

Resort Dwellings/Vacation Rentals: The Hotel Next Door

Excerpts from the Florida League of Cities Legislative Issues 2020

Background:

In 2011, the Florida Legislature prohibited cities and counties from regulating short-term vacation rentals. A short-term vacation rental is defined as a property that is rented more than three times a year for less than 30 days at a time. The state legislation passed in 2011 included a provision that “grandfathered” any ordinance regulating short-term rentals prior to June 1, 2011. The effect of the 2011 law is that two separate classes of cities and counties were created respective to short-term rentals, those with Home Rule authority and those without. In 2014, the Legislature passed SB 356 (Thrasher), which diminished the preemption on short-term rentals. The 2014 law allows local governments to adopt ordinances specific to these rentals so that they can address some of the noise, parking, trash and life-safety issues created by their proliferation in residential neighborhoods. Unfortunately, SB 356 left in place existing statutory language stating that cities and counties cannot “prohibit” short-term rentals or regulate the duration or frequency of the rental.

Those cities and counties fortunate enough to have had an ordinance in place prior to the 2011 preemption are still allowed to regulate short-term rentals, but the question remains whether these ordinances will continue to be valid if amended. To date, they have retained the ability to regulate these properties through zoning and may have duration and frequency requirements. Some of these cities and counties may want to amend their ordinances to adjust to a changing problem. They are reluctant to do so out of fear of losing their existing ordinance and, with it, their Home Rule authority relating to short-term rentals.

Cities and counties without short-term rental regulations in place prior to June 1, 2011, have had their zoning authority stripped and are now seeing these rentals completely overtaking residential neighborhoods. Long-time residents are moving out as a result, and the residential character of traditional neighborhoods is slowly being destroyed.

The impacts of problematic short-term rentals on neighboring residents are felt in a number of ways:

The Commercial Hotel Next Door:

Commercial Activity in Residential Neighborhoods Houses that sleep 26 people are now present in what were once traditional neighborhoods. Because of the inability to regulate the duration of a renter’s stay, these houses could experience weekly, daily or even hourly turnover. Obviously, the constant turnover of renters creates a number of issues for cities, counties, and neighboring property owners. Prior to the preemption, local governments were able to regulate this activity through zoning. But if a city or county cannot “prohibit” these properties, they are powerless to exclude them from residential neighborhoods or regulate them. As a result, investors, many of whom are located out of state or even in a different country, have purchased or built single-family homes with the sole intent of turning them into short-term rentals.

Cities use zoning as a tool to prepare for their future growth and also use it to control where commercial and residential properties are located. Hotels have different infrastructure needs than single-family residential properties. As residential neighborhoods are developed, the infrastructure installed is

designed for the future use of the properties. Many neighborhoods have infrastructure in place with capacity for up to eight people per house. Now there are houses in these very same neighborhoods that sleep more people than the number originally planned for, placing a significant strain on existing infrastructure.

Noise Complaints:

In areas where short-term rentals are situated, many neighboring residents complain of the noise generated by the vacationing renters next door. When people go on vacation, often their behavior changes. They may stay awake later, consume more alcoholic beverages throughout the day, or participate in recreational activities that they would not participate in while at their own homes, such as swimming at midnight with music blaring. For those homes located near water, a lake or the ocean, it is important to note that sound travels easily over water – and residents located hundreds of yards away may be the ones calling and complaining to the police and their local elected officials. Some cities have noise ordinances, but these have proved problematic to enforce. Many times after the police arrive at a residence, the noise dies down. These renters may leave the next day with new ones replacing them. The new renters are often unaware of the noise ordinance or past complaints and may cause the same problems. The out-of-state property owner may not even be aware of the problems created by their renters and with the constant turnover. The problem temporarily ends as one renter leaves and begins again as new renters arrive. This causes a significant drain on law enforcement resources. When law enforcement officers are called to respond to noise complaints, one less officer is on the street either preventing or solving crimes.

Parking:

Many short-term rentals are located in single-family neighborhoods. In most cases, the driveway was built to accommodate two or three vehicles. When you now have a renovated house that acts as a small hotel, there will be more than three cars needed to get these renters to the property. This leads to cars that are parked on the street, making it difficult for emergency vehicles to respond to emergencies and causes increased response times in these neighborhoods. Cities have begun to adopt ordinances creating parking standards for short-term rental properties. Unfortunately, these ordinances only solve the parking issue but fail to address any of the other issues created by this commercial activity in residential areas.

Resort Dwellings Ordinance: Protecting Communities Against the Hotel Next Door

Ayn Samuelson president of South Patrick Residents Association & residential rental owner

- SPRA supports our existing ordinance that has been a fair law for the unincorporated area for 15 years. It's already the law.
- A Pandora's box of unintended consequences will be unleashed if the current resort dwelling ordinance is modified, as it's grandfathered-in to support local control over Resort dwelling zoning since 2006, when SPRA helped lead the initiative to protect residential property rights throughout the county. It's unthinkable that the zoning protections we currently have, and expect to continue, could be ripped away under the guise of property rights.
- This well-crafted ordinance created a balance of property uses in different locations. This is the type of zoning that citizens expect, and one that seeks to ensure the opportunity for different types of property ownership. It works in favor of property rights, not stopping fast-money, transient rentals, but properly directing it to be located in areas that do not negatively impact our long-term, family-based communities. "Zoning laws are created for the simple purpose of protecting the health, safety and general welfare of the people as relates to land use." Without fair zoning laws, the burden of protection shifts to the citizens themselves, and causes an imbalance in favor of short-term property ownership, especially on the barrier island.
- There are 15 years of lawful protections under which we have purchased our homesteads and improved our properties, along with the investment of time and commitment to supporting schools, engaging in civic activity, and caring for our children and seniors. If changed, there would be no other comparable law to protect our established property rights, because the 2011 state law prohibits local control to properly regulate vacation/resort dwellings going forward.
- **Facts & Evidence: There will be serious impacts on our residential communities**
 - **Deleterious impact on the health, safety, and welfare of our communities** with the shift of property ownership away from local ownership and management to: hedge funds, out of state owners, Airbnb and Vrbo influence, and offsite management that creates a nightmare for residents, code enforcement and Sheriff's deputies who will be doomed to fail residents, without this law to support them. They will be chasing short term rental impacts and fail in enforcement and the resolution of problems.
 - **A reduction in affordable housing** will occur (Emory Law), yet, the County actively supports affordable housing with tax dollars and the Housing and Human Services Dept. This is a glaring contradiction, as we know there is a shortage of such housing.
 - **Safety, and security will be eroded with strangers and transients**, who are here to vacation/party, moving weekly in and out of our neighborhoods and creating disruption. The **hotel next door** is incompatible with the character of our residential communities, and would increase fear for safety.
 - **Have you lived near a resort dwelling** and experienced a version of the movie Animal House? I have. Instead of vacationing in a legit hotel, people bring their partying, friends, and animals to neighborhoods, often exhibiting behavior that would not be tolerated in a managed hotel, where help is available and accountable.
 - **Examples:** 14 people vacationing with animals, cars taking over the street; destination wedding; partying late at night; N. Waterway Estates - Skylark, Penguin, Cardinal, Sandpiper; Moorings HOA. Serious violations were reported and cured under the existing ordinance, that would be not be achievable without the existing ordinance.

- **All unincorporated residents, including HOAs** would be impacted without this law to back them up. We would all be left without the current, long-standing law and county protection. Will the unincorporated area become a second-class location in which to live in comparison with those who are protected by city ordinances?
- **It is within the County's purview and responsibility** not to allow additional hazards to be introduced that impact residents' health and safety, or to change the essential character of our neighborhoods. In fact, it is their obligation to protect, if possible. The county made a sound decision in 2006 when this ordinance was crafted with a local law that provides opportunities for different categories of property ownership and appropriate locations for all types of property owners. New developments can craft a PUD, and with approval from the BOCC, sections can be allowed for multi-family and resort dwellings. But "dropping in" vacation rentals into established neighborhoods is not legitimate.
- We seek to protect what we value, and we value our homesteads and communities, as well as balanced property rights under the current 2006 Resort dwelling sections (Sec. 62-1841.5.5.; Sec. 62-1945.2., Sec. 62-1102. with regard to location and performance standards, and the 90 day rental requirement in our residential neighborhoods.)
- Do not open Pandora's box. Rather leave the Legacy of balanced property rights intact.

What can be done under the existing ordinance sections::

- Rent a property for more than 90 days for longer term vacationers in residential areas.
- Develop a new PUD with specific areas allowing multi-family and resort dwellings.
- Rent a dwelling as a vacation rental in currently designated zoning areas.

***Preponderance of evidence supports that the current ordinance remain intact, as written.**

- It is even-handed for all types of property owners, allowing both, ensuring that zoning laws are applied in a reasonable manner in addressing incompatible uses.
- Limits the "hotel next door" and promotes the county's responsibility for the health, safety, and welfare of residents.
- Addresses staff issues of being able to rely on the existing law to efficiently resolve issues and allows more effective use of time for staff and Sheriff's deputies, and their safety.
- Consistency in continuing the expectation of protection afforded by the existing Resort dwelling ordinance. If not, residents in the unincorporated area will be left to fend for themselves without the county law for protection.
- Residents have experienced negative impacts, and to my knowledge, none have been considered positive, regarding excessive numbers of cars and people, partying at all hours, strangers, animals, and no supervision/management. Fast money without the responsibility is not compatible in our residential communities.

From: [Elmore, Amanda T](#)
To: [Jones, Jennifer](#)
Subject: FW: dwelling/vacation rentals
Date: Thursday, November 5, 2020 8:23:36 AM
Attachments: [image001.png](#)

Amanda Elmore

Interim Assistant Director

PLANNING & DEVELOPMENT DEPARTMENT

2725 Judge Fran Jamieson Way, C-201
Viera, Florida 32940

New Direct Line (As of 7/21/2020): (321) 307-8996

New Internal Extension: 58996

e-mail: amanda.elmore@brevardfl.gov

website: <https://www.brevardfl.gov/PlanningDev>



From: Abbate, Frank B
Sent: Wednesday, October 14, 2020 9:52 AM
To: Calkins, Tad <tad.calkins@brevardfl.gov>; Elmore, Amanda T <Amanda.Elmore@brevardfl.gov>
Subject: FW: dwelling/vacation rentals

Tad and Amanda (Don Walker here on Frank's computer) Frank wanted me to send you copies of other emails he's received in reference to Vacation Rentals. If you receive additional emails from Frank on this issue (today) suffice to say those are emails I'm forwarding to you at his request.

Don

From: Krissy Willer <krissywiller@gmail.com>
Sent: Wednesday, October 14, 2020 9:30 AM
To: Abbate, Frank B <Frank.Abbate@brevardfl.gov>
Subject: dwelling/vacation rentals

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I live in South Melbourne Beach. This area is actually in county ordinance. I do not agree with neighborhoods having vacation rentals. This will change our area and I do not want my little neighborhood to change. Here are some reasons why this will be bad for our area:

- 1) Higher probability of increased crime from different strangers living next door daily, without concern whether they are of questionable backgrounds or even "registered" in their hometown.
- 2) Pop-up parties, weddings, re-unions, fraternity parties, etc (think, "animal house" at its worst)
- 3) Effectively changing your residential zoning to the commercial hotel and resort category.
- 4) Absentee management, most likely from out-of-state, out-of-country or corporate ownership.
- 5) Inability to confront your neighbor about common concerns.
- 6) Statistically more visits of Police and Code Enforcement officers to the property next door.

South Melbourne Beach is a very special place and allowing dwelling/vacation rentals will change this area for the worst. Thank you for your time.

Krissy Willer

(321)432-4807

From: [Abbate, Frank B](#)
To: [Calkins, Tad](#); [Elmore, Amanda T](#)
Subject: FW: Resort Dwellings
Date: Wednesday, October 14, 2020 10:09:09 AM

From: Roberta Crapo <r.crapo@yahoo.com>
Sent: Monday, October 12, 2020 1:08 PM
To: Abbate, Frank B <Frank.Abbate@brevardfl.gov>
Subject: Resort Dwellings

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Please do not vote to allow our unincorporated neighborhood to change into unrestricted Dwellings.
We value knowing our neighbors and having 90 day or longer rentals.
Regards
Roberta Crapo
117 Caledonia Drive
Melbourne Beach, FL 32951

From: [Abbate, Frank B](#)
To: [Calkins, Tad](#); [Elmore, Amanda T](#)
Subject: FW: Keeping South Brevard a community
Date: Wednesday, October 14, 2020 9:55:36 AM

From: Carolina Luger <chiniluger@gmail.com>
Sent: Tuesday, October 13, 2020 8:58 PM
To: Abbate, Frank B <Frank.Abbate@brevardfl.gov>
Subject: Keeping South Brevard a community

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

My family and I live in a great community where we know our neighbors, where our daughter rides her bicycle in the neighborhood knowing that she is safe. Our small community works towards a better place for our children and for a better future. Approving short term rentals will bring change irreversible to our way of life. Not to mention disturbing our beaches, not respecting the sense of a small community, not knowing who is living next to you. Also, the people that want to rent their places don't reside here 365 days a year. Can you please tell us what is your position in this matter?.I'm voting in the next 21 days and I want to know who we can trust.

Sincerely,
Carolina L.
Floridana Beach

From: [Abbate, Frank B](#)
To: [Calkins, Tad](#); [Elmore, Amanda T](#)
Subject: FW: Vacation Rentals in the South Beaches
Date: Wednesday, October 14, 2020 10:03:01 AM

From: Noreen Williams <nwilliams1955@yahoo.com>
Sent: Tuesday, October 13, 2020 1:48 PM
To: Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>; Abbate, Frank B <Frank.Abbate@brevardfl.gov>
Subject: Vacation Rentals in the South Beaches

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioners:

In the past two weeks, I have been hearing many people urging that we not reelect Mr. Tobia as county commissioner. The reason being is that he is promoting vacation rental properties in the South Beaches. I pray that this is not true (although it seems that it is true) since I already cast my vote for Mr. Tobia. At any rate, I could not have voted for Mr. Patel. Whoever has a vote in preventing our community from being ruined by short term rentals, please listen to us.

My experience comes from my monthly visits to the Florida Gulf Coast community of Anna Maria Island. My parents lived there for decades and my sister and brother-in-law own the iconic West Coast Surf Shop, which has been in business since 1964. I have watched the island change from original cottages and generations of families to ostentatious mansions, whose owners are not in residence, but instead rented out like hotels. Parking and traffic nightmares and overflowing garbage are the least of the problems. There are so few permanent residents/families that the elementary school must bus in children from other areas just to have enough students to fill the classrooms. Local businesses have difficulty getting employees because the traffic to get on the island during the season means it takes over an hour to travel less than a dozen miles. People who work on the island cannot afford to live there as there are limited long term housing options available. I used to love visiting family on the Island, but came to dread it over the last ten years. Since my parents died, and their house was sold and demolished, I have been back once. The next time I return, there will undoubtedly be a giant vacation rental on the property in a neighborhood that was once a residential community where the neighbors knew each other and got together regularly for community events.

There is a difference between Anna Maria and the South Beaches. Anna Maria has more commercial businesses than the South Beaches, so it is good for the businesses having all the

changeover of people. (I know the surf shop's locals no longer live on the island and are not the customer base the shop relies on to make a living) However, in the South Beaches, we have very few, if any, commercial businesses relying on constant turn over of tourists for business. This is another reason why we do not need to ruin paradise with short term rentals.

I look forward to hearing from you regarding what stand you take and what you plan to do. I have many friends who have not yet voted.

Best Regards,

Noreen Williams

6400 Floridana Ave. Melbourne Beach, FL 32951

FLORIDANA BEACH

[Noreen Williams](#)

MS, RD, CDCES, BC-ADM

321-615-1901

From: [Abbate, Frank B](#)
To: [Calkins, Tad](#); [Elmore, Amanda T](#)
Subject: FW: NO SHORT TERM RENTALS PLEASE
Date: Wednesday, October 14, 2020 10:02:01 AM

From: ariel van <sleepingwillowmoon@gmail.com>
Sent: Tuesday, October 13, 2020 2:08 PM
To: Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>; Abbate, Frank B <Frank.Abbate@brevardfl.gov>
Subject: NO SHORT TERM RENTALS PLEASE

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Please do not allow short term rentals in our neighborhoods. Here in Melbourne Beach, Florida Beach we have suffered enough already seeing the dunes and turtle nests destroyed - areas which are SUPPOSED to be protected. These renters shoot off fireworks late into the night, create loud noise and cause havoc. We have constant issues with renters leaving litter, frightening off sea turtles (trying to take pics as they lay eggs). In addition they leave large glaring lights on the beach during nesting season. When the owners are contacted they do nothing. Where is the accountability for this destruction? We have lost so many hatchlings, many wandering in the wrong direction across A1A! Can there be no end to the destruction? The turtles, dunes and environment need to be taken into consideration even if you could care less about the humans (actual residents) trying to live here and pay property taxes.

PLEASE DO NOT ALLOW SHORT TERM RENTALS!

Can't wait to bring more COVID in I suppose? Great then who is going to pay the taxes when everyone is gone? Who is going to come to the beach when it is contaminated? If you want these types around then let them come during red tide so they can experience first hand an environment tainted by unacceptable choices and behaviors like their own.

I know you will find this hard to believe but years ago when I first moved to FL we had birds on the trees - all white and beautiful like paradise! How beautiful it was once upon a time.

Thank you,

V. Van Haltern, Florida Beach

From: [Abbate, Frank B](#)
To: [Calkins, Tad](#); [Elmore, Amanda T](#)
Subject: FW: I am against Vacation Rentals
Date: Wednesday, October 14, 2020 9:59:55 AM

From: YuriW <g.yuriw@gmail.com>
Sent: Tuesday, October 13, 2020 3:46 PM
To: Abbate, Frank B <Frank.Abbate@brevardfl.gov>
Subject: I am against Vacation Rentals

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioner,

I am completely against Vacation Rentals in our neighborhoods, they are damaging our way of life and they are affecting our dunes and the turtles.

I am a long time Floridana resident and I never miss voting.

Thank you,

Yuri Weinstein
6550 Floridana Ave

From: [Abbate, Frank B](#)
To: [Calkins, Tad](#); [Elmore, Amanda T](#)
Subject: FW: Short term rentals
Date: Wednesday, October 14, 2020 9:58:10 AM

From: Seth Ferriell <saferriell@gmail.com>
Sent: Tuesday, October 13, 2020 6:59 PM
To: D1.commissioner@brevardfl.govone; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Abbate, Frank B <Frank.Abbate@brevardfl.gov>
Subject: Short term rentals

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I am in opposition to any changes to the short term rental policies in the county. Opposition to any changes is overwhelming among my neighbors for traffic, noise and dune damage reasons. In today's environment any changes would also be met with legal challenges and I am against wasting county resources to defend such litigation. Please vote no on any proposals to allow nightly and short term rentals.

Sincerely
Seth Ferriell
6466 Floridana Ave
Melbourne Beach FL 32951
865-804-4483

From: [Abbate, Frank B](#)
To: [Calkins, Tad](#); [Elmore, Amanda T](#)
Subject: FW: Another Bad Tobia Proposal
Date: Wednesday, October 14, 2020 9:57:07 AM

From: helen stamatacos <hnstamatacos@yahoo.com>
Sent: Tuesday, October 13, 2020 7:48 PM
To: Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>; Abbate, Frank B <Frank.Abbate@brevardfl.gov>
Cc: Charlie Magal <cmagal@yahoo.com>
Subject: Another Bad Tobia Proposal

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioners,

I implore you to please stop Mr. Tobias once again desire to ruin Brevard County.

We do not want the continued degradation of our neighborhoods. We live in South Brevard and have watched a slow decline on what attracted us to this pristine oasis. WOW, let's give any one the opportunity to allow total strangers into our neighborhood. Why is it that protective laws that have been in place are just thrown to the wayside????

PLEASE DO NOT support Commissioner Tobia's proposal to allow Vacation Rentals into Brevard County.

We are strongly against resort dwellings anywhere near our neighborhood or homes.

Sincerely,

Helen Stamatacos
Charles Magal, M.D.

9010 S A1A
Melbourne Beach, FL 32951