

Save Trinidad Neighborhoods

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Contact: Kathleen Lake

August 3, 2018

Humboldt County Civil Grand Jury
825 Fifth Street
Eureka, CA 95501-1153

RE: Response to A Tale of Two Cities: Vacation Rentals in Trinidad, California

**TO: The Honorable Judge Joyce D. Hinrichs, Humboldt County Superior Court, and
Bernadette Cheyne, Foreperson of the Humboldt County Civil Grand Jury**

Dear Judge Hinrichs and Ms. Cheyne:

In response to the Grand Jury letter dated June 26, 2018, below are Save Trinidad Neighborhoods' (STN) responses to the findings and recommendations made in the Humboldt County Civil Grand Jury Report, *A Tale of Two Cities: Vacation Rentals in Trinidad*.

STN would like to commend the Humboldt County Civil Grand Jury (HCCGJ) on its thorough and independent investigation of the City of Trinidad's (City) lack of transparency, public process and enforcement of its Short-Term Rental Ordinance (STR Ordinance). The comprehensive and well-written findings provide clear and reasonable directives to the City to correct government transparency and quality-of-life problems associated with the proliferation of Short-Term Rentals (STRs) in our community. STN is hopeful the City will institute the recommended changes to promote open and transparent government and instill civility and fairness in City-related matters. STN sincerely appreciates your time and effort in this investigation, and we look forward to your follow up.

FINDINGS F1 through F6

Below are STN's responses to Findings F1 through F6:

Finding F1: *Trinidad's complaint and appeal process has been slow and inconsistent which has led to confusion and frustration among residents.*

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

Response: STN agrees with the Grand Jury's finding:

STN would like to make a point of clarification regarding the complaint and appeal process. It is not only that the appellant is "not informed of the final decision," but also that complaints and appeals go entirely unresolved and/or are not addressed in any way by the City despite repeated inquiries by residents about the status of their complaints.

In the future, STN requests that all STR complaints and appeals be reviewed by the Planning Commission and City Council in staff report updates at their regular monthly public meetings. STN requests that the Planning Commissioners and City Councilmembers adopt a more active role in the oversight and resolution of STR complaints and appeals. Currently, other than a complaint form buried on the City's website, there are no administrative rules and regulations posted on the City's website, even though STR Ordinance section 17.56.190 (6.26).Q. states: *The City Manager will establish administrative procedures for complaints. A copy of such administrative rules and regulations shall be on file in the office of the City Clerk and posted on the City's website.* Two requests for this information were sent via email to the City Manager on July 12, and August 2, 2018. No response has been provided to date. (Please see Attachment #1.)

Finding F2: *Lack of compliance to Trinidad's Short Term Rental Ordinance by some Short Term Rental owners and property managers create frustration and animosity in the community.*

Response: STN agrees with the Grand Jury's finding.

A lack of attention to STR problems and ignoring residents' complaints has resulted in undue duress and hardship on the part of residents and has also created a divided and toxic community environment. STN would like to build a relationship with the City and asks that there be regular, publicly-noticed open forums, such as Brown Bag Workshops, to share concerns, suggestions and progress on City STR issues. These less formal and more open meetings would allow increased dialog between City officials and residents and help restore public trust in City governance. This process would reduce the perceived leveraging of STR needs and dollars over and above the needs of the residents by City officials. An Ad Hoc STR Committee was recommended by the City Council in March 2018. As of this time, no further information regarding the establishment of an STR Committee has been offered despite multiple requests for updates by residents.

Finding F3: *Trinidad would benefit in having law enforcement assistance during tourist season to handle immediate violations of the STR ordinance.*

Response: STN agrees with the Grand Jury's finding.

At this time, even when the Humboldt County Sheriff's Office (HCSO) is on duty and notified of STR problems by residents, there is no real-time (at the time the violation is occurring) enforcement of the STR Ordinance. Per the HCSO Deputy, STN was informed that, at this time, the Trinidad Deputy is not trained in these matters and cannot enforce the Trinidad STR Ordinance. (Please see Attachment #2.) STN would like the HCSO Deputy to become trained

so that he can conduct real-time enforcement of Trinidad's STR Ordinance (i.e., off-leash dogs, occupancy overages, excessive noise, unauthorized events).

Finding F4: *It is unclear what criteria is used for city council recusal of those members who own or manage an STR which leads to a perception of conflict of interest within the community.*

Response: STN agrees with the Grand Jury's finding.

STN would like all City Councilmembers and Planning Commissioners that own and operate STRs in Trinidad to recuse themselves whenever STR discussion/decision items are listed on City agendas, including STR Ordinance updates, violations or other issues. The perception of conflicts of interest was also mentioned in the Grand Jury Report, as it pertains to City staff. For example, while the Trinidad City Clerk is assigned with the review of STR complaints, appeals and renewals, he is also a property manager for multiple STRs in Trinidad. In addition, the City Clerk's partner is a property manager for a local vacation rental business which manages multiple STR properties in Trinidad. In the City Manager's absence, the City Clerk is the only resource for residents with STR problems. Due to the City Clerk's undeniable conflict of interests regarding STRs, STN believes the City Clerk should not be allowed to handle STR complaints, appeals, renewals and other STR-related matters in the City. (Please see Attachment #3.)

Finding F5: *Because there is often no written notification of the result of an appeal, complainants sometimes are unaware if a resolution has been reached.*

Response: STN agrees with the Grand Jury's finding.

Due to ongoing lack of public process and response by the City regarding STR complaints and appeals, it has become common place for a resident who files a complaint, or appeal, about an STR to receive a letter of litigation from the STR owner long before a response or determination has been made by the City Manager on the merits of the complaint. In addition to threats of lawsuits, residents continue to suffer verbal abuse and harassment and have been wrongly accused of lying and creating false reports by STR owners/managers, City officials and City staff. If the City was fair and prompt in its follow-up of complaints and appeals, this would greatly alleviate residents' anxiety surrounding STRs and restore their faith in the City' ability to properly and effectively govern STRs.

Finding F6: *When properly utilized, Trinidad's Short Term Rental Ordinance provides workable methods for solving problems associated with Short Term Rentals.*

Response: STN agrees with the Grand Jury's finding.

STN has long argued that the City, prior to adopting the STR Ordinance, did not properly evaluate the likelihood of enforcement problems associated with high numbers of STRs in Trinidad. STN brought forward, on numerous occasions, the lack of any clear enforcement options for residents, especially when Trinidad does not have an in-town police department or full-time police coverage. STN also asked for an analysis to review the taxpayer costs

associated with governing STRs in Trinidad. STN would also like an evaluation on how STRs: (1) impact the availability and affordability of housing in Trinidad, (2) displace people that would like to live and work in Trinidad, and (3) diminish the pool of full-time residents that could serve in various civic roles or volunteer capacities for the organizations that contribute to a vibrant and viable community.

RECOMMENDATIONS R1 THROUGH R5

Below are Save Trinidad Neighborhoods responses to Recommendations R1 through R5:

Recommendation R1: *The Humboldt County Civil Grand Jury recommends the city of Trinidad and citizens of Trinidad follow the steps outlined in Ordinance 2016-03 to solve complaints in reference to Short Term Rentals. This should take place upon receipt of the report. (F1, F2, F6)*

Response: STN agrees that this recommendation should be implemented.

An approved complaint and appeal process (including timelines), and a complaint form, should be placed on the City webpage in a "one click and fill in" format for ease of access to residents. The City should inform the complainant of its receipt of the complaint and evaluate the complaint in a prompt and fair manner.

Recommendation R2: *The Humboldt County Civil Grand Jury recommends that the city of Trinidad consistently and strictly adhere to the Ordinance 2016-03 to manage the short-term rental application renewal process. This should take place upon the receipt of this report. (F1,F2)*

Response: STN agrees that this recommendation should be implemented.

Recommendation R3: *The Humboldt County Civil Grand Jury recommends that the city of Trinidad allocate a portion of Transient Occupancy Tax revenue to to hire seasonal enforcement staff to deal specifically with Short Term Rental issues by December 31, 2018.*

Response: STN agrees that this recommendation should be implemented.

To assure enforcement of the STR Ordinance, it appears there must be an agreement between the City and HCSO to ensure that any Sheriff's Deputy patrolling Trinidad has been properly trained to enforce the regulations of the STR Ordinance (e.g., off-leash dogs, occupancy overages, noise problems, unauthorized events and parking issues). An administrative assistant who works for the City is not a code enforcement officer. This may be a proposal from the City Council and City Manager, however, we feel that with past problems, if there is no real time enforcement, residents are put in the unfair position of reporting violations that are not validated by law or code enforcement and are, therefore, dismissed or determined to not be violations by the City Manager because they cannot be verified. (Please see Attachment #4A and 4B.)

Recommendation R4: *The Humboldt County Civil Grand Jury recommends Trinidad city council members who own or manage Short Term Rentals always recuse themselves when STR's are considered, discussed, or voted upon. Said recusals should be recorded in the meeting's minutes. This should begin immediately upon receipt of this report. (F4)*

Response: STN agrees that this recommendation should be implemented.

In all public meetings that include the discussion of STR issues, Councilmembers should be required to leave the room to avoid perceptions of conflicts of interest. Also, City staff who own or operate STRs should not be placed in positions of overseeing complaints, appeals or renewals, due to perceived conflicts of interest.

Recommendation R5: *The Humboldt County Civil Grand Jury recommends the Trinidad city manager notify complainants in writing within seven working days of all city decisions on Short Term Rental complaints and appeals. This should begin no later than October 1, 2018. (F5)*

Response: STN agrees that this recommendation should be implemented.

A formalized complaint and appeal process should be approved by the City Council and posted on the website for easy access to residents. Complaints and appeals should be promptly and fairly investigated by City staff and City officials, with written notice given to residents that their complaint or appeal has been received and a timeframe in which the issue will be investigated.

In closing, we recommend that the City re-evaluate the STR Ordinance so it is more manageable and compatible with the resources available to the City, and so that any ambiguities in the language are cleared up for ease of enforcement. The City should make enforcement of the STR Ordinance a priority and, if necessary, divert funds that are currently donated to non-profit organizations or other entities for STR enforcement purposes. STRs for Primary Residents only is the way many cities have balanced residential enforcement (e.g. San Diego, San Francisco) for STRs. Other cities have banned any non-owner occupied STRs (e.g. Santa Monica) based on protection of the community fabric and high costs of enforcement. STN looks forward to working with the City in the implementation of the recommendations set forth in the HCCGJ Report to support and protect the residents' public process rights and the quiet use and enjoyment of their homes. We look forward to the HCCGJ revisiting these issues next year to ensure that City officials: (1) follow public processes for STR complaints and appeals, (2) fairly and effectively enforce the requirements in the STR Ordinance, (3) work to make the complaint and appeal process more transparent and fair, and (4) resolve issues with perceived conflicts of interests by City officials and staff involved in Trinidad's STR industry.

Please feel free to contact me for further information.

Sincerely,

Kathleen Lake
Save Trinidad Neighborhoods