



**Monday, January 4, 2018
Minutes of the Special Meeting of the
Administrative Appeals Board**

CALL TO ORDER

A Special Meeting of the Palm Springs Administrative Appeals Board was called to order by Vice Chair Howard on Thursday, January 4, 2018, at 9:06 a.m., in the Council Chamber, City Hall, located at 3200 E. Tahquitz Canyon Way, Palm Springs, California.

PLEDGE OF ALLEGIANCE

Vice Chair Howard led the Pledge to the Flag.

ROLL CALL

Present: Board Members Cleary and Cronander, and Vice Chair Howard

Absent: Board Member Kearns and Chair Reed

City Staff

Present: Edward Kotkin, City Prosecutor; Suzanne Severin and Boris Stark, Vacation Rental Compliance Officers, and Anthony J. Mejia, City Clerk

ACCEPTANCE OF THE AGENDA

City Clerk Mejia announced that requests for continuances and waivers received for Appeal Hearings Nos. 3 and 4.

City Prosecutor Kotkin stated he was not opposed to continuing the items, to a date uncertain, based on receipt of waivers, and there would be no additional continuance considerations.

MOTION BY CLEARY, SECOND BY CRONANDER, CARRIED 3-0, to accept the agenda as posted.

PUBLIC COMMENT

Judith Aner, questioned the allowance of anonymous complaints regarding vacation rentals and potential conflicts between Conditions, Covenants, and Restrictions (CC&R) and the City's ordinance on vacation rentals.

APPEAL HEARINGS**1. APPEAL OF THE ADMINISTRATIVE DECISION THAT LYRIX H. PINCHOVSKI IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS AND THE ADMINISTRATIVE FINE FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 2077 S. NAVAJO DRIVE, PALM SPRINGS, CALIFORNIA (Pinchovski)**

Vacation Rental Compliance Officer Severin presented the staff report and responded to Board inquiries.

Vice Chair Howard opened the Appeal Hearing.

Lyrix Pinchovski, Appellant, advised that she is in the process of obtaining permits to utilize her residence as an assisted living facility; spoke on her efforts to learn more about the vacation rental requirements, noting that she intended to comply with applicable regulations; stated that in August 2017, she was provided with misinformation by the Building Department regarding her ability to use the residence as a vacation rental; opined that she made a diligent effort and the citation should be overturned due to the unusual circumstances.

City Clerk Mejia noted that Ms. Pinchovski submitted referenced documents for the record.

City Prosecutor Kotkin administered the Oath and Advisement that testimony was under penalty of perjury to Ms. Pinchovski and Peter Brown.

Peter Brown, Property Owner, discussed his experience in tax administration and stated immediacy, openness and acting upon receipt of information was critical to dismissal of penalties and to acceptance of an appeal; and pointed out the appellant's immediate actions regarding compliance.

In response to Board inquiry, Ms. Pinchovski advised that she did engage in vacation rentals without a permit; asserted that the misinformation by the Building Department caused her to believe she could proceed with using her residence as a vacation rental.

City Prosecutor Kotkin spoke on the importance of enforcing the City's vacation rental regulations, noting that ignorance of the law is not a defense and that it is a property owner's responsibility to comply with the regulations.

Vacation Rental Compliance Officer Severin pointed out Ms. Pinchovski had a customer review as early as June 2017 which is prior to her seeking information from the Building Department in August 2017.

There being no others desiring to speak on this item, Vice Chair Howard closed the Appeal Hearing.

Following discussion, MOTION BY BOARD MEMBER CLEARY, DIED DUE TO LACK OF SECOND, to:

- a. Adopt a Resolution entitled, "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE DECISION THAT LYRIX H. PINCHOVSKI IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 2077 S. NAVAJO DRIVE, PALM SPRINGS, CALIFORNIA."
- b. Adopt a Resolution entitled, "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **OVERTURNING** THE ADMINISTRATIVE FINE OF \$5,000 ISSUED TO LYRIX H. PINCHOVSKI FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 2077 S. NAVAJO DRIVE, PALM SPRINGS, CALIFORNIA."

City Prosecutor Kotkin urged the Board to not exercise equitable jurisdiction nor mitigate the fine.

MOTION BY BOARD MEMBER CRONANDER, SECOND BY VICE CHAIR HOWARD, CARRIED 2-1 (WITH BOARD MEMBER CLEARY VOTING NO), to:

- a. Adopt Resolution No. 0047 entitled, "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE DECISION THAT LYRIX H. PINCHOVSKI IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 2077 S. NAVAJO DRIVE, PALM SPRINGS, CALIFORNIA."
- b. Adopt Resolution No. 0048 entitled, "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE FINE OF \$5,000 ISSUED TO LYRIX H. PINCHOVSKI FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 2077 S. NAVAJO DRIVE, PALM SPRINGS, CALIFORNIA."

2. APPEAL OF THE ADMINISTRATIVE DECISION THAT BRENDAN M. WALSH IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS AND THE ADMINISTRATIVE FINE FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 1415 N SUNRISE WAY #52, PALM SPRINGS, CALIFORNIA (Walsh)

Vacation Rental Compliance Officer Stark presented the staff report and responded to City Council inquiry.

Chair Reed opened the Appeal Hearing.

Brendan Walsh, Appellant, stated that he advertised and engaged in vacation rentals without a permit; advised that he has paid the Transient Occupancy Taxes, penalties, interest and outstanding registration fees; requested dismissal or reduction based on 8th Amendment issue regarding excessive fines, lack of notification regarding the requirements, and hardship.

City Prosecutor Kotkin explained that the matter was not a violation of the 8th Amendment and discussed the significance of the fine.

Vacation Rental Compliance Officers Stark and Severin discussed the City's efforts to inform residents of the vacation rental ordinance and to work with AirBnB to ensure hosts are aware of the regulations.

There being no others desiring to speak on this item, Vice Chair Howard closed the Appeal Hearing.

Board Member Cleary suggested that the Administrative Fine should be reduced in the amounts already paid for penalties, interest, outstanding registration fees, and the appeal fee.

Following discussion, MOTION BY BOARD MEMBER CLEARY, DIED DUE TO LACK OF SECOND, to:

- a. Adopt a Resolution entitled, "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE ADMINISTRATIVE DECISION THAT BRENDAN M. WALSH IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 1415 N SUNRISE WAY #52, PALM SPRINGS, CALIFORNIA."
- b. Adopt a Resolution entitled, "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE ADMINISTRATIVE FINE OF \$2,503 ISSUED TO BRENDAN M. WALSH FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 1415 N SUNRISE WAY #52, PALM SPRINGS, CALIFORNIA."

MOTION BY BOARD MEMBER CRONANDER, SECOND BY VICE CHAIR HOWARD, CARRIED 2-1 (WITH BOARD MEMBER CLEARY VOTING NO), to:

- a. Adopt Resolution No. 0049 entitled, "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE ADMINISTRATIVE DECISION THAT BRENDAN M. WALSH IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 1415 N SUNRISE WAY #52, PALM SPRINGS, CALIFORNIA." and
 - b. Adopt Resolution No. 0050 entitled, "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE ADMINISTRATIVE FINE OF \$5,000 ISSUED TO BRENDAN M. WALSH FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 1415 N SUNRISE WAY #52, PALM SPRINGS, CALIFORNIA."
3. **APPEAL OF THE ADMINISTRATIVE DECISION THAT GEORGE ROBERT HORNING IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS AND THE ADMINISTRATIVE FINE FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 1154 E RACQUET CLUB ROAD, PALM SPRINGS, CALIFORNIA (Horning)**

Without objection, the Board continued the hearing to a date no earlier than February 1, 2018, and convenient to the City.

4. **APPEAL OF THE ADMINISTRATIVE DECISION THAT SAM PERLMUTTER AND AMY PERLMUTTER ROSENBERG ARE PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS AND THE ADMINISTRATIVE FINE FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 1148 N. ROSE AVENUE, PALM SPRINGS, CALIFORNIA (Perlmutter/Rosenberg)**

Without objection, the Board continued the hearing to a date no earlier than February 1, 2018, and convenient to the City.

OTHER BUSINESS

5. APPROVAL OF MINUTES

MOTION BY MEMBER CRONANDER, SECOND BY VICE CHAIR HOWARD, CARRIED 3-0, to approve the Minutes of the December 4, 2017 Administrative Appeals Board Meeting.

6. BOARD MEMBER COMMENTS AND REQUESTS

In response to Board Member Cleary, Vacation Rental Compliance Officer Stark explained the process of protecting confidentiality for complainants. Board Member Cleary requested the matter come back for discussion on a future agenda.

Board Member Cronander asked about procuring outside legal counsel. Vice Chair Howard suggested the full Board be present to make the decision. City Prosecutor Kotkin explained he was an advocate for the City and he would uphold the law.

Vice Chair Howard discussed the availability of City email addresses. City Prosecutor Kotkin discussed case law regarding public records requests. City Clerk Mejia explained that the City could provide access to City email through individual devices. Board Member Cronander questioned the security of his personal email account if the City email account were installed on his device. City Prosecutor Kotkin suggested adding a discussion with the Information Technology Department on the next agenda.

Vice Chair Howard suggested the possibility of the Board meeting later in the day or in the evening. Board Member Cronander stated he was available late afternoon. Board Member Cleary stated his availability was on an ad hoc basis.

7. CITY PROSECUTOR'S REPORTS AND COMMENTS

None.

8. CITY CLERK'S REPORTS AND FUTURE MEETING DATES

City Clerk Mejia announced the next meeting on January 19, 2018, and need to schedule another hearing in February.

Board Member Cronander stated he would have to leave at 1:25 p.m.

City Prosecutor Kotkin discussed possible ways to shorten hearings.

ADJOURNMENT

MOTION BY BOARD MEMBER CRONANDER, SECOND BY BOARD MEMBER CLEARY, CARRIED 3-0, to adjourn the meeting at 11:35 a.m.

Respectfully submitted,

Anthony J. Mejia, MMC
City Clerk

ADMINISTRATIVE APPEALS BOARD
CITY OF PALM SPRINGS, CALIFORNIA
Council Chamber, City Hall
3200 E. Tahquitz Canyon Way, Palm Springs, CA 92262

MINUTES
November 13, 2017

8:30 A.M. SPECIAL MEETING

CALL TO ORDER:

Vice Chair Howard called the meeting to order at 8:31 a.m.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited.

ROLL CALL:

Present: Board Members Cleary (arrived at 8:37 a.m.), Cronander, Howard, and Kearns. Chair Reed had an excused absence.

Also Present: City Prosecutor Kotkin, Vacation Rental Compliance Officers Severin and Stark, and Interim City Clerk Hart

ACCEPTANCE OF THE AGENDA:

ACTION: On motion by Board Member Kearns, seconded Board Member Cleary, and approved by a 4-0-1 vote, Chair Reed absent.

PUBLIC COMMENT: None.

1. APPEAL HEARINGS:

- 1A. APPEAL OF THE ADMINISTRATIVE DECISION THAT MICHELLE R. MARTIN IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS AND THE ADMINISTRATIVE FINE FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 2701 E. MESQUITE, UNIT R81, PALM SPRINGS, CALIFORNIA: (Michelle R. Martin)**

Vacation Rental Compliance Official Severin provided the report.

Board discussion ensued and additional information and clarification was requested.

Vice Chair Howard opened the public hearing.

Michelle Martin provided an overview of the purchase of the property and intent to use it as a future retirement home. She stated she was not aware of the laws and requested the opportunity to correct the violation.

Charles Eaton stated he was arrested for DUI and the fine to get out of jail was \$5,000.

Matthew Nguyen stated he lived in San Francisco and never received notification about the fines for vacation rentals.

Judith Aner stated non-residents did not receive the postcards.

No others came forth to address the Board, therefore, Vice Chair Howard closed the public testimony.

Board discussion ensued and additional information and clarification was requested.

ACTION:

Offer a corrective action plan.

On motion by Board Member Cleary, failed due to lack of a second.

ACTION:

- 1) Adopt Resolution No. 0030, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE ADMINISTRATIVE DECISION THAT MICHELLE R. MARTIN IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 2701 E. MESQUITE, UNIT R81, PALM SPRINGS, CALIFORNIA.
- 2) Adopt Resolution No. 0031, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE ADMINISTRATIVE FINE OF \$5,000 ISSUED TO MICHELLE R. MARTIN FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 2701 E. MESQUITE, UNIT R81, PALM SPRINGS, CALIFORNIA.

On motion by Board Member Kearns, seconded Board Member Cronander, and approved by a 4-0-1 vote, Chair Reed absent.

**1B. APPEAL OF THE ADMINISTRATIVE DECISION THAT BARRY TICE AND MARINA LECOUCOU ARE PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS AND THE ADMINISTRATIVE FINE FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 510 VILLA COURT, NO. 102, PALM SPRINGS, CALIFORNIA:
(Tice and Lecou)**

Vacation Rental Compliance Official Stark provided the report.

Vice Chair Howard opened the public hearing.

Barry Tice stated he was not aware of the ordinance.

No others came forth to address the Board, therefore, Vice Chair Howard closed the public testimony.

Board discussion ensued and additional information and clarification was requested.

ACTION:

- 1) Adopt Resolution No. 0032, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE DECISION THAT BARRY TICE AND MARINA LECOUCOU ARE PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 510 VILLA COURT NO. 102, PALM SPRINGS, CALIFORNIA.
- 2) Adopt Resolution No. 0033, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE FINE OF \$5,000 ISSUED TO BARRY TICE AND MARINA LECOUCOU FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 510 VILLA COURT NO. 102, PALM SPRINGS CALIFORNIA.

On motion by Board Member Kearns, seconded Board Member Cronander, and approved by a 4-0-1 vote, Chair Reed absent.

1C. APPEAL OF THE ADMINISTRATIVE CITATION A7251 AND APPEAL OF ADMINISTRATIVE DECISION OF A TWO-YEAR SUSPENSION OF THE VACATION RENTAL REGISTRATION CERTIFICATE FOR THE PROPERTY LOCATED 1825 S. AQUANETTA DRIVE, PALM SPRINGS, CALIFORNIA: (Lisa Alter, Steven Alter)

Vacation Rental Compliance Official Stark provided the report.

In response to City Prosecutor Kotkin, Mr. Ricio confirmed that he observed the violation and took photographs.

City Prosecutor Kotkin referenced an email received from the complaining party indicating that he/she would not have made the complaints if he/she had known there was a suspension associated with the violations.

Vice Chair Howard opened the public hearing.

Diane Blasdale, representing the homeowner, stated the hearing was required to be held within 45 days of the filing the appeal in June. She stated the permit had been suspended since the third violation. She stated the homeowner should have been informed of the three-violation rule upon the first violation. She stated the complainer understood the true ramification and withdrew the complaint. She questioned whether it was selective enforcement. She discussed inconsistencies in the letters received by the homeowner and expressed concern with the hearing office and prosecutor.

No others came forth to address the Board, therefore, Vice Chair Howard closed the public testimony.

Board discussion ensued and additional information and clarification was requested.

Ms. Blasdale confirmed that the untimely hearings related to the third citation and suspension and the suspension occurred without a hearing on the third citation. She clarified that she was invoking due process under adequate notice and opportunity to be heard. She stated the homeowner had walk out service from Palm Springs Disposal, therefore, there was no reason to leave the cans out. She stated it was possible that the cans were put out without the homeowner's knowledge. She stated the code compliance officers should not be both advisory and prosecutorial.

Lisa Alter apologized and assured the Board that her trash cans would not be left out.

ACTION:

- 1) Adopt Resolution No. 0034, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE CITATION A7251 FOR THE PROPERTY LOCATED AT 1825 S. AQUANETTA DR., PALM SPRINGS, CALIFORNIA.
- 2) Adopt Resolution No. 0035, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE DECISION OF A TWO-YEAR SUSPENSION OF THE SHORT TERM VACATION RENTAL REGISTRATION CERTIFICATE FOR THE PROPERTY LOCATED AT 1825 S. AQUANETTA DR., PALM SPRINGS, CALIFORNIA, amending the resolutions to include the factual findings of the previous citations issued.

City Prosecutor Kotkin also noted for the record case law, *Morongo Band of Mission Indians v. State Water Res. Control Bd.*, located at 45 California 4th 731, S155589, an administrative proceeding to revoke a water license, it does not violate the license holder's constitutional right to due process of law for the agency attorney prosecuting the matter before the State Water Resources Control Board to simultaneously serve as an advisor to that board on an unrelated matter. This addresses the City Prosecutor / City Attorney issue discussed earlier.

On motion by Board Member Kearns, seconded Board Member Cronander, and approved by a 4-0-1 vote, Chair Reed absent.

At 10:26 a.m., Vice Chair Howard called a recess.

At 10:40 a.m. Vice Chair Howard reconvened the meeting with all members present except Chair Reed.

- 1D. **APPEAL OF THE ADMINISTRATIVE DECISION THAT JUDITH ANER IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS AND THE ADMINISTRATIVE FINE FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 675 N. LOS FELICES, NO. 119, PALM SPRINGS, CALIFORNIA: (Judith Aner)**

Vacation Rental Compliance Official Stark provided the report.

Vice Chair Howard opened the public hearing.

Judith Aner stated the corrected citation was issued on October 26, but there was no listing on that date. She presented affidavits from three of her neighbors indicating Unit 119 was never a vacation rental. She stated long term tenants arrived November 10. She provided copies indicating there was no water, cable nor internet service after April 2017. She apologized for not paying attention to the listing on Home Away and stated she never intended to allow short term rentals. She stated the HOA did not allow rentals under 30 days.

Charles Eaton stated he lived two doors down from the subject property and Ms. Aner had never rented short term.

In response to Board Member questions, Ms. Aner stated the original listing was with Home Away in 2011. She stated the listing was active for referral purposes. She stated the listing was removed on October 21, 2017.

No others came forth to address the Board, therefore, Vice Chair Howard closed the public testimony.

Vacation Rental Compliance Official Stark stated staff was aware that the HOA prohibited short term rentals.

City Prosecutor Kotkin explained the error on the initial citation.

Vacation Rental Compliance Official Stark stated he did not have evidence of the advertisement on October 26, 2017.

Board discussion ensued and additional information and clarification was requested.

ACTION:

- 1) Adopt a Resolution entitled, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **OVERTURNING** THE ADMINISTRATIVE DECISION THAT JUDITH ANER IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 675 N. LOS FELICES, NO. 119, PALM SPRINGS, CALIFORNIA.
- 2) Adopt a Resolution entitled, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **OVERTURNING** THE ADMINISTRATIVE FINE OF \$5,000.00 ISSUED TO JUDITH ANER FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 675 N. LOS FELICES, NO. 119, PALM SPRINGS CALIFORNIA.

On motion by Board Member Cleary, seconded Vice Chair Howard, and failed by a 2-2-1 vote, Member Cronander and Kearns dissenting and Chair Reed absent.

ACTION:

- 1) Adopt a Resolution entitled, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE ADMINISTRATIVE DECISION THAT JUDITH ANER IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 675 N. LOS FELICES, NO. 119, PALM SPRINGS, CALIFORNIA.
- 2) Adopt a Resolution entitled, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE ADMINISTRATIVE FINE OF \$5,000.00 ISSUED TO JUDITH ANER FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 675 N. LOS FELICES, NO. 119, PALM SPRINGS, CALIFORNIA.

On motion by Board Member Kearns, seconded Board Member Cronander, and failed by a 2-2-1 vote, Member Cleary and Vice Chair Howard dissenting and Chair Reed absent.

City Attorney Kotkin clarified that no action was taken by the Appeals Board that prevailed; therefore, the staff action remained in effect.

City Prosecutor Kotkin noted that the 10 pages submitted by the appellant were received by the Board, made available to the public and were part of the record for the proceedings.

- 1E. **APPEAL OF THE ADMINISTRATIVE DECISION THAT MATTHEW NGUYEN IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS AND THE ADMINISTRATIVE FINE FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 1349 S. YERMO DR. PALM SPRINGS, CALIFORNIA: (Matthew Nguyen)**

Vacation Rental Compliance Official Severin provided the report.

Vice Chair Howard opened the public hearing.

Matthew Nguyen provided background on the history of his vacation rental. He stated he allowed his friends and family to stay at his place at no charge. He stated he had placed the advertisement on VRBO only to allow his friends to see the calendar and photographs. He stated he was trying to bring visitors to the City and he had not received notification from the City.

No others came forth to address the Board, therefore, Vice Chair Howard closed the public testimony.

ACTION:

- 1) Adopt Resolution No. 0036, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE DECISION THAT MATTHEW NGUYEN IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 1349 S. YERMO DR., PALM SPRINGS, CALIFORNIA.
- 2) Adopt Resolution No. 0037, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE FINE OF \$5,000 ISSUED TO MATTHEW NGUYEN FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 1349 S. YERMO DR., PALM SPRINGS, CALIFORNIA.

On motion by Board Member Cronander, seconded Board Member Kearns, and carried by a 4-0-1 vote, Chair Reed absent.

City Prosecutor Kotkin noted that the 15 pages submitted by the appellant were received by the Board, made available to the public and were part of the record for the proceedings.

1F. APPEAL OF THE ADMINISTRATIVE CITATION NOS. A5129 AND A5060, AND APPEAL OF ADMINISTRATIVE DECISION OF A TWO-YEAR SUSPENSION OF THE VACATION RENTAL REGISTRATION CERTIFICATE FOR THE PROPERTY LOCATED AT 3390 E. CIRCULO SAN SORRENTO, PALM SPRINGS (Ani Pogosian)

City Prosecutor Kotkin stated the appellant was not present and had not been in touch with City staff to select a date certain to continue the hearing. He recommended beginning with the presentation of the case then have the Board table it for further discussion.

Vacation Rental Compliance Official Severin stated the 45-day deadline for hearing was November 20, 2017. City Prosecutor Kotkin recommended, following the staff presentation, continuing the matter to December 4, 2017.

Board discussion ensued and additional information and clarification was requested.

On motion by Board Member Cleary, to continue the hearing, failed due to lack of a second.

Vacation Rental Compliance Official Severin presented the report.

In response to Board inquiries, Vacation Rental Compliance Official Severin provided details on the citations and trash service. She explained the requirement for local contact response.

City Prosecutor Kotkin informed the Board that Ms. Pogosian was on the telephone. Ms. Pogosian indicated she was on bedrest expecting a child.

Vice Chair Howard opened the public hearing.

City Clerk Hart administered the oath to Ms. Pogosian.

Ms. Pogosian explained that Palm Springs Disposal advised her to place the trash on the curb and a ticket was issued. She explained that escrow closed in the middle of March and she was unaware of the requirement to register.

No others came forth to address the Board, therefore, Vice Chair Howard closed the public testimony.

Board discussion ensued and additional information and clarification was requested.

ACTION:

- 1) Adopt a Resolution entitled, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **OVERTURNING** THE ADMINISTRATIVE CITATION A5129 FOR THE PROPERTY LOCATED AT 3390 E. CIRCULO SAN SORRENTO, PALM SPRINGS, CALIFORNIA.
- 2) Adopt a Resolution entitled, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **OVERTURNING** THE ADMINISTRATIVE CITATION A5060 FOR THE PROPERTY LOCATED AT 3390 E. CIRCULO SAN SORRENTO, PALM SPRINGS, CALIFORNIA.
- 3) Adopt a Resolution entitled, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **OVERTURNING** THE ADMINISTRATIVE DECISION OF A TWO-YEAR SUSPENSION OF THE SHORT TERM VACATION RENTAL REGISTRATION CERTIFICATE FOR THE PROPERTY LOCATED 3390 E. CIRCULO SAN SORRENTO, PALM SPRINGS, CALIFORNIA.

On motion by Board Member Cleary, failed due to lack of a second.

ACTION:

- 1) Adopt Resolution No. 0038, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE CITATION A5129 FOR THE PROPERTY LOCATED AT 3390 E. CIRCULO SAN SORRENTO, PALM SPRINGS, CALIFORNIA.
- 2) Adopt Resolution No. 0039, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE CITATION A5060 FOR THE PROPERTY LOCATED AT 3390 E. CIRCULO SAN SORRENTO, PALM SPRINGS, CALIFORNIA.
- 3) Adopt Resolution No. 0040, A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE DECISION OF A TWO-YEAR SUSPENSION OF THE SHORT TERM VACATION RENTAL REGISTRATION CERTIFICATE FOR THE PROPERTY LOCATED AT 3390 E. CIRCULO SAN SORRENTO, PALM SPRINGS, CALIFORNIA.

On motion by Board Member Kearns, seconded Board Member Cronander, and carried by a 3-1-1 vote, Member Cleary dissenting and Chair Reed absent.

2. OTHER BUSINESS: None**BOARD MEMBER COMMENTS AND REQUESTS:**

Member Kearns requested a policy on telephonic testimonies. He requested the City provide email addresses for Board and Commission Members. He suggested a future agenda item to discuss the possibility of an impartial attorney for the Board.

Member Cronander agreed that telephonic testimony should not be allowed.

CITY PROSECUTOR'S REPORTS AND COMMENTS:

City Attorney Kotkin discussed the telephonic testimony and stated it should not occur in the future. He stated appellants would be informed that hearings would proceed with or without them. He stated staff had discussed email addresses for board members and commissioners. He stated the Board could be provided with an independent attorney if it desired.

CITY CLERK’S REPORTS AND FUTURE MEETING DATES:

Interim City Clerk Hart requested Board Member availability for January and February. She discussed scheduled hearings. The Board indicated its availability.

Interim City Clerk Hart stated Chair Reed was not available January 1 through March 1, 2018.

ADJOURNMENT:

At 1:11 p.m. the Administrative Appeals Board adjourned to a Special Meeting at 10:30 a.m., Monday, December 4, 2017, in Council Chamber, City Hall, 3200 E. Tahquitz Canyon Way, Palm Springs, CA.

Respectfully submitted,



Kathleen D. Hart, MMC
Interim City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, California, hereby certify that the November 13, 2017, MINUTES were approved by the Administrative Appeals Board of the City of Palm Springs at a special meeting held on _____, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:
- RECUSAL:

KATHLEEN D. HART, MMC
Interim City Clerk