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6 ADMINISTRATIVE HEARING

7 COUNTY OF EL DORADO

8 DECISION OF THE ADMINISTRATIVE HEARING OFFICER
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12 C. L. RAFFETY,
13 EL DORADO COUNTY TAX COLLECTOR,

14 Petitioner,

15 vs.

16 RICHARD C. YOUNG, JR AND GLORIA E.
17 NEVAREZ

18 Respondents
19
20

Case Nos.: 17-130, 17-202, 17-203
VHR #1097

2541 Copper Way, South Lake Tahoe

DECISION AND ORDER OF THE
ADMINISTRATIVE HEARING OFFICER

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22 On December 1, 2017, an administrative hearing was held pursuant to Chapter 5.56 of the
23 El Dorado County Code pertaining to alleged violations of El Dorado County Ordinance Code at
24 the above vacation home rental.

25 The owner of the property, Richard C. Young was present. Ginnie Hibert, Karen
26 Coleman and Heidi Jacobs were present representing the Tax Collector's Office. William M.
27 Wright served as the hearing officer.

1 A total of seven violations were alleged in the three investigations by the Tax Collector.
2 Initially the owner presented written objections to the evidence in the three investigations but
3 ultimately withdrew the objections.

4 1. Case No. 17-130 Noise – Section 5.56.090(A)(3)(4).

5 The Petitioner presented their case outlining the three violations in this investigation.
6 Exhibits A-N were admitted without objection.

7 The neighbors, Richard and Jamie Mapes testified concerning the weekend of July 3-4,
8 2017. The neighbors called the Sheriff's Office on July 3 concerning excessive noise at the
9 above residence. Sheriff Deputies responded at 2038 hours but did not hear any noise coming
10 from the residence. The declaration from the renter also indicated that they were reasonable and
11 did not believe they made noise that could be heard from across the street. We accept the
12 Sheriff's report and the declaration of the renter. Accordingly, we do not find a violation of
13 5.56.090(A)(3)(4) in this case.

14 2. Case No. 17-130 Permit Not Posted Properly – Section 5.56.090(A)(7).

15 Both parties appeared to agree that the permit was in fact properly posted. It might have
16 been obscured somewhat by a coat rack, but it was properly posted as shown in Exhibit E. There
17 is not substantial evidence to support this allegation.

18 3. Case No. 17-130 Failure of Local Contact to Respond – Section 5.56.130(A).

19 The undisputed evidence indicated that the local contact was not called. The Sheriff
20 Deputy called the owner, Mr. Young, but that was later in the evening and Mr. Young did not see
21 the message until the following morning. Exhibit D, the declaration by the local contact, verifies
22 that the local contact was not called. There is not substantial evidence to support this allegation.

23 4. Case No. 17-202 Noise – Section 5.56.090(A)(3)(4).

24 The Petitioner presented their case outlining the two violations in this investigation.
25 Exhibits A-O were admitted without objections. The neighbors, Richard and Jamie Mapes
26 testified concerning the weekend of August 19-21. This particular investigation involved the
27 noise violations occurring on August 20, 2017. The Mapes testified that several vans of young

1 men pulled up on August 19 and that essentially it was a constant party at the house with taxis
2 and uber rides pulling up to the residence at all hours of the night and honking their horns to alert
3 the guests to come outside for their ride. It appeared that the guests were going out to the casinos
4 and night clubs and returning to the house in the early morning intoxicated and loud. The
5 Mapes elaborated upon the complaint they filed and the specific facts concerning the excessive
6 noise at the residence on August 20, 2017 as stated in Exhibit B. We find there is substantial
7 evidence to support a violation of Section 5.56.090(A)(3)(4). Although the owner claims that
8 they are not responsible for conduct of the guests, the owners are required to use their best efforts
9 to ensure the guests do not create unreasonable noise or disturbances. The owner rented the
10 house to a large group of individuals that exceeded the occupancy limit (discussed below) and
11 who were supposedly noisy all weekend. There is no evidence that the owner or the owner's
12 local contact had any system in place to check on their guests or to monitor their behavior. The
13 Mapes have apparently filed numerous complaints with the sheriff's department and with the
14 owner regarding the guests staying at this house. With all the past complaints to owner, his best
15 efforts should include some manner of verifying whether an extended party is taking place at the
16 residence.

15 5. Case No. 17-202 Occupancy – Section 5.56.090(A)(1).

16 The Sheriff's report indicated that the occupant's at the residence stated that 15 people
17 were staying at the residence. The house is permitted for 12. There is substantial evidence to
18 support this allegation. The owner argued in part in his written argument that the code section
19 cited by the Tax Collector only requires the occupancy limit to be included in the written
20 agreement – it does not actually prohibit occupancy in excess of the permitted number. While
21 we believe there is merit to this argument, we are not inclined at this time to read the ordinance
22 in such a restrictive manner. We find that an occupancy that exceeds the allowable number of
23 occupants violates the ordinance.

24 6. Case No. 17-203 Noise – Section 5.56.090(A)(3)(4).

25 The Petitioner presented their case outlining the two violations in this investigation.
26 Exhibits A-O were admitted without objections. The noise complaints were similar to the
27 complaints filed in investigation No. 17-202, above, but for the following day, August 21, 2017.

1 The Mapes also testified concerning this incident. However, on this date the Sheriff's office was
2 called out. The Sheriff's report stated that they did not hear any noise. According to the report,
3 the tenant also appeared to be cooperative and noted that they made extra effort to be quiet due to
4 the complaints received from the previous day. Because we do not know what occurred during
5 the hours the Sheriff was not there, and the Mapes testified under penalty of perjury that
6 excessive noise did occur on this date, we sustain this allegation and find that substantial
7 evidence exists to support this allegation. However, we make this finding somewhat reluctantly,
8 due to the very different picture painted by the Sheriff's report and the statements from the
9 cooperating tenant in the report.

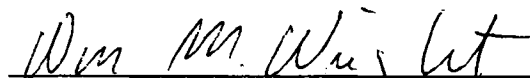
10 7. Case No. 17-203 Failure of Local Contact to Respond – Section 5.56.130(A).

11 The Sheriff's report indicated that when he called the local contact that the local contact stated
12 that they would respond. Exhibit E and F indicate that in fact the local contact did respond.
13 There is no evidence to support this allegation.

14 In summary, in case No. 17-202, we find a noise violation under Section
15 5.56.090(A)(3)(4) and an occupancy violation under Section 5.56.090(A)(1). In case No. 17-
16 203, we find a noise violation under Section 5.56.090(A)(3)(4). In accordance with Section
17 5.56.140, the first violation shall be considered a warning. The second violation carries a fine
18 not to exceed \$250 and the third violation carries a fine not to exceed \$1,000 and/or a six month
19 suspension of the permit. In assessing the penalties, we are mindful of the fact that apparently no
20 neighbors other than the Mapes have filed any complaints against the owner and that although
21 we found a noise violation in case No. 17-203, the Sheriff's report could have also supported a
22 finding in favor of the owner. Accordingly, we assess a total fine of \$750 for the three
23 violations.

24 Pursuant to Section 5.56.150 of the County Code, this decision may be appealed to the
25 Board of Supervisors within sixty (60) calendar days of the mailing of this decision. If the owner
26 does not appeal the decision within the sixty days, the decision of the hearing officer shall be
27 final.

Date: December 14, 2017


William M. Wright

1 **DECLARATION OF PROOF OF SERVICE**

2 I, William M. Wright, declare:

3 I am a citizen of the United States and am employed in the County of El Dorado. I am over the age of eighteen
4 (18) years and not a party to the within-entitled action. My business address is 2828 Easy Street, Suite 3, Placerville,
5 California 95667.

6 I served the within document(s):

7 **DECISION AND ORDER OF ADMINISTRATIVE HEARING OFFICER**
8 **ALLEGED VIOLATION OF VACATION HOME RENTAL ORDINANCE**

9 X by mail on the following party(ies) in said action, in accordance with Code of Civil Procedure section 1013(a),
10 by placing a true copy thereof enclosed in sealed envelopes and placing it in a designated area for outgoing
11 mail, addressed as set forth below. I am readily familiar with the practice of this office with respect to collection
12 and processing of documents for mailing. On the same day that correspondence is placed for collection and
13 mailing at Placerville, California, it is deposited in the ordinary course of business with the United States Postal
14 Service in a sealed envelope with postage fully prepaid.

13 EL DORADO COUNTY TAX COLLECTOR
14 ATTN: GINNIE HIBERT
15 360 FAIR LANE
16 PLACERVILLE, CA 95667

15 RICHARD C. YOUNG, JR
16 1412 KINROSS CT.
17 WALNUT CREEK, CA 94598

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20 I declare under penalty of perjury that the foregoing is true and correct. Executed on DECEMBER 14, 2017,
21 at Placerville, California.

22 
23 WILLIAM M. WRIGHT