



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: August 11, 2015

TO: Mayor and Councilmembers

FROM: City Attorney's Office

SUBJECT: Issuance Of Legislative Subpoena To Support Vacation Rental Enforcement

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Issuing Subpoenas for Certain Records Related to Short-Term Vacation Rentals in the City.

DISCUSSION:

In order to assist in the enforcement against unlawful vacation rentals in R-1, R-2, and R-3 residential zones, the City Attorney's Office is requesting that Council adopt a resolution authorizing legislative subpoenas to all companies that operate websites advertising vacation rental properties within the City of Santa Barbara. A legislative subpoena will ensure that the City Attorney's Office has all relevant records to conduct a thorough review to determine whether a rental property owner is violating the Municipal Code.

The majority of short term rentals are advertised on the internet. There are multiple vacation rental websites that advertise properties in Santa Barbara for short term rental. Information on these websites often includes photos of the property, reviews, rental rates, and location of the property. Community Development staff, through web-based research, has uncovered and compiled a list of ninety-one (91) websites containing short term vacation rental listings of properties in Santa Barbara.

The City Attorney's Office requests the issuance of legislative subpoenas on all websites that have active listings for vacation rentals in the City of Santa Barbara in order to investigate, and to obtain compliance with the Municipal Code. Without these legislative subpoenas the City Attorney's Office will be hampered in its effort to investigate and obtain vacation rental compliance.

The City Council has the authority to issue a legislative subpoena under Santa Barbara City Charter Section 509. Legislative subpoenas are issued in the name of the City and

attested by the City Clerk. In addition, a legislative subpoena issued under the powers delineated under the Charter is required to be served and complied with in the same manner as subpoenas in civil actions.

The City Council also has the authority to issue legislative subpoenas requiring the attendance of witnesses or production of documents pursuant to California Government Code section 37104. Under Government Code section 37105, legislative subpoenas are signed by the Mayor, attested by the City Clerk, and served in the same manner as civil subpoenas. If the subpoenaed party does not comply with the subpoena, Government Code section 37106 provides a remedy whereby the Mayor reports the noncompliance to the Santa Barbara Superior Court. A judge can then issue an Order to Show Cause (OSC) to the subpoenaed party to appear in court and explain the reasons for noncompliance. We recommend using both sources of subpoena authority.

The punishment for disobedience of a legislative subpoena is the same as if the contempt had been committed in a civil trial in superior court, namely when a subpoenaed party has disobeyed a duly served subpoena, that person has committed contempt. (California Code of Civil Procedure Section 1209, subd. (a) (10)). The court may then punish the subpoenaed party for contempt by imposing a fine not exceeding \$1,000 or imprisonment not exceeding five days, or both. (Code Civ.Proc., § 1218).

The proposed Resolution authorizes issuance and service of legislative subpoenas to companies that operate current websites that have active listings for vacation rentals in Santa Barbara. The legislative subpoena directs the subpoenaed party to either appear at a specified city council meeting with the requested records or make arrangements for the production of records. If the subpoenaed party fails to comply, this Resolution further authorizes the Mayor to submit a report to the Santa Barbara Superior Court regarding noncompliance.

ATTACHMENT(S): Sample Draft of Legislative Subpoena

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SUBMITTED BY: Ariel Pierre Calonne, City Attorney

APPROVED BY: City Administrator's Office