <HermosaBeachPropertyOwner@proton.me>

**Date** Mon 4/7/2025 9:28 PM

**To** City Clerk <cityclerk@hermosabeach.gov>; Myra Maravilla <mmaravilla@hermosabeach.gov>

**Cc** mayor@hermosabeach.gov <mayor@hermosabeach.gov>; Councilmember Michael Keegan <mkeegan@hermosabeach.gov>; Councilmember Ray Jackson <rjackson@hermosabeach.gov>; Councilmember Michael Detoy <mdetoy@hermosabeach.gov>; Mayor Pro Tem Rob Saemann <rsaemann@hermosabeach.gov>; pdonegan@hermosabeach.gov <pdonegan@hermosabeach.gov>

 5 attachments (727 KB)

HB Commercially Zoned Parcel with Nonconforming Residential Uses - 2014 map.pdf; Letter to HBCC 4-7-25.pdf; CCC Steve Kinsey STVR Memo 12-6-16.pdf; CCC Steve Hudson STVR Memo 5-9-16.pdf; HB Coastal Zone Map.pdf;

Some people who received this message don't often get email from hermosabeachpropertyowner@proton.me. [Learn why this is important](#)

**To:** City Clerk, City of Hermosa Beach

**From:** A Concerned Hermosa Beach Property Owner

**Date:** April 7, 2025

**Dear City Clerk,**

Please attach the enclosed public comment to the official agenda packet for the upcoming City Council meeting on **Tuesday, April 9, 2025**, and acknowledge its inclusion in the online public record.

This document rebuts numerous **false, biased, and legally inaccurate claims** made during the March 25, 2025 meeting regarding Short Term Vacation Rentals (STVRs). It also highlights **serious violations of the Brown Act**, undermining the fairness and transparency of the City's proceedings.

The following violations and procedural failures demand immediate correction:

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### Brown Act Violations

**1. Reading Mr. Higgins' letter to the California Department of Housing and Community Development (HCD) aloud and verbatim despite it not appearing in the agenda packet**

- **Citations:** Gov. Code §§ 54954.2(a)(1) and 54957.5
- **Summary:** This letter introduced policy arguments against STVRs but was not made available to the public as required. At the same time, written public comments that favored STVRs were submitted on time but were ignored or omitted, violating the requirement for equal access and timely disclosure.

**2. Omission of attorney Frank Angel's timely written public comment**

- **Citation:** Gov. Code § 54954.3
- **Summary:** Mr. Angel submitted a written public comment by the stated deadline. His comment was initially excluded from the agenda packet, then added only after his complaint. As of April 7, 2025, at 7:30 PM, it has once again been removed.

**3. Mr. Angel's attempt to participate via Zoom was acknowledged by the City, and the mayor stated he would be called on again later, yet he was never allowed to speak—despite following all procedural instructions.**

- **Citation:** Gov. Code §§ **54953(b)** and **54954.3(a)** (Public’s right to participate in teleconferenced meetings and to speak on agenda items)
  - **Summary:** Mr. Angel was acknowledged by the mayor during public comment but never re-called after an unexplained technical failure. As Mr. Angel personally informed me, he followed all participation procedures correctly.
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### **Legal Precedent Ignored**

- **Kracke v. Santa Barbara (2021) 63 Cal.App.5th 1089:** Invalidated a local STVR ban enforced without Coastal Commission approval.
  - **Keen v. Manhattan Beach (2022):** The STVR ban was struck down for violating Manhattan Beach’s certified Local Coastal Program (LCP). The ban had not been approved by the California Coastal Commission, making it unenforceable under the Coastal Act. Manhattan Beach ceased enforcement and now collects \$1 million annually in TOT.
  - **Vurpillat Ruling (Hermosa Beach Hearing, 2024):** The City’s own administrative hearing officer found Hermosa’s STVR ban unenforceable due to lack of Coastal Commission approval and refunded \$5,500 to the homeowner.
  - **Steve Kinsey Memo (Coastal Commission Chair, December 6, 2016):** Directly warned Hermosa that its ordinance would be unenforceable without a certified Local Coastal Program (LCP), or a Coastal Development Permit (CDP).
  - **Steve Hudson Letter (Coastal Commission Deputy Director, May 9, 2016):** Submitted to the Hermosa Beach City Manager prior to the adoption of Ordinance 16-1365, this letter warned in no uncertain terms that the City’s STVR ban was a form of “development” under the Coastal Act and could not be enacted or enforced without Coastal Commission review and approval. The City Council dismissed this as merely a ‘staff opinion,’ yet multiple appellate courts have since confirmed the Coastal Commission’s interpretation.
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### **Request for Action**

Due to the above violations and misrepresentations, I request that:

1. The attached rebuttal be formally included in the public agenda packet.
2. The City Council agendaize a public discussion to reconsider Hermosa Beach’s full STVR policy in light of binding precedent and Coastal Commission requirements.
3. The Council ensure that all future public comments—regardless of viewpoint—are disclosed, acknowledged, and treated equally in compliance with California law.

**Respectfully submitted,**

*A Concerned Hermosa Beach Property Owner*

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### **Attachments:**

- Full Rebuttal Letter (dated April 7, 2025)
- CCC Steve Kinsey STVR Memo 12-6-16
- CCC Steve Hudson STVR Memo 5-9-16
- HB Coastal Zone Map
- HB Commercially Zoned Parcel with Nonconforming Residential Uses – 2014 map

### **Disclaimer:**

I am not affiliated or represented by Frank Angel or Angel Law.

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885

**ATTACHMENT C**

**(Sent Individually via US Mail)**

December 6, 2016

**TO:** Coastal Planning/Community Development Directors

**SUBJECT:** Short-Term/Vacation Rentals in the California Coastal Zone

Dear Planning/Community Development Director:

Your community and others state and nationwide are grappling with the use of private residential areas for short-term overnight accommodations. This practice, commonly referred to as vacation rentals (or short-term rentals), has recently elicited significant controversy over the proper use of private residential stock within residential areas. Although vacation rentals have historically been part of our beach communities for many decades, the more recent introduction of online booking sites has resulted in a surge of vacation rental activity, and has led to an increased focus on how best to regulate these rentals.

The Commission has heard a variety of viewpoints on this topic. Some argue that private residences should remain solely for the exclusive use of those who reside there in order to foster neighborhood stability and residential character, as well as to ensure adequate housing stock in the community. Others argue that vacation rentals should be encouraged because they often provide more affordable options for families and other coastal visitors of a wide range of economic backgrounds to enjoy the California coastline. In addition, vacation rentals allow property owners an avenue to use their residence as a source of supplemental income. There are no easy answers to the vexing issues and questions of how best to regulate short-term/vacation rentals. The purpose of this letter is to provide guidance and direction on the appropriate regulatory approach to vacation rentals in your coastal zone areas moving forward.

First, please note that vacation rental regulation in the coastal zone must occur within the context of your local coastal program (LCP) and/or be authorized pursuant to a coastal development permit (CDP). The regulation of short-term/vacation rentals represents a change in the intensity of use and of access to the shoreline, and thus constitutes development to which the Coastal Act and LCPs must apply. We do not believe that regulation outside of that LCP/CDP context (e.g., outright vacation rental bans through other local processes) is legally enforceable in the coastal zone, and we strongly encourage your community to pursue vacation rental regulation through your LCP.

The Commission has experience in this arena, and has helped several communities develop successful LCP vacation rental rules and programs (e.g., certified programs in San Luis Obispo and

Santa Cruz Counties going back over a decade; see a summary of such LCP ordinances on our website at:

[https://documents.coastal.ca.gov/assets/1a/Sample\\_of\\_Commission\\_Actions\\_on\\_Short\\_Term\\_Rentals.pdf](https://documents.coastal.ca.gov/assets/1a/Sample_of_Commission_Actions_on_Short_Term_Rentals.pdf) ). We suggest that you pay particular attention to the extent to which any such regulations are susceptible to monitoring and enforcement since these programs present some challenges in those regards. I encourage you to contact your local district Coastal Commission office for help in such efforts.

Second, the Commission has not historically supported blanket vacation rental bans under the Coastal Act, and has found such programs in the past not to be consistent with the Coastal Act. In such cases the Commission has found that vacation rental prohibitions unduly limit public recreational access opportunities inconsistent with the Coastal Act. However, in situations where a community already provides an ample supply of vacation rentals and where further proliferation of vacation rentals would impair community character or other coastal resources, restrictions may be appropriate. In any case, we strongly support developing reasonable and balanced regulations that can be tailored to address the specific issues within your community to allow for vacation rentals, while providing appropriate regulation to ensure consistency with applicable laws. We believe that appropriate rules and regulations can address issues and avoid potential problems, and that the end result can be an appropriate balancing of various viewpoints and interests. For example, the Commission has historically supported vacation rental regulations that provide for all of the following:

- Limits on the total number of vacation rentals allowed within certain areas (e.g., by neighborhood, by communitywide ratio, etc.).
- Limits on the types of housing that can be used as a vacation rental (e.g., disallowing vacation rentals in affordable housing contexts, etc.).
- Limits on maximum vacation rental occupancies.
- Limits on the amount of time a residential unit can be used as a vacation rental during a given time period.
- Requirements for 24-hour management and/or response, whether onsite or within a certain distance of the vacation rental.
- Requirements regarding onsite parking, garbage, and noise.
- Signage requirements, including posting 24-hour contact information, posting requirements and restrictions within units, and incorporating operational requirements and violation consequences (e.g., forfeit of deposits, etc.) in rental agreements.
- Payment of transient occupancy tax (TOT).
- Enforcement protocols, including requirements for responding to complaints and enforcing against violations of vacation rental requirements, including providing for revocation of vacation rental permits in certain circumstances.

These and/or other provisions may be applicable in your community. We believe that vacation rentals provide an important source of visitor accommodations in the coastal zone, especially for larger

families and groups and for people of a wide range of economic backgrounds. At the same time we also recognize and understand legitimate community concerns associated with the potential adverse impacts associated with vacation rentals, including with respect to community character and noise and traffic impacts. We also recognize concerns regarding the impact of vacation rentals on local housing stock and affordability. Thus, in our view it is not an 'all or none' proposition. Rather, the Commission's obligation is to work with local governments to accommodate vacation rentals in a way that respects local context. Through application of reasonable enforceable LCP regulations on such rentals, Coastal Act provisions requiring that public recreational access opportunities be maximized can be achieved while also addressing potential concerns and issues.

We look forward to working with you and your community to regulate vacation rentals through your LCP in a balanced way that allows for them in a manner that is compatible with community character, including to avoid oversaturation of vacation rentals in any one neighborhood or locale, and that provides these important overnight options for visitors to our coastal areas. These types of LCP programs have proven successful in other communities, and we would suggest that their approach can serve as a model and starting place for your community moving forward. Please contact your local district Coastal Commission office for help in such efforts.

Sincerely,

A handwritten signature in black ink that reads "Steve Kinsey". The signature is written in a cursive, slightly slanted style.

STEVE KINSEY, Chair  
California Coastal Commission

Dear Mayor, City Council, Attorney Patrick Donegan and Staff:

I respectfully submit the following corrections to a series of statements, many of them misleading, biased, disingenuous, or legally inaccurate, made during the March 25, 2025, City Council discussion on Short Term Vacation Rentals (STVRs).

These statements risk creating a false public understanding of the City's obligations under the Coastal Act and promote a misleading narrative to residents that vilifies STVRs as inherently harmful.

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City Attorney Patrick Donegan:

"...You can impose any operational standard you want, like physical presence..."

Correction: This assertion ignores legal limits.

Changing the operational intensity or character of residential coastal properties (such as requiring an owner to be physically present) constitutes a "development" under the Coastal Act, as defined in Public Resources Code § 30106, and therefore requires approval through a Coastal Development Permit (CDP) or a certified Local Coastal Program (LCP) amendment.

This interpretation was affirmed in *Kracke v. City of Santa Barbara* (2021) 63 Cal.App.5th 1089, where the court held that the City's decision to eliminate STVRs in the Coastal Zone without a CDP or LCP amendment violated the Coastal Act.

Relevant authority: *Kracke v. Santa Barbara* (2021) 63 Cal.App.5th 1089; California Coastal Commission guidance memo from Chair Steve Kinsey (December 6, 2016), confirming STVR regulation in the Coastal Zone must occur through a certified Local Coastal Program or Coastal Development Permit.

"...This is not the first time we have been sued... the City was triumphant..."

Correction: The "triumph" refers only to a preliminary ruling from 2018 that was never tested under current law.

Since then, two published appellate decisions, *Keen v. City of Manhattan Beach* (2022) and *Kracke v. City of Santa Barbara* (2021), have firmly established that local bans on STVRs in the Coastal Zone are unenforceable without Coastal Commission approval through a LCP amendment or a CDP.

These rulings are binding on all jurisdictions subject to the Coastal Act, including any city with land in the Coastal Zone.

They directly contradict the City Attorney's continued assertion of ordinance validity. Hermosa's STVR ban has never received Coastal Commission certification, and its enforcement within the Coastal Zone is not just vulnerable, it is indefensible under controlling law.

This legal reality was echoed in the Vurpillat ruling, where the City's own administrative hearing officer, Attorney Steve Napolitano, determined that Hermosa's STVR ban is unenforceable in the Coastal Zone due to lack of Coastal Commission approval, and ordered the City to refund a \$5,500 fine imposed on the property owner.

"...The lawsuit has nothing to do with what we might do here..."

Correction: The ordinance currently in effect was enacted without Coastal Commission approval and is the direct subject of the ongoing lawsuit.

For the City Attorney to suggest that the March 25 discussion was unrelated to the litigation is recklessly untrue.

The legal challenge exists precisely because the City bypassed the required process of obtaining a CDP or certified LCP, and is now enforcing an illegal and unenforceable ordinance that blatantly violates the Coastal Act.

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Councilmember Mike Detoy:

"...We already allow STVRs in the commercial zone, as the City Attorney mentioned, move to receive and file..."

Correction: This maneuver appeared designed to shut down debate on an unresolved legal issue, despite the ordinance's ongoing noncompliance with the Coastal Act and clearly established legal precedent.

By reducing the matter to the existence of 20 STVRs permitted in commercial zones, Councilmember Detoy presented a misleadingly narrow frame that ignores both the ordinance's procedural defects and its lack of Coastal Commission approval, a requirement explicitly conveyed to the City in the December 6, 2016, memorandum from then Coastal Commission Chair Steve Kinsey. (see attached)

Using a motion to "receive and file" under these circumstances projects a premature sense of closure and risks misleading the public into believing Hermosa Beach is in lawful compliance.

I respond in greater detail below to the substance of this claim as later repeated, and expanded upon, by Councilmember Jackson.

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Mayor Pro-Tem Michael D. Keegan:

"...We crafted a sensible STVR program..."

Correction: A program crafted without Coastal Commission review or certification cannot be considered "sensible" under state law.

It exposes the city to multiple lawsuits, as demonstrated by *Koerner v. Hermosa Beach* and the *Vurpillat* refund ruling.

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Councilmember Ray Jackson:

Reading aloud Mr. Higgins' letter to the HCD, which discouraged the City from legalizing or expanding short-term rentals in the Coastal Zone, despite the fact that it was not included in the official meeting packet

Correction: This clearly violated the Brown Act, specifically Government Code §§ 54954.2(a)(1) and 54957.5.

The letter from Mr. Higgins to the HCD was not part of the publicly posted agenda packet, yet it was read aloud during the meeting, introducing policy commentary into the Council's discussion without proper public disclosure.

Section 54954.2(a)(1) requires that materials influencing deliberations be included in the agenda, and section 54957.5 mandates that all documents distributed to the Council also be made available to the public at the same time.

The letter was not part of the public agenda packet and was read aloud without giving equal time to opposing viewpoints, including two timely submitted public comments, one that was ignored and another that was omitted entirely from the meeting record. This denied the public equal access and undermined the principles of transparency and fairness that the Brown Act was designed to protect.

"...STVRs cause documented housing harm..."

Correction: No evidence was cited to support this claim.

Nearly all STVRs in Hermosa are luxury beachfront properties, priced well above what an average wage earner in the area could afford to rent or own, with or without a housing shortage.

These are multi-million-dollar homes that have never been viable options for teachers, first responders, service workers, or young families seeking to live close to where they work.

Restricting STVRs in this area will not create affordable housing in these high-value areas.

"...148 potential STVRs exist in the commercial zone..."

Correction: Only 10 permits for 20 STVRs have been issued.

That equates to just 0.2 percent of the City's housing stock, practically a rounding error. Many of the remaining 128 "eligible" properties are either not near the beachfront or are not viable STVR candidates.

In addition, not all homeowners in the Commercial Zone will ever convert their properties to short-term rentals.

Some may choose to live in their own homes, others may prefer to keep reliable long-term tenants, and many may not want the added responsibility and complexity of operating an STVR.

Limiting STVRs exclusively to the commercial zone undermines the Coastal Act's mandate to provide broad public access to coastal accommodations, particularly near the shoreline.

The problem is not just the low number of legal STVRs, but the narrow geography where they are permitted. Hermosa Beach has only 148 potential STVR-eligible properties in its Commercial Zone, and not all of them fall within the Coastal Zone. (See attached Hermosa Beach Coastal Zone and Commercial Zone STVR map)

To comply with the Coastal Act, Hermosa must both expand the area in the Coastal Zone where STVRs are permitted and implement a reasonable cap on the total number allowed.

One sensible proposal, submitted as a public comment and included in the City's March 25 agenda packet, suggests allowing STVRs within a defined buffer zone, such as within one block of The Strand.

This approach would preserve the integrity of deeper residential neighborhoods while better aligning with the Coastal Commission's mandate that coastal access be made broadly available to the public, not just commercial property owners.

"...Operators evade taxes and safety inspections..."

Correction: Operators are barred from paying Transient Occupancy Tax (TOT) or passing safety inspections unless they receive a permit, which the City refuses to issue for residential Coastal Zone properties.

This creates a disingenuous false narrative of noncompliance.

"...Powerful special interests profit from these rentals..."

Correction: This is categorically false.

Each litigation challenging Hermosa Beach's ordinance has been led entirely by individual homeowners, none of whom represent Airbnb, VRBO, or any corporate interest.

Airbnb and VRBO has, in the past, refused to enjoin homeowner's lawsuits.

"...Unregulated STVRs hollow out our housing stock..."

Correction: Councilmember Jackson cited 300 short-term rentals, likely referencing the Easy Reader article published two days after the meeting, which reported 320 listings in Hermosa Beach based on data from the aggregator site AirDNA.

The 320 listings represent approximately 3.4% of the housing stock.

Even if eliminated, as mentioned before, these high-value homes would remain unaffordable to typical renters.

There is no data demonstrating that allowing STVRs increases housing scarcity in Hermosa Beach.

Throughout the meeting, multiple Councilmembers emphasized the City's duty to comply with mandates from the California Department of Housing and Community Development (HCD), while showing no such regard for equally binding directives from the Coastal Commission. This selective approach is legally untenable. The Commission formally warned Hermosa Beach in 2016 that its STVR ordinance was unenforceable without a certified LCP amendment or a CDP, a warning the City continues to disregard.

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#### Consequences of the Council's Current Position:

The Easy Reader article dated March 27, 2025, documents the Council's decision to fight the lawsuit *Koerner v. Hermosa Beach*.

By doing so, the City will now spend substantial taxpayer resources defending an ordinance that contradicts multiple published appellate decisions and violates the Coastal Act.

In the closely analogous *Keen v. Manhattan Beach* case, the City of Manhattan Beach was ordered to pay approximately \$150,000 in attorney's fees to the prevailing party, a figure that likely represented only a portion of the total litigation costs.

Hermosa's exposure could easily exceed \$300,000 if it continues down this path.

Manhattan Beach, after losing virtually the same lawsuit on appeal, chose a different path: they ceased enforcement, gained Coastal Commission compliance, and now earn over \$1 million annually in TOT from STVRs.

Hermosa Beach could do the same, instead of pursuing a legally indefensible ordinance that invites costly litigation and undermines public access to the coast.

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Requested Action:

Due to the false and misleading statements made during the March 25 meeting—statements that directly affect legal exposure, public understanding, and policy development—I respectfully request the Council:

1. Agendize an open public review of Hermosa Beach's STVR ordinance;
2. Pause enforcement until a Coastal Commission-certified LCP or CDP is obtained;
3. Direct staff to initiate consultation with Coastal Commission Enforcement on a compliant permitting path.
4. Provide grandfathered STVRs a temporary mechanism to pay TOT, undergo safety inspections, and receive temporary operating permits — without risk of self-incrimination — while a Coastal Commission approved program is being developed.

Respectfully,

A Concerned Hermosa Beach Property Owner

## CALIFORNIA COASTAL COMMISSION

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



May 9, 2016

***SENT VIA EMAIL TO [kchafin@hermosabch.org](mailto:kchafin@hermosabch.org)  
AND REGULAR U.S. MAIL***

Ms. Kim Chafin  
Senior Planner  
City of Hermosa Beach  
1315 Valley Drive  
Hermosa Beach, CA 90254

**Subject: City Council May 10, 2016 meeting – ITEM 5 - TEXT AMENDMENT TO THE MUNICIPAL CODE, TITLE 1 AND TITLE 17, TO EXPRESSLY PROHIBIT SHORT-TERM VACATION RENTALS IN RESIDENTIAL ZONING DISTRICTS**

Dear Ms. Chafin,

Thank you for taking the time last week to talk through this issue and the City's impending action to expressly prohibit short term vacation rentals ("STVRs") in residential zoning districts, including in the Coastal Zone. Thank you also for your attention to this letter. This matter just recently came to our attention, and we are responding as quickly as we could, but we look forward to the more comprehensive dialogue that City staff proposes in the staff report addressing the proposed municipal code change noted above.

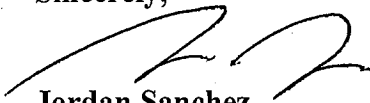
As noted in the City's staff report, the Coastal Act affords great protection to low cost overnight visitor serving accommodations. Commission staff agrees with that statement, and in addition, we believe the proposed ban on short term vacation rentals constitutes "Development" under the Coastal Act, as it constitutes a change in access to the coast, therefore requiring authorization via a Coastal Development Permit ("CDP"); the Commission has long considered lower cost accommodations to be facilities that are critical to providing coastal access. Without lower cost accommodation, a large segment of the population will be excluded from overnight stays at the coast. Since the City of Hermosa Beach does not have a Local Coastal Program certified by the Commission, the City would need to obtain a CDP from the Commission in order to regulate short term vacation rentals in the Coastal Zone. The Commission has consistently conveyed to local governments that a CDP, for an uncertified local jurisdiction, or an LCP Amendment and subsequent CDP, for a certified local jurisdiction, is necessary to impose such regulations.

Please note, that staff believes an outright ban of short term vacation rentals in the Coastal Zone of Hermosa Beach, without benefit of the necessary CDP, would be inconsistent with the public access policies of the Coastal Act. To that end, Commission staff strongly supports the City staff's recommendation to the City Council to direct staff to initiate a more comprehensive dialogue about the issue to investigate all possible options prior to amending the municipal code, and to coordinate with Commission staff in doing so. Attached to this cover letter, you will find a

letter that Commission staff recently sent to the City of San Clemente. In the contents of this letter you will find our general position with regard to STVRs.

Thank you for your attention to this matter. We look forward to working with the City to ensure that low cost visitor serving accommodations are provided and protected in Hermosa Beach. Please do not hesitate to call our office at (562) 590-5071 to speak with our staff if you have any questions.

Sincerely,



**Jordan Sanchez**  
**Enforcement Officer**  
**California Coastal Commission**

cc: **Lisa Haage, Chief of Enforcement, CCC**  
**Andrew Willis, Southern California Enforcement Supervisor, CCC**  
**Steve Hudson, Deputy Director, CCC**  
**Teresa Henry, District Manager, CCC**  
**Chuck Posner, Planning Supervisor, CCC**  
**Zach Rehm, Coastal Program Analyst, CCC**

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



May 2, 2016

City of San Clemente  
100 Avenida Presidio  
San Clemente, CA

Subject: City Council May 3, 2016 meeting – Short-term Lodging Units Proposed Zoning Amendment 15-426/Specific Plan Amendment 16-072

Dear Councilmembers,

Recently, the emergence and proliferation of short term rentals has become an issue in many coastal communities. In general, under the Coastal Act, these represent a high priority visitor-serving use that should be promoted as a means to provide overnight accommodations and support increased coastal access opportunities. In addition, they may also serve as a more affordable option of overnight accommodations than traditional hotels, motels, or timeshare units, especially for families. Specifically, the pertinent Coastal Act sections are as follows:

Section 30213 states:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30222 states:

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Due to their function as a high priority visitor-serving use, the Coastal Commission has generally interpreted local zoning ordinances in a broad fashion and found that short term rentals are a form of residential use, permitted by right, in any residentially zoned area unless such uses are specifically prohibited or otherwise restricted. Nonetheless, this agency also understands and appreciates that these uses may raise a number of neighborhood character and operational issues, such as site management, number of occupants, special events, parking, litter, and noise limits. Therefore, the Coastal Commission has endorsed certain regulations to require on-site management, enforcement protocols, occupancy limits, required parking and other use provisions.

For the proposed ordinances, based on an initial review of the City Council Agenda Report Item 7B for the May 3, 2016 meeting, it is this office's understanding that the City has had a moratorium on new short term lodging units (STLUs) since July 2015. Three Ordinances under consideration, #1622, #1623, and #1624, would limit STLUs to only high density "visitor serving" areas of North Beach, Del Mar, Pier Bowl and South El Camino Real Corridor. The STLU ordinances would also provide an undetermined cap on the total number of allowable STLUs in these areas, would implement a 20% maximum of STLUs in high density residential zones and would implement operational standards such as a 5-day minimum stay.

San Clemente Short Term Lodging  
Page 2 of 2

Currently, the City does not yet have a certified Local Coastal Program<sup>1</sup>, therefore, this City action will require approval from the Coastal Commission. The standard or review will be the Coastal Act. Based on Coastal Act mandates and preliminary evaluation of the proposed regulatory revisions, Commission staff has serious concerns about the proposed adoption of the above referenced ordinances. The impact to lower cost visitor accommodations is not analyzed in the City's staff report. For instance, it appears that the impact of a minimum stay requirement, which could limit the general public's accessibility to STLUs, was not considered in the City's review. Additionally, there isn't enough information to ascertain how the proposed caps impact the quantity of STLUs that would be allowed within the coastal zone.

In summary, Commission staff acknowledges the need to provide for some regulatory controls and management provisions for short term rentals. However, the proposed restrictions impose limits staff would likely find inconsistent with Coastal Act sections 30213 and 30222. In addition, Commission staff would strongly recommend that as part of any proposed ordinance or ordinance amendment, an updated inventory and mapping of existing visitor-serving accommodations by type, capacity, ownership and price range be conducted in order to gain an accurate assessment of other kinds of overnight accommodations available to visitors. Utilization studies would also be helpful in gauging how various forms of vacation rentals operate, and demand projections for overnight visitor accommodations are also needed to evaluate whether the current supply is adequate to meet future needs. We appreciate the opportunity to comment and look forward to working with the City to develop an ordinance that promotes and expands affordable coastal visitor opportunities while also addressing neighborhood concerns. If you have any questions, please don't hesitate to contact our office.

Sincerely,



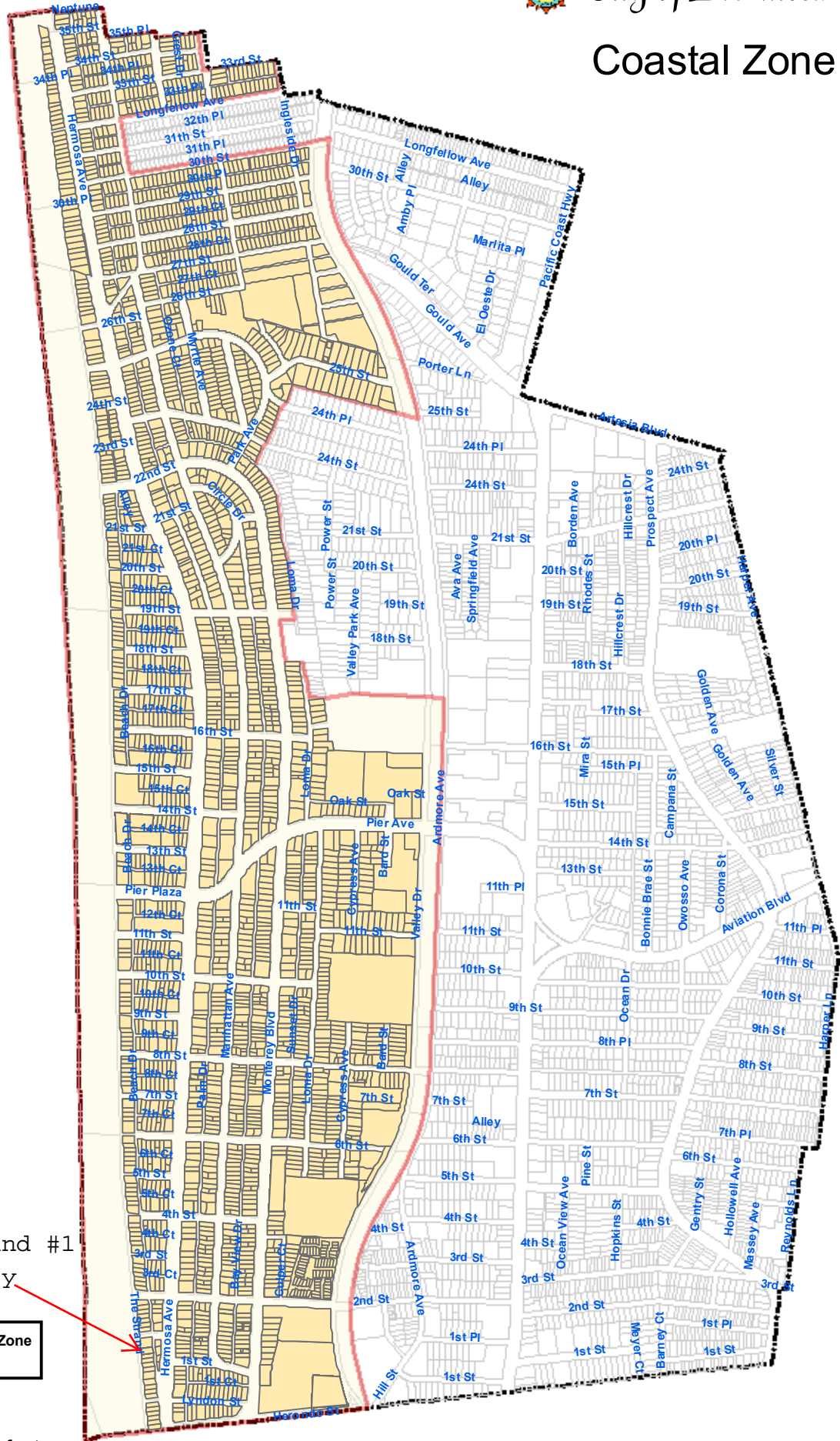
Karl Schwing  
Coastal Program Manager  
Orange County

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<sup>1</sup> The Commission certified the Land Use Plan (LUP) for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. The Coastal Commission refers to the LUP for guidance. The LUP currently does not have any policies specific to STLUs. Furthermore, all language pertaining to STLUs suggested by Commission staff was struck out of the final updated LUP approved by the City on February 2, 2016 (the updated LUP has not yet been certified by the Coastal Commission).



# Coastal Zone



72 The Strand #1  
The Property

|  |                             |
|--|-----------------------------|
|  | Parcels within Coastal Zone |
|  | Coastal Zone                |



1 inch equals 1,000 feet

# City of Hermosa Beach

## Commercially Zoned Parcels with Nonconforming Residential Uses

