

Adam Zack

From: Ryan Schiess <epicsurveying@gmail.com>
Sent: Wednesday, September 15, 2021 6:08 PM
To: Vacation Rental Comments
Subject: Regarding VR CAPs
Attachments: 2021-09-17_VR_Caps.pdf

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To whom it may concern,

Please read my attached letter regarding the "caps" on vacation rental permits prior to September 17th, 2021.

Thank you,

Ryan

September 17, 2021

Members of the San Juan County Planning Commission
PO Box 947
Friday Harbor, WA 98250

Re: Proposed Use of “Caps” for Regulation of Vacation Rentals in San Juan County

Dear Members of the San Juan County Planning Commission,

I urge you to rescind your decision to recommend an ordinance to the San Juan County Council implementing both a county cap and island-by-island cap on the issuance of new permits for vacation rentals.

Caps, while at first blush may seem a logical solution to valid concerns, will not accomplish the worthy goals of protecting our islands nor of providing housing for our valuable workers. Capping vacation rentals will not only fail to achieve those goals, but doing so risks triggering costly and divisive legal battles. The commission and, eventually, the county council would do well to educate themselves about these issues before passing irresponsible ordinances.

Please consider, for example, this language, taken from the recent Texas Supreme Court decision out of Austin No. 03-17-00812. This decision revoked Austin’s attempt to limit vacation rentals on both state and federal constitutional grounds and provides property owners in San Juan County powerful precedent to launch similar arguments here. Parallels in the Austin case to unfounded claims and fears from some in our community is uncanny. I directly quote some of the judge’s language here:

- Nothing in the record supports a conclusion that a ban on type- 2 rentals would resolve or prevent the stated concerns. In fact, many of the concerns cited by the City are the types of problems that can be and already are prohibited by state law or by City ordinances banning such practices.
- To the contrary, the record shows that, in the four years preceding the adoption of the ordinance, the City did not issue a single citation to a licensed short-term rental owner or guest for violating the City’s noise, trash, or parking ordinances. And during this same four-year period, the City issued notices of violations—not citations—to licensed shortterm rentals only ten times: seven for alleged overoccupancy, two for failure to remove trash receptacles from the curb in a timely manner, one for debris in the yard, and none for noise or parking issues. And the City has not initiated a single proceeding to remove a property owner’s short-term rental license in response to complaints about parties. Further, the record shows that short-term rentals do not receive a disproportionate number of complaints from neighbors. In fact, as the City acknowledges, “short-term rental properties have significantly fewer 311 calls and significantly fewer 911 calls than other single-family properties.”
- Nothing in the record before us suggests that the City’s reasons for banning type-2 rentals address concerns that are particular to type-2 rentals or that the ban itself would actually resolve any purported concerns.

- But even if we were to determine that the City's ban on type-2 rentals advances a compelling interest ...would still require us to conclude that the ban is unconstitutionally retroactive.
- The ability to lease property is a fundamental privilege of property ownership. The ownership of land, . . . carries with it the right to . . . lease it to others, and therefore derive profit. The City's ban on type-2 short-term rentals will result in a loss of income for the property owners.
- Accordingly, based on the record before us and the nature of real property rights, we conclude that owners of type-2 rental properties have a settled interest in their right to lease their property short term. • Because the record before us shows that the ordinance serves a minimal, if any, public interest while having a significant impact on property owners' substantial interest in a well-recognized property right, we hold that section 25-2-950's elimination of type-2 short-term rentals is unconstitutionally retroactive. Other court cases in Arizona, North Carolina, Maryland, Florida, Indiana, Tennessee, and Wisconsin have ruled against those attempting to restrict STRs and, in some cases, have ordered the cities to compensate property owners for the taking of property.

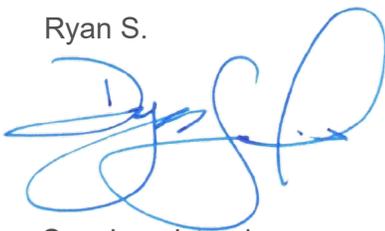
I urge you to seek out and rely upon facts as you craft your recommendations. Basing recommendations upon unsubstantiated claims from a vocal minority is irresponsible. Despite their cries to the contrary, the facts show that caps will do nothing to free up an inventory of affordable housing, protect our environment, slow the movement of tourists or permanent residents to our islands, nor steady the rise in real estate prices afflicting our entire nation.

The current draft is essentially a ban. If implemented, it would be an unconstitutional retroactive law and an uncompensated taking of private property from owners who have violated no laws.

Please do your due diligence. Choose not to recommend the current draft and vote to engage in a gathering of the data instead.

Kind Regards,

Ryan S.

A handwritten signature in blue ink, appearing to be 'Ryan S.', with a large, stylized flourish extending to the right.

San Juan Island