



Agenda Item # \_\_\_\_\_

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Ward and Members of the City Council

**FROM:** Robert V. Wadden Jr., City Attorney

**DATE:** July 18, 2006

**SUBJECT:** Consideration of Issues Regarding Regulation of Residential Rentals and Paid Admission Parties

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### **RECOMMENDATION:**

Staff recommends that the City Council consider the options available for regulation of residential properties located in residential zones and of paid admission parties and provide direction to staff.

### **FISCAL IMPLICATION:**

In theory limiting residential rentals to thirty days or more should eliminate the transient occupancy tax ("TOT") on residential rentals less than thirty days thus reducing revenue. However, in practice there is no history of such rentals generating any revenue since property owners ignore the TOT.

### **BACKGROUND:**

The City has experienced one recent incident where a single family residence has been rented out for a single day for a party. In addition a brief search of the internet reveals a thriving market in vacation rentals of single family residential properties which may be rented for a single night, a week or multiple weeks. Most of these properties are furnished with fully equipped kitchens and command substantial rents, often several thousand dollars per week. These activities are perfectly legal under the current municipal code. The issue presented to the Council is whether or not these activities (i.e., the renting of residential properties for parties and for vacation housing) are consistent with the present use and character of the residential neighborhoods in which they occur and what, if any, regulatory power should be exercised to control or inhibit them.

### **DISCUSSION:**

The Police Department has a record of a complaint regarding only a single recent party in a residential rental. Members of the Department could not recall another situation where a residence had been hired for the sole purpose of holding a large party. They note that the issue of ownership or rental status of a property rarely arises when they investigate a noisy party and that in most cases they have no way of knowing that status. They also note that they are well equipped with enforcement tools to deal with noisy parties including the City noise ordinance and the Penal Code sections prohibiting disturbing the peace.

The Police Department has no record of complaints related to residential vacation rentals. The Community Development Department has received a complaint from a single individual who objected to rentals in residential neighborhoods. However, there is no evidence of any impacts arising from the practice of renting residential units for brief periods to vacationers. It appears that most vacation renters use their rentals in much the same way as permanent residents do: as general shelter for sleeping and preparing meals.

Staff reviewed the codes of other cities to determine if any other city had attempted to limit the minimum term of residential rentals. Locally the cities of Hermosa Beach and Santa Barbara indicated that they interpreted their zoning codes to prohibit short term rentals using a restrictive interpretation of the definition of “residential” as a permitted use. However, the express language of the zoning codes relied upon does not support this interpretation and actual enforcement would be problematic. Carmel, Imperial Beach and Monterey specifically prohibit rentals less than 30 days. Carmel and Imperial Beach both have specific ordinances which ban such short term rentals while the City of Monterey attempts to rely on its zoning code. Mendocino County requires permits for short term rentals but limits the total short term rentals in the City based upon a ratio of one short term rental for every 13 residential units and thus restricts the total number of permits available to be issued.

In some cities a practice has arisen in which a home owner or renter sponsors a paid admission party. Typically these parties are advertised by flyers distributed over a wide area. They often include live entertainment. Attendees are charged an admission price before being allowed into the party or charged a fee for the entertainment and refreshments. Since such parties are nonselective about who is allowed to attend and security is often lax or nonexistent they have the potential to be volatile. There is often no limit to the number of people admitted and a sponsor has an economic incentive to allow as many attendees as possible. A number of cities, including Hermosa Beach, have expressly banned such parties. The Police Department has not experienced any pattern of such parties in Manhattan Beach.

**ALTERNATIVES:**

Staff could develop an ordinance which would require that any residential rental term in a residential zone in Manhattan Beach must be at a minimum number of days (e.g., 30). That number would be subject to Council discussion and direction. Such an ordinance could provide that violation is a misdemeanor but further give the City the authority to suspend a certificate of occupancy as an administrative remedy or to bring an action for civil injunction against a violator.

Staff could prepare an ordinance banning paid admission parties in addition to restricting residential rentals or in place of restricting residential rentals. While one property owner has been known to rent their property for a party any property owner could presently do this with their own property. Thus limiting rentals will not necessarily insure that commercial parties, which are usually held on a large scale and can develop into a public nuisance, are banned.

**RECOMMENDATION**

An ordinance which restricts the term of residential rentals will obviously severely curtail property rights of owners and deprive a number of property owners of what is currently a lucrative use of their property. We request that the Council carefully consider whether the use of a residential property as a vacation rental creates negative impacts on neighborhoods of permanent residents which could be prevented by restricting rental terms and provide direction to staff. In addition the Council should consider the potential for paid admission parties and direct staff with regard to any desired regulation.

cc: Geoff Dolan, City Manager  
Rod Uyeda, Chief of Police