



AAB Meeting: 02/08/2018
Item No. 6

**Friday, January 19, 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 Friday, January 19, 2018, at 9:00 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 Officials, and Anthony J. Mejia, City Clerk

ACCEPTANCE OF THE AGENDA

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

PUBLIC COMMENT

Judith Aner, advised that she contacted HomeAway Vacation Rentals to inquiry whether Palm Springs had local regulations for short term rentals, noting that the representatives were unaware of the City's regulations; suggested that the Vacation Rental Compliance Department notify online booking companies about the City's vacation rental regulations.

APPEAL HEARINGS

- 1. APPEAL OF THE ADMINISTRATIVE DECISION THAT RAPHAEL FARSY AND CHARLOTTE FARSY 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 471 SOUTH CALLE SEGUNDO, UNIT C8, PALM SPRINGS, CALIFORNIA (Farsy)**

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

In response to Board inquiries, Patrick Clifford, Code Compliance Officer, advised that he became aware of the short term rental from a citizen lead; summarized the investigatory practices for determining whether a short term rental is operating illegally; explained that City staff does not actually exchange money with the property owner; pointed out that a guest was staying at the residence when the citation was delivered.

Vice Chair Howard opened the Appeal Hearing.

Charlotte Farsy, Appellant, stated that she purchased the subject condo from a real estate agent/friend believing that the property was a good investment and that it was previously used as a vacation rental; advised that she was unaware of the City's regulations; reported that she cancelled all rentals and removed her listing on AirBnB when she became aware of code violation; requested that the Board waive or reduce the fine, pointing out that she is pregnant and working many hours to survive. In response to Board inquiry, Ms. Farsy reported that the condo was used by friends and family as well as a short term rental to unrelated individuals.

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

Vacation Rental Compliance Official Severin noted that the Administrative Regulations clarify that the act of advertising is considered "operating" as defined in the ordinance; reported that AirBnB informs host about their obligations to comply with local regulations.

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

1. Adopt Resolution No. 0051 entitled "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING THE ADMINISTRATIVE DECISION THAT RAPHAEL FARSY AND CHARLOTTE FARSY ARE PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 471 S. CALLE EL SEGUNDO, UNIT C8, PALM SPRINGS, CALIFORNIA.**"
2. Adopt Resolution No. 0052 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 RAPHAEL FARSY AND CHARLOTTE FARSY FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 471 S. CALLE EL SEGUNDO, UNIT C8, PALM SPRINGS, CALIFORNIA.**"

2. APPEAL OF THE ADMINISTRATIVE DECISION THAT REX TEGELAAR 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 1150 VIA TENIS #19, PALM SPRINGS, CALIFORNIA (Tegelaar)

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

In response to City Prosecutor inquiries, Patrick Clifford, Code Compliance Officer, advised that he issued the subject citation; reported that upon contact, Mr. Tegelaar indicated that the residence was available for short term rental and accepted the offer made.

Vice Chair Howard opened the Appeal Hearing.

Rex Tegelaar, Appellant, stated that the previous owner informed him that short term rentals are under 15 days, therefore he listed the residence for a minimum stay of 16 days; advised that he received the City's postcard about the new short term rental regulations and he immediately removed the listing and ultimately declined the offer made by Officer Clifford.

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:

1. Adopt a Resolution entitled "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **OVERTURNING THE ADMINISTRATIVE DECISION THAT REX TEGELAAR IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 1150 VIA TENIS #19, 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 REX TEGELAAR FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 1150 VIA TENIS #19, PALM SPRINGS, CALIFORNIA.**"

(Board action continued on next page)

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

1. Adopt Resolution No. 0053 entitled, "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING THE ADMINISTRATIVE DECISION THAT REX TEGELAAR IS PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 1150 VIA TENIS #19, PALM SPRINGS, CALIFORNIA.**"
2. Adopt Resolution No. 0054 entitled, "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING THE ADMINISTRATIVE FINE OF \$5,000 ISSUED TO REX TEGELAAR FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 1150 VIA TENIS #19, PALM SPRINGS, CALIFORNIA.**"
3. **APPEAL OF THE ADMINISTRATIVE DECISION THAT BARRY S. THARP AND KURT E. BRAND 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 481 VILLAGE SQUARE WEST, PALM SPRINGS, CALIFORNIA (Tharp, Brand)**

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

In response to City Prosecutor inquiries, David Williams, Code Compliance Officer, advised that he received an anonymous tip that the residence was engaging in short term rental; summarized his investigation, noting that the offer for rental was accepted by the property owner same day; stated that the property owner acknowledged that the short term rental was a violation, but offered to move forward with the rental if he did not report him to the neighbors.

City Prosecutor Kotkin advised that the appellant was provided with the option to withdraw his appeal and the City will re-issue the citation due to a clerical error, but he so declined.

Vice Chair Howard opened the Appeal Hearing.

Kurt Brand, Appellant, advised that new information has come to his attention and requested that he be provided with the option to withdraw his appeal and that the City re-issue the citation.

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

The Board accepted Mr. Brand's withdraw of his appeal and the matter was continued off-calendar.

4. APPEAL OF THE ADMINISTRATIVE DECISION THAT LOUIS A. PONCE AND PAUL GONZALES 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 2664 N. AURORA DRIVE, PALM SPRINGS, CALIFORNIA (Ponce, Gonzales)

Vacation Rental Compliance Official Severin presented the staff report and responded to City Council inquiry.

In response to City Prosecutor inquiries, David Williams, Code Compliance Officer, stated that he made a request for a short term rental from March 1-6, 2018, and the property owner approved the offer the next day.

Vice Chair Howard opened the Appeal Hearing.

Louis Ponce, Appellant, indicated that his intent was to purchase the home and retire, but ultimately needed to engage in short term rental to help offset the mortgage; stated that he was guilty of not properly following the City's regulations; opined that the vacation rental companies should not allow hosts to list properties without proving proper registration; stated that he would remedy the situation if provided an opportunity. In response to Board inquiry, Mr. Ponce acknowledged that user reviews date back to October 2016.

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

Following discussion, MOTION BY BOARD MEMBER CRONANDER, SECOND BY BOARD MEMBER CLEARY, CARRIED 3-0, to:

1. Adopt Resolution No. 0055 entitled "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, **UPHOLDING** THE ADMINISTRATIVE DECISION THAT LOUIS A. PONCE AND PAUL GONZALES ARE PERMANENTLY INELIGIBLE TO OPERATE A VACATION RENTAL IN THE CITY OF PALM SPRINGS, INCLUDING THE PROPERTY LOCATED AT 2664 N. AURORA DRIVE, PALM SPRINGS, CALIFORNIA."
2. Adopt Resolution No. 0056 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 LOUIS A. PONCE AND PAUL GONZALES FOR OPERATING AN UNREGISTERED VACATION RENTAL PROPERTY LOCATED AT 2664 N. AURORA DRIVE, PALM SPRINGS, CALIFORNIA."

5. APPEAL OF THE ADMINISTRATIVE CITATION A5092 AND APPEAL OF THE ADMINISTRATIVE DECISION OF A TWO-YEAR SUSPENSION OF THE VACATION RENTAL REGISTRATION CERTIFICATE FOR THE PROPERTY LOCATED AT 1889 LOS ALAMOS ROAD, PALM SPRINGS, CALIFORNIA (Vespe)

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

In response to City Prosecutor inquiries, David Williams, Code Compliance Officer, stated that the City received a hotline complaint regarding loud music as the subject residence; advised that he and Officer Clifford responded to the call and they could hear the music from their vehicle and the street centerline; explained that he wrote the citation before approaching the door, observing the music for approximately 8 minutes; reported on his interactions with the guest at the residence upon serving the citation. In response to Board inquiry, Officer Williams advised that he does possess a decibel reader, explaining that it is only used to monitor loud noises such as shouting, but that officers only observationally listen to determine if music is crossing a property line.

Vacation Rental Compliance Official Stark displayed a parcel map depicting the subject neighborhood, indicating the location of the officers and the property line of the residence.

Vice Chair Howard opened the Appeal Hearing.

City Clerk Mejia noted that Ms. Vespe has submitted written documents which were provided to the Board Members and on file with the City Clerk's Office.

Monica Vespe, Appellant, stated that she was not given a pre-citation courtesy notice on her first violation and that the citation was issued because her property manager responded to the complaint 13 minutes too late; indicated that she informed the guest that music was not allowed and pointed out that four of her neighbors provided a written statement that they did not hear music being played; noted that there was no decibel reading to prove the accusations made by the officers; requested that the Board dismiss the citation.

Tim Erkins, noted that the backyard neighbor and complainant did not sign one of Ms. Vespe letters; pointed out that the backyard neighbor has a greater likelihood of hearing music if the patio door is open than the other adjacent neighbors.

In rebuttal, Ms. Vespe, stated that she is conscientious of her neighbors.

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

City Prosecutor Kotkin pointed out that the letters in support of Ms. Vespe claims are short form letters and there is no indication of where the signatories were located at the time of the incident.

Board Member Cleary noted that the signatories are neighbors to this property and if it was a nuisance property, they would not have signed the letters.

Board Member Cronander stated that he gives weight to the testimony of the officers rather than Ms. Vespe's letters, noting that the neighbors could have been inside their homes or in their own backyards.

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

1. Adopt Resolution No. 0057 entitled, "A RESOLUTION OF THE ADMINISTRATIVE APPEALS BOARD OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE ADMINISTRATIVE CITATION A5092 ISSUED TO LAURA CHRISTINA TEPOZANO MEDINA FOR THE PROPERTY LOCATED 1889 LOS ALAMOS ROAD, PALM SPRINGS, CALIFORNIA."
2. Adopt Resolution No. 0058 entitled, "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 1889 LOS ALAMOS ROAD, PALM SPRINGS, CALIFORNIA."

OTHER BUSINESS

6. APPROVAL OF MINUTES

MOTION BY MEMBER CRONANDER, SECOND BY BOARD MEMBER CLEARY, CARRIED 3-0, to approve the Administrative Appeals Board minutes of November 17, 2017, and January 4, 2018.

7. BOARD MEMBER COMMENTS AND REQUESTS

In response to Board inquiry, Vacation Rental Compliance Official Severin advised that she and Mr. Stark will contact HomeAway Vacation Rental to ensure that they are aware of the City's regulations on short term rentals.

Board Member Cronander expressed disappointment that some real estate agents are not forthcoming with potential home buyers regarding the City's regulations on short term rentals. City Prosecutor Kotkin advised that if the City Council desires, it could create a duty for real estate agents if the home buyer inquiries about income potential through short term rentals.

Vacation Rental Compliance Official Stark noted that he and Ms. Severin have attended real estate board meetings and large real estate companies to update them regarding the City's regulations and that they will continue to take efforts to inform real estate agents.

8. CITY PROSECUTOR'S REPORTS AND COMMENTS

City Prosecutor Kotkin advised that a discussion on false claims will be agendized for the next Board meeting.

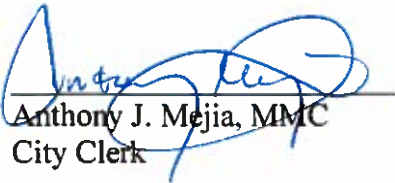
9. CITY CLERK'S REPORTS AND FUTURE MEETING DATES

City Clerk Mejia advised that he will reach out to the Board Members to schedule their next meeting.

ADJOURNMENT

MOTION BY VICE CHAIR HOWARD, SECOND BY BOARD MEMBER CRONANDER, CARRIED 3-0, to adjourn the meeting at 11:43 a.m.

Respectfully submitted,



Anthony J. Mejia, MMC
City Clerk