



Monterey County Planning Commission

Agenda Item No. 2

Legistar File Number: PC 18-009

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January 31, 2018

Introduced: 1/24/2018

Version: 1

Current Status: Agenda Ready

Matter Type: Planning Item

REF100042/REF130043 - SHORT-TERM RENTAL CODE COMPLIANCE

Consider recommendation to the Board of Supervisors concerning measures to enhance short-term rental code compliance.

RECOMMENDATION

It is recommended that the Planning Commission:

- a. Receive a report regarding code compliance for short-term rentals.
- b. Provide direction to staff
(County-wide)

Proposed CEQA Action: Not Applicable per Section 15060 (c)(3) and 15378 (b)(4)(5)

SUMMARY

On January 9, 2018, the Planning Commission directed staff to place an item on the January 31, 2018 Planning Commission agenda for the Commission to discuss and consider recommendations to the Board of Supervisors regarding measures to enhance short-term rental code compliance. Code enforcement decisions (whether to enforce, when, and how) are within the discretion of the County. Responsibilities to enforce codes are divided amongst various County Departments: Resource Management Agency (RMA) (land use, building and public works), Sheriff (abandoned vehicles), Health (water, wastewater, food, noise), and Treasurer/Tax Collector (taxes).

Generally, there are two types of enforcement relative to Short Term Rentals (STR): 1) Zoning Codes (land use) and 2) Tax Codes, which are related but mutually exclusive. Resource Management Agency (RMA) code compliance is reactive to complaints received, including Short Term Rentals and violations observed. In regards to compliance of STR's in relation to the Tax Code, the Treasurer/Tax Collector (TTC) has explored contracting services with Host Compliance that would allow the TTC to proactively monitor and enforce payment of Transient Occupancy Taxes (TOT). Any STR found operating must pay applicable taxes regardless if the STR has secured the proper land use entitlement or not.

DISCUSSION

RMA has limited available staff resources to enforce codes.

The RMA Code Compliance team consists of one, Senior Code Compliance Inspector and four, Code Compliance Inspectors II (CCI II) to cover the entire County with one of the four CCI II positions funded with cannabis tax revenues to support that program.

Given available resources, code complaints are addressed by priority on a scale from one to three. Priority one, the highest priority, consists of stated or presumed situations that may include an immediate threat to life, health and safety; Priority two includes situations not of an immediate threat to life, health and safety; but requires attention and Priority three, the lowest priority, are situations of objectionable contentions (e.g. House color, fence location, height of a structure, etc.). RMA code compliance priorities are established by RMA Chief of Building Services, who serves as the lead for the Code Compliance Section, following philosophy/direction and input of the RMA Chief of Planning (Zoning Codes), RMA Deputy Director of Land Use and Community Development, and as needed, the RMA Director. STRs are typically classified as priority three). Priority three cases are handled as time allows in relation to staff caseload. staff's assignments. An exception would be in a case where a STR has other violations that may threaten life, health and safety (e.g., unpermitted or unsafe structures; inadequate water or sewage). These would be considered priority one, and actively pursued.

RMA currently has 1,564 open Code Enforcement cases with 466 of those being a priority one case, 713 priority two and 385 priority three. There are currently 34 open code enforcement complaints for STRs within the unincorporated areas of the County of Monterey. A third-party service, Host Compliance, has identified 799 advertised STRs within the County of Monterey. In order to receive and utilize this data, the RMA would have to subscribe the service. Based on the information received from Host Compliance in comparison with the recorded entitlements (permits), there are approximately 20 permitted STRs on record. To address the unpermitted STRs would potentially increase open priority three caseload from 385 to 1,164.

In the case of cannabis, the Board has expressed interest to use TOT taxes (discretionary revenue) received to fund that program. Transient Occupancy Tax (TOT) is considered discretionary revenue, but is not exclusive to Short Term Rentals. If the County wants RMA to address Short Term Rental complaints as a higher priority going forward, the Board of Supervisors could allocate funding for an additional Code Compliance Inspector position that would be dedicated to the STR program, with the intent that they would generate additional permits resulting in additional TOT.

The Planning Commission expressed interest to include a requirement for staffing resources within the STR ordinance. Ordaining a requirement for staffing would remove the discretion of current and future Boards relative to prioritization and funding.

CEQA

Staff finds that progress reports are not projects as defined by the California Environmental Quality Act (CEQA), Guidelines Sections 15060(c) (3) and 15378(b)(4)(5). These reports are an administrative activity that will not result in direct or indirect physical changes to the environment. They are for information purposes only.

OTHER AGENCY INVOLVEMENT

None.

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