

**CALIFORNIA COASTAL COMMISSION**

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**W12b**

**A-5-DPT-22-0038 (Dana Point Short Term Rental Program)**

**September 2, 2022**

**UPDATED CORRESPONDENCE**



**VIA E-MAIL AND  
FIRST CLASS MAIL**

California Coastal Commission  
South Coast District Office  
301 E. Ocean Blvd., Suite 300  
Long Beach, CA 90802-4325

**Re: Appeal No. A-5-DPT-22-0038 (City of Dana Point Short-Term Rentals)  
Item #W12b**

Dear Chair Brownsey, Vice Chair Hart, and Members of the Coastal Commission:

The City of Dana Point (“City”) has reviewed the Staff Report prepared by Coastal Commission Staff related to the appeal(s) of the City’s Coastal Development Permit No. 20-0010, related to the establishment of the City’s Short-Term Rental (“STR”) Program. Your Staff Report recommends that the Commission find that there is “no substantial issue” with respect to the grounds upon which the appeals were filed, and that the project is consistent with the public access policies of the Coastal Act and the City’s certified LCP. The City submits this letter in *support* of Staff’s recommendation.

The City has endeavored over the course of the last fifteen (15) years to adopt reasonable regulations with respect to STRs. In so doing, the City has engaged in a campaign of extensive public outreach, held numerous public meetings, and heard from hundreds of members of the public (who feel very strongly on both sides of this issue). The level of controversy in the City has been so significant as to include a referendum petition filed by residents in response to the City’s decision to adopt an LCPA that included suggested modifications from the Commission, in 2016. Now, years later, and after significant additional public engagement, the City has adopted the CDP that is before you today.

As accurately described in detail in the Staff Report, the CDP sets forth regulations that are similar to those adopted by neighboring jurisdictions, in that they: (1) establish a fair cap on the number of STR permits that will be issued by the City based on the type of rental (which will be re-evaluated every five years); (2) set forth practical, yet measured, regulations intended to limit any negative impacts on neighboring properties (such as those related to occupancy, trash, parking, etc.); and finally (3) lay out escalating enforcement measures, targeted towards securing compliance and eliminating bad operators within the City. Overall, the CDP presented reflects a narrowly tailored approach that balances the divergent interests in the City, perhaps most aptly demonstrated by the fact that the appeals before you have been filed by both “critics” of STRs, as well as STR “supporters.”

One issue raised in the appeals that the City thought was worthy of comment relates to the various homeowner associations (“HOAs”) located throughout the City. As the Staff Report correctly notes, for operators with STRs located within an HOA, the CDP requires that applicants must demonstrate that their HOA allows STRs in order to secure a permit. Contrary to Appellants’

arguments, however, this requirement does *not* amount to a City facilitated (or otherwise condoned) ban of STRs located within Coastal Zone HOAs. Rather, as detailed in the Staff Report, approximately half of the total number HOAs located in the Coastal Zone *allow* STRs. The Staff Report correctly concludes, although some HOAs in the Coastal Zone prohibit STRs, not all do. Moreover, this fact alone does not adversely impact the availability and distribution of public access amenities and overnight visitor accommodations in the Coastal Zone, particularly given the number and diversity of other overnight accommodations in the City. In addition to the foregoing, the City has committed to engage in outreach efforts with respect to the HOAs in the Coastal Zone that do regulate STRs, in order to educate them on Coastal Act compliance (and potential consequences of non-compliance).

In sum, the City enthusiastically agrees with and supports Staff's Recommendation of "no substantial issue." With the Commission's concurrence that the CDP does not present a substantial issue, the City will be in a position to once again begin issuing STR permits and allow for the additional STRs that are desired by the Commission (and at least some of the community) to commence operations.

As a final note, the City would like to thank Coastal Commission Staff for their ongoing efforts on this matter, and their willingness to continually engage on what has often been a challenging and divisive issue.

Very truly yours,

  
Joseph L. Muller, Mayor

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Appellants

**BEFORE THE  
CALIFORNIA COASTAL COMMISSION**

In the Matter of )  
)  
City of Dana Point ) ON APPEAL FROM THE CITY COUNCIL  
Resolution No. 22-07-12-01 ) OF DANA POINT AFFIRMING IN PART  
) AND DENYING IN PART APPEAL  
and ) FROM CDP 22-1101  
)  
Dana Point Coastal Development Permit )  
22-1101 )  
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**REPLY OF APPELLANTS TO CCC STAFF REPORT**

## **Introduction**

Appellants Kim Tarantino and Mark Zanides hereby respectfully file our Response to the Coastal Commission Staff Report recommending that the Commission find No Substantial Issue regarding our appeal.<sup>1</sup> The staff report has misconstrued many of our arguments and the relevant legal principles, and discounted important facts necessary to an informed determination of this matter. We clarify our position and demonstrate that there are Substantial Issues raised by our appeal which require the full attention of this Commission.

### **I. We have Raised Substantial Issues with Regard to the CDP Compliance With the Coastal Act.**

Whether there are Substantial Issues with the CDP compliance turns on the Commission's analysis of five factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified [local coastal program] and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its [local **coastal** program]; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.”

See, *Hines v. Coastal Commission*, (2010) 186 Cal. App 4<sup>th</sup> 831, 849.

1) We have demonstrated that there is no factual or legal support for this CDP. It is incontestable that the City already provides extraordinary coastal access. The City has not and cannot demonstrate that more is needed.

The STR program will potentially convert 305 to 816 or 5%-14% of existing eligible housing stock (i.e. assumed dwelling units in the coastal zone less dwelling units in HOAs with protective CC&Rs precluding short term rentals) to STRs. There was no staff report on this particular program; no analysis of the impact of the program on the Coastal Zone (or even a calculation of the number of housing units in the coastal zone),

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<sup>1</sup> We concur with the CCC staff that the appeal by Rupke, Slocum, Colaco et. al. does not present a Substantial Issue.

<sup>2</sup> After the 2016 referendum rejected the 2016 STR ordinance, the City has allowed

no analysis or justification for the number of STRs other than the City Attorney saying the number “felt right.” There was no consideration of impacts on low and moderately priced housing, and no assessment of its impact on RHNA goals and affordable housing needs. Moreover, the program confers substantial discretion on the Director of Community Development to modify the program in such a way that would alter coastal access. Failure to preserve affordable housing is inconsistent with its LCP and the Act, and by itself raises a substantial issue regarding compliance with the Act.

The City has no legal basis to proceed via CDP and not LCP Amendment and Zone Text Amendment. The LCP and zoning codes have never permitted unhosted STRs in residential neighborhoods in Dana Point; the staff’s assertion that they are permitted as Accessory Use “Recreational Facilities” is ludicrous.

2) The extent and scope of the development is not confined to one structure, but rather will affect over one half of the area of Dana Point.

3) The precedential value of Dana Point’s interpretation cannot be overstated: it seeks to reduce substantially the Coastal Commission’s ability to effectively discharge its duties by avoiding the necessity of an LCPA and proceeding instead by CDP. It is reminiscent of Dana Point’s unsupportable nuisance ordinance, which was adopted so as to avoid working with the Coastal Commission. See footnote 11, *supra*.

5) For the same reason set forth above, this issue raises regional and statewide concerns, namely that the improper use of a CDP could permit local authorities to sidestep their requirement to work programmatically within their Local Coastal Programs. In addition, the failure of the City of Dana Point to protect or even consider impacts on affordable housing stock is not something that should be encouraged as a precedent.

## II. Argument

### A. Appellants Do Not Oppose “Nearly All “STRs.

As a preliminary matter, the staff’s assertion that the above listed appellants are “critics” who “oppos[e] nearly all STRs” (see Staff Report (SR) at 4,7) is false. Rather, we have worked diligently with the City Council to craft a mutually acceptable STR program. As set forth in our Opening Brief at pp. 8-11, after the Planning Commission adopted its proposed STR program, we appealed to the City Council on grounds that the Planning Commission had neglected to consider the impact of the particulars of the proposed program on very scarce housing stock. *Id.*

Plainly dissatisfied with the Planning Commission proposal, at the hearing on [June 21, 2022](#), the City Council announced that the plan had some [unspecified] “legal problems”, deferred action on the appeal, and appointed Council members Villar and Frost to a subcommittee to review further the proposed STR regulations.

Appellants Tarantino and Zanides met with the subcommittee members, and thereafter made concrete proposals for a new STR program to the subcommittee. See, CR 209, 219. As reflected there, they do not oppose all STRs. Rather, they proposed to grandfather the current 129 unhosted STRs, with a reduction in STRs to correspond one to one to new STR permits issued in mixed-use zoning districts. They also proposed that a limited number of STR permits could be issued to owners of multi-family dwellings so long as the owner was present during STR occupancy, but that such permits needed to be very limited in order to minimize effects on extremely scarce housing stock. Finally, it was suggested that STRs be capped by district in order to minimize the effects of concentration in two of the city's districts with few HOAs (Capistrano Beach and Lantern District currently account for almost three quarters of Dana Point's STRs). No discussions with the staff or the city attorney were invited or permitted.

In short, appellants did not and do not oppose “nearly all “ STRs.

**B. This STR Program Will Have a Severe Impact on the City's Housing Stock.**

The STR program violates Section 30604(g) of the Coastal Act since it would allow potentially over 800 units [over 15%] of very scarce eligible coastal zone housing to be converted to STRs, and the City has no data to the contrary. This impact will exceed the number of new dwelling units affordable housing stock in Dana Point and is entirely unnecessary in view of the abundant existing coastal access.

Section 30604(g) of the Act provides:

“The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the Coastal Zone.”

The proposed STR program is NOT consistent with this provision of the Coastal Act. To be sure, the Act requires visitor access to the coast. Dana Point already provides extraordinary coastal access. It is a visitor-serving city providing more than 1,900 visitor-serving overnight accommodations for those wishing to share its beautiful coast. In addition, Dana Point has 139 existing, permitted STRs, including 69 in the Coastal zone. SR 11.<sup>2</sup> Dana Point provides far more accommodations per capita than most coastal cities. The City has 655 additional new lodging units entitled or planned, including 150 lower cost units. It also offers ample direct beach access with free on-site parking at many local beaches. Dana Point does not need more coastal access.

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<sup>2</sup> After the 2016 referendum rejected the 2016 STR ordinance, the City has allowed those STRs it had conditionally permitted to keep operating. Appellants estimate that conservatively there are an additional 150-200 illegal STRs as well.

Dana Point has an acute affordable housing shortage. Its hotels and restaurants employ and rely on hundreds of workers, but housing for these workers is becoming scarcer and more expensive. The Dana Point [Housing Element Report](#), published May, 2022 states that: “The 2015–2019 ACS reports the median gross rent of all rental units in the City at \$2,061. While rental prices have increased more slowly than sale prices, relatively few rental properties have been recently constructed in Dana Point. In 2019, the average apartment rent was \$1,663 for a one bedroom, \$2,088 for a two bedroom, and \$2,795 for a 3-bedroom condo or single-family home (ACS Table B25031). Three years later, there are now almost no apartments of any size to be had below \$3,000 per month. 39% of Dana Point residents earn less than \$75,000 per year, far below the \$138,000 household income needed to accommodate the lowest monthly rent now available, including utilities. (See Nelson correspondence (SR, Correspondence, pp. 1-6.) This report goes on to state that between 2000 and 2020, only 200 dwelling units were added, although 185 of these were converted to STRs in 2007. The Regional Housing Needs Assessment (RHNA) states that 530 additional housing units need to be added between 2022 and 2029; 231 for low-income households, 101 for moderate-income households, and 198 for above-moderate-income families.

This STR program will significantly reduce affordable housing and thereby violate the Act. It defines three (3) types of STRs that convert whole dwelling units for long-term residential use to STRs – Non-Primary STRs (i.e. unhosted investor owned STRs), Multi-Family “Home Stay” STRs (owners are in adjacent, not actual STR units, so they are actually unhosted), and Non-Primary (investor/unhosted) STRs on Mixed-Use Parcels. The maximum number of Non-Primary STRs is 115 (2.1% of dwelling unit inventory); the maximum number of Non-Primary STRs on Mixed-Use Parcels is 190 (3.5% of available dwelling unit inventory of 5,820). But that 5.6% is not the extent of what is permitted.

The Multi-Family “Home Stay” STRs have no limits or caps. They provide an opportunity for well-funded investors to convert up to another 9.4% of available dwelling units to STRs. By 2029, the number of whole dwelling units used as STRs is almost certain to exceed the number of dwelling units added in the City during the 2000-2029, 30-year time period. More importantly, it will very likely convert every one of the 305 low and moderate income housing units from residential use to visitor accommodation.

As the proposed CDP would potentially allow approximately 816 units of Coastal Zone housing to be converted to STRs, it does not protect units that are accessible to persons of low and moderate income regardless of a covenant. It would permit converting between 6% and 15% of our eligible housing to STRs. Those hardest hit by this STR program are the very workers needed to work at the hotels and other hospitality services and therefore conflicts with Section 30604(g) of the Coastal Act.

The staff discounts this argument: it asserts that it “has no reliable method to confirm appellants’ data in lieu (sic) of the City’s data” (SR 28), but, instead speculates that based on some unidentified data “the City has provided so far, the appellants’ housing inventory figures appear to be a gross overestimation.” *Id.* The appellants do not have a crystal ball



but can make a reasonable estimate of the impacts to housing stock as follows. The 115 limit for Non-Primary STRs in residential zones will be reached quickly (there are already several hundred STRs advertised on local platforms per AirDNA, far in excess of permitted units), and the 190 limit for Non-Primary in mixed-use zones will be reached over the next 5 or 6 years as these areas are developed (developers will very likely choose more lucrative tourist accommodation over residential rentals). There are approximately 200 dwelling units in 2-4 unit buildings, using an average size of 3 units, there are 66 buildings with the potential of 1 STR. There are approximately 2,200 dwelling units in 5-unit structures with roughly half being condominiums with the potential of 550 STRs. There are approximately 4,400 detached single-family homes and under CA SB9, each can add an additional dwelling unit by right. If 2.5% added second units to host STRs, the potential is 110 STRs. These reasonable estimates show a potential total of 1,031 STRs. The total 816 units used to estimate STR impact in the coastal zone is indeed conservative.

The City has not provided an accurate count of dwelling units in the Coastal Zone, which in itself should concern the Commissioners. The CCC staff has used half of the dwelling units in Dana Point as an approximation, but we believe the actual numbers are likely far less. The Coastal Zone in Dana Point includes the entire Harbor and significant commercial areas that do not contain dwelling units. For the purpose of this exercise, we have accepted the CCC staff estimate of roughly 8,036 dwelling units, reduced by the 2,616 units in protective HOAs (latter data provided by the City) since these are not eligible to become STRs. We conservatively estimated the impact at 816 units or 15% of eligible dwelling units. We suspect the denominator is much smaller, and the impact actually much greater. Further, the concentration in the Capistrano Beach and Lantern District communities, which have almost no HOAs and already account for almost three-quarters of STRs will be extremely impactful. The program allows for no buffers between STRs, which will very likely result in whole blocks or streets converting from residential to tourist areas, in violation of stated CCC policies.

Further, we have not overestimated the number of long-term residential units that can potentially be converted to visitor-serving STRs under this program, since a new California law eliminated single-family residential zoning, so that every single-family home could be converted to a duplex with one unit operated as a STR. We have not included any of these potential units in our estimate of STR impacts. The CCC staff ignores that STRs are big business attracting billions of dollars of investments. As stated on the alpha website [www.realpha.com](http://www.realpha.com), on average, STR revenues exceed long-term rental revenues by 70%. In a coastal city with a mild year-round climate built around tourism, large investors partnering with large hosting companies will find ways to take advantage of an uncapped multi-family STR provision. New California law SB9 eliminates single-family residential zoning, allowing every residential parcel to house multiple dwelling units. Understanding how to leverage the fact that every condominium unit owner can convert a second unit to a STR is but one way that housing units will convert to STRs.

The staff ignores that STRs are big business drawing big players and big money. These are not mom-and-pop operations trying to supplement family income. AirBnb is a \$63 billion dollar business and is only one player in the commercialization of STRs. Although starting out as a home-sharing platform, today 81% of its booking are whole-house STRs. Roughly two-thirds of AirBnb listings are managed by one-quarter of the hosts. “In June 2021, the Ohio real estate-investing firm ReAlpha announced plans to spend up to \$1.5 billion on a portfolio of short-term rentals. Earlier this year, the real estate-advisory and asset-management firm Saluda Grade backed a \$500 million fund to establish a holding company for the property assets of the vacation-rental company AvantStay. Major investment firms like Blackstone Group, Davidson Kempner Capital Management, and Harrison Street are also establishing funds to invest in debt tied specifically to properties managed as short-term rentals and vacation lodging, Skift reported in March.” – Business Insider, *“There are too many Airbnb’s; it’s causing a crisis for the rental market”*, by Kelli María Korducki, Jul 28, 2022.

Prior to adoption of this CDP, the City staff has not provided Coastal zone specific data. In considering whether we have raised a Substantial Issue, the Commission must consider, among other things, that staff cannot demonstrate compliance with section 30604(g) by mere assertion of some unpublished data to the CCC staff. It bears the burden of demonstrating that its actions are consistent with the Act. At the very least, its failure to address this issue, in view of the facts adduced by the Appellants, establishes a Substantial Issue.

**C. This CDP violates Dana Point’s LCP since the LCP contains the city zoning codes, and, contrary to the staff report (SR 3), Dana Point’s certified LCP does *not* allow STRs in all residential zones within the Coastal Zone. Specifically, Chapter 9.09.020, which permits “recreational facilities, does not permit primary [i.e. unhosted] STRs. Therefore Dana Point may not proceed via CDP, but rather must proceed via Zone Text Amendment and Amendment to the LCP.**

It is clear that the Dana Point certified LCP contains the city’s zoning codes. See, SR 14. If inconsistent with the zoning code, the CDP is inconsistent with the LCP and may not be approved. CCC staff reports that this is the first time a city has attempted to get STR approval via a CDP. SR. 2.

Until recently Dana Point has always taken the position that unhosted (primary) STRs are not permitted in residential neighborhoods in the City. See, Appeal Brief at 21-24. SR 24. The Commission staff now claims that “[t]he City’s certified LCP currently allows STRs in all residential zones within the Coastal Zone. Specifically, IP Section 9.09.020 allows for ‘recreational facilities, private’ as an accessory use for all residential districts. Section 9.61.020 and Chapter 9.75 of the IP contains applicable definitions for various types of overnight accommodations. A CDP is thus appropriate here as a means of regulating changes in intensity of use in residential areas of the City’s Coastal Zone by placing new restrictions on STRs.” SR 3.

This assertion is completely incorrect.

First, it implies the zoning codes have changed. They have not.

Second, between 2007 and August 25, 2022, the date of this Commission's staff memorandum, neither the City Attorney nor anyone else, has suggested that "recreational facilities, private" authorizes STRs, for very good reason. The plain meaning of the term "recreational facilities" does not authorize or even imply that STRs are permitted. While the Dana Point codes do not define "recreational facilities", they do contain definitions of items relating to recreation:

**Recreational Equipment** — structures or devices that stimulate activity through amusement, exercise or play in order to refresh one's mind or body. Examples include playground equipment (i.e. swings, slides, etc.), park benches, picnic tables, and exercise courses.

**Recreational Vehicle** — a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle which is designed or used for recreational or sporting purposes. The term recreational vehicle shall include, but not be limited to, travel trailers, pickup campers, camping or tent trailers, motor coach homes, converted trucks or buses, boats, and boat trailers, and all-terrain vehicles.

See, Chapter 9.75(R).

Plainly STRs are not "structures or devices that stimulate activity through amusement, exercise or play to refresh one's mind or body" and it is absurd to contend otherwise.

Even if an STR were somehow construed to be "recreational", this subsection does not authorize STRs for two additional reasons. It requires that the "recreational use" be "private." But STRs are offered to the public, hence they are not "private".

Finally, the code defines "recreational facilities, private" to be an "Accessory Use". The use of houses as full time rentals cannot conceivably be considered an Accessory Use. We note that since the code permits use as an accessory to "a dwelling unit", it does not permit Multi-Family ("home stay") STRs either.

The CCC staff also observes that "Sections 9.61.020 and Chapter 9.75 of the IP contain Applicable definitions for various types of overnight accommodations" then concludes, "[a] CDP is thus appropriate here as a means of regulating changes in intensity of use in residential areas of the City's Coastal Zone by placing new restrictions on STRs." SR 3. This is a complete non-sequitur. Nowhere does the staff identify definitions which support this claim. Neither the city staff nor the Commission staff address the textual analysis contained in our brief at pages 21-24.

The staff further claims:

“The STR critics contend that the proposed cap for non-primary STR permits, and moreover the STR program as a whole, more generally, is not allowed at all, by referring to recent case law (e.g. *Kracke v. City of Santa Barbara*, *Keen v. City of Manhattan Beach*, and *Protect our Neighborhoods v. City of Palm Springs*) SR 24-25.”

This is completely wrong. We have never contended that these cases establish that Dana Point bars STRs. Rather, in response to the City’s claim that “if applied to Dana Point” these cases will lead to the conclusion that STRs **are permitted**, we have pointed out that none of these cases so hold.

The staff report next claims that “ a change in circumstance, precipitated by [the] three ... Court of Appeal opinions, now means that the City legally finds STRs to be allowable uses in residential zones. More specifically, IP Section 9.09.020 allows “recreational facilities, private” as an accessory use for all residential districts.” SR 24.

As we have repeatedly pointed out, nothing in the three Court of Appeals decisions supports the assertion, that the City now “legally finds STRS to be allowable uses in residential zones.” We addressed these cases in our Brief at pp. 16-18. Neither the City nor Commission staff has responded to our arguments demonstrating why these cases do not so hold.<sup>3</sup>

Finally, the staff cites Chapter 9.61.020 for the proposition that Dana Point is entitled to interpret its certified Zoning Code and “Chapter 9.75 contains applicable definitions for what constitutes STRs, as compared with other types of overnight accommodations.” SR 24.

First, contrary to the staff’s claim nowhere is STR defined in the City Codes. As outlined in our opening brief, to the extent the codes define “transient” accommodation, they *bar* transient accommodation, i.e. STRs, in residential neighborhoods.

We agree that generally speaking the City has the right to interpret its own codes. But the notion that the City can baselessly alter its interpretation fails for two reasons.

First, under Chapter 9.6.020(4):

All interpretations of the Zoning Code shall be recorded in writing. The record of interpretations made by the Director shall be kept on file in the Community Development Department and shall be available to the public upon request. These interpretations shall be incorporated into the Zoning Code pursuant to the provisions of Section [9.61.080](#), at such time as is deemed appropriate by the Director.

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<sup>3</sup> None of those cases ever mentioned Section 9.09.020 and “recreational facilities”, much less held that it authorizes STRs.

No such new interpretation of the Zoning Code to permit STRs in residential neighborhoods was ever incorporated into the Zoning Code pursuant to Section 9.61.080. Quite the contrary, the City is trying to avoid proceeding by amendment to the Zoning Code because a CDP is “more flexible” according to the City Attorney.

Second, while Cities may interpret their own zoning codes, the interpretations must be reasonable. See, *Protect our Neighborhoods v. City of Palm Springs supra*. (“...the rule of deference to a city’s interpretation of its own ordinance means that two cities could interpret identical language in two different ways, and we would have to accept both interpretations, if they were **reasonable**.” *Id.* AT 680. (Emphasis supplied.) Here, as discussed at length, the CCC staff interpretation is not reasonable.

## **CONCLUSION**

For all of the foregoing reasons, Appellants respectfully request that the Commission find Substantial Issues and grant this appeal.

Dated: September 2, 2022

Respectfully submitted,

KIM TARANTINO  
MARK ZANIDES



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September 2, 2022

**VIA EMAIL:**

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**RE: Appeal Number: A-5-DPT-22-0038; Appeal of City of Dana Point Local Coastal Development Permit No. 20-0010 to establish a short-term rental (STR) Program; September 7, 2022 Meeting Agenda Item 12.b**

Dear Chair Brownsey and Honorable Commissioners:

On behalf of UNITE HERE Local 11 (“**Local 11**”), this office respectfully provides the following comments to the California Coastal Commission in support of Local 11’s referenced appeal (“**Appeal**”).

We respectfully urge the Commission to find Substantial Issue here as the City of Dana Point’s proposed CDP is inconsistent with the public access policies of the Coastal Act, has significant precedential value for future decisions on the impacts of Short-Term Rentals (“**STRs**”) in the Coastal Zone, and raises issues of regional and statewide significance. Whether Substantial Issues exist turns on the Commission’s analysis of factors including consistency with the public access policies of the Coastal Act, the extent and scope of the development, the significance of the coastal resources affected by the decision and the precedential value of the local government’s decision. *Hines v. Coastal Commission*, (2010) 186 Cal. App 4th 831, 849; 14 Cal. Code Regs. Section 13115(b).

Substantial Issues warrant additional review by the Commission here. The record shows that:

**1. Dana Point’s Local Coastal Program (“LCP”) Does Not Permit STRS In Residential Zones.**

- The staff report asserts for the first time that the certified LCP currently allows STRs in *all* residential zones. This assertion is not supported. The City’s longstanding position is that STRs are not permitted in the City. *The precedential value of the Appeal is high.*
- Specifically, LCP Implementation Plan Section 9.09.020 allows for “recreational facilities, private” as an accessory use for all residential districts. The term “recreational facilities” is not a STR.
- The Dana Point Code defines “recreational facilities, private” to be an “Accessory Use.” Using an entire house as a full-time STR cannot conceivably be considered an “Accessory Use” since that is the primary use of the structure.
- Adding (or even restricting) STRs in the City constitutes a change to the LCP and should not be altered via Coastal Development Permit.



**2. Dana Point Already Provides Ample Visitor Serving Accommodations And Permitting STRs Could Cannibalize Existing Stock Of Low Cost Accommodations.**

- Dana Point offers 1,984 visitor-serving overnight accommodations with another 120 planned soon.
- Dana Point also offers ample access and on-site free parking at several beaches.
- 60 visitor-serving accommodation per 1,000 residents in the City is far higher than most coastal cities.
- Promoting the proliferation of STRs may not result in a net increase in lower cost-overnight accommodations (“LCOAs”), as:
  - whole unit rentals (whether they are unhosted or so-called “hosted multi-family”) are generally unaffordable.
  - they compete with and cannibalize existing traditional LCOAs in hotels.

**3. As the Proposed CDP Allows for Numerous Whole Home Rentals, It Does Not Balance the Need for LCOAs with California’s Housing Crisis.**


- The STR program will allow numerous whole unit STRs: 54 new Primary unhosted STRs, 190 Unhosted mixed use (called “Non-primary STRs”), and *unlimited* Multi-Family “home stays” (1 per building) – all opportunities for well-funded investors to convert otherwise long-term rental units to STRs. These whole home STRs are generally not affordable and will not increase LCOAs.

**4. The Coastal Act Requires The Commission To Encourage Housing For Low And Moderate-Income Households (Pub. Res. Code § 30604(F)) Including Many Tourist Industry Workers. The Proposal Here Is Not Consistent With The Public Access Policies Of The Act.**

- Section 30212.5 of the Coastal Act states the Commission should mitigate against the impacts, social and otherwise, of coastal developments.
- Housing is an issue of significant regional & statewide importance. In Orange County, a worker must make over \$40.00 per hour to afford a 2-bedroom apartment.
- Dana Point’s 2021 Regional Housing Needs Assessment calls for 530 additional housing units, planned mostly in the mixed-use Coastal Zone.
- The number of dwelling units used as STRs could exceed the number of dwelling units added in the City during the 2020-2029 time period. The extent and scope of the development here and the significance of the coastal resources affected by the decision are significant.

For all these reasons, we respectfully urge the Commission to find Substantial Issue with regard to Local 11’s Appeal. Thank you for consideration of these comments. We ask that this letter is placed in the administrative record for the Project.

Sincerely,

  
\_\_\_\_\_  
Jordan R. Sisson  
Attorney for Local 11



To: California Coastal Commission

From: Toni Nelson, resident of Dana Point

Re: Zanides/Tarantino/Unite Here Local 11 Appeal of City of Dana Point Resolution No. 22-07-12-01 and CDP 22-0010

Dated: August 8, 2022

I am writing in strong support of the above noted Appeal for reasons set out eloquently in the appellants' document submitted to you on July 27, 2022.

I wish to add additional data in support of 3 statements in the appeal concerning:

- Lack of affordable Housing;
- Lack of regulations to prevent Clustering;
- Lack of due care in establishing STR limits.

#### **LACK OF AFFORDABLE HOUSING:**

I wish to provide additional support for the following statement made on Page 26, Item 3 of the Appeal:

***“Dana Point’s almost non-existent affordable housing stock is a particularly significant factor in this case because it will be eviscerated by this program, which is unnecessary in a City which already may provide more coastal access than any other city in California. This also directly conflicts with the CCC’s access and affordability goals and policies.”***

First, in support of the fact that Dana Point’s affordable housing stock is indeed “almost non-existent”.

1. Information extracted from Multiple Listing Service (MLS) records for Dana Point on July 27, 2022 show exactly one property available for rent in the range of \$0-\$3000 per month (One 870 square foot unit for \$2,975). This data was sent to me via email [link](#) by Dana Point realtor Barbara Wilson on 7/27/22.
2. To prove this is not an anomaly, MLS records for Dana Point on July 22, 2022 show six months’ data for rental properties in the range of \$0-\$3,000 per month. There were a total of 36 units available in this price range in the past six months, averaging 6 per month. All are rented. Only 10 units of the 36 were 1,000 square feet or more. This data was sent to me via email [link](#) by realtor Barbara Wilson on 7/23/22.



3. Four apartment buildings advertise rentals directly, outside of MLS listings (See Exhibit A). None of these is located in the Coastal Zone. Of 1,216 apartment units, there are currently only 11 available for slightly less than \$3,000 per month.
  
4. Combining MLS and apartment direct rental data, it appears that we currently have 12 affordable apartment units available for rent in the City of Dana Point. Per the 2020-21 Comprehensive Annual Financial Report, the City had 14,265 housing units as of 6/30/21 (Exhibit B). Per the Census data provided in Exhibit C, 36%, or 5,135 of Dana Point households are rentals. **It appears that the current availability of affordable housing as a percentage of rental units for the entire city is only .2% (12/5,135) – clearly demonstrating an acute shortage of affordable rental housing.**

I requested data in the range of \$3,000 or less because, according to the California Department of Housing and Community Development (CAHDC), [affordable](#) housing cost for lower-income households is defined *“in State law as not more than 30 percent of gross household income with variations (Health and Safety Code Section 50052.5). The comparable federal limit, more widely used, is 30 percent of gross income, with variations. “Housing cost” commonly includes rent or mortgage payments, utilities (gas, electricity, water, sewer, garbage, recycling, green waste), and property taxes and insurance on owner-occupied housing. “* Note: Utilities cost estimates as a percent of rent varied from 15-20% depending on data source. 15% was used for this exercise.

By this definition, rent of \$3,000 (not including utilities) would require a gross income of \$120,000 per year. The [census](#) data (see Exhibit C) for Dana Point shows 2020 median household income of \$105,250, and median rent, \$2,219. Even rent of \$2,219 per month (2020 numbers are not adjusted for recent inflation) would require household income of \$89,000. A recent [Orange County Register article](#) reports that rents increased 18.5% in Orange County since the spring of 2021 and they appear to be continuing to rise. Even if one pretends there was no increase in rent between the 2020 census taking and the spring of 2021, an 18.5% per month increase on the non-inflation-adjusted 2020 rent of \$2,219 would bring median rent to \$2,630. This would necessitate household income of \$105,000 and \$121,000 with a conservative estimate of 15% for utilities (i.e. \$3,024/month rent and utilities). **The reality is that today there is almost nothing available to rent for less than \$3,000 per month city wide, necessitating income of \$120,000 per year and \$138,000 with utilities - far beyond the median Dana Point household income of \$105,250.**

Exhibit C shows 39% of Dana Point households earn less than \$75,000. The city is divided into five districts. District 4, commonly called the Lantern District, lies partly within the Coastal Zone. It is one of the two districts with the most STRs (due to lack of HOAs), and is home to **49% of households earning less than \$75,000**. Many of these are minority households: demographics show that **44% are other than non-Hispanic white** (24% in the entire City). 62% of Lantern District residents are renters (36% of Dana Point residents citywide are renters.)

Unfortunately, the census data only classifies household income in broad categories of “less than \$ 75,000” and then “\$75,000 to \$200,000” making it difficult to determine exactly how many Dana Point residents earn less than \$120,000 or \$138,000 per year. However, City demographic data breaks things down more precisely. According to demographic data contained in the 2021 CAFR (Exhibit B), 9.2% of households earned \$75,000 to \$100,000 and 18% earned \$100-\$150,000. Therefore, **48% of Dana Point residents earn less than \$100,000, although “affordable” rent requires an income of \$120,000 (\$138,000 with utilities). If the \$100-\$150,000 range is evenly distributed, approximately 62% of Dana Point households cannot manage “affordable” rent of \$3,000 per month plus 15% utilities.**

As we have seen, there is little affordable housing in Dana Point. The City’s failure to honor its obligations to preserve low cost housing under both the Coastal Act and its own LCP is evident in its decision to permit “multi-unit homestays” - one STR per multi-unit building (as long as someone affiliated with ownership resides in the building) with NO limit on how many buildings can be used for STRs. These are buildings that are *most* likely to house lower income tenants. Again, due to the City’s lack of appropriate review, we do not know exactly how many multi-unit buildings are at risk, but at risk they are. We conservatively calculated that there is a potential for 816 total STRs in the Coastal Zone – 115 unhosted traditional STRs, 190 in mixed use (commercial/residential) zones, 200 in 2-4 multi-dwelling buildings, and 311 in 5+ multi-dwelling buildings.

### **LACK OF REGULATIONS TO PREVENT CLUSTERING:**

I wish to provide additional support for the following statement in the Appeal (p. 20):

***“The Coastal Act also requires, whenever feasible, for public facilities to be “distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.” ”***

City of Dana Point [STR stats](#) were presented in an August 21, 2021 Stakeholder meeting (9.37 in video). They show that over 70% of STRs (of 135 at the time) are

located in two districts: there are 42 in District 4 (Lantern District) and 54 in District 5 (Capistrano Beach). Each of these areas is partially within the Coastal Zone and each has few HOAs and thus no protection against STRs.

Beach Road in Capistrano Beach is an historic community with 186 homes including 34 STRs, and is one of the main places that new unhosted STRs are expected to cluster. In fact, at the July 21<sup>st</sup> Council [meeting](#) (4.33 in video) when the CDP was approved, Councilman Villar suggested that having 115 unhosted STRs in the coastal zone would “*leave Beach Road for a free for all*”, suggesting that “*we’ll have 115 on Beach Road.*” In addition to its existing 34 and the potential for some of the additional 54 unhosted STRs now allowed in the coastal zone, Beach Road is home to 14 multi-family units that would be eligible as additional “multi-unit home stay” STRs subject to no caps (i.e. owner occupies one of the units). Even without any new unhosted STRs, potentially 26% of the Beach Road community will comprise highly lucrative STRs, and if Mr. Villar is correct and all of the new STRs plus the 14 multi-unit home stays become STRs on Beach Road, they could have a maximum of 102 units – 55% of the community. An historic residential neighborhood will be irrevocably changed, but, ironically it would do little to achieve the goal of *affordable* coastal access - properties on Beach Road range from \$4 to \$6 million with commensurate nightly rates for STRs.

Now that the City has bifurcated the STR program, there is even more opportunity for clustering in the coastal zone as landlords are tempted to choose more lucrative short term rentals over long term tenants. For example, the community of Monarch Hills consists of 325 units in about 40 separate buildings of 6-8 units each which are popular with out of town investors. The community currently includes 26 permitted (2016 grandfathered) STRs. The condos are smaller units which are more likely to be “affordable” long term rentals than most Dana Point homes in the coastal zone. Monarch Hills’ CC&Rs allow STRs of 7 days duration or more, which will allow investors to apply for permits as unhosted STRs under the expanded program. In addition, 42% of primary owners reside in these condos. Each of them may also qualify for a second investment unit under the “multi-family homestay” provision which allows for no caps on STRs to the extent of one for each of the 40 buildings if a primary owner lives in another unit onsite.

The current and proposed STR programs provide no buffers to protect neighborhoods from becoming de facto “hotel” or “party districts” catering to tourists. Nothing prevents entire blocks or streets in popular areas from being transformed from ordinary residential neighborhoods to commercial tourist districts. Without regulations addressing clustering, this resolution violates the Coastal Act and has the potential to destroy the character of neighborhoods.

## LACK OF DUE CARE IN ESTABLISHING STR LIMITS

I wish to provide additional support for the following statement in the Appeal (p. 26):

***“...the City adopted a CDP with very significant impacts that were not studied appropriately by the staff, much less understood by the Council. The fact that the Planning Department was not even able to provide data for the number of housing units of each type within the Coastal zone speaks volumes.”***

I was astounded that the City Council approved this program without an appropriate public hearing or public vetting of the final resolution, which was significantly different from the plan published in the agenda. The Council did not consider data regarding the number and nature of housing units in the Coastal Zone nor the impact on housing stock of its hastily drafted STR resolution. Indeed, not only did the Council not consider these facts at the time the STR program was adopted, **the city staff did not even possess such data** (see Exhibit D for the email exchange between me and City of Dana Point senior planner Johnathan Ciampa and Shahar Amitay, CCC Coastal Program Analyst).

The lack of analysis is further demonstrated by the fact that the Council seemingly pulled a number out of thin air when it approved 190 mixed use STRs in the Coastal Zone. In fact, the Dana Point Coastal Zone only has a total of 195 units planned. **Could the Council have actually intended to assign virtually all mixed use residential units to tourists, particularly when affordable housing is almost non-existent?**

Furthermore, failing to cap STRs on so called “primary units” (vacation rentals of one’s own residence for up to 60 days per year) is an invitation to abuse. The program provides no mechanism for determining whether the permit holder is indeed the primary residential owner, no mechanism for preventing LLCs and corporate investors from buying scores of properties with separate entities, and no mechanism for auditing whether people are actually renting for only 60 days per year. The truth is that this is a very unpopular STR category. Very few people want to rent their private homes to strangers for security and privacy reasons. The no-cap provision threatens to convert an “almost never” STR category into an opportunity for rampant abuse. Currently Dana Point has 126 “legal” permits, but AirDNA shows that 350-420 or more STRs are regularly advertised on platforms. The City’s lackluster record for enforcing STR provisions provides little comfort to dismayed residents who fear even more illegal activity will simply be disguised as “primary” STRs.

## CONCLUSION

As the Appeal clearly proves, Dana Point may already provide more visitor accommodations at every price point than any other coastal city. Why should Dana Point citizens *also* be forced to sacrifice affordable housing and the quality of life in formerly residential neighborhoods to provide even more coastal access?

It is interesting to note that last week's Dana Point Times contains an [article](#) describing a renovation of an historic building in downtown Dana Point. The building is zoned mixed use, and according to the article, although it was approved for 68 residential units along with commercial space, the owners decided to build 23 one and two bedroom apartments to be used as "bed and breakfast" accommodations for tourists plus commercial space. This will add even more tourist accommodations to the 1,994 existing and 2,649 planned tourist accommodations quoted in the Appeal, but unfortunately, will not help replenish housing stock. It also highlights clearly how providing tourist accommodation is far more lucrative than long term rentals. Residents suspect that much of the mixed use development to be allowed in the Doheny Village area of Dana Point (currently under CCC review) will be similarly skewed to tourist accommodation instead of badly needed housing.

**If it stands, Dana Point's CDP will not only add far more tourist accommodations to a City that has already done a great deal to provide coastal access, but it will surely decimate residential housing in the process.**

I urge you to review the Appeal carefully. I am sure you will see, as citizens do, that the Dana Point City Council has not only attempted to circumvent the Coastal Act, but has shown blatant disregard for the housing needs and residential properties of citizens they are sworn to serve.

In short, I ask the California Coastal Commission to do something our City has not done – protect our residential neighborhoods, and preserve scarce housing for residents, particularly those at lower income levels. Please grant the appeal and reverse CDP 22-0010.

Respectfully submitted,

Toni Nelson,

Capistrano Beach

# EXHIBIT A

## Letter from Dana Point Realtor, Barbara Wilson 8/8/22

August 8, 2022

As a realtor I see "affordable" rental stock nearly non-existent in Dana Point. Documentation submitted from Orange County Multiple Listing Service supports this fact. Apartment inventory is another indication of the difficulty long term renters experience in finding affordable housing. . There are 4 main apartment complexes in Dana Point. The following shows the availability of properties in the "affordable range" of \$3000 per month at each development based on a September 2022 occupancy. These numbers were gathered from discussions with rental agents at each development.

Villas at Monarch Beach	(949) 649-7524	23731 Mariner Dr.	218 Apartments
3/1 Bd. \$2765 mo.		2/2 BD \$3065	2/2bd. 2 Ba \$3510
Harbor Pointe	(949) 661-2844	32762 Sutton	196 Apartments
1/1 Bd. \$2937		3/2 BD \$3872	
Seabrook	(949) 539-0845...	56 Sea Terrace	402 Apartments
4/1 Bd. \$2900		2/2 Bd. \$3583	
Marea.....	(949) 894-4771	32400 Crown Valley	400 Apartments
3/1 BD \$2850-\$3200		5/2 Bd. \$3500-\$4000	

In summary with these numbers, over 1200 apartment units, there are only 11 that fall in the "affordable" range of approximately \$3000 per month with a very small vacancy factor.

Sincerely,

Barbara Wilson

**Source:** Received via email from Barbara Wilson 8/8/22

# Exhibit B

## City of Dana Point Demographic Statistics

### Per 2020-21 CAFR

12/07/21

Page 112  
CITY OF DANA POINT  
Demographic and Economic Statistics  
Last Ten Fiscal Years

Item #6

	2012 (2)	2013 (2)	2014 (2) (5)	2015 (2) (5)	2016 (2) (5)	2017 (1) (5)	2018 (1) (5)	2019 (1) (5)	2020 (1) (5)	2021 (1) (5)
Population	33,054	33,398	33,625	33,710	34,264	34,902	34,619	34,359	34,139	33,745
Age Distribution:										
0 - 4	1,675	1,544	1,541	1,546	1,490	1,493	1,482	1,442	1,430	1,393
5 - 14	3,593	3,146	3,191	3,214	3,261	3,288	3,243	3,193	3,199	3,123
15 - 19	2,151	2,046	2,034	1,949	1,941	1,621	1,627	1,604	1,577	1,530
20 - 24	1,340	1,481	1,452	1,479	1,468	1,928	1,856	1,756	1,707	1,634
25 - 34	4,302	4,045	4,102	4,135	4,220	4,357	4,295	4,287	4,280	4,259
35 - 44	4,390	3,958	3,934	3,888	3,956	4,020	3,953	3,969	3,980	4,008
45 - 64	10,341	10,917	10,823	10,692	10,781	10,517	10,366	10,127	9,973	9,595
65 - 74	2,732	3,492	3,691	3,884	4,097	4,351	4,447	4,531	4,531	4,628
75 - 84	1,836	1,913	1,958	1,993	2,095	2,256	2,291	2,375	2,386	2,496
85 and over	694	856	899	930	955	1,071	1,059	1,075	1,076	1,079
<b>Total</b>	<b>33,054</b>	<b>33,398</b>	<b>33,625</b>	<b>33,710</b>	<b>34,264</b>	<b>34,902</b>	<b>34,619</b>	<b>34,359</b>	<b>34,139</b>	<b>33,745</b>
Median Age	43	46	46	46	46	47.5	48.5	47.3	47.3	47.5
Per capita income	\$ 44,704	not avail	\$ 49,928	\$ 48,454	\$ 52,160	\$ 58,218	\$ 61,088	\$59,496	\$62,138	\$65,140
Personal income (,000,000) (5)	\$ 1,663	\$ 1,723	\$ 1,699	\$ 1,649	\$ 1,743	\$ 1,811	\$ 1,841	\$1,927	\$2,078	\$2,175
Median household income (1) (2) (5)	\$ 73,696	\$ 76,268	\$ 80,603	\$ 78,758	\$ 82,065	\$ 95,346	\$ 102,250	\$100,389	\$104,270	\$109,810
Average household income (1)	\$ 101,662	\$ 111,397	\$ 113,298	\$ 112,325	\$ 117,539	\$ 136,926	\$ 143,962	\$140,455	\$146,594	\$152,599
Civilian unemployment rate (1)(2)(3)(4)(5)	n/a	5.9%	5.5%	5.2%	4.2%	3.8%	3.2%	2.7%	2.6%	7.8%
Number of families (1) (2)	9,097	8,826	8,892	8,918	9,099	9,008	8,950	8,779	8,842	8,783
Number of households (1) (2)	14,328	14,405	14,515	14,568	14,879	14,657	14,506	14,431	14,347	14,265
Average household size (1) (2)	2.29	2.31	2.30	2.30	2.29	2.37	2.37	2.33	2.37	2.35
Households, by income: (1) (2)										
Less than \$15,000	866	954	945	827	827	753	770	740	779	684
\$15,000 - \$24,999	899	1,064	1,075	1,141	1,034	861	827	800	783	695
\$25,000 - \$34,999	920	991	1,014	1,206	1,097	776	677	719	756	769
\$35,000 - \$49,999	1,716	1,742	1,544	1,545	1,557	1,295	1,201	1,191	1,124	1,084
\$50,000 - \$74,999	2,915	2,355	2,212	2,283	2,398	2,153	1,942	2,169	2,033	1,890
\$75,000 - \$99,999	2,009	1,902	2,086	1,876	1,863	1,755	1,650	1,563	1,387	1,323
\$100,000 - \$149,999	2,600	2,535	2,419	2,545	2,552	2,703	2,750	2,749	2,532	2,573
Over \$150,000	2,403	2,862	3,220	3,145	3,551	4,361	4,689	4,469	4,953	5,247
<b>Total</b>	<b>14,328</b>	<b>14,405</b>	<b>14,515</b>	<b>14,568</b>	<b>14,879</b>	<b>14,657</b>	<b>14,506</b>	<b>14,400</b>	<b>14,347</b>	<b>14,265</b>

- (1) Source: ESRI Business Information Solutions
- (2) Source: The Nielsen Company
- (3) Source: Bureau of Labor Statistics
- (4) Reflects calendar year unemployment rate. Rate for 2012 is not available.
- (5) Source: HDL Coren & Cone

**Source:** City of Dana Point 2020/21 Comprehensive Annual Financial Report, Page 97.  
<https://www.danapoint.org/home/showdocument?id=33601&t=637740514037571028> staff report page 112.

# Exhibit C

## City of Dana Point Demographic Statistics

### Per NDC/2020 Census

NDC		Dana Point - Current Districts (2020 Adjusted)					February 15, 2022	4
District		1	2	3	4	5	Total	
2020	2020 Census (Raw)	6,426	6,977	6,621	6,667	6,463	33,144	
	Deviation from ideal	15%	26%	32	39	34%	464	
	% Deviation	-291%	-410%	0.79%	0.58%	-2.54%	-6.51%	
2017 Total Pop	% Hispanic	10%	16%	22%	27%	17%	19%	
	% NH White	76%	71%	68%	65%	72%	71%	
	% NH Black	2%	1%	1%	1%	1%	1%	
	% Asian-American	7%	6%	9%	4%	3%	6%	
	Total	5,765	5,563	5,179	5,180	5,372	26,977	
Grown Young Age Pop	% Hispanic	8%	13%	12%	14%	12%	12%	
	% NH White	87%	79%	82%	76%	79%	81%	
	% NH Black	0%	2%	2%	1%	2%	1%	
	% Asian/Pac Isl	3%	3%	3%	6%	4%	3%	
	Total	3,749	3,053	4,310	4,323	3,987	24,523	
Voter Registration (Nov 2020)	% Latino est	3%	10%	12%	11%	10%	9%	
	% Spanish-Speaking	4%	9%	11%	11%	9%	9%	
	% Asian-Speaking	2%	2%	3%	2%	2%	2%	
	% Filipino-Speaking	3%	1%	1%	1%	0%	1%	
	% NH White est	90%	80%	80%	80%	80%	80%	
	% NH Black	0%	2%	2%	1%	2%	1%	
	Total	3,463	3,416	3,291	2,780	3,440	16,299	
Total Percent (Nov 2020)	% Latino est	3%	9%	10%	9%	9%	7%	
	% Spanish-Speaking	4%	9%	9%	9%	8%	8%	
	% Asian-Speaking	2%	2%	2%	2%	2%	2%	
	% Filipino-Speaking	3%	1%	1%	1%	0%	1%	
	% NH White est	92%	89%	89%	89%	89%	89%	
Total Percent (Nov 2020)	% Latino est	3%	9%	10%	9%	9%	7%	
	% Spanish-Speaking	4%	9%	10%	9%	9%	9%	
	% Asian-Speaking	2%	2%	3%	2%	2%	2%	
	% Filipino-Speaking	1%	1%	1%	1%	0%	1%	
	% NH White est	92%	89%	89%	89%	87%	87%	
Total Percent (Nov 2020)	% Latino est	3%	9%	10%	9%	9%	7%	
	% Spanish-Speaking	4%	9%	10%	9%	9%	9%	
	% Asian-Speaking	2%	2%	3%	2%	2%	2%	
	% Filipino-Speaking	1%	1%	1%	1%	0%	1%	
	% NH White est	92%	89%	89%	89%	87%	87%	
All Pop Est	Total	6,847	7,327	6,318	7,189	6,107	33,825	
	age 18	14%	22%	10%	10%	12%	10%	
	age 18-60	49%	49%	43%	56%	39%	39%	
	age 60+	37%	30%	41%	24%	38%	34%	
	immigrants	13%	10%	10%	16%	12%	13%	
Language spoken at home	english	92%	82%	90%	72%	89%	84%	
	spanish	1%	9%	9%	23%	11%	10%	
	other lang	2%	2%	1%	2%	1%	1%	
	other lang	4%	7%	4%	3%	2%	4%	
Language fluency	Speaks Eng. "Less than Very Well"	3%	4%	2%	13%	1%	4%	
	is good	26%	29%	34%	42%	39%	34%	
Education (among those age 25+)	bachelor	41%	34%	34%	23%	29%	35%	
	graduate/some	24%	23%	19%	16%	14%	19%	
	child-under 18	17%	25%	19%	23%	14%	20%	
Pct of Pop. Age 18+	employed	58%	65%	38%	68%	60%	43%	
	unemp. 0-2wks	10%	8%	14%	11%	7%	10%	
	unemp. 25-9wks	1%	1%	1%	2%	1%	1%	
	unemp. 90-99%	10%	16%	11%	15%	13%	13%	
	unemp. 75-90%	40%	42%	17%	37%	48%	41%	
Household Income	median 200k-plus	27%	22%	21%	14%	17%	20%	
	single family	67%	74%	61%	44%	60%	68%	
	multi family	33%	26%	39%	56%	39%	32%	
	rental	31%	30%	23%	62%	30%	30%	
	owned	69%	70%	77%	38%	70%	68%	

City of Dana Point  
Demographic  
Summary of  
Existing Districts

Total population data from the California adjustment to the 2020 Decennial Census. Citizen Voting Age Pop. from the 2015-2019 American Community Survey and Special Tabulation 5-year data.

Each of the 5 districts must contain about **6,629** people.



Source: <https://www.danapoint.org/home/showpublisheddocument/33943/637805432129170000> Page 4



## Exhibit D

### Emails with City of Dana Point/CCC Re: Housing Units in Coastal Zone

Please read from the bottom, up. Note that no response was received to the email of July 21 from the City of Dana Point. Citizens managed to estimate housing units for purposes of the appeal, but would have much preferred to have verified city data. It simply does not appear to exist.

----- Forwarded message -----

From: **Toni Nelson** <[tonidn1@gmail.com](mailto:tonidn1@gmail.com)>

Date: Thu, Jul 21, 2022 at 3:37 PM

Subject: Re: City of Dana Point Draft STR Policy

To: Johnathan Ciampa <[JCiampa@danapoint.org](mailto:JCiampa@danapoint.org)>

Cc: Amitay, Shahrar <[shahrar.amitay@coastal.ca.gov](mailto:shahrar.amitay@coastal.ca.gov)>

How do we assess the impact, for instance, of unlimited STRs in multi family units if we don't know how many such units exist in the coastal zone? Can you suggest an appropriate way to estimate these?

Also, can you provide something substantive to support that the land side of Camino Cap is definitely not in the coastal zone even though the boundary line seems to be partially through these properties?

Thank you.

On Thu, Jul 21, 2022 at 3:28 PM Johnathan Ciampa <[JCiampa@danapoint.org](mailto:JCiampa@danapoint.org)> wrote:  
Toni and Shahrar,

Below is a link to the City's Housing Element where all of the City's available housing information is provided. Starting on page 137 of the PDF and on page H-130 of the document is discusses housing in the Coastal Zone but it does not provide a total number of housing units in the Coastal Zone. I am sorry I was not able to provide more detailed information.

My email attached from April 21, 2022, provides the best available information from the City records that I can find. (highlight added)

<https://www.danapoint.org/home/showpublisheddocument/34578/637927062974200000>

**John Ciampa**

Senior Planner

City of Dana Point, Planning Division

33282 Golden Lantern

Dana Point, CA 92629

949-248-3591

[JCiampa@DanaPoint.org](mailto:JCiampa@DanaPoint.org)

**From:** Toni Nelson <[tonidn1@gmail.com](mailto:tonidn1@gmail.com)>  
**Sent:** Thursday, July 21, 2022 2:59 PM  
**To:** Amitay, Shahar@Coastal <[shahar.amitay@coastal.ca.gov](mailto:shahar.amitay@coastal.ca.gov)>  
**Cc:** Johnathan Ciampa <[JCiampa@DanaPoint.org](mailto:JCiampa@DanaPoint.org)>  
**Subject:** Re: City of Dana Point Draft STR Policy

Thank you Shahar. Yes, we have data on total units in the whole city. We don't have this data for the coastal zone which is the area we are appealing and the only area now under CCC jurisdiction. I was asking if you had such data but it appears you only have city wide data as do we. It's difficult to assess the impact in the coastal zone without knowing the total number of dwelling units in each category.

Johnathan as you know we asked for this data days ago and would love to have it from any source. We only asked Shahar because it was not forthcoming and we need it for the appeal.

Thank you,

Toni

On Thu, Jul 21, 2022 at 2:08 PM Amitay, Shahar@Coastal <[shahar.amitay@coastal.ca.gov](mailto:shahar.amitay@coastal.ca.gov)> wrote:  
Hi Toni,

As I have said before, I think the answers to many of your questions can be found in the attached [report](#). For example, please see discussion on Page 10 of the report regarding the number of multi-family properties and the total number of housing units citywide.

I am also cc'ing John with the City's Planning Division, who may be able to address your specific questions. Moving forward, if you have any additional substantive questions of this kind, please communicate with City staff. If you have any procedural questions concerning the appeals process, I will continue to assist you.

John—please ensure to cc me on correspondence with Toni regarding the appeal and/or which may contain pertinent information for Commission staff analysis. The questions below are also of interest to Commission staff.

Thank you,

Shahar Amitay | Coastal Program Analyst  
CALIFORNIA COASTAL COMMISSION  
South Coast District Office  
[301 E. Ocean Blvd, Suite 300](#)  
[Long Beach, CA 90802](#)  
[\(562\) 590-5071 Ext. 2238](#)

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**From:** Toni Nelson <[tonidn1@gmail.com](mailto:tonidn1@gmail.com)>  
**Sent:** Wednesday, July 20, 2022 9:38 PM  
**To:** Amitay, Shahar@Coastal <[shahar.amitay@coastal.ca.gov](mailto:shahar.amitay@coastal.ca.gov)>  
**Subject:** Re: City of Dana Point Draft STR Policy

Shahar, I'm confused by your response. Yes, we have the resolution and understand the appeals process. What we're having trouble assessing is the impact of the resolution in the coastal zone because the city has been unable to give us precise data as to how many housing units exist in the coastal zone, how many are SFRs vs. multi units, how many are mixed use etc. We know how many STRs they want to create but in categories with no caps, we can't assess the impact without knowing how many possible units exist. We're trying to figure this out as best we can, but the city has not provided the details and it's pretty impossible to calculate from the maps. We're making our best guesses as to how many possible housing units we can lose. In the case of Camino Capistrano, I have two answers. Which is correct?

On Wed, Jul 20, 2022 at 8:50 AM Amitay, Shahar@Coastal <[shahar.amitay@coastal.ca.gov](mailto:shahar.amitay@coastal.ca.gov)> wrote:  
Hi Toni,

These are questions that the City has answered in its various reports to the Planning Commission and City Council. I recommend that you reach out to City staff for additional information. In any case, I am attaching those reports for your reference.

The post-certification map is also posted on the City's [website](#). This version of the map is not the official map that the Commission has approved, but it is higher resolution and presents very similar information. You should be able to find the information that you need there.

Hope this helps,

Shahar

**From:** Toni Nelson <[tonidn1@gmail.com](mailto:tonidn1@gmail.com)>  
**Sent:** Tuesday, July 19, 2022 9:01 PM  
**To:** Amitay, Shahar@Coastal <[shahar.amitay@coastal.ca.gov](mailto:shahar.amitay@coastal.ca.gov)>  
**Subject:** Re: City of Dana Point Draft STR Policy

Shahar, can you clarify something for us please? The city has been unable to provide statistics for the number of housing units, multi-family units, etc. in the coastal zone. I know it's hard to believe they would pass new regulations without understanding the potential impact, but that's unfortunately what they did. We are trying to figure it out ourselves.

The map is somewhat ambiguous. I noted that on my street, Camino Capistrano, the bluff homes are clearly in the coastal zone but the boundary line appears to be part way into the property lines of the homes across the street, most of which are duplexes or other multi-unit dwellings. At first I was told that if a property is partially in the coastal zone, it is considered to be in the coastal zone, but then when I asked specifically about Camino Capistrano, I was told that only the bluff side is in the coastal zone. Does the CCC have maps showing streets and boundary lines? Can you confirm that only the bluff side of Camino Capistrano is in the coastal zone?

Thank you,

Toni Nelson

On Tue, Jul 19, 2022 at 5:41 PM Amitay, Shahar@Coastal <[shahar.amitay@coastal.ca.gov](mailto:shahar.amitay@coastal.ca.gov)> wrote:  
Hi Toni,

Please see the attached Notice of Appeal Period. The appeal deadline for the Dana Point STR coastal development permit is stated therein.

If you are looking for the Commission's appeal form, it can be found on our website [here](#). Additional information can be found in our [Appeal Process FAQ Sheet](#) and our [Appeal Information Sheet](#).

Thank you, and please reach out if you have any additional questions or concerns.

Shahar

**Shahar Amitay** | Coastal Program Analyst

CALIFORNIA COASTAL COMMISSION

South Coast District Office

[301 E. Ocean Blvd, Suite 300](#)

[Long Beach, CA 90802](#)

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