

Gitelman, Hillary

From: Gitelman, Hillary
Sent: Thursday, November 05, 2009 8:40 AM
To: 'David Ingraham'
Cc: Bill Dodd
Subject: RE: Vacation Rental Ordinance

CDPC
MEETING
NOV 18 2009
AGENDA ITEM
NO. 9B

David:

Thanks for your thoughts. I will make sure the Commission gets a copy of these comments when they consider the proposed ordinance on November 18.

Just so you know, the County takes the position that transient commercial use of dwelling units (i.e. renting out your home to tourists on the weekends) is prohibited and would remain so with this new ordinance. But renting your home for 30 days or more at a time (to vineyard workers or to others) is perfectly fine.

If I had to articulate the reasons for our longstanding prohibition on short-term vacation rentals, they would be (1) to protect agricultural areas from commercialization; (2) to protect residents from the impacts of commercial uses in residential areas; and (3) to ensure that existing dwellings are used as dwellings (recognizing that we have unmet housing needs and that rental units are usually the most affordable type of housing).

Hillary

From: David Ingraham [mailto:dj_ingraham@yahoo.com]
Sent: Wednesday, November 04, 2009 11:34 PM
To: Gitelman, Hillary
Subject: Fw: Vacation Rental Ordinance

Dear Hillary Gitelman,

I am forwarding an E-mail I sent to Bill Dodd regarding your proposed vacation rental ordinance. I object to it if the same or a more draconian restriction is to be imposed on vacation rental of residence or houses on property for short term. This whole idea needs to be repealed. and the general plan can be revised to allow this activity in the county. This idea of agriculture us only is repulsive to the rights of the people, and is unconstitutional, per the 9th amendment.

Thank You Dave Ingraham

--- On Wed, 11/4/09, David Ingraham <dj_ingraham@yahoo.com> wrote:

From: David Ingraham <dj_ingraham@yahoo.com>
Subject: Vacation Rental Ordinance

11/05/2009

To: "Bill Dodd" <bdodd@co.napa.ca.us>
Date: Wednesday, November 4, 2009, 8:56 PM

Dear Napa County Supervisor Bill Dodd,

I have been reviewing the proposed ordinance for outlawing vacation rental use of housing in the County. I firmly object to this ordinance. It violates the rights of property owners to use existing residence for no more than a residence for them selves or there paying guests.

The existing restriction needs to be repealed as it violates the constitutional rights of the property owner, based on a prejudice of the supervisors, that have forgotten a respect for the peoples rights. Are you or are any of you members of the communist party. This ordinance is a dictate that strips a right for a false consideration of all land of the county being for agriculture use. The existing residence of landowners is not an agriculture use for the land. other than to support the agriculture use other than owner residence.

Also we have a need for housing for vineyard workers, who are short term residence. I do think it is a time for this vacation rental ordinance, but to allow it as a need exists to correct the communistic dictatorship type county Government of the past.

Sincerely yours

David J. Ingraham
2965 Main Street
Napa, Ca.
94558-3449
707-255-3023

11/05/2009

Gitelman, Hillary

From: Lucy White [lucy@wwwwhite.com]
Sent: Thursday, November 05, 2009 10:57 AM
To: Gitelman, Hillary; George Bachich
Subject: Re: [NVLSA] Fw: Vacation Rental Ordinance at PC November 18

CDPC
MEETING

NOV 18 2009

AGENDA ITEM
NO. 9B

Hillary / General Planning:

As in many communities, such as Paris, Lake Tahoe, Sonoma, Bodega Bay, and Hawaii, renting dwellings is a successful alternative for lodging, most often for families. Sonoma County, which is one of our main competitors in the wine industry, is thriving from the rentals. Nearly all rentals are second and/or unoccupied homes which are handled through property management companies, they bring visitors into areas, which then bring revenue to local businesses - retail, wine, restaurants, etc.

These are not dwellings which would otherwise be rentals for the local populace. Most people are very respectful of property and well behaved, they travel to experience the local cultures. Those who are disrespectful of property and or neighbors would also be so in a hotel, and local authorities would deal with them appropriately.

In these times people who might otherwise simply leave their second homes vacant might consider the option of renting them out to supplement their incomes, it could mean the difference of their being able to keep their dwellings or not. It could also stimulate real estate, with buyers knowing they could derive some income from their investment.

Napa County is a tourist destination, without tourists the Napa County wine business will be gone. France and Napa Valley are will not have the privileged notoriety they have had in the past. Competition in the wine business is ever increasingly global. The technology of wine production and distribution around the world threatens the position of Napa Valley's wine industry. Napa County must market the whole ambience of the Valley before it is too late. If Napa County gets behind the curve it will costs millions of dollars and years to meet competition which recognizes the value of dwelling rentals.

Prime tourist areas around the world have vacation rentals, an extremely low impact resource which helps attract visitors and stimulates local economies. It protects the local culture in a much more sustainable way than do hotels, using existing structures as welcoming platforms for visitors.

Please reconsider your direction on this ordinance and property rights, for the benefit of Napa County and its future.

Regards,

Lucy White

Gitelman, Hillary wrote:

> Thanks Lucy/George.

>

> I will make sure the Commission gets a copy of your comments.

>

> We take the position that transient commercial use of dwelling units
> (i.e. renting out your home or your second unit to tourists on the
> weekends) is prohibited and would remain so with this new ordinance.

>

> If I had to articulate the reasons this prohibition exists, it would
> not only be because of Napa County's desire to protect agricultural
> areas from commercialization, but it would be to protect residents
> from the impacts of nearby vacation rentals, and to ensure that

> existing dwellings are used as dwellings (recognizing that we have
> unmet housing needs and that rental units are usually the most
> affordable type of housing).
>
> Hillary
>
>
> -----Original Message-----
> From: Lucy White [mailto:lucy@wwwwhite.com]
> Sent: Wednesday, November 04, 2009 5:12 PM
> To: Gitelman, Hillary; George Bachich
> Subject: Re: [NVLSA] Fw: Vacation Rental Ordinance at PC November 18
>
> Hillary / General Planning:
>
> The Ordinance "...PROHIBITING TRANSIENT COMMERCIAL OCCUPANCIES OF
> DWELLING UNITS..." is yet another infringement on the rights of
> property
>
> owners. Your obsession, and that of the Board of Supervisors, that
> Agricultural Use should exclude nearly any other use, is being carried
> to a destructive level - harming this community for years to come.
> Napa Valley has a well established agricultural base which can be
> complemented by uses, such as transient uses - occupancies of dwelling
> units, weddings, events...
>
> Globalization of wine production and alternative tourist locations
> threaten the well being of this Valley. You are using your subjective
> opinions to chip away at Property Rights, which are not yours to take.
> Your time would be better spent on how to revive and help businesses
> thrive in Napa County. Your agenda is off track.
>
> Lucy White
>
>
> George Bachich wrote:
>
>> "Clarify" is an often abused word in Napa County. Historically, it
>> has
>>
>>
>>
>> almost always meant some sort of tightening of the noose around
>> property owners' necks. I have not read this yet, but I am not
>> optimistic. If you are at all concerned about your right to rent out
>> your property (or the rights of others to do so), you should read the
>> ordinance and send your comments to the County.
>> GB
>> ----- Original Message -----
>> *From:* Gitelman, Hillary <mailto:Hillary.Gitelman@countyofnapa.org>
>> *To:* Sandy Elles <mailto:selles@napafarmbureau.org> ; Debra Dommen
>> <mailto:debra@napawinegrowers.com> ; George Bachich
>> <mailto:gbachich@sbcglobal.net> ; Anne Steinhauer
>> <mailto:asteinhauer@napavintners.com>
>> *Sent:* Wednesday, November 04, 2009 2:42 PM
>> *Subject:* Vacation Rental Ordinance at PC November 18
>>
>> All:
>>
>> Well, it's been a long time coming, but with input from a variety of
>> interested parties, we've crafted the attached ordinance which is
>> intended to clarify the County's longstanding prohibition on vacation
>> rentals and make it somewhat easier to enforce. This draft ordinance
>> is being noticed for hearing by the Planning Commission on November
>> 18, 2009. If the Commission recommends adoption of the ordinance, it

>> would, be scheduled for the Board of Supervisors' consideration in
>> late December or January.
>>
>> While the agenda for November 18^th has not been finalized, I expect
>> this item to be heard in the morning, probably shortly after 9 AM.
>> The
>>
>
>
>> final agenda for the meeting and a copy of the staff report will be
>> posted on the Department's web site sometime during the week before
>> the hearing. In the meantime, please don't hesitate to call or email
>> if you have questions -- and please share this with others who you
>> think might be interested.
>>
>> If you have concerns, we would appreciate hearing them before the
>> hearing on the 18^th .
>>
>> Thanks,
>>
>> Hillary
>>
>> 253-4805
>>
>>
>>
> -----
> --
>
>> To unsubscribe send an email to webmaster@landstewards.org asking to
>>
> unsubscribe.
>
>
>

Gitelman, Hillary

From: Lucy White [lucy@wwwwhite.com]
Sent: Monday, November 09, 2009 10:56 AM
To: Gitelman, Hillary; George Bachich
Subject: Vacation Rental Ordinance at PC November 18

**CDPC
MEETING**

NOV 18 2009

**AGENDA ITEM
NO. 9B**

Hillary -

With so many changes happening on a global platform, Napa County cannot afford not to take advantage of the unique elements it has which can benefit the local economy - as well as protecting property rights - and being environmentally responsible.

Thank you for keeping an open mind and passing comments along.

Sincerely,

Lucy White

Gitelman, Hillary wrote:

> Thanks, Lucy. I'll make sure the Commission gets a copy of your
> comments and questions. Hillary
>
> -----Original Message-----
> From: Lucy White [mailto:lucy@wwwwhite.com]
> Sent: Saturday, November 07, 2009 5:07 PM
> To: Gitelman, Hillary; George Bachich
> Subject: Vacation Rental Ordinance at PC November 18
>
> Hillary -
>
> George has addressed the Vacation Rental Ordinance very well.
>
> There is one other important aspect to consider, that is the real
> estate
>
> market. Should someone be looking for a getaway home, the added value
> of
>
> being able to rent it out could make the difference in whether or not/
> and/or where they purchase. These homes are not just residences but
> have
>
> something to offer which is attractive to the visitor. The only reason
> that they would be rented, is that they are unoccupied when available
> for rent. Even if the purchaser does not think of renting out while
> purchasing, down the line he may need (or want) to, in order to be
> able to retain the property. For those who travel extensively and only
> occupy
>
> their homes on a limited schedule, renting can offer a form of
> security for the property.
>
> We had a second home in Lake Tahoe [3400 sq ft - built by our family]
> that was shared with the family, or about 80 people [Bob is one of 9].
> We have five children and the house made snow skiing available to us.
> One brother now has the house, and it is rented out at different
> times, otherwise it would be not be affordable. During the winter
> holidays the Tahoe rentals do extremely well, and are often the only
> times the homes are rented out - usually for a week at a time. Those
> who chose to rent a

>
> house rather than a hotel room need/or want a different experience.
> This
>
> type of second home is ideal for that.
>
> Dwelling units for rental can have enormous benefits to Napa Valley,
> including retaining ambiance, real estate stimulus and eco friendly
> tourism.
>
> Thank you for considering my comments.
>
> Sincerely,
>
> Lucy White
>
> _____
>
>
> George Bachich wrote:
>
>> Hillary:
>>
>> Whether we are vacationing in Sea Ranch, in Hawaii, or in Mexico,
>> Italy, or France, many of us prefer to rent a house or condo rather
>> than stay in a hotel. Vacation rental homes provide a unique and
>> enjoyable vacation experience, often at lower cost, and with many
>> other benefits, especially for large families. Reduced costs aside,
>> many of us simply prefer this type of vacation experience because it
>> immerses us more directly in the real local culture, as opposed to
>> some sterile hotel chain. Why then do we want to deny visitors to the
>> Napa Valley this same rich experience?
>>
>> At the very least this proposed ordinance is overkill and overly
>> prohibitive. In the absence of any real need for it, it appears
>> downright mean-spirited. Let's lighten up a bit. This is not the only
>> solution compatible with our general plan. While the proposed
>> ordinance can be shown to be consistent with certain provisions of
>> the
>>
>
>
>> general plan, so can other alternatives. A biased and one-sided
>> interpretation of the General Plan is currently being used to justify
>> this ordinance, while other, less restrictive alternatives could also
>> be justified if the Board wishes to move in that direction.
>>
>> For instance, why prohibit transient occupancy use in "all
>> residential
>>
>
>
>> and agricultural zoning districts"? General Plan Policy AG/LU-34
>> allows for "limited commercial and institutional uses" in the urban
>> residential zone. AG/LU-35 allows "tourist-serving commercial uses
>> and
>>
>
>
>> mixed uses" in certain Rural Residential districts. Although AG/LU-22
>> is cited as consistent with this proposed ordinance, it is also
>> consistent with allowing transient residential occupancies in
>> "designated urbanized areas of the unincorporated County". I'm sure
>> there are other examples that your staff could identify if their
>> instructions were not to identify only those provisions that support

>> a
>>
>
>
>> prohibition.
>>
>> Exactly how would allowing transient occupancy uses in Circle Oaks or
>> in Angwin threaten agriculture? These are areas already approved for
>> dense residential uses, and whether the occupant is the owner, a long
>> term tenant, or a short term tenant does not really change the use.
>> The same is true for the AWOS and AR land use designations, which
>> both
>>
>
>
>> allow single family residences. Whether the family residing there
>> remains for a year, a month, or a week does not change the use. It's
>> still human occupancy, and the length of occupancy does not
>> drastically change the amount of traffic generated. If loud parties
>> are your concern, they can be dealt with in a variety of ways,
>> including approving transient occupancy only in areas where neighbors
>> are not too close (the less dense AWOS areas sound ideal), or by
>> making transient occupancy a use allowed by use permit, with
>> conditions regarding noise. A blanket prohibition seems to be
>> overkill. Changing the General Plan definition of "dwelling unit" to
>> accommodate this overkill only compounds the offense and points out
>> how tenuous the consistency of this ordinance with the General Plan
>> really is. If the General Plan must be changed to accommodate it, it
>> is hard to argue that it is consistent with the General Plan.
>>
>> I know the board will do whatever it wants, regardless of my input,
>> but if it wants to accommodate some transient commercial occupancy of
>> dwelling units, the General Plan certainly would allow it. I think
>> some vacation rentals would improve the visitor experience, and help
>> keep us competitive with other vacation destinations. If it is
>> properly managed, it would do no harm, and might even generate some
>> additional transient occupancy tax. I think this ordinance should be
>> revised to accommodate some vacation rental dwellings.
>>
>> George Bachich
>>
>> 4271 Dry Creek Road
>>
>> Napa, CA
>>
>> ----- Original Message -----
>> *From:* Gitelman, Hillary
>>
>> <mailto:Hillary.Gitelman@countyofnapa.org>
>
>> *To:* Sandy Elles <mailto:selles@napafarmbureau.org> ; Debra
>> Dommen <mailto:debra@napawinegrowers.com> ; George Bachich
>> <mailto:gbachich@sbcglobal.net> ; Anne Steinhauer
>> <mailto:asteinhauer@napavintners.com>
>> *Sent:* Wednesday, November 04, 2009 2:42 PM
>> *Subject:* Vacation Rental Ordinance at PC November 18
>>
>> All:
>>
>> Well, it's been a long time coming, but with input from a variety
>> of interested parties, we've crafted the attached ordinance which
>> is intended to clarify the County's longstanding prohibition on
>> vacation rentals and make it somewhat easier to enforce. This
>> draft ordinance is being noticed for hearing by the Planning
>> Commission on November 18, 2009. If the Commission recommends

>> adoption of the ordinance, it would, be scheduled for the Board of
>> Supervisors' consideration in late December or January.

>>
>> While the agenda for November 18th has not been finalized, I
>> expect this item to be heard in the morning, probably shortly
>> after 9 AM. The final agenda for the meeting and a copy of the
>> staff report will be posted on the Department's web site sometime
>> during the week before the hearing. In the meantime, please don't
>> hesitate to call or email if you have questions -- and please
>> share this with others who you think might be interested.

>>
>> If you have concerns, we would appreciate hearing them before the
>> hearing on the 18th .

>>
>> Thanks,

>>
>> Hillary

>>
>> 253-4805

> -----
> --
>
>> To unsubscribe send an email to webmaster@landstewards.org asking to
>>
> unsubscribe.
>
>
>

Gitelman, Hillary

CDPC
MEETING

NOV 18 2009

AGENDA ITEM
NO. 9B

From: Gitelman, Hillary
Sent: Tuesday, November 10, 2009 8:46 AM
To: 'George Bachich'
Subject: RE: [NVLSA] Vacation Rental Ordinance at PC November 18
Attachments: Vacation Rental Ordinance Tracked.pdf

George:

I will ignore the tone of your email and offer one last response.

The County does, in fact, have an existing prohibition on vacation rentals, whether you choose to believe it or not. Our code enforcement staff actively notices and investigates vacation rentals that operate in violation of County Code and we refer enforcement actions to County Counsel and the District Attorney for resolution. The proposed ordinance is intended to improve the efficacy of this existing code enforcement effort and will make it more clear for anyone reading the code that vacation rentals are prohibited.

You are certainly free to disagree with the prohibition on vacation rentals and to advocate that it be changed or abolished, but please don't pretend it doesn't exist. The prohibition is referenced in the "whereas" clauses of the proposed ordinance (prepared by County Counsel), and is inherent in the definition of a "dwelling unit" as something that is rented for more than a month, and also in the definition of "commercial use." If you have further comments or questions, I encourage you to present them at the Planning Commission meeting next week. I will continue to make any emails you send to me available to the Planning Commission, but I will not be responding further.

Hillary

From: George Bachich [mailto:gbachich@sbcglobal.net]
Sent: Monday, November 09, 2009 6:45 PM
To: Gitelman, Hillary
Cc: NVLSA member list
Subject: Re: [NVLSA] Vacation Rental Ordinance at PC November 18

That is what you always say - "It's already prohibited, so this is just a 'clarification'." Well, that is bullshit and you know it. There is effectively no prohibition now. It's not enforceable because it is not in the code. Someone in staff or on the BOS would like to reinterpret old ordinances to include a prohibition, but if it were already prohibited, you would not need a new ordinance.

The County takes that position on practically every new restriction in an effort to avoid controversy, to disarm opposition, to claim that it is nothing new. Well, I don't buy it, and nobody else buys it. You are not deceiving anyone, so quit deceiving yourself. You are proposing a new regulation, a new restriction, and it will have a public hearing and consideration on its merits. It is not a done deal, even if the BOS has asked you to prepare it. If it is a done deal, then why continue with this charade of public hearings?

George Bachich

----- Original Message -----

From: [Gitelman, Hillary](#)
To: [George Bachich](#) ; [Charles Howard](#)
Cc: [NVLSA member list](#)
Sent: Monday, November 09, 2009 4:30 PM

11/10/2009

Subject: RE: [NVLSA] Vacation Rental Ordinance at PC November 18

Thanks, George. I'll pass on this suggestion about house swapping to the Commission. And I disagree with your statement that the proposed ordinance imposes "confiscatory new regulations" because it would perpetuate prohibitions that already exist in the County's zoning ordinance.

Hillary

From: George Bachich [mailto:gbachich@sbcglobal.net]
Sent: Monday, November 09, 2009 3:45 PM
To: Charles Howard; Gitelman, Hillary
Cc: NVLSA member list
Subject: Re: [NVLSA] Vacation Rental Ordinance at PC November 18

Hillary:

Mr. Howard brings up an interesting point. Your ordinance as written would prohibit house swapping. I don't see any way in which the public interest could be served by prohibiting house swapping, especially in those cases in which the house swapped is the primary residence of the swapper, or a getaway residence of a weekender (the former of which comprises the vast majority of our housing stock, and the latter of which comprise an ever-growing percentage of it). In either of those cases the stock of long term rental housing could not possibly be impacted, since those houses would never be available for long term rental anyway. And in either case the owner is going to carefully screen the people he trades with, because they will be occupying HIS own residence, and interacting with HIS own neighbors, about which he very likely cares much more than he would about a long term rental in which he does not reside. Regardless of whether the PC/BOS agrees with me on vacation rentals in general, it clearly should exempt house swapping.

I don't see how you could enforce a prohibition against house swapping in any case. Even though your ordinance forbids barter or remuneration of any kind (see definition of "commercial use"), both parties to the trade are invited guests in the home of the other, and there would be no reason for either of them to disclose the arrangement to local authorities. And even if you knew about the arrangement, where would you draw the line? Would reciprocal visits to homes of friends be prohibited, too? Would accepting dinner out on your guests' tab constitute prohibited barter? I don't think you even want to go there. If you must proceed with this turkey, you should exempt house trading and all kinds of invited guests. A better course would be to scrap the entire ordinance. The best course of all would be a different ordinance specifically allowing vacation rentals.

The hysteria regarding vacation rentals is misplaced. Most such rentals cause no problems. The proof of that is that you have to search internet listings to find most offenders, rather than relying on complaints from neighbors. My next door neighbors (weekenders) have rented their home on occasion, sometimes to very distinguished guests. One such visitor is a California Supreme Court Justice. Would you like to explain to him and his family why you think their visits should be prohibited? I would like to be there when you do.

Federal tax laws create the need to rent out second homes periodically in order to gain valuable tax deductions (I think it might be 14 days per year in order to be able to deduct some of the costs). Your ordinance would prevent that.

I think at the very least, the County owes those impacted home owners the courtesy of a personal letter announcing the intent of the proposed ordinance. After all, they don't live here full time and probably will not read the usual legal notice in the newspaper. If you want to sneak this in under the radar, just go ahead with your usual inadequate notification process. But if you think the affected people deserve to actually receive notice of what is about to

11/10/2009

happen to their property and if you think they should actually have an opportunity to respond, then you should send them each a letter.

I find it interesting that the County requires every property owner/applicant to pay a title company for a list of all property owners within 300 feet of any property applying for a use permit so the County can notify all the neighbors of his intentions, but that the County holds itself to a much lower standard when it comes to notifying property owners of its intent to impose confiscatory new regulations. This is clearly unfair. I think you should send them all a letter in time for them to attend the hearing.

George Bachich

— Original Message —

From: Gitelman, Hillary

To: Charles Howard

Cc: George Bachich

Sent: Monday, November 09, 2009 1:56 PM

Subject: RE: [NVLSA] Vacation Rental Ordinance at PC November 18

Charles:

You are welcome to send the commission emails or send them a letter or appear in person at the hearing on November 18. The commissioners' names and contact information are on our website at <http://www.co.napa.ca.us/GOV/Departments/DeptPage.asp?DID=29000&LID=929>

Hillary

From: Charles Howard [mailto:Howard@NapaNet.net]

Sent: Monday, November 09, 2009 1:54 PM

To: Gitelman, Hillary

Cc: George Bachich

Subject: RE: [NVLSA] Vacation Rental Ordinance at PC November 18

Hillary,

Thanks for your answer.

I would like to influence the Commission and the Board.

How can I best proceed? I like eMail or personal meetings as means.

At the moment I would like to influence them to think kindly of brief house swapping or vacation rental of normally occupied living spaces.

Chas

At 10:27 AM 11/9/2009, you wrote:

Charles:

George's input is always well thought out and articulated. In this case, the question before the Commission -- and

11/10/2009

ultimately the Board -- will be whether they agree with George or not. If they agree, they could table the proposed ordinance and perpetuate the status quo (i.e. vacation rentals violate our zoning, but we don't have the resources for a lot of enforcement), or they could decide to change the zoning code to actually permit vacation rentals similar other Counties (and vacation destinations). I think George has pointed to a few General Plan policies that might be used as a justification for this course of action.

On the other hand, if the Commission/Board want to perpetuate our existing prohibition on vacation rentals, they could justify adopting the proposed ordinance based on (1) a desire to protect agriculture from commercialization, (2) a desire to protect residents from incompatible adjacent uses, (3) a desire to ensure that our rental housing stock is made available for use by residents rather than tourists, and (4) a desire to level the playing field by clarifying the zoning ordinance and making zoning code enforcement easier.

It really comes down to a policy decision. Hillary

From: Charles Howard [<mailto:howard@napanet.net>]
Sent: Saturday, November 07, 2009 7:04 PM
To: Gitelman, Hillary
Cc: NVLSA member list
Subject: Re: [NVLSA] Vacation Rental Ordinance at PC November 18

George makes apparently good points of fact and his opinion that input will be ignored is regrettable..

Is he wrong somewhere?

ch

At 04:03 PM 11/7/2009, George Bachich wrote:

Hillary:

Whether we are vacationing in Sea Ranch, in Hawaii, or in Mexico, Italy, or France, many of us prefer to rent a house or condo rather than stay in a hotel. Vacation rental homes provide a unique and enjoyable vacation experience, often at lower cost, and with many other benefits, especially for large families. Reduced costs aside, many of us simply prefer this type of vacation experience because it immerses us more directly in the real local culture, as opposed to some sterile hotel chain. Why then do we want to deny visitors to the Napa Valley this same rich experience? At the very least this proposed ordinance is overkill and overly prohibitive. In the absence of any real need for it, it appears downright mean-spirited. Let's lighten up a bit. This is not the only solution compatible with our general plan. While the proposed ordinance can be shown to be consistent with certain provisions of the general plan, so can other alternatives. A biased and one-sided interpretation of the General Plan is currently being used to justify this ordinance, while other, less restrictive alternatives could also be justified if the Board wishes to move in that direction. For instance, why prohibit transient occupancy use in "all residential and agricultural zoning districts"? General Plan Policy AG/LU-34 allows for "limited commercial and institutional uses" in the urban residential zone. AG/LU-35 allows "tourist-serving commercial uses and mixed uses" in certain Rural Residential districts. Although AG/LU-22 is cited as consistent with this proposed ordinance, it is also consistent with allowing transient residential occupancies in "designated urbanized areas of the unincorporated County". I'm sure there are other examples that your staff could identify if their instructions were not to identify only those provisions that support a prohibition.

Exactly how would allowing transient occupancy uses in Circle Oaks or in Angwin threaten agriculture? These are areas already approved for dense residential uses, and whether the occupant is

11/10/2009

the owner, a long term tenant, or a short term tenant does not really change the use. The same is true for the AWOS and AR land use designations, which both allow single family residences. Whether the family residing there remains for a year, a month, or a week does not change the use. It's still human occupancy, and the length of occupancy does not drastically change the amount of traffic generated. If loud parties are your concern, they can be dealt with in a variety of ways, including approving transient occupancy only in areas where neighbors are not too close (the less dense AWOS areas sound ideal), or by making transient occupancy a use allowed by use permit, with conditions regarding noise. A blanket prohibition seems to be overkill. Changing the General Plan definition of "dwelling unit" to accommodate this overkill only compounds the offense and points out how tenuous the consistency of this ordinance with the General Plan really is. If the General Plan must be changed to accommodate it, it is hard to argue that it is consistent with the General Plan.

I know the board will do whatever it wants, regardless of my input, but if it wants to accommodate some transient commercial occupancy of dwelling units, the General Plan certainly would allow it. I think some vacation rentals would improve the visitor experience, and help keep us competitive with other vacation destinations. If it is properly managed, it would do no harm, and might even generate some additional transient occupancy tax. I think this ordinance should be revised to accommodate some vacation rental dwellings.

George Bachich
4271 Dry Creek Road
Napa, CA

----- Original Message -----

From: [Gitelman, Hillary](#)

To: [Sandy Elles](#) ; [Debra Dommen](#) ; [George Bachich](#) ; [Anne Steinhauer](#)

Sent: Wednesday, November 04, 2009 2:42 PM

Subject: Vacation Rental Ordinance at PC November 18

All:

Well, it's been a long time coming, but with input from a variety of interested parties, we've crafted the attached ordinance which is intended to clarify the County's longstanding prohibition on vacation rentals and make it somewhat easier to enforce. This draft ordinance is being noticed for hearing by the Planning Commission on November 18, 2009. If the Commission recommends adoption of the ordinance, it would be scheduled for the Board of Supervisors consideration in late December or January.

While the agenda for November 18th has not been finalized, I expect this item to be heard in the morning, probably shortly after 9 AM. The final agenda for the meeting and a copy of the staff report will be posted on the Department's web site sometime during the week before the hearing. In the meantime, please don't hesitate to call or email if you have questions -- and please share this with others who you think might be interested.

If you have concerns, we would appreciate hearing them before the hearing on the 18th.

Thanks,

Hillary
253-4805

To unsubscribe send an email to webmaster@landstewards.org asking to unsubscribe.

11/10/2009

NOV 18 2009

AGENDA ITEM
NO. 9B

November 12, 2009

Napa County Planning Commission
1195 Third Street, Suite 305
Napa, CA

Comments Re: Nov. 18 Agenda Item 9B, Vacation Rental Ordinance

Dear Commissioners:

Staff is representing the proposed ban on short term rentals as a done deal, claiming vacation rentals are already prohibited, and that this ordinance is just a "clarification". However, that claim does not stand up under analysis.

It may very well be the current wish and intention of staff and the BOS that vacation rentals be prohibited, and it may very well be that the BOS and staff have been arbitrarily interpreting existing zoning regulations in a way that would prohibit them. But that does not mean the prohibition was enacted after a public hearing on the merits of the idea, at which interested parties had a chance to comment, and at which the disadvantages and the lack of need for such a ban were duly considered. It does not mean that such a ban is already written into the County Code. And it does not mean that the current "prohibition" is legal and enforceable and therefore meaningfully in effect.

Apparently, that lack of enforceability is why a new ordinance is being proposed, and why it is the subject of a public hearing, and why you are now being asked to evaluate the public comments on this proposed ban on vacation rentals and to make a reasoned decision on whether to pass it on to the BOS with a recommendation of approval or rejection.

I urge you to recommend rejection of this proposed new ordinance because the findings in the proposed ordinance do not support a total ban, there are no good reasons for a total ban, and there are many good reasons to allow some vacation rentals.

Inadequate Findings:

Paragraph one of Findings, restating the General Plan goals (AG/LU-1 & 2) of preserving agriculture and concentrating urban uses in existing urban areas, does not support a ban, because "concentrating" does not mean "exclusively locating", and rental of dwelling units is not necessarily an urban use. Even if rentals of rural dwellings are somehow arbitrarily defined as urban use, there are existing urbanized areas in the unincorporated county, and this findings paragraph offers no justification at all for banning (nor even discouraging) vacation rentals in those already urbanized areas. Also, this paragraph neglects to mention AG/LU-5, which encourages commercial uses compatible with adjacent uses and agriculture. Rental of existing dwelling units, whether long term or short term, has not in the past been incompatible with agriculture, is not likely to be incompatible in the future, and staff has not demonstrated any such incompatibility. There are many locations where vacation rentals would support goal AG/LU-5.

Paragraph two of Findings, listing General Plan policies in support of the first goal, seems to misrepresent what the General Plan means, and in any case, does not support a ban. Having agriculture as “the primary land use in the county” does not preclude occasional vacation rentals, because “the primary land use” does not mean “the ONLY land use”. “Minimize conflicts arising from encroachment of urban uses into agricultural areas” does not support a ban on short term rentals, because no conflict has been demonstrated and because “minimize” does not mean “prohibit”. “Limiting new non-agricultural uses or developments” does not seem relevant when we are talking about continued occupancy of existing units by different tenants, which is not really a new use, and in any case, “limit” does not mean “prohibit”. “Concentrate urban uses and residential growth in the incorporated cities and town” similarly does not seem relevant when we are talking about continued occupancy of an existing structure, rather than urban uses and residential growth, and “concentrate” does not mean “exclusively locate”. Furthermore, the General Plan does not just say “concentrate urban uses in existing cities and town”. Goal AG/LU-2 says “concentrate urban uses in existing cities and town and urbanized areas” (emphasis added). Goal AG/LU-2 clearly does not support this ban, which would also apply to the County’s urbanized areas.

In addition, the General Plan Policies cited in the second paragraph of findings do not support a total ban.

Policy AG/LU-1 involves preserving agriculture. As long as vines are not removed or vineyard suitable land is not covered with a new structure, or agricultural operations are not otherwise hindered, this policy does not seem to prohibit vacation rentals. “Preserve agriculture” does not mean “prohibit all other uses”, and staff has failed to establish how allowing short term rental of an existing dwelling unit would conflict with the goal of preserving agriculture. In fact, it does not usually conflict.

Policy AG/LU-3 involves supporting the economic viability of agriculture. It is hard to see how a vacation rental of an existing dwelling would threaten the economic viability of agriculture, and staff has failed to demonstrate how this would occur. The reverse may be true. Collection of some vacation rental income might enhance and preserve the viability of a small farm which would otherwise fold.

Policy AG/LU-12 prohibits new non-agricultural use or development of a parcel located in an agricultural area. This does not support a ban, either, because continued occupancy of a dwelling unit does not constitute a new use just because of a change in tenants, nor does it constitute development. AG/LU-12 certainly does not support a ban in “all residential and agricultural zoning districts in the County” as provided in this ordinance, because the residential districts are not “agricultural areas”. Furthermore, the listed exceptions, including those listed in Policy AG/LU-2, include accessory uses. Why should occasional rental of a guest cottage or second unit not be considered an accessory use? Another listed exception, AG/LU-26, specifically exempts construction of a single family residence. If the construction of it can be exempted, why cannot the occupancy by visitors also be exempted? In addition, AG/LU-48 specifically allows home occupations. Is not holiday rental of a guest cottage or second unit a home occupation?

Policy AG/LU-22, "Urban uses shall be concentrated in the incorporated cities and town and designated urban areas...", does not support a total ban, because occupancy of a dwelling unit is not necessarily an urban use (example: Agri-tourism). And even if it were, AG/LU-22 does not support the proposed ban in the residential zoning districts, which are presumably the referenced "designated urban areas".

Policy AG/LU-23 does not seem relevant because it deals with growth, while changing the occupants of an existing dwelling does not constitute growth. Even if it is relevant, it does not support a ban in the residential zoning districts, as provided in the proposed ordinance.

Paragraph three of Findings, listing additional General Plan policies supposedly supporting this ordinance, also seems to misstate the meaning of the General Plan, and in any case does not support a total ban. For instance, the statement, "and without allowing residences to become commercial short-term guest accommodations" is taken out of context to support this ban. The proper context and the purpose of the statement (found in AG/LU-33) is to prevent existing long term rental housing from being converted to short term rental. That purpose is not served by a ban on short term rental of units that have never been and never will be part of the long term rental housing stock, such as guest cottages, granny units, and second homes. Nor does it support a ban on short term rental of a dwelling for which a long term tenant cannot be found, nor during short intervals between long term tenants. An outright ban is clearly overkill.

Action Item AG/LU-33.1, cited in support of this ban, merely urges clarification of the distinctions between single family residences and short term guest accommodations. It does not say to ban one or the other.

Paragraph four of Findings states, without factual basis, that occupancy of dwelling units for less than 30 days "is often incompatible with maintaining the agricultural and rural ambiance of the County, and those areas devoted to rural residential use". However, no such incompatibility has been demonstrated. Until such incompatibility can be demonstrated, this finding should be rejected. Even if some occasional incompatibility were to be demonstrated, that would not support a total ban. And even if universal incompatibility were to be demonstrated, that would not support a ban in existing urbanized areas. An outright ban is clearly overkill.

The same paragraph asserts, without factual justification, that short term rentals involve higher densities. Until this can be shown, this finding should be rejected. Even if it were to be shown, there are other ways to address this than with a total ban. For instance, the permitting process could specify maximum allowable occupancies. Similarly, the "likelihood of late night noise and glare" could be managed through the permitting process, rather than by a total ban. This paragraph's contention that "increased visitor traffic on narrow roadways exceeding their capacity and the need to drive long distances to obtain visitor serving needs" are reasons for a ban is unsupported by any analysis of traffic or of roadway capacity, or of proximity of services, and therefore is only conjecture, demonstrably false at some locations, and is therefore not sufficient support for a universal ban. Similarly, the contention that short term rental removes dwellings from the potential of providing needed available housing stock is not necessarily true,

especially in the case of guest cottages and second homes. Paragraph four of Findings should be rejected as inadequate.

Paragraph five of findings is simply not true. Although staff and even the Board of Supervisors might wish it were true, and might indeed make it true by enacting this proposed ordinance, it is not true at this time. If it is true, I would like staff to point out to me exactly where in the code rentals shorter than 30 days are prohibited. My November 11 request for that information has so far gone answered.

I believe staff bases this claim on the dubious argument that renting a house for 30 days is different in some meaningful way from renting that same house for 29 days, and therefore constitutes a different use for purposes of land use planning, and that if any specific use is not specifically allowed, it is therefore prohibited. However, this argument is demonstrably false. For instance, the current definition of "commercial use" is so broad that it includes even accepting a dinner out at a restaurant from your otherwise non-paying house guests, or accepting a reciprocal invitation to visit their home after they visit yours. It includes accepting rent from your adult children living at home. It includes allowing the family of your foreign exchange student to reciprocate by hosting one of yours. It includes vacation house swapping with homeowners in other countries. If we accept staff's contention that all commercial use is prohibited wherever commercial use is not specifically approved, then all of these activities would be illegal in most homes, yet I doubt that any reasonable person would say those activities are illegal. So how can we say that short term rentals are illegal if that activity is not specifically prohibited? The answer is we cannot, and that is why staff has brought this new ordinance, which is a new land use restriction, to your attention.

The point is further proven by the apparent need to redefine "dwelling unit" in this proposed ordinance. Apparently, staff's contention that all unlisted uses are therefore prohibited runs into trouble when trying to reconcile that claim with the legal existence of all those types of property ownership newly enumerated in paragraph B of the new definition of dwelling unit, including time shares, corporate ownership, private residence clubs, vacation home partnerships, etc., none of which were previously listed as "approved", yet none of which are illegal, so they now have to be exempted from the definition of "dwelling unit" in order to keep this ban from making them illegal (and probably invalidating the ordinance). Staff's contention that renting a house for 30 days is different in some meaningful way from renting that same house for 29 days is also questionable. After all, is changing the names of the occupants really changing the use? If the same number of people live there, does it matter from an intensity of use standpoint whether they stay 29 days or 30days?

Since Paragraph five is demonstrably false, so is **Paragraph six**, since this ordinance is therefore not really "declaratory of existing law", even though it may be declaratory of existing wishes or intentions.

Paragraph seven is arbitrary and optional. Since none of the listed deleterious effects have been substantiated, the Board of Supervisors could equally well determine that "the above noted deleterious effects of transient commercial occupancies of dwelling units don't really exist, or that they are insignificant, or that they could be ameliorated in some other way.

In short, the cited findings are totally inadequate to justify a ban of short term rentals in all agricultural and residential zoning districts in the county, and the ordinance should be rejected.

There are also some good policy reasons for rejecting it.

For good reasons, both the General Plan and the Zoning ordinance allow some commercial uses in each and every one of the agricultural and residential zoning districts, both with and without a use permit. Those provisions could be used to justify approval of short term rentals, rather than a ban.

The hysteria regarding vacation rentals is misplaced. Most such rentals cause no problems. The proof of that lies in the fact that staff must search internet rental listings in order to find most "offenders", rather than relying on complaints from neighbors. My next door neighbors (weekenders) have rented their second home on occasion, sometimes to very distinguished guests. One such visitor is a California Supreme Court Justice. Would you like to explain to him and his family why you think their visits should be prohibited? I would like to be there when you do.

Renting a vacation house or condo rather than staying in a hotel provides a unique and enjoyable vacation experience, often at lower cost, and with many other benefits, especially for large families, including more direct immersion in the local culture. Why do we want to deny visitors to the Napa Valley this experience? Some vacation rentals would improve the visitor experience, and might help keep us competitive with other vacation destinations that offer such accommodations (nearly all of them).

Vacation rentals, if managed properly, would have no harmful effects, and could generate some much needed transient occupancy tax.

Federal tax laws create the need to rent out second homes periodically in order to gain valuable tax deductions (I think it might be 14 days per year in order to be able to deduct some of the costs). The proposed ban on short term rentals would prohibit that.

Renting second homes on a short term basis poses no threat to the long term rental housing stock, as these homes are never available for long term rental anyway.

The proposed ban would make it incrementally harder for working or retired Napa families to hold onto their homes. During tough times, being able to rent out a guest cottage to vacationers on occasional weekends, when it is not occupied by non-paying guests, might make the difference between being able to pay the mortgage and taxes or having to sell and move to a cheaper area. The Planning Commission should not accept the argument that only a few people might fall into this category and that we can therefore ignore the economic impact, because in the aggregate, Napa County's land use restrictions have had a significant cumulative impact, and this ban will add to that cumulative impact.

The cumulative economic impact of land use restrictions has been that over the past few decades, Napa County has become a playground for the wealthy. Many normal working (or

retired) families can no longer afford to live here, and that is at least partially due to the housing scarcities and the highly restricted opportunities to generate rental income created by tight land use restrictions. My own little rural neighborhood of eight houses served by a common driveway from Dry Creek Road is evidence of this trend. When I arrived, all the homes were occupied by their owners as their primary residences. Over the past two decades, four of the eight homes have changed hands, and in EVERY CASE the new owners have been weekenders. My neighborhood, and probably much of the county, is now largely comprised of second homes for wealthy people whose primary residence is elsewhere. Making it impossible to generate some rental income to help pay the mortgage, insurance, and taxes can only exacerbate this trend.

For these reasons, I hope you will allow some short term rentals in Napa County.

Sincerely,

George Bachich
4271 Dry creek Road
Napa, CA 94558

Robert & Lucy White

CDPC
MEETING

November 13, 2009

NOV 18 2009

Napa County Planning Commission
1195 Third Street
Suite 305
Napa, CA 94558

AGENDA ITEM
NO. 9B

Comments RE: Nov 18 Agenda Item 9B, Vacation Rental Ordinance

Dear Commissioners:

You have received a letter from George Bachich which has covered many of the errors and shortcomings of the proposed Vacation Rental Ordinance [VRO] "... PROHIBITING TRANSIENT COMMERCIAL OCCUPANCIES OF DWELLING UNITS..." George Bachich is a great warrior but he is not a lone soldier.

The Ordinance you are proposing to the Board of Supervisors is yet another infringement on the rights of property owners. The obsession that Agricultural Use should exclude nearly any other use, is contrary to the cultural ambience of Napa Valley, and is being carried to a very destructive level - harming this community for years to come. Napa Valley has a well established agricultural base which can be complemented by uses, such as transient uses - occupancies of dwelling units, weddings, events...

As in many communities, such as Paris, Lake Tahoe, Sonoma, Bodega Bay, and Hawaii, renting dwellings is a successful alternative for lodging, most often for families. Sonoma County, which is one of our main competitors in the wine industry, is thriving from "renting dwellings." Nearly all rentals are second and/or unoccupied homes which are handled through property management companies, they bring visitors into areas, which then bring revenue to local businesses - retail, wine, restaurants, etc. These are not dwellings which would otherwise be rentals for the local populace. Most people are very respectful of property and well behaved, they travel to Experience the local cultures.

In these times people who might otherwise simply leave their second homes vacant might consider the option of renting them out to supplement their incomes, it could mean the difference of their being able to keep their dwellings or not. It could also stimulate real estate, with buyers knowing they could derive some income from their investment.

Napa is a tourist destination, - yes, second only to Disneyland in California. It has only achieved its greatness as a leader in the wine industry because of the secondary industries, most importantly Tourism - with a capital T. Without tourists the Napa wine businesses will not survive.

The technology of wine production and distribution around the world threatens the position of Napa Valley's wine industry. Napa must market the whole ambience of the Valley before it is too late. If Napa gets behind the curve it will cost millions of dollars, and years to meet competition, let alone beat it.

Prime tourist areas around the world have vacation rentals, an extremely Low Impact resource, which helps attract visitors and stimulates local economies. It Protects the local culture in a much more Sustainable way than do hotels, using existing structures as welcoming platforms for visitors.

3906 Silverado Trail / Calistoga, CA 94515 / 707 942 2292
Fax 707 942 0573 / lucy@wwwwhite.com / bob@wwwwhite.com

Robert & Lucy White

I would hope that you would be visionary, and want to create a great future for Napa Valley. Please reconsider your direction on this ordinance and property rights, for the benefit of Napa County and its future.

A broader perspective:

CNN.com has an article, Hong Kong: Welcome to the wine country? "When you think of a winery, you probably imagine the bucolic Napa Valley or the dangling vineyard grapes in French wine country... cfbf.com - California Farm Bureau Federation, article, Recession forces farmer and wine marketer to adjust, "...Andy Hoxsey of Napa Wine Co..If the wineries want to keep us in business as growers in this state, they are going to have to stop being so short sighted."

The value of dwelling rentals, aside from being environmentally responsible, is that they retain the ambience of the valley and agricultural land more than any other lodging, it is also a very current trend for many reasons. Napa County needs realize the intrinsic value in dwelling rentals.

Sincerely,

Lucy White

Gitelman, Hillary

CDPC
MEETING

From: Gitelman, Hillary
Sent: Friday, November 13, 2009 8:40 AM
To: 'Robert Morey'
Subject: RE: [NVLSA] Vacation Rental Ordinance at PC November 18

NOV 18 2009
 AGENDA ITEM
 NO. 9B

Thanks for these comments, Robert. I'll make sure the Commission gets a copy of your email.

Hillary

From: Robert Morey [mailto:robert.morey@worldnet.att.net]
Sent: Thursday, November 12, 2009 11:37 PM
To: Gitelman, Hillary
Subject: FW: [NVLSA] Vacation Rental Ordinance at PC November 18

Hello Ms. Gitelman,

I've been on the periphery of this discussion and must say that it sounds to me that it's a complete waste of time of the BOS' time. Although I consider myself a free thinker, I must say that Mr. Bachich has made perfectly reasonable comments about your "proposal" and I am surprised that this is still being pursued. Personally, I don't care to get involved too deeply in the politics and the drama but, in the end, I do want to know who on the BOS votes in favor of something like this. Working with various people who want their jobs, I can assure you that this issue, along with others such as the ban on wood burning fireplaces and, overall, crime in the Napa Valley, will be issues in the next re-election campaign. Basically, I just want to say that I personally think that it is ridiculous that the county is revisiting the aforementioned rules. I would truly hope that the County has more pressing issues than this thinly-disguised "clarification."

Kind regards,

Robert



Robert J. Morey
 E: robert.morey@att.net
 E2: robert@moreycellars.com
 O: 707-226-2348
 C: 707-225-4829
 F: 707-226-6249

-----Original Message-----

From: members-bounces@list.landstewards.org [mailto:members-bounces@list.landstewards.org] **On Behalf Of** George Bachich
Sent: Thursday, November 12, 2009 4:15 PM
To: Gitelman, Hillary
Cc: NVLSA member list
Subject: Re: [NVLSA] Vacation Rental Ordinance at PC November 18

Hillary:

No response is required. However, please see that the Planning Commission gets the attached letter regarding Agenda Item 9B for November 18.

Thanks.

11/13/2009

CDPC
MEETING

NOV 18 2009
AGENDA ITEM
NO. 9B

Gitelman, Hillary

From: Gitelman, Hillary
Sent: Monday, November 16, 2009 8:08 AM
To: 'KENSPLANEONE@aol.com'
Subject: RE: vacation rentals

Ken & Janet: Thanks for your comments. They will be forwarded to the Planning Commission for their consideration. Hillary

From: KENSPLANEONE@aol.com [mailto:KENSPLANEONE@aol.com]
Sent: Friday, November 13, 2009 6:57 PM
To: Gitelman, Hillary
Subject: vacation rentals

As a life long resident of Napa, I fully agree with Mr George Bachich regarding the vacation rentals. I highly recommend you follow the thoughts as presented by Mr. George Bachich. I would most certainly like to attend the meeting and provide support to Mr. Bachich, however I will be out of town. You should really pay attention to what Mr Bachich has to offer. He is one hundred percent correct in his thoughts. thank you Ken Van Gorder and Janet Van Gorder 707 252 1234

11/16/2009

Gitelman, HillaryCDPC
MEETING

From: Gitelman, Hillary
Sent: Monday, November 16, 2009 3:07 PM
To: 'Gridley, Paul M.'
Subject: RE: Comments on vacation rental regulation

NOV 18 2009

AGENDA ITEM
NO. 9B

Paul: Thanks for these comments. I will give copies to the Planning Commissioners for their consideration. HG

From: Gridley, Paul M. [mailto:Paul.Gridley@Anheuser-Busch.com]
Sent: Monday, November 16, 2009 2:49 PM
To: Gitelman, Hillary
Subject: Comments on vacation rental regulation

Ms. Gitelman:

I have watched the e-mail war between you and George Bachich. For myself, I'd like to provide the following comments:

House swapping should be exempt from any regulation. I've house swapped for years and it hasn't caused any disruption for my neighbors. I don't allow anyone into my home who hasn't been carefully screened by the house swap broker I use. Unlike the illegal B&B's that are around, I don't make any money from house swapping. Also, like most regulations, this one could easily be taken too far. Am I allowed to have my 88 year old mother visit me for a month without some kind of permit? What about my foreign exchange students? I don't like the government telling me what I can do inside my own home and I think you'll be hard pressed to find any self-respecting police officer who would enforce this kind of thing.

Thank you very much.

Paul Gridley
4601 Dry Creek Road
Napa 94558

Anheuser-Busch InBev Email Disclaimer www.ab-inbev.com

11/16/2009



Headquarters: 131 B Stony Circle, Suite # 1700
Santa Rosa, CA 95401
(707) 542-1579 • Fax: (707) 542-1008

Service Center: 2407 California Blvd., Suite #1
Napa, CA 94558
(707) 255-1040 • Fax: (707) 252-5330

November 16, 2009

Napa County Planning Commission
C/o John McDowell
1195 Third Street, Suite 210
Napa, CA 94559

CDPC
MEETING

NOV 18 2009

NBA ITEM
9/13

Re: Vacation Rental Ordinance Revision

Napa Planning Commission:

The Napa Chapter of the North Bay Association of REALTORS® would like to thank county staff for allowing our organization to participate during the stakeholder process. We have reviewed the proposed ordinance revision, and have provided input during the development process. Our membership remains divided on the issue of restricting the use of vacation rentals, and has made the decision to not provide further comment at this time.

We appreciate the opportunity to work collaboratively with the County, and stand ready to assist in the future.

Sincerely,

Carl Mianecke
Cynthia Turnbow
Napa Government Relations Co-Chairs
Napa Chapter
North Bay Association of REALTORS®

MEMBER:



NATIONAL ASSOCIATION OF
REALTORS®
CALIFORNIA ASSOCIATION OF
REALTORS®

EQUAL HOUSING OPPORTUNITY

CDPC
MEETING

NOV 18 2009

AGENDA ITEM
NO. 9-B

-----Original Message-----

From: McDowell, John
Sent: Tuesday, November 17, 2009 1:16 PM
To: Gray, Melissa
Subject: FW: VACATION RENTALS

For the vacation rental item.

-----Original Message-----

From: Martha Blackard [mailto:martisings@hughes.net]
Sent: Tuesday, November 17, 2009 12:37 PM
To: McDowell, John
Cc: Gitelman, Hillary
Subject: VACATION RENTALS

I am writing to urge you to abandon this ill thought out measure to be discussed at your November 18. 2009 meeting.. Such restrictions, in my opinion, are contrary to our existing general plan which does allow certain commercial activity within agricultural zones. Moreover, this proposal is so invasive on the rights of homeowners! What possible detriment could result from someone offering visitors a few days stay in our beautiful valley? It seems that some county officials are going overboard on punitive laws which take away the rights of citizens. Please turn away from this restriction and try to keep some measure of common sense in our government.

Thank You,
Martha Blackard
1900 Milton Rd.
Napa, CA 94558



DICKENSON, PEATMAN & FOGARTY
A Professional Law Corporation

CDPC
MEETING

NOV 18 2009

AGENDA ITEM
NO. 9B

809 Coombs Street
Napa, CA 94559-2977
Tel: 707 252 7122
Fax: 707 255 6876

www.dpf-law.com

November 17, 2009

VIA EMAIL AND HAND DELIVERY

Charles H. Dickenson
Paul G. Carey
James W. Terry
Thomas F. Carey
Kevin W. Teague
Michael J. Holman
David A. Diamond
J. Scott Gerien
Brandon R. Blevans
Kevin D. DeBorde
David Balter
W. Scott Thomas
J. Robert Anglin, Jr.
Gregory J. Walsh
Megan Ferrigan Healy
Julia M. Walk
John N. Heffner
Carol Kingery Ritter
Erik W. Lawrence
Daniel Peralta
Aleson R. Kent
Susan L. Schwegman

Mr. Bob Fiddaman, Chairperson
Napa County Conservation, Development and Planning Commission
1195 Third Street, Room 210
Napa, CA 94559

Re: Vacation Rental Ordinance

Dear Chairperson Fiddaman and Honorable Commissioners:

Thank you for allowing us the opportunity to comment on the proposed Vacation Rental Ordinance. Our comments below are based on input from a number of clients with whom we have shared the proposed ordinance, as well as our Firm's expertise in real property, business and estate planning.

For the reasons stated below, we are proposing adding language to the ordinance to clarify that owning real property as a Tenancy in Common is not prohibited, provided that, in the case of agriculturally and residentially zoned properties, the use of the property is not "commercial" in nature (as that term is defined in the Napa County Code) and the intensity of use does not exceed what currently is permitted under existing law.

A. Definition of Tenancy in Common and Prevalence of Same

A Tenancy in Common is legally defined as common, joint-ownership of real property where each "co-tenant" has joint rights of ownership, occupation, use and all other rights of an owner. Real property can be held in other "forms" which include Community Property, Joint Tenancy with Rights of Survivorship or, of course, individually. Each of these forms has a statutory framework at the state level that defines the owner's rights in the real property.

A Tenancy in Common is a very typical structure where more than one person owns real property and where the owners are not necessarily related by marriage. Indeed, a majority of our clients that own property among a group of owners own the property as Tenants in Common with their co-owners.

Of Counsel
Francis J. Collin, Jr.
C. Richard Lemon
Richard P. Mendelson
David W. Meyers
Cathy A. Roche

Retired
Howard G. Dickenson
Joseph G. Peatman
Walter J. Fogarty, Jr.
(1939-2007)

Historically, the term “Tenancy in Common” does not refer to a structure where multiple owners “buy” into a vacation home or resort. Rather, the structure is more often used for long-standing and legitimate reasons. These reasons include:

1. High Price and Barriers to Entry. The Napa Valley and surrounding area have some of the most expensive properties in the State of California, if not the country. Raw land can run \$75,000 per acre and fully planted agricultural lands can run \$250,000 to \$400,000 per acre. It is, in fact, uncommon to find a single individual that can afford to purchase property at this price. Many people involved in the grape growing or wine business often join with other “partners” to purchase property. Because of this high priced “barrier to entry” many properties are held by co-owners and this co-ownership is usually structured as a Tenancy in Common. It is safe to assume that there are more “co-owners” of agricultural lands in Napa than anywhere else in the country. This tendency is magnified by multi-generational family owners and the fact that grape growing and the wine business require multi-faceted talents; for instance you will often find a winemaker joining a viticulturalist, financier or a group of friends to purchase a piece of vineyard land. Each brings his/her talents to co-ownership. Indeed, many well-known wine estates in Napa were started in such a manner: Merryvale, Silver Oak, Clos du Val and even Opus (a partnership between a Napa and French team). In regulating “ownership” structures the County must tread softly and with respect for the way that business is historically promoted.

2. Financing Incentives. A bank or other commercial lender will typically secure its debt by real property owned by the borrower(s). Where there is more than one borrower and where the collateral for the loan is real property, the bank will typically require that all owners commit to being “jointly and severally” obligated to repay the loan – which means that each owner is fully (100%) responsible for repaying every dollar. For instance, if one co-owner only owns 10% of the property; the bank still requires such owner to be 100% responsible for the loan. The same is true of the 90% owner; he or she is also responsible for 100% of the loan. The “form” of ownership most often required by a commercial lender under such circumstances is a Tenancy in Common. There are a variety of reasons for this but the bottom line is that it is a reliable and transparent way to take title – there are no “entities,” the recorded “title” to the property will exactly match the loan documents and no “side” guarantees will be needed to ensure performance by the borrowers. Indeed, a commercial bank will often require co-owners to transfer a property into the Tenancy in Common form of ownership prior to lending money secured by the property. Thus, not an insignificant number of properties in Napa are owned in this form as an accommodation to a commercial lender.

3. Capital Gains Tax. Many people are familiar with the term “1031 Exchange” or “Like Kind Exchange.” In short, the IRS will allow an owner of property to defer (read “not pay until a later date”) any capital gain tax that would otherwise be due upon a sale of property if the owner reinvests the proceeds in another “like kind” property. For technical reasons most attorneys, accountants and tax planning

professional will advise co-owners to purchase real property in a Tenancy in Common in order to preserve the right to later engage in a 1031 exchange.

4. Estate Planning. There are numerous estate planning reasons families transfer real property into a tenancy in common. These include the ability to “bring in” the younger generation into ownership through transfers of the property by gift during the lifetime of the original owners and to orderly plan for the transfer of the property at death.

B. Vacation Ownership and Time-share Act of 2004

The California Vacation Ownership and Time-share Act of 2004 (California Business and Professions sections 11210, et al., the “Act,” relevant provisions attached as Exhibit A) was enacted to ensure that the purchasers of interests in vacation ownership and time-share plans received full and fair disclosure as to what they are buying. In order to capture a wide range of vacation ownership and time-share plans, and therefore ensure protection to a broad range of consumers, the Act contains an expansive definition of “time-share plan.”

The Act defines “time-share plan” as follows:

“Time-share plan” means *any* arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership agreement, sale, lease, deed, license, right to use agreement, *or by any other means*, whereby a purchaser, in exchange for consideration, receives ownership rights in or the right to use accommodations *for a period of time less than a full year during any given year*, on a recurring basis for more than one year, but not necessarily for consecutive years (Cal. Bus. & Prof. Code § 11212 (z), emphasis added).

The proposed ordinance references the above state law definition insofar as it excludes from the County’s definition of “dwelling unit” “timeshare or vacation ownership arrangements” as defined in the Act.¹ Although we agree that the state law definition is a proper starting point, without modification, the proposed ordinance could have the unintended effect of prohibiting commonplace ownership arrangements that, while meeting the state law definition of a time-share plan, do not violate the County’s prohibition of commercial uses on noncommercial (i.e. agricultural and residential) land. For example, a Tenancy in Common as described in Section A above involving five owners of a vineyard who share the use of a single family dwelling on the property would fall under the definition of “time share use” because each owner’s “right to use” the dwelling is for “less than a full year.” That owner would be in violation of the proposed

¹ As the Act actually does not contain a definition of “timeshare or vacation ownership arrangements” we recommend substituting the correct defined term, “time-share plan,” in the proposed ordinance.

ordinance because his use of the dwelling, though not commercial in nature, falls outside the definition of "dwelling unit" under revised Napa County Code section 18.08.170B.

C. Prohibition of Commercial Uses in Noncommercial Zoning Districts

To avoid the unintentional regulation of such commonplace arrangements, we propose modifying the proposed ordinance to clarify that only dwelling units that are used for "commercial uses" as defined under the existing Napa County Code are prohibited. The Napa County Code defines "commercial use" as follows:

"Commercial use" means a use that involves the exchange of cash, goods or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form, or the right to occupy space over a period of time. It does not include the growing and subsequent sale of crops or livestock, the manufacturing, assembly, or processing and subsequent sale at wholesale of a product, or the operation of a telecommunication facility. (Napa County Code §18.08.170.)

By expressly restricting the ordinance to those uses that involve the provision of "cash, goods or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for ... lodging ... or the right to occupy space over a period of time," the County would avoid the situation whereby an owner of real property, who does not pay rent or any other type of fee to the other owners of the property for the right to occupy a dwelling on the property, is violating the law because he or she only spends a few weeks living there.

D. Proposed Additional Language for Ordinance

In order to clarify that the ordinance is not intended to prohibit a person owning real property as a Tenant in Common from occupying a dwelling unit or units thereon for a period of less than 30 days, we propose the changes (highlighted in red) set forth in Exhibit B to this letter.

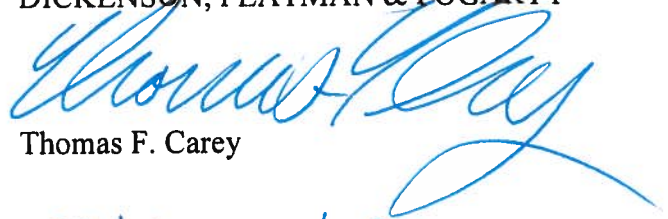
In addition, we have made some changes in the "safe harbor" provision for Tenancies in Common consisting of 12 or fewer fee owners, which changes are set forth (highlighted in blue) in Exhibit B. The rationale for including the safe harbor provision is to provide that where current agricultural and residential zoning regulations allow the rental of dwelling units on a 30 day or longer basis (thereby allowing 12 different occupants in a given year and in the case of a parcel zoned Agricultural Watershed with a main dwelling and Second Unit, 24 occupants), Tenancies in Common consisting of the same number of owners should be permitted outright, provided that no commercial uses occur on the subject parcel.

Chairperson Bob Fiddaman
November 17, 2009
Page 5

Thank you for your consideration.

Sincerely,

DICKENSON, PEATMAN & FOGARTY



Thomas F. Carey



Michael J. Holman

MJH/TFC:bab

EXHIBIT A

§ 11212(z)

“Time-share plan’ means any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership agreement, sale, lease, deed, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives ownership rights in or the right to use accommodations for a period of time less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years.

A time-share plan may be either of the following:

- (1) A "single site time-share plan," which is the right to use accommodations at a single time-share property.
- (2) A "multisite time-share plan," which includes either of the following:
 - (A) A "specific time-share interest," which is the right to use accommodations at a specific time-share property, together with use rights in accommodations at one or more other component sites created by or acquired through the time-share plan's reservation system.
 - (B) A "nonspecific time-share interest," which is the right to use accommodations at more than one component site created by or acquired through the time-share plan's reservation system, but including no specific right to use any particular accommodations.” (Cal. Bus. & Prof. Code § 11212(z).)

§ 11211

“The purposes of this chapter [the Vacation Ownership and Time-share Act] are to do all of the following:

- (a) **Provide full and fair disclosure to the purchasers and prospective purchasers of time-share plans.**
- (b) **Require certain time-share plans offered for sale or created and existing in this state to be subject to the provisions of this chapter.**
- (c) **Recognize that the tourism industry in this state is a vital part of the state's economy; that the sale, promotion, and use of time-share plans is an emerging, distinct segment of the tourism industry; that this segment of the tourism industry continues to grow, both in volume of sales and in complexity and variety of product structures; and that a uniform and consistent method of regulation is necessary in order to safeguard California's tourism industry and the state's economic well-being.**
- (d) **In order to protect the quality of California time-share plans and the consumers who purchase them, it is the intent of the Legislature that this chapter be interpreted broadly in order to encompass all forms of time-share plans with a duration of at least three years that are created with respect to accommodations that are located in the state or that are offered for sale in the state, including, but not limited to, condominiums, cooperatives, vacation clubs, and multisite vacation plans... (Cal. Bus. & Prof. Code § 11211.)**

EXHIBIT B

SECTION 1.

Section 18.08.260 (Dwelling unit) of Chapter 18.08

(Definitions) of the Napa County Code to be amended to read in full as follows:

18.08.260 Dwelling unit.

A. “Dwelling unit” means a room or connected rooms constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease ~~on a monthly or longer basis~~ for a period of 30 days or longer, physically separated from other rooms or dwelling units in the same structure, and containing independent cooking and sleeping facilities.

B. “Dwelling unit” does not include ~~the commercial use of a structure under a time share plan~~ as defined in Chapter 2 (section 11212) of Part 2 of Division 4 of the Business and Professions Code, including a dwelling unit owned by a corporation or club, including arrangements commonly referred to as corporate club memberships, private residence clubs, vacation home partnerships, vacation clubs, destination clubs, or condohotels, and used by individual shareholders or members by advance reservation or arrangement for a period of less than 30 consecutive days.

Deleted: timeshare or vacation ownership arrangements

Deleted: commencing with

Deleted: 0

Deleted: , and also does not include arrangements involving real property owned by more than twelve fee owners where any fee owner is entitled to exclusive occupancy of the dwelling unit or units for a period of less than 30 days in a given calendar year.

SECTION 2.

A new Section 18.104.410 (Transient commercial occupancies of dwelling units prohibited) is added to Chapter 18.104 (Additional Zoning District Regulations) of the Napa County Code to read in full as follows:

18.104.410 Transient commercial occupancies of dwelling units prohibited.

A. Transient commercial occupancies of dwelling units are prohibited in all residential and agricultural zoning districts within the county.

B. Definitions. Unless otherwise defined in Chapter 18.08, the following definitions shall apply to this section:

1. “Commercial use” shall have the same meaning as commercial use in Section 18.08.170.

2. “Occupancies” means the use or possession or the right to the use or possession of real property or a portion thereof, including any dwelling unit, single family dwelling unit, guest cottage, or second unit, for dwelling, lodging or sleeping purposes. The right to use or possession includes any nonrefundable deposit or guaranteed no-show fee paid by a person, whether or not the person making the deposit actually exercises the right to occupancy by using or possessing any property or portion thereof.

3. “Transient commercial occupancies of dwelling units” means any commercial use of a dwelling unit for a period of time less than thirty consecutive days or arrangements involving real property owned by more than twelve fee owners (or more than twenty four owners in the case of a parcel zoned Agricultural Watershed containing a legal Second Unit) where a given fee owner is entitled to exclusive occupancy of the

dwelling unit or units for a period of less than 30 days in a given calendar year. It does not include occupancies associated with farm labor camps, residential care facilities, family day care homes, legally permitted bed and breakfast establishments, hotels or motels.

C. Liability and Enforcement.

Deleted: D

1. Any property owner, or authorized agent thereof, who uses or allows, or who knowingly arranges or negotiates for the use of, transient commercial occupancies of dwelling units in violation of this section shall be guilty of either an infraction or a misdemeanor.

2. Any property owner, or authorized agent thereof, who prints, publishes, advertises or disseminates in any way, or causes to be printed, published, advertised or disseminated in any way, any notice or advertisement of the availability of transient commercial occupancies of dwelling units as prohibited by this section, shall be guilty of either an infraction or a misdemeanor.

3. In addition to the penalties set forth in subsections D.1. and .2 above, violators of this section may be subject to a public nuisance abatement action brought under the provisions of Chapter 1.20 and the civil penalty provisions of up to \$1,000 per violation per day as provided in Section 1.20.155.B, and subject to an unfair competition action brought pursuant to Business and Professions Code Section 17200 et.seq and the up to \$2,500 per violation civil penalty allowed thereunder.

4. Any person who uses, or allows the use of transient commercial occupancies of dwelling units prohibited by this section shall also be liable for the transient occupancy tax that would have been owed under Chapter 3.32 had the occupancy use been legal, including the penalty and interest provisions of Section 3.32.080.

5. The civil remedies and penalties provided by this subsection are cumulative to each other.

Gitelman, Hillary

From: Gitelman, Hillary
Sent: Tuesday, November 17, 2009 11:36 AM
To: 'Fred Chopping'
Subject: RE: Proposed Dwelling Units Ordinance - Comments

CDPC
MEETING

NOV 18 2009

AGENDA ITEM
NO. 913

Thanks, Fred. I'll make sure the Commission gets a copy of your comments.

Hillary

From: Fred Chopping [mailto:sgs1frc@sbcglobal.net]
Sent: Tuesday, November 17, 2009 10:42 AM
To: Gitelman, Hillary
Subject: Proposed Dwelling Units Ordinance - Comments

Good Morning Hillary,

Just some thoughts for your consideration on this matter.

Our family just returned from a very enjoyable weekend stay in Walnut Grove, California. As usual when we go there we stay at an old ranch house on 360 acres of farm land that is very actively farmed.

Some guests have brought motor homes over the years but this year all guests including our family stayed in the main farm house while others in our group stayed at another farm house a few miles away. It too is situated on some 100 acres of farm land and actively farmed.

The farmers are 3rd generation farmers and love to have out of town visitors and guests and wouldn't think of suggesting they stay at a motel in Lodi.

All our meals were at local restaurants and to my knowledge we didn't put a burden on any local governmental agencies. In fact, I'm sure the local community was glad to have the added revenue from the 15-20 of us and we certainly enjoyed their local hospitality.

I mention this because sharing a home or sharing a rural property with guests is an important part of our culture and traditionally farmers have been very open to this concept.

Families that come here and stay for a day or a week and enjoy a rural setting are far more likely to have learned something about farming, our wine, and the pride we take in our County than if they are cooped up in an over priced motel with a two night minimum.

I can see where there may be a fine line between "commercial use" and just being considerate and open to fun and family as is still found in other farming communities but if we are to error as a government, I would prefer we error on the side that makes our community more farmer friendly than cold and corporate. We need to maintain some flexibility and appreciation for those who invest in our community and are willing to provide enjoyable experiences to others staying here be it one hour, one day, or a week or two.

It seems that when a home is open to guests there is more of an opportunity for quality time while sitting at the dinning room table over coffee, cocktails, or wine. Wines can be similar in many ways but the

11/17/2009

experience of having a home to spend the night can certainly add favorably to the overall visitor experience.

I think it is a real stretch to say this ordinance will "ameliorate" any "deleterious" effects associated with one sharing their home or dwellings with others.

I think you would find that very little agricultural work actually takes place on weekends and even less takes place at night on weekends. From my own experiences, the vineyards are usually very quiet at the times when guests are most likely to be in town so I don't believe their presence would negatively affect any farming activities throughout most of the year. If you want to prevent visitors during the harvest season, well, that might be a justifiable but that might apply to all visitors and not just those staying in rural homes or dwelling.

I will conclude with my support of the thoughts contained in a letter to you and the Board by George Bachich on this subject.

Respectfully,

Fred Chopping

11/17/2009

To: Napa County Planning Commission Staff

From: Meadowood Lane Neighborhood Group

Subj: Draft ordinance clarifying restrictions on the use of residences

The Napa County staff has requested input from interested stakeholders on the draft ordinance clarifying restrictions on the use of residences. This letter is from the residents of Meadowood Lane in St. Helena. In 2007, Ms. Nina Talcott sold her single family residence at 512 Meadowood Lane to Quintess, LRW (quintess.com), a self-described luxury destination club, with a “portfolio of 80+ homes and experiences in 40+ destinations around the world with an average value of over \$4.25 million each.” The Meadowood Quintess property opened for business in December, 2007.

The reality is that we now have a resort hotel in the middle of a single family home neighborhood, a situation that none of us imagined possible when we bought our homes. It is one thing to have neighbors that have large weekend parties on occasion. It is quite another to have a new group of ten best friends having the “week of their lives in the Napa Valley” every week. A related downside is the problem that affluent vacationers attract crime. The Quintess property had a break in robbery last week, the first we’ve had in the neighborhood in years – not altogether surprising when the Quintess membership fees run as high as \$895,000, with annual dues of \$64,500.

Members of our neighborhood group have been in contact with the Planning Commission for almost two years questioning how this was possible given Napa County’s regulations that prohibit the short term rental (less than 30 days) of residences. If the illegality of the Quintess operation on Meadowood Lane was not clear under the current regulations, Policy AG/LU-33 underscores the County’s commitment not to allow single family residences to become time-shares. The neighbors on Meadowood Lane wholeheartedly support the proposed clarification of the restrictions on the use of residences prohibiting single family residences from becoming time-shares, resorts, hotels or similar tourist-type accommodations. We also share the view that the language in the ordinance needs to be broad enough to encompass all of the various legal structures of the time-share operations, and believe that the proposed new definition in the draft ordinance of “transient commercial residential use” should accomplish that objective.

Please contact Larry Maguire at lsmaquire@farniente.com if you have any questions.

Thank you for your consideration.

Michelle Cheatham (520 Meadowood Lane)
Margaret Duckhorn (516 Meadowood Lane)
Karen and Larry Maguire (540 Meadowood Lane)
Marden Plant Davis (522 Meadowood Lane)
Lois and Bill Swanson (518 Meadowood Lane)

Gitelman, Hillary

From: Gitelman, Hillary
Sent: Wednesday, November 18, 2009 8:24 AM
To: 'PLAYADO@aol.com'
Subject: RE: Proposed Rental Ban of Homes for Commercial Purposes

John:

Thanks for your comment. I will make sure the Planning Commission receives a copy.

Hillary

From: PLAYADO@aol.com [mailto:PLAYADO@aol.com]
Sent: Tuesday, November 17, 2009 9:06 PM
To: Gitelman, Hillary
Subject: Proposed Rental Ban of Homes for Commercial Purposes

To Whom It May Concern:

There is no reason for you to be interfering with the property rights of owners, especially when there is no evidence of misuse or intrusion into the privacy of others. If there is any problem, it should be dealt with as an issue and not a broad based ban. This should also get additional publicity within the County in the event you intend to pursue this matter further.

In short, stay out of our lives-this country was founded on limited government and we all have our right to protect our lives, liberty and property.

Sincerely,
John M. Kelly

3434 White Sulphur Springs Road
St. Helena, CA 94574-0696

CDPC
MEETING

NOV 18 2009

AGENDA ITEM
NO. 9-B

11/18/2009

Robert & Lucy White

**CDPC
MEETING
NOV 18 2009
AGENDA ITEM
NO. 9B**

November 18, 2009

Napa County Planning Commission
1195 Third Street
Suite 305
Napa, CA 94558

Comments RE: Nov 18 Agenda Item 9B, Vacation Rental Ordinance

Dear Commissioners:

You have received a letter from George Bachich which has covered many of the errors and shortcomings of the proposed Vacation Rental Ordinance [VRO] "... PROHIBITING TRANSIENT COMMERCIAL OCCUPANCIES OF DWELLING UNITS..." George Bachich is a great warrior but he is not a lone soldier.

The Ordinance you are proposing to the Board of Supervisors is yet another infringement on the rights of property owners. The obsession that Agricultural Use should exclude nearly any other use, is contrary to the cultural ambience of Napa Valley, and is being carried to a very destructive level - harming this community for years to come. Napa Valley has a well established agricultural base which can be complemented by uses, such as transient uses - occupancies of dwelling units, weddings, events...

As in many communities, such as Paris, Lake Tahoe, Sonoma, Bodega Bay, and Hawaii, renting dwellings is a successful alternative for lodging, most often for families. Sonoma County, which is one of our main competitors in the wine industry, is thriving from "renting dwellings." Nearly all rentals are second and/or unoccupied homes which are handled through property management companies, they bring visitors into areas, which then bring revenue to local businesses – retail, wine, restaurants, etc. These are not dwellings which would otherwise be rentals for the local populace. Most people are very respectful of property and well behaved, they travel to Experience the local cultures.

In these times people who might otherwise simply leave their second homes vacant might consider the option of renting them out to supplement their incomes, it could mean the difference of their being able to keep their dwellings or not. It could also stimulate real estate, with buyers knowing they could derive some income from their investment.

Napa is a tourist destination, - yes, second only to Disneyland in California. It has only achieved its greatness as a leader in the wine industry because of the secondary industries, most importantly tourism. Without tourists the Napa wine businesses will not survive.

The technology of wine production and distribution around the world threatens the position of Napa Valley's wine industry. Napa must market the whole ambience of the Valley before it is too late. If Napa gets behind the curve it will cost millions of dollars, and years to meet competition, let alone beat it.

The news media is filled with changes in the wine industry, from CNN's report that Hong Kong is making wine, to the California Farm Bureau Federation, article, Recession forces farmer and wine marketer to adjust, "...Andy Hoxsey of Napa Wine Co.. "I had grape buyers who wanted to renegotiate, which I can understand, and I had other buyers who rejected the crop in the field and I had to figure out something else to do with the fruit...If the wineries want to keep us in business as growers in this state, they are going to have to stop being so short sighted."

**3906 Silverado Trail / Calistoga, CA 94515 / 707 942 2292
Fax 707 942 0573 / lucy@wwwwhite.com / bob@wwwwhite.com**

Robert & Lucy White

Prime tourist areas around the world have vacation rentals, an extremely Low Impact resource, which helps attract visitors and stimulates local economies. It Protects the local culture in a much more Sustainable way than do hotels, using existing structures as welcoming platforms for visitors.

It is essential it is to realize the balance of maintaining Napa Valley as agricultural, and supporting the industry in a sustainable way for the future of Napa Valley. Those who live here and have perpetuated a real estate market with substantial parcel sizes, have a right and reason to be allowed to benefit from their investments. Please reconsider your direction on this ordinance and property rights, for the benefit of everyone.

The value of dwelling rentals, aside from being environmentally responsible, is that they retain the ambience of the valley and agricultural land more than any other lodging, it is also a very current trend for many reasons. Napa County needs realize the intrinsic value in dwelling rentals.

Sincerely,

Lucy White

3906 Silverado Trail / Calistoga, CA 94515 / 707 942 2292
Fax 707 942 0573 / lucy@wwwwhite.com / bob@wwwwhite.com

Robert & Lucy White

November 18, 2009

Napa County Planning Commission
1195 Third Street
Suite 305
Napa, CA 94558

**CDPC
MEETING
NOV 18 2009
AGENDA ITEM
NO. 9B**

Comments RE: Nov 18 Agenda Item 9B, Vacation Rental Ordinance

Dear Commissioners:

You have received a letter from George Bachich which has covered many of the errors and shortcomings of the proposed Vacation Rental Ordinance [VRO] "... PROHIBITING TRANSIENT COMMERCIAL OCCUPANCIES OF DWELLING UNITS..." George Bachich is a great warrior but he is not a lone soldier.

The Ordinance you are proposing to the Board of Supervisors is yet another infringement on the rights of property owners. The obsession that Agricultural Use should exclude nearly any other use, is contrary to the cultural ambience of Napa Valley, and is being carried to a very destructive level - harming this community for years to come. Napa Valley has a well established agricultural base which can be complemented by uses, such as transient uses - occupancies of dwelling units, weddings, events...

As in many communities, such as Paris, Lake Tahoe, Sonoma, Bodega Bay, and Hawaii, renting dwellings is a successful alternative for lodging, most often for families. Sonoma County, which is one of our main competitors in the wine industry, is thriving from "renting dwellings." Nearly all rentals are second and/or unoccupied homes which are handled through property management companies, they bring visitors into areas, which then bring revenue to local businesses - retail, wine, restaurants, etc. These are not dwellings which would otherwise be rentals for the local populace. Most people are very respectful of property and well behaved, they travel to Experience the local cultures.

In these times people who might otherwise simply leave their second homes vacant might consider the option of renting them out to supplement their incomes, it could mean the difference of their being able to keep their dwellings or not. It could also stimulate real estate, with buyers knowing they could derive some income from their investment.

Napa is a tourist destination, - yes, second only to Disneyland in California. It has only achieved its greatness as a leader in the wine industry because of the secondary industries, most importantly tourism. Without tourists the Napa wine businesses will not survive.

The technology of wine production and distribution around the world threatens the position of Napa Valley's wine industry. Napa must market the whole ambience of the Valley before it is too late. If Napa gets behind the curve it will cost millions of dollars, and years to meet competition, let alone beat it.

The news media is filled with changes in the wine industry, from CNN's report that Hong Kong is making wine, to the California Farm Bureau Federation, article, Recession forces farmer and wine marketer to adjust, "...Andy Hoxsey of Napa Wine Co.. "I had grape buyers who wanted to renegotiate, which I can understand, and I had other buyers who rejected the crop in the field and I had to figure out something else to do with the fruit...If the wineries want to keep us in business as growers in this state, they are going to have to stop being so short sighted."

**3906 Silverado Trail / Calistoga, CA 94515 / 707 942 2292
Fax 707 942 0573 / lucy@wwwwhite.com / bob@wwwwhite.com**

R o b e r t & L u c y W h i t e

Prime tourist areas around the world have vacation rentals, an extremely Low Impact resource, which helps attract visitors and stimulates local economies. It Protects the local culture in a much more Sustainable way than do hotels, using existing structures as welcoming platforms for visitors.

It is essential it is to realize the balance of maintaining Napa Valley as agricultural, and supporting the industry in a sustainable way for the future of Napa Valley. Those who live here and have perpetuated a real estate market with substantial parcel sizes, have a right and reason to be allowed to benefit from their investments. Please reconsider your direction on this ordinance and property rights, for the benefit of everyone.

The value of dwelling rentals, aside from being environmentally responsible, is that they retain the ambience of the valley and agricultural land more than any other lodging, it is also a very current trend for many reasons. Napa County needs realize the intrinsic value in dwelling rentals.

Sincerely,

Lucy White

3906 Silverado Trail / Calistoga, CA 94515 / 707 942 2292
Fax 707 942 0573 / lucy@wwwwhite.com / bob@wwwwhite.com