

**CALIFORNIA COASTAL COMMISSION**

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

**APPEAL FORM**

## Appeal of Local Government Coastal Development Permit

**Filing Information (STAFF ONLY)**

District Office: South Coast

Appeal Number: \_\_\_\_\_

Date Filed: \_\_\_\_\_

Appellant Name(s): \_\_\_\_\_

**APPELLANTS**

**IMPORTANT.** Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review [the appeal information sheet](#). The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

**Note regarding emailed appeals.** Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the South Coast district office, the email address is [SouthCoast@coastal.ca.gov](mailto:SouthCoast@coastal.ca.gov). An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

**Appeal of local CDP decision**

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**1. Appellant information<sup>1</sup>**

Name: Miriam Rupke  
Mailing address: 34556 Via Espinoza, Unit A, Capistrano Beach, CA 92624  
Phone number: 949-678-9699  
Email address: miriam@sandandsurfvacation.com

How did you participate in the local CDP application and decision-making process?

Did not participate      Submitted comment      Testified at hearing       Other

Describe: We are a local group of short-term rental owners in Dana Point. For the past six years we have been attending city council meetings, and city stakeholder meetings to help come up with a reasonable CDP that allows for public access to the coast.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: The council members made a last minute change to CDP22-0010 to limit it to the areas inside the coastal zone only. This was not in line with the original proposed CDP drafted by the Planning Department, which covered all areas both inside and outside the coastal zone. The council members passed this without receiving any input from the public.

<sup>1</sup> If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

## Appeal of local CDP decision

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### 2. Local CDP decision being appealed<sup>2</sup>

Local government name: City of Dana Point  
Local government approval body: City of Dana Point  
Local government CDP application number: CDP22-0010  
Local government CDP decision:  CDP approval  CDP denial<sup>3</sup>  
Date of local government CDP decision: 7/12/2022

Please identify the location and description of the development that was approved or denied by the local government.

Describe: The City of Dana Point proposed and passed CDP22-0010 to establish a short term rental (STR) program to regulate the permitting and operation for STRs within the Dana Point Coastal Zone at the Dana Point City Council Meeting on 7/12/2022. The proposed CDP limits public access to the coast as it does not cover STRs outside the coastal zone. The number of permits in the coastal zone equates to less than 0.5% of available housing stock in Dana Point (0.33% to be exact), which is under serving the availability in the coastal zone.

<sup>2</sup> Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

<sup>3</sup> Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

**Appeal of local CDP decision**

**3. Applicant information**

Applicant name(s): The City of Dana Point

Applicant Address: The City of Dana Point within Coastal Zone

**4. Grounds for this appeal<sup>4</sup>**

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: Please refer to attached sheet titled 'Section 4: Grounds for this Appeal'.

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<sup>4</sup> Attach additional sheets as necessary to fully describe the grounds for appeal.

**Appeal of local CDP decision**

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**5. Identification of interested persons**

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

Interested persons identified and provided on a separate attached sheet

**6. Appellant certifications**

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Miriam Rupke

  
Signature

Date of Signature 07/26/2022

**7. Representative authorization<sup>5</sup>**

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

<sup>5</sup> If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

<sup>6</sup> If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

**CALIFORNIA COASTAL COMMISSION**

455 MARKET STREET, SUITE 300  
 SAN FRANCISCO, CA 94105-2219  
 VOICE (415) 904-5200  
 FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name \_\_\_\_\_

CDP Application or Appeal Number \_\_\_\_\_

Lead Representative

Name \_\_\_\_\_

Title \_\_\_\_\_

Street Address. \_\_\_\_\_

City \_\_\_\_\_

State, Zip \_\_\_\_\_

Email Address \_\_\_\_\_

Daytime Phone \_\_\_\_\_

Your Signature \_\_\_\_\_

Date of Signature \_\_\_\_\_

Additional Representatives (as necessary)

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Street Address. \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Street Address. \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

Name \_\_\_\_\_  
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City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Street Address. \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

Your Signature \_\_\_\_\_

Date of Signature \_\_\_\_\_

## Section 4: Grounds for this Appeal

Local Application Number

CDP22-0010

### **5-DPT-22-0583** - City of Dana Point Approved With Conditions

The City's Proposed STR Program within CDP22-0010 ("Project") does not conform to the City's Local Coastal Program (LCP) and to Coastal Act public access provisions (sections 30210-30214) for the following reasons:

1. The project is NOT in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096) in that, the establishment of the STR Program in only one zone within the city decreases public access in the Coastal Overlay District in the City by reducing additional opportunities for overnight accommodations for visitors.
2. The project is NOT in conformity with the City's LCP. Dana Point's General Plan, Policy 3.3, identifies as a priority that "lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided." By creating an STR program for the Coastal Zone only, the City has failed to legislate for almost half of the current STRs in Dana Point and any future STRs outside the coastal zone.

The City of Dana Point proposed and passed CDP22-0010 to establish a short term rental (STR) program to regulate the permitting and operation for STRs within the Dana Point Coastal Zone at the Dana Point City Council Meeting on 7/12/2022. We hereby appeal CDP22-0010 on the grounds that the CDP, as written, limits public access to the coast because:

1. It limits the availability of affordable housing options for visitors because it does not cover the STRs outside the coastal zone.

There are 129 permitted STRs in Dana Point today and 92% are non-owner occupied (119 of the 129). Of that 129, 63 are not within the coastal zone and therefore not covered by CDP22-0010. At the Dana Point City Council Meeting on July 12, 2022 meeting where this CDP was proposed and approved, there was a suggestion made by Councilmember Villar that by limiting STRs to within the coastal zone only that the city could possibly eliminate STRs outside the coastal zone. Despite the City Attorney warning that this could raise a red flag with the CCC as to the City's intent outside the coastal zone, Councilmember Villar further suggested that by bifurcating the regulations, the City could be in a position where they wouldn't have to state what 'may or may not' happen outside the coastal zone. Both comments are on the recording of the meeting, which can



be found on the City's Youtube channel through this link:  
<https://youtu.be/kRFcmoOuChA>, at times 4:33:09 and 4:35:47.

2. It limits the availability of affordable housing options for visitors because it only refers to homes in the coastal zone which are largely governed by Homeowners Associations (HOAs).

Of the 129 permitted STRs in Dana Point, 66 exist within the coastal zone. While the CDP establishes a program for STRs in the coastal zone, the majority of homes in the coastal zone in Dana Point are governed by HOAs. There are 82 HOAs in Dana Point and most do not permit STRs. The residential areas inside the coastal zone not covered by HOAs are comprised of homes with a starting price of \$3M. Because this CDP only covers coastal zone locations, the Dana Point City Council has eliminated moderate homes from being used as STRs which then depletes affordable visitor accommodations. For example, eliminating a one bedroom unit from short term rental stock outside the coastal zone would restrict 140 visitors per year to the coast of Dana Point.

3. Dana Point's proposed CDP is much more restrictive and not in line with recently submitted and approved CDPs of neighboring cities.

Coastal access has been a central issue in the California Commission's rulings on short-term rentals. The commission has treated vacation rentals as an important way to offer affordable access to these areas. This message has been consistent in the commission's rulings:

In Long Beach, for example, the commission recently approved the city's short-term rental rules — with four suggested changes designed to ensure accessibility, including:

- Allowing up to 350 un-hosted short-term rentals in the coastal zone, even if the citywide cap of 800 is reached
- Limiting the ability of multifamily building owners to prohibit short-term rentals
- Requiring “a commitment to non-discriminatory services and ADA-accessibility information in the registration process”
- Monitoring and reporting any impacts that vacation rental regulations have on public access, along with efforts to mitigate those impacts

4. The Coastal Commission's stance on accessibility has been backed up by California courts. Dana Point cannot adopt an ordinance prohibiting Short Term Rentals without first getting Coastal Commission buy in.

In Santa Barbara, the commission supported vacation rental property manager Theo Kracke in his lawsuit challenging the city's 2015 short-term rental rules, saying that its near ban violated the California Coastal Act. In 2019, a superior court judge ruled that Santa Barbara must allow vacation rentals in the coastal zone, and that decision was upheld by an appeals court in 2021.

In Manhattan Beach, the city attempted to ban short-term rentals, moving forward with the ban without Coastal Commission approval, stating that short-term rentals had never been legally allowed, and so the law did not represent a change. In a case brought by a Manhattan Beach short-term rental owner, a judge disagreed, ruling the city cannot enforce its ban on short-term rentals in residential areas of the coastal zone unless it amends its LCP, requiring approval by the commission.

5. Because the CDP does not include properties outside the coastal zone, the permits outside the Coastal Zone should not be included in the STR cap.

Like other neighboring cities, 1% of the city's total housing stock should be the total cap within the Coastal zone. If the City wants to include homes outside the coastal zone in the cap, then City's short term rental ordinance should not be bifurcated and the entire city's STR should be submitted as part of the CDP.

San Diego's ordinance was recently certified by the California Coastal Commission. In their ordinance, whole-home rentals will be capped at 1% of the city's more than 540,000 housing units. Dana Point has more than 32,000 housing units, and so, accordingly, the cap should be at least 320 within the Coastal Zone. Currently the cap is less than 0.5% of the total housing stock.

Additional Appellants  
Appeal of CDP22-0010

The following individuals are also part of this appeal. Please consider this their sign-on to the main appeal.

Deanna Slocum

Signature: *Deanna Slocum*  
Deanna Slocum (Jul 26, 2022 14:00 PDT)

Tel: 949-295-2828

Email: djslocum@gmail.com

Mailing Address: 25221 La Cresta, Dana Point, CA 92629

Jason Colaco

Signature:   
Jason Colaco (Jul 26, 2022 14:06 PDT)

Tel: 310-200-1814

Email: thecolacos@mac.com

Mailing Address: 23831 Ionian Bay, Dana Point, CA 92629











# CDP22-0010 Appeal

Final Audit Report

2022-07-26

Created:	2022-07-26
By:	Miriam Rupke (miriam@sandandsurfvacation.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAEMZhQL8NMWQhWy3NxwIUIWRpS5mt7PRB

## "CDP22-0010 Appeal" History

-  Document created by Miriam Rupke (miriam@sandandsurfvacation.com)  
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-  Document emailed to djslocum@gmail.com for signature  
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-  Signer djslocum@gmail.com entered name at signing as Deanna Slocum  
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-  Document e-signed by Deanna Slocum (djslocum@gmail.com)  
Signature Date: 2022-07-26 - 9:00:37 PM GMT - Time Source: server
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-  Email viewed by thecolacos@mac.com  
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-  Signer thecolacos@mac.com entered name at signing as Jason Colaco  
2022-07-26 - 9:06:01 PM GMT
-  Document e-signed by Jason Colaco (thecolacos@mac.com)  
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