Public Comment #28
BOS Rcvd. 9-9-24

From: Benoit Caire <benoitcaire@gmail.com>
Sent: Sunday, September 8, 2024 10:12 PM
To: BOS-Clerk of the Board
Subject: Comment for EDC Board of Supervisors on Tue 9/10

Hello,

I own a short-term rental in South Lake Tahoe, currently professionally managed by a property management company. I also regularly use it as our vacation home.

I want to comment on the VHR ordinance discussed that day.

- I wouldn't understand a restriction on the owner's use of the outdoor hot tub after 10pm, while this limit doesn't apply to year-round residents. As stated, we regularly use our property for ourselves, and I'd plan to enjoy fully it as any property owner in California, considering I am paying the same tax, if not more.
- I also know that vacancy tax is regularly discussed. Such a solution hasn't been proven worldwide to save inventory supply, and I suggest the board look at other options or not apply as long as the property is regularly rented and/or occupied by the owners, especially as a second home, where traveling as often as wanted, may not be an option

Thanks in advance for your consideration
Best regards
Benoit Caire

From: Brianna Kohr <brianna.kohr@gmail.com>
Sent: Monday, September 9, 2024 5:08 AM
To: BOS-Clerk of the Board
Subject: Comment on Agenda Item 28: VHR Ordinance Amendments, 9/10/24 Meeting
Attachments: Board of Supervisors Letter_9.9.24.pdf

Dear Clerk of the Board,

Please see the attached letter I am submitting for public comment in writing. Please place this into the record and forward to the Board of Supervisors.

Kind regards,
Brianna

Dear Supervisors,

My name is Brianna Cuave (Kohr), and I write this letter for public comment on behalf of myself and my husband, Hunter. We have owned our home in Tahoma, California since June of 2020. We are responsible vacation rental hosts who take pride in maintaining our home to the highest standard and ensuring that our rental activities are respectful of our full-time resident neighbors, many of whom have become our close personal friends.

We have been operating our home as a vacation rental since January 2021. For the entirety of our time as hosts, we have maintained a five star rating on Airbnb, and not once have our guests caused a problem for our neighbors. In fact, our neighbors often tell us that they appreciate that we have "good guests". We attribute this high degree of satisfaction from both guests and neighbors to the fact that we educate our guests about the many stringent regulations that are *already* imposed on vacation rental operators and guests in unincorporated El Dorado County, and that we educate ourselves and make any necessary adjustments when these regulations (frequently) change. In short, we respect the rule of law.

As a lawyer by trade, I particularly appreciate when laws are clear, administrable, fair, and serve a rational purpose. Unfortunately, a number of the proposed changes to the existing vacation home rental ordinance appear to fall short of these important guideposts, as highlighted below:

Proposed Amendment to Occupancy Limits

The draft amended ordinance proposes to change the definition of occupancy, reducing the permitted occupancy of a vacation home rental from two persons per bedroom plus two additional persons (not including children five and under), to two persons per bedroom (not including children five and under). The materials made available prior to the September 10, 2024 meeting do not cite any rationale for this change, and indeed, there does not appear to be one.

The current occupancy limitations have been deemed safe from a fire and life safety standpoint for the entirety of the time we have been hosting. There has been no change in fire and life safety standards in relation to occupancy during time, so why would the ordinance change? Section 5.56.090(A)(1) of the existing ordinance already empowers the Fire Department to lower the allowed occupancy for particular properties "pursuant to the outcome of the fire and life safety inspection" that is required of each home bi-annually. If there are certain properties with unique floor plans or architectural features that do not safely support existing occupancy limits, the Fire Department can and should reduce the permitted occupancy for those properties. This narrowly tailored approach appropriately balances the rights of homeowners and the safety of the public. By contrast, the proposed wholesale reduction in permitted occupancy, including on homes that can otherwise safely and comfortably support the existing allowances, is arbitrary and capricious.

To the extent the Board wishes to add "occupancy" as a defined term, we kindly request that the Board maintains the occupancy limitations of current ordinance without modification and clarifies that the definition of occupancy specifically refers to *overnight* occupants, consistent with Sections 5.56.090(A)(1) and 5.56.070(C) of the ordinance.

Modifications to Definitions and Regulations Concerning Noise

The draft amended ordinance proposes to add "unreasonable noise" as a defined term, classifying it as "loud and raucous noise, or amplified music heard at the property line, which is of such volume, intensity, or carrying power as to interfere with the peace and quiet of persons in neighboring property or public ways within the County in accordance with Chapter 9.16—Noise." This language is echoed in the proposed amendment to Section 5.56.090(A)(2), which demands that guests of vacation rentals refrain from creating unreasonable noise, as well as Section 5.56.120, which concerns noise associated with events.

The problem with this definition is its lack of clarity, and the problem with using an unclear definition throughout the proposed amended ordinance is that it will make the ordinance impossible to fairly administer. Taken at face value, the proposed language concerning "unreasonable noise" would lead to absurd results. For example, it would be a violation of the ordinance if the laughter of children playing in a backyard is audible from the property line, simply because one hypersensitive neighbor decided the laughter was interfering with their peace and quiet.

When we enjoy dinner on our back deck in Tahoma with our family, our immediate neighbors can hear our conversation even if spoken at respectful indoor volumes. We can hear them if they so much as sneeze. Essentially all outdoor noise can be heard from the property line. This is a normal and reasonable expectation of home ownership in a neighborhood featuring rectangular lots of approximately 0.2 acres, organized adjacent to each other in a grid system. Are we seriously expected to tell our guests that they cannot eat on the deck or play in the yard for fear of offending a neighbor who happens to have the sensitivity of an eggshell?

The unclear definition of "unreasonable noise" is unfair to vacation rental owners and guests, who are consigned to living in fear that the most basic enjoyment of outdoor activities at their rental might trigger a call to code compliance by someone with a grudge. It is also unfair to residents who have legitimate noise grievances, as the language in this ordinance supplies no objective way to distinguish their complaints from the ones brought by unreasonable curmudgeons. Finally, it is unfair to code enforcement officers, who are foisted into the middle of these disputes with no clear benchmark for what constitutes a violation and what does not.

Noise is a serious issue. It deserves a well-crafted solution that is logical, administrable and fair to all parties. As such, we implore the Board to set an objective standard for what constitutes unreasonable noise (i.e. a decibel limit) and require that noise complaints be supported by evidence that the limit was both exceeded and remained uncured for at least thirty minutes after a code compliance warning before a citation is issued.

Restrictions on "Events"

The draft amended ordinance proposes to add "event" as a defined term meaning "a gathering or occurrence for socializing or celebrating including, but not limited to, wedding, reception, gathering, bachelor/bachelorette party, commercial filming, concert and/or any other similar happening." This definition is then used in various parts of the proposed amended ordinance, including (i) Section 5.56.100(G), which requires owners to notify guests that "events" are a violation of the ordinance, (ii) Section 5.56.120 ("Noise and Events"), a section which seems duplicative and unnecessary given that Section 5.56.090(A)(2) already addresses noise globally, and (iii) Section 5.56.130, which requires local contacts be available to abate various infractions such as events.

We appreciate the intent behind the proposed "event" ban and wholeheartedly agree that vacation rentals are generally not the appropriate setting for weddings, concerts or the filming of the next season of Love Is Blind, this is yet another example of what happens when a poorly crafted definition infects an ordinance.

The extreme overbreadth of the proposed "event" definition goes well beyond a ban on large formal events like weddings and concerts[1], prohibiting all "gatherings" (mentioned twice), "occurrences for socializing or celebrating" or "any other similar happening." If adopted, this proposed language would lead to highly irrational results. The definition effectively eliminates any acceptable use case for guests of a vacation home rental.

Webster defines "gathering" as a "coming together of people in a group," which is precisely what happens when people rent a vacation home in Lake Tahoe. They socialize, reconnect, and sometimes they even enjoy life's milestones with their friends and family. The vast majority of these gatherings, whether they are to celebrate baby's first birthday with grandma and grandpa or a good friend's last few weeks as a single woman, are benign. To the extent a few bad apples happen to "gather" and violate rules around occupancy, noise, quiet hours, trash or other regulations, the existing ordinance and some of the proposed amendments thoroughly address those issues, backed by a robust enforcement regime and penalties.

The only thing the poorly constructed "event" definition and ban would accomplish is a muddying of the water in the determination of what are acceptable versus unacceptable uses of a vacation rental. Is code compliance really going to tell someone they can't sing happy birthday to their kid in the backyard or hand out a citation because a nosey passerby spotted someone wearing her bachelorette tiara through a window? The ordinance should target and penalize underlying bad behavior rather than attempt to legislate the life circumstances under which people can enjoy their time together.

---

[1] Weddings, commercial filming and concerts already require special permits. Given that penalties and fines already exist for conducting these activities in violation of law, a special call-out in the vacation home rental ordinance is not necessary.

Parking

The draft amended ordinance also proposes the addition of a requirement that all parking within the Tahoe Basin be on an impervious surface. This requirement appears in Sections 5.56.070 and 5.56.110(1) of the proposed ordinance. We'd like to point out that if this requirement were extended to many of our full-time resident neighbors, they would not be able to park anywhere on their properties. One of our neighbors parks his four lifted trucks in various patches of dirt between trees in his front yard. "Rules for thee, not for me" is generally not a recommended method of governance.

The underlying purpose of this proposed new regulation is unclear from the materials made available in advance of this meeting. If it is an attempt to reduce the number of vehicles driven by visitors, we believe it is misguided. During the summer months, this regulation will have the unintended consequence of pushing guests to park their cars on the street rather than in previously available off-street parking spaces made of compacted dirt or gravel. On streets in Tahoma, navigating around a proliferation of street-parked cars will be annoying to residents and make it harder for critical service vehicles like fire trucks, ambulances and police to quickly maneuver in the area.

Snow Removal

While well intentioned, we fear that Section 5.56.090(A)(6), which proposes new requirements concerning snow removal, ignores the realities of mother nature. While it is certainly reasonable to expect that snow be cleared sufficiently to allow ingress and egress from a vacation rental, the requirement that the driveway be clear "at all times" is completely impractical. As responsible owners, we engage one of our neighbors who runs a private plow service each winter. Like other private plow companies, he plows the driveway whenever over six inches of snow has accumulated, but for obvious reasons, he will not do this in the middle of a large snow storm as it would be a fruitless exercise. In those cases, he arrives within 24 hours of the storm's cessation. If the driveway had to remain clear "at all times", people would have to be stationed in the driveway with shovels 24/7 to keep it that way. A more logical and reasonable requirement would be that vacation rental owners engage a snow plow company to ensure driveways are regularly plowed when the home is rented.

Exterior Signage

Likewise, while the proposed new exterior signage rules of Section 5.56.105 might be well-intentioned, we find the requirement to attach the sign to a bear box highly impractical in winter months, when even the most relentless snow shovelers have trouble keeping the sides of their bear boxes fully exposed to public view. We ask that the County consider a solution that has served us well for many years, which is to permit the hanging of this sign in another area that is visible from the street but less likely to be buried by the relentless snowfall often experienced in winter or bleached by the bright sun. For us, this has been the window of the front vestibule of our home. We also ask that if the signage is to be issued by the County, it be generated in a

material that is not easily destroyed by sun, rain and snow (such as metal). Finally, given the very high registration fees and taxes that vacation rental owners already pay, we ask that the purchase requirement be waived and the fees for this administrative exercise be supplied by TOT.

Closing Thoughts

Over the past four years, we've quietly observed as the existing vacation home rental ordinance has evolved and expanded. Each time, we've made any necessary adjustments and paid the ever-increasing fees without complaint. We are happy to take measures that reasonably protect the safety of our neighbors and the sanctity of their property rights, while respecting ours as well. While we do not object to all of the proposed amendments, the specific proposals highlighted above are a bridge too far. They are unfair to vacation rental owners and guests, they are not appropriately tailored to address the real issues faced by full-time residents, and they will create an administrative nightmare for code compliance. Rather than the reasoned initiatives of a diverse group, these particular proposals read more like the byproduct of a few resentful individuals who believe that just because they live in Lake Tahoe full time, they are the only ones entitled to experience one of this state's great public resources. Nowhere is this more palpable than in the proposed "Visiting Guest Guidelines", which in some sections takes a downright infantilizing tone towards anyone who doesn't have the great privilege of living here year-round. Perhaps someone should gently remind the authors of this document that they moved to a world-class tourist destination, and as such, sharing the destination with tourists is to be expected.

We'd like to close by noting that Lake Tahoe has been a vacation and resort destination since the mid-1800s. Vacation home rentals have formed an essential part of the region's tourist infrastructure for at least the last fifty years. Tourism is the backbone of Lake Tahoe's economy and either supplies or supplements the livelihood of many full-time residents. For example, our neighbor across the street is both the cleaner and designated local contact for a number of vacation rentals including our own. Caring for our rental home and others like it has allowed her to start her own business, which in turn provides work to other local cleaners. Tourism is what keeps the doors to many Tahoe businesses open, particularly its restaurants. These businesses are an important source of tax revenue and jobs for the Board's constituents.

The often maligned "second home owners" of Lake Tahoe will not be the only group to suffer if the increasingly heavy-handed and irrational regulation of a well-established industry continues to drive away vacation rental owners and guests. We encourage the Board to keep this in mind when considering the proposed changes to the VHR ordinance, and we respectfully suggest that the Board focus its attention on the enforcement of the robust set of regulations already in place.

Respectfully,

Brianna and Hunter Cuave

7274 3rd Ave.
Tahoma, CA

From: info northcanyoninn.com <info@northcanyoninn.com>
Sent: Monday, September 9, 2024 8:07 AM
To: BOS-District III
Cc: BOS-Clerk of the Board
Subject: Item number 28. 24-1555 Board of Supervisors Agenda for September 10th

Dear Ms. Thomas,

We are the owners of North Canyon Inn Bed & Breakfast in Camino and have been operating the B & B for the past 10 years under a Special Use Permit.

Our concern is Item number 28 on the Agenda listed as 24-1555.

We totally agree that Vacation Home Rentals (advertised under VRBO and AirBnB) should be highly regulated.

We take exception to Bed and Breakfast Inns (which are Hosted) to be included in the new regulations.

"Hosted" should be removed from the new regulation. We refer you to Page 2 of 21 of the redlined version of VHR ordinance update where they add "hosted" and they remove "except hosted rentals where there is a primary owner in residence during the rental period. This section does not apply to bed and breakfast inns, which are regulated by Section 130.40."

.

If this is sentence is removed we are in total agreement with the new regulation. However, to include bed and breakfasts that are licensed and operate according to section 130.40 is punishing our legally run business, that never receives any complaints, has onsite parking, never encroaches on adjoining neighbors, and is managed by us.

We can point out several examples where hosted bed and breakfasts are punished by adding us to this new regulation. It seems the advisory committee did not take this into consideration when they were drafting the revised regulations.

We plan on attending the meeting.

Thank you for your time.

Mike and Fran Rothwell, Owners/Innkeepers
North Canyon Inn Bed & Breakfast
3901 North Canyon Road
Camino, CA 95709
530-957-6952