

Nelson Law Firm - Letter #3
dated 12.2.16

Daly, Julia Rutherford

From: Jeff <jeff@jeffnelsonlaw.com>
Sent: Friday, December 02, 2016 10:53 AM
To: Supervisor Carbajal; Wolf, Janet; Farr, Doreen; Adam, Peter; Lavagnino, Steve; sbcob
Subject: STR hearing Dec. 6
Attachments: Nelson Declaration re Vacation rentals Dec 2016 hearing w Ex..pdf; Nelson ltr to Supervisors re vacation rental ordinance Dec 2 2016.pdf

Please consider this input and include these two submittals in the administrative record.
Thank you.

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DECLARATION OF JEFFREY C. NELSON

I, Jeffrey C. Nelson, declare as follows:

1. I am an attorney duly licensed to practice before the courts of the State of California. I am a CEO of The Oak Creek Company, My wife and I through our family trust own a Property at 6851 Del Playa in Isla Vista California which is rented part time as vacation rental. I have personal knowledge of the facts set forth herein which I know to be true and correct of my own knowledge; if called as a witness, I could and would competently testify as set forth herein.
2. My wife and I have 12 years of vacation rental host experience and one year locally as to the Del Playa property which is proposed to be regulated by the County in the pending proposal.
3. The County has the contact information for all of the business licenses for vacation rentals now. It is in the process of trying to shut down those businesses over a 9-month period, based on the staff report which just came out last week. When the County or other jurisdictions has endeavored to have amortization ordinances to force lawful oil company enterprises to shut down, they have had a long duration time and obviously a very specific notice to the affected business. This vacation rental process has been flawed from the beginning, as to this property and perhaps others as the County should have written individual letters to every lawful business doing vacation rentals to notice them if their intent to potentially terminate their lawful business enterprises prior to the Planning Commission hearing.. The Notice and Process does not meet minimum due process standards. Here the notice from the County went out on June 24, 2015 and the Planning Commission hearings were not until November 2015. The county failed to double back and notice new vacation rentals that came on line after June 24 2015, such as our property which was not finished with constructed at that time. We appeared at subsequent hearings but were told our category of property had been acted upon already.
4. From the County standpoint, this is a control issue where it feels it has sufficient information to control the use of people's private property. This is also a control issue

from the standpoint of the property owner. In this specific context, our Isla Vista property was developed after a 15 year regulatory battle whereby the County endeavored to prevent this and an adjacent home from being developed. Upon having finally built this home, we did not trust students to occupy it pursuant to a standard student rental, as the property would clearly be subject to greater deterioration and damage than if we actively controlled management of the house. This active management of the property is vastly more in keeping with achieving a quality neighborhood than handing over a property to students as a student rental. Our property may be the cleanest in all of Isla Vista as it is meticulously cleaned after each short-term rental, in contrast to student rentals that are cleaned quickly in a massive effort during a one week transition period to the next group of renters at the conclusion of the schoolyear.

5. In choosing to do a part-time vacation rental for this property, we balanced economic need to have a certain amount of income to satisfy the lender, and to protect the property for our own use and the use of our friends and family. In this regard, the property, which we currently rent 20%- 25% of the time, generates much less income than a student rental would generate. The County has no basis for making a finding that a short term vacation rental property management is a “business”, yet a long-term student rental is not a “business” or commercial use of the property.
6. The County has no basis whatsoever to take facts from one community plan area and shift it to another community plan area to make findings that a vacation rental in a residential zoning district is inappropriate. The factual context of the vacation rentals in Montecito or in Eastern Goleta neighborhoods bears no relationship at all to a vacation rental in Isla Vista, where the greatest risk is that the noise from partying students in adjacent properties will irritate and bother vacation renters.
7. Our most recent rental is telling of the value a vacation rental in this context can provide. Recently, three generations of a family recently gathered at our vacation rental home, as

the senior member wanted to go back to the UCSB university community where he had been a doctoral candidate. He wanted to share this experience with his adult children and their children. This beach-side home provided a more welcoming and appropriate venue for that experience than renting nearby motel rooms.

8. . Our Isla Vista vacation rental is one of two homes built at the same time, with the other landowner/partner having chosen to rent their new home to students. The properties are restricted with conservation easements, and active environmental restoration requirements that cover most of each of the lots. The student renters at the property next door have, historically, shown an indifference to the restrictions on the environmental area and in fact have abused the “sensitive” areas. Our active control of the renters of our property means that there have been no such problems on this vacation rental property. The fact that a vacation rental involves more active management and control is evidence that other environmental goals of the County and Coastal Commission are better served by the active management involved with vacation rentals.

9. My wife has managed vacation rentals for the last 12 years on properties in other locations and personally vets every prospective renter to feel comfortable that their proposed composition and intended use is appropriate for the property. This personal and careful vetting of users does not occur for student rentals, as management companies fill the student rentals with much less personal scrutiny of the tenants than we have for each vacation rental group. One neighbor already has rented out home for guests visiting for a wedding. When we most recently discussed our vacation rental with a permanent resident on our block in Isla Vista, we identified that there was one other vacation rental in that west end of Isla Vista. She said good, “I can have guests come and visit me now without having to host them in my house.” She was not aware of the other vacation rental, and its existence was a positive in her view.

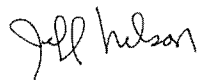
10. When the County spent a decade trying to thwart the development of this home in Isla Vista, it never once made the statement that if it was built, it would expand the housing or

rental pool. You cannot now use the finding that a vacation rental for this one home reduces the potential housing or rental pool.

11. In the County's long effort to thwart the development of this house, The County was found by the Superior County of Santa Barbara to have unlawfully regulated this specific property which finding led to economic liability by the County.
12. It is uncontested in our view that the facts in our specific property and context defeat every single finding you would make in support of regulating this property, and ending its current lawful status as a vacation rental.
13. Property owners in Isla Vista, like us receive police reports of inappropriate and criminal behavior. Virtually all of which are party-related and at student rentals, none reflect inappropriate behavior at vacation rentals.
14. There's no question that denying vacation rentals in the Coastal area constrains peoples access to the coast. This is a primary coastal act policy.
15. As attached on Exhibit 1, we endeavored to have any Supervisor or their staff review our specific vacation rental property and no one took that opportunity. It seems that decision makers should make a site visit when they are making a material decision to impact a property's use where the assumption is that that use will be detrimental to other properties around it.
16. Also the staff has a flawed analysis of whether vacation rentals are a cost-effective access to the coast. Consumers make this analysis better than staff did. Consumers sort out this information and find vacation rentals a cost-effective way to access the coast. Consumers have found the cost per person can be more affordable at vacation rentals and vacation rental accommodate more people than a typical hotel room and food and beverage costs are subject to discretionary savings based on kitchen availability.

17. In a recent program on Coast Issues¹ Susan Jordan of the Coastal Protection Network gave a presentation on affordable access to the Coast under the Coastal Act. As to the role of Air BNB in this issue her comments included “When you can cook that lowers the cost of a vacation. Air BNB has grown because they are addressing a much needed piece that we are losing.”
18. The Staff report (PC hearing) identifies that the R-1, E-1 Single Family Residential Zone “Is intended to protect the residential characteristics of and area and promote a suitable environment for family life.” (Staff Report (PC) Attachment E). Our experience is that vacation rental attract families in Isla Vista. And it is multi-generational families for gatherings. Student rental does not, in contrast, promote a suitable environment for family life.
19. This newly completed home has the protection of California law that prohibits a local jurisdiction for regulating its rental.² Your regulation is a form or rent control regulation the terms of a rental. There is no factual basis for allowing rental of 30 days but prohibiting terms less than that.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this was executed in Santa Barbara, California on December 2, 2016.



Jeffrey C. Nelson

¹ California Coastal Law CLE September 22, 23 2016 Los Angeles.

² Ca. Civil Code section 1954.50. The Costa-Hawkins Rental Housing Act.

*Jeff and Dottie Nelson
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October 28, 2016

*Supervisor Farr
Supervisor Wolf
Supervisor Carbajal
Supervisor Lavagnino
Supervisor Adam*

All Via E mail

Hearing Dec 6, 2016

Re: Short term Rental Ordinance ***Personal Invitation to visit a Part Time Vacation Rental Property***

Dear Honorable Supervisors:

Residentially zoned property comes in so many different contexts that it is inappropriate to impose new regulations on someone's property unless you truly understand what you are regulating. It is unfair for you to have a mental picture of something that is at odds with what the reality is.

Each community plan area is different and the Coastal context can be different than inland.

We developed two very nice homes in Isla Vista, completed mid 2015 after permitting and ancillary actions between the County and the Coastal Commission for 18 years, yes 18 years.

Our partners who developed and own the adjacent home (one of the two built at the same time) rented their house to students. We wanted to have more control and use of the property than to turn it over to students so we are renting it, occasionally, as a vacation rental. We live in it part time too. (See picture below 6851 Del Playa). This house is bounded on three sides with student rentals.

We have had marvelous and diverse adult groups come who are more prudent users than students would be, particularly when the students have a 9 to 12 month lease with no active oversight.

This is a request that each of you and your staff come and actually see our rental so that you know what you are acting on when the proposed ordinance is submitted to you in December 6. (It would be unoccupied at the time you visit as it is rented less than half the time).

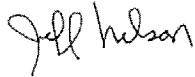
In various contexts, we have created developments uniformly better than existing residences around them and have done so in Isla Vista as well.

The sharing economy is a reality in today's economy and 1970s type zoning ordinances are not always appropriate for handling them. In the short time we have been renting this property, a multitude of diverse adult visitors and multi-generational families have thanked us for sharing

our property with them. Quality intimate personal facilities with access to the coast are rare and appreciated in the sharing economy. (We have even had a neighboring property owner rent our house for their wedding guests.) People are more appreciative when you share your property with them than when they rent a hotel room. It permits a comfortable setting that allows more quality time than assembling in a hotel lobby.

We think you should make findings on a “community plan area” by “community plan area” basis. In Isla Vista, prohibiting vacations rentals is counter to the idea of preserving the neighborhood. In fact, this use is more neighbor friendly and promotive of appropriate behavior in the residentially zoned home than is renting to students. Please consider your vacation rental ordinance on a community plan by community plan basis and allow them in the Isla Vista Community Plan area. Please first come and look at what you are regulating.

Thank you.



Jeffrey C. Nelson



Dorothy Nelson

CC: P&D staff and Glenn Russell



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December 2, 2016

Santa Barbara County Board of Supervisors
123 E. Anapamu St.
Santa Barbara, CA 93101

Via Email

Re: Dec 6, 2016 Supervisors Hearing
Short Term Rentals proposed regulations

The following input is provided from the perspective of our family having had vacation rental properties in three jurisdictions, going back more than a decade, well before the current online vacation rental industry became active. Based on reviews and personal comments, we have helped facilitate many great and memorable gathering times for families and other groups.

We have managed our vacation rentals so that we use the properties part-time and rent them part-time. Vacation rentals allow more personal use than a long-term conventional rental arrangement. Both vacation rentals and longer term rentals are commercial in a sense that they seek to derive revenue from one's property. In our context, the use is more personal and less commercial by having the properties be part-time vacation rentals.

The County has a variety of vastly different contexts of properties. In this regard, it is much more likely that the County could be overbroad in its application of vacation rental rules than in a City where the contexts would not vary as much. You cannot assume one particular setting or neighborhood dynamic based on the underlying zoning alone.

So only one of three of our vacation rentals is in this County and subject to these potential regulations. Our local property is in Isla Vista, a newly constructed home that we did not trust to student renters. It is the reverse of what would be expected to be the conventional vacation rental setting. While it is in an area whose underlying zoning is residential, other homes in the vicinity of to our part-time vacation rental are predominately occupied by large student groups. This property provides visitors direct access to the coast. It has been found to be an affordable location to access the coast on a per person basis as users can save money on food and drink at their discretion. Interestingly, the Coastal Commission has required resorts that have added housing, such as Terranea and The Hotel Del Coronado, to mandate that a certain percent of each new home must be available for, effectively "vacation rentals", as the primary goal of the Coastal Act is to enhance access to the coast for all. I believe you should look carefully at the property's Community Plan area and Coastal zoning and Coastal access as one primary sorting mechanism in your regulation. You should go through each Community Plan area and have action as to that Planning Area and its sub-parts rather than treating all "residentially zoned" property the same, which in a countywide context is, I submit, impermissible, unlawful overly broad regulation.

In our specific context, it does not make any sense to prohibit vacation rentals in Isla Vista regardless of the zone district that it is in, as all zone districts in Isla Vista are predominantly student rentals and mixing in the type of renters that want a vacation rental experience and will accept the “shortcomings” or student influenced attributes of that area is a positive not a negative for the area.

Also, consistent with the Coastal Act’s paramount policy of providing access to the coast, it would be contrary to this to regulate and prohibit vacation rentals for properties in oceanfront or the coastal zone appeal areas.

Those who have not participated in the new “sharing economy” (either as Lessor or Lessee) are not very well-informed to regulate such behavior. Short-term rentals or vacation rentals have only boomed world-wide because they satisfy a specific need in a specific niche that had not yet been addressed in the hospitality industry.

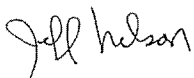
Our experience is that, unlike hotel or motel rooms, vacation rental properties are specifically targeted by groups larger than a couple, where its design allows for interaction of the participants and its location presents something unique or special as an experience.

After more than two decades of permitting, we constructed a high quality home in Isla Vista mostly surrounded by student rentals. In an effort to keep greater aesthetic control, we have used it as a part-time vacation rental, foregoing the greater rent available from a student rental.

Our most recent vacation rental is an example the value a vacation rental in this context can provide. Recently, three generations of a family recently gathered at our vacation rental home, as the senior member wanted to go back to the UCSB university community where he had been a doctoral candidate. He wanted to share this experience with his adult children and their children. This beach-side home provided a more welcoming and appropriate venue for that experience than renting nearby motel rooms.

Our property is one of the few on the south coast where you can access the beach without crossing a road or railroad track. It does provide cost effective access to the coast, which is the #1 goal of the Coastal Act.

Sometimes the changing world sends you unanticipated gifts. This inflow of occupancy tax income to the County from STR’s is an unanticipated gift to the public coffers that you are set to turn your back on. What revenue will replace that?



Jeffrey C. Nelson