



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: June 20, 2017

Agenda Item A

Approvals:

City Manager

Dept. Head

Attorney

Finance

Department: Community Development, Code Compliance Division
Prepared By: Adam Atamian, Code Compliance Manager

Subject: *APPEAL DE NOVO OF CITY OF SAN CLEMENTE ADMINISTRATIVE HEARING 3/23/2017 – SHORT-TERM LODGING UNIT (STLU) OPERATING LICENSE 314801.*

Fiscal Impact: Revoking STLU Operating License 314801 may result in a minor reduction of Transient Occupancy Tax collected in FY18.

Summary: Staff recommends that Council revoke STLU Operating License 314801.

Background: Between March, 2013 and November, 2015, the Orange County Sheriff's Department (OCSD) received 35 calls for service to 305 Avenida Gaviota, most related to nuisances created by the use of the residence as a vacation rental. In 2015 alone, the Code Compliance Division received 11 of these complaints, resulting in City staff issuing one correction notice and three citations to the property owner, Eric Olson, and the vacation rental's management company, Sea Breeze Vacation Rental Management, Inc. ("Sea Breeze"). In an attempt to reduce nuisances created by the property's use as a vacation rental, Mr. Olson and Sea Breeze entered into a settlement agreement with the City stipulating to certain operating requirements for the use of the property as a vacation rental.

In February, 2016, the City began updating multiple sections of the San Clemente Municipal Code (SCMC) to better regulate all vacation rentals, now identified within a broader land use category, Short-Term Lodging Units (STLUs). These updates were necessary, in part, due to recent changes in the vacation rental industry that resulted in the proliferation and increased intensity of STLUs. The new regulations aimed to protect residents from nuisances associated with STLUs, and to maintain the residential character of neighborhoods impacted by these commercial operations. Part of the new regulations required existing vacation rental properties to obtain a STLU Operating License. In order to obtain this permit, STLU owners must agree to abide by a specific set of regulations and best management practices designed to ensure that STLU occupants use the property in a manner compatible with surrounding long-term residential uses. Mr. Olson obtained this license to continue the operations of his STLU at 305 West Avenida Gaviota on June 6, 2016 after submitting an application and consenting to the conditions. A copy of the application is provided as Attachment 1.

Discussion: STLUs are inherently commercial-lodging uses, typically located within structures designed for long-term residential occupancy. Therefore, the SCMC gives special consideration to STLUs to reduce negative impacts on existing residential

neighborhoods and to preserve their character. When nuisances occur, in addition to traditional civil nuisance abatement remedies, the SCMC gives the City the ability to issue notices of correction and citations to rectify nuisances. STLUs are a somewhat unique use of residential property because short-term tenancies -- by their nature -- often create nuisances not associated with long-term residency, such as ongoing property maintenance and the number of trips in and out of properties. Long-term attachment to the properties and the surrounding neighborhoods also provides continuity and accountability, where neighbors who know each other can better monitor their neighborhood for security purposes and can communicate about property conditions, spill-over externalities that might affect neighbors, and shared public resources such as parking. STLUs make enforcement more difficult because the remedy for violations is dependent upon better behavior from residential occupants without the usual face-to-face accountability that long-term neighbors rely on. When STLUs demonstrate an inability to operate without creating nuisances, the SCMC provides a review process specific to STLU permits.

SCMC Section 3.24.067, Violations Revocation of Operating License or STLU Zoning Permit, requires the City to initiate a revocation hearing process upon the issuance of three citations to a STLU owner or operator within any 12-month period. At the Administrative Hearing, the hearing officer may revoke the STLU operating license, or impose additional conditions on the STLU operating license to mitigate the impact of the STLU on the community.

Over a nine-month period between May 28, 2016 and February 17, 2017, the Code Compliance division received 32 complaints regarding nuisances at 305 West Avenida Gaviota. These complaints are for various disturbances and nuisances, such as:

- Loud parties
- Loud noise and screaming
- Exceeding occupancy limits
- Cars associated with STLU parked on the street
- Cars associated with STLU blocking sidewalk
- Trash on non-trash days in public view

Code Compliance staff responding to complaints about nuisances at the STLU has issued three Notices of Correction. These Notices, provided with this report as Attachment 2, included warnings that the STLU was operated in a manner violating the following SCMC code sections:

1. Section 3.24.220 – STLU renters and guests utilizing street parking (6/16/2016).
2. Section 8.28.040 – Containers – Placement for collection (10/24/2016).
3. Section 17.28.292 – STLU renters and guests utilizing street parking (11/21/2016).

After receiving additional complaints of nuisances at the subject STLU, Code Compliance staff found subsequent violations of the same code sections. These repeat nuisances resulted in the issuance of three un-appealed citations for the following code violations, provided with this report as Attachment 3:

1. Violation of Section 3.24.220 – STLU renters and guests utilizing street parking (6/28/2016).
2. Violation of Section 3.24.220 and 17.28.292 – STLU renters and guests utilizing street parking (11/21/2016).
3. Violation of Section 3.24.220 and 17.28.292 – STLU renters and guests utilizing street parking (1/12/2017).

Upon the issuance of the third citation, the City scheduled an Administrative Hearing pursuant to SMC Section 3.24.067, Violations Revocation of Operating License or STLU Zoning Permit. The hearing was held on March 23, 2016.

At the hearing, City staff recommended the Hearing Officer revoke Mr. Olson's STLU Operating License due to the extraordinary number of complaints to the City about nuisances created by this STLU, the continual demonstration of the STLU permittee to operate the property in a manner that does not maintain the character of the residential neighborhood, and the disproportionate amount of time City staff and OCSD have spent responding to nuisances and disturbances caused by this STLU. A copy of staff's PowerPoint presentation slides is provided as Attachment 4.

Staff was not supportive of modifying the permit's operating conditions due to the fact that the violations were all related to the operations and occupancy of the property as a STLU. This was not seen as a viable option because the STLUs renters and guests previously violated many of the permit conditions aimed to reduce external impacts. It was not clear how further restrictions would not also be violated continuously. Furthermore, the STLU is a 4,000 square foot house that, as reported by Mr. Olson, rents for between \$4,000 and \$7,000 per week. Reducing occupancy and operating conditions of the property would only set-up future rentals for violations as it is reasonable to assume that the size of the house and the cost of the rental is not attractive to small groups. It is City staff's contention that this property's location, size, lack of manageability, and proximity to neighbors, are not conducive to the successful operations of a STLU.

The Hearing Officer's decision, provided with this report as Attachment 5, concurred with staff regarding the evidence that the STLU was negatively impacting the neighborhood. However, the Officer's decision stopped short of revoking the permit. Instead, the Hearing Officer decided to adjust certain conditions of the permit and to allow the permittee to continue operating the STLU. The adjustments consisted of a reduction to the maximum occupancy of the STLU from ten to six people, specifying that only two vehicles are allowed as part of a rental and both must be parked on-site, and use of the backyard amenities (such as the pool and BBQ) is restricted to specified hours.

The City continues to receive complaints about the operations of 305 West Avenida Gaviota. Since the adjustments to the STLU Operating License were made by the Administrative Hearing Officer, the property has remained the subject of multiple late-night contacts by OCSD deputies. Reports of these incidents are provided as Attachment 6, and include people being loud in the pool around 11:00 PM on multiple days, vehicles blocking the sidewalk, and a loud party at 12:30 AM (same group contacted again at 1:49 AM and told to turn down music).

In addition to the events that transpired after the issuance of the third citation, on February 16, 2017, City staff observed a violation of Section 8.28.040 – Containers – Placement for collection, and issued a fourth citation. This citation was appealed, and upheld by an Administrative Hearing Officer on March 30, 2017. Mr. Olson then appealed the Hearing Officer's decision to the California Superior Court. On June 5, 2017, City staff and their legal counsel successfully defended Mr. Olson's appeal at the Orange County Courthouse, and the Judge upheld the fourth citation. A copy of the citation and hearing decision documents are provided as Attachment 7.

A number of neighborhood residents who have personal knowledge of the operations of the STLU submitted signed declarations and letters to the City attesting to the continual negative impacts they experience due to their residence's close proximity to the STLU. These statements are provided as Attachment 8.

Recommended**Action:**

STAFF RECOMMENDS THAT the City Council revoke STLU Operating License 314801, due to the extraordinary number of complaints received by the City, which the City continues to receive, related to nuisances created by the STLU, the continual demonstration of the STLU permittee to operate the property in a manner that does not maintain the character of the residential neighborhood, and the disproportionately high amount of time City staff and OCSD have spent responding to the nuisances and disturbances caused by this STLU. Furthermore, the property has not complied with the conditions imposed by the Administrative Hearing Officer, nor appeared to have made any attempt to modify the STLU's operating standards to reduce nuisances when notified of them.

Attachments:

1. STLU Operating License Application, submitted by Eric Olson
2. Notices of Correction issued for violations at 305 West Avenida Gaviota
3. Citations issued for violations at 305 West Avenida Gaviota
4. Staff PowerPoint presentation slides, Revocation Hearing of March 23, 2017
5. Administrative Hearing Officer's decision, Revocation Hearing of March 23, 2017
6. OCSD Call Detail Information Reports post-Revocation Hearing decision
7. Fourth Citation and related Appeal Hearing documents
8. Declarations submitted by neighbors

Notification:

Notice was sent to Eric Olson and published in the Sun Post News.

City of San Clemente

Application for Short Term Lodging Unit Permit

Community Development Department, 910 Calle Negocio, San Clemente, California 92673



San Clemente Municipal Code (3.24) requires an STLU permit for every short-term lodging unit other than a hotel. A fee of \$105 must accompany this application. Please fill out all applicable spaces.

Contact Information			
STLU Property Address	305 Avenida Gaviota San Clemente, CA 92672 ✓		
Property Owner Name	Eric Olson		
Property Owner Mailing Address	[REDACTED]		
Property Owner Phone Number	[REDACTED]		
Property Owner Email	[REDACTED]		
Property Manager Name	SeaBreeze Vacation Rental Management		
Property Manager Mailing Address	2523 W Coast Hwy Newport Beach, Ca 92662		
Property Manager Phone Number	858-227-9414		
Property Manager Email	support@seabreezecorp.com		
*Emergency Contact Phone Number	858-227-9414		
STLU Information			
Square Footage of STLU	4000	Number of Bedrooms	4
**Maximum Number of Overnight Renters	10	Number of off-street Parking Spaces	4
Do you have an existing Vacation Rental (VR) Permit?	Yes <input type="radio"/> No <input checked="" type="radio"/>	Current VR permit Number	314801 ✓
Is the Property Governed by an HOA?	Yes <input type="radio"/> No <input checked="" type="radio"/>	Name of Governing HOA	N/A
Is the STLU Advertised on the web?	Yes <input checked="" type="radio"/> No <input type="radio"/>	Website Address	Vrbo.com ✓
		Website Listing Number	3932713 ✓

* 24 hour Emergency contact number required per STLU Condition #5

**Max Overnight Renters = (Number of bedrooms x 2) + 2.

In addition to a completed application, STLU owner/applicant must provide the following documentation at the time of submittal:

- Site plan of the property showing the layout of the home, including the bedrooms and bathrooms.
- Diagram or photograph showing the number and location of designated, legal off-street parking spaces.
- Fee Schedule: Please include the seasonal rates being charged for the STLU.
- If governed by a HOA, written approval by the HOA's governing body of the proposed STLU use.

Each STLU owner/applicant, upon conditional acceptance of their application, shall have 30 days to submit the following signed documentation outlined in "Condition 10" of the STLU Conditions listed on the next page of this application.

- Neighboring Property Notification Form

Note: Other information may be required as determined necessary to assure compliance with the City STLU-permit conditions.

STLU owners must comply with all STLU-permit conditions, including the following:

1. The STLU owner shall, by written agreement with the renter, limit overnight occupancy of the STLU to, at most, the maximum number of renters approved in the STLU permit.
2. STLU renters and their guests shall not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this code or any state or federal law or regulation, including, but not limited to, those pertaining to noise, disorderly conduct, the consumption of alcohol, or the use of illegal drugs. The STLU owner shall ensure compliance with this provision.
3. STLU renters and their guests shall only utilize the designated, legal off-street parking spaces; they may not have more vehicles at the STLU property than the number of designated, legal off-street parking spaces; and the STLU owner shall give notice to renters and contractually bind them to observe this requirement in a written rental agreement.
4. Upon notification that an STLU renter or a renter's guest has violated item 2 or 3 above, the STLU owner shall promptly notify the renter of the violation and take such action as is necessary to prevent a recurrence. It is not intended that the owner act as a law-enforcement officer or place himself or herself in harm's way.
5. The STLU owner shall provide a 24-hour emergency contact who will respond on-site, if requested, within 30 minutes to complaints about the condition, operation, or conduct of STLU renters or their guests.
6. The STLU owner shall comply with all applicable codes regarding fire, building construction and safety, and all other relevant laws, regulations and ordinances. The City's failure to inspect STLUs does not constitute a waiver of its right to perform future inspections.
7. The STLU owner shall post a copy of the permit and a copy of house rules that comply with the conditions set forth in this section in a conspicuous place in the STLU.
8. An STLU may only be used for overnight lodging. It shall not be used for a wedding, bachelor or bachelorette party, or other party, conference, or any other similar event.
9. Advertising.
 - a. All advertising for an STLU shall include the City-issued STLU permit number.
 - b. Owner shall notify City as to each and every publication, website, or other advertising forum where owner's STLU is advertised.
 - c. No on-site exterior signs may be posted advertising an STLU.
 - d. The City website will include a list of all currently-permitted STLUs. Owner shall ensure that the City has current and accurate information throughout the term of the permit. Owner shall inform the City of any change to information on the permit application within 10 business days of the change. A failure to timely report a change is a violation of the permit condition.
10. Each STLU owner shall, upon conditional issuance of any STLU permit or upon any approved change to an existing STLU permit, provide written notice to the Finance and Administrative Services Director and to all neighboring property owners (within a radius of 300 feet of the STLU property) the following information:
 - a. The names of the STLU owner and of the STLU operator (if not the owner), including telephone numbers at which those parties may be reached on a 24-hour basis.
 - b. The City's Code Enforcement telephone number by which members of the public may report violations of this chapter.
 - c. The maximum number of renters that are permitted to stay in the unit.
 - d. The maximum number of vehicles that are allowed to be parked at the property.
11. An STLU permit is valid for 12 months from the date issued. A new STLU permit must be applied for and secured each year to continue to operate. The notice requirements in item 10 above must be satisfied each year with each new permit issuance or change.
12. The STLU owner shall timely comply with section SCMC 3.24.070. The owner shall timely submit the filing whether or not the STLU was rented during the reporting period and transient occupancy tax was collected.
13. The Finance and Administrative Services Director may request access to an STLU or to records related to the use and occupancy of the unit for the purpose of inspection or audit to determine that the objectives and conditions of this chapter are being fulfilled. On such request, the STLU owner shall provide access to the Director during normal business hours.

I,	Eric Olson	STLU Owner/Property Manager
of	305 Avenida Gaviota	STLU Property Address
	San Clemente, CA 92672	

declare under penalty of perjury under the laws of the State of California, that the information that I have provided in this application is true and correct. I also acknowledge receipt and notice of the standard STLU conditions set forth above and agree to abide by these requirements, as well as all others imposed by the San Clemente Municipal Code and by state and federal law and regulation.

Eric Olson

4/12/2016

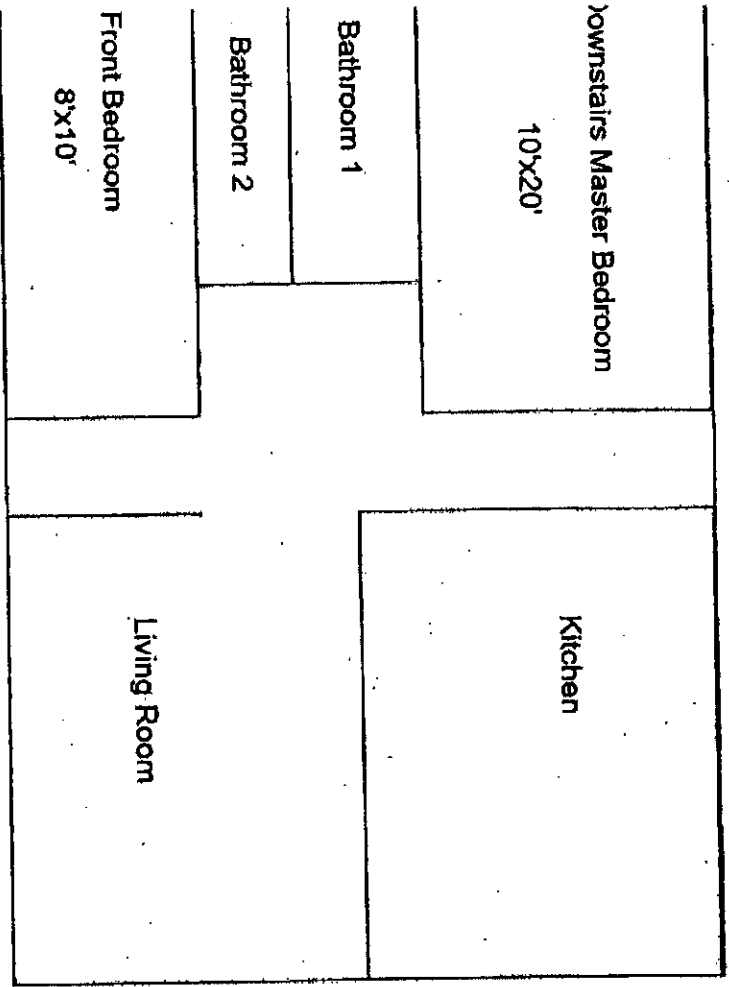
Signature

Date

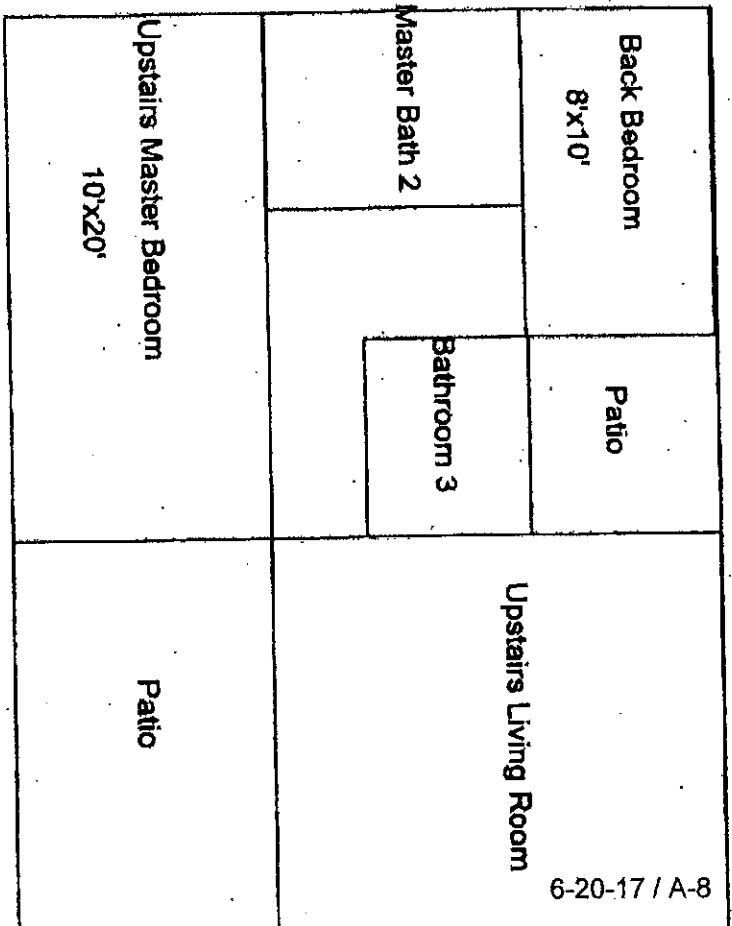
More information provided at <http://san-clemente.org/STLUApp>

Property	Group	Peak Day	High Day	Mid Day	Low Day
Case	D	\$1,033	\$900	\$675	\$600

Downstairs

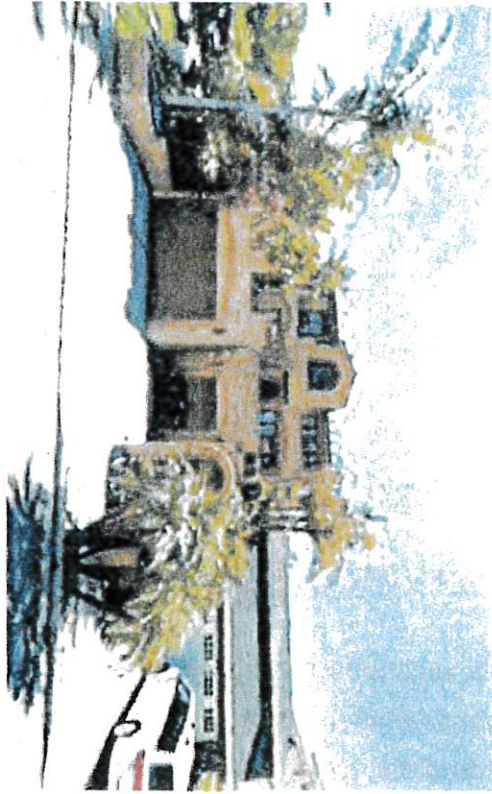


Upstairs



6-20-17 / A-8

3 Car Garage with 3 Car Driveway in front





City of San Clemente Code Compliance Division

Sandra Fiebing, Code Compliance Officer
Phone: (949) 244-0047 Fax: (949) 361-8281
fieblings@San-Clemente.org

CASE # CE2016-0745
6/16/2016

Olson, Eric



Correction Notice: 305 W Avenida Gaviota

Parcel No: 692-281-19

Dear Mr. Olson:

The City of San Clemente has received a complaint regarding the above property. An inspection on 6/14/2016 revealed the following Municipal Code violations:

SECTION 3.24.224 – CONDITIONS

- A.STLU owners must comply with all STLU-permit conditions.
- B.All STLU permits issued under this chapter are subject to the following standard conditions:
 - 3. STLU renters and their guests shall only utilize the designated, legal on-site parking spaces; they shall not have more vehicles at the STLU property than the number of designated, legal parking spaces; and the STLU owner shall give notice to renters and contractually bind them to observe this requirement in a written rental agreement.

In an effort to bring your property into compliance with City Code(s), please make the following corrections:

Ensure the guests of your vacation rental do not violate the above referenced code section. If subsequent violations occur, the owner shall ensure the violation is corrected immediately and the owner shall be issued an Administrative Citation for each violation.

If you require additional information in regard to this matter, please contact me at (949) 244-0047.

Sincerely,

Sandra Fiebing
Code Compliance Officer



City of San Clemente Code Compliance Division

Sandra Fiebing, Code Compliance Officer
Phone: (949) 244-0047 Fax: (949) 361-8281
fieblings@San-Clemente.org

CASE # CE2016-1276
10/24/2016

Olson, Eric



Re: 305 W Avenida Gaviota

Parcel No: 692-281-19

Dear Mr. Olson:

On 10-19-2016, the City of San Clemente received a complaint regarding trash cans in the street at the above property. An inspection of the above property revealed the following City Code violation:

8.28.040 - Containers—Placement for collection—Restrictions on storage; penalty for violations.

Customers shall place containers and all bulky items for which a scheduled collection has been arranged adjacent to the curb along the street in front of their premises or, if no curb exists, either adjacent to the main traveled portion of the street fronting their premises or in the alley in the rear of the property. Notwithstanding the above, any customer receiving solid waste handling services at a premise having a rear exit onto an alley which has access to streets at each end thereof, shall place containers and all bulky items for which a scheduled collection has been arranged in such alleys. All containers used by and/or for a customer and all bulky items placed in connection with a scheduled collection shall be grouped together when placed in the appropriate collection location and shall be placed out for collection no earlier than 5:00 p.m. of the day prior to the day fixed for collection. Within twenty-four (24) hours after collection has been made, all containers and any uncollected solid waste (including bulky items) shall be removed by each customer (or, as to bulky items, the owner, tenant, or occupant of the property) from the place of pick up and placed upon the customers property so as not to be visible from any public street or alley.

In an effort to instill safe and clean neighborhoods and bring your property into compliance with City Code(s), please make the following corrections:

- Ensure that within twenty-four (24) hours after collection has been made, all containers shall be removed by each customer from the place of pick up and placed upon the customers property so as not to be visible from any public street or alley.

Further, Chapter 1.20 of the San Clemente Municipal Code authorizes an Administrative Fine of one hundred-dollars (\$100) to be charged to you if you fail to rectify the above stated violation(s) immediately.

If you require additional information in regard to this matter, please contact me at (949) 244-0047.

Sincerely,



Sandra Fiebing
Code Compliance Officer





City of San Clemente

CORRECTION NOTICE

TRAKIT CASE NO. CE2016-1565

NAME: (First, Middle, Last) Olson, Eric	DATE ISSUED: 11/21/2016
MAILING ADDRESS: [REDACTED]	VIOLATION ADDRESS: 305 W Avenida Gaviota
[REDACTED]	PHONE NO:

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING MUNICIPAL CODE VIOLATIONS:

1. SECTION 17.28.292 (C, 11) OPERATING STANDARDS FOR STLU(S)
2. SECTION 8.52.030 (i) PROHIBITS PARKING/STORAGE ON LAWNS, VACANT LOTS, FRONT SETBACKS
3. SECTION 8.52.030 (j) TRASH/DEBRIS WITHIN STREET VIEW
4. SECTION 8.52.030 (l) DISCARDED FURNITURE/HOUSEHOLD EQUIPMENT WITHIN STREET VIEW
5. SECTION 10.52.010 INOPERATIVE VEHICLE
6. SECTION 12.24.020 (a,1) MAINTENANCE OF OVERGROWN VEGETATION ONTO PUBLIC RIGHT-OF-WAY
7. SECTION 17.64.080 (c,1) OVERSIZED VEHICLE WITHIN 20 FT. OF CURB
8. SECTION 17.64.080 (d) BOATS/TRAILERS SHALL NOT BE PARKED ON REQUIRED DRIVEWAYS
9. SECTION 17.84.030 SIGNS: PORTABLE SIGNS, BANNERS, BALLOONS, PENNANTS, GARAGE/YARD SALE SIGNS DISPLAYED WITHOUT PERMIT AND/OR IN THE PUBLIC RIGHT-OF-WAY
10. OTHER CODE SECTION VIOLATION(S) AND/OR REMARKS, OR DESCRIPTION OF LOCATION

DATE VIOLATION(S) DISCOVERED:11-21-2016	TIME:n/a	DAY OF WEEK:n/a
LOCATION(S) OF VIOLATION(S):STREET VIEW		

The purpose of this notice is to notify you that, unless the violation(s) described above are corrected or otherwise remedied on or before **12-8-2016** an Administrative Citation in the amount of **\$100.00** will be imposed upon you (San Clemente Municipal Code Chapter 1.20). The action required to correct the violation(s) includes the following: **As required by your STLU permit and the operating standards mentioned above; ALL parking must be contained on the private premises associated with the permitted STLU use. While operating as a STLU, any vehicle(s) owned by yourself or associated with 305 Avenida Gaviota must remain clear from on-street parking. Failure to correct violation(s) of SCMC §17.28.292 will result in citation and possible STLU permit revocation.**

Enforcement Officer's Name: Greg Gentile •

Email: gentileg@san-clemente.org

Enforcement Official's Signature:

Phone: (949) 361-6177 Fax: (949) 361-8281

THIS NOTICE IS A WARNING! This notice has been issued for the purpose of warning the recipient that the conditions existing upon the affected property or actions taken by the recipient constitutes a violation of the San Clemente Municipal Code. This notice may be followed by an Administrative Citation with fines imposed equal to those marked above within the violation list should the violation(s) continue. All violations must be corrected within the time indicated above. Compliance must be verified by the Code Compliance Division. For more information concerning this notice, contact the Code Compliance staff member listed above.





City of San Clemente

TRAKIT CASE NO. **CE2016-0796**

ADMINISTRATIVE CITATION

Admin. Acct. No. 35145

NAME: (First, Middle, Last) Olson, Eric	DATE ISSUED: 6/28/2016
MAILING ADDRESS: [REDACTED]	VIOLATION ADDRESS: 305 W Avenida Gaviota
[REDACTED]	PHONE NO:

YOU HAVE BEEN NOTIFIED OF THE FOLLOWING MUNICIPAL CODE VIOLATIONS

Ordinance 1617 Article III – Short-term Lodging Units Chapter 3.24.220 – Conditions

B.All STLU permits issued under this chapter are subject to the following standard conditions:

3. STLU renters and their guests shall only utilize the designated, legal on-site parking spaces; they shall not have more vehicles at the STLU property than the number of designated, legal parking spaces; and the STLU owner shall give notice to renters and contractually bind them to observe this requirement in a written rental agreement.

DATE VIOLATION(S) DISCOVERED: 6-27-2016	DATE CORRECTION NOTICE ISSUED: 6-16-2016; reoccurring violation.
LOCATION(S) OF VIOLATION(S): Jeep belonging to a renter/guest of 305 W. Avenida Gaviota parked on the street across from 305 W. Avenida Gaviota CA [REDACTED] Photos attached.	

An Administrative Fine in the amount of \$ **100.00** is imposed upon you at this time. (San Clemente Municipal Code Chapter 1.20)

Enforcement Officer's Name: Sandra Fiebing

Email: fiebings@san-clemente.org

Enforcement Official's Signature: *Sandra Fiebing*
(949) 361-8281

Phone: (949) 244-0047 Fax:

You must pay the violation fine within 10 working days of issuance at the City of San Clemente Accounting Division located at 100 Avenida Presidio, San Clemente, CA 92672, using the envelope provided or if you wish to contest this citation you must submit a written request for a hearing within 10 working days of the issuance of this citation. To request a hearing, send a written request to City of San Clemente at the address shown below. Failure to pay the violation fine within this 10 day period will result in the fine being increased in an amount not to exceed \$100.00 for the first offense, \$200.00 for the second offense and \$500.00 for each offense thereafter, as well as the issuance of a misdemeanor citation punishable by a \$1,000.00 fine and/or six months in the county jail. All violations listed above constitute a separate violation for each and every day the violation exists. The payment of this citation should not be construed as closure or correction of any violation existing upon your property. The correction of all violations requires final verification by the City's enforcement personnel prior to the closure of the case.

****WARNING**** Failure to appear at a requested hearing will result in the forfeiture of all posted bail, increase in the fine in an amount not to exceed the original fine amount and shall also constitute a misdemeanor punishable by a \$1,000.00 fine and/or six months in the county jail.





City of San Clemente

TRAKIT CASE NO. **CE2016-1564**

ADMINISTRATIVE CITATION

Admin. Acct. No. 35145

NAME: (First, Middle, Last) Olson, Eric	DATE ISSUED: 11/21/2016
MAILING ADDRESS: [REDACTED]	VIOLATION ADDRESS: 305 W Avenida Gaviota
[REDACTED]	PHONE NO:

YOU HAVE BEEN NOTIFIED OF THE FOLLOWING MUNICIPAL CODE VIOLATIONS

1. SECTION 3.24.220 CONDITIONS
2. SECTION 8.52.030 (I) PROHIBITS PARKING/STORAGE ON LAWNS, VACANT LOTS, FRONT SETBACKS
3. SECTION 17.64.080 (D) BOATS/TRAILERS SHALL NOT BE PARKED ON REQUIRED DRIVEWAYS
4. SECTION 17.64.080 OVERSIZED VEHICLE WITHIN 20 FT. OF CURB
5. SECTION 8.52.030 (J) TRASH/DEBRIS WITHIN STREET VIEW
6. SECTION 8.52.030 (L) DISCARDED FURNITURE/HOUSEHOLD EQUIPMENT WITHIN STREET VIEW
7. SECTION 10.52.010 INOPERATIVE VEHICLE
8. SECTION 17.84.030 PORTABLE SIGN WITHOUT A PERMIT OR ON PUBLIC RIGHT OF WAY
9. SECTION 17.84.030 BANNERS DISPLAYED WITHOUT A PERMIT
10. SECTION 17.84.030 DISPLAYING BALLOONS OR PENNANTS
11. SECTION 17.28.292 (C, 11) OCCUPANCY LIMIT AND PARKING
12. SECTION 105.1 OF CBC-BUILDING PERMIT(S) REQUIRED FOR WORK IN PROGRESS (SEE BELOW)
13. OTHER CODE SECTION VIOLATION(S) AND/OR REMARKS, OR DESCRIPTION OF LOCATION

DATE VIOLATION(S) DISCOVERED: 11-15-2016	DATE CORRECTION NOTICE ISSUED: 6-16-2016
LOCATION(S) OF VIOLATION(S): STREET VIEW	

This notice will serve to notify you that the violation(s) described above have not been corrected or remedied. An Administrative Fine in the amount of **\$200.00** is imposed upon you at this time. (San Clemente Municipal Code Chapter 1.20)

Enforcement Officer's Name: Greg Gentile

Email: gentileg@san-clemente.org

Enforcement Official's Signature: 

Phone: (949) 361-6177 Fax: (949) 361-8281

You must pay the violation fine within 10 working days of issuance at the City of San Clemente Accounting Division located at 100 Avenida Presidio, San Clemente, CA 92672, using the envelope provided or if you wish to contest this citation you must submit a written request for a hearing within 10 working days of the issuance of this citation. To request a hearing, send a written request to City of San Clemente at the address shown below. Failure to pay the violation fine within this 10 day period will result in the fine being increased in an amount not to exceed \$100.00 for the first offense, \$200.00 for the second offense and \$500.00 for each offense thereafter, as well as the issuance of a misdemeanor citation punishable by a \$1,000.00 fine and/or six months in the county jail. All violations listed above constitute a separate violation for each and every day the violation exists. The payment of this citation should not be construed as closure or correction of any violation existing upon your property. The correction of all violations requires final verification by the City's enforcement personnel prior to the closure of the case.

****WARNING**** Failure to appear at a requested hearing will result in the forfeiture of all posted bail, increase in the fine in an amount not to exceed the original fine amount and shall also constitute a misdemeanor punishable by a \$1,000.00 fine and/or six months in the county jail.



City of San Clemente

TRAKIT CASE NO. **CE2017-0036**

ADMINISTRATIVE CITATION

Admin. Acct. No. 35145

NAME: (First, Middle, Last) Olson, Eric	DATE ISSUED: 1/12/2017
MAILING ADDRESS: [REDACTED]	VIOLATION ADDRESS: 305 W Avenida Gaviota
[REDACTED]	PHONE NO: [REDACTED]

YOU HAVE BEEN NOTIFIED OF THE FOLLOWING MUNICIPAL CODE VIOLATIONS

1. SECTION 3.24.220 CONDITIONS FOR STLU OPERATING LICENSES
2. SECTION 17.28.292 (C, 11) OCCUPANCY LIMIT AND PARKING – Renters and guest observed parking on street.

DATE VIOLATION(S) DISCOVERED: 1-11-2017	DATE CORRECTION NOTICE ISSUED: 6-16-2016
LOCATION(S) OF VIOLATION(S): Public right-of-way adjacent to property at 305 West Avenida Gaviota	

No renters or guests of the STLU are permitted to park in any location other than the property at 305 Gaviota as identified in the STLU permit. This notice will serve to notify you that the violation(s) described have not been corrected or remedied. An Administrative Fine in the amount of \$500 is imposed upon you at this time. (San Clemente Municipal Code Chapter 1.20)

Enforcement Officer's Name: Adam Atamian

Email: AtamianA@san-clemente.org

Enforcement Official's Signature: 

Phone: (949) 361-6191 Fax: (949) 361-8281

You must pay the violation fine within 10 working days of issuance at the City of San Clemente Accounting Division located at 100 Avenida Presidio, San Clemente, CA 92672, using the envelope provided or if you wish to contest this citation you must submit a written request for a hearing, along with a basis for the appeal, within ten (10) working days of the issuance of this citation. To request a hearing, send a written request to the City Clerk of the City of San Clemente at the address shown below. The City will then notify you by mail regarding the hearing date and time.

All violations listed above constitute a separate violation for each and every day the violation exists. The City expects continued compliance with its code and will continue to investigate as needed.

The payment of this citation should not be construed as closure or correction of any violation existing upon your property. The correction of all violations requires final verification by the City's enforcement personnel prior to the closure of the case.

In addition to the City's right to seek other legal remedies or actions for abatement of the nuisance, the owner and occupant may be subject to a repeat nuisance service-call fee if a third nuisance service-call is made to the property within 365 days of the date of the notice. This 365-day period is measured from the date of any written warning, correction notice, notice of violation, or citation issued by the City to a property owner or occupant for nuisance.

****WARNING**** Should you fail to request a hearing or pay the fine within ten (10) days of the date of the citation, the City will take any or all legal steps to obtain payment and you may be charged for all costs incurred in the collection process.

FURTHER NOTICE IS HEREBY GIVEN: Pursuant to SCMC Section 3.24.067 - Violations Revocation of Operating License or STLU Zoning Permit, if a STLU owner or operator receives (1) three citations of violation of this code or STLU zoning permit conditions for a particular STLU within any 12-month period, or (2) a single citation for a violation of this code or STLU zoning permit conditions that creates a serious threat to the public health safety, or welfare, **a hearing will be held** in accordance with Sections 3.24.050 and 3.24.060. At the hearing, the hearing officer may revoke the STLU operating license or the STLU zoning permit, or both or impose additional conditions on the STLU operating license or STLU zoning permit to mitigate the impact of the STLU on the community. The City will provide written notice to both the operator and owner of the date, time, and location of the hearing.

Additional Notified Parties:
Operator – SeaBreeze Vacation Rental Management at: 2523 W. Coast Highway, Newport Beach, CA 92662 & 305 West Avenida Gaviota, San Clemente, CA 92672



Administrative Hearing

Revocation of Short-term Lodging Unit
(STLU) Operating License 314801

March 23, 2017

ADAM ATAMIAN

INTERIM CODE COMPLIANCE SUPERVISOR



Purpose and Intent of STLU Regulations

...STLUs and STARs are lodging uses (which are inherently commercial), typically located within structures designed for long-term residential tenancy. As such, special consideration must be given to STLUs and STARs to ensure that the existing character of residential neighborhoods are preserved and not adversely impacted.



Purpose of Administrative Hearing

3.24.067 - Violations Revocation of Operating License or STLU Zoning Permit.

“If a STLU owner or operator receives (1) three citations of violation of this code... for a particular STLU within any 12-month period... a hearing will be held.... At the hearing, the hearing officer may revoke the STLU operating license...or impose additional conditions on the STLU operating license...to mitigate the impact of the STLU on the community.”



Location: 305 Avenida Gaviota, San Clemente





Background/ Complaints Received

- Between March 2013 and November 2015, the Orange County Sheriff's Department received 35 calls for service to 305 Avenida Gaviota.
- In 2015, the Code Compliance Division received 11 complaints.
- Most of these complaints related to nuisances created by the operation of a vacation rental.
- In an attempt to reduce the impact of the use, in February 2016, the City, Sea Breeze Vacation Rentals, Inc. and Mr. Eric Olsen entered into a settlement agreement outlining certain operating requirements for the use of the property as a vacation rental.



Background/ STLU City Ordinance

- Between February and May, 2016, the City updated the Municipal Code to better regulate vacation rentals, now called Short-Term Lodging Units (STLUs).
- These updates were necessary, in part, due to the changes in the industry in the previous years that resulted in the proliferation of STLUs and the intensity of the uses at these properties.
- The code amendments were needed to protect residents from nuisance activity and to maintain the residential character of neighborhoods.
- Part of these regulations required existing vacation rental properties to obtain a STLU Operating License.
- Mr. Olsen obtained a STLU Operating License on June 6, 2016.



STLU Regulations

3.24.067 - Violations Revocation of Operating License or STLU Zoning Permit.

“If a STLU owner or operator receives (1) **three citations of violation of this code** or STLU zoning permit conditions for a particular STLU within any 12-month period, or (2) a single citation for a violation of this code or STLU zoning permit conditions that creates a serious threat to the public health safety, or welfare, a hearing will be held in accordance with Sections 3.24.050 and 3.24.060. At the hearing, the hearing officer may revoke the STLU operating license or the STLU zoning permit, or both or impose additional conditions on the STLU operating license or STLU zoning permit to mitigate the impact of the STLU on the community.”

“This code” defined

1.04.010 - How code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated “The Code of the City of San Clemente, California, 1966,” and may be so cited.

1.04.020 - Definitions and rules of construction.

In the construction of this code and of all ordinances of the City, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council or the context clearly requires otherwise:

Code. The words “the code” or “this code” shall mean “The Code of the City of San Clemente, California, 1966.”



Complaints Received

- Between May 28, 2016 and February 17, 2017, the Code Compliance division received 32 complaints regarding the property located at 305 Avenida Gaviota.
- These complaints are for various issues such as:
 - Loud parties
 - Loud noise and screaming
 - Occupancy over 10 people
 - Cars associated with STLU parked on the street
 - Cars associated with STLU blocking sidewalk
 - Trash on non-trash days in public view



Notices of Correction Issued

- The Code Compliance division has issued Notices of Correction for the following code violations:
 - Section 3.24.220 – STLU renters and guests utilizing street parking (6/16/2016).
 - Section 8.28.040 – Containers – Placement for collection (10/24/2016).
 - Section 17.28.292 – STLU renters and guests utilizing street parking (11/21/2016).



Citations Issued

- **The Code Compliance division has issued un-appealed citations for the following code violations:**
 - Violation of Section 3.24.220 – STLU renters and guests utilizing street parking (6/28/2016).
 - Violation of Section 3.24.220 and 17.28.292 – STLU renters and guests utilizing street parking (11/21/2016).
 - Violation of Section 3.24.220 and 17.28.292 – STLU renters and guests utilizing street parking (1/12/2017).

- **The Code Compliance division has issued one citation, appealed by the property owner, for the following code violations:**
 - Section 8.28.040 and 17.28.292 – Trash containers placed on street on non-pick-up day (2/17/2017). Appeal hearing scheduled 3/30/17.



Hearing Officer Decision Options

- 1. Make no changes to STLU Operating License**
Staff does not recommend this option. STLU has STLU-related violations and shown negative impacts to neighborhood.
- 2. Make changes to STLU Operating License**
Staff does not recommend this option. STLU is unable to comply with existing STLU regulations. Additional regulations (i.e. reducing occupancy) unlikely to result in better operations.
- 3. Revoke STLU Operating License**
Staff recommends this option.



Summary

- STLU Operating License issued for 305 Gaviota pending compliance with Section 3.24 of SCMC.
- Evidence obtained by Code Compliance established the existence of 3 violations of the SCMC: All violations directly related to the operation of a STLU.
- The City has received numerous complaints, and continues to receive complaints, about this property.
- This property has a history of noncompliance and demonstrated an inability of the property to be operated in a manner compatible with the surrounding residential neighborhood.



Conclusion

Staff recommends the hearing officer revoke STLU Operating License 314801.



Administrative Hearing

Revocation of Short-term Lodging Unit
(STLU) Operating License 314801

March 23, 2017

ADAM ATAMIAN
INTERIM CODE COMPLIANCE SUPERVISOR

April 2, 2017

Eric Olson


Jennifer Weiss
Records Management Coordinator, City Clerk's Office
100 Avenida Presidio
San Clemente, CA 92672

Re: Decision of Hearing Officer in the matter of Permit Revocation Hearing for Short Term Lodging Unit (STLU) at 305 Gaviota, San Clemente CA 92672

Introduction:

The hearing for revocation of the STLU Permit ("Permit"), issued to Eric Olson ("Olson"), owner of 305 Gaviota, San Clemente, CA San Clemente ("Property") began at approximately 2 p.m. on March 23, 2017, as scheduled, in the City Council Chambers 100 Avenida Presidio, San Clemente, CA. The hearing concluded at approximately 4:00 p.m.

Hearing participants were Olson, represented by Steven J. Roberts, Esq, and the City of San Clemente (City) represented by, Christy Lopez, Esq of the law firm Best Best and Krieger. Presenting the matter for revocation on behalf of City was Adam Atamian, Interim Code Compliance Supervisor. Testimony was given by Olson and Brian Bosson, owner of Seabreeze Vacation Rentals, the management company responsible for the STLU at the Property. All parties and witnesses will be referred to by last names. Documents and testimony was provided in support of the revocation and in opposition to the proposed revocation. References to information reviewed for this Decision will be by Code Enforcement Case Number. The hearing was recorded, voice only, set up by Jennifer Weiss, City Records Management Coordinator.

Roberts and Lopez gave opening statements and Atamian gave a power point presentation of relevant code sections and issues in support of the City's request to revoke the Permit. Atamian also submitted a binder of documents, (Olson's Application for the Permit, the Settlement Agreement and 13 code enforcement actions with supporting reports, photographs and other information) in support of the City requested revocation of the Permit. The power point presentation is incorporated into this decision by reference along with the documents submitted by both the City and Olson. Roberts submitted a binder with documents tabbed B-R.

As an initial matter, Roberts challenged whether the threshold requirements found in San Clemente Municipal Code (SCMC) 3.24.067 were met, and raised an issue of inadequate notice. I find the three Administrative Citations (CE 2016-0796; CE 2016-1564 and CE 2017-0036), effectively meet the requirement for the Revocation

Hearing as the appeal periods to raise a challenge to the citations have expired. This Hearing Officer does not have jurisdiction to review the issues raised by Roberts regarding the validity of the issuance of the individual Citations in the context of this hearing and declines to do so. Lopez established that the Citations were mailed to the address for the STLU owner as required by the SCMC. City offered that proper notice of the nature of the violation was given on the face of CE 2017-0036 and by virtue of Olson being charged with knowledge of the provisions of SCMC Chapter 3.24 as the owner of the SLTU.

Decision:

This Decision is made with reference to and in the context of the Purpose and Intent of the STLU Regulations found in section SCMC 17.28.292(A). The significance of the regulations directly relates to the fact that STLUs provide lodging, with frequent turn over of guests, an inherently commercial use, in homes within residential neighborhoods designed for long term residency. The intent of the regulations is to "ensure that the existing character of the residential neighborhoods are preserved and not adversely impacted." In other words, the commercial lodging aspects of a short term rental succumbs to the residential use and the interests of long term residents who have to get up to go to work, take kids to school or live on a daily basis with the expectations of the peace and quiet of a residential neighborhood. The owners of STLU's are required to understand and accept that they are not offering guests lodging in a structure that was designed for, or located in a zone intended to accommodate the same benefits and expectations of a vacation stay that a hotel or other commercial lodging use in a commercial zone would allow.

After consideration of all the testimony, documentation submitted by City and Olson with reference to San Clemente Municipal code (SBMC) Chapters 3.24, 17.12 and 17.16 as explained further below, within my authority under SCMC 3.24.067, and in order for the operation of the STLU to continue to operate in a manner most likely to fulfill the purpose and intent of the Code, I find substantial evidence was presented to modify the Operating Conditions for the STLU found in SCMC 17.28.292 as follows:

1. Two (2)-onsite parking spaces must be provided resulting in only two guest vehicles allowed in conjunction with the rental of the Property pursuant to the Permit.
2. The maximum number of occupants is six (6) persons.
3. Use of the pool and backyard amenities is limited to the hours of 9 a.m. - 9 p.m., Sunday through Thursday and 9 a.m. through 10 p.m. Friday through Saturday.

The Settlement Agreement

With regard to the applicability of a prior Settlement Agreement effective February 18, 2016 between City and Olson, the parties agreed at the hearing that I would consider documents produced by Orange County Sheriff for police calls to the Property and code enforcement documents of neighborhood complaints prior to or, as part of, the Settlement Agreement only as contextual to the history of operations of the STLU and that my focus would be on compliance with the Permit under the SCMC that occurred after the Settlement Agreement. However, much of the testimony of Olson and Bosson related to CE 2016 2015-0643(Olson Exhibit Q) and OC Sheriff dispatch reports (Olson Exhibit R) to provide support their testimony that the complaints were that of "vexatious" neighbor.

Roberts asserted that the number of calls logged by the Sheriff was physically impossible and asserted that the neighbor made many calls for noise issues during the day and that the extreme number of calls was evidence that the neighbor was vexatious. Within Exhibit R is a listing of calls, all undated (Identified in the document as "Permit #STLU 341801Resondent Exhibit R 023) which Roberts asserted showed 22 calls of complaints for the Property over a 12 month period exceed the number of all other calls at the rest of the listed addresses.

Atamian and Lopez asserted those same documents in Olson Exhibit Q and police calls in Olson Exhibit R represented an operation of the STLU in a manner that disregarded the neighborhood setting of the STLUs and together with subsequent complaints, Notices of Correction and Administrative Citations showed an ongoing pattern of problems with the operation of the STLU that demanded revocation of the Permit. I find that both Parties had arguments in favor of their position founded in the reports under Q and R. Many of the calls were for use of the pool and usual noise resulting from that use during the daytime. However, more persuasive was the impression that neighbors, sensitized to late night noise and disruptions for hours on end from every new set of guests, began to complain about every disruption out of frustration.

Neither party addressed how the terms and conditions of the Settlement Agreement should be interpreted to relate to the SCMC regulations under the Permit that was issued pursuant to the SCMC amendments related to STLUs that occurred in April and May of 2016. I do not make a determination here, except to decide that to the extent the modified operating conditions determined in this Decision conflict with the terms of the Settlement Agreement or the Permit, the modified operating conditions shall prevail.

Hearing Testimony

Bosson Testimony

Bosson testified Olson hired him in mid -2015 for "dealing with the neighbor". He said the neighbor told him, " we will never call you, we will call the City to get everything on record". Bosson testified to his business management experience managing short term rentals and the number of his business locations. He believed the number of calls for the Property was vexatious and that often calls would be for daytime pool use. He testified his company does check in at the property to make sure the guests are operating as required during the quiet hours and required notices of who to contact are provided. Bosson testified that he believes, by speculation only, there is a neighborhood "play book" set up by the neighbors led by a Jim Moray (sp), to cause this STLU to go out of business and that the complaints of parking and noise are unreasonable.

Olson testimony

Olson testified that he had a short term rental at the Property beginning in 2008 and that once the neighbor moved in, in 2010, the neighbor wanted the vacationers to be inside at 10:00 pm. Olson testified of a time prior to the Settlement Agreement the neighbor complained that visitors from the east coast were in the pool at 7 in the morning. Olson found the complaint unreasonable as the visitors rent his property for the use of the pool. Olson testified the renters would complain to him that the neighbor would bang on the door when people parked in front of his house. Olson also complained of citations for parking on the street and he did not understand why guests could not park on the street. He did not understand why the City was wasting its time enforcing parking on the street and trashcans left out. He thought that the City should be worrying about more important matters. Olson suggested that the property has a pool and people who are there on vacation want to enjoy the pool and the backyard and the neighbor should not have bought the house in 2010 next to Olson's STLU. Olson testified the three parking garages for the Property are clear and available for cars. He testified that in mid 2015 he was "forced" to hire Bosson to manage the STLU.

Olson also testified that he was cited at some point in time for parking his own car on the street over a long period of time. On cross-examination by Lopez, he said he did park his personal car in front of the neighbor's house. He parked it there for a long time and would get warnings and was required to move it every 3 days. He also, in response to Lopez's questions agreed that he had probably had verbal altercations with the neighbors and had used profanity.

Findings

1. Onsite Parking reduction:

I find that the Property in practice, only provides two onsite parking spaces for use by STLU guests. The three citations were all for the STLU guest cars parking on the street in violation of SMC 3.24.220 (B) "All STLU permits issued under this chapter are subject to the following standard conditions: ...3. STLU renters and their guests shall only utilize the designated legal on-site parking spaces; they shall not have more vehicles at the STLU property than the number of designated, legal parking spaces; and the STLU owner shall give notice to renters and contractually bind them to observe this requirement."

Supporting documentation for the three Citations and two other Code Enforcement investigations (CE 2016-0646, CE 2016-0745) shows photographs and/or Code Enforcement officer observations; contacts with tenants and photographs that indicate that car(s) of the STLU guests were parked in the street. The two reasons given by the STLU tenant was that they parked in the street because they did not have access to the garage and they were issued citations from OC sheriff for blocking the sidewalk. Photographs show that the cars parked in the driveway in front of the two-car garage door were parked over the sidewalk. At least one tenant in CE 2016 1745 told code enforcement that "Sea Breeze didn't tell him they couldn't park on the street."

There are code enforcement actions that note complaints that Olson parked his personal car on the street in front of neighbors house. Olson's testimony confirmed that he did park his car in the street in front of his neighbors house, over a long period of time in which he was required to and did move his car every three days to avoid a ticket or towing, even though he does not live at the property and even though as he testified the garages are clear for parking of cars. I find this testimony supports the limit to two on site parking spaces as well as the above, parking citations and information that the garage spaces are not made available for parking for guests or the owner and the numerous photographs of confirmed cars parked on the street.

The application for the property indicated there are three garage spaces and three driveway spaces on site. However, the garage spaces for whatever reason are not available to the STLU guests and are not used by the Owner. The two driveway spaces in front of the 2-car garage are not long enough to accommodate most vehicles with out extending over and blocking the sidewalk; forcing pedestrians to walk on the street. Photographs show that there is room on the driveway for most cars in front of the single car garage. The result is the driveway in front of the two-car garage will accommodate a car parked sideways and the single car garage drive

way another car for at most two cars accommodated on site. Thus the Property only provides parking on-site for two cars.

2. Number of allowed guests and hours of backyard pool use:

The documentation related to the Settlement Agreement time period details numerous complaints about noise from the STLU especially in the backyard pool.

The complaints of the neighbors together with the testimony of Olson and Bosson indicate little regard for the neighbors' expectations of peace and quiet desired in a residential neighborhood and more regard for Olson's rights to operate a vacation rental that meets guests' expectations of enjoyment of the pool and backyard amenities without regard to the residential setting.

Olson and Bosson correctly asserted that many of the complaints of noise came from the use of the backyard pool during the day when noise from people enjoying a pool would be expected. However, there were also documented complaints of noise from the use of the pool and backyard amenities late into the night and for hours on end during the day. Olson testified to guests' use of the pool very early in the morning, when the neighboring residents might reasonably expect quiet conditions. The nature of the frequent turn over of numerous guests on vacation appears to suggest a more intensive use of the pool than long-term residential use.

There are comments indicating that Bosson had an unclear understanding of the number of guests allowed at the property, and information that indicates that the house is large enough that often multiple families or groups of unrelated friends rent the house. This also drives the potential need for more cars than available on-site parking.

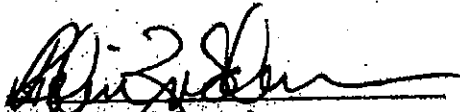
The Application reports that there are 4 parking spaces on site and per Table 17.28.292A the number of renters permitted is related to the number of on site parking spaces. 4 spaces = 12 persons. However, the Settlement Agreement restricts the number of guest to 10. A June 1, 2016 email from Bosson in CE 2016-0646 asserts that the STLU can sleep no more than 12 guests with no limits to visitors of the guests during the day which would indicate Bosson was not complying with the Settlement Agreement restrictions.

SCMC Table 17.28.292A provides that for one parking space, 4 occupants are allowed and for 2 spaces, 8 occupants are allowed. However, I find that based upon the testimony of Olson and Bosson, the noise complaint history of this Property, the lack of adequate onsite parking for occupancies of up to 12 people, and the need for additional trash pick up (discussed below) and other problems documented in all the code enforcement records, that the number of occupants should be modified and restricted to six persons.

Finally, there was evidence in a February 22, 2017 email in Olson Exhibit B from Bosson to the City Council that in order to control the trash from the STLU, Bosson arranged for a "mid-week pick up". This added factor further supports the modification to the operating conditions. If the number of people lodging at the Property generates trash sufficient to require extra trash pick up, over and above the weekly residential pick up, then this would indicate a commercial level of use in a residential neighborhood. The purpose and intent of the Code is to maintain the residential characteristics of the neighborhood and the need for extra trash pick up over the weekly scheduled pick up is contrary to that intent.

Conclusion

If the STLU is operated in good faith compliance with the regulations as restricted further by the modified conditions of this Decision, then Olson will be working in good faith to preserve neighborhood residential character and the expected peace and quiet of a residential area.


Robin Zur Schmiede
Hearing Officer

* All parties have been provided with or have online access to: Documents provided by each party at the hearing, City's Power Point, Referenced SCMC Code sections, the Citations, and Code Enforcement Actions. These are incorporated by reference and not attached.

5/18/2017

Orange County Sheriff Department
 Call Detail Information Report
 Call Number: 170501-0626

6:43:34PM

Call Number 170501-0626

Call Detail Information

Call Number	Class	Taker	Pos	Call Owner	Date - Time Received	Cat
170501-0626	G	SHITTESDORF	11		05/01/2017 15:23:05	0

Complaint	Ten Code	Priority	Disp Zone	IRA	How Received
586 ILLEGAL PARKED VEHICLE		4	SC	SC14	

Incident Location	Appt/Suite	Floor/Bldg	Incident City	Grid
305 W AVD GAVIOTA			SC	992J6

Caller Name	Patrol Zone	Telephone	Tower ID	Jurisdiction	Tract
[REDACTED]	72	[REDACTED]		OCSD	SC

Images
 Medical
 Hazard
 Previous
 DR issued in Error

All Time	Call Rec'd	Xmit	Dispatch	Enroute	OnScene	Departed	Arrived	Comp	Unit
	15:23:05	15:23:59	16:09:32	16:09:32	16:16:20			16:22:53	776

Narrative

[05/01/2017 15:23:59 : pos11 : SHITTESDORF]
 Cross streets: AVD VALENCIA/CL TOLEDO
 NBH: 992J6 92672 33.4150955902857,-117.61241770416
 931 REF WHITE SUV AND A BLACK SEDAN BLOCKING SIDEWALK...

Location Comment

NBH: 992J6 92672 33.4150955902857,-117.61241770416

Call Dispositions

Date - Time	Disposition	Unit
05/01/2017 16:22:53	Citation Issued	

Department

Department	OCA Number

Call Complaints

Date-Time	Complaint	Action By

Call Locations

Date-Time	Location	City

Call Log

Unit	Status	Date-Time	Dept	Comments	Deputy ID	Deputy	Odometer
776	ENR	05/01/2017 16:09:32	OCSC	305 W AVD GAVIOTA, SC	5271	TOPETE,YOLANDA NMN	0.0
776	ONS	05/01/2017 16:16:20	OCSC	305 W AVD GAVIOTA, SC	5271	TOPETE,YOLANDA NMN	0.0
776	COM	05/01/2017 16:22:53	OCSC	COM	5271	TOPETE,YOLANDA NMN	0.0

5/16/2017

Orange County Sheriff Department

6:43:34PM

Call Detail Information Report

Call Number: 170501-0626

<u>Unit</u>	<u>Department</u>	<u>DIS</u>	<u>ENR</u>	<u>ONS</u>	<u>LEF</u>	<u>ARR</u>	<u>BUS</u>	<u>REM</u>	<u>COM</u>
776	OCSC		18:09:32	16:16:20					16:22:53

Unit Log

<u>Date</u>	<u>Time</u>	<u>Dept</u>	<u>Unit</u>	<u>Deputy</u>	<u>Action</u>	<u>Comments</u>
05/01/2017	16:16:15	OCSC	776	5271		
05/01/2017	16:16:15	OCSC	776	5271		
05/01/2017	16:16:15	OCSC	776	5271		
05/01/2017	16:22:43	OCSC	776	5271		
05/01/2017	18:22:43	OCSC	776	5271		
05/01/2017	18:22:43	OCSC	776	5271		

Call Vehicles

<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>VIN</u>	<u>Plate</u>	<u>Color</u>	<u>Towed</u>	<u>BOLO</u>

<u>Comments</u>	<u>Owner</u>

Subject

<u>Category</u>	<u>Last Name</u>	<u>First Name</u>	<u>Middle Name</u>	<u>Suffix</u>	<u>Race</u>	<u>Ethnic</u>

<u>Height</u>	<u>Weight</u>	<u>Age</u>	<u>DOB</u>	<u>SSN</u>	<u>OL State</u>	<u>OLH</u>	<u>Description</u>

Call Reference Information

<u>Reference Type</u>	<u>Reference</u>	<u>Related Calls</u>

5/16/2017

Orange County Sheriff Department

6:42:41PM

Call Detail Information Report

Call Number: 170509-1030

Call Number 170509-1030

Call Detail Information

Call Number	Class	Taker	Pos	Call Owner	Date - Time Received	Cat
170509-1030	C	MORANCA	14		05/09/2017 22:57:03	0

Complaint	Ten Code	Priority	Disp Zone	IRA	How Received
415 DISTURBANCE		3	SC	SC14	

Incident Location	Apt/Suite	Floor/Bldg	Incident City	Grid
305 W AVD GAVIOTA			SC	992J6

Caller Name	Patrol Zone	Telephone	Tower ID	Jurisdiction	Tract
ANON	72			OCSD	SC

Images
 Medical
 Hazard
 Previous
 DR issued in Error

All Time	Call Rec'd	Xmit	Dispatch	Enroute	OnScene	Departed	Arrived	Comm	Unit
	22:57:03	22:57:55	23:33:29	23:33:29	23:38:38			23:47:17	472

Narrative

[05/09/2017 23:46:27 : MOB : 472]
CONT HOMEOWNER WHO ADVISED HE WOULD QUIET DOWN PARTY. CODE 4.

[05/09/2017 22:57:55 : pos14 : MORANCA]
Cross streets: AVD VALENCIA/CL TOLEDO
NBH: 992J6 92672 33.4150955902857,-117.61241770416
LOUD SUBJS IN THE POOL

Location Comment

NBH: 992J6 92672 33.4150955902857,-117.61241770416

Call Dispositions

Date - Time	Disposition	Unit
05/09/2017 23:46:30	Advised	472

Department

Department	OCA Number

Call Complaints

Date-Time	Complaint	Action By

Call Locations

Date-Time	Location	City

Call Log

Unit	Status	Date-Time	Dept	Comments	Deputy ID	Deputy	Odometer
472	ENR	05/09/2017 23:33:29	OCSC	305 W AVD GAVIOTA, SC	8956	LI,WESLEY YENGLOON	0.0
472	ONS	05/09/2017 23:38:38	OCSC	305 W AVD GAVIOTA, SC	8956	LI,WESLEY YENGLOON	89985.0

5/16/2017

Orange County Sheriff Department

6:42:41PM

Call Detail Information Report

Call Number: 170509-1030

472 COM 05/09/2017 23:47:17 OCSC COM 8956 LI,WESLEY YENGLON 0.0

Unit	Department	DIS	ENR	ONS	LEF	ARR	BUS	REM	COM
472	OCSC		23:33:29	23:38:38					23:47:17

Unit Log

Date Time	Dept	Unit	Display	Action	Comments
05/09/2017 23:46:59	OCSC	472	8956		
05/09/2017 23:46:59	OCSC	472	8956		
05/09/2017 23:46:59	OCSC	472	8956		

Call Vehicles

Year	Make	Model	VIN	Plate	Color	Towed	BOLO
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Comments

Owner

Subject

Category	Last Name	First Name	Middle Name	Suffix	Race	Ethnic
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Height	Weight	Age	DOB	SSN	OL-Start	OLN	Description
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Call Reference Information

Reference Type	Reference	Related Calls
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5/16/2017

Orange County Sheriff Department

6:44:38PM

Call Detail Information Report

Call Number: 170422-0382

Call Number 170422-0382

Call Detail Information

Call Number	Class	Taker	Pos	Call Owner	Date - Time Received	Cat
170422-0382	G	KLOWE	15		04/22/2017 14:11:46	0

Complaint	Ten Code	Priority	Disp Zone	IRA	How Received
586 ILLEGAL PARKED VEHICLE		4	SC	SC14	

Incident Location	Apt/Suite	Floor/Bldg	Incident City	Grid
305 W AVD GAVIOTA			SC	992J6

Caller Name	Patrol Zone	Telephone	Tower ID	Jurisdiction	Tract
IT DOESN'T MATTER	72	[REDACTED]		OCSD	SC

Images
 Medical
 Hazard
 Previous
 DR issued in Error

All Time	Call Rec'd	Xmit	Dispatch	Enroute	OnScene	Departed	Arrived	Comp	Unit
	14:11:46	14:13:01	14:13:53	14:42:56	14:51:33			14:51:38	775

Narrative

[04/22/2017 14:51:37 : pos5 : HARKEYJA]
[Cleared with unit 775]

[04/22/2017 14:45:54 : MOB : 775]
VEHICLES PARKED IN THEIR OWN DRIVEWAYS (PRIVATE PROPERTY), NO ACTION

[04/22/2017 14:16:24 : pos5 : HARKEYJA]
UNIT ADVISED TO COPY MDC

[04/22/2017 14:13:01 : pos15 : KLOWE]
Cross streets: AVD VALENCIA/CL TOLEDO
NBH: 992J6 92672 33.4150955902857,-117.61241770416
TWO BLACK SUV'S BLOCKING THE SIDEWALK. PER INF SHE CAN'T GET HER WHEELCHAIR BY THEM.

Location Comment
NBH: 992J6 92672 33.4150955902857,-117.61241770416

Call Dispositions

Date - Time	Disposition	Unit
04/22/2017 14:51:37	No Report Needed	775

Department

Department	OCA Number

Call Complaints

Date-Time	Complaint	Action By

Call Locations

Date-Time	Location	City

5/16/2017

Orange County Sheriff Department

6:44:38PM

Call Detail Information Report

Call Number: 170422-0382

Call Log

Unit	Status	Date/Time	Dept	Comments	Deputy ID	Deputy	Odometer
775	DIS	04/22/2017 14:13:53	OCSC	305 W AVD GAVIOTA, SC	9796	ALCARAZ JR, RODNEY ERNEST	0.0
775	QUE	04/22/2017 14:28:55	OCSC	305 W AVD GAVIOTA, SC	9796	ALCARAZ JR, RODNEY ERNEST	0.0
775	ENR	04/22/2017 14:42:56	OCSC	305 W AVD GAVIOTA, SC	9796	ALCARAZ JR, RODNEY ERNEST	0.0
775	ONS	04/22/2017 14:51:33	OCSC	305 W AVD GAVIOTA, SC	9796	ALCARAZ JR, RODNEY ERNEST	0.0
775	COM	04/22/2017 14:51:37	OCSC	COM	9796	ALCARAZ JR, RODNEY ERNEST	0.0

Unit	Department	DIS	ENR	ONS	LEF	ARR	BUS	REM	COM
775	OCSC	14:13:53	14:42:56	14:51:33					14:51:37

Unit Log

Date/Time	Dept	Unit	Deputy	Action	Comments
04/22/2017 14:16:21	OCSC	775	9796		
04/22/2017 14:16:21	OCSC	775	9796		
04/22/2017 14:16:21	OCSC	775	9796		
04/22/2017 14:28:35	OCSC	775	9796		
04/22/2017 14:28:35	OCSC	775	9796		
04/22/2017 14:28:35	OCSC	775	9796		
04/22/2017 14:28:35	OCSC	775	9796		
04/22/2017 14:51:04	OCSC	775	9796		
04/22/2017 14:51:04	OCSC	775	9796		
04/22/2017 14:51:04	OCSC	775	9796		
04/22/2017 14:51:04	OCSC	775	9796		

Call Vehicles

Year	Make	Model	VIN	Plate	Color	Toned	POLO
<u>Comments</u>				<u>Owner</u>			

Subject

Category	Last Name	First Name	Middle Name	Suffix	Race	Ethnic
<u>Height</u>	<u>Weight</u>	<u>Age</u>	<u>DOB</u>	<u>SSN</u>	<u>OL State</u>	<u>OLN</u>
<u>Description</u>						

Call Reference Information

Reference Type	Reference	Related Calls
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5/16/2017

Orange County Sheriff Department

6:46:28PM

Call Detail Information Report

Call Number: 170422-0032

Call Number 170422-0032

Call Detail Information

Call Number	Class	Taker	Pos	Call Owner	Date - Time Received	Cat
170422-0032	G	HARTKL	15		04/22/2017 00:30:53	0

Complaint	Ten Code	Priority	Disp Zone	IRA	How Received
415E DISTURBANCE-MUSIC OR PARTY		3	SC	SC14	

Incident Location	Apt/Suite	Floor/Bldg	Incident City	Grid
305 W AVD GAVIOTA			SC	992J6

Caller Name	Patrol Zone	Telephone	Tower ID	Jurisdiction	Tract
	72			OCSJ	SC

Images
 Medical
 Hazard
 Previous
 DR Issued in Error

Alt Time	Call Rec'd	Xmit	Dispatch	Enroute	OnScene	Departed	Arrived	Clear	Unit
	00:30:53	00:31:40	00:32:04	00:32:04	00:42:57			00:54:02	472

Narrative

[04/22/2017 01:20:46 : pos5 : NALLYJL]
 [Call 170422-0032, 170422-0050 are related.]

[04/22/2017 00:54:02 : pos1 : SEELERTKM]
 [Cleared with unit 472]

[04/22/2017 00:53:49 : MOB : 472]
 CONTACTED SUBJ'S AT THE RES. SUBJ'S ADVISED/COMPLIED TO TURN THE MUSIC DOWN. C4

[04/22/2017 00:47:00 : pos1 : SEELERTKM]
 Unit : 472
 C4

[04/22/2017 00:31:40 : pos15 : HARTKL]
 Cross streets: AVD VALENCIA/CL TOLEDO
 NBH: 992J6 92672 33.4150955902857,-117.61241770416
 LOUD PARTY NEXT DOOR IN THE BACK OF THE RES NO CONT

Location Comment

NBH: 992J6 92672 33.4150955902857,-117.61241770416

Call Dispositions

Date - Time	Disposition	Unit
04/22/2017 00:54:02	Advised	472

Department

Department	OCA Number

Call Complaints

Date-Time	Complaint	Action By

5/16/2017

Orange County Sheriff Department

6:46:28PM

Call Detail Information Report

Call Number: 170422-0032

Call Locations

<u>Date/Time</u>	<u>Location</u>	<u>City</u>
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Call Log

<u>Unit</u>	<u>Status</u>	<u>Date/Time</u>	<u>Dept</u>	<u>Comments</u>	<u>Deputy ID</u>	<u>Deputy</u>	<u>Odometer</u>
472	ENR	04/22/2017 00:32:04	OCSC	305 W AVD GAVIOTA, SC	8913	FIKEJS, JOSEPH MARK	0.0
473	ENR	04/22/2017 00:32:04	OCSC	305 W AVD GAVIOTA, SC	8948	ERICKSON, BLAIR MARSHALL	0.0
472	ONS	04/22/2017 00:42:57	OCSC	305 W AVD GAVIOTA, SC	8913	FIKEJS, JOSEPH MARK	0.0
473	ONS	04/22/2017 00:42:58	OCSC	305 W AVD GAVIOTA, SC	8948	ERICKSON, BLAIR MARSHALL	0.0
472	COM	04/22/2017 00:54:02	OCSC	COM	8913	FIKEJS, JOSEPH MARK	0.0
473	COM	04/22/2017 00:54:02	OCSC	COM	8948	ERICKSON, BLAIR MARSHALL	0.0

<u>Unit</u>	<u>Department</u>	<u>DJS</u>	<u>ENR</u>	<u>ONS</u>	<u>LEF</u>	<u>ARR</u>	<u>BUS</u>	<u>REM</u>	<u>COM</u>
472	OCSC		00:32:04	00:42:57					00:54:02
473	OCSC		00:32:04	00:42:58					00:54:02

Unit Log

<u>Date/Time</u>	<u>Dept</u>	<u>Unit</u>	<u>Deputy</u>	<u>Action</u>	<u>Comments</u>
04/22/2017 00:32:14	OCSC	472	8913		
04/22/2017 00:32:14	OCSC	472	8913		
04/22/2017 00:32:14	OCSC	472	8913		
04/22/2017 00:42:51	OCSC	472	8913		
04/22/2017 00:42:52	OCSC	472	8913		
04/22/2017 00:42:52	OCSC	472	8913		
04/22/2017 00:46:55	OCSC	472	8913		
04/22/2017 00:46:55	OCSC	472	8913		
04/22/2017 00:46:55	OCSC	472	8913		
04/22/2017 00:47:00	OCSC	472	8913	Note	CA, 305 W AVD GAVIOTA, SC
04/22/2017 00:53:52	OCSC	472	8913		
04/22/2017 00:53:52	OCSC	472	8913		
04/22/2017 00:53:52	OCSC	472	8913		

Call Vehicles

<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>VIN</u>	<u>Plate</u>	<u>Color</u>	<u>Towed</u>	<u>BOLO</u>

<u>Comments</u>	<u>Owner</u>

Subject

5/16/2017

Orange County Sheriff Department

6:46:28PM

Call Detail Information Report

Call Number: 170422-0032

Category Last Name First Name Middle Name Suffix Race Ethnic

Height Weight Age DOB SSN OL-State OLN Description

Call Reference Information

Reference Type Reference Related Calls

6/16/2017

Orange County Sheriff Department

6:47:44PM

Call Detail Information Report

Call Number: 170422-0050

Call Number 170422-0050

Call Detail Information

Call Number	Class	Taker	Pos	Call Owner	Date - Time Received	Cat
170422-0050	G	FELLOWSDT	8		04/22/2017 01:18:51	0

Complaint	Ten Code	Priority	Disp Zone	IRA	How Received
416E DISTURBANCE-MUSIC OR PARTY		3	SC	SC14	

Incident Location	Ant/Subst	Floor/Bldg	Incident City	Grid
WAVD GAVIOTA // CL TOLEDO			SC	992J6

Caller Name	Patrol Zone	Telephone	Tower ID	Jurisdiction	Tract
ANON	72			OCSD	SC

Images
 Medical
 Hazard
 Previous
 DR Issued In Error

All Time	Call Rec'd	Xmit	Dispatch	Enroute	OnScene	Departed	Arrived	Comp	Unit
	01:18:51	01:19:18	01:41:49	01:41:49	01:43:49			01:49:50	473

Narrative

[04/22/2017 01:49:49 : pos5 : NALLYJL]
[Cleared with unit 472]

[04/22/2017 01:49:38 : MOB : 472]
SPOKE WITH SVRL SUBJ'S AT THE RESIDENCE. ADVISED OF THE NOISE AND IF A 3RD RESPONSE IS REQUESTED IT MAY RESULT IN A CITE. PARTY ADVISED/ COMPLIED KEEP THE NOISE VOLUME TO A REASONABLE LEVEL. C4

[04/22/2017 01:48:00 : pos5 : NALLYJL]
Unit : 472
C4

[04/22/2017 01:21:06 : pos5 : NALLYJL]
2ND RESPONSE, WILL BE NEXT DOOR TO 305 AVD GAVIOTA

[04/22/2017 01:20:46 : pos5 : NALLYJL]
[Call 170422-0050, 170422-0032 are related.]

[04/22/2017 01:19:18 : pos8 : FELLOWSDT]
399 WAVD GAVIOTA
NBH: 992J6 92672 33.4150955902857,-117.61241770416
LOUD PARTY

Location Comment

NBH: 992J6 92672 33.4150955902857,-117.61241770416

Call Dispositions

Date - Time	Disposition	Unit
04/22/2017 01:49:49	No Report Needed	472

Department

Department	OCA Number

Call Complaints

Date/Time	Complaint	Action By

5/16/2017

Orange County Sheriff Department

6:47:44PM

Call Detail Information Report

Call Number: 170422-0060

Call Locations

<u>Date-Time</u>	<u>Location</u>	<u>City</u>
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Call Log

<u>Unit</u>	<u>Status</u>	<u>Date-Time</u>	<u>Dept</u>	<u>Comments</u>	<u>Deputy ID</u>	<u>Deputy</u>	<u>Odometer</u>
473	ENR	04/22/2017 01:41:49	OCSC	W AVD GAVIOTA // CL TOLEDO, SC	8948	ERICKSON, BLAIR MARSHALL	0.0
472	ENR	04/22/2017 01:41:49	OCSC	W AVD GAVIOTA // CL TOLEDO, SC	8913	FIKEJS, JOSEPH MARK	0.0
472	ONS	04/22/2017 01:43:49	OCSC	W AVD GAVIOTA // CL TOLEDO, SC	8913	FIKEJS, JOSEPH MARK	0.0
472	COM	04/22/2017 01:49:49	OCSC	COM	8913	FIKEJS, JOSEPH MARK	0.0
473	COM	04/22/2017 01:49:50	OCSC	COM	8948	ERICKSON, BLAIR MARSHALL	0.0

<u>Unit</u>	<u>Department</u>	<u>DIS</u>	<u>ENR</u>	<u>ONS</u>	<u>LEF</u>	<u>ARR</u>	<u>BUS</u>	<u>REM</u>	<u>COM</u>
473	OCSC		01:41:49						01:49:50
472	OCSC		01:41:49	01:43:49					01:49:49

Unit Log

<u>Date Time</u>	<u>Dept</u>	<u>Unit</u>	<u>Deputy</u>	<u>Action</u>	<u>Comments</u>
04/22/2017 01:41:51	OCSC	473	8948		
04/22/2017 01:41:51	OCSC	473	8948		
04/22/2017 01:41:51	OCSC	473	8948		
04/22/2017 01:43:40	OCSC	472	8913		
04/22/2017 01:43:41	OCSC	472	8913		
04/22/2017 01:43:41	OCSC	472	8913		
04/22/2017 01:47:52	OCSC	472	8913		
04/22/2017 01:47:52	OCSC	472	8913		
04/22/2017 01:47:52	OCSC	472	8913		
04/22/2017 01:48:00	OCSC	472	8913	Note	C4, W AVD GAVIOTA // CL TOLEDO, SC
04/22/2017 01:49:40	OCSC	472	8913		
04/22/2017 01:49:41	OCSC	472	8913		
04/22/2017 01:49:41	OCSC	472	8913		

Call Vehicles

<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>VIN</u>	<u>Plate</u>	<u>Color</u>	<u>Towed</u>	<u>BOLO</u>

Comments _____ Owner _____

Subject

5/18/2017

Orange County Sheriff Department

6:47:44PM

Call Detail Information Report

Call Number: 170422-0050

Category Last Name First Name Middle Name Suffix Race Ethnic

Height Weight Age DOB SSN OL State OLN Description

Call Reference Information

<u>Reference Type</u>	<u>Reference</u>	<u>Related Calls</u>
Citation		170422-0032

5/16/2017

Orange County Sheriff Department

6:48:54PM

Call Detail Information Report

Call Number: 170419-0969

Call Number 170419-0969

Call Detail Information

Call Number	Class	Taker	Pos	Call Owner	Date - Time Received	Cat
170419-0969	IG	STEPHENSONBE	11		04/19/2017 23:27:35	0

Complaint	Ten Code	Priority	Disp Zone	IRA	How Received
415E DISTURBANCE-MUSIC OR PARTY		3	SC	SC14	

Incident Location	Apt/Suite	Floor/Bldg	Incident City	Grid
305 W AVD GAVIOTA			SC	992J6

Caller Name	Patrol Zone	Telephone	Tower ID	Jurisdiction	Tract
ANON	72			OCSD	SC

Images
 Medical
 Hazard
 Previous
 DR Issued in Error

All Time	Call Rec'd	Xmit	Dispatch	Enroute	OnScene	Departed	Arrived	Comp	Unit
	23:27:35	23:27:56	23:28:18	23:29:49	23:56:17			00:12:17	472

Narrative

[04/20/2017 00:09:23 : MOB : 472]
CONT RENTER REF LOUD PARTY, RENTER ADVISED HE WOULD SHUT DOWN PARTY, ADVISED. CODE 4.

[04/20/2017 00:04:36 : pos5 : HARERCD]
Unit : 472
C4

[04/19/2017 23:28:28 : pos5 : HARERCD]
ADVISED

[04/19/2017 23:27:56 : pos11 : STEPHENSONBE]
Cross streets: AVD VALENCIA/CL TOLEDO
NBH: 992J6 92672 33.4150965902857,-117.61241770416
RENTAL PROPERTY
SUBJECTS PLAYING PING PONG AND PARTYING IN THE POOL

Location Comment

NBH: 992J6 92672 33.4150965902857,-117.61241770416

Call Dispositions

Date - Time	Disposition	Unit
04/20/2017 00:09:27	Advised	472

Department

Department	OCA Number

Call Complaints

Date/Time	Complaint	Action By

Call Locations

Date/Time	Location	City

5/16/2017

Orange County Sheriff Department

6:48:54PM

Call Detail Information Report

Call Number: 170419-0969

Call Log

Unit	Status	Date-Time	Dept	Comments	Deputy ID	Deputy	Odometer
472	DIS	04/19/2017 23:28:18	OCSC	305 W AVD GAVIOTA, SC	8956	LI, WESLEY YENGLON	0.0
378	DIS	04/19/2017 23:28:19	OCSC	305 W AVD GAVIOTA, SC	1940	SCHULTE, AARON LEIGH	0.0
475	ENR	04/19/2017 23:29:49	OCSC	305 W AVD GAVIOTA, SC	8865	MCKENZIE, VINCENT JAMES	0.0
378	REM	04/19/2017 23:29:49	OCSC	REM	1940	SCHULTE, AARON LEIGH	0.0
472	ONS	04/19/2017 23:56:17	OCSC	305 W AVD GAVIOTA, SC	8956	LI, WESLEY YENGLON	0.0
475	ONS	04/19/2017 23:56:17	OCSC	305 W AVD GAVIOTA, SC	8865	MCKENZIE, VINCENT JAMES	0.0
472	COM	04/20/2017 00:12:16	OCSC	COM	8956	LI, WESLEY YENGLON	0.0
475	COM	04/20/2017 00:12:17	OCSC	COM	8865	MCKENZIE, VINCENT JAMES	0.0

Unit	Department	DIS	ENR	ONS	LEF	ARR	BUS	REM	COM
472	OCSC	23:28:18		23:56:17					00:12:16
378	OCSC	23:28:19						23:29:49	
475	OCSC		23:29:49	23:56:17					00:12:17

Unit Log

Date-Time	Dept	Unit	Deputy	Action	Comments
04/19/2017 23:28:26	OCSC	472	8956		
04/19/2017 23:28:26	OCSC	472	8956		
04/19/2017 23:28:26	OCSC	472	8956		
04/19/2017 23:28:30	OCSC	378	1940		
04/19/2017 23:28:30	OCSC	378	1940		
04/19/2017 23:28:30	OCSC	378	1940		
04/19/2017 23:29:49	OCSC	378	1940		
04/19/2017 23:51:23	OCSC	472	8956	USER4 Changed To:	USER4 Changed To:
04/19/2017 23:56:10	OCSC	472	8956		
04/19/2017 23:56:10	OCSC	472	8956		
04/19/2017 23:56:10	OCSC	472	8956		
04/20/2017 00:04:29	OCSC	472	8956		
04/20/2017 00:04:29	OCSC	472	8956		
04/20/2017 00:04:29	OCSC	472	8956		
04/20/2017 00:04:36	OCSC	472	8956	Note	C4, 305 W AVD GAVIOTA, SC
04/20/2017 00:12:05	OCSC	472	8956		
04/20/2017 00:12:05	OCSC	472	8956		
04/20/2017 00:12:05	OCSC	472	8956		

6/16/2017

Orange County Sheriff Department

6:48:54PM

Call Detail Information Report

Call Number: 170419-0969

Call Vehicles

<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>VIN</u>	<u>Plate</u>	<u>Color</u>	<u>Towed</u>	<u>BOLO</u>
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Comments

Owner

Subject

<u>Category</u>	<u>Last Name</u>	<u>First Name</u>	<u>Middle Name</u>	<u>Suffix</u>	<u>Race</u>	<u>Ethnic</u>
SUBJ	[REDACTED]	[REDACTED]			W	

<u>Height</u>	<u>Weight</u>	<u>Age</u>	<u>DOB</u>	<u>SSN</u>	<u>OL State</u>	<u>DLN</u>	<u>Description</u>
		32	[REDACTED]				

Call Reference Information

<u>Reference Type</u>	<u>Reference</u>	<u>Related Calls</u>
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City of San Clemente

TRAKIT CASE NO. **CE2017-0147**

ADMINISTRATIVE CITATION

Admin. Acct. No. **35145**

NAME: (First, Middle, Last) Olson, Eric	DATE ISSUED: 2/17/2017
MAILING ADDRESS: [REDACTED]	VIOLATION ADDRESS: 305 W Avenida Gaviota
[REDACTED]	PHONE NO: [REDACTED]

YOU HAVE BEEN NOTIFIED OF THE FOLLOWING MUNICIPAL CODE VIOLATIONS

- SECTION 8.28.040 - Containers—Placement for collection—Restrictions on storage; penalty for violations.
- SECTION 17.28.292 (E.3) Trash – trash containers left in view of the public right-of-way beyond the subject site's scheduled trash-collection days.

DATE VIOLATION(S) DISCOVERED: 2-16-2017	DATE CORRECTION NOTICE ISSUED: 10-24-2016
LOCATION(S) OF VIOLATION(S): Public right-of-way adjacent to property at 305 West Avenida Gaviota	

No renters or guests of the STLU are permitted to park in any location other than the property at 305 Gaviota as identified in the STLU permit. This notice will serve to notify you that the violation(s) described have not been corrected or remedied. An Administrative Fine in the amount of \$100 is imposed upon you at this time. (San Clemente Municipal Code Chapter 1.20)

Enforcement Officer's Name: Adam Atamian

Email: AtamianA@san-clemente.org

Enforcement Official's Signature: 

Phone: (949) 361-6191 Fax: (949) 361-8281

You must pay the violation fine within 10 working days of issuance at the City of San Clemente Accounting Division located at 100 Avenida Presidio, San Clemente, CA 92672, using the envelope provided or if you wish to contest this citation you must submit a written request for a hearing, along with a basis for the appeal, within ten (10) working days of the issuance of this citation. To request a hearing, send a written request to the City Clerk of the City of San Clemente at the address shown below. The City will then notify you by mail regarding the hearing date and time.

All violations listed above constitute a separate violation for each and every day the violation exists. The City expects continued compliance with its code and will continue to investigate as needed.

The payment of this citation should not be construed as closure or correction of any violation existing upon your property. The correction of all violations requires final verification by the City's enforcement personnel prior to the closure of the case.

In addition to the City's right to seek other legal remedies or actions for abatement of the nuisance, the owner and occupant may be subject to a repeat nuisance service-call fee if a third nuisance service-call is made to the property within 365 days of the date of the notice. This 365-day period is measured from the date of any written warning, correction notice, notice of violation, or citation issued by the City to a property owner or occupant for nuisance.

****WARNING**** Should you fail to request a hearing or pay the fine within ten (10) days of the date of the citation, the City will take any or all legal steps to obtain payment and you may be charged for all costs incurred in the collection process.

FURTHER NOTICE IS HEREBY GIVEN: Pursuant to SCMC Section 3.24.067 - Violations Revocation of Operating License or STLU Zoning Permit, if a STLU owner or operator receives (1) three citations of violation of this code or STLU zoning permit conditions for a particular STLU within any 12-month period, or (2) a single citation for a violation of this code or STLU zoning permit conditions that creates a serious threat to the public health safety, or welfare, **a hearing will be held** in accordance with Sections 3.24.050 and 3.24.060. At the hearing, the hearing officer may revoke the STLU operating license or the STLU zoning permit, or both or impose additional conditions on the STLU operating license or STLU zoning permit to mitigate the impact of the STLU on the community. The City will provide written notice to both the operator and owner of the date, time, and location of the hearing.

Additional Notified Parties:

Operator – SeaBreeze Vacation Rental Management at: 2523 W. Coast Highway, Newport Beach, CA 92662



**Hearing Officer Decision
In the Matter of**

City of San Clemente

v.

305 W. Avenida Gaviota; Eric Olson

Code Enforcement Case No:
CE2017-0147

Appeal Hearing Date: March 30, 2017

Appeal Hearing Time: 2:00 p.m.

Appeal Hearing Site: City Council Chambers, City of San Clemente, CA

Participants:

Hearing Officer: William P. Curley, III Lozano Smith, LLP

City Representative: Adam Atamian, Code Compliance Supervisor

Property Owner

Representatives: Mr. Eric Olson (owner); Mr. Brian Bosson (Seabreeze Vacation Rentals)

I. OVERVIEW

This matter addresses and is an authorized appeal from a citation issued by an employee of the City of San Clemente, California. The citation was issued by the City of San Clemente's Interim Code Compliance Supervisor, Mr. Adam Atamian, based upon his personal observations and documented with photographic evidence which Mr. Atamian authenticated as true and correct copies of his photographs.

Mr. Olson is the long-time owner of the property having the street address of 305 W. Avenida Gaviota, San Clemente, California. Mr. Olson does not permanently occupy or reside in this residential property but instead makes it available for short term lodging. Mr. Olson has employed a respected property management company, Sea Breeze Vacation Rental Management (2523 W. Coast Highway, Newport Beach, California) to serve as the operator of the property. It was testified to, by Mr. Brian Bosson, that Sea Breeze Vacation Rentals manages the day to day affairs of 305 W. Avenida Gaviota, including the management of trash and debris associated with that property.

Mr. Olson and Mr. Bosson both believe that the surrounding neighbors create code violation conditions attributed to 305 W. Avenida Gaviota, in an effort to impair or terminate the use of the property as a "Short term Lodging Unit" (STLU). It is clear that this view is sincerely held by both representatives. They also note that they believe the City of San Clemente staff reacts more favorably to the neighbors than to the property owner. The opinion that they offered was that the past and present property related issues are intended to cause a cessation of the use of this property as a STLU. Other than this opinion and personal belief, the two representatives offered no evidence to support this claim. As a point of fact, even if proven as a neighborhood animus, that would have no direct bearing upon the citations in this case. However, it is hereby

noted and the hearing officer is aware of this aspect of the defense offered by the property owner and property manager.

II. SAN CLEMENTE MUNICIPAL CODE SECTIONS

The code sections cited and asserted to be violated by the property are:

- San Clemente Municipal Code Section 8.28.040; and
- San Clemente Municipal Code Section 17.28.292 (E3).

These two sections, respectively, require: trash containers to be paced in an orderly, consolidated manner with certain time frames; and as to STLU's, the trash collection containers must not be placed off the property for collection, except upon the regularly scheduled solid waste/trash collection day. It is noted that there is no fine nor fee being association with Section 17.28.292 (E3) and it is mentioned in light of its apparent applicability to the facts in this appeal.

III. GENERAL STATEMENT OF ISSUES AND FACTS

Interim Code Compliance Supervisor Atamian testified that he inspected the public frontage of 305 W. Avenida Gaviota in response to complaints submitted to his office. He testified that he personally inspected the public frontage and he observed, and recorded by photograph and notes, that the conditions prohibited by San Clemente Municipal Code Section 8.28.040 were present at this address. Specifically, the four (4) solid waste containers were not then grouped together but were separated. Two each were on opposite sides of the street, and those on the "house side" of the street were separated by the drive approach. The photo offered as part of the City's evidence (a PowerPoint display attached hereto as Attachment 1) confirms this was the case. The property owner and manager assert these four (4) containers were properly placed by a contractor of Sea Breeze vacation Rental Management, but were moved into the violating positions by a person unknown, but believed to be neighbors. No evidence

beyond surmise was offered to prove this defense. In light of the City's unopposed evidence of the violating condition, and in light of no proof other than surmise, as how the containers ended up as photographed and observed, the facts demonstrate a condition in violation of the municipal code prohibition was present. As no evidence proved or substantially demonstrated how the cans came to be in the state of separation, I must find the subject property's containers were in fact violating the municipal code. As the municipal code does not require proof of "how this came to be" or "motives for it", the City did not have to present such evidence to prove that a violation was presented related to the containers of 305 W, Avenida Gaviota.

The second element of Section 8.28.040 cited as being violated relates to the time of day the containers may be placed for regular collection by the City's authorized solid waste collection company. The City code compliance official identified that the time that he observed the four (4) containers was in violation of the municipal codes requirements. Section 8.28.040 mandates that containers "...shall be placed out for collection no earlier than 5:00 p.m. of the day prior to the day fixed for collection." The day "fixed" for collection, on a normal schedule, is Monday for this property. The owner's representatives presented a reasonable argument that this STLU has been previously warned by the City to carefully manage and avoid accumulation of trash and debris at the property. In a commendable effort to comply with that, they schedule trash collections. They assert that this particular incident was one of the extra pick-ups. They also assert that the local waste hauler/collection has a broad range of latitude as to when the extra pick-ups can actually occur, so they must respond to this broad and indefinite range of pick-up timing by placing the containers curbside at the earliest time which pick-up may occur. The owners representative also submitted a print-out of a detailed form from the City's authorized solid waste collector; the firm of CR&R. This form is attached as Attachment 2. This is

confirmed also by an email exchange dated February 17, 2017 (Attachment 3 hereto) that reports the timing of pick-up challenges. The fact that additional, non-regular, solid waste pick-ups can present an inconsistent time conflict with the municipal code is clear. But that conflict between a property owner and a private, third party service provider does not nullify the statutory requirements mandated by a lawful city ordinance. No municipal exceptions were adopted to give leeway or immunity for third party created conflicts. Other means that do not violate the municipal code exist, although they may be less efficient than relying on the local solid waste collection firm and its own rules or limitations. Property ownership carries a duty to comply with the law, even if extra effort or cost is involved. That applies equally to residential, commercial or a hybrid of use/users.

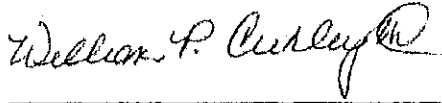
The City official documented noncompliance with municipal codes by this property; the owner admits it but asserts it was a good faith attempt to comply with the law, with "good neighbor" standards, with the STLU related better and spirit of the law and that the limitations of the third party collection company forced this conduct. While likely all true, the availability of other means to both accomplish the good faith of the owner, who not concurrently violating the municipal code, together with no waiver or exemption in the municipal code for such circumstances, results in a finding that a violation of Section 8.24.040 did in fact occur.

IV. DECISION.

The City credibly proved that the two violations of Section 8.24.040 of the San Clemente Municipal Code did occur as per the Administrative Citation for Case No. CE2017-0147 and that no exemptions, waivers or other relief are available to excuse the violations. The Administrative Citation for Case CE2017-0147 is upheld and all fines, payments and other performances

required by the City of San Clemente Municipal Code shall promptly occur, by the property owner, as directed by that code.

Respectfully submitted,



William P. Curley, III
Lozano Smith, LLP

April 4, 2017

Date

Attachments Exhibits

1. PowerPoint for March 30, 2017 Hearing
2. Owner handout – CR&R Order
3. Email dated February 17, 2017 regarding special trash pick-up

EXHIBIT 1 OF ATTACHMENT 7

~~ATTACHMENT 1~~

Administrative Hearing

Code Compliance Case -
CE2017-0147

March 30, 2017

ADAM ATAMIAN

INTERIM CODE COMPLIANCE SUPERVISOR

Location: 305 Avenida Gaviota, San Clemente





Complaints Received

- On February 16, 2017, Code Compliance received a complaint indicating that the trash containers belonging to 305 Avenida Gaviota, a Short-term Lodging Unit (STLU) had been left on the street since Monday, February 13.
- On February 17, 2017, Code Compliance received a similar complaint indicating that the 4 trash containers belonging to 301 Avenida Gaviota had been left on the street since Monday, February 13.



Code Compliance Investigation

On February 17, 2017, Code Compliance staff visited the site, and observed trash cans on the street at 5:41 PM:



6-20-17 / A-68



Code Compliance Follow-up

- At approximately 4:07 PM, February 16 an Environmental Services Coordinator contacted Eric Olsen regarding trash cans on the street. Was told they were left by tenants, and special pick-up scheduled for February 17.
- On February 17, 2017, Code Compliance staff emailed the STLU operator Brian Bosson with Sea Breeze Vacation Rental Management, Inc. to inform them that complaints were received and trash containers were on street.
- Brian Bosson responded that they were not left out all week, but part of a special pick-up scheduled for the morning of February 17. He confirmed the owner had spoken to the City.

Background

- On October 24, 2016 Eric Olsen, property owner was provided a courtesy correction notice indicating noncompliance with SMC Section 8.28.040 – Containers – Placement for collection.
- This Section states, “All containers used by and/or for a customer and all bulky items placed in connection with a scheduled collection shall be grouped together when placed in the appropriate collection location and shall be placed out for collection no earlier than 5:00 p.m. of the day prior to the day fixed for collection.”



Violations observed

- Trash cans not grouped together.
- Trash cans placed before 5:00 PM on the day prior to trash pick-up.



Additional Violations observed

STLUs, SCMC Section 17.28.292.E.3 states that, “No trash container may be left in view of the public right-of-way except in orized containers for the purpose of collection by the City’s orized waste hauler on the subject site’s scheduled trash- iction days in compliance with the requirements specified in pter 8.28, Collection and Disposal of Solid Waste.”





Citation Issued

Code Compliance division issued a citation on February 17, 7.

Olsen appealed the citation on February 27, 2017.





Summary

Property owner issued a courtesy correction notice within last 12 months regarding improper trash container cement.

Evidence obtained by Code Compliance established the existence of violation of same code.

Violation issued in compliance with requirements of MC.



Conclusion

Staff requests the hearing officer uphold issuance of citation issued for Case CE2017-0147, and stipulate that payment of fine is required.



Administrative Hearing

Code Compliance Case -
CE2017-0147

March 30, 2017

ADAM ATAMIAN
INTERIM CODE COMPLIANCE SUPERVISOR

EXHIBIT 2 OF ATTACHMENT 7

~~ATTACHMENT 2~~

Work Order Inquiry

W/O Total \$ 18.63

Inquiry

Customer # 82-0040469 Customer Name ERIC OLSON
 W/O # 676454 Status Complete-Posted
 Monthly Charge 19.61 Balance Du .00

(F21) |
 (F9) |
 |
 (F12) |
 (F11) |
 (F2) |
 (F7) |
 (F6) |
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 Credit Limit:

Name: ERIC OLSON
Address: 305 WAVD GAVIOTA
 SAN CLEMENTE, CA 92672
Contact: SEABREEZE MGMT AUTHORIZED
Phone: (949) 498-4448
Fee Code: OCSC
TBody:

Routing: 1) 1 T6 Entered 2/16/17 16:04 by SLICON
 (first 4 only) 2) 1 R6 Edited 2/16/17 16:04 by SLICON
 Dspatch by 2/17/17 9:38 by HFIGUEROA
 Toggled by 3/01/17 7:01 by SLOPEZ

Special Instructions: 993 R5
ORDER BY: COLT SERIAL#
PO#: Manifest#

WO Type: TRASH
Rte Type: TRASH
Org Act Dt: Fri 02/17/17
Date/Time: Fri 02/17/17
Priority:

Date	Sz	Cg	Description of Service	Qty/PU	Rate	Total	Sub-Mails
2/17/17	98	AP	ADDITIONAL PICK UP RESD	3.00		18.63	
2/17/17			1-60GL TRASH/2-60GL REC				
2/17/17			SRVC DAY MON				

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- Action
- F1
- F3
- Work w/Line Date F10
- F16
- F5
- F17
- F18
- F19
- F23

|

Map Service Addr



6-20-17 / A-78

Send Email

EXHIBIT 3 OF ATTACHMENT 7

~~ATTACHMENT 3~~

Weiss, Jennifer

From: Brian SeaBreeze <brian@seabreezecorp.com>
Sent: Friday, February 17, 2017 4:04 PM
To: Atamian, Adam
Subject: Re: 305 Gaviota

Thanks Adam,

I have put in two requests with the city clerk which is what I assume you are talking about.

As for the trash, these have not been out all week. In an effort to continue to be a good neighbor to Jim we called for an extra pick up yesterday as the trash cans were full and didn't want Jim to complain about any smell or trash, CR&R made it very clear that they could not give us a time of when they would pick the trash up today and they advised that they could pick up early in the am. The trash cans were taken out yesterday evening in preparation for pick up today, the trash was picked up this afternoon and the cans have been put back empty already by my opps guys. I just called and asked if there is any trash on the ground and they said that there was not.

Somehow even by trying to be a good neighbor to these people it somehow ends up getting a complaint, unbelievable.

BTW, Eric relayed this to someone who called him from the city yesterday as well.

Thanks,

Brian Bosson
(888) 858-1719 x 101
2523 West Coast Hwy
Newport Beach, CA, 92663
seabreezerevacationrentals.com



On Fri, Feb 17, 2017 at 3:48 PM, Atamian, Adam <AtamianA@san-clemente.org> wrote:

Brian,

Two things, next week the Clerk's office will be sending you copies of the documents pertinent to the Administrative Hearing.

Second, the trash cans at 305 Gaviota have been left out all week and there are high winds in the City right now that could blow the cans over and spill trash. I received a complaint that there is already some trash on the ground. Could you send someone by to put the cans away until trash day (Monday)?

Sincerely,

Adam Atamian, MPA, AICP

JOHN M. DETTONI, Ph. D.

311 West Avenida Gaviota
San Clemente, California 92672-5445 USA

phone: + [REDACTED]
email: [REDACTED]

June 1, 2017

Dear Members of the City Council of the City of San Clemente,

This email is being sent to you all since I cannot appear before you in person. I will not be in San Clemente on June 6th. Otherwise I would be at the City Council meeting on June 6th to add my comments to the issues about which I write.

The ISSUE: review of the findings against the owner of the VRBO property at 305 West Avenida Gaviota.

This property and the owner has had a well-known problem for many years. You could easily get a proverbial "ear full" from the City Manager and the City Attorney since they have been involved in this issue for much longer than a year.

A brief summary:

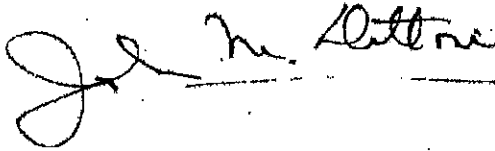
1. Numerous calls to the Sheriff and/or Code enforcement for excessive noise, loud noise well past 10:00 p.m., parking violations (on the street and not in the garage), more than 12 persons staying at the residence, parties involving many more than 12 people, trash cans outside past Monday night (Monday is our normal trash pick-up day), etc.
2. Obnoxious behavior by the owner: giving the middle finger to two of the women on the 300 block of West Ave. Gaviota; calling one woman a bitch, leaving his VRBO address in his car by speeding down the road and blowing his horn. Does this seem like somewhat abnormal behavior? Seems so to me and to those on our block.
3. Parking his old Cadillac car for almost a year in front of the neighbor's house at 307 Gaviota. This is obviously to intimidate the neighbor, to give the proverbial "middle finger" to the neighborhood, and generally to say to all of us that he could care less about the neighborhood. All he wants, it would seem, is to rent this house and make money. The neighbors - who cares about them?
The issue of the car parked on our 300 block got to the point that I pass around a petition asking the city of San Clemente to declare this car a public nuisance. There is precedence for doing such and this was included in the petition that was drafted by a well qualified lawyer on our block. His qualifications include having argued before the Supreme Court of the USA! He is one of three lawyers on our street, all of whom signed the petition. All but one person on our 300 block signed this petition and did so GLADLY!
4. The renters of this VRBO pay a sizeable amount of money to rent 305 Gaviota. They find it a pleasant location, a swimming pool (heated on request for additional fee), outdoor fireplace,

ping pong table, and often outdoor speakers for playing music in the back yard loud enough for neighbors three or more houses away to hear! There is little doubt that those who pay large sums of money for this VRBO want to maximize their pleasure and they often do with parties that go well beyond 10 p.m. and with many more than the maximum of 12 people and no outside guests. I cannot blame the renters for wanting to maximize their investment in this VRBO, but by doing so, they fail to keep the agreement that they signed regarding the various restrictions on the use of the property. Even hotels have rather strict rules about noise and use of swimming pools. One cannot do whatever he/she pleases at any hotel.

It is obvious that the VRBO at 305 W. Ave. Gaviota is a party house. Consistent with this designation by the neighbors are the noise, parking violations, violations of the number of people at the house, etc. The owner, by his actions and even by his demeanor at the hearing several weeks ago seems to show his disregard not only for the neighborhood but also for the ordinance of the City of San Clemente. Such a person should not be allowed to have a license for a VRBO.

I therefore request that when you review this issue at the 6 June City Council meeting that you maintain the original findings.

Sincerely,

A handwritten signature in cursive script that reads "John M. Dettoni". The signature is written in dark ink and is positioned above a horizontal line.

John M. Dettoni, Ph.D.

RESIDENT OF
SAN CLEMENTE, CA
- DECLARATION

We, Rosemarie Francisco and Richard Francisco, declare as follows:

1. The owner of the VRBO property at 305 W Gaviota intentionally tried to be an aggravation to the neighborhood . Specifically, we refer to his parking a vehicle in front of 307 W Gaviota for over 10 months, moving the vehicle a few feet every 3 days, forward or backward, to 'comply' with street parking regulations. This was a deliberate "in-your-face" gesture to the residents at 307 and to the neighborhood in general, because it took his effort of driving from his home over 40 miles away, or arranging for someone else, to move the car. Although the VRBO owner received citations and the car was towed several times over the 10 months, it continually reappeared, until the city of San Clemente finally found a way to stop the owners inconsiderate, childish behavior.

2. The property at 305 W Gaviota has been a vacation rental for almost 10 years. During this time the premises was used for large parties and events which meant loud voices, loud music, and loud cars. The owner of the property was unresponsive to complaints from the neighbors, which include a letter signed by 15 + residents. It took action by the City of San Clemente to get the attention of the owner. Recent restrictions placed on the property limiting number of habitants, parking and noise have helped, during the winter months, though there continue to be violations. We do not know how these restrictions can be enforced during the summer months. There is no manager on premises. The responsibility continues to lie with the neighborhood to police behavior of renters who arrive every few days to vacation as though they are at a resort.

3. We are thankful we do not live next door to this property! What the Laurant family has had to endure is more than any resident of any San Clemente neighborhood, or any other town's neighborhood, should have to put up with. This is not a noisy neighbor. It is an unresponsive property owner operating a business in a residential neighborhood:

We declare that the foregoing is true and correct.

Rosemarie Francisco, Richard Francisco Date: June 7, 2017

Rosemarie Francisco, Richard Francisco, 306 W Gaviota, San Clemente

RESIDENT OF
SAN CLEMENTE, CA

- DECLARATION

I, (declarant's full legal name) Tanya Hathaway, declare as follows:

1. Eric Olson's Property at 305 W. Ave. Laviota has been a neighborhood problem for at least 10 years. I have lived at my property of 1402 Calle Toledo since 2000. An issue is the number of people allowed to :
2. Stay in the property. Yes, they have rules but none are enforced. They can at times have 20+ people, they party all day/night, they drive drunk down our streets, they say inappropriate things to :
3. The neighbors cause they know we called the cops to try to get help. They have no rules ~~that~~ that are enforced for guest time or respect to the number of cars that are allowed. The guest are now directed to Park in front of my house to hide the number of cars they have. Beach side properties tented the Olson property.

I declare that the foregoing is true and correct.

Tanya Hathaway
Signature of Declarant

6/8/17
Date

Tanya Hathaway
Printed Name of Declarant

over spring break 2017, April, and had all their Oregon guests, who happened to be nice, park in front of my house. They used the cars to get changed in and store their clothes and belongings.

This is a common occurrence + the property companies just choose to find a way around the rules in order to make \$ in our neighborhood. If this

continues with no rules I'm sure more will URBo their homes for a ~~im~~ southwest as we can all benefit by doing this if rules can't be enforced.

RESIDENT OF
SAN CLEMENTE, CA

- DECLARATION

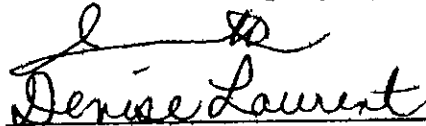
I, (declarant's full legal name) Denise Laurent and Jim Laurent, declare as follows:

1. Living next door to 305 W. Avenida Gaviota, a vacation rental business, has been very disruptive to my family for the past 7 years. Short term renters consistently have loud parties utilizing the property's backyard pool, jacuzzi, bar area, and outdoor ping pong table. This property is located in a residential area with houses in close proximity to each other.

2. There are consistently more guests at the house than the lease allows, with multiple cars in the street, plenty of noise and no one monitoring. permit ^{SR}

3. No code enforcement is available during the night when my family is awakened on a regular basis to late night pool dips and partying, with school and work the next day for us nonvacationers.

I declare that the foregoing is true and correct.


Denise Laurent

Signature of Declarant

June 7, 2017

Date

Denise Laurent Jim Laurent
Printed Name of Declarant

RESIDENT OF
SAN CLEMENTE, CA

DECLARATION

I, Tricia Mading, declare as follows:

1. The vacationers who are staying at the STLU located at 305 W. Ave. Gaviota ("STLU"), and their guests, frequently make disturbing and annoying noise that unreasonably interferes with the peace, calm and tranquility of the neighborhood. This excessive noise usually occurs at night when there are no code enforcement officers at work;
2. The STLU's vacationers and their guests park frequently park their cars on Gaviota. There are already three (3) cars parked at the STLU, and there is no on-site parking available, when this violation typically occurs;
2. The violations stated above have continued to occur, even after additional restrictions were recently placed on the STLU. When I have called code enforcement for assistance, no code enforcement officer has been available. In addition, sheriffs have told me they will not enforce restrictions because they do not want to ruin the violators' vacations.

I declare that the foregoing is true and correct.

Tricia Mading
Signature of Declarant

June 8, 2017
Date

TRICIA MADING
Printed Name of Declarant

RESIDENT OF
SAN CLEMENTE, CALIFORNIA

DECLARATION

I, William McGowan, declare as follows:

I reside at 303 West Avenida Gaviota, San Clemente, CA directly next to the short term rental property at 305 West Avenida Gaviota. I have lived here for five years while enduring a never-ending turn-style of vacationers in for a wild weekend or a large family reunion. The property has hosted bachelor parties, wedding receptions and reunions on a commercial level with caterers and DJs playing until the police are called. Primarily it hosts multiple families or groups of friends meeting for a few days to a week for vacation.

Most weeks begin with a group of two or three families arriving to find a nice house with a good pool and outdoor area for family and friends to have a great vacation in beautiful San Clemente. The kids excitedly awake and get in the pool as early as 6:30 am with all the normal noise you would expect to hear at a resort. This continues almost every day of the year. They are enjoying their vacation, playing in the pool, drinking while blaring their favorite music. The evening generally is an outdoor barbeque with games, loud music and boisterous hot tub conversations. Most are drinking heavily and speaking loudly above the music as may happen while enjoying a vacation. I don't blame them because they are on vacation but they are the only house in the entire area that is on vacation. The rest of us live here.

The permanent residents of the neighborhood are subject to the massive disturbance this one property brings to area. I believe everyone should be able to maximize any investment they make. However it can't be at the detriment of those of us who are directly affected by this nuisance. This property is a vacation property in the middle of a residential neighborhood. The noise and inconvenience of the property have consequences on the permanent residents who have to be disturbed by the excessive noise during the daylight hours and sacrifice sleep while the conversations and parties last into the early weekday mornings. Unlike the vacationers, I (we) have to get up and go to work.

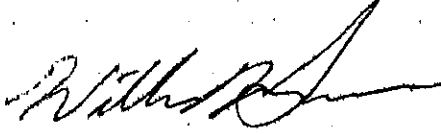
Several times a year the vacationers get upset because the police are called or a neighbor asks them to tone down the noise. As many have been drinking they tend to react negatively and become very confrontational. They really have nothing to lose. They will never see us again because they are only here for a few days.

The people vacationing are behaving as if they are on vacation. That entails behavior they normally wouldn't engage in if they were in their normal life. A book could be written about the things we have seen and heard from this house. Over the years, there have been wedding receptions and bachelor parties that go on for days. Things can get wild. Trash is thrown into my yard. My 78 year old mother witnessed a couple having sex on the front patio in daylight. Foul language and perpetual disturbance have become normal.

The one consistent factor that makes this situation terminal is that this is the ONLY short term vacation house in our vicinity. I would be perfectly happy if this house was rented on a longer term basis (3 months-1 year term). This would allow the owner to generate a fantastic income, tax advantages and enjoy the appreciation of California beach property.

It should also be noted I have never once called the police to complain about the noise for one simple reason. I don't believe in wasting our community resources to handle things that should be regulated by common decency. The police are better served preventing crime. Just because I haven't called the police doesn't mean that this vacation rental has not been a consistent disturbance that affects the quality of our life. Hopefully we can find an administrative solution to the nuisance of 305 West Avenida Gaviota.

I declare the foregoing is true and correct.



Signature of Declarant

6/8/2017

Date

WILLIAM MCGOWAN

Printed name of Declarant