

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
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Th10a

LCP-5-NPB-23-0020-2

(FRACTIONAL OWNERSHIP & TIME SHARE)

SEPTEMBER 7, 2023

CORRESPONDENCE

August 30,2023 Correspondence to CA Coastal Commission (CCC) re.

September 2023 Agenda Items Th10a-

City of Newport Beach LCP-5-NPB-23-0020-2 (Fractional Ownership) Time Extensiion Only

Sent via email to: SouthCoast@coastal.ca.gov. att. Fernie Sy, Senior Coastal Planner

COMMENTS AND REQUEST TO ACCELERATE HEARING AND COMMISSION APPROVAL OF MINOR LCP AMENDMENTS TO CITY TIMESHARE ORDINANCE

Please distribute this correspondence to the California Coastal Commissioners and enter into the Public Record

Honorable Chair Brownsey and Commissioners:

Thank you for the recent notification received from Fernie Sy regarding the California Coastal Commission's upcoming hearing scheduled for September 7, 2023 at 9:00 am PT. The agenda stated the purpose of the meeting as follows:

“ Public hearing and action to extend time limits for action for one year on City of Newport Beach's request to amend the certified Implementation Plan of the City's Local Coastal Program to clarify that Fractional Ownership uses are defined as a Time Share Use within the City of Newport Beach, and minor cleanup revision to existing Tiimeshare regulations”.

This hearing was noticed subject to the Commission's cancellation of an item on the previous August 10,2023 agenda, with postponement stated to be due to, an error regarding noticing.

We are a leadership council comprised of representative and residents of multiple communities in Newport Beach, including but not necessarily limited to: Central Balboa Peninsula; Balboa Peninsula Point; Balboa Island; Corona del Mar; West Newport and Newport Island; and surrounding residential areas.

We are writing to express our objection to the proposal to extend time limits for action for one year. Our objection is based on the following:

1. The residents of Newport Beach have been working through multiple public hearings with the City Planning Commission and the City Council for the past two years, to address concerns associated with growing number of Timeshare fractional ownership business uses being established in and impacting our dense residential neighborhoods. This exhaustive process resulted in the City's enactment of ordinances in May of 2023, updating the City's already existing Time share ordinances to clarify that commercial operators such as Pacasso are selling timeshare interests as defined by Business & Professional Code 11212 (z); and that such uses are prohibited in residential zones, but can be permitted in commercial zones subject to CUP.

The City staff believed that it was advisable to file a request for, and obtain Coastal Commission approval of minor amendment to the City's certified LCP, which was diligently prepared and filed

.by City staff. It was our understanding that the changes would be reviewed and ruling of approval would be completed by the Coastal Commission on August 10, 2023.

While residents have been experiencing adverse impacts associated with the insertion of these commercial Time share uses in our family residential neighborhoods, we have been relying on and entrusting the administrative process to be completed so that the City can begin to administer and enforce its updated Ordinance in the coastal zone.

We only now have come to learn that we may have no relief for yet another year. This is inequitable at best to the residents of our community. This prospect of delay puts residents and our residential communities in harm's way, as commercial Time share fractional ownership businesses continue their expansion . Given the illiquid nature of the commercial Time share/Fractional ownership schemes, there is no remedy for the residents of our community unless the minor LCP amendment is approved, and the City enforces its ordinance (other than having to resort to litigation, which the community would prefer not to do).

2. There can be no doubt the commercial Fractional Ownership uses are Timeshare uses; and, that businesses such as Pacaso are commercial for- profit corporations establishing commercial Time share uses in our residential zones for their financial benefit and return. Arguments this publicly traded corporation has asserted based on "property rights" and "coastal access" are specious. The Company is engaged in the business of marketing and selling, structuring and operating commercial Timeshare fractional ownership businesses. Its receive revenue from property acquisition and sale commissions; structuring of entities where multiple, generally eight or more unrelated parties purchase interests in a property which includes modification of the property deed structure; the parties are required to use Pacaso's proprietary reservation systems and are able to use on a basis restricted to short terms days of various durations. The parties through management contract utilize Pacaso and its stable of vendors for property amenities and services---all of which are provided for charge(note- information from sources in the public domain).Pacaso 's business goals and interests have little if anything to do with "property rights".

This business has expanded in our residential neighborhoods over the past two years without regard for the City's regulations or the residents who live, work, raise families and participate in the community. The ongoing stream of people in and out, and vendors in and out if anything, impedes public access to the coastal zone .

It is most unfortunate that this Corporation has elected to resort to legal threats rather than consider a meaningful approach to establishing operations in appropriate commercial zones.

3. Time is of the essence- The Pacaso business continues its expansion initiatives without respect for residents or the City's regulations. The Company will likely continue to do so until the City's LCP amendment is approved and the City proceeds to enforce its ordinances. Pacaso has already established 12 known operations in our residential neighborhoods with an additional 3-4 in process—enough is enough.

We respectfully request that the Coastal Commission move to hear and approve the City's requested LCP amendment either in this September 7 hearing, or in the October 2023 hearing at latest.

Thank you for your consideration and action.

LEADERSHIP COUNCIL -by

Denys H. Oberman- Resident and Community stakeholder, Balboa Peninsula

Gary Cruz and Gina Cruz- Residents and Community stakeholders, Newport Island/West Newport

Carmen Rawson- Resident and Community stakeholder, Balboa Peninsula

Robert (Bob) Yant- Resident, and President Balboa Peninsula Point Community Association

Debbie Stevens- Resident and President, Corona del Mar Residents Association

Maureen Cotton- Resident and President, Central Balboa Peninsula Community AssociationCCC

Lee Pearl-Resident and President, Balboa Island Community Association

Fred Levine- Resident and Board member, Central Balboa Peninsula Community Association

CC: Residents and other known interested parties

