



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 12/10/2019

Agenda Placement: 10A

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: David Morrison - Director
Planning, Building and Environmental Services

REPORT BY: David Giudice, CODE COMPLC/PRCS IMPRVMNT MGR - 299-1347

SUBJECT: Short Term Rental Enforcement

RECOMMENDATION

Director of Planning, Building and Environmental Services requests approval of and authorization for the County Executive Officer/Purchasing Agent to sign an agreement with Host Compliance, LLC, for a maximum of \$37,108 per year for the term November 1, 2019 through October 31, 2020, with an automatic rollover of two (2) additional one (1) year terms to assist with detection, investigation, and management of short-term rentals in the unincorporated area of Napa County.

EXECUTIVE SUMMARY

Director of Planning, Building and Environmental Services (PBES) requests approval of a subscription contract service provided by Host Compliance for the enforcement of short-term rentals. As indicated in the Board of Supervisors' response to the Grand Jury report published on September 7, 2019, staff is proposing a consultant to assist Code Compliance staff with the identification, data gathering, and preliminary noticing of short-term rental violations. Host Compliance has developed a set of proprietary technologies, methodologies, and processes to quickly and cost-effectively monitor specific geographies for short-term vacation rental listings and to precisely identify the addresses and contact information of the associated properties. These software tools and algorithms are deployed continuously across the world's 54 largest vacation rental websites ensuring a complete database of short-term vacation rental properties. For Napa County, Host Compliance will scrub the vacation rental websites to identify properties that rent less than 30 consecutive days and may be in violation of Section 18.104.410 of the County's Transient Commercial Occupancies Ordinance for potential prosecution.

PROCEDURAL REQUIREMENTS

1. Staff report.
2. Public comments.

3. Motion, second, discussion and vote on the item.

FISCAL & STRATEGIC PLAN IMPACT

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| Is there a Fiscal Impact? | Yes |
| Is it currently budgeted? | Yes |
| Where is it budgeted? | The contract will be funded through existing funds within the Building Code Compliance fund. |
| Is it Mandatory or Discretionary? | Discretionary |
| Discretionary Justification: | The 2019 Grand Jury Report on short-term rental enforcement listed recommendations. Response number 3 prepared by the Director of Planning, Building and Environmental Services recommended the hiring of a consultant to assist with enforcement of over 450 illegal vacation rentals in the unincorporated areas of Napa County. |
| Is the general fund affected? | No |
| Future fiscal impact: | The subscription service automatically renews after the 1 year contract term has completed. Staff will assess current budget availability prior to renewal of the subscription and will budget accordingly. |
| Consequences if not approved: | The County will not have effective enforcement of short-term rentals. |
| County Strategic Plan pillar addressed: | Livable Economy for All: Identify housing resources and remove barriers to maximize housing opportunities. |

Additional Information:

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Transient Commercial Occupancies of dwelling units, also known as short-term rentals (STRs) are typically residential dwelling rentals that are advertised through online vacation rental websites such as Air B&B, Vacation Rentals by Owner (VRBO) and other online websites for stays of less than 30 days. STRs are generally not allowed within the unincorporated areas of the County per Napa County Code section 18.104.410, which prohibits any advertising, negotiating, and/or uses of a dwelling as a STR. There are exceptions that include existing Bed and Breakfasts that have a use permit and some designated rentals within the Silverado Country Club that are part of an approved Development Agreement. The County no longer issues Bed and Breakfast use permits.

Illegal STRs reduce the available supply of housing for local residents and workers, as well as engage in unfair

business practices, which harm existing legally compliant hotels and resorts. Since illegal STRs do not pay transient occupancy taxes (TOT), they reduce County revenues compared with permitted lodging. In addition, STRs reduce public safety in communities, as there are fewer full-time residents to watch over the neighborhood. Homes used as STRs are not available for family housing, which decreases the number of resident students and contributes to declining enrollment in schools and funding for education. Fewer permanent residents also means that there are fewer customers for local serving business, requiring people to go farther for basic goods and services. The importance of illegal STRs is reflected in Action 10.d of the 2019-2022 Napa County Strategic Plan, which states: "Continue to enforce against illegal short-term rentals."

Currently, the County has an estimated 450 non-permitted STRs within the unincorporated areas of the County.

What is the benefit of STR enforcement?

1. Protect the Agricultural Preserve from non-agricultural uses.
2. Reduce noise, parking, traffic, and trash-problems.
3. Eliminate party venues that can disrupt the character of a neighborhood.
4. Ensure building safety for tourists and visitors.
5. Improve responsiveness to neighbor complaints.
6. Expand the availability of affordable and market-rate housing.
7. Improve tax compliance by enforcing the collection of the Transient Occupancy Tax.
8. Ensure a level playing field between law abiding traditional lodging providers and illegal STRs.

On September 17, 2019, the Director of Planning, Building and Environmental Services, with concurrence from your Board, provided a response to a 2018-2019 Grand Jury report in which enforcement of short-term rentals was raised. The Director of Planning, Building, and Environmental Services, in his response, recommended the use of an outside consultant to monitor STRs to assist the County with evidence collection to improve enforcement efforts. Following this recommendation, staff researched consultants that could provide this type of specialized service. Most firms are focused on assisting local governments in managing legally permitted STRs. Staff received a proposal by Host Compliance, a company that specializes in the monitoring and enforcement of illegal STR activity. Host Compliance has been hired by over 250 jurisdictions across the United States, including the local jurisdictions of Marin County and the cities of Napa and Sonoma. Under a single-source contract, Host Compliance will provide the following services:

1. Address Identification: They will provide an online dashboard with complete address information and screenshots of all identifiable STRs in Napa County's jurisdiction.
1. Compliance Monitoring: Ongoing monitoring of STRs for zoning and permit compliance coupled with systematic outreach to illegal short-term rental operators under the County's direction.
1. Dedicated Hotline: A 24/7 staffed telephone hotline for neighbors to report non-emergency STR problems and complaints.

How will Host Compliance support County enforcement efforts?

The County Code Compliance Division provides property owners the opportunity to comply by first educating them about the ordinances and then giving them a reasonable time to correct the violation. If these voluntarily efforts fail, the County can pursue an administrative fine process, file a civil complaint in superior court, or refer the case to the District Attorney's office for an unfair business practice.

Host Compliance will provide the initial identification of properties advertising for less than 30 days by scrubbing and monitoring online vacation rental websites seven days a week. Under direction of the County, they will send an initial compliance letter to those properties identified to let property owners know of the activity and educating them

about the County prohibition of STRs. The decision as to which cases to pursue for prosecution will remain with Code Compliance staff. Host Compliance will continue to monitor the properties for advertising and provide any data of activity so that staff is able to build a case and effectively prosecute persistent violators.

How will increased enforcement impact current Code Compliance workload?

Although this program will likely identify several properties that are in violation of County Code and create additional cases for Code Compliance staff, Host Compliance will be taking the initial step of researching the property and sending out an initial compliance letter. As the program moves forward, Host Compliance will provide the Code Compliance Officers with the information and resources needed to continue the case. Bringing a non-cooperative violation to successful resolution through the court system can take several months. With Host Compliance performing monitoring and initial contact, staff will have additional time in which to determine, prioritize, and pursue repeat and/or flagrant violations.

Next steps:

Through an outreach process, staff will begin a public awareness campaign in order to educate Napa County citizens of the STR prohibition. With the assistance of the Public Information Officer, Social Media, a County Frequently Asked Questions page, and the Napa Register, the number of current violations should be reduced, leaving a smaller number of persistent STRs that can be managed through the settlement process and/or the courts.

Director of Planning Building and Environmental Services requests approval of and authorization for the County Executive Officer/Purchasing Agent to sign an agreement with Host Compliance, LLC, for a maximum of \$37,108 per year (\$27,108 annual flat fee for STR and software services and \$10,000 for testimonial services, as needed) for the term November 1, 2019 through October 31, 2020, with an automatic rollover of two (2) additional one (1) year terms to assist with detection, investigation, and management of short-term rentals in the unincorporated area of Napa County.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Leigh Sharp