

Crosby - Letter dated 12.5.16

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BY HAND DELIVERY

December 5, 2016

Santa Barbara County Board of Supervisors
123 E. Anapamu St., #2
Santa Barbara, CA 93101-2096

Re: Vacation Rentals

Dear Sir or Madame:

2016 DEC --5 PM 1:57
COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

The County of Santa Barbara is considering prohibiting short term rentals for the entire County of Santa Barbara. Doing so raises serious questions regarding the denial of citizen rights under the United States Constitution.

The ordinance being drafted could empower the new police authority to invade the sanctity of one's home to assure one's home is not being rented less than 30 days at a time. Subpoenaing of homeowners' rental records is likely to be authorized. Is this not an invasion of privacy and an abrogation of one's Constitutional rights? Does such intrusion not smack of an abuse of police powers?

Are the homeowners of Santa Barbara County to be forced to relinquish Constitutionally guaranteed rights without legal cause? Said ordinance constitutes an over-reaching and over-extension of the local government's power in the direction of creating a "Police State". What next would the County like to control? Who and when you can receive guests in your home? We already have enough government intervention in our lives.

Passing an ordinance, as proposed, would be protectionist for the hotels whose rates have steadily increased to the extent that the average couple and family cannot afford to vacation here, if they are required to limit their choices to the high hotel tariffs in effect.

We supposedly live in a free country where we are constitutionally assured the right to liberty, freedom and the pursuit of happiness. That includes our rights to freely enjoy our property. Is not "a man's home his castle?" One struggles today to buy and/or maintain a home. That costs dearly in Santa Barbara. The income for many of those to be effected is critical to their survival and to maintaining their homes. Without it, more homes would fall into disrepair and decrease in value.

Many homeowners would need to sell their property which would cause the housing market to drop significantly by having a glut of houses put on the market. The net impact could be disastrous to the local economy.

Vacation rentals and home sharing contribute substantially to the local economy. Visitors to Santa Barbara who utilize this resource spend considerable amounts at local restaurants, bars, business and retail stores. All that revenue would be lost, while new expense would be incurred. If one is really concerned about the image of this County, one should encourage local trade and not destroy an important source thereof. The County would not realize any positive gain from this ordinance.

The County Board of Supervisors feels that vacation rentals are and should be illegal. If so, the City of Santa Barbara has been and is complicit in this so called "illegal" activity. The City has condoned this "illegal" activity and collected taxes from that activity for years. It is only logical and reasonable that upon passing any such ordinance, the County could oblige the City to reimburse ALL TOT taxes from the date first received! This would put an enormous financial burden on the City and would probably cause general public discontent. The City would need to refund millions of dollars; all from the public treasury! That could easily necessitate a substantial tax increase that would adversely effect all of us directly or indirectly.

Why prohibit rentals of less than 30 days and not apply the same prohibition to those of more than 30 days? This is an arbitrary distinction which can be construed as a denial of equal protection under the 14th Amendment to the United States Constitution and an illegal "taking" of property rights under the Fifth Amendment.

Vacation rentals and home share are NOT causing any serious problems in the City or County of Santa Barbara. There is NO need for the proposed ordinance which, at best, would be impossible to administer and cause severe hardship on those dependent on this income to survive and maintain their properties. The income from these rentals funds not only the maintenance of the residential properties but also the improvement thereof. This benefits the City and the County.

Nuisance and noise ordinances are in effect in Santa Barbara which guarantee the quality and quiet enjoyment of one's residence and neighborhood. No additional ordinance is needed or justified under the guise of a non-existent problem. Let's follow the lead of Palo Alto and abandon this effort to limit one's rights illegally and without just cause.

The argument for the ordinance hammers away on the belief and assertion by the Housing Authority that the short term rentals take away units from the housing market which increases the shortage of available and reasonable priced housing and drives up property values. That argument certainly does not hold water re the short term rental of Private Owner Occupied homes which do NOT offer long term housing rentals to the public.

Santa Barbara has not conducted surveys or studies to determine the need for the proposed prohibition. No proof of actual need to prohibit vacation rentals and home sharing has been produced; only conjecture. There needs to be justification for the County to impose controls on Vacation Rentals and Home Sharing. The 60 complaints filed with the City over a period of ten years averages a minute six per year which are insufficient cause to justify this form of police action. The

public is not in danger. The City is justifying an increase in its bureaucracy which is self-serving and totally unnecessary. One can assume the County would also hire enforcement personnel at additional expense to the taxpayers. More unwarranted government controls and intrusion into one's private life at more public expense equals folly.

The whole presentation of this argument seems to be directed at instilling fear in the public that Santa Barbara could face an increase in the shortage of "affordable housing". It appeared that the greatest objection was to apartment owners converting their long-term units into short-term vacation rentals to produce high income and that vacation rentals removed units from the housing market.

If the issue is put forth as a blanket question covering all commercial (apartment) rentals to include private residences, it would be grossly unfair. The distinction is critical.

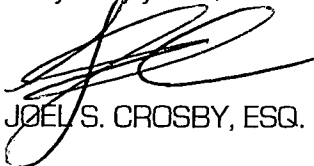
This argument could have validity when directed to commercial rental units, yet does not have justification when applied to individual homeowner rentals. The distinction is very important and must be drawn. Short term homeowner vacation rentals are not included in the inventory of "affordable" long term rentals, as by their very nature they are indeed "short term" and thus do NOT impact the over 30 day rental market.

The City has made it impossible with all their zoning ordinances for individual home owners to rent out parts of their homes long term, as one cannot have a second kitchen, etc. That in itself has contributed to the housing shortage and the rise of rents. If the Housing Authority is so concerned about the availability of reasonable rental units, it could re-consider its restrictions on this potential resource for low to medium price rentals!

The solution is to modify any applicable ordinances and allow vacation rentals and home sharing so long as those engaging in that activity acquire a City business license and pay the 12% bed tax on their rentals. This would be a win win situation for all concerned, as the City would continue to receive the much needed income from bed taxes. Participants would continue to enjoy the benefits of their home ownership and the City would avoid spending the proposed approximate \$100,000 to engage policing personnel. To take that right to rent from those complying with the City's regulations would be unfair, unjust and illegal. At a minimum, those already licensed should be grandfathered in and allowed to continue to rent as they have been doing, so long as they continue to pay the TOT taxes and file the requisite monthly declarations. The actions of the City of Santa Barbara directly impact the County with the need for regulating short term rentals being unnecessary and unjustified for both governmental agencies.

The County should abandon any proposed ordinance or action which could infringe upon the rights and personal freedom of its constituents and constitute an oppressive and un-Constitutional abridgment of their property rights.

Very truly yours,



JOEL S. CROSBY, ESQ.

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