

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: July 27, 2022Appellant Name(s): Mark Zanides, Kim Tarantino, UNITE HERE Local 11**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. 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

Page 2a

1. Appellant information¹

Name: Mark Zanides

Mailing address: 34145 Pacific Coast Hwy, 216, Dana Point, Ca. 92629

Phone number: (415) 624-4475

Email address: mzanides@gmail.com

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

Did not participate Submitted comment Testified at hearing Other

Describe: Appellant Zanides and Appellant Tarantino timely filed joint appeal of the CDP to the City Council, met with City Council STR Subcommittee members during the pendency of the appeal, and submitted written comments and proposals to the subcommittee. Both Appellants also submitted written opposition to City Council, and each appeared before the City Council.

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: Appellant Zanides and Appellant Tarantino jointly appealed the CDP approval to the City Council, which affirmed in part and denied in part the appeal. There are no more appeal processes available in the City of Dana Point.

¹ 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

1. Appellant information¹

Name: Kim Tarantino

Mailing address: 34145 Pacific Coast Hwy, 216, Dana Point, Ca. 92629

Phone number: (415) 624-4475

Email address: kim.a.tarantino@gmail.com

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

- Did not participate Submitted comment Testified at hearing Other

Describe: Appellant Zanides and Appellant Tarantino timely filed joint appeal of the CDP to the City Council, met with City Council STR Subcommittee members during the pendency of the appeal, and submitted written comments and proposals to the subcommittee. Both Appellants also submitted written opposition to City Council, and each appeared before the City Council.

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Describe: Appellant Zanides and Appellant Tarantino jointly appealed the CDP approval to the City Council, which affirmed in part and denied in part the appeal. There are no more appeal processes available in the City of Dana Point.

¹ 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

1. Appellant information¹

Name: Bridget McConaughy on behalf of UNITE HERE Local 11

Mailing address: 464 Lucas Ave # 201, Los Angeles, CA 90017

Phone number: (513) 288-0064

Email address: bmcconaughey@unitehere11.org

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

Did not participate Submitted comment Testified at hearing Other

Describe: Appellant UNITE HERE Local 11 appeared at and spoke against the CDP during the City Council appeal hearing.

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: Appellant UNITE HERE Local 11 appeared at and spoke against the CDP during the City Council appeal hearing. There are no more appeal processes available in the City of Dana Point.

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Appeal of local CDP decision

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2. Local CDP decision being appealed²

Local government name: City of Dana Point

Local government approval body: City Council of Dana Point

Local government CDP application number: Coastal Development Permit 22-0010

Local government CDP decision: CDP approval CDP denial³

Date of local government CDP decision: July 12, 2022

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

Describe: The development is a short-term rental (STR) program to regulate the permitting and operation of STRs within the Dana Point Coastal Zone. The STR program was the result of a motion to amend a Planning Commission recommendation for a CDP establishing this STR Program. Appellants submit that this CDP was adopted in violation of Dana Point's LCP and in violation of the Coastal Act. The STR Program affects the City of Dana Point Coastal Overly District (the Cal. Coastal Zone).

Submitted herewith are a brief and documentation entitled Clerk's Record, which fully describes the City Council's decision and a description of the development.

² 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.

³ 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

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3. Applicant information

Applicant name(s):

City of Dana Point

3282 Golden Lantern, Dana Point, CA 92629

Applicant Address:

4. Grounds for this appeal⁴

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: The grounds for this Appeal are that the CDP does not conform to the LCP and that it is inconsistent with the Coastal Act. Our grounds are set forth in detail in the Appellants' Brief and supporting documents filed herewith.

⁴ 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 Mark Zanides

Mark Zanides

Signature

Date of Signature July 26, 2022

7. Representative authorizations⁶

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.

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

⁶ 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.

Appeal of local CDP decision

Page 5 b

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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 Kim Tarantino

Kim Tarantino

Signature

Date of Signature July 27, 2022

7. Representative authorizations

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.

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Appeal of local CDP decision

Page 5^C

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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 Bridget McConaughy, on behalf of UNITE HERE Local 11

Bridget McConaughy

Signature

Date of Signature July 27, 2022

7. Representative authorizations⁶

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CCC Appeal of Dana Point Short-Term Rental CDP

Interested Parties

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Note: With a little more time, this list would have been hundreds, if not thousands of Dana Point residents.

KIM TARANTINO
MARK N. ZANIDES
24146 Pacific Coast Highway No. 216
Dana Point, CA 92629

BRIDGET MCCONAUGHY ON BEHALF OF UNITE HERE LOCAL 11
464 Lucas Ave., #201
Los Angeles, CA 90017

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 22-0010
)
Dana Point Coastal Development Permit)
22-0010)
)
)
)
)
)
)
_____)

**GROUND FOR APPEAL
BRIEF OF APPELLANTS**

STATEMENT OF JURISDICTION

On May 9, 2022, the Dana Point Planning Commission adopted a Resolution approving Coastal Development Permit CDP22-0010 (CDP), thereby effectively amending and expanding the Short Term Rental Program (STR Program) throughout the City of Dana Point. CR 33 et. seq.¹ Appellants opposed this Resolution. CR 72.

On May 23, 2022, pursuant to Section 9.61.110 (a) and (b) of the Dana Point Municipal Code, residents (including Appellants Tarantino and Zanides) timely filed an appeal (Appeal) of the action taken on May 9, 2022 by the Planning Commission. CR 80.

On July 12, 2022, by Resolution No. 22-07-121-1 the Dana Point City Council (Council) granted the Appeal in part and denied it in part by upholding the Planning Commission's approval of the CDP and amending the program approved by the Planning Commission. CR 1. On July 13, 2022, Dana Point filed its COASTAL DEVELOPMENT PERMIT APPLICATION NOTICE OF FINAL ACTION with this Commission. See Exhibit A hereto.

The Council's amendments were material: they confined the new STR program to the Coastal Zone instead of the entire City, and established new parameters for the STR program in the Coastal Zone which had not previously been discussed in its staff reports or otherwise. *Id.* Substantive changes were introduced after public comments. The public was not informed of these changes in advance. Neither the Appellants nor the public were invited to comment on these substantive changes. In fact, public interested parties did not receive a copy of the revised and approved program until the following day.

This Resolution and CDP 22-1101 relate to matters "within the [Dana Point] Coastal Zone" and are therefore appealable under Chapter 9.75.010 of the Dana Point Zoning Code and California Public Resources Code Sections 30600 et. seq.

STANDING

Appellants Tarantino and Zanides are residents of Dana Point. Appellant Tarantino lives within the Coastal Zone. Both are aggrieved parties under the Coastal Act

Appellant UNITE HERE Local 11 (Local 11) represents more than 25,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix—including numerous *members who live or work in Dana Point*. The union has a First Amendment right to petition public officials in connection with matters of public concern, including compliance with applicable zoning rules and Coastal Act compliance, just as developers, other community organizations, and individual residents do. Protecting its members' interest in the environment, including advocating for the environmental sustainability of development projects and ensuring the availability of housing and hotels (in compliance with state and local rules), is part of Local 11's core function. Recognizing unions' interest and union members' interest in these issues, California courts have consistently upheld unions' standing to litigate land use and environmental claims. (See *Bakersfield Citizens v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.) Furthermore, Local 11 has public interest standing as an aggrieved party to challenge the Project Approvals given the City's public duty to

¹ The facts set forth herein are based in part on the documents submitted to the City in connection

comply with applicable zoning and laws, which Local 11 seeks to enforce. (See e.g., *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 914-916, n6; *La Mirada Avenue Neighborhood Assn. of Hollywood v. City of Los Angeles* (2018) 22 Cal.App.5th 1149, 1158-1159; *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 205-206; *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166, 169–170.) Local 11 is an aggrieved party under the Coastal Act.

Each Appellant has participated in the CDP process by submitting comments, opposing the Planning Commission action, and Appellants Tarantino and Zanides filed an appeal to the Council. Appellant Local 11 participated in several Council and Planning Commission meetings and the underlying Appeal.

QUESTIONS PRESENTED

1. Whether Dana Point’s CDP conforms to its Local Coastal Program (LCP) where the LCP, Housing Element and the City’s Municipal Code (which are read in harmony) have always barred STRs within residential neighborhoods; the City has heretofore always interpreted its Code to bar STRs in residential neighborhoods, and no zone text amendment or LCP amendment has been submitted to or approved by the Commission?
2. Whether the amended STR program is consistent with the Coastal Act where it is unnecessary in view of the extraordinary coastal access already available in Dana Point and where it will inevitably result in a significant loss of affordable coastal access and housing in the City, and a negative effect on residential neighborhoods?

SUMMARY OF ARGUMENT

1. The adoption of a CDP is inconsistent with Dana Point’s LCP, which bars STRs in residential neighborhoods. For over fifteen years, and until now, the City had always interpreted its Municipal Codes (incorporated into the Local Coastal Plan) to prohibit STRs in residential neighborhoods. The City abruptly now claims that STRs have always been permitted in residential neighborhoods, and that therefore a CDP may legally authorize an STR program. In support of this claim, the City now improperly contends 1) that certain legal cases “support the presumption” that STRs are already legally authorized as part of the residential uses permitted by the existing zoning and the City’s local coastal program. (CR 33) and (2) that “...the Coastal Commission determined (which determination was confirmed by court decisions...) that STR uses are the same as any other residential use already permitted by the City’s zoning and LCP, and they are therefore a permitted use in the City’s Residential and Mixed–Use zones.” CR 4. Emphasis supplied.

Each statement is incorrect. Dana Point’s codes do not permit STRs in residential zones and no court has so ruled. Nor does any court ruling support such a “presumption.” Until now Dana Point has consistently and correctly interpreted its zoning codes to bar STRs in residential districts. Moreover, the cited cases do not establish that the Coastal Commission has “determined... that STR uses are the same as any other residential use permitted by the City’s zoning and LCP.” Rather, the LCP and Land Use Plan (LUP), which include the General Plan, zoning ordinances, zoning map and other implementing actions, bars STRs in residential neighborhoods. **The proper way to regulate STRs in Dana Point is by zone text amendment and an amendment to the LCP.**

2. City of Dana Point Resolution No. 22-07-12-01 and Dana Point Coastal Development Permit 22-1101 are inconsistent with the Coastal Act, specifically, among others, Public Resources Code Section 30604(g), in that the proposed STR program is both 1) unnecessary in view of the extraordinary coastal access already available in Dana Point and 2) harmful because it will likely result in a significant loss of affordable housing, access and a negative effect on residential neighborhoods in the City. It cannot and must not be approved as it is currently written.

3. The STR Program authorizes the City of Dana Point to modify STR regulations without the preparation of an amended LCP and CCC approval of a such LCP changes, and cannot be approved as it is currently written.

4. The issues raised in this appeal are significant.

STATEMENT OF FACTS

A. STRs Historically in Dana Point²

1. Early Efforts to Address STR Issues

In 1986, the County of Orange obtained a LCP for areas along the California coast including the area now known as Dana Point. Subsequent to the City of Dana Point being incorporated in 1989, the LCP was recast to align with the boundaries of the new City and certified by the Coastal Commission in 1991.³ Since that time, the City of Dana Point is the legal Coastal Development Permitting body. This means that should anyone want to develop anything that exceeds the parameters of the 1986 LCP, he/she must ask the City of Dana Point to make an application to the California Coastal Commission for an amendment to the LCP. This document is called a Local Coastal Program Amendment (LCPA).

Short term rentals have historically been a part of Dana Point. As early as 2007, the residents of Niguel Beach Terrace felt that AirBnB and similar platforms had increased the number of short-term rentals to the point that its neighborhood was being overrun. On January 30, 2007, City Council Meeting [Agenda](#) Item 2 – Short Term Rental - initiated the current, ongoing effort to enact a short-term rental ordinance. While acknowledging that short-term rentals had operated in Dana Point for years, the City Attorney stated that they were illegal.⁴ Staff was directed to determine how big the problem was and bring some options back to the Council.

Various efforts were made by the staff and the Council to address the STR issue prior to

² These facts are largely based on information conveyed by former City Councilman Paul N. Wyatt, a longtime resident, who was directly involved in the STR process from December 2006 through November 2020.

³ Dana Point also adopted its own [Zoning Code](#), which, in pertinent part, superseded chapters 7-9 of the Orange County zoning code. See, Ch.9.01.080(a).

⁴ The City Attorney then, as now, was Patrick Munoz.

2013.⁵

Finally, on [February 5, 2013](#), the City Council reviewed a draft ordinance for short term rentals, considered best practices from other cities and directed staff to finalize an ordinance for introduction, incorporating comments provided at the meeting.

On [March 5, 2013](#), the City Council held a public hearing on and first reading of an ordinance adding Section 5.38 Short Term Rentals to the Dana Point Municipal Code. The Council directed staff to take next steps to enact this ordinance.⁶

On [April 2, 2013](#), the City Council held the second reading and adopted of ordinance 13-01 adding Section 5.38 to the Dana Point Municipal Code.

⁵ On July 27, 2009, the City Council discussed possible registration for short term rentals currently operating in Dana Point. At that [meeting](#), the City Council requested that the Planning Commission consider the appropriateness of STRs in residential neighborhoods; incorporate City Council discussions from 2007 and 2009; compare information from other cities; and conduct a series of public meetings; all with the intent of making recommendations to the City Council.

On [September 9, 2009](#), the Planning Commission held a well-attended public workshop at the Community Center, solicited and received public comments, and conducted extensive discussion among members of the Planning Commission.

At its regular meeting on [October 5, 2009](#), the Planning Commission continued its consideration of STRs, received additional public comments, and developed a set of recommendations for a permit process with required conditions of approval.

On [April 13, 2012](#), the City Council received a status update on short term rentals which included the Planning Commission recommendations. At that meeting, the City Council requested that a resident survey be conducted, that homeowners associations be polled to determine if short term rentals are currently allowed in their neighborhoods, and that the inventory list be updated to determine the approximate number of properties currently marketed as short term rentals in the City.

On [September 18, 2012](#), the City Council reviewed the resident survey and directed staff to return with one or two existing STR programs that provide sets of regulations and the cost/revenue to implement them in those cities.

On [November 20, 2012](#), the City Council reviewed examples of STR programs, reviewed cost/revenue of regulations and directed staff to provide additional research on city programs and to develop a working draft of an ordinance for the Council to consider.

⁶ These steps included: “1. Adoption of operating regulations ordinance by City Council. 2. Amendment of Municipal Code Section 3.25.070 for reporting or remitting transient occupancy tax payments to allow quarterly payments for short term rentals. 3. Fee resolution to adopt a short term rental permit fee. 4. Zone Text Amendment ordinance to change zoning to permit short term rentals in zones as designated by Council (requires Planning Commission and Council action). 5. Local Coastal Program Amendment approval through California Coastal Commission (applies to any Zone Text Amendment to allow short term use in the Coastal Zone— NOTE this will not apply to zoning districts where use is permitted that are not in the Coastal Zone).”

On [January 21, 2014](#), the City Council Meeting held a second reading and adopted of zone text amendment ZTA 13-0001 to allow short-term rentals in residential zones. The Council directed staff to start to issue STR permits subject to the following warning: “However, in the event the Coastal Commission does not approve the Local Coastal Program Amendment associated with the proposed zone text amendment, short term uses in the Coastal Zone will remain illegal (and presumably action to preclude them will follow). Importantly, compliance with the operating regulations ordinance, including obtaining a short term rental permit, will not be deemed sufficient to allow a short term use to continue in the event the Coastal Commission denies the zone text amendment in Coastal Zone districts. Hence, any person desiring to operate a short term rental prior to all zoning changes becoming effective will be doing so at their own risk, knowing they are violating current City regulations which may not be changed if the Coastal Commission does not grant its approval.” Dana Point’s short term rental permit [form](#) contains the following statement: “*Notice: Short term rentals are permitted according to Dana Point business regulations but are not currently allowed by zoning regulations. Short term rental permits issued are subject to Zoning Code changes and approval by the California Coastal Commission, which are currently being sought by the City. You are taking a risk since the zoning currently does not allow short term rentals and may not be approved by the California Coastal Commission.*”

On [April 14, 2014](#) City Council Meeting included a Letter to Niguel Beach Terrace Property Owners extending the deadline for compliance with the STR ordinance to August 2014 pending an amendment to the community’s CC&Rs.

On [May 5, 2016](#), the City Council held the first reading of zone text amendment ZTA 13-0001, Specific Plan Amendment SPA 13-0001 and ZTA 13-0002 with Coastal Commission suggested modifications, permitting short-term rentals in residential zones.

On [September 6, 2016](#), the City Council conducted the second reading of zone text amendment ZTA 13-0001, Specific Plan Amendment SPA 13-0001 and ZTA 13-0002, with Coastal Commission modifications, permitting unlimited two-day minimum short-term rentals in residential zones. Following the second reading and approval of this zone text amendment, a revised Local Coast Program Amendment was sent to the Coastal Commission for approval.

Citizen reaction to the ordinance permitting unlimited short-term rentals in residential zones was swift. In three weeks over 4,000 signatures were collected supporting a referendum opposing the ordinance. Accordingly, on [November 15, 2016](#), the City Council accepted the verified referendum against the short term rental ordinance and [rescinded](#) ordinances 16-06 and 16-07 and the Local Coastal Program Amendment. The Council decided to allow existing permitted STRs to continue to operate, but ceased issuing new permits. **The CCC took no action after the referendum was filed and the ordinances and LCPA were rescinded.**

Between and throughout 2013 and 2016, during preparation of the City’s zone text amendment and amendment to the LCP, the City issued STR permits conditioned on the acceptance by the CCC of the amendment to the LCP. Notwithstanding their illegality, the City reported that an additional several hundred unregistered STRs had come into existence. CR 23.

During this entire process, the City always took the position that STRs were not a permitted use in residential zones in the City. *Id.*

2. Post Referendum STR History Seeks To Avoid CCC Oversight

Between November 2016 and July 12, 2022, the City Council took no official action to amend, modify or codify its zoning code to permit STRs. During that period of time it did take some preliminary steps to address the STR issue. For example, in the process of rejecting and modifying a proposed plan coordinated by a Council Sub-Committee with CCC staff to enact a home stay program in Dana Point, the Council, on [July 21, 2020](#) struck a [paragraph](#) in the staff report that stated “At the end of the three year trial period, if the Pilot Program is proven to be successful, the City would process a Local Coastal Program Amendment and Zoning Text Amendment to formally adopt the regulations.” Various Council comments at the [meeting](#) included a statement that the CCC was “trying to force our hand,” that “Council wants control” of its STR program, that “an outside agency can’t take over,” that the regulations “don’t have to be in an LCP,” and even suggesting that the CCC was extending the Pilot Program review to 3 years, when Councilman Muller would no longer be in office. In creating a new subcommittee, the Council took pains to remove any reference to an LCP or Coastal Commission involvement in its STR program. At 3:43:25 in the meeting video, the Council struck the paragraph requiring an LCP, although the discussion indicated they still thought Council (and not the Planning Commission) would have the final word. This did not happen.

The Council formed a subcommittee to review the issue, adopted policy objectives, took surveys, and formed a second subcommittee. CR 24. Discussions with the CCC staff resulted in some modifications to the City’s draft proposals.

Between November 2016 and the present the City did not rescind the STR licenses it had granted, but did not issue any new licenses. CR 23. It continued to collect Transient Occupancy Tax (TOT). The City reports that at present there are 129 conditionally issued licenses still in effect. Citizens report as many as 250 more illegally operating STRs, and have strongly criticized the City for its lax enforcement of STR regulations.

B. The Planning Commission Adopts Its STR Resolution, An Appeal is Filed, The City Council Materially Changes the Proposed STR Program

1. Planning Commission’s STR Program

Ultimately, the City Council directed that the Planning Commission take responsibility for developing a new STR program. CR 23.

On April 1, 2022, the [Planning Commission’s] Short-term Rental Subcommittee received comments from the CCC staff on a draft short-term rental ordinance. CR 150.

In May, 2022, the Planning Commission produced a proposed Resolution 22-05-08-xx. (CR 33) which was attached to a City staff Agenda Report for the Planning Commission meeting of May 9, 2022. CR 22 et. seq.

For the first time, the City staff, including a deputy City Attorney, stated: “[r]ather than continuing to take the position that STRs are not permitted as part of approved residential uses (which would be subject to legal challenge), staff is recommending that the Planning Commission recognize the trend in reported cases is to find STRs are permitted as part of any residential use. “ CR 25.

In substance, the proposed STR program applied both to districts within and outside of the Coastal Zone. It provided a cap of 185 STRs in a category it called “non primary” [unhosted] STRs, which it stated was “based upon, and consistent with the historic demand for STR permits when no limitation existed” CR 28. Significantly, the Planning Commission proposal would have authorized a new category of STRs called “home stay” STRs, defined to include one authorized STR per multi family dwelling so long as the owner of the building resided in the dwelling. CR 39.

Residents including Appellants opposed this proposal at the Planning Commission. CR 72.

On May 9, 2022, the Planning Commission adopted its proposed Resolution. On May 23, 2022, Tarantino and Zanides timely filed the Appeal to the Dana Point City Council and set forth our objections. CR 80. It was contended, *inter alia*, that a CDP was the improper way to proceed (because the zoning prohibited STRs and it needed to be changed via a Local Coastal Program Amendment) and that the Planning Commission had neglected to consider the impact of the proposed program on seriously scarce housing stock and coastal access. *Id.* In particular, the “home stay” provision would have permitted one STR per multifamily dwelling in Dana Point, which could have included as many as one thousand new STRs. In addition, the Appeal outlined myriad issues with the program which would seriously impact the quality of life in residential neighborhoods. *Id.*

2. The City Council Refers the Matter to a Subcommittee

The City Council set the Appeal for hearing on June 21, 2022. Prior to that hearing the City staff filed an Agenda Report responding to some of the points raised in the Appeal. CR 91. It recommended denying the Appeal and upholding the Planning Commission Approval of Coastal Development Permit CDP22-0010 for the same reasons it had supported the Planning Commission’s proposal. *Id.*

The staff asserted that the Coastal Commission staff’s April 1, 2022 letter “indicates their desire to increase the number of STRs in the community by suggesting that Accessory Dwelling Units be utilized as STRs (which conflicts with State law) and requesting justification for the Non Primary STR cap.” See, CR 98 referring to CCC staff letter at CR 150, 153, 154. That CCC staff letter states, in pertinent part: “Second, Commission staff would recommend that the City further develop details around the 185 cap for non-primary STR permits. Commission staff understands that the City is currently undergoing a housing crisis and therefore wants to ensure that current housing stock is not depleted by STRs.” *Id.* at 154.

The City staff never responded to this inquiry. The City staff did, however, acknowledge in its Agenda Report that “[t]he City Council could consider a Home Stay cap for the 5,376 multi-family properties in the City.” CR 100.

Appellants Tarantino and Zanides filed a reply to the City staff’s report. CR 168. The reply contended that the proposal to proceed via CDP was unnecessary and unwise, and that it would devastate housing stock in the City. *Id.*

At that hearing on June 21, 2022 the City Council, through its mayor, announced to a packed Council chamber that the plan had some [unspecified] “legal problems” and that the Council would not act on the Appeal until July 12, 2022. The Council appointed Council members Villar and Frost to constitute a subcommittee to review further the proposed STR regulations.

3. The Subcommittee Meets With Resident Appellants

Appellants Tarantino and Zanides and other concerned community members met [separately at each Council member's request] with Council members Villar and Frost. As reported in the July 10, 2022 letter to the Council, there were direct and frank discussions. CR 223.

After those discussions, residents made concrete proposals for a new STR program to the subcommittee. See, CR 209, 219. As those proposals reflect, residents did not take the position that STRs should be totally banned in residential neighborhoods. Rather, the proposal was to agree to grandfather the current 129 unhosted STRs permitted, with a reduction in STRs to correspond to new STR permits issued in mixed-use zoning districts. It was further 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. It was argued 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.

4. The Subcommittee Creates a New STR Program

On Thursday, July 7, 2022 at 5PM, Appellants and the public were given a copy of a new Agenda Report for the July 12, 2022, City Council meeting. CR 178. The Report recommended that the Council deny the Appeal in part and affirm it in part by upholding the Planning Commission's decision to adopt CDP22-0010 for the Short Term Rental Program and revising the STR program approved by the Planning Commission. CR179.

For the first time, the staff, including the City Attorney, improperly stated that "the City understands that it is the **Coastal Commission's position**, which has been confirmed by the Courts...that STRs are **already** legally authorized as residential uses, which are permitted by the City's existing zoning and Local Coastal Program in various zoning districts in the City..." CR185. Emphasis supplied.

Staff also stated: "Finding: That the project is in conformity with the certified Local Coastal Program (LCP)...**in that, the STR program allows establishment of regulations for STRs in the City. The Coastal Commission has determined (which determination was confirmed by court decisions including *Kracke v City of Santa Barbara* (2021) 63 Cal.App.5th 1089 and *Keen v. City of Manhattan Beach* (2022) 77 Cal.App.5th 142) that STR uses are the same as any other residential use already permitted in the City's zoning and LCP, and they are therefore a permitted use in the City's Residential and Mixed-Use zones.**" CR 187 (Emphasis in original).

The new STR program contained material amendments to the Planning Commission's original proposal.

1. It authorized 35 STRs of any type in the Capistrano Bay district (Beach Road, which consists of only 186 housing units).
2. It authorized 100 home stay and primary residence STRs counting Capistrano Bay home stays which would not reduce the cap of 35 above.

3. It authorized 60 multifamily home stays [owner stays in one unit, another unit is rented out as STR).
4. It authorized 90 unhosted STRs in addition to the 35 in Capistrano Bay and all of the other districts.

The staff asserted that if all available permits were issued, there would be a total of 185 STR permits in addition to an additional 100 home stay and primary residence STRs. CR 182.

In addition, the subcommittee proposed a complicated formula whereby if multi family home stay STRs did not materialize, the number of unhosted STRs would be permitted to rise by 10 units every six months to fill the 60 allotted to multi family home stays. CR 182.

5. At the Hearing on the Appeal of the Planning Commission CDP the City Council Adopts a Completely New STR Program Without Prior Notice and Without Affording Time for Review or Public Comment

On July 12, 2022, the City Council convened its hearing on the Appeal, and undertook consideration of the new STR proposal. Public comments were heard including from Appellants.

Thereafter, the Council members discussed the issue. Council member Viczorek moved to amend the Resolution and CDP so that it applied for the first time solely to those areas within the Coastal Zone. His stated reason was that on principle he objected to the interference by the Coastal Commission in the City's local affairs, and while he recognized that the Coastal Act gave jurisdiction of the Coastal Zone to the Commission, he thought it appropriate to limit the Commission's ability to act on Dana Point's program by confining the scope of the CDP to those areas within the Coastal Zone.

That motion was seconded by Mayor Muller.

There ensued a discussion on the dais about what a program should look like the Coastal Zone. During its discussion, the City Council asked City Attorney Patrick Munoz in open session how many STRs he thought would be appropriate in the Coastal Zone. Mr. Munoz stated that the number 115 STRs for the Coastal Zone "felt" about right, but that he could not predict how the Commission would respond.

At that time, since the Viczorek motion to amend was unexpected, there was no staff report outlining the number or composition of dwelling units in the Coastal Zone, the number of hotel and other commercially available lodgings in the Coastal Zone, or what the impact of any new STR program would be on housing stock, coastal access, or any of the other factors normally considered. Since this proposal was radically different than the Planning Commission's proposal, there had been no prior consultation with the Commission staff about this new program. See, CCC Staff's April 1, 2022 letter. CR 150.

After some discussion, the City Attorney stated he thought he understood what the consensus on the Council was and wanted time to draft new language. A lengthy break was taken, and thereafter the City Attorney drafted some language reflecting his view of what the Council had decided.

At no time was the language published to the public prior to a vote. At no time did the Council invite the public to comment on the program.

The City Council approved the CDP with the new STR program by a 3-2 vote late in the evening of July 12, 2022. Appellants did not see the language of it until the following day. CR2.

The new and different resolution contains the same language reciting that the Coastal Commission has taken the position that STRs are permitted residential uses in Dana Point. Further, it recited that STR use “is an already established residential use in the City (as determined by the CCC and related case law), and the City’s adoption of the STR ordinance would not result in the intensification or expansion of that use, and rather would limit it.” CR 3.

But the STR program it adopted did make significant changes with significant impacts:

1. It authorized 115 STR permits for “Non-primary” [i.e. unhosted] STRs in the Coastal Zone. It grandfathered in the existing and permitted non primary STRs of which there are currently 61 in the Coastal Zone.
2. It authorized unlimited STR permits for multi-family homestay, homestay or primary residence STRs (up to 60 days per year of short term rentals for primary owners)
3. It authorized a maximum of 190 new mixed-use parcel permits for non primary STRs that are located in mixed use parcels.

This appeal follows.

ARGUMENT

- A. City of Dana Point Resolution No. 22-07-12-01 and Dana Point Coastal Development Permit 22-1101 Are Inconsistent with the Local Coastal Program.**
 - 1. The subject resolution and CDP are inconsistent with the City’s Local Coastal Program because they are inconsistent with the City’s Housing Element, LUP and Municipal Code**

As the Commission is aware, the Dana Point Local Coastal Program includes the City’s (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of, this division at the local level. Public Resources Code Section 30108.6.

“Land use plan” means the relevant portions of a local government’s general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions. Public Resources Code Section 30108.5.

After a local government prepares its local coastal program, the Commission reviews it. If satisfied that it conforms to the policies and standards of the Act, the Commission certifies it. Public Resources Code §§ 30512, subd. (c), 30513; [citations].” See also *Hines v. Coastal Commission*, (2010) 186 Cal. App 4th 8310, 841 (internal citations

omitted).

Dana Point's General Plan includes a [Housing Element](#). It states:

The Housing Element has been designed to address key housing issues in the City. These issues include the provision of a mix and balance of housing types and costs to meet the needs of all segments of the community while enhancing and preserving the community's character, provision of affordable housing for special needs groups, promotion of fair housing for all residents, and the maintenance of the existing affordable housing stock.

First and foremost, the City seeks to expand housing access for low- and moderate-income households in the area.

City of Dana Point General Plan 2021-2029, Housing Element, Revised Adopted July 2022 at H-2. (hereafter Housing Element).

The Housing Element contains a lengthy analysis of the housing issues facing Dana Point and the region. It states that "The City's existing needs include 2,930 renter households that are cost burdened. Housing Element at 177. Specifically, the Housing Element's goal in Program Category #2 is to "Assist in the Development of Affordable Housing."

The Housing Element specifies a number of policies designed to meet that goal.⁷ Nowhere are STRs discussed as a method meeting this or any other housing goal in the LCP.

The abrupt amendment of the Planning Commission's proposed citywide STR program to a Coastal Zone only STR plan was not supported by a staff report analyzing the import or effect of the amended program. Rather, the number of 115 STRs in the Coastal Zone was suggested by the City Attorney in response to a question from the Council. The City Attorney stated that the number 115 "feels right", and he thought the Coastal Commission would accept the number, but was not sure.

⁷ 2.1 Support innovative public, private, and nonprofit efforts in the development and financing of affordable housing, particularly for lower income households, the elderly, large families, the physically impaired, and single parent households.
2.2 Support the participation of federal, state, or local programs aimed at providing housing opportunities for lower and moderate income households.
2.3 Require that housing constructed for lower and moderate income households is not concentrated in any single portion of the City.
2.4 Implement requirements for providing affordable housing for employees of hotel and resort developments.
2.5 Provide for mixed commercial/residential land uses to create additional housing opportunities.
2.6 Spend in-lieu fees collected from contributing development to support affordable housing opportunities in the Coastal Zone in accordance with the Mello Act. Focus the use of in-lieu fees on the rehabilitation of existing affordable housing, the conversion of non-residential or non-affordable housing to affordable housing, and/or the reduction of displacement risk through rental assistance.

Housing Element at H-177-178

Thus seventeen years of effort by the City Council, staff, subcommittees, the Planning Commission, Coastal Commission staff and the public to analyze the impact of an STR program ended in an abrupt amendment and a number of STRs based on the “feeling” of the City Attorney. This is neither rational policy making nor a meaningful attempt to insure that the STR program is consistent with the LCP, LUP and Housing Element goal of increasing affordable housing. The Council never even attempted to address this issue, since it was abruptly adopted as a result of a last minute motion to amend.

In fact, below we show in detail that not only did the city ignore its LCP, the STR program it adopted conflicts with it, as it will reduce affordable housing in Dana Point.

2. The CDP is inconsistent with the City’s Local Coastal Program because it is inconsistent with the City’s Zoning Code

As set forth above, the City has, until now, always taken the position that STRs are not permitted in residential neighborhoods. The City’s Municipal Code, including its zoning codes, has not changed.⁸ The Municipal Code, taken as a whole, establishes that this position is unquestionably correct. Since the Zoning Code is part of the Local Coastal Program and LUP, actions taken which are inconsistent with the Zoning Code are inconsistent with the LCP and LUP. If inconsistent with the LCP, the City may not proceed with a CDP, but rather must, as it did in 2016, begin with a Zone Text amendment and amendment to the LCP. This did not occur here. A mere CDP as occurred in this case is insufficient.

a. STRs are barred in residential zones

Reading the Dana Point Code leads to the inescapable conclusion that not only are STRs not specifically permitted, they are prohibited. Under the Zoning Code, several classes of use are allowed in Residential Districts. Each of these classes must promote the **residential** character of the individual districts. (Dana Point Zoning Code Ch. 9.09.020), emphasis supplied.)

One of the few specifically permitted uses in Residential Districts is a “dwelling unit, single family (Ch. 9.09.020.) Dwelling unit is defined with emphasis added as:

a self-contained group of interconnected rooms designed, occupied or intended as separate living quarters, with sleeping and sanitary facilities and one cooking facility, provided within a permanent structure or portion thereof, for **residential** occupancy by a **single household**, not including hotels, motels or timeshares. Municipal Code Chapter 9.75.040D.

The Code thus permits only “residences” and “residential occupancy” by a “single household” in residential areas. It does not specifically permit STRs or any other kind of occupancy that could be deemed remotely similar to STRs.

⁸ The City Attorney has not changed either.

Under permissive zoning, any use not permitted is barred.⁹

There appears to be no stand-alone definition of “residence” in the Codes. However, the commonly accepted definition of “residence” is:

1. The place in which one lives; a dwelling.
2. The act or a period of residing in a place.
3. A medical residency.

The American Heritage® Dictionary of the English Language, 5th Edition.

Similarly Webster’s Dictionary defines “residence” as follows:

1a: the act or fact of dwelling in a place for some time

1b: the act or fact of living or regularly staying at or in some place for the discharge of a duty or the enjoyment of a benefit

2a(1): the place where one actually lives as distinguished from one's domicile or a place of temporary sojourn.

“Residence.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/residence>. Accessed 20 May.2022.

The meaning of “single household” is obvious. Single means one. It does not mean many. As the court in *Protect Our Neighborhoods v. City of Palm Springs* (2022) 73 Cal. App. 5th 667, observed “admittedly a short-term rental is **not** used as a ‘single family dwelling’; neither the owner nor the renter is living there.” *Id.* (Emphasis supplied)

Not only does the plain language of “residential” mean dwellings where people reside permanently, the City Codes contain a series of provisions defining and regulating non-residential transient occupancy accommodations.

For example, Dana Point Municipal Code Chapter 9.75 provides the following definitions, with emphasis added.

Guest Room — any room which is used or designed to provide **transient** occupancy and sleeping accommodations for one or more guests. Guest rooms occur in hotels, motels, time-shares, bed and breakfast, private clubs, lodges, fraternal organizations, and other transient occupancy uses... Ch. 9.75-070.

⁹ Chapter 9.01.090 Effect of Code:.

No person shall use any premises except as specifically permitted by and subject to the regulations and conditions of this Code.

“**Hotel** has two definitions within the Codes.

1) “**Hotel**” shall mean a structure or group of structures containing six (6) or more guest rooms or suites offering **transient** lodging lobby and an interior hallway(s). Such a facility may include incidental services that customarily are provided by a hotel such as food service, recreational facilities, retail services provided for the convenience of hotel guests and banquet, reception, and meeting facilities.” Ch. 9.75.270.

2) The City’s tax code defines “**Hotel**” as “any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by **transients** for dwelling, lodging, or sleeping purposes, and includes, **but is not limited to**, any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof, **duplex, triplex, single-family dwelling units except any private dwelling house or other individually-owned single-family dwelling rented only infrequently and incidental to normal occupancy** or any timeshare as set out in California. (Emphasis supplied) Section 3.25.020 of the Municipal Code.

Since the City collects transient occupancy tax (TOT) on its registered STRs, it plainly regards STRs as hotels, and correctly so: Chapter 9.01.070(c) provides, “When provisions of various adopted Codes are different, the more restrictive provisions shall apply, except as may be superseded by resolution or ordinance.” In this case, the more restrictive provision is the one which defines hotel to restrict rentals without taxation, and therefore permits collection of TOT. STRs are, therefore, *de facto* hotels under Dana Point’s Codes.

What is a transient?

“**Transient**” means any person who occupies or is entitled to occupy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel is a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, an uninterrupted period of time extending both prior and subsequent to the effective date of this Chapter may be considered.” Dana Point Municipal Code Chapter 3.25.020 Definitions. (Emphasis Supplied.)

If that definition of “transient” were not clear enough to show STRs are hotels, the City has created a Commercial Zone category called Visitor-Recreation Commercial, or V/RC. Ch. 9.03.010. This designation includes “primarily visitor serving uses, such as ... resorts hotels and motels uses, commercial, recreation specialty ...”. Dana Point, General Plan, Land Use Element, June 27, 1995 at p. 35.

All of the foregoing make it clear that STRs do not fall within the definition of “residential”, but rather they fall squarely within the definition of “hotel” and other accommodations for short term visitors and transients. So, are accommodations for transients permitted in residential areas in Dana Point under the LCP, LUP and Municipal Code? No, they are not. See Zoning Code Section 9.09.020 et. seq.

b. No case law holds or supports a “presumption” that Dana Point’s

Municipal Codes Permit STRs in its residential zones.

In an effort to justify its use of a CDP and not the required Zone Text Amendment, the City now improperly claims that STRs have always been permitted in residential neighborhoods because certain legal cases “support the presumption” that STRs are already legally authorized as part of the residential uses permitted by the existing zoning and the City’s local coastal program. CR 33.

First, there has not been a court case which interprets Dana Point’s Municipal Code.

It is, of course, clear that the CCC and the courts have held that changes to STR regulations which affect coastal access constitute a “development” within the Coastal Act, and thus require CCC approval, be it through a CDP, LCP amendment or amendment waiver. See, *Kracke v. Santa Barbara*, (2021) 63 Cal.App.5th1089, December 6, 2016 Letter of Coastal Commission CR 147. The City knew and recognized this in connection with its drafting and ultimate passage of its 2016 STR ordinance [later overturned by referendum]. In 2014 the City had added Municipal Code section 5.38 - Short-term Rentals to its municipal code without approval of the CCC. The City Council then approved a Zone Text Amendment (ZTA) to allow STRs in residential zones, and sent an LCPA to the CCC that would have approved the ZTA. The CCC, among other things, replied that section 5.38 had to be part of the LCPA since it restricted the number of STRs that could be permitted.

But the City now cites *Kracke v. City of Santa Barbara* (2021) for a new and different proposition, namely that that *Kracke* “**could be** interpreted to mean that until STR regulations are approved pursuant to the Coastal Act, any residential property in the Coastal Zone could, by right, operate an STR since residential uses are permitted by the City’s LCP.” CR 95. Emphasis supplied.

Kracke did not so hold. *Kracke* held that for purposes of the Coastal Act, any change in the access to the coast was a development which required Coastal Commission approval. 63 Cal.App.5th at 1093. *Kracke* did not address, because it did not need to, whether the access for STRs previously granted by the City of Santa Barbara was permitted under its own zoning codes.

The City next claims *Keen v. City of Manhattan Beach* (2022) 77 Cal.App.5th 142, compels the conclusion that STRs are permitted in residential districts defined by Dana Point’s codes. It does not. This is so for the simple reason that *Keen* was interpreting Manhattan Beach’s codes, not Dana Point’s codes. There, in interpreting the term “residential”, the court found that Manhattan Beach’s codes never distinguished between short term (i.e. transient) rental and long term property rental. 77 Cal.App.5th at 148. Since there was no differentiation in the Manhattan Beach code, short term rental and longer term rental were treated the same, i.e. the owner was free to rent short or long term.

Keen is inapplicable to Dana Point. As discussed above, Dana Point’s Code requires the

residential use of neighborhoods zoned residential to be for a “single family dwelling.” “Residence” and “residential” mean dwellings where people reside permanently, i.e., the place where individuals actually live. In *Protect our Neighborhoods v. City of Palm Springs* (2022) 73 Cal.App.5th 667, the Court observed that “admittedly a short-term rental is **not** used as a ‘single family dwelling; neither the owner nor the renter is living there.” *Id.* (Emphasis supplied)

In Dana Point, unlike *Keen*, the Code does differentiate between short term and long term rentals. STRs, by Dana Point’s own definition, provide “transient” accommodation, and STRs are not otherwise specifically permitted. STRs are hotels under the Dana Point Code, and are thus barred in the absence of rezoning and amendment of the LCP. The rezoning and LCPA have never occurred.

c. The Coastal Commission has not determined that STR uses are permitted by Dana Point’s Codes

After Appellants and others made the foregoing arguments in the Appeal of the Planning Commission adoption of CDP 22-0010, the City added a new and different argument to support its claim that a CDP was an appropriate way to proceed. It now claims that “...**the Coastal Commission** determined (which determination was confirmed by court decisions...) that STR uses are the same as any other residential use already permitted by the City’s zoning and LCP, and they are therefore a permitted use in the City’s Residential and Mixed – Use zones.” CR 4. Emphasis supplied.

Nowhere does the City cite to where the Coastal Commission allegedly “determined that STR uses ...are therefore a permitted use in the City’s Residential zones.” The court decisions cited do not “confirm” any such Coastal Commission determination. This Commission certainly knows best whether it has made any such determination, but we are aware of none. In all correspondence by and between the Commission and the City of which we are aware the Commission has been agnostic on the subject. See, CCC letter of December 6, 2016 CR 147); CCC staff letter of April 1, 2022 (CR 150). Emphasis supplied.

d. Even if STRs are Permitted in Residential Neighborhoods, a Zone Text Amendment and LCP Amendment are Still Required.

The City has claimed that it must act to enact STR regulations because it could face lawsuits which would claim that the legal cases it cites would support the claim that residential STRs are permitted City wide. See, CR 96, and CR 25 (“the City will face arguments that STRs may operate at any existing residential Property, in the Coastal Zone, without regulation.”)

Even if the City is correct, and we don’t agree that it is, nonetheless a Zone Text Amendment and LCP Amendment are required to regulate STRs. This is so because if STRs may operate at any existing residential property in the Coastal Zone without regulation, necessarily the proposed STR program imposes **limits** on such STRs. The City admits this. It states that STR use “is an already established residential use in the

City (as determined by the CCC and related case law), and the City’s adoption of the STR ordinance would not result in the intensification or expansion of that use, and rather would limit it.” CR 3.

As we have seen, changes to STR regulations which affect [including by limiting] coastal access constitute a “development” within the Coastal Act, and thus require CCC approval, be it through a CDP, LCP amendment or amendment waiver. See, *Kracke v. Santa Barbara*, (2021) 63 Cal.App.5th 1089). But, as here, by the logic of the City’s argument, the LCP is silent on the issue of STRs, there is no legal framework upon which to base a CDP.

As the City Attorney stated at the July 12 hearing, the reason he recommended the CDP approach is because it is more “flexible”. It is more “flexible” because it does not require a hearing before this Commission. Further, a CDP can be modified without a Commission hearing unless appealed and the appeal is upheld. That is why the City likes it.

In essence, the City is attempting to reduce the authority of this Commission by misinterpreting the case law and incorrectly asserting that this Commission has interpreted Dana Point’s zoning code to permit this circumvention by CDP.¹⁰ This should not be permitted.¹¹ Appellants assert that the CDP must be overturned because there is no corresponding LCP or Zoning code amendment to ensure that it is consistent with the Local Coastal Program.

e. This CDP Improperly Authorizes the City of Dana Point Community Development to Modify the STR Program Regulations Without CCC

¹⁰ We note as well that this CDP was passed on July 12, 2022 in possible violation of the notice and public hearing provisions of Chapter 9.69.060 of the Zoning Code. This CDP required a public hearing. While a hearing was noticed, the amendment to the proposed program made on the dais that night was so material that it markedly changed the impact of the STR plan. The major amendments were made on the fly at the hearing; no staff analysis of the new plan was made; no assessment of impact in residential areas was made; and no written text of the amendment was available for review and comment by the public at the hearing. This is yet another example of the cavalier manner in which process has been conducted. Violation of this provision of the Zoning Code itself would support a reversal of this CDP.

¹¹ Regrettably, as this Commission is aware, Dana Point has a history of trying to avoid the Commission’s discharge of its statutory responsibility under the Coastal Act. See, e.g. *City of Dana Point v. California Coastal Commission*, Case No. 37-2010-00099827 CU-WM-CTL, Statement of Decision denying Dana Point’s Request for Writ of Mandate (finding that “the evidence in this case clearly shows that the City’s enactment of the Nuisance Abatement Ordinance was pretextual (sic) and designed to avoid the requirements of the Coastal Act and the City’s Local Coastal Program. Plaintiff’s evidence and arguments were specious.” *Id* at 8.) The Court also found that the City’s counsel admitted that the City was “fed up” with the California Coastal Commission and took advantage of a provision where they did not have to work with the CCC. *Id.* at footnote 1.

approval.

To make matters worse, the new STR Program provides at Section 10. (c) Conditions of Permit Issuance and Renewal provides that “The Community Development Director shall have the authority at any time to impose additional standard conditions, applicable to all STRs, as necessary to achieve the objectives of this STR Program.” CR 44.

Section 11 (Short-term Rental Operator Regulations) provides that: “These regulations may be updated periodically for clarification of situations that may develop based on the implementation of the STR regulations within the City.” CR 45

The STR Programs authorizes the City of Dana Point to update the conditions of issuing and renewing STR permits and to update operator regulations to modify the STR Program in ways that could change the intensity of development within the coastal zone without the approval of the CCC. This CDP improperly bypasses CCC authority over the coastal zone and therefore should be rejected. A LCPA is required.

B. City of Dana Point Resolution No. 22-07-12-01 and Dana Point Coastal Development Permit 22-1101 Are Inconsistent With the Coastal Act.

Preliminarily, Appellants agree with and support the Coastal Act objective of providing ample coastal access. We support the Commission’s advocacy for a comprehensive program that promotes low cost of access to the coast and protects affordable housing in the Coastal Zone. We further agree that STRs should be included in the portfolio of tools needed to achieve the CCC objectives, and we have proposed alternative programs to the City that could help the CCC achieve its objectives and be satisfactory to the residents of and visitors to Dana Point. See, CR 209, 219.

Yet what has occurred here violates the access and affordability policies of the Act. The Dana Point STR CDP therefore is also appealed on the ground that it fails to conform with the public access policies set forth in the Coastal Act. Cal. Pub. Res. Code § 30603(b)(1). The Coastal Act’s Public Access policies are intended to ensure that public access to the coastal zone takes into account various environmental sustainability factors as well as the well-being of surrounding communities and property owners. Cal. Pub. Res. Code § 30214. The CDP approved by the City of Dana Point fails to take into account said public access policies and should be overturned on these grounds.

It is the policy of the Coastal Act to encourage “maximum access” to coastal areas. Cal. Pub. Res. Code § 30210. That access must be provided for “all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.” The CDP’s scheme for STRs in the Dana Point Coastal Zone is inconsistent with this policy. Of particular concern, are that the CDP allows for unlimited unhosted and unsupervised vacation rental STRs. Such STRs pose a threat to public safety as they have been the site of numerous violent occurrences.¹² Indeed, Airbnb itself has acknowledged the safety threat that such “party houses” pose to surrounding communities.¹³ The danger of violence posed by

¹² <https://www.nbcbayarea.com/news/local/numbers-shed-light-on-violence-at-short-term-rentals-report/2085506/> (accessed July 27, 2022)

¹³ <https://www.mercurynews.com/2021/08/15/sunnyvale-airbnb-shooting-exposes-gaps-in-enforcing-house-party-bans-short-term-rental-rules/> (accessed July 27, 2022);

unsupervised vacation rentals is only one of the ways “party houses” impinge upon the rights of nearby property owners. They often give rise to general nuisance disturbances including noise, drug use, parking hoarding, increased garbage and litter among others. The City of Dana Point CDP fails to consider the impact of their STR Program on the safety and property rights of surrounding communities and property owners and so should be overturned.

The Coastal Act Public Access policies also require all new coastal zone developments to include public access from the nearest public roadway to the shoreline. Cal. Pub. Res. Code § 30212. The City of Dana Point contends that the regulation of STRs constitutes a development for purposes of the Coastal Act. Accordingly, Dana Point is obligated to ensure that all properties licensed for STR use include access from the nearest roadway to the shoreline. No aspect of the subject CDP includes oversight or enforcement of this requirement. The Dana Point CDP is therefore inconsistent with the Coastal Act’s Public Access policy requirements and should be overturned.

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.” Cal. Pub. Res. Code § 30212.5. Again, the Dana Point STR Program CDP is to the contrary.¹⁴ The subject CDP makes no effort to ensure STR licenses or operations are distributed evenly in the coastal zone. The subject CDP makes no effort to take into account the geographic distribution of STR licensing or operations or issues of overcrowding or overuse.

In this case, ensuring even distribution of STRs to avoid overcrowding in certain areas is feasible and necessary. As described below, STR operations in Dana Point are not evenly distributed and tend to concentrate in particularly popular areas. As a result, threats to public safety and nuisance also tend to concentrate in these areas and disproportionately impact only certain communities. Unfortunately, the communities that bear the negative brunt of such costs tend to be less affluent and less white. This tendency is exactly contrary to the Coastal Act’s Public Access policy and the CDP must be overturned on this basis as well.

1. Dana Point already appears to have more lodging units per capita than any other coastal California city; the Coastal Act requires affordable access, not unaffordable STRs in the Coastal Zone.

The staff recommended 185 STRs citywide. That recommendation was unsupported by any meaningful analysis. Rather, in response to the Commission staff asking Dana Point to justify the number, the City stated merely that it was “consistent with the historic demand for STR permits when no limitation existed” CR 28. Demand for STRs by largely non-resident real estate investors is hardly an appropriate metric by itself to establish an STR number.¹⁵

<https://www.cbsnews.com/sanfrancisco/news/airbnb-sues-booking-guest-unauthorized-sunnyvale-house-party-shooting/> (accessed July 27, 2022)

¹⁴ By authorizing STRs only in the Coastal Zone, the City effectively drives STR owners into the Coastal Zone.

¹⁵ The City staff reports that approximately 64% of the 129 registered STRs are owned by out of town investors. Of course this does not address the unregistered, illegal STRs.

The abrupt amendment of the Planning Commission’s proposed city wide STR program to a Coastal Zone only STR plan was not supported by a staff report analyzing the import or effect of the amended program. Rather, the number of 115 STRs in the Coastal Zone was suggested by the City Attorney in response to a question from the Council. The City Attorney stated that the number 115 “feels right”, and he thought the Coastal Commission would accept the number, but wasn’t sure.

Thus seventeen years of effort by the City Council, staff, subcommittees, the Planning Commission, Coastal Commission staff and the public ended in an abrupt amendment and a number based on the “feeling” of the City Attorney. This is neither substantial evidence nor rational policy making.

The Dana Point City staff’s and City Attorney’s contention that the California Coastal Commission requires a minimum of 185 STRs City-wide or 115 STRs in the Coastal Zone is unsupported, not consistent with the Coastal Plan’s objective and should be rejected.¹⁶

Section 30213 of the Coastal Act states, “Low cost visitor and recreational facilities ... shall be protected, encouraged, and where feasible provided.” The City of Dana Point supports this goal by providing visitor facilities that include hotels, bed & breakfasts, campgrounds, and hostels. In fact, Dana Point may currently provide more lodging units per capita than any other coastal city. Several hundred more units are entitled or planned.

In fact, Dana Point may well currently provide more [lodging units](#) (pages 11-12) per capita than any other coastal city. Several hundred more units are entitled or planned according to the City’s [development pipeline](#).

Table B.1.1 outlines current and planned Dana Point Lodging Units provided to accommodate coastal visitors. Hotel rates were derived from hotel websites, and by calls seeking rates for both seasons and examining amenities and group rates.¹⁷ Lodging units were derived from City of Dana Point [data](#) Pages 11/12. Planned projects were derived from City of Dana Point [pipeline](#) data describing pending hotel development.

Table B.1.1, Lodging Units Provided¹⁸

¹⁶ As noted above, to our knowledge, the California Coastal Commission staff never saw this proposal.

¹⁷ The hotel rates data was collected from the hotel websites on 7/21/2022 by Barbara Wilson.

Existing Visitor Lodging	Number of Lodging Units	1/15/2023 Median Rate	7/15/2022 Median Rate
Market Rate Hotels	1,557	\$350	\$439
Lower Cost Hotels	293	\$184	\$264
Cottages	24	\$41	\$41
Campgrounds	120	\$50-\$65	\$50-\$65
Total Existing Lodging Units	1,994		
Planned/Entitled Visitor Lodging	Number of Lodging Units		
Market Rate Hotels	505		
Lower Cost Hotels	98		
Hostel Beds	52		
Total Planned/Entitled Lodging Units	655		
Total Existing + Planned/Entitled Lodging Units	2,649		

Table B.1.2, Lodging Units Per Capita Comparison by Coastal City/County

City	Number of Lodging Units	Population	Lodging Units per 1,000 population
Dana Point - existing	1,994	33,000	60
Dana Point – existing plus planned/entitled	2,649	33,000	80
Laguna Beach	1,305	22,000	59
Santa Monica	4,265	91,000	47
Santa Barbara (County)	5,349	448,000	12

STRs are another form of lodging unit that can be added to the visitor facilities portfolio to provide access to the coast. While STRs are often promoted as more affordable than hotels, the evidence doesn't support this. The city staff reports that there are 61 permitted STRs currently in the Dana Point Coastal Zone. Of these, 31 on Beach Road have daily rates ranging from \$2,075 to \$850 per night, with the median being \$1,500 (ASR3.)

Table B.1.3 shows that the median daily rate of an STR is well above that of a lower cost hotel, and the median daily rate of a 2-bedroom STR is almost identical to that of 2 lower cost hotel rooms. The hotel rates shown are rack rate so the actual rates are very likely to be lower, making hotels a lower cost option than STRs which often add housekeeping fees and sometimes, TOT.

The STR rates in Table B.1.3. were collected by booking each of the STRs for the second week of June 2022, If that was not available, the 3rd week of July was used. The bookings were taken all the way to where all the additional fees and taxes were added and the credit card was accepted.¹⁹ As noted on the spreadsheet, these weeks were chosen to derive summer rates while avoiding holiday weeks. All were booked on either Airbnb or Vrbo; most were checked on both.

Table B.1.3, Median Daily Rates, 7/15/2022

	Hotel Rack Rate	1 Bedroom STR	2 Bedrooms STR
Market Rate	\$439	\$359	\$513
Lower Cost	\$264	\$359	\$513

Dana Point requires all new hotels to offer 25 percent of available accommodations at a lower cost to help achieve the goal of the Coastal Act. The City has 655 new additional lodging units entitled or planned, including 150 lower cost units. ([City lodging units data](#) pages 11-12). Appellants believe that this program together with a different and more balanced STR program better aligns with the goal of lower cost access sought by the CCC. The Dana Point City staff and City Attorney's contention that the CCC requires a minimum of 185 STRs City-wide, including 115 STRs in the Coastal Zone is unsupported and inconsistent with the Coastal Plan's objective and should be rejected.

2. Due to its potentially negative impacts on housing, the CDP conflicts with the Coastal Act, specifically Public Resources Code 30604(g), and cannot be approved as it is currently proposed.

Resources Code § 30604(g) states that “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.” While the proposed amendment prohibits the conversion of any unit that “is restricted by covenant or similar instrument for the purpose of providing affordable housing” into an STR, it does not protect units that are accessible to persons of low and moderate income regardless of a covenant. As the proposed CDP would allow potentially over 800 units of coastal zone housing to be converted to STRs, it does not protect

¹⁹ This data was collected from AirBnB and Vrbo on 7/20/2022 by Paul N. Wyatt.

existing affordable housing, and therefore conflicts with Section 30604(g) of the Coastal Act.

Dana Point has a housing shortage. 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). A comparison of market prices with the rental affordability limits presented in Table H-13 indicates that the rental market could easily serve the moderate and above moderate-income households, with some existing rental units priced low enough for some lower income households. Rental units require less land and can be built at higher densities than many ownership products. Additionally, rental units do not require the same level of amenities as is expected in ownership developments. The construction of additional rental units represents a key step in providing affordable housing opportunities for current and future moderate-income households.” This report goes on to state that between 2000 and 2020, only 200 dwelling units were added, but that 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 household, and 198 for above-moderate-income families.

The STR industry's business model - which relies on the conversion of residential units to de facto hotel rooms - has decreased the housing supply in many major U.S. metropolitan markets, and resulted in an increase in rents. A national study published by the National Bureau of Economic Research found that in low owner-occupancy cities (like many California coastal communities), each 1 % increase in AirBnB listings is associated with a .018% increase in rent. Currently the Dana Point Coastal Zone has 61 unhosted STRs and the CDP would increase the limit on unhosted STRs to 816 allowing 756 more residential dwelling units to be converted to de facto hotel rooms, a 1239% increase that would result in rent increases of 22.3%. National Bureau of Economic Research [Study](#).

CDP22-0010 could result in 756 residential units being converted from primary residences to STRs, in addition to the 61 that have already been converted. The result of 816 residential units of housing being lost would devastate the already non-existent housing inventory in Dana Point and the resultant increase in rental rates would result in hundreds of affordable rental units being lost. This CDP is not compatible with the Coastal Act and should be rejected.

There are currently 61 unhosted STRs in the Dana Point Coastal Zone. The new cap of 115 unhosted STRs in residential zones will result in an additional 54 residential units being converted to STRs almost immediately. The cap on unhosted STRs in the mixed-use zones is 190. There are currently no unhosted STRs in the mixed-use zone since these areas are just being redeveloped. The impact of this CDP is the potential loss of 190 residential units that will be converted to STRs as they are built. There are currently 4 mixed use projects in progress totaling 195 residential units. Basically, the City program would potentially allow 97% of badly needed mixed use housing units to become STRs.

Fifty Two percent (52%) of Dana Point is in the Coastal Zone and the exact number of residential units by type was not calculated by the City before passing this resolution, but the [zoning maps](#) allow a reasonable approximation. The 8,801 1-unit detached and 2,074 1 unit-attached are evenly split, resulting in 5,438 1-unit units. Only about 200 of the 2,676 2-4 units are in the Coastal Zone. Approximately 75% of the 5+ units, or about 1,780 units, are in the Coastal Zone.

While it can be argued that these potential losses are extreme, this is a program that will exist for many years. No matter that the stated intent of the Dana Point City Council when it revised the STR Program included in this CDP was to serve individual property owners, residents are concerned that this program will attract investors and displace individual property owners. Investors may be quick to snap up available permits which will be distributed on a first come first served basis. While the City program suggests that the caps will be reduced by home stays or multi unit STRs, the reality is that investors may obtain and hold the allowed permits for years, with no real reduction in caps.

The money to be made on STRs is very attractive to investors, and every loophole in this CDP could be exploited. Appellants are concerned that it will likely have an even greater impact on workforce housing in areas adjacent to the Coastal Zone where the most vulnerable minorities live, while protecting the more affluent (and largely non-Hispanic white) residents of the gated HOA communities.

The City program basically risks converting much needed residential housing to STR investments, impacting disadvantaged communities to the benefit of investors. This is contrary to the Coastal Act, its access and affordability policies and regulations.

The regulations provide neither buffers between STRs nor restrictions by street or development to protect the residential nature of communities. Areas like Beach Road, which already has 17% of its properties operating STRs, (per Donal Russell, Manager, Capistrano Bay District, there are 31 STRs on Beach Road. 31/186 homes = 16.7%) may see a significant increase as substantial 30 day rentals convert to STRs once new permits are offered. The lack of buffers places ordinary residents in the middle of multiple STRs, substantially changing the nature of formerly residential communities.

C. Appellants' Arguments Raise Significant Questions As to Conformity With the Local Coastal Program and the Coastal Act

Appellants are mindful to raise significant questions as to conformity with the Local Coastal Program and Coastal Act. In making such a determination, the Commission has in previous appeals been guided by 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*, supra, at 849.

This appeal does so.

- 1) Appellants have adduced substantial evidence to establish that the City has, adopted a CDP which is inconsistent with its LCP, LUP, Housing Element, Municipal Code and the Coastal Act without a sound legal basis, reversed its longstanding

interpretation of its zoning Code in order to proceed via a CDP, which it deems more flexible, i.e. less susceptible to California Coastal Commission control. This Appeal also shows that the City Council had no substantial basis in fact for making this decision: 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), no analysis or justification for the number of STRs other than the City Attorney saying the number “felt right.” 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. In short, the City had no sound factual or legal basis for this program.

- 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) 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.
- 4) The precedential value of Dana Point’s interpretation cannot be overstated: it seeks to reduce substantially the Coastal Commission’s ability effectively to discharge its duties by avoiding the necessity of an LCPA and proceeding instead by CDP. It is reminiscent of its 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.

CONCLUSION

Dana Point’s CDP is a product of the City’s thinly veiled attempt to avoid or minimize Coastal Commission involvement in its STR program. Based on a misreading of case law, and a false assertion that the CCC itself has taken the position that STRs have always been approved in residential districts in Dana Point, 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.

Moreover, the CDP itself purports to permit the Community Development Director to change the STR program, and thus effect a development in the Coastal Zone without a CDP, and without Coastal Commission approval.

As we have demonstrated, the CDP is inconsistent with the Local Coastal Program in that it has been adopted in violation of Dana Point’s Code, Housing Element and LUP which are integral part of its LCP. The proper way to proceed is by zoning Code text amendment and amendment to the LCP.

As well, it is inconsistent with the Coastal Act in that Dana Point already provides extraordinary coastal access; the new contemplated STRs will not provide affordable

coastal access; and the increased STRs will drastically reduce affordable housing in the City.

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

Respectfully submitted,

Dated: July 27, 2022

MARK ZANIDES
KIM TARANTINO
BRIDGET MCCONAUGHY ON BEHALF OF UNITE HERE LOCAL 11

Before the
CALIFORNIA COASTAL COMMISSION

In the Matter of)	Case No:
)	
)	APPELLANTS' SUPPLEMENTAL
Dana Point Coastal Development Permit)	RECORD
22-0010)	
)	
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)	
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_____)	

APPELLANTS

KIM TARANTINO
MARK ZANIDES
UNITE HERE LOCAL 11

#	APN	TOT	OWNER NAME	STR ADDRESS	DISTRICT	CZ Y/N	Type	PRICE/NT	EDROOMS/Gu	Guests	Notes
1	939-36-602	STR21-1214	Jeffrey & Patricia Stanford	2 Corniche #D							B.1.3
2	939-36-606	STR21-1221	Jason Huskey	2 Corniche #H							
3	939-36-605	STR20-1173	Nick / Alise Moncure	2 Corniche #G							
4	939-36-610	STR20-1101	Rick Eggan	4 Corniche #D							
5	668-531-11	STR20-1185	Jonathan Hansen	8 Indigo Way							
6	939-36-559	STR21-1206	Don / Wendy Raabe	10 Corniche #A							
7	672-351-15	STR21-1211	Charles Glauser	10 Soto Grande							
8	939-36-398	STR20-1083	Dora Hidalgo-Hubbard	14 Corniche #A							
9	939-36-400	STR19-1041	Sean / Char Stanford	14 Corniche #C							
10	939-36-411	STR20-1197	Jaymi Bischoff	16 Corniche #F							
11	939-36-407	STR20-1177	Shaun Hurley	16 Corniche #B							
12	939-36-409	STR20-1175	Brian & Denise Fry	16 Corniche #D							
13	939-36-426	STR20-1086	Selina Chan	20 Corniche #E							
14	939-36-422	STR20-1154	Darlene Carney	20 Corniche #A							
15	939-36-424	STR20-1121	Nicholas Mancuso	20 Corniche #C							
16	939-36-436	STR20-1194	Jordan / Patricia Reifel	22 Corniche #G							
17	939-36-440	STR20-1140	Eleanor Allen	24 Corniche #C							
18	939-36-465	STR20-1098	Michael / Linda Androvich	28 Corniche #L							
19	939-36-477	STR20-1199	Cambron & Linda Deatherage	30 Corniche #L							
20	939-36-481	STR20-1188	Betha Everett	32 Corniche #D							
21	939-36-506	STR20-1198	Jaime and Liz Hermosillo	38 Corniche #E							
22	939-36-505	STR20-1096	Anna B. Zavala	38 Corniche #D							
23	939-36-759	STR20-1117	Kathryn & William Rathvon	38 Via Corsica							
24	939-36-527	STR20-1126	Jeana Claypool	44 Corniche #B							
25	939-36-543	STR20-1108	Stephanie Yeager	46 Corniche #J							
26	939-36-672	STR20-1201	Bill / Stephanie Gerlach	52 Corniche #F							
27	939-36-624	STR20-1120	James Cobb	64 Corniche #B							
28	939-36-628	STR20-1092	Jordan / Patricia Reifel	64 Corniche #F							
29	939-36-547	STR20-1132	Cherie Polo	68 Corniche #B							
30	939-36-641	STR20-1192	Cynthia Carol	74 Corniche #K							
31	933-64-216	STR20-1202	Bruce & Sara Arnold	24102 Avenida Corona							
32	673-132-19	STR20-1178	Shevy / Erika Akason	24351 Armada Drive							
33	682-191-09	STR20-1099	Salma Piloti	24581 Santa Clara							
34	933-25-059	STR20-1145	Michael Liikala	24622 Harbor View #C							
35	682-113-24	STR20-1195	Susanne Christensen	24661 Cordova							
36	682-113-23	STR20-1135	Bob & Peggy Noterman	24665 Cordova							
37	682-341-46	STR20-1104	Steve/Jeanne Hargrove	24796 Sea Mist Way							
38	682-124-32	STR20-1136	Virginia Hilborn	25082 Alicia Drive							
39	682-137-18	STR20-1130	Stephen Pryde	25151 Via Elevado							
40	682-137-17	STR21-1220	Gina Burt	25161 Via Elevado							
41	682-151-38	STR20-1184	Clayton Behling	25172 Via Elevado							
42	682-141-21	STR21-1210	Deanna Slocum	25221 La Cresta							
43	673-272-15	STR20-1087	Shannon Salome	25311 Mainsail							
44	691-392-06	STR20-1144	Milagros Vilar	26256 Via California							
45	123-142-06	STR20-1181	Carmen Block	26385 Via California							
46	123-421-01	STR20-1146	Spangler Family Trust	26582 Via Sacramento							
47	123-261-55	STR20-1182	Daniel and Julianne Williams	26721 Avenida Las Palmas							

48	123-371-07	STR19-1045	George / Elizabeth Ray	26791 Calle Verano #A
49	123-371-07	STR20-1186	George / Elizabeth Ray	26791 Calle Verano #B
50	123-371-06	STR19-1047	George / Elizabeth Ray	26801 Calle Verano
51	123-353-06	STR20-1171	Anthony Knapp/Patricia Kwan	26856 Calle Verano
52	691-171-14	STR20-1133	Teri Chamoures	27101 Paseo Pinzon
53	672-485-59	STR20-1119	Rongsheng Luo / Sunny Sun	32711 Ballena
54	673-131-14	STR20-1170	Clint / Amanda Davis	32881 Buccaneer St.
55	673-276-04	STR20-1183	Nancy Stueve	33175 Big Sur
56	673-082-12	STR20-1162	Edan / Carol Prabhu	33422 Notthingham
57	936-34-001	STR20-1118	Yasuki Hirose	33672 Chula Vista #C
58	682-101-02	STR20-1168	Jeanette Krueger	33751 Violet Lantern #A
59	682-111-38	STR21-1205	Keith & Pam Offel	33762 Diana Drive
60	682-112-05	STR20-1179	Nancy Warner, Kelli Scoggin	33777 Diana #A
61	682-112-05	STR20-1155	Nancy Warner, Kelli Scoggin	33777 Diana #B
62	682-113-56	STR20-1134	Gene / Chantelle Paredes	33831 Olinda
63	682-263-13	STR20-1169	Isaac and Dana Somsel	33842 Silver Lantern
64	682-113-13	STR21-1212	Alyssa Hendrie	33851 Olinda
65	682-102-14	STR20-1106	Robin Valles	33851 Castano
66	682-094-04	STR20-1088	Bruce and Susan VanDenburgh	33852 Granada
67	682-112-15	STR20-1122	Paul / Rebecca Mansfield	33855 Diana Drive
68	682-102-15	STR20-1138	William Gaita	33855 Violet Lantern #A
69	682-102-15	STR20-1139	William Gaita	33855 Violet Lantern #B
70	682-102-15	STR20-1172	Marti Reis	33857 Violet Lantern #A
71	682-253-26	STR20-1166	Michael & Jennifer Relich	33881 Alcazar
72	939-87-011	STR21-1216	Michael and Sandy Kelly	33882 Pequito #A
73	682-254-24	STR21-1227	Oscar / Elsa Bugarini	33901 Copper Lantern
74	682-085-24	STR20-1089	Barbara Hamilton	33922 Chula Vista
75	682-253-07	STR20-1151	Alexander Vallin	33922 Malaga
76	682-103-36	STR20-1131	Monty/Christa Kelso	33942 El Encanto
77	682-282-01	STR20-1164	Brian Randall	34001 Amber Lantern
78	682-292-02	STR20-1161	Leonard Gardner	34012 Colegio
79	682-272-28	STR21-1208	Ed Wright	34021 Violet Lantern
80	682-281-06	STR21-1219	Trent Hofferber	34051 El Encanto
81	682-281-30	STR20-1167	Jennifer / Michael Relich	34066 Amber Lantern #A
82	682-281-30	STR20-1167	Jennifer / Michael Relich	34066 Amber Lantern #B
83	682-293-16	STR20-1196	Shu Q Xu and Xuefeng Huang	34081.5 Malaga
84	682-136-23	STR20-1153	Cary Short	34095 Crystal Lantern
85	682-134-11	STR21-1217	Owen Kloster	34096 Formosa Drive
86	123-202-23	STR21-1203	Eric Anderson	34354 Calle Naranja
87	933-60-002	STR20-1176	Inland Real Estate Corp, LLC	34365 Dana Strand #2
88	933-60-004	STR20-1143	Jack Lanier	34365 Dana Strand #4
89	933-60-003	STR20-1163	Richard Rutkowski	34365 Dana Strand #3
90	931-54-006	STR20-1116	Boyd and Carol Plowman	34371 Dana Strand #1
91	123-152-06	STR20-1174	Bryan & Miriam Rupke	34371 Via San Juan #A
92	123-152-06	STR20-1174	Bryan & Miriam Rupke	34371 Via San Juan #B
93	931-54-003	STR20-1115	Michael Wolfe	34375 Dana Strand #2
94	931-54-004	STR20-1093	Chris Koerner	34375 Dana Strand #3
95	691-381-45	STR20-1127	Rostam Shirardian	34535 Via Verde #A

96	691-381-45	STR20-1127	Rostam Shirardian	34535 Via Verde #B
97	123-303-59	STR20-1148	Tuan and Ha Vu	34538 Calle Naranja
98	691-382-06	STR21-1223	Pankaj Kadakia	34570 Camino Capistrano
99	691-381-17	STR20-1128	James Chang	34612 Via Catalina #A
100	691-381-17	STR20-1129	James Chang	34612 Via Catalina #B
101	123-081-37	STR20-1200	Priscilla Paieski	34693 Camino Capistrano
102	123-223-05	STR21-1213	Danielle Raabe	34762 Calle Ramona
103	691-141-01	STR20-1165	Donald and Susie Jensen	35051 Beach Road #A
104	691-141-02	STR21-1215	Brycon Residential	35055 Beach Road
105	935-39-141	STR20-1152	George Thomas	35061 Beach Road
106	691-141-05	STR20-1141	Lee Maddocks	35065 Beach Road #A
107	691-141-05	STR20-1142	Lee Maddocks	35065 Beach Road #B
108	691-141-11	STR20-1124	Laurie M. Beylik	35083 Beach Road
109	691-141-12	STR20-1112	Sushil Garg	35087 Beach Road #A
110	691-141-12	STR20-1157	Sushil Garg	35087 Beach Road #B
111	691-141-14	STR20-1100	M3K093 Beach Road LLC	35093 Beach Road #A
112	691-141-14	STR20-1100	M3K093 Beach Road LLC	35093 Beach Road #B
113	691-141-15	STR20-1107	Leonard Schusterman	35095 Beach Road #A
114	691-141-15	STR20-1156	Leonard Schusterman	35095 Beach Road #B
115	691-141-23	STR20-1097	Christopher Miller	35119 Beach Road
116	691-142-06	STR20-1123	Nottingham Trust	35145 Beach Road
117	691-142-08	STR20-1187	Pablo P. Prietto Trust	35155 Beach Road
118	691-142-09	STR20-1159	Paul Drag	35157 Beach Road #A
119	691-142-09	STR20-1160	Paul Drag	35157 Beach Road #B
120	691-142-11	STR20-1189	Yuritz and Dennis Cramer	35165 Beach Road
121	691-142-13	STR20-1111	Lemaya Properties LLC	35171 Beach Road
122	691-142-14	STR20-1110	Lemaya Properties LLC	35173 Beach Road
123	691-142-22	STR21-1218	Charles & Lynda Kinstler	35201 Beach Road
124	691-142-25	STR20-1094	John / Nadine Macaluso	35215 Beach Road
125	691-142-26	STR20-1158	Michael / Kami Tidik	35221 Beach Road
126	691-151-11	STR19-1053	Edwin Arroyave	35295 Beach Road
127	691-151-13	STR20-1091	Katharyn Gabriel	35305 Beach Road
128	691-151-19	STR21-1209	Nancy Proodian	35335 Beach Road
129	691-152-27	STR21-1207	Sari Handoko	35391 Beach Road
130	691-221-14	STR20-1147	John / Julie Tilton	35402 Paseo Viento
131	691-161-02	STR20-1095	Carole Wunderly	35511 Beach Road
132	691-161-12	STR20-1125	Norma Hilker	35551 Beach Road
133	691-161-15	STR21-1204	Peter Benudiz / Jennifer Lewis	35561 Beach Road
134	691-161-35	STR19-1022	John Barnhart	35581 Beach Road
135	691-162-09	STR20-1105	Paul Arranaga	35641 Beach Road
136	691-162-20	STR20-1084	Mary McNulty	35679 Beach Road
137	691-162-26	STR21-1222	35701 Beach Rd LLC/Gabrielle	35701 Beach Road
138	691-331-25	STR20-1109	Dana Cederberg	35805 Beach Road
139	691-332-05	STR20-1150	Poche Beach, LLC	35827 Beach Road

1. Address was checked on Air BNB for the 2nd week of June, 3rd week of July or other non-holiday week.
2. Rates are per night based on a one week stay.

		1 Y	home	\$1,826	5	4 Monarch Bay
		1	condo	\$491	4	4 Niguel at Del Avion
STR19-093		1	condo	\$371	2	6 Niguel at Del Avion
		N	room	\$171	1	2 Stonehill at DeLeon
STR18-0767		4 Y	home	\$935	2	5 Bluff above harbor
STR18-0767		4 Y	home	\$6,272	10	16 Santa Clara
STR18-0767		4 Y	home	\$885	2	4 Casa Rosa (Santa Clara, Ken)
STR18-0767		4 Y	home	\$1,927	5	11 Casa Luna (Santa Clara, Ken)
		4 Y	room	\$146	1	1 Town Center
			room	\$171	1	2 Stonehill at Blue Lantern
			townhouse	\$382	2	5 Golden Lantern at Cordova
STR18-0766		3	home	\$649	2	5 Casa Manzanita II (Primavera, Ken)
		1 Y	camper	\$359	1	4 Doheny State Park

Everything below this line is the prices I was able to get from AirBnB for 2nd week of June 2022. It is not matched to permits above.

19-0928	Capo Beach	5	home	\$373	1	4
	Surfside Inn	5 y	hotel	\$398	1	4
	Surfside Inn	5 y	condo	\$158	1	4
	PCH@Crystal Lantern	y	guest suite	\$223	1	2
	Stonehill@DeLeon	n	room	\$171	1	2
	Town Center	4 y	room	\$146	1	2
	Stonehill@Blue Lantern		room	\$171	1	2
	Doheny State Beach	5 y	camper	\$359	1	4
	Camper RV Delivery		camper	\$160	1	5
	Riveria Beach Resort	5 y	Apartment	\$432	1	4
	Riveria Beach Resort	5 y	hotel	\$411	1	4
	Riveria Beach Resort	5 y	resort	\$410	1	4
	Riveria Beach Resort	5 y	resort	\$482	1	4
	Capo Beach	5	home	\$540	2	6
14-0085	Magnolia	5	townhouse	\$359	2	6
21-1308	Capo Beach	5	home	\$372	2	6
21-1203	Capo Beach	5	home	\$513	2	6
	Nigel@Del Avion	1 n	condo	\$491	2	4
19-093	Nigel@Del Avion	1 n	condo	\$372	2	6
18-0767	Bluff above harbor	4 y	home	\$935	2	5
18-0767	Casa Rosa	4 y	home	\$885	2	4
	Golden Lantern@Cordova		townhouse	\$382	2	5
18-0766	Casa Manzanetta II on Primavera	3	home	\$649	2	5
	Riveria Beach Resort	5 y	condo	\$844	2	6
	Riveria Beach Resort	5 y	condo	\$844	2	6
	Doheny Village	5 y	condo	\$288	2	4
	Capo Beach	5 y	resort	\$482	2	4
	Capo Beach	5 y	townhouse	\$535	2	6
	Beach Rd.	5 y	home	\$850	3	10
	Beach Rd.	5 Y	home	\$1,750	3	8

	Beach Rd.	5 y	home	\$1,065	3	8
14-0111	Beach Rd.	5 y	condo	\$886	3	8
	Beach Rd.	5 y	townhouse	\$1,514	3	8
21-1283	Beach Rd.	5 y	home	\$1,280	3	8
	PCH@Del Obispo		home	\$1,457	3	8
	PCh@Crystal Lantern Casa Elevodo	y	home	\$509	3	8
	PCH@Crystal Lantern	y	home	\$483	3	6
21-1210	PCH@Crystal Lantern	y	home	\$774	3	5
	Riveria Beach Resort	5 y	resort	\$1,445	3	12
14-0137	Beach Rd.	5 y	home	\$1,500	4	10
21-1281	Beach Rd.	5 y	home	\$1,171	4	8
20-1200	Capo Beach	5	home	\$1,224	4	8
	Riveria Beach Resort	5 y	resort	\$1,927	4	16
20-1158	Beach Rd.	5 y	home	\$2,075	5	12
	Monarch Bay	1 y	home	\$1,826	5	4
18-0767	Casa Luna	4 y	home	\$1,927	5	11
	Capo Beach	5 y	resort	\$1,445	6	12
18-0767	Santa Clara	4 y	home	\$6,772	10	16
	Median per night for STRs			\$538	2	6
	Median per night for 1 bedroom STRs			\$359	1	4
	Median per night for 2 bedroom STRs			\$513	2	6
	Median per night for 3, 4, 5 bedroom STRs			\$1,445	3	8