

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE  
301 E. OCEAN BLVD., SUITE 300  
LONG BEACH, CA 90802  
(562) 590-5071



# Th10a

**LCP-5-NPB-23-0020-2**

**(FRACTIONAL OWNERSHIP & TIME SHARE)**

**SEPTEMBER 7, 2023**

**CORRESPONDENCE 3**

August 31, 2023

Correspondence to CA Coastal Commission (CCC) re.

September 7, 2023 Agenda Items Th10a-

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

Sent via email to: [SouthCoast@coastal.ca.gov](mailto: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 TIME-SHARE 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 (Coastal Program Analyst) 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 Timeshare 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 representatives and residents of multiple communities in Newport Beach, including but not limited to: Central Balboa Peninsula; Balboa Peninsula Point; Balboa Island; Corona del Mar; West Newport; 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 Pacaso are selling "Time-share plans" as defined by Business & Professions Code 11212 (z); and that such uses are prohibited in residential zones, but can be permitted in commercial zones subject to a 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 programs, there is no remedy for the residents of our community unless the minor LCP amendment is approved, and unless the City enforces its ordinance (other than having to resort to litigation, which the community would prefer not to do).

2. There is no doubt that the commercial fractional ownership uses are Time-share uses and that businesses such as Pacaso are commercial for-profit entities establishing commercial Time-share uses in our residential zones for their financial benefit and return. The Arguments which this publicly traded entity has asserted based on "property rights" and "coastal access" are disingenuous. This entity is engaged in the business of marketing and selling, structuring and operating commercial Time-share fractional ownership businesses. It receives revenue from property acquisition and sale commissions and from 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 system and are able to use the acquired share in a property on a basis restricted short-term repeating basis. The parties (through a management contract) utilize Pacaso and its stable of vendors for property amenities and services---all of which are provided for charge (source: Pacaso public information).

Pacaso 's business goals and interests have compromised traditional "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 the related vendors in and out has, in our view, seriously impeded public access to the coastal zone .

It is most unfortunate that this entity has elected to resort to legal threats rather than consider a meaningful approach to establishing operations in appropriate commercial zones within the Newport Beach community.

3. Time is of the essence. The Pacaso business model continues its expansive 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 ordinance. Pacaso has already established 12 known operations in our residential neighborhoods with an additional 3-4 are 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, 2023 hearing, or at the October, 2023 hearing at the latest.

Thank you for your consideration and action.

Sincerely,

Newport Beach Leadership Council -by

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

Gary Cruz and Gina Cruz- Residents and community stakeholders, 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

Lee Pearl-Resident and community stakeholder, Balboa Island

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

CC: Residents and other known interested parties

**From:** [SouthCoast@Coastal](mailto:SouthCoast@Coastal)  
**To:** [Sy, Fernie@Coastal](mailto:Sy,Fernie@Coastal)  
**Subject:** FW: Public comment on September 2023 agenda  
**Date:** Friday, September 1, 2023 12:51:37 PM

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-----Original Message-----

From: Vinod Ghai <[vinod1953@gmail.com](mailto:vinod1953@gmail.com)>  
Sent: Friday, September 1, 2023 12:49 PM  
To: [SouthCoast@Coastal](mailto:SouthCoast@Coastal) <[SouthCoast@coastal.ca.gov](mailto:SouthCoast@coastal.ca.gov)>  
Subject: Public comment on September 2023 agenda

We , as member of the Newport coastal residents are against the fractional ownership/ Time share proposal. It will increase density in already crowded area of peninsula & in case of emergency will create hazards.

Sincerely,

Vinod ghai MD( resident for 11 years)

Sent from my iPad

**FW: Public comment on September 2023**

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 9/1/2023 12:55 PM

To: Sy, Fernie@Coastal <Fernie.Sy@coastal.ca.gov>

-----Original Message-----

From: Poonam Ghai <babyghai37@gmail.com>

Sent: Friday, September 1, 2023 12:54 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public comment on September 2023

We as long time residents of Newport Beach peninsula community are against the time share / fractional ownership proposal being considered by the commission. It further increases the density of the peninsula & increase hazard during emergency evacuations.

Poonam Ghai( A concerned resident)

Sent from my iPad



@better\_LA  
betterneighborsla.org

September 1, 2023

**VIA EMAIL**

California Coastal Commission  
45 Fremont Street #2000  
San Francisco, CA 94105  
[SouthCoast@coastal.ca.gov](mailto:SouthCoast@coastal.ca.gov)

RE: Public Comment on September 7, 2023 Thursday Agenda Item 10.a. to request to extend time limit for Commission action on City of Newport Beach LCP Amendment Request No. LCP-5-NPB-23-0020-2 (Fractional Ownership & Time Share)

Dear Honorable Chair Brownsey and Commissioners,

Better Neighbors is a coalition of hosts, tenants, housing activists, hotel workers and community members. We conduct data analysis and research on the short-term rental industry, including the industry's impact on coastal communities. In addition, Better Neighbors works to promote short-term rental policies that foster true home-sharing, which ensures persons of low to moderate income can access both affordable overnight accommodations and housing in the Coastal Zone. We would like to express our support for the City of Newport Beach Amendment Number LCP-5-NPB-23-0020-2 ("LCPA") and urge the Commission to support it as submitted and concur with the Executive Director's original de minimis determination. Fractional ownership properties in the City of Newport Beach have been reported to have similar issues as short-term rentals, including causing nuisances and impacting community character.<sup>1</sup> Like short-term rentals ("STRs"), fractional ownership properties likely result in similar impacts on housing accessibility and affordability that we have seen STRs cause in other California cities.

First, fractional ownership properties do not preserve existing housing and remove housing from the market. In effect, fractional ownership properties can be compared to unhosted short-term rentals that do not have a primary residency requirement. Unlike hosted STRs where a host lives onsite, unhosted STRs do not function as housing. The same can be said of fractional ownership properties in which no owner is able to be present for more than a few weeks per year. In addition, fractional ownership properties arguably remove housing stock from the market during the state's ongoing housing crisis. According to the California Department of Housing and Community Development's 6<sup>th</sup> Cycle Housing Element Report, Newport Beach must produce

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<sup>1</sup> <https://www.latimes.com/california/story/2023-03-29/newport-beach-battles-a-new-breed-of-luxury-party-houses>

4,845 units, more than 30% of which must be for the very low-income level and 29% must be for above moderate income.<sup>2</sup> While Better Neighbors believes it is important to ensure staff has adequate time to address this item, we also view this LCPA as a piece of the puzzle needed to preserve existing housing stock in the City as it attempts to meet its RHNA goals by 2029.

Second, fractional ownership properties can cause ripple effects on housing costs throughout the region. With a growth in the number of homes owned as fractional ownership properties, less homes may be available on the market for full-time residents. In addition, the corporatization of the fractional ownership market makes it even more difficult for single homeowners to afford to purchase housing.<sup>3</sup> Better Neighbors has seen this impact in the City of Los Angeles. According to a 2022 report authored by David Wachsmuth of McGill University, 2,500 homes have been taken off the market as a result of commercial STRs, and STRS have raised rents citywide \$810 per year.<sup>4</sup> In Newport Beach, according to the National Low Income Housing Coalition, the fair market rent for a one-bedroom unit in Newport Beach is \$3,170, and \$3,810 for a two-bedroom unit.<sup>5</sup> Should a similar situation occur as a result of the growth in fractional ownership properties, rents may become even more expensive in the City of Newport Beach.

In conclusion, Better Neighbors is pleased to see the Commission take another step towards safeguarding housing in the City of Newport Beach. For these reasons, Better Neighbors urges the Commission to support the LCPA as submitted. Should you have any questions, please contact [rebecca@betterneighborla.org](mailto:rebecca@betterneighborla.org).

Sincerely,

/s/ Randy Renick

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<sup>2</sup> 6<sup>th</sup> Cycle Housing Element Implementation and Annual Progress Report Dashboard: <https://www.hcd.ca.gov/planning-and-community-development/housing-open-data-tools/housing-element-implementation-and-apr-dashboard>

<sup>3</sup> <https://www.latimes.com/california/story/2023-03-29/newport-beach-battles-a-new-breed-of-luxury-party-houses>

<sup>4</sup> [http://upgo.lab.mcgill.ca/publication/strs-in-los-angeles-2022/Wachsmuth\\_LA\\_2022.pdf](http://upgo.lab.mcgill.ca/publication/strs-in-los-angeles-2022/Wachsmuth_LA_2022.pdf)

<sup>5</sup> Available data for zip code 92625: <https://nlihc.org/oor/zip?code=92625>