



AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF NOVEMBER 7, 2007

DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

Consent Discussion

SUBJECT: **RECOMMENDING COMMITTEE: ELIGIBLE FOR ADOPTION AT THIS MEETING**

ABEYANCA ITEM # BILL No. 2007-50 Amends the City zoning regulations to prohibit short-term vacation rentals in any residential zoning district. Sponsored by: Councilwoman Lois Tarran and Councilman Steve Wolfson

Fiscal Impact

- No Impact Augmentation Required
 Budget Funds Available

Amount:
Funding Source:
Dept./Division:

PURPOSE/BACKGROUND:

This bill will amend the City's zoning regulations to specifically prohibit within any residential district the use short-term vacation rental. The use is defined as the commercial use of a residential dwelling unit for dwelling, lodging or sleeping purposes, wherein any individual guest rents or occupies the unit for a period of less than thirty-one consecutive calendar days. This type of use is not allowed now, but enforcement has been difficult without a specific prohibition. The prohibition is similar to measures adopted by Clark County and the City of Henderson.

RECOMMENDATION:

ADOPTION at 10/3/2007 City Council meeting pursuant to the 9/4/2007 Recommending Committee.

First Reading 8/15/2007; First Publication 9/21/2007

BACKUP DOCUMENTATION:

1. Bill No. 2007-50
2. Opposition letter by Charleston Neighborhood Preservation
3. Protests
4. Support letter by Erik King
5. Submitted after final agenda - Protest/support letters, petition and documentation
6. Submitted at meeting Copy of excerpts of Municipal Code Title 4 and Title 6, Clark County Code, Henderson Code, protest/support letters, support petition with 50 signatures, written comments by Thalia Dondero, and email from Timothy McGarry with documentation, 220 Campbell Drive short term rental with exhibits
7. Submitted after meeting Protest letters and petition

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Motion made by LOIS TARKANIAN to Approve

Passed For: 4; Against: 2; Abstain: 0; Did Not Vote: 0; Excused: 1
RICKI Y. BARLOW, LOIS TARKANIAN, GARY REESE, STEVEN D. ROSS; (Against-
LARRY BROWN, STEVE WOLFSON); (Abstain-None); (Did Not Vote-None); (Excused-
OSCAR B. GOODMAN)

Minutes:

Second reading and bill adopted as recommended as Ordinance No. 5943.

COUNCILMAN WOLFSON withdrew his sponsorship of this bill, noting that, as a lawmaker, the bill is too broad. It affects two types of persons: Those that were intended, the parties, who should be put out of business; and those that were not intended.

CITY ATTORNEY JERBIC reported that several months ago his office was approached regarding a problem with the use of homes in residential neighborhoods for uses other than allowed, specifically, parties. The Council was approached by several constituents with various proposals, including ordinance language from Salina Beach, Alabama, that prohibits the use of residential homes for short-term rental without a permit. In the process of researching this law and preparing a bill draft for the Council's consideration, he discovered other laws. He noted that, if no action were taken by the Council at this meeting, there are existing laws in the Las Vegas Municipal Code (LVMC) that regulate the rental of homes or rooms in a home for a short term, which is less than 30 days. LVMC 20.035, of which he submitted a copy for the minutes, requires the payment of room tax for the rental of any rooms for less than 30 days.

Regarding the language "other establishment" under 20.035, COUNCILMAN BROWN asked if it is in context of a hotel/motel or any other structure in the City of Las Vegas. CITY ATTORNEY JERBIC interpreted it as any other structure that would rent rooms to the public. It clearly does not refer to hotels/motels or the language would not have been included. He opined that the word "establishment" refers to a single-family detached home.

COUNCILMAN BROWN asked for other references in the LVMC that might give credence to this. CITY ATTORNEY JERBIC indicated that Title 6 refers to business licenses. He read LVMC 6.46.020, which was very clear in the prohibition of such rentals without a valid license. The language sweeps in any type of establishment that would do so. He noted that neither title, 4 nor 6, clearly states it cannot be done in a residential zoning district; one section requires payment of taxes for it, and the other requires a license.

MAYOR PRO TEM REESE asked if these laws are being enforced. CITY ATTORNEY JERBIC speculated that no one has come in for licensing for use of his/her residential home in this manner. He indicated for the Mayor Pro Tem that this does not apply to homes that are leased out for 31 days or more; only to homes used as transient lodging, or rentals of 30 days or less.

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COUNCILMAN WOLFSON asked if the City has ever prosecuted anyone for being in violation of these ordinances. CITY ATTORNEY JERBIC answered that he was not aware of any. COUNCILMAN WOLFSON asked if there is any legislative history for passing these laws. CITY ATTORNEY JERBIC was not familiar with the legislative history, but indicated that it is not uncommon to call out all commercial-type establishments, whether privileged or not, and then by license fee to be paid. The transient lodging law has probably been in place since the City was founded.

COUNCILMAN WOLFSON stated that there are probably hundreds of thousands of property owners in Las Vegas are breaking the law. CITY ATTORNEY JERBIC agreed, adding that there are many second-home owners that have treated their homes as transient lodging. If this is the case, those people need to become compliant with Titles 4 and

COUNCILMAN BARLOW asked if the Health District could be called in for health inspections, just like they do for the hotels/motels. Do the homeowners using their homes as transient lodging have to obtain a Health District license? CITY ATTORNEY JERBIC replied that he had not researched how the Health Code would apply. He offered to do some research.

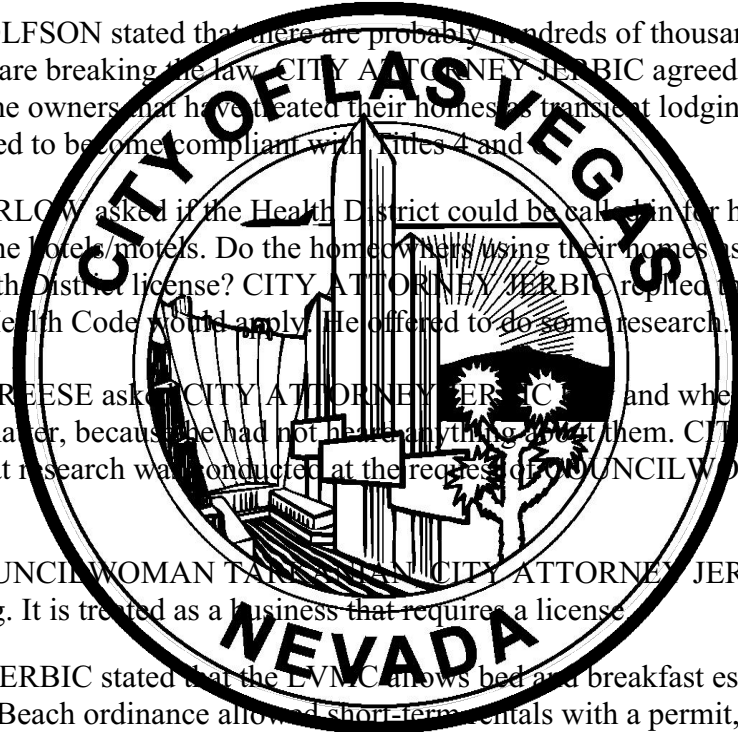
MAYOR PRO TEM REESE asked CITY ATTORNEY JERBIC and when he came up with the findings on this matter, because he had not heard anything about them. CITY ATTORNEY JERBIC indicated that research was conducted at the request of COUNCILWOMAN TARKANIAN.

At the request of COUNCILWOMAN TARKANIAN CITY ATTORNEY JERBIC defined the term transient lodging. It is treated as a business that requires a license.

CITY ATTORNEY JERBIC stated that the LVMC allows bed and breakfast establishments with a permit. The Salana Beach ordinance allowed short-term rentals with a permit, but he expressed concern about enforcement if allowed and how it would operate. Certainly, he would follow the recommendation of the Council, but allowing short-term rentals as Salana Beach might lead to enforcement problems.

With this in mind, he had his staff research the current laws for other local jurisdictions. Clark County Title 30.08.030 defines transient commercial use of residential development, and it means the use by any person of any residential development for bed and breakfast, hostel, motel, inn, lodging, motel, resort or any other transient lodging uses where any individual occupies the property for 30 consecutive calendar days or less. The law also says that transient commercial use of residential development for pay is prohibited in all residential zoning districts. He submitted a copy of this code for the minutes.

Given that the County language speaks about continuous days, COUNCILMAN BROWN, hypothetically, asked how would enforcement prove that lodging took place for less than 31 days if a lease contract were written for 31 days. CITY ATTORNEY JERBIC indicated that it would be a matter of enforcement.



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CITY ATTORNEY JERBIC also read the Henderson code regarding transient lodging, which is similar to the County's, and he submitted a copy of it. Should the Council feel inclined to adopt any kind of regulation that addresses short-term rentals, it should adopt language prohibiting it, as other local jurisdictions have done so, because it would be easier to enforce.

CAROL MEYER, Supervisor, Business Services, confirmed for the Mayor Pro Tem that no one has ever been cited for a violation of this code, nor has anyone ever applied for a transient lodging license of this sort. Staff has been called in for investigations of homes being rented out for parties on weekends, and they have been very difficult to prove.

ANTHONY HODGES, 123 Sir David Way, DANIEL DEAGAN, and CHUCK SAVAL, 2550 Palomino Lane, expressed their support of this bill and of long-term, not short-term, rentals. MR. HODGES suggested the legal property owners be targeted. MR. DEAGAN pointed out that a home on Shadow Lane, in his neighborhood, was leased for a certain period of time to a male, who then moved out, and then the home was rented short-term numerous times to non-English-speaking individuals. The home was being operated as a motel. He urged COUNCILMAN WOLFSON to reconsider his position on this bill. MR. SAVAL said the Council has to do something to address short-term rentals, because they bring many problems.

AL and SUSAN WEENS, WILLIAM SOJACK, 1820 W. Vegas Ave., VALERIE GRAJABA, ROBERT TURNER, MICHELLE LAMBAU, Southwest Vacation Rentals; LEE JONES, Executive Decisions Realty; JUANITA SANCHEZ, LLC, representing Charleston Neighborhood Preservation; JOHN DE LA VALLE, 5211 Donderosa; TOM MCGOWAN, Las Vegas resident; FRANK PERNELL, 827 Kenny Way; REDA AL HARRISON, 9192 Bonhelle; CHERYL WILKINS, 6322 Juliano Drive; and DAVID PAULSON, opposed this bill for various reasons. Some of them saved money to buy properties for vacation rentals; this bill would prohibit that. Even though they do not currently have licenses, they would rather submit to regulation, pay taxes and the fees necessary to become licensed. Passage of this bill would force many of these rental home owners into foreclosure on their homes. Vacation rentals are legal through regulation in many cities throughout the country; it should be permitted in Las Vegas. Some people prefer ownership of vacation rentals to long-term rentals because long-term renters are difficult to evict and sometimes run drug operations from the homes and trash them. This bill legislates morality and is unconstitutional. The people that are renting for parties are the ones that should be targeted, without hurting innocent property owners. There has to be another solution.

The Council members advised all these property owners who have vacation rentals that they were in violation of the law. COUNCILMAN ROSS stressed that vacation rentals are illegal and that uniformity is necessary throughout the valley.

MAYOR PRO TEM REESE submitted a petition with 50 names in favor of this bill. He also read a letter, a copy of which he submitted, that was forwarded to him by TIMOTHY MCGARRY regarding the issues of short-term rentals. COUNCILWOMAN TARKANIAN read a letter from THALIA DONDERO she received via facsimile, a copy of which she submitted regarding this issue.

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COUNCILWOMAN TARKANIAN stated that this was a very difficult situation. But short-term vacation rentals in residential areas have caused many residents a lot of pain, and she relayed some of the incidents that have occurred, of which she submitted a binder containing documentation. She opined that this bill is the best way to address the issue at hand; defining and expanding the definition for short-term rentals. She was not opposed to redefining it at a future date. The proposed bill mirrors current laws in other local jurisdictions, which will bring uniformity. The history shows that a lot of research has been done on this issue, even at the legislature level. The issue of these homes being operated as motels in residential communities without regulation has to cease. The homeowners that purchased in residential zoning have to be protected now, this bill will accomplish that until a better solution is found.

MAYOR PRO TEM REESE confirmed with COUNCILWOMAN TARKANIAN that Code Enforcement would be able to enforce this ordinance. He agreed with COUNCILWOMAN TARKANIAN that something had to be done immediately to protect the residents being affected by this issue. Amendments could always be made in the future. He expressed support.

COUNCILMAN BROWN verified with CITY ATTORNEY HERBIC that advertisement of an unlicensed business is against the law and that prohibiting short-term lodging would be easier to enforce. He then stated that he was in full support of the intent, but he had a problem with distinguishing between a 31-day rental versus less than 31-day rentals. While the intent is to make it easier to enforce, only a small number of true offenders are going to be caught. The focus should be on a better means of enforcement of the existing code. Penalizing what appears to be a legitimate business in peoples' private property was troublesome to him.

He indicated that he could not support this bill until this Council fully examines the issue and decides how it truly feels about rental properties.

MAYOR PRO TEM REESE and COUNCILWOMAN TARKANIAN noted that they have not received any calls from the Board of Realtors on this issue. COUNCILMAN BROWN indicated that he placed a call to KIP COOPER, Board of Realtors, but was not able to make contact.

COUNCILMAN WOLFSON made it clear that he wants the issues brought by short-term rentals resolved, he simply disagreed with the method presented by this bill. If this bill has been in draft for two years, it would not hurt to wait another 45 to 60 days to come up with something that does not hurt the innocent and make them guilty of misdemeanors. He noted that there are a number of people that travel to Las Vegas for medical care who rent homes. Many of the people affected by the fires in California came to Las Vegas and rented homes for a short-term. These people did not want to stay at a hotel. He could not support the bill as written and proposed narrowing the language to target people renting homes for parties.

COUNCILMAN BARLOW agreed that the proposed ordinance is broad, but he was uncertain that short-term rentals should be permitted in residential areas.