



**STATEMENT REGARDING PROPOSED AMENDMENTS TO
SHORT-TERM RENTAL LEGISLATION**

APRIL 23, 2015

The West of Twin Peaks Central Council, which represents twenty (20) homeowners' and neighborhood associations in western San Francisco, is disappointed with the amendments to the current Short-Term Rental Legislation that were proposed last week. They leave neighbors and their associations with no recourse except costly lawsuits. The proposed changes are purely cosmetic and the statement that they will somehow "protect the quality of life in our neighborhoods" is disingenuous.

Here are our main concerns:

- (1) There is no provision for any kind of prior notification to neighbors and/or neighborhood associations, or for review by the Planning Department, before anyone can do a Short-Term Rental (STR). There is a private right of action after the fact, but all that means is that homeowners and HOA's can spend their own money to file a lawsuit.
- (2) The proposed amendments do not alter the language in the legislation that STR's are "residential uses." Even if an association filed suit to enforce its CC&R's against what is clearly a commercial use, the violator could claim the statute itself provides that the use is residential.
- (3) Shortening the number of days to 120, and eliminating the distinction between "hosted" and "unhosted," does nothing to protect the neighborhoods. In fact, it actually allows 30 more "unhosted" days than does the present legislation.
- (4) Fourth, creating a new agency to enforce the law means nothing when the law gives Airbnb everything it wants. What is left to enforce? Complaining that your neighbors are renting their homes for 121 days? All it does is to add another bureaucratic layer. Moreover, since the law permits the Planning Department to redact the names and addresses of the "hosts" from the "public" registry, how will neighbors and neighborhood associations even be able to learn who is running an Airbnb?

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(5) Finally, the Commission staff made the following statement:

Hotels, Inns and Bed & Breakfast Uses in Residential Districts

“In addition to STR provisions in the Administrative Code, the Planning Code also allows small hotel uses in Residential Districts with Conditional Use Authorization. They are historically known as bed and breakfast inns or small hotels, and are limited to 5 rooms in all RH Districts except in RH-1 Districts, where the use is prohibited. Because the existing STR law doesn’t place any restrictions on the number of days for hosted rentals, the law essentially allows small hotels in RH districts as of right. Prior to the recent legislative change hotels with less [sic] than six rooms required a Conditional Use authorization, which is accompanied by notice to the neighbors and a discretionary public hearing. There is clearly a difference between renting out a room while on vacation versus a fulltime bed and breakfast; however, as the Department’s enforcement team has found, and subsequent studies have affirmed, a number of owners are using STR sites to circumvent traditional oversight processes and are effectively adding high-intensity hotel-like uses in a residential neighborhood.”

(Executive Summary, pp.15-16) (italics added for emphasis)

The staff report recognizes that some homeowners are turning an occasional use into a full-time business, without notice or hearing. Yet the report makes no recommendation how to address this issue. The Council does not want to stop “mom-and-pop” from renting out a spare room now and then, but people who seek to turn their homes into guest houses or bed-and-breakfasts on a regular basis, for up to 365 days a year (as is now allowed) or up to 120 days a year (as Mayor Lee’s and Supervisor Farrell’s proposed amendments would allow), should be required to give their neighbors and HOA’s notice and an opportunity to be heard. Otherwise, the City will effectively allow unlicensed bed-and-breakfasts to exist in residential neighborhoods

The Council supports legislation that is fair both to homeowners who want to make extra money, and to their neighbors who have relied on the City to protect their choice to live in a single-family residential neighborhood. We would support some form of conditional use permit, provided that it does not violate the CC&R’s of a particular neighborhood association. But the amendments that are currently proposed provide no protection to the thousands of our homeowners who have chosen to live in the western residential neighborhoods precisely because they are residential and not commercial.