

**From:** Danielle Wilson <[danielle.wilson@unitehere11.org](mailto:danielle.wilson@unitehere11.org)>  
**Sent:** Saturday, March 5, 2022 10:10 AM  
**To:** CityAttorney <[CityAttorney@longbeach.gov](mailto:CityAttorney@longbeach.gov)>  
**Subject:** Memo RE Item 13, CCC Modifications to Short-term Rental Ordinance

**-EXTERNAL-**

Dear Honorable City Attorney Parkin:

Please see the attached memo regarding Item 13 on Tuesday's agenda, the Coastal Commission's proposed modifications to the City's Short-term Rental Ordinance.

In sum, we recommend that the Long Beach City Council reject the CCC's proposed modifications to the ordinance, and adopt the City of Los Angeles' primary residence requirement in order to satisfy the CCC's objections and preserve Long Beach's legislative goals.

Please feel free to reach out if you wish to discuss further.

Thank you for your time and attention to this matter.

Sincerely,  
Danielle

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## MEMORANDUM

From: Better Neighbors LA

To: Unite HERE Local 11

Date: March 5, 2022

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Re: Analysis of the Long Beach Short Term Rental Ordinance, Effect of Coastal Commission  
Modifications and Suggested Reinforcement  
.....

### Introduction

This memorandum is intended to contextualize the Coastal Commission modifications of the Long Beach Short-Term Rental Ordinance (Ordinance No. ORD-20-0045) and recommend a response from the Long Beach City Council that will satisfy the Coastal Commission's objections while preserving Long Beach's legislative goals. The recommendation is that the Long Beach City Council adopt Los Angeles' primary residency requirement.

### The Long Beach STR Ordinance

The Long Beach Short Term Rental ("STR") Ordinance allows for an STR operator to use two separate properties for short-term rentals: the host's primary residence and a non-primary residence. LBMC 5.77.030.B.2. The Ordinance limits un-hosted stays at primary residences to 90 days a year but does not limit un-hosted stays at non-primary residences, LBMC 5.77.050.C; thus, un-hosted STRs are permitted to operate at non-primary residences throughout the year, or as "vacation rentals." The Ordinance provides that up to 800 residential housing units may be removed from the housing market to be used as "vacation rentals." LBMC 5.77.030.B.4.

Notably, unlike other home-sharing ordinances, the Ordinance provides property owners with certain rights to limit short-term rental activity. Specifically, the Ordinance allows landlords who prohibit their tenants from short term sublets to notify the City of Long Beach to ensure that tenants cannot obtain a permit. LBMC 5.77.020.M. In addition, property owners may petition the City to require that STRs within their census track be limited to hosted rentals. LBMC 5.77.050.D.



## The Coastal Commission Modifications

### The CDP Modifications

Recently, the California Coastal Commission recommended modifications to the Ordinance to “limit the ability of building owners to prohibit short-term rentals.” The Commission recommended that property owners in the Coastal Zone be required to obtain a coastal development permit (“CDP”) before they could inform the City of an STR prohibition on their property. The Commission also recommended that property owners in the Coastal Zone would be required to obtain a CDP before asking the City to limit STRS to hosted rentals within a census tract. Both recommended modifications will likely lead to detrimental results contrary to the public good.

Take, as an example, an apartment building owner whose leases include a common anti-subletting provision prohibiting short term rentals of the property. Under Long Beach’s STR Ordinance, that property owner could enforce the restriction by notifying the City of the prohibition so that the property is added to the “Prohibited Buildings List.” This notification is both practical and important. It protects property owners from tenants who would breach their lease agreements by operating STRs. It also protects against fraudulent registrations obtained at an eligible address being used at an ineligible address. Most importantly is the distinction between the prohibition of STRs at the property and the property owner’s *notice of the STR prohibition to the City*. In this example, the prohibition against STRs exists in the form lease agreement and is enforceable under state contract law. The Long Beach STR Ordinance, merely allows the City to receive notification of the already existing prohibition, and include that address in the “Prohibited Buildings List” so that the City does not inadvertently permit an STR where it is prohibited by the property owner.

The Coastal Commission’s modification would require that any property owner in the Coastal Zone seek a CDP before notifying the City of the STR prohibition. Even though that prohibition already exists, the property owner has always prohibited STRs, and no STR has ever operated out of the property, the property owner would be required to seek a CDP to make no changes at all to the property or how it is used. In effect, the Coastal Commission would require a Long Beach resident in the Coastal Zone to seek a CDP *only to communicate information* to the City of Long Beach. The permit requirement would create an impediment to residents’ communication of information relevant to the City’s administration of STR permits. The effect of this modification is to facilitate the permitting of fraudulent and prohibited STRs.

The next suggested modification is to require property owners within a Coastal Zone census tract to obtain a CDP to respond to local nuisance STRs. Take, for example an un-hosted property used year-round exclusively for STRs that has developed into a disruptive “party house” disturbing neighbors. Under the Long Beach Ordinance if enough nearby property owners agree that the property is disruptive, they may sign a petition to require a host be present to supervise its operation. The Coastal Commission modification would require property owners in the Coastal Zone to seek a development permit to do so. This permit requirement would make



it more onerous and therefore more unlikely for property owners to undertake to protect their property. Moreover, the Coastal Commission's stated intention to foster STRs in the coastal zone suggests the Commission is predisposed to reject permit requests. As a result, the permit requirement would serve as a significant impediment to property owners responding to nuisance STRs in their community.

Of note, the Commission has not suggested a permit requirement of any kind for properties engaging in short-term rentals. Nor has the Commission has proposed a limit on the conversion of residential properties to short-term rentals, guidelines for their cost or operation, or any regulation of their impact on the surrounding communities. Instead, the Commission's modification focuses on reducing local control of STRs and ensuring they are allowed to proliferate and operate un-hosted.

### **Cap Increase: Administrative Error**

Finally, the Coastal Commission's modifications include an increase of Long Beach's cap on un-hosted STRs. Long Beach limits un-hosted STRs to 800 throughout the City. The Coastal Commission modification suggests expanding that cap to include an additional 350 un-hosted STR permits for the coastal zone. This modification potentially increases the Long Beach cap on STRs by 43.8% to 1,150.

This 350 Unit Proposed Modification is, however, an administrative error on the part of the Coastal Commission staff and does not reflect the vote of the Coastal Commission. At its December 15, 2021 hearing, the Coastal Commission considered the staff's recommendation to increase the cap on the number of un-hosted STRs. Commissioner Wilson spoke at length in opposition to increasing the cap by creating an additional 350 permits for the coastal zone. The Commissioner was specifically concerned about the proposed modification that stated, "if the 800 cap is met and there are less than 350 in the coastal zone, then the city-wide cap would be extended to ensure there's 350." In response, staff member Hudson replied that he had communicated with the City of Long Beach which agreed "that language can be struck."

Commissioner Wilson went on to express a desire to ensure that the city-wide cap of 800 was preserved stating "there's no reason for that [350 coastal zone] cap to exist." Chair Brownsey stated that she understood that Commissioner Wilson sought to strike the staff recommendation adding 350 un-hosted STRs in the coastal zone and asked staff to confirm that the City of Long Beach would agree. Staff responded, "Yes," indicating that the entire provision to extend the cap would be struck. However, Staff in an apparent misconception of Commissioner Wilson's and the Chair's instruction went on to confirm that only a portion of the proposed modification would be stricken. The language that was stricken did not affect the change accepted by the Coastal Commission. In fact, it did the exact opposite. Staff - ignoring the Commissioner's instruction to strike the entire modification - struck only a portion, leaving in effect the modification extending the cap.



## The Goal of Local STR Regulations

The Long Beach Short-Term Rental Ordinance was intended to maintain long-term housing stock in the City, protect the character of residential neighborhoods, ensure STR activities do not become a nuisance or threaten public health or safety or the welfare of neighboring properties. LBMC 5.77.010.

These goals align with most existing municipal STR regulations that seek to allow true home-sharing while curbing housing hoarding. True home-sharing is when a long-term resident rents out extra space in their residence, or their entire residence while it is temporarily unoccupied (i.e., the resident is on vacation or a work trip). Common arguments in support of allowing true home-sharing center around preserving housing for residents. True home-sharing may allow residents to garner additional income to meet housing costs such as rent, mortgage and/or tax obligations. True home-sharing may, therefore, help preserve housing for residents.

By contrast, housing hoarding has the exact opposite effect. Hoarding happens when non-residents (i.e., investors or entrepreneurs) obtain housing units to be exclusively operated as a short-term rental business. These properties are not used as residences but rather as investments available exclusively to transient occupants essentially to be operated as illegal hotels. Hoarding takes housing stock off the market for residents, driving up rents and overall housing costs contributing to housing instability for residents. STR regulations that allow for housing to be converted to exclusive short-term rentals jeopardize local housing stability. As a result, local ordinances regulating short-term rentals generally attempt to permit for beneficial true home-sharing, while curbing deleterious hoarding.

A nearby example is the City of Santa Monica Short-Term Rental Ordinance which identifies that “a central and significant goal for the City is preservation of its housing stock and preserving the quality and character of residential neighborhoods.” Santa Monica seeks to “preserve its available housing stock and [the City’s] character and charm [. . .]” while acknowledging that “home-sharing does not create the same adverse impacts as unsupervised vacation rentals.”

Likewise, the City of Los Angeles’ Short-Term Rental Ordinance also distinguishes home-sharing from hoarding. Its regulations are intended to target “short-term rentals in property other than a primary residence.” The Los Angeles Ordinance identifies the harm it intends to reduce as “the conversion of long-term housing units to short-term rentals [that] reduces housing stock and contributes to increased rents and decreased availability of affordable housing.”

Each of the Long Beach, Santa Monica and Los Angeles Short-Term Rental Ordinances, therefore, share the same goal: to preserve housing for long-term residents, while still allowing for residents to participate in home-sharing. As discussed below, however, they differ in how, and to what extent, they abate housing hoarding.



### A Comparison of STR Ordinances: Santa Monica, Long Beach, and Los Angeles

Santa Monica's STR Ordinance represents an example of a strict regulation against housing hoarding. Santa Monica requires all short-term rentals to be a primary residence. SMMC 6.20.021(a)(5). In addition, all STRs must be hosted with the primary resident on-site throughout the STR rental. SMMC 6.20.010(e). In Santa Monica, the protection against hoarding is two-fold. First, it limits STRs to a single property per operator because any single operator may only have one primary residence. Second, the requirement that an STR host occupy the property throughout the rental increases the likelihood that the STR is a primary residence and lessens the likelihood of an absentee property owner who merely claims to reside at the property. The Santa Monica Ordinance also provides an additional layer of protection against hoarding by making violations readily apparent from the listing itself and to the public generally. Any listing offering an entire housing unit for rent is almost certainly a violation of the on-site host requirement. While it may remain impractical to verify whether the host is physically present throughout the rental, a legitimate listing may only offer a hosted stay. The requirement that all STRs be hosted also serves to ensure all visits are supervised and less likely to result in nuisance or violence. Neighbors who are confronted with a nuisance at a nearby STR may visit the property and expect to speak directly with the host. A neighbor who learns that a host is not present at the rental will immediately know that the STR is operating in violation of the Santa Monica Ordinance and may report that violation for enforcement. Because violations of Santa Monica's anti-hoarding protections are so readily apparent, they are also more amenable to enforcement.

The Long Beach Short Term Rental Ordinance is, in contrast, encourages hoarding. Indeed, the Long Beach Ordinance provides that up to 800 housing units may be taken out of the housing market to be operated as full time "vacation rentals" where they will be completely unavailable to residents. The Long Beach STR Ordinance therefore, on its face, allows for hoarding. The allowance of 800 "vacation rental" units also weakens the Ordinance's protections against hoarding by making it difficult to detect violations. For example, where violations of the Santa Monica regulations may be readily apparent from the online listing, violations of the Long Beach Ordinance are not. Under the Long Beach Ordinance, a property without a primary resident that is dedicated to year-round whole house rentals would not necessarily be prohibited. Detailed information about the property's registration – which is typically not publicly available - would be required to identify a violation of the Long Beach Ordinance. As a result, neighbors are unable to identify illegal short-term rentals and unable to report them for enforcement. Together with its facial tolerance of hoarding, the enforcement difficulties inherent in its regulations renders the Long Beach Short-Term Rental Ordinance a much more lenient regulation than Santa Monica.

The City of Los Angeles represents a middle-ground between the stricter Santa Monica Ordinance and the more lenient Long Beach Ordinance. The City of Los Angeles limits STRs to primary residences but does not require STRs to be hosted. LAMC 12.22.32(c)(2)(ii). This option is more permissive than the Santa Monica Ordinance that requires a host be present



throughout the short-term rental as short-term rentals need not be supervised in Los Angeles. At the same time, the Los Angeles Ordinance is more protective against housing hoarding than the Long Beach Ordinance because the primary residence requirement only allows any host to operate a single STR property, and so is stricter than the Long Beach Ordinance that allows for up to two. Likewise, violations of the Los Angeles Ordinance are less transparent than the Santa Monica Ordinance, but more so than Long Beach's. A Los Angeles neighbor may not be able to determine whether a local STR is a primary resident because the primary resident is not required to be present during the rental. However, a local operator hosting more than one short-term rental must necessarily be in violation of the Ordinance and would likely be readily apparent from the online listings. The primary residence requirement has the added benefit that it allows residents to offer private un-hosted accommodations attractive to travelers, while maintaining a bright line protection against hoarding.

### The Los Angeles Solution: A Steady Middle Ground

The Coastal Commission's proposed modification is focused on ensuring that STRs are available at properties in the coastal zone. Long Beach's response to the Coastal Commission's modifications should take this goal into account to best ensure its STR Ordinance is met with approval and to avoid further modifications. At the same time, the City of Long Beach need not abandon its legislative goals to maintain long-term housing stock and protect its residential neighborhoods from nuisance and safety threats. Los Angeles' middle-ground protections that prohibit hoarding while also allowing for un-hosted STRs is the ideal example for the City of Long Beach to adopt.

The City of Long Beach should reject the Coastal Commission's modifications. First, the modification to increase the 800 unit cap on un-hosted STRs is contrary to the intentions of the Coastal Commission and does not reflect their discussion and decision at the December 15th hearing. This modification should be rejected. The Coastal Commission modifications requiring CDP permits should be rejected because they undermine a key aspect of the Long Beach Ordinance: local oversight by nearby property owners. While the Long Beach Ordinance is more lenient than Santa Monica's, that permissiveness was also balanced by the power of local property owners to respond to STR abuses if necessary. For example, though housing could be hoarded, property owners could also prohibit STRs in their own property, stemming to some degree the dedication of housing units to STRs. Likewise, though un-hosted STRs may operate year-round, the Long Beach Ordinance allowed for nearby property owners to respond if a local STR grew to be problematic by requiring a host be present to provide supervision. The Coastal Commission modification would weaken Long Beach's legislative guardrails.

If the CDP requirements are adopted wholesale, the Long Beach Short Term Rental Ordinance's limitations on hoarding would be largely unenforceable in the Coastal Zone. Even immediate neighbors would be unable to detect with any certainty whether a violation existed next door. Nearby property owners would be left unable to respond to permitted local party houses. Landlords, outside of constant monitoring, would be hard-pressed to ensure STRs do not operate on their own rental property. To participate in oversight, local property owners would be



forced to seek leave of the Coastal Commission, which has already made clear its focus is to ensure the proliferation of STRs within the coastal zone, and so less likely to allow for local impediments.

The Los Angeles model represents a middle ground approach which allows for un-hosted STRs while creating an enforceable bright -line prohibition against hoarding through its primary residence requirement.

The primary residence requirement protects residential housing from being dedicated to STR use. It ensures STR operations are limited to true beneficial home-sharing and that local housing stock continues to be available to house residents. At the same time, the Los Angeles primary residency requirement is less strict than the Santa Monica regulations which require STR stays also be hosted. Los Angeles STR operators are limited to hosting guests within their own residence, but they may decide whether or when to offer listings as hosted or not.

For these reasons, Long Beach should adopt the Los Angeles model in response to the Coastal Commission's modifications.