February 2, 2022

To: California State Department of Housing and Community Development (HCD), Housing Element California State Governor’s Office of Planning and Research (OPR), General Plan Guidelines California State Attorney General, Housing Strike Force County of San Bernardino Land Use Services Planning Department County of San Bernardino Planning Commission County of San Bernardino Community Development and Housing Department San Bernardino County Supervisor Dawn Rowe County of San Bernardino Board of Supervisors City of Twentynine Palms Town of Yucca Valley

Dear Reader, for your consideration:

Revisiting Our Concern

The San Bernardino County (SB County) Short-Term Rental (STR) Policies are currently being revised. Once Policies are adopted, they become Codes. For this letter we will use these terms interchangeably. The SB County Planning Commission will meet Thursday, February 3rd, to receive public input and recommend any changes, which if approved, will then be forwarded to the SB County Board of Supervisors for consideration. The County has released their proposed revisions for the current Short Term Rental rules.


The SB County Housing Element Draft will be reviewed on February 17th.

The Morongo Basin Conservation Association (MBCA) letter of October 19, 2021, that you received previously, is attached via email. The October letter introduces MBCA, our community, our situation, and discusses the linked relationship of STR Policies and Housing Element Policies, and the absolute necessity for consistency between the two. Currently, these Policies are demonstrably inconsistent. This current letter continues the conversation.
The Greater Morongo Basin, along with the Mountain Communities have lost 20%+ of our housing to STRs in the space of just over 2 years, with dramatic effects on our communities. The STR Ordinance allowing the North and East Desert Regions to have STRs was adopted into the Development Code in November 2019. The Mountain Region was allowed to have STRs previous to this. STRs are not allowed in the more urban Valley Region.

A Work in Progress

It was made clear during hearings for the November 2019 STR Ordinance, that the STR Code was being implemented with the intent of revisiting policies over time, with respect to impacts, interpretation and enforcement.

The Board of Supervisors reviewed STR policies on June 22, 2021, as there were many problems evident by then. Yet, at this hearing there was no discussion of the impact that over 4,000 STRs have had on critical housing concerns in unincorporated communities of the County. Instead, the discussions focused on code violation fines, and facilitating the hundreds of illegal STRs to come clean and get permitted with no consequence. A moratorium was well justified at this point, to stop the bleed of our houses, and stop the displacement of long-term renters. A moratorium would have given code enforcement time to catch up on the over 1000 calls they had back-logged.

There are questions concerning potential conflicts of interest and policy decisions happening behind closed doors without the proper public review. Supervisor Paul Cook stated his concern about these issues at the May 18, 2021, BOS meeting. [https://sanbernardino.granicus.com/player/clip/5416?view_id=13&redirect=true](https://sanbernardino.granicus.com/player/clip/5416?view_id=13&redirect=true).

At 3:02:29, Supervisor Paul Cook says he supported these desert issues. He also said this:

“I am going to drop a dime on a lot of people. A lot of elected officials own Air BnB’s. I really wonder... this is a huge conflict of interest. How are they ever going to vote on something like this? I am wondering whether we can make that part of the policy of the County since this is a problem. And I am not going to name names or anything like that, but it is a real problem I think, in that sometimes you got to at least declare that you have an interest in this, if you are going to vote on something like this. And this has happened in the past, in the desert.”
3:06:00 to 3:06:40, Supervisor Janice Rutherford, who still had the Mountain Communities in her District at the time, (Supervisor Rowe had to leave the meeting) stated, paraphrasing her quote:

*I want to reiterate Supervisor Rowe’s points, as the district with the second most impact by short term rentals we have to figure out how to get a handle on it, and it certainly has changed dynamics in the last year or two. We need to spend time to understand more about that to address the needs in the communities. We also know we have a great housing shortage, and to the extent that short term rentals are imposing on workforce housing or even just primary housing on the upper ends of things, that is part of the equation need to talk about that.*

3:28:40, Supervisor Rutherford:

*“Supervisor Rowe and I were discussing the STR issue prior to this meeting… One thing we pondered on was a moratorium on STR permits. We believe this might give us time for staff to adequately study all the issues raised by the community and that she mentioned earlier, as well as figure out how we code shift code enforcement budget opportunities on how we might address those issues. Ask for concurrence to put on agenda so Supervisor Rowe and I can discuss with you.”* (loose quotes here and below)

CEO Hernandez:

*We did have conversations about an approach, we will make sure to look at the item and bring back an approach to lay-out for the Board.*

Supervisor Rutherford:

*There are local control issues we can discuss. That breathing room might give us a good opportunity to handle it correctly.*

But then, nothing. Not a word more was spoken in view of the public about discussing the critical need for a moratorium.

Since then, our 3rd District Supervisor Dawn Rowe (with 4,785 STRs in her new District boundaries), her staff, and the Planning Staff have worked hard trying to find a balanced solution to all the problems the community is facing due to STRs, as well as providing business and job opportunities.

We appreciate all the efforts that the have been taken, as some of the revision proposals would help neighborhood concerns with occupancy limits and parking regulations being tightened up. There is a stated intention of limiting business own-
ership, but the revisions as written do not do this in reality. The bottom line is we do not see these proposed 2022 revisions as addressing the housing crisis caused in good part by the current STR Codes.

**Mandate to Protect Community Housing/Jobs Balance**

The Short Term Rental Policies must be consistent with the Housing Element Policies.

We see no stated intention to protect the housing in the community, which the County is mandated to do per the State’s requirements of the Housing Element, in these STR Revisions:

§ 84.28.010 Purpose. *The purpose of this Chapter is to establish a permit procedure, and maintenance and operational standards, for the use of legal residential dwelling units located in the Mountain and Desert Regions as transient occupancies, to ensure the health and safety of occupants, guests, and the surrounding residential neighborhood, and to minimize negative secondary effects associated with such use.*

We see no upper limits to the amount of STRs. Neighborhoods that used to house families with kids, have now lost 20% of the family housing to STR lodgings. Is more loss, okay? How long will it take before this neighborhood elementary school closes like one has up in Big Bear? What kind of psychological effects has this displacement had on all these kids and their parents? What does it do to those that remain, to see so many leave, and live amongst a revolving door of strangers, when they moved into the neighborhood to live surrounded by neighbors and have a sense of community?

The County is mandated to preserve the housing/jobs balance. Yes, the STRs provide jobs, but if the cleaners can’t afford to live in their own community and are soon to be displaced by their landlords, who is going to clean the STRs? How about the restaurants, where are their workers going to live so they can wait on the customers? These policies are hurting local business, as much as helping them.

Workers are travelling up to the Mountains from down in the Valley or from the North Desert to be these workers. Jobs for these individuals, should be where they live, and not making them drive a dangerous commute every day. This contribution to greenhouse gas emissions, should have been part of an obviously necessary Envi-
The responsibility of the County extends to more than just protecting the communities’ housing. The County also has the responsibility to protect the communities’ opportunities. Our community’s opportunities have been taken by outside investor LLC’s inflating our once affordable housing markets out of reach, so now our middle class cannot participate in this opportunity as they cannot afford to buy that second home, let alone their first home. Since the community is bearing all the costs for this market, it should be for the community to participate in and profit from this market, thus also keeping it a manageable size.

**State Guidance**

As time is of the essence, MBCA requests the State’s immediate attention and recommendations to bring our County’s STR Policies and Codes into consistency with the Housing Element, Zoning and Land Use Designations, and the rest of our Countywide Policy Plan (General Plan). We see the role of the California State Department of Housing and Community Development (HCD) as critical due to the housing crisis situation that has been created; a situation that can also be remedied by good policy decisions.

HCD acted previously to help guide the City of Irvine into writing consistent policies, in an April 8, 2019, letter “RE: Proposed Short-term Rentals and Boarding Houses Ordinance Amendment”. (Attached in email.)

HCD wrote to Irvine exercising authority over issues just like we in the unincorporated SB County are experiencing, stating (in this case referring to the boarding houses):

“The proposed provisions may also disproportionately affect tenants based on familial or marital status, race, nationality, or have a disparate impact on those that are low-income. Even if unintentional, the burdens placed on citizens through the subjective administration of proposed provisions has the potential to invalidate the ordinance.”
HCD appreciates the difficulty jurisdictions face in balancing competing interests when making land-use decisions and acknowledge the desire to address neighborhood concerns related to parking and noise. However, the city also has the responsibility to ensure that housing is available for all members of the community including those with special needs and those who are members of a protected class.”

The HCD Letter began with this introduction:

“The purpose of this letter is to assist the city in its decision making regarding the City of Irvine’s proposed short-term rentals and boarding houses ordinance amendment, particularly the “boarding house” definition.

In 2017, Governor Brown signed the 2017 Legislative Housing Package, which provides a renewed focus on housing, one of the most basic needs for every Californian. Chapter 370 Statutes of 2017, Assembly Bill (AB) 72, is one of the bills that was passed. AB 72 expands and clarifies the Department of Housing and Community Development’s (HCD) enforcement authorities. HCD will review local government’s actions and inactions, including program actions committed within an adopted housing element, to determine consistency or inconsistency with state housing law. If HCD makes findings of inconsistency, housing element compliance may be revoked and additional actions may be taken, including referral to the Attorney General’s Office.”

We ask that HCD compose a similar letter to SB County to “assist the {County} in its decision making regarding the {County’s} proposed short-term rentals ordinance”. HCD could encourage the County to allow locally owned residential-scale STRs with limits and oversight in residential zones and sunset the out-of-town LLC absentee investor STRs, once their permits expire. These owners still own their asset. They can either sell the house, move in themselves, or rent out to long-term renters.

The STR “use” is subject to a special use permit, it is not a guaranteed use of that zone. The permit was short-term just for this purpose, to allow for course corrections either at the individual property level, or at the policy level.

Primary residency is established for tax purposes, voting purposes, school attendance purposes, it is common. Just as elected officials can’t have conflicts of interest when voting on issues, or carryout insider trading, it is about establishing fair boundaries for the welfare of a community. This also helps business grow in a healthy long-term manner, not create a “bubble” as we have now.
Jurisdictions throughout California are completely prohibiting STRs, however that would go too far for our community and have negative results. The goal is to create a balance for all members in the community.

Counties and Cities have the power to zone to protect the welfare of the community, and they are required to write a balanced and consistent General Plan, for the same purpose. To illustrate this, the County chose not to allow the STRs in its Valley Region, to protect housing, one can assume. Community members of the Mountain and Desert know how serious this situation is and how much damage the amount of STRs have created, our welfare IS at stake.

**Impacts Continue in Our Communities**

In Joshua Tree, we have 856 STRs that are permitted or in the process. 856 STRs/4244 SFRs = a full **20%** of our housing units that are no longer housing but are now short-term rental lodgings. The County is receiving an averaging about 10 to 25 new applications a day across the County. With 3 to 14 of those a day for Joshua Tree. Should this pace continue unabated, we could be at 50% STRs in 2 more years.

The neighborhood that is mapped in the MBCA October 19th letter had 76 STRs in October, and it now has a net new 16 STRs, so this neighborhood now has 92 STRs, which is 20% of the sample neighborhood. At least four of the approximately six new homes were immediately turned into STRs.

Wayne Hamilton, the Homeless Liaison for our school district, just stated on a Friday 1/21/22 radio talk show on Z107.7fm, [https://podcasts.apple.com/us/podcast/ep-255-w-wayne-hamilton-homelessness-specialist-for/id386367587?i=1000548616012](https://podcasts.apple.com/us/podcast/ep-255-w-wayne-hamilton-homelessness-specialist-for/id386367587?i=1000548616012) that 1/3 of the houses are now STRs in the area. 10% of the Morongo Unified School District (MUSD) are identified as homeless, by the McKinney Vento definition, which includes families that are doubled and tripled-up. The school district enrollment has decreased from about 8,000 down to 7,600. Approximately **760 kids are identified as homeless** in MUSD, and that is only those who have come forward, many others have not. Many have simply left.

The unincorporated Mountain communities are being hit hard as well, with at least 2,940 STRs with another 224 (approx.) in review, this is on top of all the vacation
homes. There is such a population loss that an elementary school in Big Bear is closing, and Rim of the World School District is also facing large declines. Lake Arrowhead is having a hard time finding housing for its workers, as we are here in the Morongo Basin.

The City of Big Bear Lake is working on a voter initiative to limit the number of STRs as their density is approaching 50%. Starting up a voter initiative similar to this was suggested to us as an option to fix the policy problems, as opposed to the County responsibly revising the policies now. Big Bear Lake has 3000 registered voters, and we have 1,133,000 registered voters in our County as there is no distinction between incorporated and unincorporated populations for countywide elections. The vast majority of voters live down in the cities in the Valley Region. Thus, a successful voter initiative here is highly unlikely.

**Plea for State Guidance and Oversight**

Planning Law and CEQA exist to protect the rights and safety of communities. The HCD has been given authority to exercise its oversight authority to enforce the consistency requirements that are so wisely encoded in law. The State Attorney General already has this authority. It has now created a “Housing Strike Force”, just this reason. [https://oag.ca.gov/housing](https://oag.ca.gov/housing)

Some policy guidance from HCD could encourage and hopefully ensure more community-friendly and housing-friendly decisions, that bring the jobs/housing equation back into balance for the unincorporated communities of San Bernardino County.

We would hope the first recommendation is that the County places a moratorium on new permits and renewals, while it reviews its policies, performs the necessary traffic and environmental studies, hires new code enforcement officials to handle the current load and addresses the backlog of complaints.

This action on the County’s part, would allow the HCD to have confidence that the County is indeed trying to bring the situation under control. The HCD can then approve the County’s Housing Element 2021-2029 6th Cycle, with the condition that the STR Policies are brought into consistency for the welfare of the County’s unincorporated communities.
Sincerely,

_The Morongo Basin Conservation Association_

Steve Bardwell, President  Pat Flanagan, Director  Arch McCulloch, Director
David Fick, Vice President  Brian Hammer, Director  Gary Stiler, Director
Laraine Turk, Secretary  Sarah Kennington, Director  Stacy Doolittle, Director
Cathy Zarakov, Treasurer  Janet Johnston, Director

References:

This is the County’s relatively new site on STRs: [https://str.sbcounty.gov/](https://str.sbcounty.gov/)
This page has more info specific to what is allowed. [https://str.sbcounty.gov/about-str/](https://str.sbcounty.gov/about-str/)

This is the most recent code version. Google can lead one back to old versions, but this shows the revisions adopted in 2021. [https://cms.sbcounty.gov/Portals/5/CodeEnforcement/ShortTermResidentialRentalsOrdinance.pdf](https://cms.sbcounty.gov/Portals/5/CodeEnforcement/ShortTermResidentialRentalsOrdinance.pdf)

Housing Element Draft information: [https://cms.sbcounty.gov/lus/Planning/LearnMore.aspx](https://cms.sbcounty.gov/lus/Planning/LearnMore.aspx)


Community Member maps of the STRs: San Bernardino County Short Term Rentals (Unincorporated). This shows the concentrations in communities. [https://www.google.com/maps/d/u/1/viewer?mid=1hdWJvigDt7dVc-vzDwL3O9hzusXbCGEa&ll=34.124082158241215%2C-116.34562666245444&z=17](https://www.google.com/maps/d/u/1/viewer?mid=1hdWJvigDt7dVc-vzDwL3O9hzusXbCGEa&ll=34.124082158241215%2C-116.34562666245444&z=17)

Short Term Rentals in Unincorporated SB County. Has whether active or in process breakdown. [https://www.google.com/maps/d/u/1/viewer?mid=1jyONztdmqJLPAdyd1QWziijgju6d5z82j&ll=34.115614583464975%2C-116.33469666811793&z=17](https://www.google.com/maps/d/u/1/viewer?mid=1jyONztdmqJLPAdyd1QWziijgju6d5z82j&ll=34.115614583464975%2C-116.33469666811793&z=17)
Community Action Guides (which are not adopted land use documents, that replaced the adopted into code Community Plans in Fall of 2020)
https://countywideplan.com/communities/