

3/10/2017
sacosta

By Fax

1 Babak Naficy (SBN 177709)
2 Jamie Garretson (SBN 306947)
3 LAW OFFICE OF BABAK NAFICY
4 1504 Marsh Street
5 San Luis Obispo, CA 93401
6 Phone: 805.593.0926
7 Fax: 805.593.0946
8 babaknaficy@sbeglobal.net

9 Attorney for Petitioner
10 PROTECT OUR NEIGHBORHOODS

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 FOR THE COUNTY OF RIVERSIDE

13 PROTECT OUR NEIGHBORHOODS

Case No: **RIC1704320**

14 Plaintiff/Petitioner,

**PETITION FOR PEREMPTORY WRIT
OF MANDATE AND COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

15 vs.

16 CITY OF PALM SPRINGS, a California
17 municipal corporation, CITY COUNCIL
18 OF CITY OF PALM SPRINGS; and
19 DOES 1-25

C.C.P. § 1085, 1094.5 & §1021.5; Pub. Res.
Code § 21000 *et seq.*, Palm Springs General
Plan, Municipal Code and Zoning Code

20 Defendants/Respondents,

21 Petitioner, PROTECT OUR NEIGHBORHOODS, allege as follows:

22 **I. INTRODUCTION**

23 1. PROTECT OUR NEIGHBORHOODS ("PON" or "Petitioner") Petitioner brings
24 this action to halt the City of Palm Springs' systematic and chronic failure to adequately regulate
25 the rampant conversion of the City's single-family homes to vacation or short-term rentals by a
26 burgeoning vacation rental industry. PON contends the City's practice and policy of permitting
27

1 short-term or vacation rental businesses to operate in single-family residential neighborhoods is in
2 violation of the City's own General Plan and Municipal Code. PON also contends the City's
3 failure to analyze the environmental impacts of allowing unlimited vacation rentals in the City of
4 Palm Springs is in violation of the California Environmental Quality Act ("CEQA"), Pub.
5 Resources Code §21,000 et seq.

6 **II. THE PARTIES**

7
8 2. Petitioner and Complainant, PON, is a California non-profit membership
9 organization dedicated to the preservation and enhancement of residential neighborhoods in Palm
10 Springs. PON has long urged the City of Palm Springs to adhere to the terms of the General Plan
11 and zoning code and protect the public health and welfare by managing the unchecked
12 proliferation of vacation rentals in Palm Springs. Members of the PON work, reside and recreate
13 in Palm Springs. PON brings this action on its own behalf, for its members, and in the public
14 interest.

15
16 3. Respondent and Defendant, City of Palm Springs ("CITY") is a local governmental
17 agency and subdivision of the State of California charged with authority to regulate and administer
18 land use and development within its territory in conformity with the provisions of the City's
19 General Plan, zoning code and all applicable provisions of state law, including the California
20 Environmental Quality Act, the Planning and Zoning law, and the Subdivision Map Act.

21
22 4. Respondent and Defendant City Council of Palm Springs ("City Council") is the
23 legislative body and highest administrative body of the City. The City Council is ultimately
24 responsible for the City's land use policies and decisions, including the decision to abide the
25 operation of vacation rental businesses in single-family residential neighborhoods without any
26 CEQA review or any kind of land use permit. The City Council and the City of Palm Springs,
27

1 hereafter shall be collectively referred to as the "City" or "Respondents".

2 5. Petitioner does not know the identity of DOES 1-25, but will amend the Petition as
3 required to specifically identify each such person or entity as a real party in interest if the identity,
4 interest and capacity of such party, if any, becomes known.

5 **III. PROCEDURAL ALLEGATIONS**

6 6. Petitioner has performed any and all conditions precedent to filing the instant action
7 and has exhausted any and all administrative remedies to the extent required by law, by *inter alia*,
8 submitting written and oral comments on the issues that are the subject of this lawsuit.

9 7. Petitioner has complied with the requirements of Public Resources Code ("Pub.
10 Res. Code") § 21167.5 by mailing a written notice of the commencement of this action to
11 Respondent prior to filing this petition and complaint. A true and correct copy of this notice is
12 attached hereto as Exhibit "A".

13 8. Petitioner has complied with the requirements of Pub. Res. Code § 21167.7 and
14 Code of Civil Procedure § 388 by mailing a copy of the Petition/Complaint to the state Attorney
15 General.

16 9. Petitioner has no plain, speedy or adequate remedy in the ordinary course of law
17 unless this Court grants the requested writ of mandate to require Respondents to undertake
18 adequate environmental review of its vacation rental policies as required by CEQA, and not to
19 approve any additional vacation rentals except pursuant to a permit as required by the City's own
20 zoning regulation and General Plan.

21 10. If Respondents are not enjoined from allowing any more vacation rentals without an
22 adequate environmental review and a permit as required by the City's zoning code, Petitioner will
23 suffer irreparable harm from which there is no adequate remedy at law in that a potentially
24
25
26
27

1 unlimited number of single-family dwellings throughout the City would be converted to vacation
2 rentals, thereby significantly and permanently altering and disturbing the character of the City's
3 residential neighborhoods and depleting the City's stock of single-family housing without any
4 environmental review as required by CEQA.

5 11. In pursuing this action, which involves enforcement of important rights affecting
6 the public interest, Petitioner will confer a substantial benefit on the general public and residents of
7 Palm Springs, and therefore will be entitled to attorneys' fees and costs pursuant to, *inter alia*,
8 Code of Civil Procedure §1021.5.

9 12. Petitioner brings this action in part pursuant to Code of Civil Procedure §1085 or
10 §1094.5, which require that an agency's approval of a Project be set aside if the agency has
11 prejudicially abused its discretion. Prejudicial abuse of discretion occurs either where an agency
12 has failed to proceed in a manner required by law or where its determination or decision is not
13 supported by substantial evidence. Respondents have prejudicially abused their discretion because
14 Respondents have failed to proceed according to the law, and their decision is not supported by
15 substantial evidence.

16 13. PON also seeks a judicial declaration indicating that the City's practice of allowing
17 numerous corporations and agencies to professionally operate an indefinite number of vacation
18 rentals within the City's single-family residential neighborhoods is unlawful and in violation of the
19 City's zoning code, which does not specifically authorize the operation of vacation rentals in
20 single-family residential neighborhoods, but does require a Land Use Permit or Conditional Use
21 Permit for any business that is similar to the business of vacation rentals.

22 **IV. JURISDICTION AND VENUE**

23 14. The Court has jurisdiction over this action pursuant to Code of Civil Procedure
24

1 §§ 1085 and 1094.5. Venue is proper in this Court because the action concerns the City of Palm
2 Springs, which is located in Riverside County.

3 **V. STATEMENT OF FACTS**

4 15. Chapter 5.25 of the Palm Springs Municipal Code (“PSMC”), otherwise referred to
5 as the “Vacation Rental Ordinance,” governs vacation rentals within the City of Palm Springs.

6 16. On September 17, 2008, the City adopted Ordinance No. 1748.

7 17. The City amended the Vacation Rental Ordinance on April 2, 2014, through the
8 adoption of Ordinance No. 1848. In adopting this Resolution, the City Council declared that “use
9 single and multiple-family dwelling units for Vacation Rental lodging” ... “in certain single-family
10 neighborhoods may have effects that can best be addressed through an appropriate city regulatory
11 program.” PSMC §5.25.00(a). The City further declared the purpose of the Vacation Rental
12 Ordinance (PSMC Ch. 5.25) to be the establishment of regulations for use of residential properties
13 for vacation rental purposes “thereby enabling the City to preserve the public health, safety and
14 welfare.” PSMC §5.25.00(c).

15 18. Ordinance No. 1848 required owners of vacation rentals to obtain a valid
16 “Vacation Rental Registration Certificate.” The requirements for obtaining such a Certificate,
17 however, were minimal. To obtain a Certificate, the registrant, which could be the owner, investor
18 or a management agency, was required to provide basic information, such as name, address and
19 phone number of the property owner or the owner’s agent, name and contact information for a
20 local contact, information about the residential property such as number of bedrooms, a valid
21 business license, a valid “transient occupancy registration” certificate, as well as any “other
22 information” deemed reasonably necessary by the City Manager. PSMC §5.25.060.
23
24
25
26
27

1 19. Ordinance No. 1848 included limits on the number of day-time and night-time
2 occupants based on the number of bedrooms. The Ordinance included other generic requirements
3 designed to make the owner/agent responsible for informing occupants about City regulations
4 concerning noise, trash, etc. It further required owners/agents to pay standard Transit Occupancy
5 Taxes ("TOT") at the same rate as any other small hotels or bed and breakfasts.

6 20. Significantly, Ordinance No. 1848 did not impose any limits on the number of days
7 any unit could be rented out, or the number of Vacation Rental units any person or corporation
8 could own in Palm Springs.
9

10 21. With the exponential growth of vacation rentals in Palm Springs, the City felt the
11 need to protect the stock of multi-family housing by adopting Urgency Ordinance No. 1891 to
12 prohibit the conversion of apartments and condominiums to vacation rentals. The City Council
13 explained the need for this urgency ordinance by making the following findings:

- 14 • The City Council is "concerned regarding the potentially adverse impacts
15 that the conversion of rental apartment units to vacation rental uses may
16 have on the City's rental housing stock and resident socio-economic
17 population mix."
- 18 • "There is current and immediate threat to the public health, safety, and
19 welfare because conversions of apartment units to vacation rentals could
20 displace apartment residents and drive these residents out of Palm Springs,
21 eroding the City's resident socio-economic population mix but also
22 adversely impacting City business that rely on residents in that mix as a
23 valuable employee pool."
24
25
26
27

- 1 • The City reiterated that the use of single-family dwellings for Vacation
2 Rental lodging in single-family neighborhoods “may have effects that can
3 be best be addressed through an appropriate city regulatory program.”
4 5.25.020(a).
- 5 • The City determined that limiting vacation rentals to single-family
6 neighborhoods “will preserve and protect residential housing stock in the
7 City”; however the City has not identified any substantial evidence to
8 support this contention.
9

10 22. On July 13, 2016, the City extended Urgency Ordinance No. 1891 to November
11 2017. However, on October 18, 2016 the City adopted Ordinance No. 1902 to permanently codify
12 the prohibition on the conversion of apartments and condominiums to vacation rentals.

13 23. The City continued to debate and discuss the future of vacation rentals through
14 2016. To this end, the City Council conducted a Study Session on October 26, 2016 and a regular
15 hearing on November 30, 2016, to discuss and introduce the modification of the Vacation Rental
16 Ordinance, which included the creation of the Department of Vacation Rental Enforcement,
17 modification of user fees and registration guidelines.
18

19 24. The Staff Report for the November 30, 2016 hearing explained that the City
20 Council’s Vacation Rental Subcommittee had conducted several public meetings to identify goals
21 and objectives for the Vacation Rental Ordinance. The goals and objectives identified by the
22 Subcommittee include the following:

- 23 • Short-term rentals are an ancillary use of residences for full and part-time
24 residents;
25
26
27

- 1 • Short-term rentals are not a business for the benefit of investors or for real
- 2 estate speculation;
- 3 • Priority goal is preserving our neighborhoods for full and part-time
- 4 residents;
- 5 • Preserve and maintain long-term rental stock for workers, families and those
- 6 who cannot afford a down payment to buy a home;
- 7 • Level the playing field between small hotels and vacation rentals and ensure
- 8 the health and safety of residents and tourists;
- 9 • Reduce the use of short-term rentals as party houses for “weekend warriors.”
- 10

11 25. The Staff Report stated that the number of vacation rentals in Palm Springs had
12 risen from 960 in 2009 to about 1,936 units as of November 2016, in addition to 175 pending
13 applications. The Staff Report also described the City’s efforts to address the myriad of
14 complaints lodged by City residents about vacation rentals in single-family neighborhoods.

15
16 26. To address these concerns, goals and objectives, the Vacation Rental Subcommittee
17 recommended a series of amendments to the Vacation Rental Ordinance. To address the goal of
18 ensuring Vacation Rentals are maintained as an ancillary use for full or part-time residents, and not
19 run as a business, the Subcommittee recommended the following revisions:

- 20 • Vacation Rentals must be owned by a natural person or the trust of a natural
- 21 person
- 22 • Only one financial interest in a vacation rental
- 23 • Permit rentals by owners only—not through an agency
- 24
- 25
- 26
- 27

1 27. To preserve single-family neighborhoods and level the playing field between small
2 hotels and Vacation Rentals, the Subcommittee recommended that the Vacation Rental Ordinance
3 be revised as follows:

- 4 • Limit occupancy to two per bedroom
- 5 • Limit number of contracts per year to 28

6 28. The Subcommittee also recommended a number of additional measures to enhance
7 the City's ability regulate vacation rentals by

- 9 • Increase fines for violations, which would be levied against permit holder
- 10 • Annual inspections
- 11 • Require 30-minute response time from permit holder, etc.

12 29. Significantly, the Subcommittee recommended that all existing multiple vacation
13 rental permit holders would be grandfathered only until January 1, 2021.

14 30. To effectuate these goals and policies, the City adopted Ordinance 1907 which
15 amended and restated the City's Vacation Rental Ordinance. This Ordinance, while far from
16 perfect, included certain provisions that were intended to effectuate the City's stated goals and
17 objectives vis-à-vis regulation of vacation rentals. After years of denial, the City finally admitted
18 that vacation rental is a business:

20 Vacation Rentals are not uses specifically recognized in the City's Zoning
21 Ordinance, nor are these uses identified as uses permitted in single-family
22 and multi-family zones. Vacation Rentals and Homesharing are similar in
23 characters and use as hotels and other commercial short-term uses and can
24 only be permitted in single-family or multi-family zones if such uses are
 ancillary and secondary to the residential use of the property. 5.25.020(a).

25 31. The City further concluded that:

26 Incidents involving excessive noise, disorderly conduct, vandalism,
27 overcrowding, traffic congestion, parking congestion, and the accumulation
28 of refuse, require response from police, fire, paramedic, and other City

1 services associated with this secondary, ancillary, commercial use escalates
2 the demand for City services, creates adverse impacts in residential areas of
3 the City, and adversely affects the City's residential neighborhoods.
4 Vacation Rentals and Homesharing use in residential neighborhoods may
5 have effects that can best be addressed through an appropriate city
6 regulatory program. §5.25.020(b).

7 32. Ordinance No. 1907 included a number of provisions that were designed to ensure
8 vacation rentals were operated not as a business, but as ancillary to bona fide residential use of the
9 property. To this end, the Ordinance prohibited a registration certificate to be issued to any
10 business entity other than a Limited Liability Corporation, or a natural person or a personal or
11 family trust. Moreover, the Ordinance prohibited any aforementioned entity from maintaining any
12 financial interest in more than a single Vacation Rental. §5.25.040(b).

13 33. The Ordinance granted current holders of financial interest in multiple Vacation
14 Rentals until January 1, 2021 to comply with the terms of §5.25.040(b).

15 34. §5.25.070(b) limited the number of times a property could be used as a vacation
16 rental to 32 contracts per calendar year.

17 **Challenge to and Repeal of Ordinance 1907**

18 35. In response to the adoption of Ordinance 1907, the Vacation Rental Industry hired a
19 large public relations and political consultant to push back. A group called Citizens for a Better
20 Palm Springs ("CFBPS") was organized to lead the fight against the City's effort to adopt modest
21 restrictions on the operation of Vacation Rentals in Palm Springs. According to the Desert Sun:
22 "Citizens for a Better Palm Springs" lists Jim Madaffer, principal of Madaffer Enterprises, as its
23 chief officer, according to the California Form 410 filed with Palm Springs City Hall on Dec. 12.
24 Madaffer Enterprises is a public affairs and communications consulting firm based in San Diego,
25 which has listed HomeAway, the national online listing site for vacation rentals, as a client during
26 the recent debates on the properties in Palm Springs."
27

1 (<http://www.desertsun.com/story/money/business/tourism/2017/01/03/petition-drive-aims-send->
2 [palm-springs-vacation-rentals-restrictions-voters/96134186/](http://www.desertsun.com/story/money/business/tourism/2017/01/03/petition-drive-aims-send-palm-springs-vacation-rentals-restrictions-voters/96134186/)).

3 36. CFBPS circulated a referendum petition whose stated purpose was for the City
4 Council to reconsider and repeal Ordinance 1907 or submit the Ordinance to the voters at the next
5 regular election scheduled for November 8, 2017.

6 37. At its February 15, 2017 City Council meeting, the City Clerk reported that it had
7 examined the referendum petition reported that the requisite 100% signature
8 verification/examination was performed. The Clerk reported that referendum proponents had
9 collected 2,880 valid signatures, which exceeded the minimum requirement to put the referendum
10 on the ballot.
11

12 38. Instead of submitting the referendum to the voters, consistent with Election Code
13 §9237 & §9241, the City elected to repeal Ordinance 1097 and to immediately adopt an urgency
14 ordinance. Unfortunately, the City Council was not able to adopt an urgency ordinance. While
15 three members of the City Council voted to approve the urgency ordinance, it was ultimately
16 defeated because 4 out of 5 members of the City Council must agree to ratify an urgency
17 ordinance.
18

19 39. The Staff Report concerning the Urgency Vacation Rental Ordinance explained
20 that the Council's Subcommittee on Vacation Rentals "is concerned that the suspension of
21 Ordinance 1097 may create a vacuum where there may be a flood of applications for vacation
22 rentals certificates without due regard for constrains and limits in the new, regulatory approach ..."
23

24 40. The Urgency Ordinance would have grandfathered all existing Vacation Rentals,
25 including corporate-owned units or those owned by owners of multiple Vacation Rentals.
26
27

1 41. The Urgency Ordinance included a provision requiring the Vacation Rentals in a
2 so-called Estate Home to obtain a land use permit coupled with an administrative review process.

3 **The City's Zoning regulation of commercial use of residential properties**

4 42. As the City's adoption of Ordinance 1907 and the text of the proposed Urgency
5 Vacation Rental Ordinance (which was ratified by 3 of the 5 City Councilmembers) demonstrates,
6 the City has finally stopped perpetuating the myth that Vacation Rentals are not a commercial
7 business.

8 43. According to the Palm Springs Municipal Code, only limited commercial uses are
9 allowed in a residential zone. Vacation Rentals are not a specified commercial use in PSMC
10 §92.01.01.

11 44. To the extent the PSMC does allow commercial uses in single-family
12 neighborhoods, it does so only subject to obtaining a specified permit. Under the City's Code, less
13 intense uses require a Land Use Permit ("LUP") (PSMC §92.01.01 (C)), while more intense uses,
14 such as child care centers, require a Conditional Use Permit ("CUP"). PSMC §92.01.01(D). The
15 Proposed Urgency Vacation Rental Ordinance would have required an LUP for a Vacation Rental
16 proposed for a so-called Estate Home¹, but did not require any type of permit for smaller single-
17 family dwellings.

18 45. Palm Springs General Plan Policy HS1.8 directs the City to "Protect established
19 single-family residential neighborhoods from the transition, intensification, and encroachment of
20 uses that detract and/or change the character of the neighborhood." The City's own findings
21 demonstrate that the widespread conversion of residential dwellings to Vacation Rentals results in
22
23
24

25
26
27 ¹ / Estate Home is defined as a single-family dwelling with five or more bedrooms

1 intensification of use that can cause profound changes in the character of residential
2 neighborhoods.

3 **FIRST CAUSE OF ACTION**

4 (Declaratory Relief)

5 46. PON refers to and incorporates herein by this reference paragraphs 1-46, inclusive,
6 of this Petition as though fully set forth herein.

7 47. The City has already declared that Vacation Rental is a commercial use,
8 functionally identical to small hotels and other short-term rentals, that is not a specified use in
9 residential neighborhoods, and should not be allowed except as a use that is ancillary to private
10 residential use of a single-family dwelling.

11 48. The City's repeal of Ordinance 1907 has left a regulatory vacuum in which any
12 corporation or individual may apply for and obtain a Vacation Rental Certificate without any limit.
13 Such hastily obtained Vacation Rental Certificates may establish permanent vacation rentals
14 without any limit or regard to the type of ownership or impact on residential neighborhoods.

15 49. Even if Vacation Rentals were to be permitted in single-family residential
16 neighborhoods, the City's zoning ordinance requires all commercial uses in residential
17 neighborhoods to obtain either an LUP or CUP. Currently, the City has no regulation in place to
18 require an LUP or CUP for any proposed Vacation Rental in any single-family dwellings including
19 so-called Estate Homes.

20 50. PON further contends that the City's past and current practice of allowing corporate
21 or business ownership of Vacation Rentals, as well as ownership or financial interest in multiple
22 Vacation Rentals by the same corporation, business entity or individual, is inconsistent with and
23 violates the City's often-stated policy that Vacation Rentals "can only be permitted in single-
24
25
26
27

1 family or multi-family zones if such uses are ancillary and secondary to the residential use of
2 property.”

3 51. Accordingly, an actual controversy exists between the PON and the City of Palm
4 Springs. Petitioner and Plaintiff PON contend that the City cannot lawfully issue a Vacation
5 Rental Certificate for any proposed single-family dwelling or Estate Home except subject to an
6 LUP or CUP. PON further contends that the City’s current regulatory scheme violates the City’s
7 own stated policy of allowing Vacation Rentals in single-family or multi-family zones only if the
8 short-term rental is ancillary and secondary to the residential use of the property, as well as
9 General Plan Policy HS1.8 which directs the City to “Protect established single-family residential
10 neighborhoods from the transition, intensification, and encroachment of uses that detract and/or
11 change the character of the neighborhood.”
12

13 WHEREFORE, PON prays for declaratory judgment against Respondents, as set forth
14 herein below.

15 **SECOND CAUSE OF ACTION**

16 (Violation of CEQA)

17
18 52. PON refers to and incorporates herein by this reference paragraphs 1-51, inclusive,
19 of this Petition as though fully set forth herein.

20 53. There is ample evidence that Vacation Rentals can cause significant direct, indirect
21 and cumulative impacts on the human environment. As the City’s own findings have shown, such
22 impacts include but are not limited to impacts on noise, traffic, vandalism, trash, etc. These
23 impacts exceed similar impacts that would be caused by private or long-term occupancy of single-
24 family dwellings by long-term tenants or private owners.
25
26
27

1 54. The impacts associated with Vacation Rentals tax the City's resources by requiring
2 additional police, paramedics, firefighters, trash, water, sewage, and other services.

3 55. Owing to the absence of any limits on the number of Vacation Rentals that can be
4 approved in any neighborhood, the cumulative impact of multiple Vacation Rentals in the same
5 block or neighborhood hub can adversely impact the quality of life in the neighborhood.

6 56. Despite acknowledging the significant direct, indirect and cumulative impact of
7 Vacation Rentals on single-family neighborhoods and the City as a whole, the City has never
8 undertaken any adequate environmental review of Vacation Rentals in the City of Palm Springs.
9

10 57. Further, the City's current regulation does not require case-by-case environmental
11 review of any proposed new Vacation Rental units.

12 WHEREFORE, PON prays for declaratory judgment against Respondents, as set forth
13 herein below.

14 **THIRD CAUSE OF ACTION**

15 (Injunctive Relief)

16
17 58. PON refers to and incorporates herein by this reference paragraphs 1-51, inclusive,
18 of this Petition as though fully set forth herein.

19 59. Under current City Regulation, any business, investor group, or private person can
20 apply for and obtain a Vacation Rental Certificate without any administrative or environmental
21 review or the requirement to obtain an LUP or CUP. Furthermore, there is currently no limit to
22 how many vacation rentals may be owned by a single person or entity.

23 60. PON and other residents of Palm Springs can and will continue to suffer irreparable
24 harm as any Vacation Rental Certificates obtained in the current regulatory vacuum will likely be
25 grandfathered and therefore become permanently added to the City's already substantial stock of
26

1 Vacation Rental units. The City's ever increasing stock of vacation rentals will continue to disrupt
2 the peace and quiet of residential neighborhoods, adversely affect the stock of single-family rentals
3 available to long-term renters, and cause significant and unmitigated direct, indirect and
4 cumulative impact on the City of Palm Springs.

5 61. PON does not have a plain, speedy, and adequate remedy in the ordinary course of
6 law.

7
8 WHEREFORE, PON prays for judgment against the City of Palm Springs and Palm
9 Springs City Council, as set forth below:

10 a. A declaration that the City's practice of issuing Vacation Rental
11 Certificates without requiring the applicant to first obtain an LUP or LCP is in
12 violation of the City's zoning ordinance;

13 b. A declaration that the City's practice of regulating Vacation Rentals
14 without any environmental review of the impact of Vacation Rentals, either
15 individually or as a whole, on the City of Palm Springs is in violation of CEQA;

16
17 c. For declaratory judgment, stating that the City's current regulatory
18 scheme violates the City's own stated goal of allowing Vacation Rentals in single-
19 family or multi-family zones only if the short-term rental is ancillary and secondary
20 to the residential use of property.

21 d. For declaratory judgment, stating that the City's current regulatory
22 scheme is inconsistent with General Plan Policy HS1.8, which directs the City to
23 "Protect established single-family residential neighborhoods from the transition,
24 intensification, and encroachment of uses that detract and/or change the character of
25 the neighborhood."
26
27

1 e. For temporary, preliminary and permanent injunctive relief in the
2 form of an Order directing the City to stop issuing Vacation Rental Certificates
3 unless and until the City has (1) adopted a regulatory scheme to require all Vacation
4 Rentals to obtain an LUP or LCP before obtaining a Vacation Rental Certificate,
5 and (2) conducted adequate environmental review of Vacation Rentals as required
6 by CEQA;

7 f. For an award of costs and attorneys' fees pursuant to CCP §1021.5;
8 and

9 f. For such other and further relief as the Court deems just and proper.
10
11
12

13 Dated: March 9, 2017

LAW OFFICES OF BABAK NAFICY

14
15 By: 
16 Babak Naficy
17 Attorney for PON
18
19
20
21
22
23
24
25
26
27

Babak Naficy
Attorney for PON

VERIFICATION

1
2 I, Babak Naficy, am counsel to petitioner/plaintiff and have personal knowledge of the following
3 facts. The offices and governing boards of petitioner/plaintiff, Protect Our Neighborhoods, are
4 located outside San Luis Obispo County, the county in which I maintain my office. I have read the
5 foregoing First Amended Petition for Writ of Mandate and Complaint for Declaratory and
6 Injunctive Relief. The facts alleged in the above petition are true to the best of my knowledge and
7 belief, and, on that ground, petitioner/plaintiff alleges that the matters stated herein are true.
8

9
10 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
11 and correct and that this Verification was executed in San Luis Obispo, California, on March 9,
12 2016

13
14 
15 Babak Naficy

EXHIBIT "A"

May 9, 2017

Sent via U.S. Mail and Facsimile

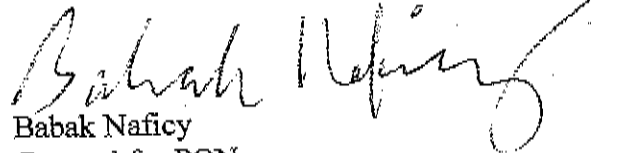
City of Palm Springs
Palm Springs City Council
c/o City Clerk
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Fax: (760) 322-8332

RE: Notice of Intent to Commence Litigation

Please take notice that Protect Our Neighborhoods ("PON") intends to commence legal action to enjoin the City from issuing further Vacation Rental Certificates until and unless, as required by the California Environmental Quality Act ("CEQA"), the City has conducted adequate environmental review of its Vacation Rental program. PON contends the City's current practice of permitting unlimited conversion of single-family dwellings to vacation or short-term rentals violates the City's own General Plan and Municipal Code.

This notice is provided pursuant to Public Resources Code 21167.5.

Sincerely,



Babak Naficy
Counsel for PON

1504 Marsh Street
San Luis Obispo
California 93401

ph: 805.593.0926
fax: 805.593.0946

babaknaficy@sbcglobal.net

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Babak Naficy
1504 Marsh Street
San Luis Obispo, California 93401
TELEPHONE NO.: (805) 593-0926 FAX NO.: (805) 593-0946
SBN 177709

FOR COURT USE ONLY

ATTORNEY FOR (Name): Protect Our Neighborhoods
SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
STREET ADDRESS: 4050 Main Street
MAILING ADDRESS: 4050 Main Street
CITY AND ZIP CODE: Riverside, CA, 92501
BRANCH NAME: Historic Courthouse

CASE NAME: Protect Our Neighborhoods vs. City of Palm Springs, et al.

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)
Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
RIC1704320
JUDGE:
DEPT:

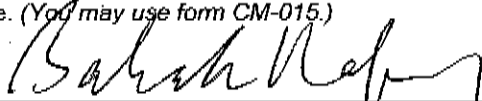
Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)	Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20)
Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input checked="" type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify):
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: March 9, 2017
BABAK NAFICY
(TYPE OR PRINT NAME)


(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.