



## City of Santa Barbara

Community Development Department

### Memorandum

**DATE:** May 25, 2017

**TO:** Mayor and Councilmembers

**FROM:** City Attorney's Office  
Planning Division, Community Development  
Finance Department

**SUBJECT:** Short Term Rental Enforcement Update

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Council previously directed staff to provide periodic updates on Short Term Rental ("STR") enforcement efforts at regularly agendized Council meetings. Those staff presentations occurred on March 1, 2016 and October 11, 2016. At the October meeting, Council indicated that staff could provide written progress reports in the future on enforcement activities for STRs.

This enforcement status report is comprised of statistical information on the number of STR enforcement cases settled or closed, the number of cases currently open, the amount of Transient Occupancy Taxes ("TOT") collected from enforcement cases, and a rough estimate of the number of STRs currently advertising and operating in the City. This report will not include a discussion of the permitting process to lawfully convert a residential property into a STR.

Moving forward, staff will provide similar written reports with updated statistical information on a quarterly basis in order for Council to gauge the City's progress in enforcement of STRs.

#### Discussion

Prior to 2017, the highest level of enforcement priority for STRs were those properties with operators who failed to remit TOT owed to the City, failed to obtain a business license, or had nuisance complaints filed by neighbors who were impacted by the operation of a STR. At the start of 2017, the City's Finance Department stopped issuing business licenses for all unpermitted<sup>1</sup> STRs. Therefore, enforcement categories were essentially eliminated, although nuisance complaints and alleged operation of STRs in units developed under the City's Average Unit-Size Density Incentive Program remain high priority cases. The increase in enforcement activity since January 2017, discussed below, is representative of the fact that enforcement action has been initiated against any

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<sup>1</sup> "Unpermitted" refers to STRs that have not received the proper land use entitlements and/or zoning clearance to legally operate.

unpermitted STR, regardless of whether or not the operator previously remitted TOT payment or obtained a business license.

### The Settlement and Closure of Enforcement Cases

In the fall of 2015, the City Attorney's Office drafted a standard settlement agreement to be used to amicably resolve STR enforcement cases prior to the City Attorney's Office initiating litigation against property owners operating short-term rentals.

Six (6) settlement agreements were executed by March 2016. That number climbed to 32 settlement agreements by October 2016. As of May 2017, the number of settlement agreements executed has more than doubled to 67. In addition, the City Attorney's office has received another 23 signed declarations from property owners who previously operated STRs. Those declarations provide that the property owner formerly engaged in operating STRs, previously paid their TOT and had a business license, and have since discontinued operating STRs.

A total of 521 STR enforcement cases have been closed since the commencement of proactive enforcement on STRs in September 2015. The reasons for closing the enforcement cases include: no known short-term rental activity or advertisements for a significant period of time and all TOT owed was paid; voluntary closure by the STR operators who ceased all advertising and submitted a letter to the Finance Department asking to close their account; or fraudulent listings by a third party who listed the property as a STR without the property owner's knowledge or consent.

There are currently 238 open STR enforcement cases. Of the open enforcement cases, 131 have abated the zoning violations, but are pending resolution of TOT payment with the Finance Department and/or Settlement Agreements with the City Attorney's Office. The remaining 107 open enforcement cases have not yet abated the zoning violations. For those cases, STR enforcement staff and the City Attorney's Office will proceed to the next step in enforcement which includes additional administrative fines and the filing of either a civil or criminal case with the Superior Court.

Since the last status report in October 2016, the number of STR cases opened, enforced on, and settled have steadily increased. The primary reason for this increase (aside from the elimination of enforcement priority categories) is due to the hiring of extra hourly staff to focus on STR enforcement. Presently, there are 2.75 Full Time Equivalents ("FTE") dedicated solely to STR enforcement in the Planning Division, as compared to 1.25 FTE in October 2016. This additional, temporary staff support was due to one-time carryover money that was not spent in FY16 and salary savings accrued in FY17 due to difficulty hiring permanent and hourly STR enforcement officers. Dedicated STR enforcement staff is proposed to be 1.5 FTE for Fiscal Year 2018.

### Finance Department Update

In June 2015, there were 349 STRs registered with the Finance Department in order to obtain a business license. In February 22, 2016, 316 STRs were operating with a registered business license. Currently, there are 10 permitted and registered STRs in the City.

In October 2016, enforcement of STRs had generated a total of \$175,115 in remitted TOT. As of May 17, 2017, the amount of total TOT remitted due to enforcement action is \$367,127.

#### Estimation of the Number of STRs Presently Operating in the City

Enforcement staff conducted a review of the two major platform websites that facilitate STRs; Airbnb and VRBO, in order to get a general idea of the potential number of STRs currently operating in the City. The search revealed a combined total of 330 STRs on these two platforms for properties in the City that advertise rental periods *for less than 30 days*.<sup>2</sup> It should be noted that this number does not differentiate any duplicative advertisements on both websites for the same property. Consequently, the number of unique STRs advertising rentals for less than 30 consecutive days may be lower. However, STR operators not advertising on these two major websites are not included in this estimation. It is important to point out that this total number is down from the estimated several hundred that were being advertised several months ago.

As public concern grows regarding STRs and their impact to the City's housing stock and character of residential neighborhoods, complaints of illegally operating STRs have increased. Enforcement staff continues to be proactively engaged in the identification and enforcement of unpermitted STRs.

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<sup>2</sup> Only properties that rent for less than 30 consecutive days are in violation of the Municipal Code