

South Bay Cities Council of Governments

Short Term Rental Task Force

Wednesday, June 20, 2018

3:30 pm - 5:00 p.m

El Segundo Library

111 W. Mariposa Avenue, El Segundo

Meeting Notes

I. **Welcome**

Jacki Bacharach, SBCCOG Executive Director, welcomed everyone. In attendance: Michael Jenkins, Trevor Rusin, and Christi Hogin (Best, Best & Krieger LLP); Larry Johnson (El Camino College); Kevin Le, Sam Lee (El Segundo); Amanda Acuna, (Gardena); Robert Mitchell (Hawthorne); John Hon. Jeff Duclos, John Jalili, Ken Robertson, Kim Chafin, (Hermosa Beach); Fred Jackson (Inglewood); Daniella Ward, Lomita; Hon. Steve Napolitano, Lucia Hwang, Nhung Madrid, Eric Haaland, Anne McIntosh, Laurie Jester, Ryan Heise, Jacki Harris (Manhattan Beach); Mark Lipps, MB Chamber of Commerce; Ara Mihranian, Rudy Monray, Octavio Silva (RPV); Joy Abaquin, (Redondo Beach); Jacki Bacharach, Rosemary Lackow (SBCCOG); Hon. Kurt Weideman, Torrance; Jack Ainsworth (Guest speaker, Exec. Dir.CA Coastal Commission); Christi Hogin.

Jacki also announced a special event hosted by the SBCCOG – a “Bicycle and E-Mobility Expo” on June 28 at the COG offices - the goal is to learn about this emerging travel mode, there will be an opportunity to test drive e-bikes and scooters.

II. **Self-introductions:** Attendees self-introduced and updated on any changes to jurisdiction regulation of STR's.

III. **Presentations**

Jacki noted the group would first hear from Mr. Ainsworth, followed by Malibu City Attorney Christi Hogin of Best, Best & Krieger, who will raise city issues; followed by Q & A and discussion.

a. **Jack Ainsworth**, Executive Director, Coastal Commission – main points:

- **Goal today:** present the Coastal Commission (CC) perspective, receive input from the cities, recognizes a delicate balance with development in the coastal zone.

- **Background:** fairly new as Director but 30+ years with the Coastal Commission; working hard to establish a collaborative relationship with all 76 public jurisdictions including over 60 cities; his view: the coastal act established a practical approach to managing coastal resources: there is a partnership between the Commission and cities.

- **Current approach:** There has been much focus on how CC deals with LCP updates/amendments and feels a lot of time has been wasted. The focus is on collaborative efforts; several staff positions have been added, resulting in shorter processing time; has been working with the League of California Cities recently to form a coastal cities working group and would like to have a workshop where

the CC can hear from the rental companies and gain input from all parties. Issues are different between north/south California, and recognizes that, while there will be disagreements from time to time, feels they can try to minimize disagreements.

- **Short Term Rental (STR)/policy:** Why is the CC concerned? The CC's view is that STR activity represents a change in intensity and as, in the coastal zone, this constitutes "development" which is subject to the Coastal Act and must be addressed in LCPs (Local Coastal Plans).

b. **Christi Hogin, Best, Best & Krieger**, City Attorney for Lomita, Palos Verdes Estates and Hermosa Beach and Malibu (most coastal cities) provided a coastal city perspective - main points:

- **Background:** Ms. Hogin is litigator for Hermosa Beach, defending its STR ban. Also, she has, with Amici Curiae League of California Cities, the International Municipal Lawyers Association, and California State Association of Counties, supported Santa Monica (which allows STRs, subject to taxes) in its appeal in the 9th Circuit Court. She has found Mr. Ainsworth has been able to work out practical solutions.

- **Arguments in lawsuits by STR platforms (HomeAway, Airbnb, etc.):** 1) Ordinances that severely limit STRs are in conflict with state coastal policy (main argument); and 2) Platforms claim, in using its internet based business model, similar to a newspaper, or other journalistic enterprises, that they are shielded from enforcement by a provision in the Communications Decency Act, a federal law. The latter issue is now playing out in court.

- **Key issue:** what constitutes "development" (per Coastal Act)? City position: passing an ordinance to regulate STRs does not, in and of itself, constitute "development"; rather "development" is a process that is triggered when a proponent brings a proposal forward to construct, or do something for which a Coastal Development is required; whereas an ordinance only provides for the **potential** of "development". While Ms. Hogin believes that the Coastal Commission's perspective is generally that its job is to protect public access to the coast while the cities' job is to protect its local community, cities readily acknowledge and accept that they share in the obligation to implement the Coastal Act, just as they have an obligation to implement many state policies such as housing law (i.e. through certified Housing Elements). Further, cities know that if they do not have a certified LCP (Local Coastal Program), then the state by default, has jurisdiction in their coastal zones.

- **Key issue:** who should ultimately determine land use (i.e. state vs. local jurisdictions); how to protect public access for all public demographic groups to the coast? Cities feel STRs are only one way to achieve this; e.g. a City can zone for/encourage hotels and development that draws tourism. Cities are frustrated that the CC has taken up an initiative type of approach; in the end, cities feel that local jurisdictions should be the final determiner of their land use policy. Cities have a duty to work with their city councils, figure out how to regulate STRs so that all competing objectives can be addressed.

IV. General Discussion

Jack Ainsworth, in summary, emphasized that cities and the CC need to "get together" on this subject. There should be a balance between the historic level of

visitor rentals of residences, and the current trend and practice. And, cities recognize that visitors have a positive economic effect in that they bring in income.

Christi Hogin, summarizing: maintenance/conservation of existing housing stock for owning/renting in the coastal zone is a significant issue, but cities recognize that this is part of a larger housing problem which cannot be resolved by the CC; things work better when the CC asks the City: “What is your vision of your city?”

Jack Ainsworth: solutions have to come up through a local process. The Coastal Act requires that we not “kind of”, do “good enough” but rather **maximize** coastal access. So, the CC needs to push ahead in this regard, but still look out for interests of cities.

Jacki Bacharach noted that questions about impacts of STRs (noise, etc.) may be raised as non-coastal city reps are present and are interested in protecting their communities.

Hon. Bill Brand, Mayor, Redondo Beach: his city has an affordable housing shortage and they ban STRs; Redondo Beach already has many hotels; asked if the CC has a metric to gauge when a city has adequate visitor-serving uses for appropriate levels of demographics – so that accommodations are adequate to meet coastal goals?

Jack Ainsworth: such a metric does not exist (very complex); cities can know that when they submit a Coastal Development Permit/LCP amendment for an STR ordinance, CC will ask: 1) What is the number of available visitor serving units in the city’s coastal zone? 2) What is the range of affordability assigned to those? 3) will this ordinance have an effect on housing stock, particularly on those residents who would typically rent less expensive, smaller units?

There are differences in cities including in both the supply and constraints – and this will have an effect on how restrictive a STR should be and what approach is appropriate. He encourages ordinances that will maintain the amount of STRs at historic levels. Visitors have rented units through property management businesses for years; he hopes a balance can be struck again, among competing interests.

Mr. Brand: even so, it would be helpful if there was some kind of metric for guidance. Mr. Ainsworth agreed that he wished he could wave a magic wand and find the answer but the situation is not simple.

Anne McIntosh, CD Director, Manhattan Beach: would like clarification: there isn’t **any** circumstance where the CC would require a city to allow STR’s as a form of rental housing, or that a city should have to show that STRs are allowed in areas where rental stock is located.

Jack Ainsworth: the CC is not interested in doing that – in threatening the housing stock for the work-force within the community. **Ms. McIntosh** stated that that potential impact is actually a large concern in her city.

Ara Mihranian, Community Development Director, Rancho Palos Verdes: in his city there is a large concern about STRs being used for special events (weddings, parties, etc.).

Jack Ainsworth: there are ways to deal with those issues – through code enforcement, however he understands that it is both costly and difficult to do when cities have constrained resource.

Hon. Jeff Duclos, Councilmember, Hermosa Beach: has had the opportunity to work with Mr. Ainsworth in his previous CC capacity; feels he is providing stability to the Commission; but noted the coastal act states that visitor serving uses that are affordable should be provided “where feasible” and yet the CC has not control over the rates for hotels etc. How can cities make visitor serving uses “affordable”?

Jack Ainsworth: agreed that rates of STRs are often not affordable but there are many affordable STR options, especially in the northern part of the state. And, actually for large families, to rent a larger home with a kitchen etc. a STR becomes more affordable than a hotel where meals must be taken out. He noted the CC has no control over hotel rates, and if they were to develop a metric as mentioned, it would have to be based on regional, not statewide conditions.

Christ Hogin: cities can do this research for themselves and she encourages them to submit to support as justification for an ordinance.

Ken Robertson, CD Director, Hermosa Beach: where does the CC derive the authority to make determinations about **overnight** accommodations? Her understanding is that being able to access the beach and coast during the day is protected. Responding, MR. Ainsworth noted that addressing overnight accommodations is covered by a combination of specific mandates in the Act to provide for both “access to the coast” and “visitor serving uses”, meaning a variety of uses.

Hon. Steve Napolitano, Councilmember, Manhattan Beach, is very frustrated in very long time CC has taken to process a Coastal Development amendment for their Downtown Specific Plan (DSP). They are told by CC staff that the issue for the delay has been provisions for STR's; however, the local issue and objective for the DSP has been mostly about conserving retail (arguably a visitor serving use) and slowing a trend where retail changes to offices and financial institutions, which are not as visitor friendly. Further, the commercial downtown, which is the subject area of the Specific Plan, allows STRs. The City does not understand why the CC is linking STR's to the DSP – they are two different things, and the City is dealing with STR's in a workshop and separate from the DSP.

Jack Ainsworth: is not aware of this specific situation, feels this is unacceptable. It was noted that applications should take 90 days if the jurisdiction has an approved LUP (Land Use Plan) and only 60 days if they have an approved LIP (Local Implementation Plan).

Danny Santana, Torrance: would the CC staff take into account that less than 20% of the City's total area is within the coastal area – shouldn't the City's services outside of the coastal zone be taken into consideration? Mr. Ainsworth acknowledged that the coastal area in Torrance is limited in its uses as well as area, and this seems like a reasonable assumption.

Mike Jenkins, Best, Best & Krieger (City Attorney Hermosa Beach): appreciates Mr. Ainsworth's comments about achieving balance, but the reality is that in the last decade there have been enormous changes (rise of the internet combined with the shared economy) and this in turn, greatly changes the context of achieving balance. There are huge challenges for cities in regulating services fueled by the shared

economy (ride sharing, STRs). Cities can adopt whatever ordinance they wish, but the challenge is in implementing and enforcing. Platforms like Airbnb refuse to cooperate with the cities, and will not provide STR data, which forces cities to chase down illegal uses and have to spend a lot of money on enforcement services and staff. It is unfair that cities that have no area in the coastal zone have more tools to protect its neighborhoods compared to coastal cities.

Jack Ainsworth: does not disagree and stated that perhaps there may be a legislative solution or perhaps the answer is for cities to impose fees that could support enforcement and regulate severely; he does not believe that the STRs should be allowed to “run amok”.

Christi Hogin: cities accept their obligation to implement the Coastal Act - if they wouldn't, then by default, the Coastal Commission would assume that role, and cities would cede their local control, which would be a big mistake. Cities must find a way to implement the Coastal Act.

Hon. David Lesser, Councilmember, Manhattan Beach, asked: is the CC expecting that city staff should try to discern where the CC is on STR issues, policy-wise – and then come forward with LCP amendments based on this, or, is it possible that some metric will be developed to provide guidance?

Mr. Ainsworth: the CC should be out of the permitting/regulatory phase and be more in the guidance role for cities state-wide. The CC has been dealing with implementation on a case-by-case, ad-hoc basis, as LCP amendments and appeals come forward; would like to get ahead of the process and build a state-wide planning unit that would provide resources to cities (sample ordinances and frame policies etc.) and post/maintain this information online; would include a workshop with cities.

A group member noted his observation and asked whether this is accurate - that there are some cities, San Clemente comes to mind, who have adopted permissive STR ordinances, and then as many community problems arose, the CC seems to be reluctant to allow the city to be able to “walk back” restrictions.

Mr. Ainsworth: he has advised the CC to see how the STR ordinances play out and they should be open to changes requested by cities to STR ordinances if unexpected consequences arise, and cities should be able to refine their regulations to address problems.

Kim Chapin, Hermosa Beach, noted that the City of Anaheim was able to pull back on their STR ordinance due to unexpected consequences and impacts, and yet this did not involve the CC as Anaheim is not coastal.

V. Summary and Next Steps

Christi Hogin thanked Jack Ainsworth for coming today and ended with the thought: this is a very strange time politically; regardless of what one thinks is happening at the national level, she thinks American democracy will be in local government's hands to rebuild trust between government and the governed.

Jack Ainsworth thanked everyone for the opportunity to participate in this discussion.

VI. Next Meeting?

Jacki Bacharach thanked everyone. This group can meet again if the opportunity arises for a desired speaker or special topic. Some possible speakers are noted:

Future Meetings – Possible speakers

- **State League Policy person**
- **City of Los Angeles – Claire Bowin – claire.bowin@lacity.org – after their ordinance is adopted**
- **Santa Monica**
- **West Hollywood**
- **Palm Springs**
- **AirBnb**