



Agenda item 53

Short term rental of
residential units



LDC§ 25-2-3 RESIDENTIAL USES DESCRIBED

- A.** Residential uses include the occupancy of living accommodations on a nontransient basis.

TX Local Govt. Code Sec. 214.211 DEFINITION

3. “Residential” means having the character of a detached one-family or two-family dwelling or a multiple single-family dwelling that is not more than three stories high with separate means of egress, including the accessory structures of the dwelling, and that does not have the character of a facility used for the accommodation of transient guest or a structure in which medical, rehabilitative, or assisted living services are provided in connection with the occupancy of the structure.



Determination of Use Classification

Greg Guernsey's March 12, 2011 interpretation letter states: " (1) A rented residential structure, even one which is rented for a short period of time, is not classified as a Hotel/Motel land use under existing City Land Use Code. (2) While these uses are still classified as single family residential uses, the frequent rental of a single family home for short durations, can make the minor conflicts often experienced by all neighbors more difficult to resolve."

CITY OF AUSTIN
Board of Adjustment/Interpretation
Decision Sheet
Interpretation

DATE: Wednesday, June 13, 2011

CASE NUMBER: C15-2011-0038

<u> </u> V	Jeff Jack
<u> </u> Y	Michael Von Ohlen
<u> </u> Y	Nora Salinas
<u> </u> Y	Bryan King
<u> </u> N	Leanne Heldenfels, Chairman
<u> </u> -	Clarko Hammond, Vice Chairman (RECUSED)
<u> </u> Y	Heidi Goebel
<u> </u> Y	Melissa Hawthorne

OWNER/APPLICANT: Leslie Rosenstein

ADDRESS: 6521 ARGENTIA RD

INTERPRETATION REQUESTED: The applicant has filed an administrative appeal, requesting an interpretation of whether the Planning and Development Review Department Director's determination that a residential structure rented for a short period of time is classified as single family residential use is correct.

BOARD'S DECISION: April 27, 2011 The public hearing was closed on Board Member Jeff Jack motion to Grant appeal, Board Member Bryan King second on a 4-3 vote (Michael Von Ohlen, Leanne Heldenfels, Heidi Goebel nay); motion failed, **DENIED**.

BOARD'S DECISION: June 13, 2011. Board Member Jeff Jack's motion to reconsider; Board Member Michael Von Ohlen's 2nd, on a vote of 7-9, **GRANT TO RECONSIDER**. The public hearing was closed on Board Member Bryan King's motion to Uphold the interpretation that a residential structure rented for a short period of time is not a hotel/motel land use and Overture the interpretation that it is classified as a single-family use; with the further ruling that, based on Section 25-2-3(A), the code does not provide for a transient residential use, which is determined to be any occupation for a period of less than 10 days. Board Member Michael Von Ohlen 2nd on a 6-1 vote (Board Member Leanne Heldenfels nay; Board Member Clarko Hammond recused).

FINDINGS:

1. There is reasonable doubt or difference of interpretation as to the specific intent of the regulations related to Section 25-2-3(A) on transient use of a residential property.
2. PDRD's decision is contrary to the land use classifications of Chapter 25-2 of City Code and hereby reversed or modified to require that the rental of a residential unit must be for a period of greater than 10 days.



Susan Walker
Executive Liaison


Leanne Heldenfels
Chairman



MEMORANDUM

To: Mayor and Council

From: Greg Guernsey, AICP, Director
Planning and Development Review Department

Date: July 27, 2011

Subject: Board of Adjustment Action re: Short Term Rentals and Vacation Rentals
by Owner (STRs & VRBOs)

On June 13, 2011, the Board of Adjustment (BOA) took action on a reconsideration of a use determination related to short term rentals and the Director's decision that rental of a residential property for short periods of time is not a violation of City Code. The Board voted against the Director's decision and ruled that rental for a period of less than 10 days is a violation of the City Code.


Prior to that action, the Codes and Ordinances subcommittee of the Planning Commission initiated a code amendment to address the short term rental issue. The subcommittee created a working group that has developed an initial proposal, which is scheduled for consideration by the Code and Ordinances subcommittee in August. Those recommendations will then be forwarded for formal consideration by the full Planning Commission. While staff is uncertain of the exact timing for consideration of the proposal, the working group has agreed to an expedited schedule. We anticipate Council consideration some time in the next two to four months.

With regard to enforcement, it is common for the City of Austin to provide a property owner with an opportunity to bring a property into compliance when a zoning violation has been identified. Oftentimes that involves pursuing a zoning change which will take several months. The City has traditionally allowed the activity to continue, provided there are no health or safety issues, while the zoning change was underway. Enforcement has also been deferred in the past when proposed code amendments would allow a property to come into compliance. Because the code amendment addressing short term rentals is making progress and was initiated by the Planning Commission prior to the Board of Adjustment's ruling, the most prudent action is to allow the code amendment process to reach its conclusion before taking enforcement action against any property owner.

Additionally, on July 14, 2011, several property owners filed a lawsuit appealing the BOA's decision to Travis County District Court. The Law Department has advised that the appeal remains pending and should not hinder ongoing efforts to develop an ordinance addressing short-term residential rentals.

If you have any questions please contact Jerry Rushoven at 974-3207 or e-mail jerry.rushoven@ci.austin.tx.us.

cc: Marc Ott, City Manager
Sue Edwards, Assistant City Manager
Robert Goode, Assistant City Manager
Brent Lloyd, Assistant City Attorney
Chad Shaw, Assistant City Attorney
Kathleen Buchanan, Assistant City Attorney
Carl Smart, Director, Code Compliance
Jerry Rushoven, Current Planning Manager, Planning and Development Review
Robert Heil, Planner, Planning and Development Review
Members of the Planning Commission
Members of the Board of Adjustment



Based upon the BOA ruling the short term rental of a residential structure for a period of less than 10 days is not legal.

P = Permitted Use C = Conditional Use Permit .. = Not Permitted

P = Permitted Use C = Conditional Use Permit .. = Not Permitted

[illegible]

COMMERCIAL USES		LA	RR	SF-1	SF-2	SF-3	SF-4A	SF-4E	SF-5	SF-6	SF-1	SF-2	SF-3	SF-4	SF-5	SF-6	NO	LO	CO	CR	LR	GR	L	CHD	DMU	WLO	CS-1	CS-2	P	HI	LI	RED	DR	AV	AG	FUP
Administrative and Business Offices		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Agricultural Sales and Services		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
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Automotive Rentals		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Automotive Repair Services		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
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Automotive Washing (of any type)		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
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Business Support Services		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
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1 May 2014 25:26 UTC / 15:22 EST

3. ਪ੍ਰਮਾਣਿਕਤਾ ਜਾਂ ਸ਼ਿਲੇਤੀਪਤਾ: ਜਿਸ ਦੀ ਸਿਖਰ 2 ਵਿਖੇ

5 Pub. in 25-2-001 09-2-211

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9.3 km to 25.2 m³


204650 25-3-623 (12-2-20)

4 Refs. In: 25-2-624 (13-2-227).

05/10/2019 19:25:20 (13-7-22)

A Refers to 25-2-E42

19 8104 12 25 2 177 8 25 2 130



The Auditor's report identified 1500 STR properties within the city. Out of the 900 properties where owner information was available, the auditor found that 563 owners occupy the property and 337 do not occupy the property.



STR's are growing in number



Our position:

Homesteaded STR's should be permitted for a maximum total of 60 days per calendar year.

Commercial "non-homesteaded" STR's should be banned in single family zoning districts.




Commercial STR's in residential districts

- Are not consistent with the ideals of the Comprehensive Plan.
- Reduce housing stock.
- Negatively impact school enrollment by replacing permanent residents with transients.



This is about line drawing

- 30 days is an appropriate line as it coincides with the HOT.
- Limitation of homesteaded STRs in residential districts is appropriate as this is an accessory use to the residential use.



This is not about a good operator or a bad operator but rather about the banning of commercial activity in single family zoning district.



Ewing v. City of Carmel by the Sea

Short term tenants have little interest in public agencies or in the welfare of the citizenry. They do not participate in local government, coach little league, or join the hospital guild. They do not lead a scout troop, volunteer at the library, or keep an eye out on an elderly neighbor. Literally, they are here today and gone tomorrow-without engaging in the sort of activities that weld and strengthen a community.