

CALIFORNIA COASTAL COMMISSION

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W13b

A-5-DPT-22-0038 (City of Dana Point)

NOVEMBER 16, 2022

**CORRESPONDENCE RECEIVED
PRIOR TO NOVEMBER 3, 2022**

KIM TARANTINO
MARK N. ZANIDES
24145 Pacific Coast Highway No. 216
Dana Point, CA 92629

BRIDGET MCCONAUGHY ON BEHALF OF UNITE HERE LOCAL 11
464 Lucas Ave., #201
Los Angeles, CA 90017

**BEFORE THE
CALIFORNIA COASTAL COMMISSION**

In the Matter of)	
)	
City of Dana Point)	MOTION FOR CONTINUANCE OF
Resolution No. 22-07-12-01)	DE NOVO HEARING ON CITY OF
)	DANA POINT CDP 22-0010
and)	
)	
Dana Point Coastal Development Permit)	
22-010)	
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INTRODUCTION

On July 13, 2022, Dana Point filed its COASTAL DEVELOPMENT PERMIT APPLICATION NOTICE OF FINAL ACTION with this Commission. This permit established a new Short Term Rental (STR) program in Dana Point.

Appellants Tarantino and Zanides, joined by UNITE HERE Local 11 (Local 11)¹ timely appealed to this Commission on two major grounds:

1. That Dana Point's CDP does not conform to its Local Coastal Program (LCP) where the LCP, Housing Element and the City's Municipal Code (which are read in harmony) have always barred STRs within residential neighborhoods; the City has heretofore always interpreted its Code to bar STRs in residential neighborhoods, and no zone text amendment or LCP amendment has been submitted to or approved by the Commission.
2. The amended STR program is inconsistent with the Coastal Act because it is unnecessary in view of the extraordinary coastal access already available in Dana Point, will inevitably result in a significant loss of affordable coastal access and housing in the City, and will have a serious negative effect on residential neighborhoods.

On September 7, 2022, this Commission found that there was a substantial issue as to conformity of the CDP with the Coastal Act. The matter was remanded for a *de novo* hearing.

We are informed that the City has not withdrawn its CDP but rather has agreed that the CCC may draft the CDP. This means that effectively the CCC will be drafting the Short Term Rental regulations for the City of Dana Point. We are also informed that this may occur as soon as November 2022.

This is no routine CDP review. Rather, the unique procedural posture of this case means that in essence, the Coastal Commission is enacting STR legislation. It has never done so before. Neither this Commission nor the staff has experience or expertise in this area. The recent Half Moon Bay STR matter shows that thoughtful analysis and more time are needed. Accordingly, prudence suggests that it approach this task in an orderly fashion.

Specifically, we request that the Commission continue the *de novo* hearing until such time that the Commission has collected and analyzed data regarding the affordability of unhosted STRs compared to hosted STRs, the impact of the Coastal Commission's STR policy on housing in the coastal zone in Dana Point, and the impact of the Commission's policy on neighborhood character and zoning use.

¹ Local 11 represents more than 25,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix—including numerous members who live or work in Dana Point.

I.

THE COMMISSION IS ENACTING STR LEGISLATION: THERE MUST BE AN ORDERLY PROCESS SO THAT IT CAN OBTAIN INFORMATION NECESSARY TO MAKE AN INFORMED DECISION

The Commission action at its October 14th hearing on the City of Half Moon Bay's STR Ordinance-LCP Amendment is very relevant and informative. In that meeting, the Commission acknowledged that it did not have a ready metric for ascertaining the affordability of STRs. The Commission also indicated that it did not have an adequate analysis of the impact of the proposed STR ordinance on lower cost housing in the City or the impacts of STR ordinances on neighborhood character and zoning use. A majority of the Commissioners present echoed the need for more data. As a result, Half Moon Bay's LCP Amendment was continued to early next year so that the Staff and City could work together to provide a better analysis of the aforementioned issues.

To our knowledge, the staff in this case lacks much of this information for Dana Point too.² Nevertheless, staff has advised appellants that staff will take the Dana Point CDP as written and "tweak" it as soon as November 2022. Then, appellants and the public have the opportunity to register objections to the staff report when it is published. There are several problems with this approach.

First, it bears reminding that the proposed STR ordinance at issue was not the result of a thoughtful and considered city process. Rather, it was proposed late in a city council meeting; no staff work was done to analyze the impact of the specifics of the final proposal on the City; and the numbers were picked by the City Attorney because, in his words, they "felt" right.

Second, the Commission staff does not know what the impact of its proposal will be, because (like the City Council) it does not have needed detailed information on the numbers and types of housing units existing in the Coastal zone (because the City has not provided such information); and it has not been advised by the City of the current status of all new housing planned or in process in Dana Point.

Third, to our knowledge staff has not conducted an inquiry into best practices in other cities. What works, what does not? How do other cities enforce STR regulations? What features of STR programs are most effective in preventing illegal STRs which further reduce availability of housing and affordable coastal access?

This *de novo* hearing is better scheduled in the months after your staff has both completed the STR/housing analysis and heard the Half Moon Bay LCP Amendment. As you know, there is no pressing deadline to schedule this hearing. Rushing this for November 2022 Commission consideration is not reasonable.

The Commission and staff are in uncharted waters in drafting this legislation. Drafting of

² We are informed that staff has spoken to Dana Point city officials and the city had produced information about the number of dwellings and the number of multi family units in the Coastal Zone, but had declined or been unable to produce the number of duplexes, triplexes, etc.

STR legislation which will profoundly affect an entire community and particularly, its availability of critical housing stock, is a huge responsibility. We know this Commission agrees. We propose the following steps to facilitate the process.

1. The Commission Should Direct Its Staff to Meet and Confer with Interested Parties and Conduct the Investigation Necessary to Make a Fully Informed Decision

We respectfully submit that the Commission should direct its staff to 1) meet and confer with interested members of the Dana Point community to obtain the information necessary; 2) investigate comprehensively the STR experience of other coastal cities to inform it of best practices to balance coastal access with protection of affordable housing; and 3) investigate the STR enforcement history of Dana Point so that it may craft a program which will enhance enforcement and thereby protect affordable housing and the character of residential communities.

2. The Commission Should Direct Its Staff to Publish Its Proposed Legislation for Review and Comment Before Submitting It to the Commission.

In order to avail itself of expertise and information from others, we propose that the Commission direct that before the staff submits a recommendation in writing, it circulate a draft of the proposed legislation for public comment. We recommend a 60 day comment period.

CONCLUSION

We respectfully submit that a continuance of this hearing is necessary and appropriate. The Half Moon Bay STR item heard October 14 shows that a continuance is needed. We appreciate your flexibility in this regard, and look forward to reviewing the data collected by the Commission.

Dated: October 23, 2022

Respectfully submitted,

MARK ZANIDES
KIM TARANTINO
BRIDGET MCCONAUGHY ON BEHALF OF UNITE HERE LOCAL 11

From: [Kim Tarantino](#)
To: [Stevens, Eric@Coastal](#); [Amitay, Shahar@Coastal](#)
Cc: [mark zanides](#); [Bridget McConaughy](#); [Kim Tarantino](#)
Subject: How we calculated an additional 756 STRs in Dana Pt's CZ
Date: Monday, October 24, 2022 8:12:25 PM

Good morning Eric and Shahar,

When we spoke last week, Eric, you requested an explanation of how we had arrived at the estimated number of possible STRs in the City's coastal zone if the City's proposed CDP is implemented as proposed. I apologize for my delay sending this information to you - I had a family medical emergency and was sidetracked.

In the appeal document (Dana Point CDP 22-0010) submitted to CCC on July 27, 2022, it's stated that an additional 756 residential housing units might be converted from primary residences to unhosted STRs. (Page 24, para. 3) As of July 27, there were 61 primary residences that had been converted to STRs in the Dana Point Coastal Zone. Permitting another 756 STRs would result in 817 primary residences that are no longer available as long-term housing stock.

How we calculated that an additional 756 STRs could be legally permitted in the Dana Point Coastal Zone if CDP 22-0010 is implemented as it's currently written:

P. 24, para. 4:

Unhosted STRs in residential zones: Proposed cap of 115. Currently there are 61. Result: an increase of **54**.

Unhosted STRs in mixed-use zones: Proposed cap of 190. Currently there are 0: these areas in currently being redeveloped. Result: an increase of **190**.

P. 24, para. 5:

"Hosted" STRs in multi-family units in residential zones: Proposed cap: unlimited. Result: an increase of **512** (67 + 445)
How we arrived at this calculation:

The City says it does not have the number of duplexes, triplexes, etc. that are in the city.

Per the RHNA 2020 report there are 2,676 units housed in either a duplex, triplex or quadriplex; 200 of those units are in the coastal zone.

The owner must reside on premises to be eligible for a STR permit.

If those 200 units are in duplexes, then 100 of them could be an STR.

If those 200 units are in triplexes, then 67 could be an STR

If those units are in quadriplexes, then 50 could be an STR.

As part of our conservative estimate we used **67**.

Per the RHNA 2020 report there are 2,372 housing units in a building with 5+ units. 75% of these units (1779 units) are in the coastal zone.

The owner must reside on premises to be eligible for a STR permit. Assuming a 5-unit building, then one of the remaining 4 units is available as an STR.

$2,372 \text{ units} \times 75\% = 1779 \times 25\% = 445$

Total possible additional STRs in the Coastal Zone: 756 (54 + 190 + 512)

Please let me know if you have any additional questions.

Best,

Kim

From: [Kim Tarantino](#)
To: Amitay.Shahar@Coastal
Cc: Stevens.Eric@Coastal; mark.zanides; [Bridget McConaughy](mailto:Bridget.McConaughy); [Kim Tarantino](#)
Subject: Re: Has our continuance request been approved or denied?
Date: Monday, October 31, 2022 11:44:48 AM

Hi Shahar,

Mark and I have a few questions. The first questions relates to the denial of our continuance request. We understand that only the City can request a continuance. You and Eric explained that as citizens/residents Mark and I, along with the other citizens/residents that we are working with, can request a postponement. Although our October 20, 2022 correspondence requested a continuance I'm assuming it would have been processed as a request for postponement. We are curious; who decides if a request for postponement is approved or denied? Is that a staff decision, a Commissioners' decision, or decided by collaboration of the two groups? Under which circumstances will a postponement be granted? What were the specific reasons given for denying our request?

In the October 19 Teams meeting with you, Eric, Mark and me, you and Eric said the staff report would be published on October 27. I've looked but can't find it. Has it been published? If so, will you please send us the report or a link to it?

What will the report contain? A compilation of all documents submitted by the City and our group along with a recommended ordinance? Is the report reviewed and approved by the Commissioners prior to publication?

Have you and/or Eric determined how an initiative would affect these proceedings? When Mark and I met with you both on Oct 19 neither of you were clear on the effect of an initiative. That would be helpful information for our group.

Again we appreciate your assistance as we navigate this process.

Best,

Kim

> On Oct 27, 2022, at 2:44 PM, Amitay, Shahar@Coastal <shahar.amitay@coastal.ca.gov> wrote:

>

> Hi Kim,

>

> The matter has not been continued. The item is W13b of the November hearing agenda. The staff report will be posted next week, by November 4 at noon at the very latest.

>

> Thank you,

>

> Shahar

>

> -----Original Message-----

> From: Kim Tarantino <kim.a.tarantino@gmail.com>

> Sent: Thursday, October 27, 2022 2:43 PM

> To: Amitay, Shahar@Coastal <shahar.amitay@coastal.ca.gov>

> Cc: Stevens, Eric@Coastal <eric.stevens@coastal.ca.gov>; mark zanides <mzanides@gmail.com>; Bridget McConaughy <bmconcaughy@unitehere11.org>

> Subject: Has our continuance request been approved or denied?

>

> Hi Shahar,

>

> In our October 23rd 2022 correspondence, our group requested that our hearing scheduled for the Commission's

November 2022 meeting be continued. Has that request been granted or denied?

>

> Thank you for any information you can share with us,

>

> Kim