

Received

OCT 22, 2021

Dear Coastal Commissioners and Staff,

California Coastal Commission  
Southern Coastal District

I am the owner of a Spruzzo Restaurant and Bar located at 29575 Pacific Coast Highway in Malibu. Given our visibility from the highway, and our accessibility to the beaches, for many years, Spruzzo has been a destination for many visitors to Malibu. Visitor traffic is especially critical for business continuity; especially after the trying year and half of the pandemic. Therefore, I am concerned that there is a proposal to restrict visitor short term stays, as the proposal by the Malibu City Council will in essence make it challenging for those who rent out their homes and apartments.

Malibu City's proposed guidelines that create barriers for short term stays will hurt business in Malibu at a time that we are unable to withstand any additional barriers. Short term visitors go to restaurants for breakfast, lunch and dinner. In addition, these same visitors use our gyms, take surfing classes, buy groceries and buy goods from our specialty stores. We cannot afford to lose any more customers right now! Summer beach days and the off-season family visitors are the backbone of our financial survival. We need visitors. We need tourists. We need short term rentals in Malibu.

Having vacation rentals in Malibu is a great asset to the City. Vacation rentals bring more customers and have the potential of allowing more people to enjoy all that is Malibu all year round. Without vacation rentals, our visitor numbers will be reduced. I support the financial strength of the Malibu businesses, as a result, I ask that you help us to keep Malibu accessible to all.

Sincerely,

Name, Business

Name of representative/Owner:

Ray Gowhari  
Spruzzo Restaurant



October 8, 2021

Chair Padilla and Honorable Commissioners  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105

Re: City of Malibu's Proposed Short Term Rental Restrictions

Dear Honorable California Coastal Commissioners,

My family and I have lived in Los Angeles County for many years and love the community here. Two of our community's defining values are its embrace of diversity and its support for easy access to the natural beauty of this region. Those values are central to Southern California's quality of life.

The Malibu City Council's attempt to largely eliminate short-term rentals undermines these values. By drastically limiting the availability of more affordable lodging options, the Council's regulations make visiting Malibu for more than a day impossible for many residents of our region and beyond, particularly for lower income families. The result: A smaller and less diverse subset of people will get to enjoy the beautiful Malibu coastline.

Please reject Malibu's short-term rental regulations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Zachary Katz', with a stylized flourish at the end.

Zachary Katz  
Los Angeles, California



# Painters & Allied Trades District Council 36

**Luis F. Robles**

Business Manager

DRYWALL FINISHERS, FLOORLAYERS, GLAZIERS, PAINTERS, TRADESHOW & SIGNCRAFT

October 4, 2021

Chair Padilla and Honorable Commissioners  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105

Re: City of Malibu's Proposed Vacation Rental Restrictions

Dear Chair Padilla and Honorable Commissioners:

Thank you for the opportunity to comment on Malibu's efforts to impose new restrictions on vacation rentals in the City. We are a labor union that represents construction workers in Southern California. We are appalled at the restrictions the proposed new ordinance will impose as it will result in only allowing those who are rich and can afford greater than 30 day stays or expensive hotel stays to partake in the natural resources that should belong to all of us. There is no equity in the proposed ordinance. As a matter of fact, it is regressive in that it clearly makes socio-economic standards as the basis for the enjoyment of the beaches and coast of Malibu.

Our organization is comprised of hard working middle class members, who most likely will not be able to afford stays that are a month or beyond. As a result, they will be deprived of that which should be accessible to them. The Coastal Commission has previously and repeatedly recognized, the ability of families to enjoy California's beaches and oceans is constrained by access and affordability barriers. We need better and more expansive public transportation. We need more affordable overnight accommodations. Most importantly, we need coastal communities like Malibu to act as stewards of the coastal resources that belong to ALL Californians.

We commend the Commission for its efforts to safeguard the public's right to visit the coast over the past five decades. We implore the Commission to continue its progress by rejecting Malibu's proposal.

Thank you.

Robert Smith  
Political Director

**From:** [Don Tollefson](#)  
**To:** [SouthCentralCoast@Coastal](mailto:SouthCentralCoast@Coastal); [kfarrer@malibucity.org](mailto:kfarrer@malibucity.org); [mpierson@malibucity.org](mailto:mpierson@malibucity.org)  
**Subject:** 11b  
**Date:** Wednesday, September 8, 2021 12:08:17 AM

---

To: The California Coastal Commission.

From: Don Tollefson

Re: 11b on the September 8, 2020 Agenda.

THE CURRENT MALIBU SHORT TERM RENTAL POLICY SHOULD BE MAINTAINED INDEFINITELY: **The current Malibu short term rental policy** replaced the original Malibu short term rental policy within the last year. **The current Malibu Short Term Rental policy** is working flawlessly and should not be replaced with the more restrictive policy which is currently before the California Coastal Commission for consideration. I have been in contact with the two Malibu City Council members who were the architects of the current Malibu short term rental policy (Karen Farrar and Mikke Pearson) and both have informed me there are no, or few problems with the current Malibu short term rental policy. The current short term rental policy enables a reasonable amount of coastal access while the proposed replacement short term rental policy provides virtually none.

In view of the success of the present short term rental program, the proposed far more restrictive short term rental program is unnecessary, would serve no noticeable improvement in terms of not disturbing Malibu residents which was its main purpose for formation and would severely restrict beach access to Malibu beaches in contravention of the very essence of the purpose of the California Coastal Commission.

**From:** [Dennis Seider](#)  
**To:** [SouthCentralCoast@Coastal](mailto:SouthCentralCoast@Coastal)  
**Cc:** [lellenberg1@gmail.com](mailto:lellenberg1@gmail.com)  
**Subject:** Item 11.b MALIBU STRO  
**Date:** Wednesday, September 8, 2021 8:51:26 AM

---

Hi

This is a fair compromise in a difficult area, balancing visitor access and neighborhood preservation. I support the application for Malibu's LCP amendment to allow greater management of short term rentals.

Thanks,

Dennis

Sent from my iPhone  
DENNIS J SEIDER

**From:** [Larry Laffer](#)  
**To:** [SouthCentralCoast@Coastal](mailto:SouthCentralCoast@Coastal)  
**Subject:** Malibu Short Term Rentals  
**Date:** Wednesday, September 8, 2021 9:20:51 AM

---

I am opposed to allowing short term rentals in the City of Malibu. I am a condo owner and our building has been turned into a hotel. Our security has been compromised due to unknown people streaming in and out for short stays. Our building management has no idea who these people are and are having a difficult time enforcing building rules and regulations. Short term landlords are often absentee, which places the burden of managing their short term renters on the HOA or other building residents. Nobody in this building purchased their home thinking it would be turned into a hotel with people nobody knows having access to the property at all hours with zero accountability for their behavior. I am not opposed to monthly rentals, but this short term stuff has to end.

Lawrence Laffer  
Malibu, CA

Sent from my iPhone

Chair Padilla and Honorable Commissioners  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105

Re: City of Malibu's Proposed Vacation Rental Restrictions

Dear Chair Padilla and Honorable Commissioners:

Thank you for the opportunity to comment on Malibu's efforts to restrict vacation rentals within the city. I am a young resident of Pasadena CA and someone with friends and family all over LA. I am a current college student, a graduate of Polytechnic school in Pasadena, and was a Boy Scout/Cub Scout from the age of 8 until 18. I am a firm believer that any person should have access to the Malibu coastal areas, and believe the proposed short term rental restrictions create an unequal, inequitable, and downright elitist system of access to the gorgeous Malibu area.

As someone growing up in LA, I have spent a significant amount of time in Malibu whether it is camping, going to the beach, or even renting a house for a weekend. There are few places as beautiful as Malibu in the County of Los Angeles, therefore making it one of the most sought after locations in the greater LA area. Unfortunately, Malibu's culture of elitism has threatened the right of all California residents to access the Malibu areas. Between prior attacks on camping rights and the present attack on lessor's rights, the City of Malibu sends the message that only the rich elite are allowed to enjoy its beauty.

The proposed actions would make it nearly impossible for anyone not incredibly wealthy to spend any reasonable amount of time in the City of Malibu. The rules would limit the access of Malibu to those who live there, those with the ability to afford long term rental, or those with the funds to afford one of the few hotel rooms in Malibu. Coincidentally, it is non-white, specifically black and brown LA residents that are generally less economically advantaged.

Councilmember Steve Uhring's comment "And as far as I'm concerned that our mission statement says when you move to Malibu, you have a right to live in a rural community and give up the urban environment and have peace and quiet, and that is not saying that somebody can invade a neighborhood..." is an incredibly troubling statement. It echoes the arguments for constitutionally illegal Red Lining. It uses the classic racist trope pitting the "urban vs rural," and frames the non-Malibu residents as "invaders." Such language is dangerous, damaging, and completely not in place with the California Coastal Commission's 2019 ruling to "provide maximum coastal access and recreational opportunities for all."

Furthermore, the banning of short-term rentals harms the residents of Malibu who choose to rent out their homes. The number of homes available for rent will plummet, creating a massive drought in short term real estate, and forcing prices on even month long rents sky high. This further restricts access to Malibu, and hurts the local Malibu resident trying to make a little money renting their house for a weekend.

All in all, the proposed actions are ludicrously restrictive, target low income, black and brown residents, and prevent local Malibu residents from being able to further support themselves. The coast of California belongs to ALL California residents, I implore the Coastal Commission to prevent Malibu from taking these proposed actions.

Thank you,  
Miles Krieger



*From the Desk of Marcia Haynes*

September 8, 2021

Chair Padilla and Honorable Commissioners  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105

Re: City of Malibu's Proposed Vacation Rental Restrictions

Dear Honorable California Coastal Commissioners,

I am a resident of Valencia, who in the era of COVID -19 has taken advantage of the short-term respites nearby, by renting short-term and weekend stays in Malibu for myself. Given everything happening around us, these short term stays at the beach have been a much-needed "staycation"! It is my understanding that because of proposed regulations by the Malibu City Council, future short-term rentals in Malibu will become more difficult to find and much more expensive. I am concerned that as a result, overnight/weekend access to the beach and a natural resource that should be FOR ALL, is going to be severely restricted.

The beauty of living in Southern California is the abundance of scenic beauty. This has been even more profound during a time when outdoor space has contributed to mental health and wellbeing. Weekend stays and short term stays in coastal cities such as Malibu are necessary luxuries that have been special activities not just for me, but for many families in the region. If the proposed Malibu City regulations for short term rentals are enacted, I would imagine that the short-term rental options that have been available to us in the past will be off the market. As a result, I am sure that the nightly rates will increase commensurate with the reduced supply. I am frustrated by Malibu City Council's need to restrict short term rentals and by their lack of consideration for all to enjoy that which is part of Mother Nature. Now and always, the coast should be for EVERYONE, and we should not have to sacrifice to experience it. Please reject the proposed Malibu City Council regulations for short term stays.

Sincerely,

*Marcia Haynes*

Marcia Haynes

PH: (518)253-3774

Mhaynes652@msn.com

**From:** [Robin Roberts](#)  
**To:** [SouthCentralCoast@Coastal](mailto:SouthCentralCoast@Coastal)  
**Subject:** Public Comment on September 2021 Agenda Item Wednesday 11b - City of Malibu LCP Amendment No. LCP-4-MAL-20-0083-2 (Short-term Rentals). Time Extension.  
**Date:** Tuesday, September 7, 2021 7:09:24 PM

---

I am writing in support of the hosted ordinance proposed by the City of Malibu.

Short term rentals have had a negative impact on communities throughout California. I have personal experience with this issue. My neighborhood has been destroyed by these vacation rentals. I lived next door to one for years, many others are within two blocks of my house, so I have personally witnessed the problems noted below. Here's one example that illustrates why a hosted ordinance is needed.

An outside investor bought a home in my neighborhood and turned it into a vacation rental. A renter hosted a very large party. Based on the number of cars parked on Pacific Coast Highway across from the three bedroom house (which stretched for blocks) and the people running across the highway to the home, we estimated 80 people at this party (we have pictures and security footage to back this up). The next door neighbor who has two young children was alarmed by the crowds and the noise, he also observed drug use and people attending who looked underage. He contacted the homeowner and called the Sheriff. When the Sheriff arrived everyone got real quiet and refused to let him in. The neighbor was told that without a search warrant they could not go in and because it was quiet at that point in time there was nothing they could do. The homeowner also said there was nothing she could do because she lives in Northern California. We suspect the homeowner warned the renters that the neighbor had called the Sheriff and told them to be quiet and not let them in. The party (and the noise) resumed right after the Sheriff left. Parties are an ongoing problem at this residence and other vacation rentals.

This would not occur if the City of Malibu had a hosted ordinance. Homeowners on the premises would not tolerate these behaviors.

There are many impacts of these rentals. Nearly every home for sale in my area is now being purchased by outside investors and turned into a vacation rental.

- This reduces the number of long term rentals available to the public and drives up the rental prices. Families who want to buy homes are now competing with wealthy investors for these properties. Long term renters are being pushed out by landlords who want to convert the units into vacation rentals.
- Outside investors do not care about neighborhoods, only profits. Most of the vacation homes in the beach community are rented by people from the greater Los Angeles area for parties. Renters hold large gatherings that result in noise, trash, and increased traffic. Many parties involve drinking and drug use which results in more impaired drivers on the roads. The parties destroy the quality of life for the residents who have little recourse. I have been personally threatened by these renters when I have asked them to quiet down, many residents are fearful of retaliation such as vandalism or violence if they call the Sheriff. Neighbors have also been threatened by the homeowners when they report parties.
- Vacation renters and parties take up more parking than regular residents. In order to spread the cost around, they pack the home with guests. A five bedroom home

nearby is advertised as sleeping 10 people. This is more than would normally live at the residence. I also have seen visitors bring air mattresses and exceed the occupancy listed. The owners of these rentals add bedrooms to maximize income, adding interior rooms with no windows and enclosing garages to do so. More people, more parties and garage conversions means more street parking is taken up by the rentals.

- The rentals are bad for the environment. They overtax the septic systems which are not built for high occupancy. The visitors leave behind piles of trash, which overflow trash bins, and that trash winds up on the street, they also leave their party trash on the beach; neighbors commonly see piles of beer bottles, plastic cups, balloons (which harm marine animals) and other litter left behind.
- They create liability for home owners and reduces the value of our homes. My home has a shared walkway, if a drunk party-goer were to fall, I could be sued. Owners of condos have the same issue with their common areas. In addition, a nearby rental would have to be disclosed as a nuisance if a resident wants to sell their property.
- These properties are unsafe. There was a balcony collapse at a nearby home when a crowd of partiers were standing on a balcony that could not support the weight and people were hurt. These homes are not held to the same safety standards as a hotel, so there are often hazards (such as sleeping rooms with no fire exits). Absentee ownership and a pure profit motivation mean that hazards are not identified and investments in properly maintaining the property are not made. Renters exhibit unsafe behaviors that increase fire risk. One renter set their deck on fire when they lit up a fire pit. Visitors at my neighbor's house started a barbeque inside their garage. Risky behavior is more likely during party events because of crowds and heavy drinking.

Please support the hosted ordinance for the City of Malibu. It will still allow homeowners to rent part of their homes while they are on the premises and restore sanity to our neighborhoods.

Best Regards,

Robin Roberts  
20556 Pacific Coast Hwy  
Malibu, CA 90265  
310-428-8360

**From:** [PJ James](#)  
**To:** [SouthCentralCoast@Coastal](mailto:SouthCentralCoast@Coastal)  
**Subject:** End Short Term Rentals!  
**Date:** Tuesday, September 7, 2021 5:45:23 PM

---

Short term rentals are devastating access to normal renters and owners of property. There are swathes of properties that sit empty and are only rented to a few visitors a month on weekends or holidays. This is reducing access to the beach - not increasing it. The CCC needs to support building hotels of all price levels and support development along the coast. There are plenty of ways to build that are not going to adversely affect the coast or be in danger from coastal sea level rise. But municipalities like Malibu have shown that their population is declining because only the mega-rich + hedge funds + private equity are buying property. Property is up 100% in value but population is down 10% - how does that make sense?

End short term rentals on the coast. It is not enabling access to the coast. It is lining the pockets of the already wealthy.

And what about Pacaso which is buying property and selling 1/8 shares? Is this a timeshare? This is further reducing access to the coast.

Stop short term rentals; stop pacaso. Allow development.

**From:** [Jo Drummond](#)  
**To:** [SouthCentralCoast@Coastal](mailto:SouthCentralCoast@Coastal)  
**Cc:** [Colin Drummond](#)  
**Subject:** Public Comment on September 2021 Agenda Item Wednesday 11b - City of Malibu LCP Amendment No. LCP-4-MAL-20-0083-2 (Short-term Rentals). Time Extension.  
**Date:** Tuesday, September 7, 2021 3:53:50 PM

---

Honorable Coastal Commission,

My husband and I have rented our primary residence on a short term basis over the summer and holidays in the past, for no more than 2 months of the year. We do not have another site on our property where a “host” can stay. The supplemental income we make from these visits helps us pay for our three kids’ college and allow us to live in Malibu. We are active citizens in the community and volunteer much of our time to city and community organizations. We understand that there are companies and outside owners who wish to abuse the privilege of short term rentals by making them full time hotels, many with noise complaints, and many with no family living in Malibu. These should not be allowed without a host, or without enforcement of the noise and str ordinance. We need to keep our residents happy. But please don’t punish the ones who are just trying to make ends meet and be productive citizens. We screen our tenants thoroughly, they have never caused problems and often visit again. We support the extension of the STR ordinance coming to the coastal commission and ask that you continue the item to modify the ordinance to only affect full time str owners, not part time ones.

Thank you for your consideration,

Colin & Jo Drummond

**From:** [MARYAM DICKEY](#)  
**To:** [SouthCentralCoast@Coastal](mailto:SouthCentralCoast@Coastal)  
**Subject:** Re: Public Comment on September 2021 Agenda Item Wednesday 11b - City of Malibu LCP Amendment No. LCP-4-MAL-20-0083-2 (Short-term Rentals). Time Extension.  
**Date:** Tuesday, September 7, 2021 8:46:55 PM

---

Please do not remove this income from me. I just purchased this property last year while being on chemotherapy and now I am cancer free and this is my only income I have. I am 63 years old and can't work due to several health conditions.

Plus, I hear from all renters of my house that they couldn't afford any hotel in the area that's decent for their families.

I appreciate your decision for another year extension.

Best Regards,

Maryam Dickey.  
917.428.4600 ( text friendly)

On Sep 7, 2021, at 8:12 PM, MARYAM DICKEY <[maryamdickey@mac.com](mailto:maryamdickey@mac.com)> wrote:

Maryam Dickey.  
917.428.4600 ( text friendly)



4707 South Central Ave \* P.O. Box 11337 \* Los Angeles, California 90011  
Phone: 323-846-2500; Fax: 323-846-2508; [www.ccscla.org](http://www.ccscla.org)

September 7, 2021

Honorable Commissioners  
District Director Steve Hudson  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105

Re: Commission Agenda Item W11b— Coastal Equity and Access

Dear Honorable Commissioners and District Director Steve Hudson:

Thank you for your service and commitment to our state and its coastal resources. As you may know, Concerned Citizens of South Central Los Angeles was founded in 1985 to defeat a toxic waste-burning incinerator proposed in our community. Our founders organized and worked for more than two years and successfully defeated the project. Since that time, we have developed over 700 units of affordable housing (rental and for-sale), developed an 80,000 square foot shopping center anchored by a grocery store, built two soccer fields, introduced hundreds of young people to the jobs behind-the-scenes in the entertainment industry, provided employment training and screening for employers, and worked tirelessly on behalf of the ex-offender population.

Our mission is to work for social justice and economic and environmental change within the South Central community. We also have an active interest in addressing the equity issues facing the members of the community we serve. Coastal access is one of these key equity issues. Unfortunately, the rising cost of a weekend at the coast is inhibiting that access and the right to enjoy and experience this state's unique and beautiful resources. In addition to the lack of public transit options and ever-increasing parking and food costs, there are simply not enough affordable places to stay near the ocean. A KCET article from 2017 indicated that California lost more than 24,000 "economy" rooms between 1989 and 2016. We guess that the state has lost a lot more of these lower cost motel rooms over the past five years.

With the sharp decline in lower cost motel rooms (and the increased cost of parking, eating out, etc.), families have come to rely on private homes offered as weekend rentals to make coastal excursions feasible. This is why we are reaching out to you. Malibu is proposing to put severe restrictions on private home rentals, and we are concerned that the City's efforts will exacerbate the already challenging access and accommodation issues facing our region.

While we probably cannot bring back the 24,000 rooms lost over the last three decades, the Coastal Commission can prevent communities like Malibu from removing the hundreds of single family homes that our community members and their families rely on. These homes allow

**Working for social change, economic and environmental justice**

families to stay together without needing to rent multiple motel rooms, offer kitchens to save money on dining out, have yards for our pets and parking for our cars, and offer a true coastal neighborhood experience. We strongly encourage the Commission to maintain these important access accommodations and reject Malibu's proposal when it ultimately comes before you.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Noreen McClendon', with a long, sweeping horizontal line extending to the right.

Noreen McClendon  
Executive Director



**From:** [captainlarry](#)  
**To:** [SouthCentralCoast@Coastal](mailto:SouthCentralCoast@Coastal)  
**Subject:** Malibu Short Term  
**Date:** Tuesday, September 7, 2021 10:37:34 PM

---

Totally against Malibu Short term [STR:

1. Restricts our ability to rent house so out of towners have access to beach.
2. Our house is a family beach house owned since about 1949. We have more than 25 "owners" since my parents have passed away. No owner is allowed to be a "Malibu resident living at the property".
3. We own the property under a LLC for liability protection.
4. The owner must be at the house during the STR? NO NO NO
5. Added costs to Malibu not reasonable.
6. Restrictions to rental times not reasonable.
7. Rentals pay taxes, maintenance, insurance, supplies, etc.
8. Any problems Malibu claims could be handled using current law enforcement. STR argument bogus.

Please do not allow Malibu restrict the use of beach property.

Ls

Sent from my Verizon, Samsung Galaxy smartphone

**From:** [Dean Wenner](#)  
**To:** [SouthCentralCoast@Coastal](mailto:SouthCentralCoast@Coastal)  
**Subject:** Public Comment on September 2021 Agenda Item Wednesday 11b - City of Malibu LCP Amendment No. LCP-4-MAL-20-0083-2 (Short-term Rentals). Time Extension.  
**Date:** Tuesday, September 7, 2021 6:28:17 AM

---

Hello,  
Thank you for the opportunity to submit comments in regard to Agenda item 11.b regarding the Malibu Local Coastal Program (LCP) amendment for its Hosted Short Term Rental (STR) Ordinance.

It has been demonstrated and acknowledged that Malibu's effort with the LCPA is to achieve an effective ban on short term rentals. I empathize with the Homeowners that have had bad experiences living next to or near a property with a bad owner who allows bad behavior, however the bad behavior and action of a few, further enabled by poor owner reporting and ineffective and low priority city code enforcement, should not leap ahead to a ban. Renting of property is integral to Malibu history and written into the various City Plans.

As a result of ineffective action followed by hype, story-telling and emotion, we had landed on this submittal as City Council was driven to get it issued before the last election.

Regardless of the above comments, the City of Malibu did enact a new ordinance which took effect this year. It has yielded effective results by simply making both the City and the Owners accountable. Further action, especially a ban, is not necessary. Proceeding with possible approval of the LCPA would go against the founding principles in Malibu and be an obstruction to CCC goals.

CCC should not only postpone review and action of the Malibu request, but take a motion to request Malibu to withdraw it. The Malibu request is not in good faith, is political and biased in motivation, and is structured to effectively ban short term rentals. As demonstrated by code enforcement records since 1993, rentals have not been an issue. Malibu action in 2020 to implement the permit ordinance, to prioritize action and promote code enforcement, has resulted in action and results. These results demonstrate performance that complies with City Code, and is well within the land use for expectations (percentage of housing units rented), LIP, etc. as acknowledged by the current Code Enforcement log.

Malibu may make claims that activity is down because of the pandemic but this would be a fallacy. As submitted in previous comments, and by their own acknowledgement to the CCC in a recent response to questions, rentals were counted two, three and more times which is why they were showing 800+ rentals versus the approximately 250. Short term rentals are not proliferating and out of control as hyped. Yes the internet and new companies like Airbnb and VRBO have made things easier and more noticeable, but this amount of activity was always prevalent in Malibu.

The City of Malibu should be ashamed of its action on this as for political and personal reasons we as a people tend to flip-flop and be hypocritical on particular issues (we all are on occasion). Recently the City is shocked and disappointed (rightly so) with the misinformation and propaganda Santa Monica distributed in regard to the drive to separate school districts. Santa Monica is not acting in good faith. Malibu should live by the Golden Rule, not be hypocritical, and withdraw this short term request on their own, as fundamentally, it's no different. Just people trying to get what they want.

CCC (and Malibu for that matter) can make better use of its' time than spending time on this matter. As a result of current rental status in Malibu, CCC should request Malibu to withdraw their request. CCC objective of coastal access is achieved, and Malibu objective of mission, vision, and LUP is achieved. There is not justification to continue to spend time and money on this matter, let alone this matter taking time away from more deserving and valuable needs and efforts before the CCC (and Malibu).

In addition to the many previous submittals of information I have made, below are some more recent statistics that reinforce my recommendation for your consideration.

Malibu active Code Enforcement in regard the short term rentals:

Of 267 Code Enforcement entries there are 4 non-conformities under action (1.5%). Please note these 4 cases are a result of action from the newly enacted ordinance for the permit program demonstrating results and improvement.

202108007	19024	PACIFIC COAST HWY			8/12/2021	Short-Term Rental
202105006	20526	PACIFIC COAST HWY			5/10/2021	Short-Term Rental
202106013	3229	RAMBLA PACIFICO ST			6/4/2021	Short-Term Rental
202108006	21715	RAMBLA VISTA			8/11/2021	Short-Term Rental

Please take into consideration that further action is not warranted, justified or needed to achieve the written and documented goals of either the CCC or Malibu. In fact, spending time on this matter actually detracts from meaningful and valuable activities.

Thank you for your time in reading this comment submittal.

Dean Wenner

Sent from [Mail](#) for Windows

**From:** [Dean Wenner](#)  
**To:** [SouthCentralCoastal@coastal.ca.gov](mailto:SouthCentralCoastal@coastal.ca.gov); [Yenegas\\_Denise@Coastal](mailto:Yenegas_Denise@Coastal)  
**Subject:** RE: Sept 8 Meeting - Agenda Item 11.b - Malibu LPCA  
**Date:** Tuesday, September 7, 2021 6:42:49 AM  
**Attachments:** [msg](#)  
[Undeliverable: Sept 8 Meeting - Agenda Item 11.b - Malibu LPCA.msg](#)

Hello,

My submittal was rejected as undeliverable (attached) so I am submitting in this manner.

Unfortunately, none of the information distributed by Malibu (see attached excerpt from Malibu City notification) indicated that submittals were due the Friday before the meeting. This was noticed as hit the link to submit just now. It makes sense, but the notices could make that more clear in the future.

Speaking at the meeting is also difficult as the meeting is conducted during the work day and the agenda timing during the day is unclear as well.

Enough of my excuses, please enter it into the record.

---

**From:** Dean Wenner  
**Sent:** Tuesday, September 7, 2021 8:27 AM  
**To:** 'SouthCentralCoastal@coastal.ca.gov' <[SouthCentralCoastal@coastal.ca.gov](mailto:SouthCentralCoastal@coastal.ca.gov)>  
**Subject:** Sept 8 Meeting - Agenda Item 11.b - Malibu LPCA

Hello,

Thank you for the opportunity to submit comments in regard to Agenda item 11.b regarding the Malibu Local Coastal Program (LCP) amendment for its Hosted Short Term Rental (STR) Ordinance.

It has been demonstrated and acknowledged that Malibu's effort with the LPCA is to achieve an effective ban on short term rentals. I empathize with the Homeowners that have had bad experiences living next to or near a property with a bad owner who allows bad behavior, however the bad behavior and action of a few, further enabled by poor owner reporting and ineffective and low priority city code enforcement, should not leap ahead to a ban. Renting of property is integral to Malibu history and written into the various City Plans.

As a result of ineffective action followed by hype, story-telling and emotion, we had landed on this submittal as City Council was driven to get it issued before the last election.

Regardless of the above comments, the City of Malibu did enact a new ordinance which took effect this year. It has yielded effective results by simply making both the City and the Owners accountable. Further action, especially a ban, is not necessary. Proceeding with possible approval of the LPCA would go against the founding principles in Malibu and be an obstruction to CCC goals.

CCC should not only postpone review and action of the Malibu request, but take a motion to request Malibu to withdraw it. The Malibu request is not in good faith, is political and biased in motivation, and is structured to effectively ban short term rentals. As demonstrated by code enforcement records since 1993, rentals have not been an issue. Malibu action in 2020 to implement the permit ordinance, to prioritize action and promote code enforcement, has resulted in action and results. These results demonstrate performance that complies with City Code, and is well within the land use for expectations (percentage of housing units rented), LIP, etc. as acknowledged by the current Code Enforcement log.

Malibu may make claims that activity is down because of the pandemic but this would be a fallacy. As submitted in previous comments, and by their own acknowledgement to the CCC in a recent response to questions, rentals were counted two, three and more times which is why they were showing 800+ rentals versus the approximately 250. Short term rentals are not proliferating and out of control as hyped. Yes the internet and new companies like Airbnb and VRBO have made things easier and more noticeable, but this amount of activity was always prevalent in Malibu.

The City of Malibu should be ashamed of its action on this as for political and personal reasons we as a people tend to flip-flop and be hypocritical on particular issues (we all are on occasion). Recently the City is shocked and disappointed (rightly so) with the misinformation and propaganda Santa Monica distributed in regard to the drive to separate school districts. Santa Monica is not acting in good faith. Malibu should live by the Golden Rule, not be hypocritical, and withdraw this short term request on their own, as fundamentally, it's no different. Just people trying to get what they want.

CCC (and Malibu for that matter) can make better use of its' time than spending time on this matter. As a result of current rental status in Malibu, CCC should request Malibu to withdraw their request. CCC objective of coastal access is achieved, and Malibu objective of mission, vision, and LUP is achieved. There is not justification to continue to spend time and money on this matter, let alone this matter taking time away from more deserving and valuable needs and efforts before the CCC (and Malibu).

In addition to the many previous submittals of information I have made, below are some more recent statistics that reinforce my recommendation for your consideration.

Malibu active Code Enforcement in regard the short term rentals:

Of 267 Code Enforcement entries there are 4 non-conformities under action (1.5%). Please note these 4 cases are a result of action from the newly enacted ordinance for the permit program demonstrating results and improvement.

202108007	19024	PACIFIC COAST HWY			8/12/2021	Short-Term Rental
202105006	20526	PACIFIC COAST HWY			5/10/2021	Short-Term Rental
202106013	3229	RAMBLA PACIFICO ST			6/4/2021	Short-Term Rental
202108006	21715	RAMBLA VISTA			8/11/2021	Short-Term Rental

Please take into consideration that further action is not warranted, justified or needed to achieve the written and documented goals of either the CCC or Malibu. In fact, spending time on this matter actually detracts from meaningful and valuable activities.

Thank you for your time in reading this comment submittal.

Dean Wenner

**From:** [Dean Wenner](#)  
**To:** [Venegas.Denise@Coastal](mailto:Venegas.Denise@Coastal)  
**Cc:** [dean\\_wenner@att.net](mailto:dean_wenner@att.net)  
**Subject:** RE: CCC Letters to City of Malibu regarding LCPA No. LCP-4-MAL-20-0083-2 (Short-Term Rentals - Malibu LCPA No. 19-003)  
**Date:** Tuesday, June 29, 2021 7:51:29 PM

---

Although the City of Malibu response was significantly incomplete I was surprised they did not respond to the CCC question of "What is the average STR rate in the City?". During public comment it would commonly be stated that the STR rate was high and higher than hotel rates.

Regardless of what the average, high or low rates are it is important to know that STRs are more available and very affordable for individuals and families versus hotels. Comparing such rates is not equivalent as STRs house the equivalent of multiple hotel rooms, do not have additional costs for parking, resort fees, additional taxes, and have the added benefit of being able to cook and eat at home and not being forced to eat out which is a large expense. The equivalent rates will be the same if not less than all in hotel costs.

Simple availability of rooms is priceless.

Thank you for your consideration.

---

**From:** Dean Wenner  
**Sent:** Tuesday, June 29, 2021 9:05 PM  
**To:** 'denise.venegas@coastal.ca.gov' <denise.venegas@coastal.ca.gov>  
**Cc:** dean\_wenner@att.net  
**Subject:** CCC Letters to City of Malibu regarding LCPA No. LCP-4-MAL-20-0083-2 (Short-Term Rentals - Malibu LCPA No. 19-003)

Hello,

Thank you for your diligence on this matter. With the City Manager update email I noticed there was a City of Malibu response to a more recent CCC request for information. I checked the City website and found both the CCC inquiry and the City response. The City is not being as proactive in notifying people about responses which yields the perception they are trying to keep awareness to a minimum on this matter.

I am encouraged that the latest City of Malibu response includes more facts for your consideration and I am very encouraged by the CCC questions and request for such information. Similar information was requested by myself and others via submitted commentary and requested during public comment but not supplied. It is apparent the CCC oversight is both meaningful and powerful. This is greatly appreciated.

I am disappointed that the City of Malibu response does not answer each of the CCC questions and their quest continues to obtain your approval for a Hosted Ordinance which would effectively ban such rentals. Their goal is clearly to ban rentals but they know they have no footing and zero legal support for such action without your approval as short term rentals have always been allowed in

Malibu including the solicitation and implementation of Transient Occupancy Tax policy since 2009.

Instead of presenting lengthy detail as to why the CCC should not approve the changes to enable the enactment of a Hosted Ordinance (which is included in my numerous submittals to both the Planning Commission and City Council meetings on this subject), I am hopeful the review of the City of Malibu response will enable the CCC to conclude that the current Malibu action of Ordinance implementation is highly effective and that further restriction is not necessary. Supporting overly restrictive action against both Owner Rights and public access to the Malibu area is not warranted.

The 3.8% short term rental potential status indicated in the 176 Unique Identified Properties is significantly within the Malibu Land Use Plan and is consistent with historical use as further supported by ToT records. This was clearly presented to City Council but the hype and overreaction of some led to the perception of short term rental proliferation reflective of the 600-800+ Listings in the Jurisdiction column of the response. The most significant problem which was not acted upon until the City Council realized they had no legal standing for a ban and had to solicit and obtain CCC approval, was that the City had not taken proper enforcement actions. I could not support the recently enacted Ordinance as the spirit of it was to gain a ban in the future. However, in principle I did support the cause for more enforcement and taking action against Owners that did not respect their neighbors and were not compliant with City Code. In fact, I advised the City Council they were not in compliance with City Code as they were not enforcing what was on the books and instead using significant numbers of false accusations and perception to unfairly gain support for a ban.

I firmly believe my comments are correct as since the new Ordinance and Permit program was implemented the chart demonstrates effective and reasonable control. There is further support within the Code Enforcement Record on the City Website as two properties recently have enforcement issues underway in regard to short term rental. The count of current unique rental properties is not a reflection of a reduced number resulting from COVID as the City has always represented the overall Listings (same property on multiple sites) which did not stop. The effective controls and enforcement related actions is the driver here. All along the City knows, and I believe the CCC questions infer, that the Multi-Family Properties and a handful of bad actors were the real problem that was not being dealt with properly.

There is no valid reason to penalize law abiding people that love the coastal area when simple enforcement of current Code and Policy can be implemented which has been proven effective in less than 6 months.

I hope and trust the CCC will not approve the City of Malibu request to approve the LCPA and ZTA.

Please take the following comments into account. Again, thank you for the diligence on this matter.

Dean Wenner



# City of Malibu

23825 Stuart Ranch Road · Malibu, CA 90265-4861  
Phone (310) 456-2489 · Fax (310) 456-3356 · [www.malibucity.org](http://www.malibucity.org)

April 7, 2021

Denise Venegas, Coastal Program Analyst  
California Coastal Commission  
South Central Coast District Office  
89 South California Street, Suite 200  
Ventura, CA 93001

**Re: City of Malibu Local Coastal Program Amendment No. 19-003 – Hosted Short-Term Rental Ordinance**

To Denise Venegas:

As requested by California Coastal Commission (CCC) staff, the City is providing additional information on Local Coastal Program Amendment (LCPA) No. 19-003. In addition to the supplemental information provided below, Attachment A provides an expanded consistency analysis table.

In general, the amendment proposes to allow two types of short-term rentals in the City: 1) a hosted short-term rental for single-family dwellings, condominiums and duplexes, and 2) a multi-family (more than 2 dwelling units) short-term rental. A hosted short-term rental would require the property owner or designated operator to live onsite. Up to two multi-family dwelling units on a parcel (not to exceed 40% of the units on a parcel) may be rented un-hosted so long as the other units on the property are rented on a long-term basis. The regulations would apply to multi-family properties regardless of the zoning district the property is located in. This system prevents the conversion of multi-family units into unregistered hotels, protects some of the lowest cost housing in the City, and encourages units to be rented long-term at lower rent as short-term rental is only allowed if all other units are at full occupancy. This will ensure the City maintains a variety of affordable units for long term renters and prevent property owners from utilizing all the rental units as short-term rentals thus operating as a hotel while at the same time providing short-term rentals for visitors. Additional details on these two types of short-term rentals can be found below in the section entitled "Short-Term Rental (STR) Permit Program".

A short-term rental use must be conducted pursuant to a valid short-term rental permit issued by the City. Ordinance No. 472, which approved LCPA No. 19-003, also included amendments to the Malibu Municipal Code (MMC) to amend the City's existing short-term rental regulations (Chapter 17.55). Chapter 17.55 provides the regulations for short-term rentals and amendments to Chapter 17.55, approved under Ordinance No. 472, will incorporate the two short-term rental types. These changes will go into effect after the CCC approves LCPA No. 19-003.

The LCPA seeks to address nuisance issues that have developed under the recent, rapid, and substantial expansion of short-term rental activity in the City and protect residential neighborhood character, housing

April 7, 2021

stock availability and variety, while continuing to provide over-night accommodations consistent with the City's LCP and the Coastal Act.

The amendment will ensure that uses and development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will ensure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

#### Number of Short-term Rentals Operating in the City

On September 29, 2020, the City Council adopted Ordinance No. 468 (Enforcement Ordinance), which created a new short-term rental permit system to regulate the short-term rental of residential property. This ordinance, which is located in the MMC, required all short-term rentals located in the City to obtain a permit by January 15, 2021.

A total of 229 short-term rental applications were submitted to the City as of March 16, 2021, and as of that date, 171 applications were approved and 57 were pending. The City currently contracts with Host Compliance to monitor short-term rental listings online and the number of listings is consistent with the number of approved applications. Many of the pending applications that were not approved were due to outstanding code violations (building without permit, wastewater issues, etc.). Once these violations are remedied, the remaining 57 properties could be issued a short-term rental permit.

Since advertising or operating residential property as a short-term rental without a permit as of January 15, 2021 could result in a fine of one thousand dollars (\$1,000.00) per day or violation, or twice the advertised short-term rental's daily rental rate per day or violation, whichever is higher, it is likely that most of the properties that are operating or planning to operate short-term rentals have submitted applications. However, the number of applications could increase as travel restrictions due to COVID-19 relax, summer approaches, and more of the 488 homes that were destroyed by the Woolsey Fire are rebuilt.

It should be noted; however, that the 229 short-term rentals applications do not represent the exact number of short-term rentals operating in the City because only one short-term rental permit is required for each parcel regardless of the number of short-term rental units on the parcel. Since properties can currently have more than one short-term rental, the number of short-term rentals operating in the City would be higher although there is no reliable data to determine the exact number. Information collected from the short-term rental application indicates that 37 of the 229 short-term rental applications are multi-family properties (self-reported). There are a total of 157 units on those multi-family properties and 90 short-term rentals within those units.

In response to the question regarding how many short-term rentals are currently advertised as hosted, this information is not collected by Host Compliance and is not readily available.

Since April 2015, Airbnb has been collecting and remitting Transiency Occupancy Tax (TOT) on behalf of property owners who use its service. Property owners must collect and remit TOT on their own for any short-term rentals which use other vacation rental websites or are made independently. The majority of short-term rentals in the City advertise through Airbnb so these properties would be paying TOT. In addition, Ordinance No. 468 imposed obligations on all online hosting platforms. These obligations include requiring the hosting platform to collect and remit TOT and preventing the booking of short-term rentals unless the property has a short-term rental permit from the City. The ordinance allows a hosting platform to satisfy these obligations

April 7, 2021

through a compliance agreement. On February 8, 2021 the City entered into a compliance agreement with Airbnb. This agreement will ensure all short-term rentals pay TOT and that all short-term rentals booked through Airbnb have a valid City short-term rental permit.

#### Number of Short-Term Rental Properties by Zoning District

The following table breaks down the zoning district location of the 229 properties which had submitted applications as of March 16, 2021. The short-term rentals located in commercial zones are in existing nonconforming residential buildings or existing residential dwellings in commercial buildings.

<b>Short-Term Rentals Applications by Zoning District</b>		
<b>Zoning District</b>	<b>Zone Description</b>	<b>Parcel Count</b>
CC	Community Commercial	1
CN	Commercial Neighborhood	2
CR	Commercial Recreation	1
CV-1	Commercial Visitor-Serving-One	2
MF	Multi-family Residential	24
MFBF	Multi-family Beach Front	39
PRF	Private Recreational Facilities	1
RR-1	Rural Residential-One Acre	29
RR-10	Rural Residential-Ten Acre	5
RR-2	Rural Residential-Two Acre	32
RR-20	Rural Residential-Twenty Acre	1
RR-5	Rural Residential-Five Acre	9
SFL	Single-family Low	8
SFM	Single-family Medium	75
	<b>Total</b>	<b>229</b>

While the City does not have information on the number of dwelling units located within parcels zoned Multi-Family (MF), Table 2 indicates that 24 MF parcels and 39 MF Beach Front (MFBF) parcels have submitted applications for short-term rentals. The 2012 Housing Element indicates there are a total of 1,000 multi-family dwelling units in the City but does not provide a breakdown of the zoning districts the units are located in. However, multi-family short-term rentals would be regulated based on property type not zoning district so a multi-family complex in a Single-Family Residential zone would be subject to the non-hosted two dwelling units (not to exceed 40% of the total units) regulations.

#### Accommodations in the City

There are six hotels in the City with 130 hotel rooms and 142 RV sites and 35 tent sites for a total of 307 existing accommodations. The six hotels include: The M Malibu, The Surfrider, Malibu Beach Inn, Malibu Country Inn, The Native, and Nobu Ryokan. The City is currently processing applications for two new hotels which would add an additional 59 rooms, resulting in 366 available hotel accommodations (Attachment B). In addition, the Malibu Beach RV park has a total of 177 accommodations (142 RV sites and 35 tent sites). The accommodations at Malibu Beach RV PARK offer a more affordable alternative for visitors traveling in RVs or those wishing to utilize the tent sites. Nightly RV sites range from \$58 to \$253 depending on the season and location. And nightly rates for tent sites range from \$46.20 to \$110 (Attachment B).



April 7, 2021

Information on the average hotel room rate within the City is not readily available but based on staff research, the rate is approximately \$757.75 per room per night. Staff arrived at this rate by determining the rate by room type for four of the existing six hotels in the City. Summer, winter, and summer weekend rates were determined and then averaged by each of the four hotels.

The average room rates for four of the six hotels are noted below.

- The M Malibu - \$252 average
- The Surfrider - \$564 average
- Malibu Beach Inn - \$1,109 average
- Malibu Country Inn - \$838 average

Nightly room rates weren't available for The Native as it is currently being renovated and staff did not include Nobu Ryokan since the hotel is a boutique hotel and the rates can skew the average hotel rate in the City. The starting rate is \$2,000 a night with a minimum two-night stay and rates can go up to \$3,500 a night.

According to Airbnb data available to the City, the average nightly short-term rental rate is \$978.30 so, while short-term rentals offer an opportunity for larger accommodations, they may not always be more affordable for families. However, hosted short-term rentals in which the property owner or designated operator is also on the site may be more affordable than whole house rentals. In addition, some short-term rentals require minimum night stays ranging from 4 to 10 nights, which may not be an option for some visitors. For hotels, a minimum of 2 nights is often required for summer weekend bookings.

#### Short-Term Rental (STR) Permit Program

The section below provides the eligibility, operating and enforcement requirements of the City's STR Permit Program. For the most part, these regulations already exist in the Chapter 17.55 in the MMC. An update to Chapter 17.55, which includes the two short-term rental permit types, was approved as part of Ordinance No. 472 (LCPA 19-003) and will go into effect once the CCC approves LCPA No. 19-003.

##### *Eligibility*

The proposed permit program has two distinct short-term rental permit types: one for owners of single-family residences and condominium units to offer hosted short-term rentals, and one for owners of multifamily parcels to offer up to two units as short-term rentals, as long as all other units are rented long-term.

A "hosted" short-term rental requires the owner or designated operator of single-family properties, including condominiums, to live onsite. That person need only live on the property, not in the same dwelling unit, during the rental. A property owner can assign a "designated operator" to live onsite instead of the owner, during the time of rental. A designated operator, other than the owner, is allowed for up to 60 days cumulatively per calendar year, so long as the designated operator is required to: (1) resolve any nuisance or compliance issues, (2) produce records, and (3) allow Code Enforcement Officers to enter the property. Under the terms of the City's proposed amendment, the designated operator would also have to be located onsite between the hours of 9:00 p.m. and 6:00 a.m. Proof of Primary Residency is required to obtain a Single-Family Residence Short-Term Rental Permit. Applicants can demonstrate primary residency with an active voter registration, a valid driver's license or other government issued identification card.

The amendment will also allow one unit of a duplex to be rented short-term if the owner lives onsite in the other unit and is present during the hours of 9 pm and 6 am. A designated operator may be used for up to 60 days.

For multi-family properties, defined as more than two (2) dwelling units, those units can be rented un-hosted. Up to two multi-family dwelling units on a parcel (not to exceed 40% of the units on a parcel) may be rented un-hosted so long as the other units on the property are rented on a long-term basis. The regulations would apply to multi-family properties regardless of the zoning district the property is located in.

Property owners of hosted short-term rental properties can rent the primary dwelling, accessory dwelling unit, or guest house as long as owner lives on site in one of the units. There is currently no prohibition against using an accessory dwelling unit as an STR as long as the ADU was legally created, unless otherwise regulated by state law.

Key requirements include:

- An individual may not possess more than one active short-term rental permit, regardless of type.
- A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented).
- No person may serve as a designated operator for more than one short-term rental concurrently.
- Permits must be renewed annually.

#### *Operating Requirements*

Property owners must comply with all the terms and conditions of the short-term rental program including, but not limited to, the following:

1. Maintain an active permit at all times short-term rentals are conducted
2. Take responsibility for and actively prevent any nuisance activities that may take place during short-term rentals
3. Be available, or designated operator be available, 24/7 via contact information provided to and kept current with City and any guest renting the property
4. Collect and remit TOT
5. Provide basic health and safety features for guests
6. Limit occupancy based on the number of bedrooms on record in City or County documents, as determined by the Planning Director, to two people more than twice the number of bedrooms, but no more than 14 unless a special event permit (SEP) is obtained under MMC Chapter 5.34 (example - for a 3 bedroom property -  $((3 \text{ bedrooms} \times 2 \text{ people}) + 2 \text{ people}) = 8 \text{ people max occupancy, including owner/designated operator}$ )
7. Maintain liability insurance with minimum limits no less than \$500,000
8. Provide guests with the City of Malibu's Short-Term Rental Code of Conduct (Attachment C)
9. Provide access to the property and documents upon request by City during business hours or when property is rented
10. Comply with all applicable building, fire and other safety codes including noise limitations
11. Maintain a valid Onsite Wastewater Treatment System (OWTS) operating permit (a compliance agreement option is available for those in the process of upgrading)
12. Follow all rules for advertising short-term rentals:
  - immediately remove any advertisement identified by the City as illegal
  - include permit number in all advertisements
  - clearly state in all advertisements related to a HSTR permit that the owner or designated operator will live onsite during the rental (not required for MSTR permits)
  - clearly state occupancy limits
13. Keep permit application information on file with the City current at all times, including the 24/7 contact information for owner / designated operator

April 7, 2021

*Enforcement*

The code sets forth special tools for enforcement, including setting a fine for unpermitted short-term rentals of \$1,000 or twice the daily rental rate, whichever is higher, and setting the fine for all other violations at \$500 or twice the daily rental rate. The code also provides explicitly that offering or allowing short-term rental of any location not approved for use as a dwelling unit, such as any vehicle, trailer, tent, storage shed or garage, is prohibited.

Summary

In summary, the permitting requirements in LCPA 19-003 will allow the City to ensure that a variety of visitor-serving accommodations remain available for visitors while better controlling nuisance issues. The requirements will also avoid the proliferation of short-term rental businesses in which corporations and other entities buy up residences to use solely for vacation rentals thus reducing the number of long-term affordable housing options in the City.

For further information, please contact Richard Mollica, Planning Director, at (310) 456-2489, ext. 346 or email at [jkendall@malibucity.org](mailto:jkendall@malibucity.org).

Sincerely,

Justine Kendall  
Associate Planner

ENCLOSED:

- Attachment A: Consistency Analysis Table
- Attachment B: Accommodations in the City
- Attachment C: Short-term Rental Code of Conduct

## ATTACHMENT A

### Malibu Land Use Plan (LUP) and Coastal Act Consistency Analysis – LCPA No. 19-003

Policy	Consistency Determination
<b>Chapter 2 – Public Access and Recreation and Coastal Act Section 30213</b>	
<p>2.25 New development shall provide off-street parking sufficient to serve the approved use in order to minimize impacts to public street parking available for coastal access and recreation.</p>	<p>Short-term rentals are limited to existing legally established structures in residential zoning districts. These properties generally have existing off-site parking available on the site; however, there are properties located on the ocean side of Pacific Coast Highway in eastern Malibu that don't meet current parking standards. Parking for the dwelling unit is often located between the front of the building and the edge of Pacific Coast Highway. This forces the public to park on the land side of Pacific Coast Highway thus forcing them to cross Pacific Coast Highway to access the ocean. In these areas, in particular, allowing dwelling units to be utilized solely as un-hosted short-term rentals results in these structures functioning like a hotel which can negatively impact public street parking. This can occur if reserved parking spaces are not provided or the unit is rented to a group of people that arrive in multiple vehicles. Allowing hosted single-family short-term rentals and multi-family short-term rentals, with a limit on the number of rentals allowed, will minimize impacts to public street parking and increase the availability of street parking. This will allow all visitors to enjoy coastal access and recreational opportunities while at the same time providing short-term rental opportunities for those visitors that wish to stay overnight in Malibu.</p>
<p>2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that</p>	<p>No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals in single-family homes and condominiums which can be more</p>

Policy	Consistency Determination
<p>include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.</p>	<p>economical than whole house rentals since the property owner or long-term tenant is also on the site.</p> <p>For multi-family properties, defined as more than two (2) dwelling units, these units can be rented un-hosted. Up to two multi-family dwelling units on a parcel (not to exceed 40% of the units on a parcel) may be rented un-hosted so long as the other units on the property are rented on a long-term basis. The regulations would apply to properties with multi-family complexes regardless of the zoning district the property is located in. This system prevents the conversion of multi-family units into unregistered hotels, protects some of the lowest cost housing in the City, and encourages units to be rented long-term at lower rent as short-term rental is only allowed if all other units are at full occupancy. This will ensure the City maintains a variety of affordable units for long term renters and prevent property owners from utilizing all the most affordable rental units as short-term rentals while at the same time providing opportunities for short-term rentals to operate in the City.</p>
<p>2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.</p>	<p>No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations are available in the City.</p> <p><b>The amendment allows for hosted short-term</b> rentals in single-family homes and condominiums which can be more economical than whole house rentals since the property owner or long-term tenant is also on the site.</p> <p>For multi-family properties, defined as more than two (2) dwelling units, these units can be rented un-hosted. Up to two multi-family dwelling units on a parcel (not to exceed 40% of the units on a parcel) may be rented un-hosted so long as the other units on the property are rented on a long-term basis. The regulations would apply to properties with multi-family</p>

Policy		Consistency Determination
		complexes regardless of the zoning district the property is located in. This system prevents the conversion of multi-family units into unregistered hotels, protects some of the lowest cost housing in the City, and encourages units to be rented long-term at lower rent as short-term rental is only allowed if all other units are at full occupancy. This will ensure the City maintains a variety of affordable units for long term renters and prevent property owners from utilizing all the most affordable rental units as short-term rentals while at the same time providing opportunities for short-term rentals to operate in the City.
<b>Chapter 3 - Marine and Land Resources and Coastal Act Sections 30231 and 30240</b>		
3.14	New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.	Short-term rentals are limited to existing legally established structures in residential zoning districts. This allows the use of developed properties without the need to further disturb the land or impact ESHA.
3.96	New development shall not result in the degradation of the water quality of groundwater basins or coastal surface waters including the ocean, coastal streams, or wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely impact groundwater, the ocean, coastal streams, or wetlands, consistent with the requirements of the Los Angeles Regional Quality Control Board's municipal stormwater permit and the California Ocean Plan.	Short-term rentals are limited to existing legally established structures in residential zoning districts. Based on these limitations, water quality associated with the rental use would be consistent with that of a typical residential dwelling.

Policy	Consistency Determination
<p>3.125 Development involving onsite wastewater discharges shall be consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements, revised waivers and other regulations that apply.</p>	<p>While short-term rentals are limited to existing legally established structures in residential zoning districts, short-term rentals can have an impact on the on-site wastewater system if a structure has large groups of people utilizing the unit or if there is constant and rapid turn-over of the unit. One of the requirements for operating a short-term rental in the City is the property must maintain a valid Onsite Wastewater Treatment System (OWTS) operating permit. This will ensure short-term rentals are consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements.</p>
<b>Chapter 4 - Hazards &amp; Shoreline Bluff Development and Coastal Act Policy 30253</b>	
<p>4.2 All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.</p>	<p>Short-term rentals are limited to existing legally established structures in residential zoning districts. Regulations require property owners to provide information on methods of emergency communications used by the City in case of an emergency along with information on the Evacuation Zone for the property. In addition, to increase the safety of guests staying in a short-term rental, property owners must ensure that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.</p>
<b>Chapter 5 – New Development and Coastal Act Policy 30250</b>	
<p>5.4 Off-street parking shall be provided for all new development in accordance with the ordinances contained in the LCP to assure there is adequate public access to coastal resources. A modification in the required parking standards through the variance process shall not be approved unless the City makes findings that the provision of fewer parking spaces will not result in adverse impacts to public access.</p>	<p>Short-term rentals are limited to existing legally established structures in residential zoning districts. These properties generally have existing off-site parking available on the site; however, there are properties located on the ocean side of Pacific Coast Highway in eastern Malibu that don't meet current parking standards. Parking for the dwelling unit is often located between the front of the building and the edge of Pacific Coast Highway. This forces the public to park on the land side of Pacific Coast Highway thus forcing the public to cross Pacific Coast Highway to access the ocean. In these areas, in particular, allowing dwelling units to be utilized solely as un-hosted short-term rentals results in these structures functioning</p>

Policy		Consistency Determination
		like a hotel which can negatively impact public street parking. This can occur if reserved parking spaces are not provided or the unit is rented to a group of people that arrive in multiple vehicles. Allowing hosted single-family rentals and multi-family short-term rentals, with a limit on the number of rentals allowed, will minimize impacts to public street parking and increase the availability of street parking. This will allow all visitors to enjoy coastal access and recreational opportunities while at the same time providing short-term rental opportunities for those visitors that wish to stay overnight in Malibu.
5.49	All new development shall comply with the City's water conservation and wastewater regulations.	Short-term rentals are limited to existing legally established structures in residential zoning districts. One of the requirements for operating a short-term rental in the City is the property must maintain a valid Onsite Wastewater Treatment System (OWTS) operating permit. This will ensure short-term rentals are consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements.
<b>Chapter 6 – Scenic and Visual Resources and Coastal Act Policy 30251</b>		
6.5	New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.	Short-term rentals are limited to existing legally established structures in residential zoning districts. This allows the use of developed properties with no adverse impacts on scenic areas visible from scenic roads or public viewing areas. The subject LPCA is limited to the use of existing structures and does not preclude future development from being consistent and requiring review under the Coastal Act.



Policy	Consistency Determination
<p>6.33 The Pacific Coast Highway corridor shall be protected as a scenic highway and significant viewshed.</p>	<p>The capacity of Pacific Coast Highway is exceeded regularly on summer weekends as visitors travel to the beach or enjoy a drive along the coast. The conversion of long term housing to short-term rental use increases traffic impacts to Pacific Coast Highway through increased trip demands of transient occupancy. Allowing only hosted short-term rentals in single family homes/condominiums and limiting the number of short-term rentals in multi-family dwellings will help reduce the traffic on Pacific Coast Highway which will enhance the quality of the visitor experience on Pacific Coast Highway and assure access to recreational opportunities.</p>
<p><b>Chapter 7 – Public Works and Coastal Act Policy 30254</b></p>	
<p>7.16 Additional water storage facilities and/or new pipelines may be allowed in the City to replace deteriorated or undersized facilities and/or to ensure an adequate source of domestic and fire protection water supply during outages or pipeline interruptions provided such facilities are designed and limited to accommodate existing or planned development allowed by the Land Use Plan and can be found to be consistent with all applicable policies of the LCP.</p>	<p>Short-term rentals are limited to existing legally established structures in residential zoning districts. It is expected, that the demand from short-term rentals on domestic and fire protection water supplies would be consistent with that of a typical residential dwelling.</p>

## ATTACHMENT B

### Supplemental Information LCPA 19-003 – Short-Term Rentals

<b><u>Accommodations in Malibu</u></b>			
Name	Address	Accommodation Type	Number
The M Malibu	22541 PCH	Hotel Rooms	18
Nobu Ryokan	22752 PCH	Hotel Rooms	16
Malibu Beach Inn	22878 PCH	Hotel Rooms	47
The Surfrider Hotel	23033 PCH	Hotel Rooms	20
The Native	28920 PCH	Hotel Rooms	13
Malibu County Inn	6506 Westward Road	Hotel Rooms	16
Total Hotel Rooms			130
Malibu Beach RV Park	25801 PCH	RV sites	142
		Tent sites	35
<b>Total Existing Accommodations</b>			<b>307</b>
<b>Pending applications on file with the City</b>			
Malibu Inn Hotel	22959 PCH	Hotel Rooms	20
Sea View Hotel	22741 PCH	Hotel Rooms	39
<b>Total Future Hotel Rooms</b>			<b>59</b>
<b>Overall Total (Existing and Planned)</b>			<b>366</b>

## Malibu Beach RV Park

### Winter Rates (December 1, 2020 through February 28, 2021)\*

All RV Sites = Full Hook Up (Water, Electric, and Sewer) and are Back In Excluding Tent Sites.	Weekdays (Sun-Thu)	Weekends (Fri-Sat)	Weekly (7 Days)	Max Stay = 28 Nights (APPROVAL REQUIRED)
<i>Ocean View Premium 50 Amp (No Towables)</i>	104.50	110.00	632.50	2,530.00
Ocean View Premium 30 Amp (No Towables)	93.50	99.00	566.50	2266.00
<i>Ocean View 50 Amp</i>	99.00	104.50	599.50	2,398.00
Ocean View 30 Amp	88.00	93.50	533.50	2,134.00
<i>Partial Ocean View 50 Amp (No Towables)</i>	78.00	84.00	474.00	1,896.00
Partial Ocean View 30 Amp (No Towables)	70.00	76.00	426.00	1,704.00
<i>Mountain View 50 Amp or Premium 30 Amp</i>	82.50	88.00	500.50	2,002.00
Mountain View 30 Amp	58.00	62.50	352.50	1,410.00
Tent Site Ocean View	51.70	57.20	315.70	N/A
Tent Site Mountain View	46.20	51.70	282.70	N/A

## Malibu Beach RV Park

### Spring Rates (March 1, 2021 through May 27, 2021)\*

All RV Sites = Full Hook Up (Water, Electric, and Sewer) and are Back In Only. Excluding Tent Sites.	Weekdays (Sun-Thu)	Weekends (Fri-Sat)	Weekly (7 Days)	Max Stay = 28 Nights (APPROVAL REQUIRED)
<i>Ocean View Premium 50 Amp (No Towables)</i>	114.00	120.00	690.00	2,760.00
Ocean View Premium 30 Amp (No Towables)	102.00	108.00	618.00	2,472.00
<i>Ocean View 50 Amp</i>	108.00	114.00	654.00	2,616.00
Ocean View 30 Amp	96.00	102.00	582.00	2,328.00
<i>Partial Ocean View 50 Amp (No Towables)</i>	96.00	104.00	584.00	2,336.00
Partial Ocean View 30 Amp (No Towables)	80.00	88.00	488.00	1,952.00
<i>Mountain View 50 Amp or Premium 30 Amp</i>	90.00	96.00	546.00	2,184.00
Mountain View 30 Amp	72.00	78.00	438.00	1,752.00
Tent Site Ocean View	51.70	57.20	315.70	N/A
Tent Site Mountain View	46.20	51.70	282.70	N/A

## Malibu Beach RV Park

### Summer Rates (May 28, 2021 through October 31, 2021)

All RV Sites = Full Hook Up (Water, Electric, and Sewer) and are Back In Only. Excluding Tent Sites.	Weekdays (Sun-Thu)	Weekends (Fri-Sat)	Weekly (7 Days)	Max Stay = 28 Nights (APPROVAL REQUIRED)
<i>Ocean View Premium 50 Amp (No Towables)</i>	253.00	264.00	1,529.00	6,116.00
Ocean View Premium 30 Amp (No Towables)	209.00	231.00	1,276.00	5,104.00
<i>Ocean View 50 Amp</i>	220.00	242.00	1,342.00	5,368.00
Ocean View 30 Amp	198.00	225.50	1,215.50	4,862.00
<i>Partial Ocean View 50 Amp (No Towables)</i>	192.00	222.00	1,182.00	4,728.00
Partial Ocean View 30 Amp (No Towables)	117.00	162.50	747.50	2,990.00
<i>Mountain View 50 Amp or Premium 30 Amp</i>	170.50	192.50	1,045.00	4,180.00
Mountain View 30 Amp	137.50	154.00	841.50	3,366.00
Tent Site Ocean View	99.00	110.00	605.00	N/A
Tent Site Mountain View	71.50	93.50	451.00	N/A

## Malibu Beach RV Park

### Fall Rates (November 1, 2021 through December 31, 2021)

All RV Sites = Full Hook Up (Water, Electric, and Sewer) and are Back In Only. Excluding Tent Sites.	Weekdays (Sun-Thu)	Weekends (Fri-Sat)	Weekly (7 Days)	Max Stay = 28 Nights (APPROVAL REQUIRED)
<i>Ocean View Premium 50 Amp (No Towables)</i>	127.05	133.10	768.35	3,073.40
Ocean View Premium 30 Amp (No Towables)	114.95	121.00	695.75	2,783.00
<i>Ocean View 50 Amp</i>	121.00	127.05	732.05	2,928.20
Ocean View 30 Amp	108.90	114.95	659.45	2,637.80
<i>Partial Ocean View 50 Amp (No Towables)</i>	100.80	108.00	612.00	2,448.00
Partial Ocean View 30 Amp (No Towables)	90.11	98.30	548.85	2,195.40
<i>Mountain View 50 Amp or Premium 30 Amp</i>	102.85	123.20	637.45	2,549.80
Mountain View 30 Amp	72.60	78.65	441.65	1,766.60
Tent Site Ocean View	56.87	62.92	347.27	N/A
Tent Site Mountain View	50.82	56.87	310.97	N/A

# SHORT-TERM RENTAL CODE OF CONDUCT



The short-term rental of residential property may only be conducted in Malibu pursuant to a valid Short-Term Rental Permit issued by the City in accordance with the permit regulations set forth in the Malibu Municipal Code (MMC) 17.55. Go to **MalibuCity.org/STR** for more information.

The 24-hour contact for this property is \_\_\_\_\_.

They can be reached anytime at \_\_\_\_\_.

## NEIGHBORHOOD REGULATIONS



**Maximum Occupancy:** The maximum occupancy of this property is \_\_\_\_\_.

**Special Events:** Events in which 15 or more people are anticipated to attend may only be conducted pursuant to a Special Event Permit issued by the City.

**Noise:** Unreasonable noise is prohibited. Maintain peace and quiet between 10 PM - 7 AM.

**Parking:** All guests should park onsite whenever possible and abide by all posted street parking signs.

**Trash:** Place containers outside after 5:30 PM the day before collection day and remove all containers no later than 8:00 PM on collection day.

**Fines for Violation of the STR Permit Regulations:** Violations of MMC 17.55 are subject to a fine of \$500 per day or violation, or the short-term rental's advertised daily rate per day or violation, whichever is higher.

## ENVIRONMENTAL REGULATIONS



During your stay, help us protect Malibu by properly disposing of all trash to prevent it from entering the ocean and abiding by our local environmental regulations including the City's Plastic Bag Ban, Polystyrene Foam Ban, Plastic Straws and Cutlery Ban and the Smoking on the Beach Ban.

### Onsite Wastewater Treatment Systems

Most homes in Malibu rely on onsite wastewater treatment systems (septic systems) rather than traditional sewer systems. These systems require special care. Be mindful of what goes down the drain.

## EMERGENCY INFORMATION



### High Risk Fire Hazard Severity Zone

Malibu is in a very high fire hazard severity zone. Exercise extreme caution and situational awareness during your stay. Know your evacuation zone and routes and be prepared to evacuate on short notice.

### Emergency Communications

To receive emergency updates, follow the City's social media accounts:

- [twitter.com/CityMalibu](https://twitter.com/CityMalibu)
- [twitter.com/MalibuEOC](https://twitter.com/MalibuEOC)
- [facebook.com/CityofMalibu](https://facebook.com/CityofMalibu)
- [instagram.com/CityofMalibu](https://instagram.com/CityofMalibu)

If there is a widespread threat, the City may issue a Wireless Emergency Alert (WEA) which goes to all cell phones within the City with no subscriptions necessary, so you may receive a WEA on your mobile device.

### Evacuation Zone

This property at \_\_\_\_\_ is located in Malibu Evacuation Zone \_\_\_\_\_. For more information go to **MalibuCity.org/evac**.

### Emergency Preparedness

For more information go to **MalibuCity.org/PublicSafety**

## RESOURCES



Los Angeles County Sheriff: 818-878-1808

LA County Fire Prevention: 818-880-0341

Malibu City Hall: 310-456-2489

Malibu Emergency Hotline: 310-456-9982

City Code Enforcement: 310-456-2489, ext. 308

**For life-threatening emergencies, call 9-1-1**

**From:** [Dean Wenner](#)  
**To:** [Venegas, Denise@Coastal](mailto:Venegas.Denise@Coastal)  
**Subject:** City of Malibu response to CCC Letter Jan 13: Local Coastal Program Amendment No. LCP-4-MAL-20-0083-2 (Short-Term Rentals – Malibu LCPA No. 19-003)  
**Date:** Saturday, April 10, 2021 12:23:17 PM  
**Attachments:** [CCC-Letter Dated-January-13-2021.pdf](#)  
[City-Staff-Response-to-January-2021-Letter-from-CCC April-2021 comments.pdf](#)

---

Hello,

I am an Owner in Malibu. I subscribe to STR matter notifications and did not receive one either for the CCC letter in January nor the April City response even though it is posted on the STR part of the website. I was not aware of the CCC comment letter until I received notice of Malibu's response via the City Manager's update email and glad I read this one.

I appreciate CCC diligence on the matter. Some of us asked for the same information the CCC requested (documented in record submittals) and it was nice to read it. I suspected they did not want it tabulated as it would not support their position and this validates that suspicion.

Please see the attached comments to specific areas of the Malibu response. The responses are notes attached within the file in the yellow highlighted areas of the letter.

I am disappointed in the City responses as it is even more clear they are pushing the hidden agenda of banning such rentals. I expected more objectivity and action in regard to facts versus making arguments to stay the course. I'm a proponent of neighbors working out their own squabbles and for Cities to do the same with its citizens but in this case the majority apparently would rather have Malibu much more empty than a reasonably active city.

If it were not for the CCC such measures would already be in place which would result in diminishing private owner rights and greatly impacting transient visitor access to the coast.

Thank you for your consideration as some of the statements within simply are not accurate and in a few instances are not truthful responses.

Dean Wenner  
20054 Pacific Coast Highway, Malibu, Ca. 90265



August 31, 2021  
Chair Padilla and Honorable Commissioners  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105

Re: City of Malibu's Proposed Vacation Rental Restrictions

Dear Chair Padilla and Honorable Commissioners:

Dear Honorable California Coastal Commissioners,

I have lived in Malibu for the last <sup>30</sup> years. Having stayed here for so long, I have been lucky enough to enjoy so much of what this Coastal paradise has to offer. I feel blessed to live along the Coast, but I know that not everyone is so lucky. This is exactly why I oppose Malibu's proposed vacation rental ordinance. Even though I do not own a vacation rental myself, I understand why people visiting Malibu may want to stay in one of the homes currently available, and I don't think the City should make it harder for them to do so. I love Malibu and I do not want it walled off. Malibu is too special to be kept to ourselves. Please reject Malibu's proposed vacation rental ordinance to keep our City open.

Sincerely,

  
Michael Galate

August 31, 2021

Chair Padilla and Honorable Commissioners  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105

Re: City of Malibu's Proposed Vacation Rental Restrictions

Dear Chair Padilla and Honorable Commissioners:

I am the owner of a business in Malibu. My business, Malibu Fitness has been a gathering place for the community as well as for visitors for the past 34 years. A gym is the kind of place visitors like to use even if they are only in town for a week or two. A highlight of the business is getting to show visitors the best that the Malibu has to offer. Malibu's new vacation rental ordinance will hurt all of this. Without vacation rentals, visitors will be deterred from staying in Malibu and will come less often. We cannot afford to lose any more customers right now, especially since business declined during the COVID-19 pandemic. Not only would this be a major loss for our businesses; it would also be unfair to visitors because the ordinance would prevent them from experiencing the unique and special attributes of Malibu that sets it apart from all other coastal cities.

Having vacation rentals in Malibu is a great asset to the City. Vacation rentals bring more customers and buyers to the market and allow more people to enjoy all that is Malibu. Without vacation rentals, this will no longer be possible. We ask that you reject Malibu's vacation rental ordinance.

Sincerely,

Name



Owner, Malibu Fitness

Lonnie Weinstock talate



August 20, 2021

Chair Padilla and Honorable Commissioners  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105

Re: City of Malibu's Proposed Vacation Rental Restrictions

Dear Chair Padilla and Honorable Commissioners:

Thank you for the opportunity to comment on Malibu's efforts to impose new restrictions on vacation rentals in the City. We are a grassroots nonprofit institution founded in 1968 to provide necessary resources, supportive services, and a voice of advocacy to traditionally underserved communities. We believe in the ability of those who we serve, the residents of South Los Angeles, having access to beaches and the natural resources of our local geography. The short-term rental restrictions, as proposed by the City of Malibu, restrict our ability to access the beaches and to have equity in enjoyment of California's coastal assets.

Historically, low-income communities and people of color have been disproportionately denied the benefits of coastal access. In 2019, the Coastal Commission approved an environmental justice policy specifically acknowledging that the right to coastal access is an environmental justice concern, stating, "the Coastal Act's mandates to provide maximum access and recreational opportunities for all, and to protect, encourage, and provide lower-cost visitor and recreational opportunities embody fundamental principles of environmental justice." We applaud the Commission for this policy, and we support the Commission as it continues to advance environmental justice principles throughout the coastal zone.

Over the last several decades, Malibu has been one of the least welcoming coastal communities to non-residents. One clear example of this was when the city proposed to ban overnight camping. Criticizing the proposed ban, then Commission Executive Director Peter Douglas, as reported in the Malibu Times, said, "I thought the city was coming into the 21st century and was accepting its responsibilities in the Coastal Act that public access is for all people who wish to access their coast and was an obligation [for Malibu to provide] just like every other local government and the [Coastal] Commission." Unfortunately, the restrictions on vacation rentals that the Malibu City Council approved in September 2020 show that Malibu has not come into the 21st century and still refuses to accept its responsibilities under the Coastal Act.

We are particularly concerned with future coastal access in Malibu given various statements current members of its City Council have made. For example, prior to his election, Mayor Pro-Tem Bruce Silverstein was not shy about his views, saying:

Malibu is far more than a city. It's a unique and serene environment, a place of exquisite natural beauty, and the home of a community of people who wish to live in harmony with nature. It's a matter of political happenstance that the true Malibu just happens to be situated geographically in the artificial boundaries of the city of Malibu, and ***it's contrary to the will of the residents of the real Malibu that the City of Malibu permit the true Malibu to become a community of many hotels with a revolving door of transient tourists.***

# BROTHERHOOD *Crusade*

We fully agree that Malibu is "a unique and serene environment" and "a place of exquisite natural beauty, "that is why residents of South Los Angeles, should have equal enjoyment. The proposed new rules would only enable those who live in Malibu or those who can afford long term stays or stays in one of the expensive 129 hotel rooms to be the beneficiaries of that which is supposed to be everyone's coast.

Separately, while considering a proposed vacation rental rule as the Vice Chair of the Planning Commission, current Councilmember Steve Uhring stated: "And as far as I'm concerned that our mission statement says when you move to Malibu, you have a right to live in a rural community and give up urban environment and have peace and quiet, and that is not saying that somebody can invade a neighborhood..." When we visit communities like Malibu, we are not "invading" a neighborhood. We are experiencing that neighborhood and the coastal zone, even if just for a weekend, two days or even four days!

Given the City's continued unwillingness to do so, we need the Commission to enforce the Coastal Act requirements to protect existing lower-cost overnight accommodations and encourage new accommodations. Malibu's proposal defies these mandates for two very simple reasons.

- **First**, the restrictions will ban "un-hosted" vacation rentals in houses, which will lead to the removal of the type of overnight accommodations that are most desirable and affordable for many families that we serve.
- **Second**, the restrictions will remove scores of existing vacation rentals from the Malibu market, which will cause the price of the limited hotels, motels, and remaining vacation rentals to increase significantly making them more inaccessible.

The constituents largely served by the Brotherhood Crusade do not have permanent addresses in Malibu. They live in South Los Angeles, Watts, Hawthorne, Lynwood, Carson, Compton and other parts of Los Angeles County that is inland and has historically lacked adequate open space. Unfortunately, as the Commission has previously and repeatedly recognized, the ability of families to enjoy California's beaches and oceans is constrained by access and affordability barriers. We need better and more expansive public transportation. We need more affordable overnight accommodations. Most importantly, we need coastal communities like Malibu to act as stewards of the coastal resources that belong to ALL Californians.

We commend the Commission for its efforts to safeguard the public's right to visit the coast over the past five decades. We implore the Commission to continue its progress by rejecting Malibu's proposal.

Thank you,



Charisse Bremond Weaver  
President and CEO

**From:** [Tony Canzoneri](#)  
**To:** [Venegas\\_Denise@Coastal](mailto:Venegas_Denise@Coastal)  
**Subject:** City of Malibu LCP Amendment re Short-Term Rentals (LCPA Nos. 3-001 and 19-003)  
**Date:** Wednesday, May 26, 2021 1:20:31 PM  
**Attachments:** [City of Malibu -- Carbon Beach Commercial Area.docx](#)  
[5.18.2021 Letter re Malibu Short-Term Rental Ordinance.pdf](#)

---

Hello Denise, trust all is well with you.

I would like to share an idea related to the City's April 7 response to your January 13, 2021 "incomplete letter". The City could address your request and certain deficiencies noted in Marshall Camp's May 18, 2021 letter (attached for your convenience) by looking at the approach that was taken in your work on the LCP for Laguna Beach. To that end, I attach the Carbon Beach Commercial Area Plan from the existing LCP with an area marked that would be appropriate for a Multi-family zone exemption. That would provide significant visitor serving accommodation opportunities in the part of Malibu that is most accessible for short term visitors to enjoy a walking environment that includes renowned restaurants such as Nobu, Tramonto, Soho House, Carbon Beach Club, Malibu Farm and others as well as the shops, pier and Surfrider beach facilities. Such an exemption could include extensive conditions and regulations to ensure prevention and enforcement of "party house" and other violations that negatively impact other properties.

I am available at your convenience to discuss this further and thank you for your consideration.

## **Tony Canzoneri**

**Canzoneri Gottheim Law LLP**

*Strategic Solutions for Business and Government*

**310.283.4507**

[tony.canzoneri@icloud.com](mailto:tony.canzoneri@icloud.com)

[cangotlawllp.com](http://cangotlawllp.com)

### Privilege and Confidentiality Statement

This email and any files transmitted with it may contain privileged, confidential and/or trade secret information . It is intended solely for the use of the intended addressee. If you are not the intended addressee, or a person responsible for delivering it to that person, you are hereby notified that any disclosure, copying, dissemination, distribution, or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you are not the intended addressee, please notify the sender by replying to this message and then delete it from your system. Thank you.

---

## HUESTON HENNIGAN LLP

May 18, 2021

### VIA E-MAIL

Denise Venegas  
Coastal Program Analyst  
California Coastal Commission  
South Central Coast District  
89 South California Street, Suite 200  
Ventura, CA 93001  
[denise.venegas@coastal.ca.gov](mailto:denise.venegas@coastal.ca.gov)

Re: City of Malibu LCP Amendment re Short-Term Rentals (LCPA Nos. 3-001 and 19-003)

Dear Ms. Venegas:

This will supplement my previous letter to you dated January 7, 2021 on behalf of the Mani Brothers who own beachfront multi-family rental properties in the City of Malibu that would be affected by the proposed LCP amendment regulating short-term rentals. We are submitting for the record a few additional comments based on our review of the information submitted to you by the City Malibu on April 7, 2021 via letter from Justine Kendall, Associate Planner (the "City Response").

The City Response fails to address several of the questions in your "incomplete letter" dated January 13, 2021 and presents a misleading and incomplete picture of short-term rentals in Malibu.

For example, in the City Council Agenda report for the meeting of September 26, 2018, the City stated: "There are currently **414 properties that are remitting TOT for short-term rental.**" The recent City Response, by contrast, states that **only 229 properties** have applied for short-term rental permits under the City's new "enforcement" ordinance.

This dramatic **45% decline in STRs** can only be explained by one of two hypotheses. Either (i) the so-called "enforcement" ordinance (No. 468) enacted by the City last September without an LCP amendment or Coastal Commission approval is actually an unlawful and unpermitted coastal "development" in violation of the Coastal Act;<sup>1</sup> or (ii) atypical circumstances such as the Woolsey fire and the Covid-19 pandemic have temporarily reduced the supply and utilization of STRs. In either case, the higher pre-pandemic number of 414 STR properties is more representative as a baseline than the current 229.

Furthermore, even 414 properties is a misleading and understated number to use as a baseline. As the City Response itself acknowledges, there are 90 short term rentals within the 37 multi-family properties

---

<sup>1</sup> See, e.g. Kracke v. City of Santa Barbara (May 4, 2021) 2021 WL 1746301 (Cal. App.); Greenfield v. Mandalay Shores Community Assn. (2018) 21 Cal.App.5th 896, 899-900

---

## HUESTON HENNIGAN LLP

that have so far applied under the new enforcement ordinance, i.e. 53 more STR units than properties. If we normalize these numbers to correct for the 45% temporary reduction due to Covid and other factors, there would normally be not 90 multifamily STR units currently reported in the City Response, but **163 multifamily STR units**<sup>2</sup> in the City of Malibu – significantly more than the 130 hotel and motel rooms currently operated in the City.<sup>3</sup>

The same adjustment to offset unique temporary factors would bring the total baseline number of **single-family and multifamily STR units in the City up to 510** (i.e. 414 plus 96), and even this number can be expected to grow because of other factors such as the recent state legislation that has made it much easier for homeowners to get city approval for accessory dwelling units.<sup>4</sup> It can be anticipated that many of these ADUs will be offered as STRs.

The City Response consistently underreports the number and importance of STRs, while exaggerating the number of other visitor-serving accommodations. For example, the City Response prominently mentions two pending applications for new hotels that would add 59 rooms, while saying nothing about the number of pending, proposed or under-construction ADUs, single-family or multifamily projects (such as my client's 7-unit multifamily property under renovations at 22640 PCH) that are likely to add to the number of STRs. Particularly given the notorious difficulty of getting new development approved in the City of Malibu, it seems premature to give any consideration to proposed hotels that are neither approved nor under construction.

Along the same lines, the City Response makes repeated reference to the 35 tent sites and 142 RV sites at the City's one RV park as a major source of affordable visitor-serving accommodations. Apart from the fact that the large expense of renting or purchasing an RV is not mentioned in the City's cost comparison, there are some major uncertainties in the City's ambiguous Ordinance 472 regarding whether or not the subject LCP amendment has the effect of outlawing short-term rental of RV and tent spaces at the Malibu Beach RV Park. According to the City's GIS zoning information system, the Malibu Beach RV Park at 25801 PCH is zoned "RVP" (Recreational Vehicle Park). Section 2 of the new STR ordinance, which is the subject of the LCP amendment, does not permit short-term rentals in the RVP zone. And unlike hotels and motels, which are expressly defined in the LCP/LIP to permit "transient" (i.e., short-term visitor) occupancy, there is no definition of "recreational vehicle park" in the zoning code or LCP that would allow short-term occupancies of RV parking spaces or tent sites. Accordingly, without further amendments it is not at all clear that the RV park will be allowed to continue renting RV spaces and tent sites on a short-term basis.

---

<sup>2</sup> Counterintuitively, but well-known to Math and Finance majors, an 81% increase (from 90 to 163) is needed to correct for the 45% drop in STR properties since 2018 due to temporary factors. The 2018 number of registered STR properties (414) is 81% higher than the current 2021 number (229).

<sup>3</sup> Based on my own client's experience and reports we have heard from other multifamily property owners, moreover, it appears the City may be unlawfully limiting multifamily STR permits to no more than 50% of units on each property. My client applied for STR permits on all 11 units at 22648 PCH and was granted approval on January 15, 2021 for only 5 units. The City's attorney (Mr. Rusin) explained that this was not a denial and that we could re-apply for additional units, but we have heard from other owners who were limited to 50%. You may want to ask the City for detail on how many multifamily properties have been approved for more than 50% STRs.

<sup>4</sup> Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5).

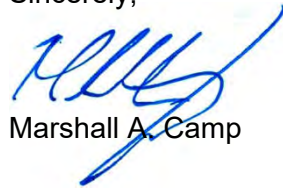
---

## HUESTON HENNIGAN LLP

Properly considered, therefore, the City of Malibu's normalized supply of at least 163 multi-family STR units and another 347 single-family units represents by far the largest supply of visitor-serving accommodations, even if RV and tent sites are included. To substantially constrain this supply, as the subject LCP amendment would do by requiring home-sharing and imposing a two-unit limit on multifamily STRs, would clearly violate policies of the Coastal Act, which promote and protect public access to the coast including visitor-serving accommodations. (See, e.g., Cal. Pub. Res. Code § 31411, subd. (e).)

Thank you for considering this information. Please keep me informed and put me on the list to receive notices of Coastal Commission as you move this forward to the Commission for hearing.

Sincerely,



Marshall A. Camp



**From:** [Dean Wenner](#)  
**To:** [Venegas, Denise@Coastal](mailto:Venegas.Denise@Coastal)  
**Subject:** City of Malibu response to CCC Letter Jan 13: Local Coastal Program Amendment No. LCP-4-MAL-20-0083-2 (Short-Term Rentals – Malibu LCPA No. 19-003)  
**Date:** Saturday, April 10, 2021 12:23:17 PM  
**Attachments:** [CCC-Letter Dated-January-13-2021.pdf](#)  
[City-Staff-Response-to-January-2021-Letter-from-CCC April-2021 comments.pdf](#)

---

Hello,

I am an Owner in Malibu. I subscribe to STR matter notifications and did not receive one either for the CCC letter in January nor the April City response even though it is posted on the STR part of the website. I was not aware of the CCC comment letter until I received notice of Malibu's response via the City Manager's update email and glad I read this one.

I appreciate CCC diligence on the matter. Some of us asked for the same information the CCC requested (documented in record submittals) and it was nice to read it. I suspected they did not want it tabulated as it would not support their position and this validates that suspicion.

Please see the attached comments to specific areas of the Malibu response. The responses are notes attached within the file in the yellow highlighted areas of the letter.

I am disappointed in the City responses as it is even more clear they are pushing the hidden agenda of banning such rentals. I expected more objectivity and action in regard to facts versus making arguments to stay the course. I'm a proponent of neighbors working out their own squabbles and for Cities to do the same with its citizens but in this case the majority apparently would rather have Malibu much more empty than a reasonably active city.

If it were not for the CCC such measures would already be in place which would result in diminishing private owner rights and greatly impacting transient visitor access to the coast.

Thank you for your consideration as some of the statements within simply are not accurate and in a few instances are not truthful responses.

Dean Wenner  
20054 Pacific Coast Highway, Malibu, Ca. 90265

**From:** [Dean Wenner](#)  
**To:** [Venegas, Denise@Coastal](mailto:Venegas.Denise@Coastal)  
**Cc:** [dean\\_wenner@att.net](mailto:dean_wenner@att.net)  
**Subject:** RE: CCC Letters to City of Malibu regarding LCPA No. LCP-4-MAL-20-0083-2 (Short-Term Rentals - Malibu LCPA No. 19-003)  
**Date:** Tuesday, June 29, 2021 7:51:29 PM

---

Although the City of Malibu response was significantly incomplete I was surprised they did not respond to the CCC question of "What is the average STR rate in the City?". During public comment it would commonly be stated that the STR rate was high and higher than hotel rates.

Regardless of what the average, high or low rates are it is important to know that STRs are more available and very affordable for individuals and families versus hotels. Comparing such rates is not equivalent as STRs house the equivalent of multiple hotel rooms, do not have additional costs for parking, resort fees, additional taxes, and have the added benefit of being able to cook and eat at home and not being forced to eat out which is a large expense. The equivalent rates will be the same if not less than all in hotel costs.

Simple availability of rooms is priceless.

Thank you for your consideration.

---

**From:** Dean Wenner  
**Sent:** Tuesday, June 29, 2021 9:05 PM  
**To:** 'denise.venegas@coastal.ca.gov' <denise.venegas@coastal.ca.gov>  
**Cc:** dean\_wenner@att.net  
**Subject:** CCC Letters to City of Malibu regarding LCPA No. LCP-4-MAL-20-0083-2 (Short-Term Rentals - Malibu LCPA No. 19-003)

Hello,

Thank you for your diligence on this matter. With the City Manager update email I noticed there was a City of Malibu response to a more recent CCC request for information. I checked the City website and found both the CCC inquiry and the City response. The City is not being as proactive in notifying people about responses which yields the perception they are trying to keep awareness to a minimum on this matter.

I am encouraged that the latest City of Malibu response includes more facts for your consideration and I am very encouraged by the CCC questions and request for such information. Similar information was requested by myself and others via submitted commentary and requested during public comment but not supplied. It is apparent the CCC oversight is both meaningful and powerful. This is greatly appreciated.

I am disappointed that the City of Malibu response does not answer each of the CCC questions and their quest continues to obtain your approval for a Hosted Ordinance which would effectively ban such rentals. Their goal is clearly to ban rentals but they know they have no footing and zero legal support for such action without your approval as short term rentals have always been allowed in

Malibu including the solicitation and implementation of Transient Occupancy Tax policy since 2009.

Instead of presenting lengthy detail as to why the CCC should not approve the changes to enable the enactment of a Hosted Ordinance (which is included in my numerous submittals to both the Planning Commission and City Council meetings on this subject), I am hopeful the review of the City of Malibu response will enable the CCC to conclude that the current Malibu action of Ordinance implementation is highly effective and that further restriction is not necessary. Supporting overly restrictive action against both Owner Rights and public access to the Malibu area is not warranted.

The 3.8% short term rental potential status indicated in the 176 Unique Identified Properties is significantly within the Malibu Land Use Plan and is consistent with historical use as further supported by ToT records. This was clearly presented to City Council but the hype and overreaction of some led to the perception of short term rental proliferation reflective of the 600-800+ Listings in the Jurisdiction column of the response. The most significant problem which was not acted upon until the City Council realized they had no legal standing for a ban and had to solicit and obtain CCC approval, was that the City had not taken proper enforcement actions. I could not support the recently enacted Ordinance as the spirit of it was to gain a ban in the future. However, in principle I did support the cause for more enforcement and taking action against Owners that did not respect their neighbors and were not compliant with City Code. In fact, I advised the City Council they were not in compliance with City Code as they were not enforcing what was on the books and instead using significant numbers of false accusations and perception to unfairly gain support for a ban.

I firmly believe my comments are correct as since the new Ordinance and Permit program was implemented the chart demonstrates effective and reasonable control. There is further support within the Code Enforcement Record on the City Website as two properties recently have enforcement issues underway in regard to short term rental. The count of current unique rental properties is not a reflection of a reduced number resulting from COVID as the City has always represented the overall Listings (same property on multiple sites) which did not stop. The effective controls and enforcement related actions is the driver here. All along the City knows, and I believe the CCC questions infer, that the Multi-Family Properties and a handful of bad actors were the real problem that was not being dealt with properly.

There is no valid reason to penalize law abiding people that love the coastal area when simple enforcement of current Code and Policy can be implemented which has been proven effective in less than 6 months.

I hope and trust the CCC will not approve the City of Malibu request to approve the LCPA and ZTA.

Please take the following comments into account. Again, thank you for the diligence on this matter.

Dean Wenner

**From:** [Dean Wenner](#)  
**To:** [SouthCentralCoast@Coastal](mailto:SouthCentralCoast@Coastal)  
**Subject:** Public Comment on September 2021 Agenda Item Wednesday 11b - City of Malibu LCP Amendment No. LCP-4-MAL-20-0083-2 (Short-term Rentals). Time Extension.  
**Date:** Tuesday, September 7, 2021 6:28:17 AM

---

Hello,  
Thank you for the opportunity to submit comments in regard to Agenda item 11.b regarding the Malibu Local Coastal Program (LCP) amendment for its Hosted Short Term Rental (STR) Ordinance.

It has been demonstrated and acknowledged that Malibu's effort with the LCPA is to achieve an effective ban on short term rentals. I empathize with the Homeowners that have had bad experiences living next to or near a property with a bad owner who allows bad behavior, however the bad behavior and action of a few, further enabled by poor owner reporting and ineffective and low priority city code enforcement, should not leap ahead to a ban. Renting of property is integral to Malibu history and written into the various City Plans.

As a result of ineffective action followed by hype, story-telling and emotion, we had landed on this submittal as City Council was driven to get it issued before the last election.

Regardless of the above comments, the City of Malibu did enact a new ordinance which took effect this year. It has yielded effective results by simply making both the City and the Owners accountable. Further action, especially a ban, is not necessary. Proceeding with possible approval of the LCPA would go against the founding principles in Malibu and be an obstruction to CCC goals.

CCC should not only postpone review and action of the Malibu request, but take a motion to request Malibu to withdraw it. The Malibu request is not in good faith, is political and biased in motivation, and is structured to effectively ban short term rentals. As demonstrated by code enforcement records since 1993, rentals have not been an issue. Malibu action in 2020 to implement the permit ordinance, to prioritize action and promote code enforcement, has resulted in action and results. These results demonstrate performance that complies with City Code, and is well within the land use for expectations (percentage of housing units rented), LIP, etc. as acknowledged by the current Code Enforcement log.

Malibu may make claims that activity is down because of the pandemic but this would be a fallacy. As submitted in previous comments, and by their own acknowledgement to the CCC in a recent response to questions, rentals were counted two, three and more times which is why they were showing 800+ rentals versus the approximately 250. Short term rentals are not proliferating and out of control as hyped. Yes the internet and new companies like Airbnb and VRBO have made things easier and more noticeable, but this amount of activity was always prevalent in Malibu.

The City of Malibu should be ashamed of its action on this as for political and personal reasons we as a people tend to flip-flop and be hypocritical on particular issues (we all are on occasion). Recently the City is shocked and disappointed (rightly so) with the misinformation and propaganda Santa Monica distributed in regard to the drive to separate school districts. Santa Monica is not acting in good faith. Malibu should live by the Golden Rule, not be hypocritical, and withdraw this short term request on their own, as fundamentally, it's no different. Just people trying to get what they want.

CCC (and Malibu for that matter) can make better use of its' time than spending time on this matter. As a result of current rental status in Malibu, CCC should request Malibu to withdraw their request. CCC objective of coastal access is achieved, and Malibu objective of mission, vision, and LUP is achieved. There is not justification to continue to spend time and money on this matter, let alone this matter taking time away from more deserving and valuable needs and efforts before the CCC (and Malibu).

In addition to the many previous submittals of information I have made, below are some more recent statistics that reinforce my recommendation for your consideration.

Malibu active Code Enforcement in regard the short term rentals:

Of 267 Code Enforcement entries there are 4 non-conformities under action (1.5%). Please note these 4 cases are a result of action from the newly enacted ordinance for the permit program demonstrating results and improvement.

202108007	19024	PACIFIC COAST HWY			8/12/2021	Short-Term Rental
202105006	20526	PACIFIC COAST HWY			5/10/2021	Short-Term Rental
202106013	3229	RAMBLA PACIFICO ST			6/4/2021	Short-Term Rental
202108006	21715	RAMBLA VISTA			8/11/2021	Short-Term Rental

Please take into consideration that further action is not warranted, justified or needed to achieve the written and documented goals of either the CCC or Malibu. In fact, spending time on this matter actually detracts from meaningful and valuable activities.

Thank you for your time in reading this comment submittal.

Dean Wenner

Sent from [Mail](#) for Windows

**From:** [Dean Wenner](#)  
**To:** [SouthCentralCoastal@coastal.ca.gov](mailto:SouthCentralCoastal@coastal.ca.gov); [Yenegas\\_Denise@Coastal](mailto:Yenegas_Denise@Coastal)  
**Subject:** RE: Sept 8 Meeting - Agenda Item 11.b - Malibu LPCA  
**Date:** Tuesday, September 7, 2021 6:42:49 AM  
**Attachments:** [msg](#)  
[Undeliverable: Sept 8 Meeting - Agenda Item 11.b - Malibu LPCA.msg](#)

Hello,

My submittal was rejected as undeliverable (attached) so I am submitting in this manner.

Unfortunately, none of the information distributed by Malibu (see attached excerpt from Malibu City notification) indicated that submittals were due the Friday before the meeting. This was noticed as hit the link to submit just now. It makes sense, but the notices could make that more clear in the future.

Speaking at the meeting is also difficult as the meeting is conducted during the work day and the agenda timing during the day is unclear as well.

Enough of my excuses, please enter it into the record.

---

**From:** Dean Wenner  
**Sent:** Tuesday, September 7, 2021 8:27 AM  
**To:** 'SouthCentralCoastal@coastal.ca.gov' <[SouthCentralCoastal@coastal.ca.gov](mailto:SouthCentralCoastal@coastal.ca.gov)>  
**Subject:** Sept 8 Meeting - Agenda Item 11.b - Malibu LPCA

Hello,

Thank you for the opportunity to submit comments in regard to Agenda item 11.b regarding the Malibu Local Coastal Program (LCP) amendment for its Hosted Short Term Rental (STR) Ordinance.

It has been demonstrated and acknowledged that Malibu's effort with the LPCA is to achieve an effective ban on short term rentals. I empathize with the Homeowners that have had bad experiences living next to or near a property with a bad owner who allows bad behavior, however the bad behavior and action of a few, further enabled by poor owner reporting and ineffective and low priority city code enforcement, should not leap ahead to a ban. Renting of property is integral to Malibu history and written into the various City Plans.

As a result of ineffective action followed by hype, story-telling and emotion, we had landed on this submittal as City Council was driven to get it issued before the last election.

Regardless of the above comments, the City of Malibu did enact a new ordinance which took effect this year. It has yielded effective results by simply making both the City and the Owners accountable. Further action, especially a ban, is not necessary. Proceeding with possible approval of the LPCA would go against the founding principles in Malibu and be an obstruction to CCC goals.

CCC should not only postpone review and action of the Malibu request, but take a motion to request Malibu to withdraw it. The Malibu request is not in good faith, is political and biased in motivation, and is structured to effectively ban short term rentals. As demonstrated by code enforcement records since 1993, rentals have not been an issue. Malibu action in 2020 to implement the permit ordinance, to prioritize action and promote code enforcement, has resulted in action and results. These results demonstrate performance that complies with City Code, and is well within the land use for expectations (percentage of housing units rented), LIP, etc. as acknowledged by the current Code Enforcement log.

Malibu may make claims that activity is down because of the pandemic but this would be a fallacy. As submitted in previous comments, and by their own acknowledgement to the CCC in a recent response to questions, rentals were counted two, three and more times which is why they were showing 800+ rentals versus the approximately 250. Short term rentals are not proliferating and out of control as hyped. Yes the internet and new companies like Airbnb and VRBO have made things easier and more noticeable, but this amount of activity was always prevalent in Malibu.

The City of Malibu should be ashamed of its action on this as for political and personal reasons we as a people tend to flip-flop and be hypocritical on particular issues (we all are on occasion). Recently the City is shocked and disappointed (rightly so) with the misinformation and propaganda Santa Monica distributed in regard to the drive to separate school districts. Santa Monica is not acting in good faith. Malibu should live by the Golden Rule, not be hypocritical, and withdraw this short term request on their own, as fundamentally, it's no different. Just people trying to get what they want.

CCC (and Malibu for that matter) can make better use of its' time than spending time on this matter. As a result of current rental status in Malibu, CCC should request Malibu to withdraw their request. CCC objective of coastal access is achieved, and Malibu objective of mission, vision, and LUP is achieved. There is not justification to continue to spend time and money on this matter, let alone this matter taking time away from more deserving and valuable needs and efforts before the CCC (and Malibu).

In addition to the many previous submittals of information I have made, below are some more recent statistics that reinforce my recommendation for your consideration.

Malibu active Code Enforcement in regard the short term rentals:

Of 267 Code Enforcement entries there are 4 non-conformities under action (1.5%). Please note these 4 cases are a result of action from the newly enacted ordinance for the permit program demonstrating results and improvement.

202108007	19024	PACIFIC COAST HWY			8/12/2021	Short-Term Rental
202105006	20526	PACIFIC COAST HWY			5/10/2021	Short-Term Rental
202106013	3229	RAMBLA PACIFICO ST			6/4/2021	Short-Term Rental
202108006	21715	RAMBLA VISTA			8/11/2021	Short-Term Rental

Please take into consideration that further action is not warranted, justified or needed to achieve the written and documented goals of either the CCC or Malibu. In fact, spending time on this matter actually detracts from meaningful and valuable activities.

Thank you for your time in reading this comment submittal.

Dean Wenner



# City of Malibu

23825 Stuart Ranch Road · Malibu, CA 90265-4861  
Phone (310) 456-2489 · Fax (310) 456-3356 · [www.malibucity.org](http://www.malibucity.org)

April 7, 2021

Denise Venegas, Coastal Program Analyst  
California Coastal Commission  
South Central Coast District Office  
89 South California Street, Suite 200  
Ventura, CA 93001

**Re: City of Malibu Local Coastal Program Amendment No. 19-003 – Hosted Short-Term Rental Ordinance**

To Denise Venegas:

As requested by California Coastal Commission (CCC) staff, the City is providing additional information on Local Coastal Program Amendment (LCPA) No. 19-003. In addition to the supplemental information provided below, Attachment A provides an expanded consistency analysis table.

In general, the amendment proposes to allow two types of short-term rentals in the City: 1) a hosted short-term rental for single-family dwellings, condominiums and duplexes, and 2) a multi-family (more than 2 dwelling units) short-term rental. A hosted short-term rental would require the property owner or designated operator to live onsite. Up to two multi-family dwelling units on a parcel (not to exceed 40% of the units on a parcel) may be rented un-hosted so long as the other units on the property are rented on a long-term basis. The regulations would apply to multi-family properties regardless of the zoning district the property is located in. This system prevents the conversion of multi-family units into unregistered hotels, protects some of the lowest cost housing in the City, and encourages units to be rented long-term at lower rent as short-term rental is only allowed if all other units are at full occupancy. This will ensure the City maintains a variety of affordable units for long term renters and prevent property owners from utilizing all the rental units as short-term rentals thus operating as a hotel while at the same time providing short-term rentals for visitors. Additional details on these two types of short-term rentals can be found below in the section entitled "Short-Term Rental (STR) Permit Program".

A short-term rental use must be conducted pursuant to a valid short-term rental permit issued by the City. Ordinance No. 472, which approved LCPA No. 19-003, also included amendments to the Malibu Municipal Code (MMC) to amend the City's existing short-term rental regulations (Chapter 17.55). Chapter 17.55 provides the regulations for short-term rentals and amendments to Chapter 17.55, approved under Ordinance No. 472, will incorporate the two short-term rental types. These changes will go into effect after the CCC approves LCPA No. 19-003.

The LCPA seeks to address nuisance issues that have developed under the recent, rapid, and substantial expansion of short-term rental activity in the City and protect residential neighborhood character, housing

April 7, 2021

stock availability and variety, while continuing to provide over-night accommodations consistent with the City's LCP and the Coastal Act.

The amendment will ensure that uses and development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will ensure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

#### Number of Short-term Rentals Operating in the City

On September 29, 2020, the City Council adopted Ordinance No. 468 (Enforcement Ordinance), which created a new short-term rental permit system to regulate the short-term rental of residential property. This ordinance, which is located in the MMC, required all short-term rentals located in the City to obtain a permit by January 15, 2021.

A total of 229 short-term rental applications were submitted to the City as of March 16, 2021, and as of that date, 171 applications were approved and 57 were pending. The City currently contracts with Host Compliance to monitor short-term rental listings online and the number of listings is consistent with the number of approved applications. Many of the pending applications that were not approved were due to outstanding code violations (building without permit, wastewater issues, etc.). Once these violations are remedied, the remaining 57 properties could be issued a short-term rental permit.

Since advertising or operating residential property as a short-term rental without a permit as of January 15, 2021 could result in a fine of one thousand dollars (\$1,000.00) per day or violation, or twice the advertised short-term rental's daily rental rate per day or violation, whichever is higher, it is likely that most of the properties that are operating or planning to operate short-term rentals have submitted applications. However, the number of applications could increase as travel restrictions due to COVID-19 relax, summer approaches, and more of the 488 homes that were destroyed by the Woolsey Fire are rebuilt.

It should be noted; however, that the 229 short-term rentals applications do not represent the exact number of short-term rentals operating in the City because only one short-term rental permit is required for each parcel regardless of the number of short-term rental units on the parcel. Since properties can currently have more than one short-term rental, the number of short-term rentals operating in the City would be higher although there is no reliable data to determine the exact number. Information collected from the short-term rental application indicates that 37 of the 229 short-term rental applications are multi-family properties (self-reported). There are a total of 157 units on those multi-family properties and 90 short-term rentals within those units.

In response to the question regarding how many short-term rentals are currently advertised as hosted, this information is not collected by Host Compliance and is not readily available.

Since April 2015, Airbnb has been collecting and remitting Transiency Occupancy Tax (TOT) on behalf of property owners who use its service. Property owners must collect and remit TOT on their own for any short-term rentals which use other vacation rental websites or are made independently. The majority of short-term rentals in the City advertise through Airbnb so these properties would be paying TOT. In addition, Ordinance No. 468 imposed obligations on all online hosting platforms. These obligations include requiring the hosting platform to collect and remit TOT and preventing the booking of short-term rentals unless the property has a short-term rental permit from the City. The ordinance allows a hosting platform to satisfy these obligations

April 7, 2021

through a compliance agreement. On February 8, 2021 the City entered into a compliance agreement with Airbnb. This agreement will ensure all short-term rentals pay TOT and that all short-term rentals booked through Airbnb have a valid City short-term rental permit.

#### Number of Short-Term Rental Properties by Zoning District

The following table breaks down the zoning district location of the 229 properties which had submitted applications as of March 16, 2021. The short-term rentals located in commercial zones are in existing nonconforming residential buildings or existing residential dwellings in commercial buildings.

<b>Short-Term Rentals Applications by Zoning District</b>		
<b>Zoning District</b>	<b>Zone Description</b>	<b>Parcel Count</b>
CC	Community Commercial	1
CN	Commercial Neighborhood	2
CR	Commercial Recreation	1
CV-1	Commercial Visitor-Serving-One	2
MF	Multi-family Residential	24
MFBF	Multi-family Beach Front	39
PRF	Private Recreational Facilities	1
RR-1	Rural Residential-One Acre	29
RR-10	Rural Residential-Ten Acre	5
RR-2	Rural Residential-Two Acre	32
RR-20	Rural Residential-Twenty Acre	1
RR-5	Rural Residential-Five Acre	9
SFL	Single-family Low	8
SFM	Single-family Medium	75
	<b>Total</b>	<b>229</b>

While the City does not have information on the number of dwelling units located within parcels zoned Multi-Family (MF), Table 2 indicates that 24 MF parcels and 39 MF Beach Front (MFBF) parcels have submitted applications for short-term rentals. The 2012 Housing Element indicates there are a total of 1,000 multi-family dwelling units in the City but does not provide a breakdown of the zoning districts the units are located in. However, multi-family short-term rentals would be regulated based on property type not zoning district so a multi-family complex in a Single-Family Residential zone would be subject to the non-hosted two dwelling units (not to exceed 40% of the total units) regulations.

#### Accommodations in the City

There are six hotels in the City with 130 hotel rooms and 142 RV sites and 35 tent sites for a total of 307 existing accommodations. The six hotels include: The M Malibu, The Surfrider, Malibu Beach Inn, Malibu Country Inn, The Native, and Nobu Ryokan. The City is currently processing applications for two new hotels which would add an additional 59 rooms, resulting in 366 available hotel accommodations (Attachment B). In addition, the Malibu Beach RV park has a total of 177 accommodations (142 RV sites and 35 tent sites). The accommodations at Malibu Beach RV PARK offer a more affordable alternative for visitors traveling in RVs or those wishing to utilize the tent sites. Nightly RV sites range from \$58 to \$253 depending on the season and location. And nightly rates for tent sites range from \$46.20 to \$110 (Attachment B).



April 7, 2021

Information on the average hotel room rate within the City is not readily available but based on staff research, the rate is approximately \$757.75 per room per night. Staff arrived at this rate by determining the rate by room type for four of the existing six hotels in the City. Summer, winter, and summer weekend rates were determined and then averaged by each of the four hotels.

The average room rates for four of the six hotels are noted below.

- The M Malibu - \$252 average
- The Surfrider - \$564 average
- Malibu Beach Inn - \$1,109 average
- Malibu Country Inn - \$838 average

Nightly room rates weren't available for The Native as it is currently being renovated and staff did not include Nobu Ryokan since the hotel is a boutique hotel and the rates can skew the average hotel rate in the City. The starting rate is \$2,000 a night with a minimum two-night stay and rates can go up to \$3,500 a night.

According to Airbnb data available to the City, the average nightly short-term rental rate is \$978.30 so, while short-term rentals offer an opportunity for larger accommodations, they may not always be more affordable for families. However, hosted short-term rentals in which the property owner or designated operator is also on the site may be more affordable than whole house rentals. In addition, some short-term rentals require minimum night stays ranging from 4 to 10 nights, which may not be an option for some visitors. For hotels, a minimum of 2 nights is often required for summer weekend bookings.

#### Short-Term Rental (STR) Permit Program

The section below provides the eligibility, operating and enforcement requirements of the City's STR Permit Program. For the most part, these regulations already exist in the Chapter 17.55 in the MMC. An update to Chapter 17.55, which includes the two short-term rental permit types, was approved as part of Ordinance No. 472 (LCPA 19-003) and will go into effect once the CCC approves LCPA No. 19-003.

##### *Eligibility*

The proposed permit program has two distinct short-term rental permit types: one for owners of single-family residences and condominium units to offer hosted short-term rentals, and one for owners of multifamily parcels to offer up to two units as short-term rentals, as long as all other units are rented long-term.

A "hosted" short-term rental requires the owner or designated operator of single-family properties, including condominiums, to live onsite. That person need only live on the property, not in the same dwelling unit, during the rental. A property owner can assign a "designated operator" to live onsite instead of the owner, during the time of rental. A designated operator, other than the owner, is allowed for up to 60 days cumulatively per calendar year, so long as the designated operator is required to: (1) resolve any nuisance or compliance issues, (2) produce records, and (3) allow Code Enforcement Officers to enter the property. Under the terms of the City's proposed amendment, the designated operator would also have to be located onsite between the hours of 9:00 p.m. and 6:00 a.m. Proof of Primary Residency is required to obtain a Single-Family Residence Short-Term Rental Permit. Applicants can demonstrate primary residency with an active voter registration, a valid driver's license or other government issued identification card.

The amendment will also allow one unit of a duplex to be rented short-term if the owner lives onsite in the other unit and is present during the hours of 9 pm and 6 am. A designated operator may be used for up to 60 days.

For multi-family properties, defined as more than two (2) dwelling units, those units can be rented un-hosted. Up to two multi-family dwelling units on a parcel (not to exceed 40% of the units on a parcel) may be rented un-hosted so long as the other units on the property are rented on a long-term basis. The regulations would apply to multi-family properties regardless of the zoning district the property is located in.

Property owners of hosted short-term rental properties can rent the primary dwelling, accessory dwelling unit, or guest house as long as owner lives on site in one of the units. There is currently no prohibition against using an accessory dwelling unit as an STR as long as the ADU was legally created, unless otherwise regulated by state law.

Key requirements include:

- An individual may not possess more than one active short-term rental permit, regardless of type.
- A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented).
- No person may serve as a designated operator for more than one short-term rental concurrently.
- Permits must be renewed annually.

#### *Operating Requirements*

Property owners must comply with all the terms and conditions of the short-term rental program including, but not limited to, the following:

1. Maintain an active permit at all times short-term rentals are conducted
2. Take responsibility for and actively prevent any nuisance activities that may take place during short-term rentals
3. Be available, or designated operator be available, 24/7 via contact information provided to and kept current with City and any guest renting the property
4. Collect and remit TOT
5. Provide basic health and safety features for guests
6. Limit occupancy based on the number of bedrooms on record in City or County documents, as determined by the Planning Director, to two people more than twice the number of bedrooms, but no more than 14 unless a special event permit (SEP) is obtained under MMC Chapter 5.34 (example - for a 3 bedroom property -  $((3 \text{ bedrooms} \times 2 \text{ people}) + 2 \text{ people}) = 8 \text{ people max occupancy, including owner/designated operator}$ )
7. Maintain liability insurance with minimum limits no less than \$500,000
8. Provide guests with the City of Malibu's Short-Term Rental Code of Conduct (Attachment C)
9. Provide access to the property and documents upon request by City during business hours or when property is rented
10. Comply with all applicable building, fire and other safety codes including noise limitations
11. Maintain a valid Onsite Wastewater Treatment System (OWTS) operating permit (a compliance agreement option is available for those in the process of upgrading)
12. Follow all rules for advertising short-term rentals:
  - immediately remove any advertisement identified by the City as illegal
  - include permit number in all advertisements
  - clearly state in all advertisements related to a HSTR permit that the owner or designated operator will live onsite during the rental (not required for MSTR permits)
  - clearly state occupancy limits
13. Keep permit application information on file with the City current at all times, including the 24/7 contact information for owner / designated operator

April 7, 2021

*Enforcement*

The code sets forth special tools for enforcement, including setting a fine for unpermitted short-term rentals of \$1,000 or twice the daily rental rate, whichever is higher, and setting the fine for all other violations at \$500 or twice the daily rental rate. The code also provides explicitly that offering or allowing short-term rental of any location not approved for use as a dwelling unit, such as any vehicle, trailer, tent, storage shed or garage, is prohibited.

Summary

In summary, the permitting requirements in LCPA 19-003 will allow the City to ensure that a variety of visitor-serving accommodations remain available for visitors while better controlling nuisance issues. The requirements will also avoid the proliferation of short-term rental businesses in which corporations and other entities buy up residences to use solely for vacation rentals thus reducing the number of long-term affordable housing options in the City.

For further information, please contact Richard Mollica, Planning Director, at (310) 456-2489, ext. 346 or email at [jkendall@malibucity.org](mailto:jkendall@malibucity.org).

Sincerely,

Justine Kendall  
Associate Planner

ENCLOSED:

- Attachment A: Consistency Analysis Table
- Attachment B: Accommodations in the City
- Attachment C: Short-term Rental Code of Conduct

## ATTACHMENT A

### Malibu Land Use Plan (LUP) and Coastal Act Consistency Analysis – LCPA No. 19-003

Policy		Consistency Determination
<b>Chapter 2 – Public Access and Recreation and Coastal Act Section 30213</b>		
2.25	New development shall provide off-street parking sufficient to serve the approved use in order to minimize impacts to public street parking available for coastal access and recreation.	<p>Short-term rentals are limited to existing legally established structures in residential zoning districts. These properties generally have existing off-site parking available on the site; however, there are properties located on the ocean side of Pacific Coast Highway in eastern Malibu that don't meet current parking standards. Parking for the dwelling unit is often located between the front of the building and the edge of Pacific Coast Highway. This forces the public to park on the land side of Pacific Coast Highway thus forcing them to cross Pacific Coast Highway to access the ocean. In these areas, in particular, allowing dwelling units to be utilized solely as un-hosted short-term rentals results in these structures functioning like a hotel which can negatively impact public street parking. This can occur if reserved parking spaces are not provided or the unit is rented to a group of people that arrive in multiple vehicles. Allowing hosted single-family short-term rentals and multi-family short-term rentals, with a limit on the number of rentals allowed, will minimize impacts to public street parking and increase the availability of street parking. This will allow all visitors to enjoy coastal access and recreational opportunities while at the same time providing short-term rental opportunities for those visitors that wish to stay overnight in Malibu.</p>
2.34	Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that	<p>No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City.</p> <p>The amendment allows for hosted short-term rentals in single-family homes and condominiums which can be more</p>

Policy	Consistency Determination
<p>include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.</p>	<p>economical than whole house rentals since the property owner or long-term tenant is also on the site.</p> <p>For multi-family properties, defined as more than two (2) dwelling units, these units can be rented un-hosted. Up to two multi-family dwelling units on a parcel (not to exceed 40% of the units on a parcel) may be rented un-hosted so long as the other units on the property are rented on a long-term basis. The regulations would apply to properties with multi-family complexes regardless of the zoning district the property is located in. This system prevents the conversion of multi-family units into unregistered hotels, protects some of the lowest cost housing in the City, and encourages units to be rented long-term at lower rent as short-term rental is only allowed if all other units are at full occupancy. This will ensure the City maintains a variety of affordable units for long term renters and prevent property owners from utilizing all the most affordable rental units as short-term rentals while at the same time providing opportunities for short-term rentals to operate in the City.</p>
<p>2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.</p>	<p>No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations are available in the City.</p> <p><b>The amendment allows for hosted short-term</b> rentals in single-family homes and condominiums which can be more economical than whole house rentals since the property owner or long-term tenant is also on the site.</p> <p>For multi-family properties, defined as more than two (2) dwelling units, these units can be rented un-hosted. Up to two multi-family dwelling units on a parcel (not to exceed 40% of the units on a parcel) may be rented un-hosted so long as the other units on the property are rented on a long-term basis. The regulations would apply to properties with multi-family</p>

Policy		Consistency Determination
		complexes regardless of the zoning district the property is located in. This system prevents the conversion of multi-family units into unregistered hotels, protects some of the lowest cost housing in the City, and encourages units to be rented long-term at lower rent as short-term rental is only allowed if all other units are at full occupancy. This will ensure the City maintains a variety of affordable units for long term renters and prevent property owners from utilizing all the most affordable rental units as short-term rentals while at the same time providing opportunities for short-term rentals to operate in the City.
<b>Chapter 3 - Marine and Land Resources and Coastal Act Sections 30231 and 30240</b>		
3.14	New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.	Short-term rentals are limited to existing legally established structures in residential zoning districts. This allows the use of developed properties without the need to further disturb the land or impact ESHA.
3.96	New development shall not result in the degradation of the water quality of groundwater basins or coastal surface waters including the ocean, coastal streams, or wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely impact groundwater, the ocean, coastal streams, or wetlands, consistent with the requirements of the Los Angeles Regional Quality Control Board's municipal stormwater permit and the California Ocean Plan.	Short-term rentals are limited to existing legally established structures in residential zoning districts. Based on these limitations, water quality associated with the rental use would be consistent with that of a typical residential dwelling.

Policy	Consistency Determination
<p>3.125 Development involving onsite wastewater discharges shall be consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements, revised waivers and other regulations that apply.</p>	<p>While short-term rentals are limited to existing legally established structures in residential zoning districts, short-term rentals can have an impact on the on-site wastewater system if a structure has large groups of people utilizing the unit or if there is constant and rapid turn-over of the unit. One of the requirements for operating a short-term rental in the City is the property must maintain a valid Onsite Wastewater Treatment System (OWTS) operating permit. This will ensure short-term rentals are consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements.</p>
<b>Chapter 4 - Hazards &amp; Shoreline Bluff Development and Coastal Act Policy 30253</b>	
<p>4.2 All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.</p>	<p>Short-term rentals are limited to existing legally established structures in residential zoning districts. Regulations require property owners to provide information on methods of emergency communications used by the City in case of an emergency along with information on the Evacuation Zone for the property. In addition, to increase the safety of guests staying in a short-term rental, property owners must ensure that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.</p>
<b>Chapter 5 – New Development and Coastal Act Policy 30250</b>	
<p>5.4 Off-street parking shall be provided for all new development in accordance with the ordinances contained in the LCP to assure there is adequate public access to coastal resources. A modification in the required parking standards through the variance process shall not be approved unless the City makes findings that the provision of fewer parking spaces will not result in adverse impacts to public access.</p>	<p>Short-term rentals are limited to existing legally established structures in residential zoning districts. These properties generally have existing off-site parking available on the site; however, there are properties located on the ocean side of Pacific Coast Highway in eastern Malibu that don't meet current parking standards. Parking for the dwelling unit is often located between the front of the building and the edge of Pacific Coast Highway. This forces the public to park on the land side of Pacific Coast Highway thus forcing the public to cross Pacific Coast Highway to access the ocean. In these areas, in particular, allowing dwelling units to be utilized solely as un-hosted short-term rentals results in these structures functioning</p>

Policy		Consistency Determination
		like a hotel which can negatively impact public street parking. This can occur if reserved parking spaces are not provided or the unit is rented to a group of people that arrive in multiple vehicles. Allowing hosted single-family rentals and multi-family short-term rentals, with a limit on the number of rentals allowed, will minimize impacts to public street parking and increase the availability of street parking. This will allow all visitors to enjoy coastal access and recreational opportunities while at the same time providing short-term rental opportunities for those visitors that wish to stay overnight in Malibu.
5.49	All new development shall comply with the City's water conservation and wastewater regulations.	Short-term rentals are limited to existing legally established structures in residential zoning districts. One of the requirements for operating a short-term rental in the City is the property must maintain a valid Onsite Wastewater Treatment System (OWTS) operating permit. This will ensure short-term rentals are consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements.
<b>Chapter 6 – Scenic and Visual Resources and Coastal Act Policy 30251</b>		
6.5	New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.	Short-term rentals are limited to existing legally established structures in residential zoning districts. This allows the use of developed properties with no adverse impacts on scenic areas visible from scenic roads or public viewing areas. The subject LPCA is limited to the use of existing structures and does not preclude future development from being consistent and requiring review under the Coastal Act.



Policy	Consistency Determination
<p>6.33 The Pacific Coast Highway corridor shall be protected as a scenic highway and significant viewshed.</p>	<p>The capacity of Pacific Coast Highway is exceeded regularly on summer weekends as visitors travel to the beach or enjoy a drive along the coast. The conversion of long term housing to short-term rental use increases traffic impacts to Pacific Coast Highway through increased trip demands of transient occupancy. Allowing only hosted short-term rentals in single family homes/condominiums and limiting the number of short-term rentals in multi-family dwellings will help reduce the traffic on Pacific Coast Highway which will enhance the quality of the visitor experience on Pacific Coast Highway and assure access to recreational opportunities.</p>
<p><b>Chapter 7 – Public Works and Coastal Act Policy 30254</b></p>	
<p>7.16 Additional water storage facilities and/or new pipelines may be allowed in the City to replace deteriorated or undersized facilities and/or to ensure an adequate source of domestic and fire protection water supply during outages or pipeline interruptions provided such facilities are designed and limited to accommodate existing or planned development allowed by the Land Use Plan and can be found to be consistent with all applicable policies of the LCP.</p>	<p>Short-term rentals are limited to existing legally established structures in residential zoning districts. It is expected, that the demand from short-term rentals on domestic and fire protection water supplies would be consistent with that of a typical residential dwelling.</p>

## ATTACHMENT B

### Supplemental Information LCPA 19-003 – Short-Term Rentals

<b><u>Accommodations in Malibu</u></b>			
Name	Address	Accommodation Type	Number
The M Malibu	22541 PCH	Hotel Rooms	18
Nobu Ryokan	22752 PCH	Hotel Rooms	16
Malibu Beach Inn	22878 PCH	Hotel Rooms	47
The Surfrider Hotel	23033 PCH	Hotel Rooms	20
The Native	28920 PCH	Hotel Rooms	13
Malibu County Inn	6506 Westward Road	Hotel Rooms	16
Total Hotel Rooms			130
Malibu Beach RV Park	25801 PCH	RV sites	142
		Tent sites	35
<b>Total Existing Accommodations</b>			<b>307</b>
<b>Pending applications on file with the City</b>			
Malibu Inn Hotel	22959 PCH	Hotel Rooms	20
Sea View Hotel	22741 PCH	Hotel Rooms	39
<b>Total Future Hotel Rooms</b>			<b>59</b>
<b>Overall Total (Existing and Planned)</b>			<b>366</b>

## Malibu Beach RV Park

### Winter Rates (December 1, 2020 through February 28, 2021)\*

All RV Sites = Full Hook Up (Water, Electric, and Sewer) and are Back In Excluding Tent Sites.	Weekdays (Sun-Thu)	Weekends (Fri-Sat)	Weekly (7 Days)	Max Stay = 28 Nights (APPROVAL REQUIRED)
<i>Ocean View Premium 50 Amp (No Towables)</i>	104.50	110.00	632.50	2,530.00
Ocean View Premium 30 Amp (No Towables)	93.50	99.00	566.50	2266.00
<i>Ocean View 50 Amp</i>	99.00	104.50	599.50	2,398.00
Ocean View 30 Amp	88.00	93.50	533.50	2,134.00
<i>Partial Ocean View 50 Amp (No Towables)</i>	78.00	84.00	474.00	1,896.00
Partial Ocean View 30 Amp (No Towables)	70.00	76.00	426.00	1,704.00
<i>Mountain View 50 Amp or Premium 30 Amp</i>	82.50	88.00	500.50	2,002.00
Mountain View 30 Amp	58.00	62.50	352.50	1,410.00
Tent Site Ocean View	51.70	57.20	315.70	N/A
Tent Site Mountain View	46.20	51.70	282.70	N/A

## Malibu Beach RV Park

### Spring Rates (March 1, 2021 through May 27, 2021)\*

All RV Sites = Full Hook Up (Water, Electric, and Sewer) and are Back In Only. Excluding Tent Sites.	Weekdays (Sun-Thu)	Weekends (Fri-Sat)	Weekly (7 Days)	Max Stay = 28 Nights (APPROVAL REQUIRED)
<i>Ocean View Premium 50 Amp (No Towables)</i>	114.00	120.00	690.00	2,760.00
Ocean View Premium 30 Amp (No Towables)	102.00	108.00	618.00	2,472.00
<i>Ocean View 50 Amp</i>	108.00	114.00	654.00	2,616.00
Ocean View 30 Amp	96.00	102.00	582.00	2,328.00
<i>Partial Ocean View 50 Amp (No Towables)</i>	96.00	104.00	584.00	2,336.00
Partial Ocean View 30 Amp (No Towables)	80.00	88.00	488.00	1,952.00
<i>Mountain View 50 Amp or Premium 30 Amp</i>	90.00	96.00	546.00	2,184.00
Mountain View 30 Amp	72.00	78.00	438.00	1,752.00
Tent Site Ocean View	51.70	57.20	315.70	N/A
Tent Site Mountain View	46.20	51.70	282.70	N/A

## Malibu Beach RV Park

### Summer Rates (May 28, 2021 through October 31, 2021)

All RV Sites = Full Hook Up (Water, Electric, and Sewer) and are Back In Only. Excluding Tent Sites.	Weekdays (Sun-Thu)	Weekends (Fri-Sat)	Weekly (7 Days)	Max Stay = 28 Nights (APPROVAL REQUIRED)
<i>Ocean View Premium 50 Amp (No Towables)</i>	253.00	264.00	1,529.00	6,116.00
Ocean View Premium 30 Amp (No Towables)	209.00	231.00	1,276.00	5,104.00
<i>Ocean View 50 Amp</i>	220.00	242.00	1,342.00	5,368.00
Ocean View 30 Amp	198.00	225.50	1,215.50	4,862.00
<i>Partial Ocean View 50 Amp (No Towables)</i>	192.00	222.00	1,182.00	4,728.00
Partial Ocean View 30 Amp (No Towables)	117.00	162.50	747.50	2,990.00
<i>Mountain View 50 Amp or Premium 30 Amp</i>	170.50	192.50	1,045.00	4,180.00
Mountain View 30 Amp	137.50	154.00	841.50	3,366.00
Tent Site Ocean View	99.00	110.00	605.00	N/A
Tent Site Mountain View	71.50	93.50	451.00	N/A

## Malibu Beach RV Park

### Fall Rates (November 1, 2021 through December 31, 2021)

All RV Sites = Full Hook Up (Water, Electric, and Sewer) and are Back In Only. Excluding Tent Sites.	Weekdays (Sun-Thu)	Weekends (Fri-Sat)	Weekly (7 Days)	Max Stay = 28 Nights (APPROVAL REQUIRED)
<i>Ocean View Premium 50 Amp (No Towables)</i>	127.05	133.10	768.35	3,073.40
Ocean View Premium 30 Amp (No Towables)	114.95	121.00	695.75	2,783.00
<i>Ocean View 50 Amp</i>	121.00	127.05	732.05	2,928.20
Ocean View 30 Amp	108.90	114.95	659.45	2,637.80
<i>Partial Ocean View 50 Amp (No Towables)</i>	100.80	108.00	612.00	2,448.00
Partial Ocean View 30 Amp (No Towables)	90.11	98.30	548.85	2,195.40
<i>Mountain View 50 Amp or Premium 30 Amp</i>	102.85	123.20	637.45	2,549.80
Mountain View 30 Amp	72.60	78.65	441.65	1,766.60
Tent Site Ocean View	56.87	62.92	347.27	N/A
Tent Site Mountain View	50.82	56.87	310.97	N/A

# SHORT-TERM RENTAL CODE OF CONDUCT



The short-term rental of residential property may only be conducted in Malibu pursuant to a valid Short-Term Rental Permit issued by the City in accordance with the permit regulations set forth in the Malibu Municipal Code (MMC) 17.55. Go to **MalibuCity.org/STR** for more information.

The 24-hour contact for this property is \_\_\_\_\_.

They can be reached anytime at \_\_\_\_\_.

## NEIGHBORHOOD REGULATIONS



**Maximum Occupancy:** The maximum occupancy of this property is \_\_\_\_\_.

**Special Events:** Events in which 15 or more people are anticipated to attend may only be conducted pursuant to a Special Event Permit issued by the City.

**Noise:** Unreasonable noise is prohibited. Maintain peace and quiet between 10 PM - 7 AM.

**Parking:** All guests should park onsite whenever possible and abide by all posted street parking signs.

**Trash:** Place containers outside after 5:30 PM the day before collection day and remove all containers no later than 8:00 PM on collection day.

**Fines for Violation of the STR Permit Regulations:** Violations of MMC 17.55 are subject to a fine of \$500 per day or violation, or the short-term rental's advertised daily rate per day or violation, whichever is higher.

## ENVIRONMENTAL REGULATIONS



During your stay, help us protect Malibu by properly disposing of all trash to prevent it from entering the ocean and abiding by our local environmental regulations including the City's Plastic Bag Ban, Polystyrene Foam Ban, Plastic Straws and Cutlery Ban and the Smoking on the Beach Ban.

### Onsite Wastewater Treatment Systems

Most homes in Malibu rely on onsite wastewater treatment systems (septic systems) rather than traditional sewer systems. These systems require special care. Be mindful of what goes down the drain.

## EMERGENCY INFORMATION



### High Risk Fire Hazard Severity Zone

Malibu is in a very high fire hazard severity zone. Exercise extreme caution and situational awareness during your stay. Know your evacuation zone and routes and be prepared to evacuate on short notice.

### Emergency Communications

To receive emergency updates, follow the City's social media accounts:

- [twitter.com/CityMalibu](https://twitter.com/CityMalibu)
- [twitter.com/MalibuEOC](https://twitter.com/MalibuEOC)
- [facebook.com/CityofMalibu](https://facebook.com/CityofMalibu)
- [instagram.com/CityofMalibu](https://instagram.com/CityofMalibu)

If there is a widespread threat, the City may issue a Wireless Emergency Alert (WEA) which goes to all cell phones within the City with no subscriptions necessary, so you may receive a WEA on your mobile device.

### Evacuation Zone

This property at \_\_\_\_\_ is located in Malibu Evacuation Zone \_\_\_\_\_. For more information go to **MalibuCity.org/evac**.

### Emergency Preparedness

For more information go to **MalibuCity.org/PublicSafety**

## RESOURCES



Los Angeles County Sheriff: 818-878-1808

LA County Fire Prevention: 818-880-0341

Malibu City Hall: 310-456-2489

Malibu Emergency Hotline: 310-456-9982

City Code Enforcement: 310-456-2489, ext. 308

**For life-threatening emergencies, call 9-1-1**

---

## HUESTON HENNIGAN LLP

January 7, 2021

### VIA E-MAIL

Denise Venegas  
Coastal Program Analyst  
California Coastal Commission  
South Central Coast District  
89 South California Street, Suite 200  
Ventura, CA 93001  
[denise.venegas@coastal.ca.gov](mailto:denise.venegas@coastal.ca.gov)

Re: City of Malibu LCP Amendment re Short-Term Rentals (LCPA Nos. 3-001 and 19-003)

Dear Ms. Venegas:

We represent the Mani Brothers with respect to two beachfront multi-family rental properties in the City of Malibu that would be affected by the proposed LCP amendment regulating short-term rentals. Their entities own properties located at 22648 and 22640 Pacific Coast Highway that have apartment units that can be rented out as daily or weekly vacation rentals under the City's current LCP.

**The proposed LCP amendment** recently forwarded by the City to your agency for certification would limit each of these multi-family properties to a **maximum of two short-term rentals, and would require that the remainder of the units be leased for terms of no less than one year.** This would create a roughly 70% reduction in the supply of short-term vacation rental units at these properties and similarly situated multi-family properties throughout the City.

I recognize that you are just at the initial intake stage and have not yet prepared a staff recommendation or scheduled the proposed LCP amendment for hearing before the Coastal Commission. I do have a serious concern regarding the completeness and adequacy of the City's request for certification (see below), but also wanted to take this opportunity to preview some of our substantive concerns that will hopefully inform and support your efforts to implement the Coastal Act as you move this forward to the Commission for hearing.

1. The City's Submittal to the Coastal Commission Should Be Rejected and Returned to the City for Further Processing Because It Lacks an Essential Element Required By Law, Namely, the Environmental Analysis Required by CEQA

In its ordinance and resolution approving the proposed LCP amendment, the City relied on an exemption from CEQA, citing among other authority the exemption in Pub. Res. Code Section 21080.9 for "*approvals by any local government ... as necessary for the preparation and adoption of a local coastal program . . .*" That code section goes on to say, however, that "*certification of a local coastal program . . . by the California Coastal Commission . . . shall be subject to the requirements of this division.*" In other words, the City's approval of the LCP amendment is exempt from CEQA, but the Commission's certification of the same LCP amendment is not exempt.



---

## HUESTON HENNIGAN LLP

Significantly, although the City is exempt from making any CEQA determination itself, the Coastal Act and regulations nevertheless place the burden on the City to prepare and submit to Coastal Commission all CEQA analysis and documentation that the Commission will need for the Commission's own CEQA determination. Specifically, Section 30510 of the Coastal Act states:

Consistent with this chapter, a proposed local coastal program may be submitted to the commission, if both of the following are met:

(a) It is submitted pursuant to a resolution adopted by the local government, after public hearing, that certifies the local coastal program is intended to be carried out in a manner fully in conformity with this division.

(b) It contains, in accordance with guidelines established by the commission, materials sufficient for a thorough and complete review.

(PRC § 30510 (emphasis added)). Section 13552 of the Coastal Commission regulations sets forth the required contents of a city's application to the Commission for certification of an LCP amendment, including in relevant part:

The LCP or LRDP amendment submittal shall include: . . . (e) Any environmental review documents prepared for all or any portion of the amendment to the LCP or LRDP.

(14 CCR § 13552 (emphasis added)).

**This requirement in the Coastal Act and regulations is echoed and amplified in the City of Malibu's own adopted LCP Local Implementation Plan ("LIP"), which states that every application for an LCP amendment (whether initiated by City Council resolution or otherwise) shall include, among other things: "Any environmental review documents, pursuant to CEQA, required for all or any portion of the amendment to the LCP." (City of Malibu LCP LIP §19.2.1(B)(6) (emphasis added)). These materials must be made available for public review at least six weeks prior to any final action by the City. (*Id.* § 19.3.1).**

**Disregarding these requirements, the City's referral of this LCP amendment to Coastal Commission failed to include any environmental review documents.** To my knowledge, the City did not even prepare and submit to you an Initial Study checklist to determine what level of CEQA documentation should be prepared (and if they did prepare an Initial Study that purported to support a finding of exemption or no impact, it would need to be re-done to account for the impacts cited below). The Coastal Commission as part of its certification process will need to evaluate environmental impacts of the LCP amendment and adopt feasible project alternatives and mitigation measures. As I pointed out to the City in a previous letter (attached), potential significant impacts of the LCP Amendment include:

- Inconsistency with adopted plans and policies, which constitutes a significant impact under CEQA. **The Coastal Act specifies that cities shall protect and encourage lower cost visitor and recreational facilities including hotels, motels "or other similar visitor-serving facility located on either public or private lands." (PRC § 30213).** The Malibu LCP expressly incorporates and adopts this policy. (See LUP, Ch. II.B). In addition, Policy 5.11 of the LUP states: "Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent uses." By imposing home-sharing

---

## HUESTON HENNIGAN LLP

requirements for single-family homes and limiting multi-family properties to two STR units, the proposed regulations will significantly reduce the availability of vital, low-cost visitor serving accommodations.

- Eliminating hundreds of STR units throughout the City will have a growth-inducing impact in the City and neighboring communities, as new hotels seek to take advantage of the reduced availability of short-term rentals in existing housing stock. Indeed, in just the few years since the City first proposed the STR ordinance, at least two new hotel development projects have begun entitlement processes in the City, including the 20-unit Malibu Inn motel project proposed for 22915 PCH (across from the Malibu Pier), and the 39-unit Seaview Hotel at 22729 and 22941 PCH.
- The proposed LCP amendment will also cause a proliferation of new construction of guest houses and accessory dwelling units. The proposed home-sharing rules require the host to remain living onsite during the guest stay but allow the host to occupy either the main house or a guest house or accessory unit. Because many guests and hosts prefer not to cohabitate in the same dwelling unit with a stranger, hosts who wish to earn extra income without the nuisance of cohabitation will be highly motivated to add a second unit to their property. The proliferation of second units will create impacts to, among other things, traffic, air pollution, parking, noise, ESHA, loss of view corridors and aesthetics.

**Because the City's submittal to Coastal Commission failed to include the CEQA documentation necessary for the Commission to consider these impacts, the proposed LCP amendment should be referred back to the City for preparation of appropriate environmental documentation.** To do otherwise would impose on Commission staff the burden of preparing environmental documentation that is clearly the responsibility of the City to prepare and submit.

2. The Proposed LCP Amendment Should Be Denied Certification or Modified Because It Conflicts with Coastal Act Policies and Other Applicable Laws

**Among other provisions, the proposed LCP amendment (i) requires single-family homeowners who want to rent short-term to co-habitate ("home share") with transient guests; and (ii) limits multi-family property owners to a maximum of two STR units per property, with all other units rented for a minimum term of one year or longer.**

This amendment will cause the loss of hundreds of visitor-serving STRs in the City of Malibu. Currently, the City allows unlimited STRs both single-family homes and multi-family properties. The City has acknowledged the proposed amendment will "significantly" reduce the number of STRs below the current total of 452 operated in the City. (City Council Agenda Report 9/14/20, Item 4.A., pp. 2, 15).

STRs currently provide the most plentiful and affordable source of visitor accommodations in the City of Malibu. The City has an extremely limited supply of hotel and motel rooms (approximately 100 rooms in total spread across five small properties: Malibu Beach Inn, Nobu Ryokan, Surfrider, Malibu Country Inn and the M Malibu). Although nightly and weekly rental rates for these accommodations (both hotels, motels and STRs) are not cheap, compared to the extraordinarily high monthly cost of renting or buying a residence in Malibu, they represent the lowest cost opportunity for a person or family to enjoy overnight accommodations along the City's 21 miles of scenic coastline. The loss of lower-cost visitor-serving

---

## HUESTON HENNIGAN LLP

accommodations will be particularly acute from the proposed LCP amendment's limitation to a maximum of two STRs in a multi-family properties, because multi-family units are typically smaller and more affordable than single family dwellings in comparable locations.

Accordingly, the proposed LCP amendment clearly violates the policies of the Coastal Act, including Section 30213, which states, in relevant part:

Lower cost visitor and recreational facilities . . . shall be protected, encouraged and where feasible provided. Developments which provide public recreational opportunities are preferred.

See also Section 30222, which states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general commercial development, but not over agriculture or coastal-dependent industry.

Similarly, the proposed LCP amendment does not amend, and would create an internal inconsistency with policies of the existing certified Malibu LCP, including Policy 5.11 of the LUP which states:

Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent uses.

**In contrast to these policies, the proposed LCP amendment removes hundreds of STRs from the City's already highly constrained supply of visitor-serving accommodations. Certification should be denied by the Commission because the amendment impermissibly favors long-term private residential use ahead of lower-cost visitor-serving use.**

**The Commission's recent role in shaping the City of Laguna Beach's STR policy (LCP-5-LGB-19-0074-1) provides an instructive example in some (but not all) respects. Despite the fact that the City of Laguna Beach (unlike Malibu) has an abundant supply of more than 1,300 hotel and motel rooms,<sup>1</sup> the Coastal Commission took a very active role through a four-year process of back and forth negotiations, denials of certification, and imposition of conditions with the City that resulted in a greater number of STR accommodations than the City had proposed.** The expansion of STR rights won by the Commission's advocacy and influence included liberal STR rights in the City's downtown commercial core area, grandfathering of existing permitted STRs in other zones, and reduced parking requirements. The Commission's staff reports in the Long Beach decision reflect a careful and deliberate effort to inventory available categories of overnight accommodations and carefully weigh the community's interests against the visitor-serving imperatives of the Coastal Act.

It should be noted that the compromise reached in Laguna Beach included, at the request of the City, a 20% limit on the number of STR units in a multi-family property. (See p.2 of Ex. 6 to the Coastal Commission Agenda report for the Commission's upcoming 9/13/21 meeting on the Laguna Beach LCP amendment). In Malibu, by contrast, a limit on multi-family STRs (whether 2 units or 20% of units per

---

<sup>1</sup> According to the Coastal Commission staff report dated September 18, 2020 (p.3): "The City has estimated there are approximately 1,305 existing hotel/motel lodging units within the City's coastal zone. The City of Laguna Beach provides an ample supply of visitor serving overnight accommodations based on its size and relative to other coastal cities." By contrast, Malibu has only approximately 100 hotel/motel rooms.

---

## HUESTON HENNIGAN LLP

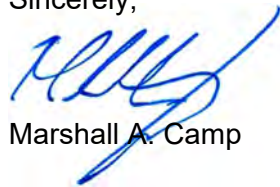
property) will not be consistent with the Coastal Act given the extreme local shortage of hotel/motel units and the fact that multi-family units are smaller and more affordable than similarly situated single-family homes. If notwithstanding the policies favoring visitor-serving uses, the Commission decides to allow some limitations on multi-family STRs in order to preserve a portion of the City's permanent housing stock, we suggest that such limitations do not apply to properties (such as my clients') located along the central civic center/Malibu Pier segment of PCH, which is best suited for visitor facilities due to its higher density, commercial activity, and walkable proximity to restaurants, attractions, shopping, and the like.

Inconsistency with the Coastal Act and City policies is only one of several legal objections we have to the substance of the proposed LCP amendment. For additional background and analysis, I have attached copies of my prior correspondence with the City of Malibu regarding this proposed amendment.

Please also add me to the noticing list so that I will receive notice of the Commission hearing date and other notices concerning this LCP amendment.

Thank you for your consideration.

Sincerely,



Marshall A. Camp

---

## HUESTON HENNIGAN LLP

October 25, 2020

### VIA E-MAIL

Hon. Mikke Pierson, Mayor  
Members of the City Council  
City of Malibu

Re: October 26, 2020 City Council Meeting - Agenda Item 4.A. – Objections to Proposed Short-Term Rental Regulations – Hosted Short-Term Rental Ordinance and Local Coastal Program Amendment

Dear Mayor Pierson and Members of the City Council:

This firm represents MB Surf (DE), LLC, owner of the property located at 22648 Pacific Coast Highway, and MB Sand (DE), LLC, owner of the property located at 22640 Pacific Coast Highway, in the City of Malibu. I write to convey and reiterate objections to proposed Ordinance No. 472 and Resolution No. 20-51 regarding short-term rental (“STR”) regulations.

We previously wrote you on August 10, 2020, and September 13, 2020, regarding objections to and legal deficiencies in the Council’s proposed actions with respect to STR regulations, nearly all of which apply with equal or greater force to proposed Ordinance No. 472 and Resolution No. 20-51. Those letters are attached hereto as Exhibits A and B, respectively, and incorporated herein by reference.

In addition to the grounds previously articulated, we object to the adoption of the proposed ordinance and resolution because they are inconsistent with the policies of the California Coastal Act, and because the City has failed to conduct the environmental review required by the California Environmental Quality Act (“CEQA”), the Coastal Act, and the City of Malibu’s certified Local Coastal Program (“LCP”).

1. The Proposed LCP Amendment and Ordinance Are Inconsistent with the Policies of the Coastal Act

The City has attempted to address one legal defect we identified in our August 10 letter, namely the failure of the prior version of the proposed ordinance to require an LCP amendment before it may take effect. (See Ex. B at 2-4). We nonetheless object to and disagree with the findings in proposed Resolution No. 20-51 that the amendment and ordinance are consistent with the policies of the Coastal Act. (See Resolution No. 20-51, Sec. 3). Contrary to the findings contained in the proposed Resolution, the amendment and proposed Ordinance *will* result in the reduction or removal of “lower cost opportunities for visitor-serving accommodations....” (*Id.*). As we explained in our August 10 letter, the City’s staff report conceded that the proposed regulations and restrictions on STRs would *reduce* the number of STRs and thereby the associated transit occupancy tax. (See Ex. B at 3 (quoting Agenda Report at 1)). As we wrote then:

---

## HUESTON HENNIGAN LLP

The Coastal Act specifies that cities shall protect and encourage lower cost visitor and recreational facilities including hotels, motels “or other similar visitor-serving facility located on either public or private lands.” Pub. Res. Code § 30213. The Malibu LCP expressly incorporates and adopts this policy. See LUP, Ch. II.D. Property rentals in Malibu are generally more expensive than in other cities, and STRs provide one of the least expensive forms of overnight accommodation available in Malibu. For example, a moderate-income family can afford to vacation in Malibu by staying at a short-term rental that costs just a few hundred dollars per night, even if they could not afford to purchase a home or pay the long-term rental rates required to be full-time residents.

The small number of conventional hotel and motel rooms in Malibu, which we understand to be roughly 100 total rooms *for the entire City*, makes the continued availability of STRs in the City’s residential zones vitally important. According to the June 2018 Council Agenda Report, more than 400 private homes and apartments in the City are being utilized at least part of the time as STRs. Reducing this critical supply of overnight visitor accommodations would not be consistent with the Coastal Act or the City’s LCP, and an ordinance enacted in violation of the Coastal Act and LCP is invalid and subject to challenge.

Ex. B at 2-3.

2. The City Has Failed to Conduct the Environmental Review Required by CEQA, the Coastal Act and the City’s LCP

We further object to proposed Ordinance No. 472 and Resolution No. 20-51 because the City has failed to conduct the environmental review required by CEQA, the Coastal Act and the LCP. The LCP amendment process is governed by a state-certified regulatory program under Section 21080.5 of the Public Resources Code (“PRC”) and Sections 15250-15253 of the state’s CEQA Guidelines. Accordingly, some of the regular CEQA rules and procedures do not apply. (See PRC §§ 21080.5, 21080.9). The existence of a certified regulatory program does not exempt a project from environmental review. Rather, it merely substitutes the alternative environmental review procedures of Section 21080.5 of the PRC and Sections 15250-15253 of the CEQA Guidelines in place of regular CEQA requirements for an initial study, negative declaration or EIR. Section 21080.9 of the PRC provides in relevant part:

“[CEQA] shall not apply to activities and approvals by any local government ... as necessary for the preparation and adoption of a local coastal program or long-range land use development plan pursuant to Division 20 (commencing with Section 30000); ***provided, however, that certification of a local coastal program or long-range land use development plan by the California Coastal Commission pursuant to Chapter 6 (commencing with Section 30500) of Division 20 shall be subject to the requirements of this division. For the purpose of Section 21080.5, a certified local coastal program or long-range land use development plan constitutes a plan for use in the California Coastal Commission’s regulatory program.***”

(PRC § 21080.9 (emphasis added)).

---

## HUESTON HENNIGAN LLP

Accordingly, the Coastal Commission and not the City is the ultimate decisionmaker under the special CEQA review provisions that apply to a certified regulatory program under Section 21080.5(d)(2).<sup>1</sup> The fact that the Coastal Commission makes the ultimate decision, however, does not mean that the City plays no role in the environmental review. In fact, the City is *obligated*—not by CEQA, but by the Coastal Act and the City’s own adopted LCP—to prepare and hold a hearing on the environmental review documentation that will be used by the Coastal Commission to fulfill the Commission’s CEQA responsibilities when the proposed amendment proceeds on to the Commission. Section 30510 of the Coastal Act states:

Consistent with this chapter, a proposed local coastal program may be submitted to the commission, if both of the following are met:

- (a) It is submitted pursuant to a resolution adopted by the local government, after public hearing, that certifies the local coastal program is intended to be carried out in a manner fully in conformity with this division.
- (b) ***It contains, in accordance with guidelines established by the commission, materials sufficient for a thorough and complete review.***

(PRC § 30510 (emphasis added)). Section 13552 of the California Coastal Commission regulations sets forth the required contents of a city’s application to the Commission for certification of an LCP amendment, including in part:

The LCP or LRDP amendment submittal shall include: ...

- (e) *Any environmental review documents prepared for all or any portion of the amendment to the LCP or LRDP.*

14 CCR § 13552 (emphasis added)).

---

<sup>1</sup>Section 21080.5(d)(2) of the PRC provides: “The rules and regulations adopted by the administering agency for the regulatory program do all of the following:

(A) Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen a significant adverse effect that the activity may have on the environment.

(B) Include guidelines for the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program.

(C) Require the administering agency to consult with all public agencies that have jurisdiction, by law, with respect to the proposed activity.

(D) Require that final action on the proposed activity include the written responses of the issuing authority to significant environmental points raised during the evaluation process.

(E) Require the filing of a notice of the decision by the administering agency on the proposed activity with the Secretary of the Resources Agency. Those notices shall be available for public inspection, and a list of the notices shall be posted on a weekly basis in the Office of the Resources Agency. Each list shall remain posted for a period of 30 days.

(F) Require notice of the filing of the plan or other written documentation to be made to the public and to a person who requests, in writing, notification. The notification shall be made in a manner that will provide the public or a person requesting notification with sufficient time to review and comment on the filing.”

---

## HUESTON HENNIGAN LLP

This requirement is echoed and amplified in the City's own adopted LCP Local Implementation Plan ("LIP"), which states that every application for an LCP amendment (whether initiated by City Council resolution or otherwise) shall include, among other things: "*Any environmental review documents, pursuant to CEQA, required for all or any portion of the amendment to the LCP.*" (City of Malibu LCP LIP §19.2.1(B)(6) (emphasis added)). These materials must be made available for public review at least six weeks prior to any final action by the City. (Id. §19.3.1).

The special CEQA requirements applicable to the LCP amendment process under PRC Sections 21080.5 and 21080.9 were enacted long before the City of Malibu LCP LIP was adopted in 2002. (See Stats. 1972, Ch. 1154; Stats. 1975, Ch. 1187; Stats 1979, Ch. 961). The City and the Coastal Commission were thus both aware that the Commission would be the lead agency for CEQA purposes when they approved the Malibu LCP. Accordingly, the most reasonable interpretation of the requirement that the City prepare all necessary CEQA and environmental documents for the LCP amendment as part of the initial application is that *the City* must prepare and review such documents—not for its own CEQA compliance, but for the CEQA process and determinations to be made subsequently by the Coastal Commission.

**This interpretation is consistent with *Ross v. California Coastal Commission, et al.* (2011) 199 Cal. App. 4th 900, a decision involving another amendment to Malibu's LCP.** The Court of Appeal in *Ross* upheld the validity of an LCP amendment that reduced minimum lot widths in order to facilitate a residential subdivision on Broad Beach. Plaintiffs challenged the amendment based on alleged CEQA violations, illegal "spot" zoning, and conflict with other adopted City plans and policies. Citing PRC Sections 21080.5 and 21080.9, the court noted that the Coastal Commission and not the City was the "lead agency" for purposes of CEQA compliance, and that the special CEQA rules applicable to certified regulatory programs under those sections would govern the Commission's review. (*Id.* at 940). Although the Coastal Commission acted as the lead agency, **the Commission's decision relied significantly on environmental documentation prepared and provided by the City.** Before submitting the proposed LCP amendment to the Commission, the City prepared a draft mitigated negative declaration and evaluated potential impacts to environmentally sensitive habitat areas. (*Id.* at 910). The Commission relied on the City's responses to public comments, and the City submitted an alternatives analysis to the Commission. (*Id.* at 941-42). The *Ross* decision held that these submittals **by the City**, together with the record of proceedings before the Commission, satisfied the alternative CEQA requirements of PRC Section 21080.5.<sup>2</sup>

As reflected in this caselaw, the relevant statutes, guidelines and the City's own LCP, the City is obligated to prepare and make available for public review substantial environmental analysis and findings that are missing from proposed Ordinance No. 472 and Resolution No. 20-51, and the associated record of proceedings. As summarized in *Ross*, the required environmental findings and analysis include:

"... the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program, [¶] ... written responses of the issuing authority to significant environmental points raised during the evaluation process. [¶] ... a description of the proposed activity with alternatives to the

---

<sup>2</sup> A similar record was present in *Santa Barbara County Flower and Nursery Growers' Association v. County of Santa Barbara* (2004) 121 Cal. App. 4th 864, in which the county prepared a full EIR in connection with an LCP amendment before submitting it to the Coastal Commission. This likewise reflected that the city or county initiating an LCP amendment typically prepares and submits the environmental documentation for the Coastal Commission's LCP certification decision.



---

## HUESTON HENNIGAN LLP

activity, and mitigation measures to minimize any significant adverse effect on the environment of the activity [¶] ... available for a reasonable time for review and comment by other public agencies and the general public. [¶] Further, Guidelines section 15252, subdivision (a) provides: ‘(a) The document used as a substitute for an [environmental impact report] or negative declaration in a certified program shall include at least the following items: [¶] (1) A description of the proposed activity, and [¶] (2) Either: [¶] (A) Alternatives to the activity and mitigation measures to avoid or reduce any significant or potentially significant effects that the project might have on the environment, or [¶] (B) A statement that the agency’s review of the project showed that the project would not have any significant or potentially significant effects on the environment and therefore no alternatives or mitigation measures are proposed to avoid or reduce any significant effects on the environment. This statement shall be supported by a checklist or other documentation to show the possible effects that the agency examined in reaching this conclusion.’”

(199 Cal. App. 4th at 932-933 (quoting Section 21080.5 of the PRC and Section 15252 of the State CEQA Guidelines)).

None of the required environmental analysis, nor facts sufficient to conduct such analysis, appears in the current record of proceedings with respect to the proposed ordinance and resolution. Section 2 of Resolution No. 20-51, entitled “Environmental Review,” contains a boilerplate recitation that CEQA does not apply to this LCP amendment under Section 21080.9 of the PRC. Section 8 of Ordinance No. 472 includes the same statement, but also asserts that the ordinance is exempt from CEQA, specifically under CEQA Guidelines Sections 10561(b)(3) (projects having no potential for causing a significant effect), 15301 (Existing Facilities) and 15321 (Enforcement Actions by Regulatory Agencies). No initial study checklist or other documentation is provided to support the claimed exemptions. (See Res. No. 20-51, Sec. 2).

**In fact, none of these claimed exemptions apply to the proposed actions. The STR regulations that would be imposed by Ordinance No. 472 and Resolution No. 20-51 will have *significant* environmental effects. The definition of “development” under the Coastal Act includes a “change in the density or intensity of use of land” and a “change in the intensity of use of water, or of access thereto.” (PRC § 30106). “Development” is interpreted broadly. For example, in *Greenfield v. Mandalay Shores Community Ass’n* (2018) 21 Cal. App. 5th 896, the Court of Appeal held that a ban on STRs by a homeowner’s association in a beachfront area “change[d] the intensity of use and access to single family residences in the ... Coastal Zone” and therefore constituted “development” under PRC Section 30601. (*Id.* at 900-901).**

The proposed STR regulations that would be enacted through Ordinance No. 472 and Resolution No. 20-51 will similarly have numerous environmental impacts, for example:

- Inconsistency with adopted plans and policies, which constitutes a significant impact under CEQA. The Coastal Act specifies that cities shall protect and encourage lower cost visitor and recreational facilities including hotels, motels “or other similar visitor-serving facility located on either public or private lands.” (PRC § 30213). The Malibu LCP expressly incorporates and adopts this policy. (See LUP, Ch. II.B). In addition, Policy 5.11 of the LUP states: “Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent uses.” As explained above and in our August 10, 2020 letter, the proposed regulations will significantly *reduce* the availability of vital, low-cost visitor serving accommodations. (See Ex. B at 2-4).

---

## HUESTON HENNIGAN LLP

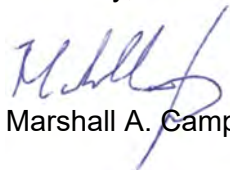
- Eliminating hundreds of STR units throughout the City will have a growth-inducing impact in the City and neighboring communities, as new hotels seek to take advantage of the reduced availability of short-term rentals in existing housing stock. Indeed, in just the few years since the City first proposed the STR ordinance, at least two new hotel development projects have begun entitlement processes in the City, including the 20-unit Malibu Inn motel project proposed for 22915 PCH (across from the Malibu Pier), and the 39-unit Seaview Hotel at 22729 and 22941 PCH.
- The proposed LCP amendments will also cause a proliferation of new construction of guest houses and accessory dwelling units. The proposed home sharing rules require the host to remain living onsite during the guest stay but allow the host to occupy either the main house or a guest house or accessory unit. Because many guests and hosts prefer not to cohabitate in the same dwelling unit with a stranger, hosts who wish to earn extra income without the nuisance of cohabitation will be highly motivated to add a second unit to their property. The proliferation of second units will create impacts to, among other things, traffic, air pollution, parking, noise, ESHA, loss of view corridors and aesthetics.

Because of these and other environmental impacts that will result from Ordinance No. 472 and Resolution No. 20-51, the CEQA exemptions cited in Section 8 of Ordinance No. 472 do not apply.

In summary, the City has failed to provide the environmental analysis required by Section 19.2.1(B)(6) of the City of Malibu LIP and Section 13552(e) of the Coastal Commission regulations. Before Ordinance No. 472 and Resolution No. 20-51 may be approved, this information must be prepared and circulated for public review at least six weeks prior to any final action by the City. (LIP §19.3.1).

This letter is not intended as a complete or comprehensive statement of all of the legal defects affecting proposed Ordinance No. 472 and Resolution No. 20-51. Rather it and the prior correspondence incorporated by reference in this letter reflect objections and examples of the numerous legal flaws from which the proposed measures suffer, and which will almost certainly lead to costly legal challenges if adopted.

Sincerely,



Marshall A. Camp

cc: Christi Hogin, City Attorney (via e-mail)

## EXHIBIT A

---

## HUESTON HENNIGAN LLP

August 10, 2020

### VIA E-MAIL

Hon. Mikke Pierson, Mayor  
Members of the City Council  
City of Malibu  
[citycouncil@malibucity.org](mailto:citycouncil@malibucity.org)

Re: Aug. 10, 2020 City Council Meeting - Agenda Item 4.C. – Objections to Proposed Interim Short-Term Rental Ordinance

Dear Mayor Pierson and Members of the City Council:

This firm represents MB Surf (DE), LLC, owner of the property located at 22648 Pacific Coast Highway, and MB Sand (DE), LLC, owner of the property located at 22640 Pacific Coast Highway, in the City of Malibu. I write to convey objections to proposed Ordinance No. 468, the Interim Short-Term Rental Ordinance (the “Proposed Ordinance”), and to highlight numerous legal flaws with the Proposed Ordinance that would render it invalid if enacted.

1. The Ordinance Was Not Properly Reviewed by the Planning Commission.

Pursuant to Government Code sections 65850 and 65853-65857, the City Council may not adopt or amend a zoning ordinance affecting the intensity of use of property unless it has received a written report and recommendation on the proposed ordinance from the Planning Commission. The July 30, 2020 Council Agenda Report (the “Agenda Report”) asserts that the Planning Commission reviewed the contents of the Proposed Ordinance on November 20, 2017, and May 7, 2018. 7/30/20 Agenda Report (8-10-20 Council Meeting, Item 4.C.) at 2. The proposal before the Planning Commission at those meetings, however, does not match the Proposed Ordinance before you tonight. For example:

- The zoning amendments presented to the Planning Commission in 2017 and 2018 prohibited short-term rentals (“STRs”) in all multifamily properties, except for “home-sharing” by a condo owner who remains in co-occupancy of the unit during the guest stay. By contrast, the Proposed Ordinance now before the Council allows up to two units in a multifamily building to be used as STRs (without “home-sharing”) provided the other units in the building are leased for terms of one year or more.
- The zoning amendments presented to Planning Commission in 2017 and 2018 placed no limit on the number of dwelling units that could be owned and rented out as an STR by a single owner, but the Proposed Ordinance states that a separate STR permit is required for each legal lot or condominium unit, and that an individual may not possess more than one active STR permit. See Agenda Report, Attach. 1 (Proposed Ordinance) § 17.55.010.

---

## HUESTON HENNIGAN LLP

- The zoning amendments presented to Planning Commission in 2017 and 2018 contained no seasonal limit on STRs, whereas the Proposed Ordinance prohibits STRs under “non-primary resident permits” from October 1 through March 31 annually.

California law is clear: When considering zoning amendments, “[a]ny modification of the proposed ordinance or amendment by the legislative body not previously considered by the planning commission during its hearing, *shall first be referred to the planning commission for report and recommendation.*” Govt. Code § 65857 (emphasis added). That has not happened, and the Proposed Ordinance must therefore be referred to the Planning Commission for report and recommendation before it may be considered by the Council.

Moreover, even if it had been properly reviewed by the Planning Commission, the Proposed Ordinance suffers from numerous legal defects that would render it invalid if enacted.

### 2. The Ordinance Requires a Local Coastal Program (LCP) Amendment and Approval by the California Coastal Commission.

The Proposed Ordinance is invalid under Malibu’s Local Coastal Program (“LCP”) and would violate the Coastal Act if enacted. Indeed, the City is *currently pursuing* an LCP amendment, underscoring that the Proposed Ordinance represents an unlawful effort to bypass the requirements of the Coastal Act and enact an ordinance in violation of the LCP.

Pursuant to the California Coastal Act of 1976, the purpose of an LCP is to define “a local government’s land use plans, zoning ordinances, zoning district maps, and, within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of [the Coastal Act] at the local level.” Pub. Res. Code § 30108.6. The Land Use Plan (“LUP”) portion of the LCP is defined as “the relevant portion of a local government’s general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions. *Id.* § 30108.5. Malibu’s LCP includes both an LUP and a set of implementing rules and regulations designated as the Local Implementation Plan (“LIP”). The LIP sets forth specific land use and development regulations that largely mirror the City’s zoning code.

Uses permitted in the Coastal Zone cannot be changed by the City without an amendment to the LCP. As the Malibu LCP states: “Any amendments to the certified LCP will require review and approval by the Coastal Commission prior to becoming effective.” LUP, Ch. I.C.

The Coastal Act specifies that cities shall protect and encourage lower cost visitor and recreational facilities including hotels, motels “or other similar visitor-serving facility located on either public or private lands.” Pub. Res. Code § 30213. The Malibu LCP expressly incorporates and adopts this policy. See LUP, Ch. II.D. Property rentals in Malibu are generally more expensive than in other cities, and STRs provide one of the least expensive forms of overnight accommodation available in Malibu. For example, a moderate-income family can afford to vacation in Malibu by staying at a short-term rental that costs just a few hundred dollars per night, even if they could not afford to purchase a home or pay the long-term rental rates required to be full-time residents.

---

## HUESTON HENNIGAN LLP

The small number of conventional hotel and motel rooms in Malibu, which we understand to be roughly 100 total rooms *for the entire City*, makes the continued availability of STRs in the City's residential zones vitally important. According to the June 2018 Council Agenda Report, more than 400 private homes and apartments in the City are being utilized at least part of the time as STRs. Reducing this critical supply of overnight visitor accommodations would not be consistent with the Coastal Act or the City's LCP, and an ordinance enacted in violation of the Coastal Act and LCP is invalid and subject to challenge.

The Agenda Report also asserts that no LCP amendment is required because the ordinance "does not change the uses in the City...." Agenda Report at 6. This is clearly untrue. It is the entire premise of the Proposed Ordinance that "short-term rental of property" is a specific type of use with specific impacts, and that a new set of restrictions and permits are required to regulate that use. See, e.g., Prop. Ordinance at Section 1 (Recitals). The Proposed Ordinance reflects numerous such restrictions and regulations. For example, it would impose seasonal limitations on "non primary resident" STRs, whereas year-round rentals are allowed under current law. See Prop. Ordinance § 17.55.040(B). The Proposed Ordinance would also limit STRs to at most two per multifamily building so long as all other units are long-term rentals, whereas current law allows STRs in multifamily properties (condos and apartments) without limitation as to the number of STR units. See *id.* § 17.55.040(C).

The Agenda Report acknowledges that these and other restrictions contained in the Proposed Ordinance will reduce the number of STRs available to visitors and thereby "reduce the [transit occupancy tax] collected from short-term residential rentals...." Agenda Report at 1. It is thus beyond serious dispute that the Proposed Ordinance is intended to define and regulate a particular type of land use, and that it is expected to reduce the extent of such use in the City below current levels. This clearly constitutes a "change in the uses in the City."

Remarkably, in an effort to support the assertion that no LCP amendment is required, the Agenda Report points to a nearly two year-old letter from Coastal Commission staff, sent in September 2018 in relation to an earlier version of the proposed ordinance. See 7/30/20 Council Agenda Report (Meeting 8-10-20, Item 4.C.) ("Agenda Report") at 6 & Attach. 2. The September 2018 letter states in part:

[C]ommission staff views the City's proposed amendment as a supportable effort to provide for some regulatory controls and management provisions for short term rentals. However, we believe that vacation rental regulations in the coastal zone must occur within the context of the City's LCP. We encourage the City to submit an LCP amendment to the Commission that includes policies and provisions that reflects the subject MMC amendment regarding short-term rentals. We are happy to coordinate with City Staff and provide comments on specific LCP amendment language once it is developed.

*Id.* The Agenda Report quotes only part of the first sentence of this paragraph, apparently to attempt to imply that Commission staff endorsed the notion that a short-term rental ordinance could be enacted without an LCP amendment. See Agenda Report at 6. The Agenda Report omits the portion of this paragraph beginning with "However," which makes clear that "vacation rental regulations in the coastal zone **must occur within the context of the City's LCP**," and which expressly "encourage[s] the City to **submit an LCP amendment to the Commission**...." *Id.* at Attach. 2 (emphasis added).

---

## HUESTON HENNIGAN LLP

The Proposed Ordinance is clearly inconsistent with the City's current LCP and with the Coastal Act, and its enactment prior to the approval of an LCP amendment would render it invalid.

### 3. The Proposed Ordinance Violates Clearly Established Land Use Law.

The Proposed Ordinance is also invalid because it violates clearly established land use law by relying on permits that are conditioned on the identity of the applicant rather than the use of the land, and because the permits cannot be transferred or assigned. The Government Code provides that “[n]o local government body, or any agency thereof, may condition the issuance of any building or use permit or zone variance on ... [t]he dedication of land for any purpose not reasonably related to the use of the property for which the variance, building, or use permit is requested.” Govt. Code § 65909. Although permits authorizing a particular use of land may include conditions, the conditions must “relate to the property and not to the particular applicant.” *Sounhein v. City of San Dimas* (1996) 47 Cal.App.4th 1181, 1187 (citing *Anza Parking Corp. v. City of Burlingame* (1987) 195 Cal.App.3d 855, 858). *Id.* Moreover, a permit allowing for the “use of property in a particular manner is not personal to the owner at the time of the grant, but is available to any subsequent owner...” *Cohn v. Cty. Bd. of Sup’rs of Los Angeles Cty.* (1955) 135 Cal. App. 2d 180, 184. In other words, such permits must “run with the land[.]” *Cty. of Imperial v. McDougal* (1977) 19 Cal. 3d 505, 510; accord *Sounhein*, 47 Cal.App.4th at 1187; *Anza Parking Corp.*, 195 Cal.App.3d at 858.

These are precisely the same bedrock land use principles that led to the invalidation of the formula retail ordinance enacted by the City as part of “Measure R.” In that case, the Court of Appeal held in part that the formula retail ordinance was invalid because it relied on permits that depended on “the character of the permittee or applicant rather than on the use of the land.” *The Park at Cross Creek, LLC v. City of Malibu* (2017) 12 Cal.App.5th 1196, 1210. The ordinance was also invalid because it restricted the transfer or assignment of the permits, “which is precisely what *Anza* and *Sounhein* held was improper.” *Id.* at 1210.

The Proposed Ordinance suffers from exactly the same flaws. It expressly relies on permits that depend on the identity of the permittee rather than the nature of the use. See, e.g., Proposed Ordinance § 17.55.040(A-C) (specifying varying limitations for STR permits based on whether the property is the permittee’s “primary residence”), § 17.55.010(A) (“An individual may not possess more than one active short-term rental permit.”), § 17.55.040 (“Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit.”), § 17.55.010(C)(11) (requiring an applicant for a “primary resident short-term permit” to submit “proof of [the applicant’s] primary residence, and attestation that the location is the applicant’s primary residence....”). In addition, the Proposed Ordinance prohibits transfer or assignment of the contemplated permits such that they do not “run with the land.” See *id.* § 17.55.010(H) (“A short-term rental permit may not be assigned or transferred to another person.”). Permits that depend on conditions particular to the identity of the permittee rather than the use of the property, and which do not run with the land, are invalid.

Although Measure R’s formula retail ordinance utilized a “conditional use permit” subject to review and approval by the Planning Commission, whereas the Proposed Ordinance employs a non-specific “permit” subject to review and approval by “the City Manager or his/her designee,” these are distinctions without a difference for purposes of the rules above. As the Court of Appeal explained in *Sonheim*, a conditional or special use permit is simply an “administrative permission for uses not allowed as a matter of right in a zone, but subject to approval.” 47 Cal. App. 4th at 1187 (citing Cal. Zoning Practice (Cont.Ed.Bar 1996) Types of Zoning Relief, § 7.64, p. 299). That is exactly what the Proposed Ordinance would do: define a particular use—i.e., “short-term rental”—that may not be made as a matter of right, but rather only pursuant

---

## HUESTON HENNIGAN LLP

to a special permit authorizing such use. Moreover, the rules described above do not depend on the precise type of permit or approval, but instead reflect the general principle that “zoning conditions and restrictions are designed to regulate the land itself and its use and not the person who owns or operates the premises by whom such use is to be exercised.” *Anza Parking Corp.*, 195 Cal. App. 3d at 859 (quoting *Vlahos Realty Co. v. Little Boar’s Head Dist.* (1958) 101 N.H. 460, 463). Accordingly, just like the formula retail ordinance invalidated in the Measure R case, the Proposed Ordinance is “contrary to well-established principles” of California law and would be invalid if enacted.

### 4. The Ordinance Constitutes an Unreasonable Restraint on Alienation.

The Proposed Ordinance also constitutes an invalid restraint on alienation. Under California law, “[c]onditions restraining alienation, when repugnant to the interest created, are void.” Civ. Code § 711. In determining whether restrictions on the use of a property are reasonable and therefore valid, courts consider: “(1) whether the reason for [the restriction] is rationally related to the protection, preservation or proper operation of the property and the purposes of the Association as set forth in its governing instruments and (2) whether the power [to impose the restriction] was exercised in a fair and nondiscriminatory manner.” *Laguna Royale Owners Assn. v. Darger* (1981) 119 Cal.App.3d 670, 684.

The Proposed Ordinance fails both prongs of the legal test. First, the rational relationship test is flunked by virtue of the conflict between the Proposed Ordinance and the City’s LCP (discussed above). Unless the LCP is amended, no measure that significantly reduces the City’s primary supply of overnight visitor accommodations can be rationally related to the City’s policies. Second, the second prong is failed because the Proposed Ordinance unfairly discriminates in numerous ways, including between “primary residents” and other permittees, and between different types of multifamily properties (discussed below). This inconsistent and discriminatory application of the City’s power independently renders the Proposed Ordinance invalid as an unreasonable restraint on alienation.

### 5. The Ordinance is Also Invalid Under Numerous Other Provisions of Federal and State Law.

Various provisions of the Proposed Ordinance are also very likely invalid under numerous provisions of state and federal constitutional and land use law. For example, the Agenda Report acknowledges that the Proposed Ordinance is intended to and does discriminate between permittees based on various grounds, including whether a permittee is a “primary resident” of a permitted building. See, e.g., Agenda Report at 3 (“In general, the permit requirements and permissions proposed are stricter for non-primary resident permits and multifamily permits than for primary residents....”); *id.* at 4 (“The ordinance places additional restrictions on non-primary resident STR permits and on multifamily STR permits ... Non-primary resident permits would only allow the short-term rental of property between April 1 and September 30,” “Multifamily permits would allow a maximum of two units to be rented on a multifamily property (but only if all other units are rented on a long-term basis),” “Non-primary resident permits and multifamily permits can be revoked or denied for two citations/violations instead of three[.]”). In addition, the Proposed Ordinance discriminates arbitrarily among multifamily properties, limiting apartment buildings to a maximum of two STR units regardless of the building size and total unit count, while allowing an unlimited number of STRs in condominium buildings. See *id.* § 17.55.040(B).

The Report offers no factual support for this discriminatory treatment of “primary resident” permittees versus “non-primary residents,” condo versus apartment buildings, or otherwise. Indeed, it is hard to even imagine how, for example, imposing seasonal restrictions on “non-primary resident permits” but not on



---

## HUESTON HENNIGAN LLP

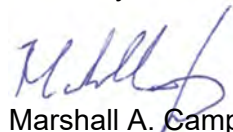
“primary resident permits,” or allowing the former to be revoked based on fewer “citations/violations” than the latter, or authorizing condos to be 100% occupied by STRs while limiting apartment buildings to two units irrespective of size, can reflect anything other than discrimination in violation of due process, equal protection and other federal and state constitutional provisions.

The Proposed Ordinance also contains numerous other provisions that appear to run afoul of federal law, state law or both. Simply by way of example:

- The rules governing multifamily properties allow up to two units in a building, but only so long as all other units are rented for a period of one year or more. See Prop. Ordinance § 17.55.040(C). This does not account for periods of vacancy between tenancies when some units may not be rented, or when units are vacant due to the need for repairs, having been rendered uninhabitable by casualty loss, etc. This constitutes an unreasonable and therefore unlawful restraint on alienation.
- The Proposed Ordinance imposes an occupancy limit of two persons times the number of bedrooms plus two other persons, but does not apply to other renters or homeowners, in potential violation of California’s fair housing laws, the Unruh Act, and other statutory and constitutional provisions.
- The Proposed Ordinance requires each owner to “provide full access to the property, and documents related to compliance with this Chapter, during normal City Hall business hours or at any time the dwelling unit was rented immediately upon request by the City Manager or her/his designee for purposes of inspection or audit.” Prop. Ordinance § 17.55.020(A)(7). This unchecked and unlimited infringement of the privacy rights of owners and occupants is unconstitutional, providing not even the minimal protections afforded in the inspection warrant statute for use by building and zoning code inspectors who have adequate cause to seek an inspection warrant from the courts. See Code Civ. Proc. §§ 1822.5 et seq.

This letter is not intended as a complete or comprehensive statement of all of the legal defects affecting the Proposed Ordinance. Rather it is intended to convey objections to the Proposed Ordinance as well as examples of the numerous legal flaws from which it suffers, and which will almost certainly lead to costly legal challenges if the Proposed Ordinance is enacted.

Sincerely,



Marshall A. Camp

cc: Christi Hogin, City Attorney (via e-mail)

## EXHIBIT B

---

## HUESTON HENNIGAN LLP

September 13, 2020

### VIA E-MAIL

Hon. Mikke Pierson, Mayor  
Members of the City Council  
City of Malibu

Re: September 14, 2020 City Council Meeting - Agenda Item 4.A. – Objections to Proposed Short-Term Rental Ordinances

Dear Mayor Pierson and Members of the City Council:

This firm represents MB Surf (DE), LLC, owner of the property located at 22648 Pacific Coast Highway, and MB Sand (DE), LLC, owner of the property located at 22640 Pacific Coast Highway, in the City of Malibu. I write to convey objections to proposed Ordinance Nos. 468 (for interim enforcement) and 472 (for permanent restrictions), and to highlight legal flaws with the proposed ordinances that would render them invalid if enacted.

Please also refer to my previous letter submitted to you on August 10, 2020.

1. The Interim Enforcement Ordinance (No. 468).

My clients support strong code enforcement and the elimination of “party houses” and similar misuse of short-term rental properties. We appreciate the changes made to the proposed text of Ordinance No. 468 by staff subsequent to the August 10, 2020, City Council meeting in order to more narrowly limit the scope of the interim ordinance to matters of enforcement.

The draft “enforcement only” ordinance, however, still contains some unlawful provisions that should be deleted. Our remaining concerns with Ordinance No. 468 include the following:

- Occupancy Limit. Proposed Malibu Municipal Code Sec. 17.55.020(A)(8) imposes on short-term rentals an occupancy limit of two persons times the number of bedrooms plus two other persons. But this limit does not apply to other renters or homeowners, in potential violation of California’s fair housing laws, the Unruh Act, and other statutory and constitutional provisions of state law.

- Invasion of Privacy. Proposed Sec. 17.55.020(A)(6) requires each owner to “provide full access to the property, and documents related to compliance with this Chapter, during normal City Hall business hours or at any time the dwelling unit is rented immediately upon request by the City Manager or her/his designee for purposes of inspection or audit.” This sweeping infringement of the privacy rights of owners and occupants is unconstitutional, providing not even the minimal protections afforded in the inspection warrant

---

## HUESTON HENNIGAN LLP

statute for use by building and zoning code inspectors who have adequate cause to seek an inspection warrant from the courts. See Code Civ. Proc. §§ 1822.5 et seq.

- Non-transferability. Proposed Sec. 17.55.010(H) provides that “[a] short-term rental permit may not be assigned or transferred to another person.” As explained at length in my letter of August 10, 2020, and at further length below, a permit allowing for the “use of property in a particular manner is not personal to the owner at the time of the grant, but is available to any subsequent owner....” *Cohn v. Cty. Bd. of Sup’rs of Los Angeles Cty.* (1955) 135 Cal. App. 2d 180, 184. In other words, such permits must “run with the land[.]” *Cty. of Imperial v. McDougal* (1977) 19 Cal. 3d 505, 510; accord *Sounhein*, 47 Cal.App.4th at 1187; *Anza Parking Corp.*, 195 Cal.App.3d at 858.

- Discriminatory Treatment of Owners vs. Renters. Proposed Sec. 17.55.010(A) provides that only an “owner” of property may obtain a short-term rental permit. This arbitrary distinction between owners and renters is discriminatory and without evidentiary basis. (See further discussion below with reference to the permanent ordinance.)

If these four remaining concerns were addressed, our clients would support the adoption of Ordinance No. 468 as an aid to enforcement.

### 2. The Permanent Ordinance (No. 472).

Staff has corrected one deficient aspect of the proposed “permanent” ordinance, but serious legal defects remain.

As we advocated in our August 10, 2020 letter, staff now recommends that the short-term rental use restrictions be processed via an LCP amendment with Coastal Commission review. That is an important procedural step. Our other objections we raised have not been addressed, however, and we continue to view the proposed permanent ordinance as legally flawed and subject to invalidation if enacted.

#### a. Inconsistency with Coastal Act Policies.

Proposed Ordinance No. 472 would remove hundreds of currently permitted STRs from the City by, among other provisions: (i) prohibiting the short-term rental of single-family homes and condos that are not the owner’s primary residence; (ii) requiring the owner or owner’s representative to cohabit with the guest and remain living at the residence throughout the duration of the short-term rental; and (iii) allowing only two units in a multifamily complex to be used as short-term rentals. An analysis by the leading online booking platform Airbnb concluded that fully half the short-term rentals in the City of Malibu would be eliminated by the prior version of this ordinance (considered at the Council August 10, 2020 meeting), under which *both* primary and non-primary resident STRs would have been permitted. (See letter to Malibu City Council from John Choi, Airbnb Policy Manager dated August 7, 2020.) The removal of any non-primary resident STRs from this version of the ordinance will undoubtedly cause an even more dramatic reduction in the availability of short-term rentals in Malibu.

The Coastal Act specifies that cities shall protect and encourage lower cost visitor and recreational facilities including hotels, motels “or other similar visitor-serving facility located on either public or private lands.” Pub. Res. Code § 30213. The City’s LCP expressly incorporates and adopts this policy. See LUP, Ch. II.D. Property rentals in Malibu are generally more expensive than in other cities, and STRs provide one of the

---

## HUESTON HENNIGAN LLP

least expensive forms of overnight accommodation available in the City. For example, a moderate-income family can afford to vacation in Malibu by staying at a short-term rental that costs just a few hundred dollars per night, whereas few can afford to purchase a home or rent long-term within the City.

The small number of conventional hotel and motel rooms in Malibu, which we understand to be roughly 100 total rooms *for the entire City*, makes the continued availability of STRs in the City's residential zones vitally important. According to the June 2018 Council Agenda Report, more than 400 private homes and apartments in the City are being utilized at least part of the time as STRs. Reducing this critical supply of overnight visitor accommodations would not be consistent with the Coastal Act or the City's LCP, and an ordinance enacted in violation of the Coastal Act and LCP is invalid and subject to challenge.

### b. Non-transferability of Permits.

Proposed Ordinance No. 472 also violates clearly established land use law by relying on permits that are conditioned on the identity of the applicant rather than the use of the land, and because the permits cannot be transferred or assigned. The Government Code provides that "[n]o local government body, or any agency thereof, may condition the issuance of any building or use permit or zone variance on ...[t]he dedication of land for any purpose not reasonably related to the use of the property for which the variance, building, or use permit is requested." Govt. Code § 65909. Although permits authorizing a particular use of land may include conditions, the conditions must "relate to the property and not to the particular applicant." *Sounhein v. City of San Dimas* (1996) 47 Cal.App.4th 1181, 1187 (citing *Anza Parking Corp. v. City of Burlingame* (1987) 195 Cal.App.3d 855, 858). *Id.* Moreover, a permit allowing for the "use of property in a particular manner is not personal to the owner at the time of the grant, but is available to any subsequent owner...." *Cohn v. Cty. Bd. of Sup'rs of Los Angeles Cty.* (1955) 135 Cal. App. 2d 180, 184. In other words, such permits must "run with the land[.]" *Cty. of Imperial v. McDougal* (1977) 19 Cal. 3d 505, 510; *accord Sounhein*, 47 Cal.App.4th at 1187; *Anza Parking Corp.*, 195 Cal.App.3d at 858.

These are precisely the same bedrock land use principles that led to the invalidation of the formula retail ordinance enacted by the City as part of "Measure R." In that case, the Court of Appeal held in part that the formula retail ordinance was invalid because it relied on permits that depended on "the character of the permittee or applicant rather than on the use of the land." *The Park at Cross Creek, LLC v. City of Malibu* (2017) 12 Cal.App.5th 1196, 1210. The ordinance was also invalid because it restricted the transfer or assignment of the permits, "which is precisely what *Anza* and *Sounhein* held was improper." *Id.* at 1210.

Proposed Ordinance No. 472 continues to suffer from exactly the same flaws. It expressly relies on permits that depend on the identity of the permittee rather than the nature of the use. See, e.g., § 17.55.040(A) (limiting single-family STR permits to "primary resident owner[s]"), § 17.55.040 ("Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit."), § 17.55.020(D)(14) (requiring an applicant for a "hosted short-term rental permit" to submit "proof of primary residency and attestation that the location is the owner's primary residence"). In addition, the proposed ordinance prohibits transfer or assignment of the contemplated permits such that they do not "run with the land." See *id.* § 17.55.020(J) ("A short-term rental permit may not be assigned or transferred to another person."). Permits that depend on conditions particular to the identity of the permittee rather than the use of the property, and which do not run with the land, are invalid.

Although Measure R's formula retail ordinance utilized a "conditional use permit" subject to review and approval by the Planning Commission, whereas proposed Ordinance No. 472 employs a non-specific

---

## HUESTON HENNIGAN LLP

“permit” subject to review and approval by “the City Manager or his/her designee,” these are distinctions without a difference for purposes of the rules above. As the Court of Appeal explained in *Sonheim*, a conditional or special use permit is simply an “administrative permission for uses not allowed as a matter of right in a zone, but subject to approval.” 47 Cal. App. 4th at 1187 (citing Cal. Zoning Practice (Cont.Ed.Bar 1996) Types of Zoning Relief, § 7.64, p. 299). That is exactly what Ordinance No. 472 would do: define a particular use—i.e., “short-term rental”—that may not be made as a matter of right, but rather only pursuant to a special permit authorizing such use. Moreover, the rules described above do not depend on the precise type of permit or approval, but instead reflect the general principle that “zoning conditions and restrictions are designed to regulate the land itself and its use and not the person who owns or operates the premises by whom such use is to be exercised.” *Anza Parking Corp.*, 195 Cal. App. 3d at 859 (quoting *Vlahos Realty Co. v. Little Boar’s Head Dist.* (1958) 101 N.H. 460, 463). Accordingly, just like the formula retail ordinance invalidated in the Measure R case, Ordinance No. 472 is “contrary to well-established principles” of California law and would be invalid if enacted.

### c. The Ordinance Constitutes an Unreasonable Restraint on Alienation.

Proposed Ordinance No. 472 also constitutes an invalid restraint on alienation. Under California law, “[c]onditions restraining alienation, when repugnant to the interest created, are void.” Civ. Code § 711. In determining whether restrictions on the use of a property are reasonable and therefore valid, courts consider: “(1) whether the reason for [the restriction] is rationally related to the protection, preservation or proper operation of the property and the purposes of the Association as set forth in its governing instruments and (2) whether the power [to impose the restriction] was exercised in a fair and nondiscriminatory manner.” *Laguna Royale Owners Assn. v. Darger* (1981) 119 Cal.App.3d 670, 684.

Ordinance No. 472 fails both prongs of the legal test. First, the rational relationship test is flunked by virtue of the conflict between the proposed ordinance and the City’s LCP (discussed above). Unless the LCP is amended, no measure that significantly reduces the City’s primary supply of overnight visitor accommodations can be rationally related to the City’s policies. Second, the second prong is failed because Ordinance No. 472 unfairly discriminates in numerous ways, including between rental terms of varying lengths (i.e., terms of 30 days or less, 31-364 days, and 365+ days), between “primary residents” and other persons, between natural persons and corporate entities, between owners of one property and owners of multiple properties, between owners and renters, and between different types of multifamily properties (discussed below). For example, under the proposed ordinance:

- Primary residents who own and live in a house or condo may obtain an STR permit, while non-primary residents who own and live in a house or condo may not.
- Primary residents who own and live in a house or condo may obtain an STR permit, while primary residents who rent and live in a house or condo may not.
- Multifamily property owners who lease all other units in a building on terms of one year or more may obtain an STR permit, while multifamily owners who lease units on month-to-month terms may not.
- Natural persons may obtain an STR permit, while trusts, partnerships, LLCs and corporations may not.

---

## HUESTON HENNIGAN LLP

This inconsistent and discriminatory application of the City's power renders Ordinance No. 472 invalid as an unreasonable restraint on alienation.

d. The Ordinance is Also Invalid Under Numerous Other Provisions of Federal and State Law.

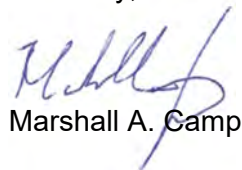
Neither the draft ordinance nor the agenda report provides factual support for the discriminatory provisions described above. Indeed, it is hard to even imagine how, for example home-sharing STRs conducted by owners of a second home (i.e., a non-primary residence) who live onsite for the duration of the guest stay are any more or less problematic for the community than home-sharing STRs conducted at a "primary residence." Similarly, there does not appear to be any justification for authorizing condos to be 100% occupied by STRs while limiting apartment buildings to two STR units, irrespective of size. Such provisions violate state and federal due process and equal protection, and other constitutional provisions.

Ordinance No. 472 also contains numerous other provisions that appear to run afoul of federal law, state law or both. Simply by way of example:

- The rules governing multifamily properties allow up to two units in a building, but only so long as all other units are rented for a period of one year or more. See § 17.55.040(B). This does not account for periods of vacancy between tenancies when some units may not be rented, or when units are vacant due to the need for repairs, having been rendered uninhabitable by casualty loss, etc. This constitutes an unreasonable and therefore unlawful restraint on alienation.
- The ordinance imposes an occupancy limit of two persons times the number of bedrooms plus two other persons, but does not apply to other renters or homeowners, in potential violation of California's fair housing laws, the Unruh Act, and other statutory and constitutional provisions.
- The proposed ordinance requires each owner to "provide full access to the property, and documents related to compliance with this Chapter, during normal City Hall business hours or at any time the dwelling unit is rented immediately upon request by the City Manager or her/his designee for purposes of inspection or audit." § 17.55.010(A)(11). This unchecked and unlimited infringement of the privacy rights of owners and occupants is unconstitutional, providing not even the minimal protections afforded in the inspection warrant statute for use by building and zoning code inspectors who have adequate cause to seek an inspection warrant from the courts. See Code Civ. Proc. §§ 1822.5 et seq.

This letter is not intended as a complete or comprehensive statement of all of the facts or law relevant to the validity of proposed Ordinance No. 472. Rather, it is intended to convey objections to the proposed ordinance and examples of numerous legal flaws from which it suffers, and which will almost certainly lead to costly legal challenges if it is enacted.

Sincerely,



Marshall A. Camp

cc: Christi Hogin, City Attorney (via e-mail)