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Charles "Chuck" H. Webb, Commissioner-Chairman
Doug Copeland, Commissioner
Nancy Yetter, Commissioner
Carol Carter, Commissioner
Dale Woodland, Commissioner
City of Anna Maria
P.O. Box 779
Anna Maria, FL 34216

Re: Prohibition Against Transient Public Lodging Establishments In Single-Family Residential Zoning Districts

Dear Honorable Mayor and Commissioners:

Question: Did the City of Anna Maria's Zoning Code prohibit the short-term rental ("vacation rental") of single-family detached dwellings within its residential neighborhoods on or before June 1, 2011?

Answer: The City of Anna Maria's Zoning Code, as it existed on or before June 1, 2011, and as presently written, prohibits "vacation rentals" as that term is defined by the Florida Legislature, within the City's single-family residential neighborhoods.

As you are aware, in 2011 the Florida Legislature enacted Chapter 2011-119, Laws of Florida amending, among other things, the provisions of Section 509.032(7), Florida Statutes by adding a new subsection "(b)" preempting local government prohibition and regulation of vacation rentals. Section 509.032(7)(b), Florida Statutes was further amended this year by the enactment of Chapter 2014-71, Laws of Florida. While continuing to preempt local government prohibition of vacation rentals, the Florida Legislature amended Section 509.032(7)(b), Florida Statutes to authorize local regulation of vacation rentals in any respect except regulations concerning the duration and frequency of vacation rentals.

As amended this year, Section 509.032(7)(b), Florida Statutes (2014) provides, "A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011."

It is understood that the City of Anna Maria City Commission has growing concerns regarding the impact of short-term rentals of single-family detached dwellings within its residential neighborhoods and has requested this legal opinion regarding the effect

of Section 509.032(7)(b), Florida Statutes (2014) upon the City's existing Zoning Code. Specifically, this legal opinion will address the question, "Did the City of Anna Maria's Zoning Code prohibit the short-term rental of single-family detached dwellings within its residential neighborhoods on or before June 1, 2011?" If the answer to this question is affirmative, then the City's existing prohibition would not be affected by the preemption established in Section 509.032(7)(b), Florida Statutes.

The approach to this task was to review the relevant provisions of the Florida Statutes and the City's Zoning Code applying well-established principles of statutory construction. This opinion was intended to present an unbiased assessment of the relationship between the State law and the City's Zoning Code. Such an approach was important in view of the recognition that the matter is highly contentious and likely to result in litigation. Therefore, the presentation of an opinion which had the best chance of being successfully defended in Court was of utmost concern.

To determine whether or not the City of Anna Maria had a "grandfathered" local law, ordinance, or regulation adopted on or before June 1, 2011 which prohibited ***vacation rentals*** or regulated the duration or frequency of rental of ***vacation rentals***, it is necessary to ascertain how the Legislature defined the term "vacation rental". Once it is determined how the Legislature defined the term "vacation rental" for the purposes of the exception to the preemption, it can then be determined whether or not on or before June 1, 2011 the City of Anna Maria had a local law, ordinance, or regulation which prohibited ***vacation rentals*** or regulated the duration or frequency of rental of ***vacation rentals***, as the Legislature defined that term.

Section 509.242(1)(c), Florida Statutes (2014) defines the term "vacation rental" as "any unit or group of units in a condominium or cooperative or any individually or collectively owned ***single-family***, two-family, three-family, or four-family house or dwelling unit ***that is also*** a transient public lodging establishment but that is not a timeshare project". (Emphasis Added).

Section 509.013(4)(a), Florida Statutes (2014) provides, "'Public lodging establishment' includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

"1. 'Transient public lodging establishment' means any unit, group of units, ***dwelling***, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

"2. 'Nontransient public lodging establishment' means any unit, group of units, ***dwelling***, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month." (Emphasis Added).

Section 509.013(4)(b), Florida Statutes (2104) further provides, however, "The following are ***excluded*** from the definitions in paragraph (a):....4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned ***one-family***, two-family, three-family, or four-family ***dwelling house or dwelling unit*** that is rented for periods ***of at least*** 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent." (Emphasis Added).

Accordingly, a single family residence which is rented for periods of at least 30 days or one calendar month, whichever is less, is NOT a "public lodging establishment". Stated differently, a single family residence which is rented for periods of less than 30 days or one calendar month, whichever is less, is by definition a "public lodging establishment".

It is a well-established rule of statutory construction that legislative intent shall be determined primarily from the language of a statute because a statute is to be taken, construed and applied in the form enacted. The reason for this rule is that the Legislature must be assumed to know the meaning of the words and to have expressed its intent by the use of the words found in the statute. [1] It is also considered to be an elementary principle of statutory construction that significance and effect must be given to every word, phrase, sentence, and part of a statute, if possible, and words in a statute should not be construed as mere surplusage. [2]

Applying these principles to Section 509.242(1)(c), Florida Statutes (2014), it must be concluded that the Florida Legislature did not understand the plain meaning of the phrase "single-family dwelling" to include use as a "transient public lodging establishment". If the plain meaning of the phrase "single-family dwelling" included the use of such dwelling as a "transient public lodging establishment", it would not have been necessary for the Legislature to include the phrase "that is also a transient public lodging establishment" in its definition of the term "vacation rental" as provided in Section 509.242(1)(c), Florida Statutes (2014).

Therefore, if on or before June 1, 2011 the City of Anna Maria had a local law, ordinance, or regulation which prohibited a single-family dwelling from being used as a "transient public lodging establishment", such local law, ordinance, or regulation would be "grandfathered" and would remain in full force and effect.

Before analyzing the provisions of the City of Anna Maria's Zoning Code as they existed on or before June 1, 2011, it is helpful to have a basic understanding of zoning codes in general.

The constitutionality of the establishment of zoning districts allowing or prohibiting specified land uses within said districts by local governments was firmly decided by the U.S. Supreme Court in 1926. [3] In Florida, it has similarly been long recognized that a local government may adopt zoning restrictions that may limit a property owner's free use and enjoyment of his/her property if such restrictions are based upon a local government's determination that the restrictions are necessary for the benefit of the public safety, health, morals or general welfare. [4] In general, local government

zoning codes will be upheld if the classifications are "fairly debatable", and will be invalidated if they have no foundation in reason and are a mere arbitrary exercise of power. [5]

There is no universally recognized or required form for a local government's zoning code. Over the years, however, two distinct zoning schemes have evolved, "permissive zoning" and "prohibitive zoning". [6] Some hybrid zoning codes involve a combination of both types.

Pure "permissive zoning" regulations specifically enumerate the uses which are permitted in each zoning district, and any use not expressly permitted is automatically prohibited. [7] In contrast, "prohibitive zoning" regulations only list those uses which are expressly prohibited, and any use not listed is permitted. [8]

It is understood that on June 1, 2011 the City of Anna Maria's R-1, R-2 Residential District use regulations, as provided in Chapter 114, Division 2, Section 114-221, City of Anna Maria Zoning Code, read in pertinent part,

> "(a) *Generally.* Specific uses are either allowable in the R-1 district, allowable as accessory uses to the permitted principal use, or prohibited as incompatible with the intent and character of the district....
>
> "(b) ***Permitted uses***. Not more than one permitted use, and only one such use, shall be permitted on an individual lot. **Permitted uses are as follows:**
>
> (1) **Single-family detached dwellings**.
> (2) Group home or foster care facility licensed to serve six or fewer clients of the state department of health and rehabilitative services, provided such uses shall not be located closer than 1,000 feet to another group home or foster care facility.
> (3) Mobile homes (permitted in FEMA A zones only).
> (4) Community residential homes as defined in F.S. ch. 419, but licensed to serve six or fewer clients of the state department of health and rehabilitative services, provided such uses shall not be located closer than 1,000 feet to another community residential home serving six or fewer clients.
> (5) Two-family dwellings existing prior to April 1, 2009....
>
> "(c) *Accessory uses....*
>
> "(d) ***Prohibited uses.*** **The following uses are prohibited**:
>
> (1) **All uses not specifically permitted**.
> (2) Sale of any commodity on the premises. This provision is not to prohibit

yard sales.

(3) It shall be unlawful for any person to land or operate any aircraft, including helicopters, within the city limits of the residential district of the City of Anna Maria...." (Emphasis Added).

Accordingly, it may be concluded that on and before June 1, 2011, specifically with respect to the R-1, R-2 Residential District, the City of Anna Maria's Zoning Code was a "permissive" form of zoning where only the uses listed as "Permitted" are allowed and all other uses prohibited.

Under the City of Anna Maria's "permissive zoning" ordinance, unless a plain meaning of the term "Single-family detached dwelling" includes the renting of said dwelling to guests for periods of less than 30 days or one calendar month, whichever is less, such use was automatically prohibited.

As noted above, the Florida Legislature did not understand the plain meaning of the phrase "single-family dwelling" to include use as a "transient public lodging establishment", and there is nothing within the City of Anna Maria's Zoning Code to suggest that the City Commission had a contrary understanding. Thus, it must be concluded that under the City of Anna Maria's "permissive" Zoning Code, since a "transient public lodging establishment" was not expressly listed as a permitted use in the R-1, R-2 Residential District, such use was prohibited.

Under the City of Anna Maria's "permissive zoning" ordinance, if the City Commission wanted to allow public lodging establishments within the R-1, R-2 Residential District, the City Commission could easily have included such uses as "Permitted Uses" in its zoning ordinance.

Other jurisdictions have included public lodging establishments within their residential zoning districts, either as a matter of right as a "permitted use", or by means of a "Special Exception", or as a "conditional use". The following is a list of forms of "public lodging establishments", either transient or nontransient, which have been found from a sampling of zoning ordinances from other Florida local governments: Boarding House; Bed and Breakfast; Hotel; Motel; Resort Housing; Overnight Accommodations; Resort Facilities; Tourism Units; Transient Guest Accommodations; Guest House; Short Term Housing; Short Term Rental; Rooming House; and Transient Accommodations.

None of these forms of "public lodging establishments" were included as "Permitted Uses" in the R-1 or R-2 Residential Zoning District in the City of Anna Maria Zoning Code as it existed on or before June 1, 2011.

It may be noted that a "group home", "foster care facility", and "community residential home", with six or fewer residents are listed as "Permitted Uses" in the R-1, R-2 Residential District. It may also be noted that such uses may fit the definition of a "transient public lodging establishment". However, such uses must not be taken as an expression of intent by the City Commission to include other "transient public lodging establishments" within the R-1, R-2 Residential District. "Group homes", "foster care facilities", and "community residential homes" must be allowed within single-

family residential zoning districts pursuant to the requirements of Chapter 419, Florida Statutes, which preempts local zoning regulations with respect to said facilities. There is nothing in the R-1, R-2 Residential District regulations as they existed on or before June 1, 2011 to indicate that other than those State mandated uses, any other "transient public lodging establishments" were permitted.

Accordingly, since the City of Anna Maria's Zoning Code, as it existed on or before June 1, 2011, only permitted single-family detached dwellings in the R-1, R-2 Residential District, and did not expressly permit single-family detached dwellings that were also transient public lodging establishments, such a use was ***prohibited***. Recalling that Section 509.242(1)(c), Florida Statutes (2014) defines the term "vacation rental" to mean, among other things, a single-family house or dwelling ***that is also*** a transient public lodging establishment, it may be concluded that the City of Anna Maria's Zoning Code, as it existed on or before June 1, 2011, prohibited vacation rentals in the R-1, R-2 Residential District.

Thus, the City of Anna Maria had a local law, ordinance, or regulation that prohibited vacation rentals which was adopted on or before June 1, 2011. As a consequence, the preemption provided in Section 509.032(7)(b), Florida Statutes (2014) does not prevent the City of Anna Maria from enforcing its existing prohibition against vacation rentals within the R-1, R-2 Residential District.

In reaching this conclusion, the undersigned is mindful of the 2008 decision of the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida which found that under the terms of the contested provisions of the City of Venice's zoning code as they existed at the time of the law suit, the City of Venice could not prohibit vacation rentals in a residential district. [9] The undersigned is also aware of an Advisory Legal Opinion of the Florida Attorney General which was recently issued to the City Attorney of the City of Wilton Manors wherein the Attorney General opined, "zoning may not be used to prohibit vacation rentals in a particular area where residential use is otherwise allowed", [10] and an Informal Legal Opinion to the Flagler County Attorney dated October 22, 2013. [11]

Neither of these opinions are binding or particularly relevant to the issue before the City of Anna Maria whose facts and circumstances are distinguishable from those involved in said opinions.

Having concluded that the rental of single-family detached dwellings within the R-1, R-2 Residential District for periods of time less than 30 days or one calendar month, whichever is less, was prohibited under the City's Zoning Code on or before June 1, 2011, the question remains as to the City's enforcement of any current violations. It is understood that the known current rental of single-family detached dwellings within the R-1, R-2 Residential District for periods of time less than 30 days or one calendar month, whichever is less, is the situation which prompted the request for this opinion.

Even if the City obtains a Declaratory Judgment from a Circuit Court Judge pursuant to the provisions of Chapter 86, Florida Statutes, confirming that the City of Anna Maria had a local law, ordinance, or regulation that prohibited vacation rentals which was adopted on or before June 1,

2011, initiating enforcement action against property owners acting in violation of the City's prohibition may prove problematic. Depending upon the circumstances of the particular cases, affirmative defenses of laches, i.e., unreasonable delay in bringing the case; equitable estoppel; or pre-existing lawful use, may preclude a successful enforcement action.

City Commission may wish to consider an approach similar to that adopted by the City of Venice after it amended its zoning code in 2009, following the 2008 Circuit Court decision. The City of Venice adopted regulations to address the nonconforming uses that existed prior to the 2009 amendment which clearly prohibited resort dwellings, i.e., short-term rentals in residential zoning districts. Said regulations were not applicable to new resort dwellings, which of course were prohibited, only to those "grandfathered" uses that would be allowed to continue in operation. [12]

Another approach for consideration would be to add a provision to Chapter 114, Article III, City of Anna Maria Zoning Code regarding "Nonconformities". The City Commission could pick a date for the purpose of "grandfathering" single-family detached dwellings within the R-1, R-2 Residential District that had been rented for periods of time less than 30 days or one calendar month, whichever is less.

An amendment to Chapter 114, Article III, for example, could deem as a lawful nonconforming use any single-family detached dwelling that had, prior to the selected "grandfathering" date, been rented for periods of time less than 30 days or one calendar month, whichever is less, AND where it could be shown that said property had continuously been in compliance with the licensing requirements Section 509.241, Florida Statutes. The amendment to Chapter 114, Article III could also include a requirement that the nonconforming status of the property will be lost if the license issued by the State pursuant to Section 509.241, Florida Statutes is ever revoked or not renewed.

Any single-family detached dwelling that had, prior to the selected "grandfathering" date, been rented for periods of time less than 30 days or one calendar month, whichever is less, AND where there was no evidence that it had continuously been in compliance with the licensing requirements Section 509.241, Florida Statutes, would be denied legal nonconforming status and would need to comply with the prohibition in the City's Zoning Code.

The City Commission may consider adding an amortization provision in its amendment to Chapter 114, Article III, requiring any property deemed to qualify as a legally nonconforming transient public lodging establishment, must cease and desist such use by a certain date. The selected date would be chosen upon a consideration of a reasonable amount of time to allow the property owner to recoup his/her investment in the property. The length of the amortization period applicable to a particular property could depend upon evidence as to how soon after the property was purchased the property owner obtained a licence to operate a transient public lodging establishment from the State pursuant to Section 509.241, Florida Statutes. If, for example, the first license was not obtained from the State until a considerable period of time following the conveyance of the property to the current property owner, it may be presumed that the property was not purchased for use as a transient public lodging establishment. Therefore, the City may require the termination of such use without an

amortization period.

The elimination of nonconforming uses by means of a reasonable amortization period is a strategy that has been judicially accepted in Florida and many other jurisdictions. [13]

The foregoing are just a few suggestions and there certainly may be others, but as you can see, the City Commission has a number of viable options should it elect to enforce the prohibition against the use of single-family detached dwellings for transient public lodging which existed on or before June 1, 2011. Thank you for the opportunity to assist the City in this important matter.

Sincerely,

David M. Levin

Footnotes:

[1] Thayer v. State, 335 So.2d 815 (Fla. 1976).

[2] Hechtman v. Nations Title Insurance of New York, 840 So.2d 993 (Fla. 2003).

[3] Village of Euclid, Ohio v. Ambler Realty Co., 47 S.Ct. 114 (1926).

[4] City of Miami Beach v. Ocean & Inland Co., 3 So.2d 364 (Fla. 1941).

[5] Kuvin v. City of Coral Gables, 62 So.3d 625 (Fla. 3rd DCA 2010).

[6] 8 McQuillin Mun. Corp. §25:56 (3rd ed.), ("Zoning ordinances may be permissive or prohibitive in form, either enumerating permitted uses and prohibiting others or enumerating prohibited uses and permitting all others.").

[7] See, 83 Am.Jur.2d Zoning and Planning §129, ("Generally, permissive zoning regulations require that the uses which are permitted in each type of zone are spelled out; any use that is not permitted is automatically excluded."); 101A C.J.S. Zoning and Land Planning §118, ("Under a permissive zoning ordinance, only those uses which are specifically named are permitted, and so the burden is on the property owner to show that the use he proposes is one that is included or permitted."); County of Sonoma v. Superior Court, 190 Cal.App.4th 1312 (Cal.App. 2010) ("Under a 'permissive' zoning code, 'any use not enumerated in the code is presumptively prohibited'."); People's Counsel for Baltimore County v. Surina, 929 A.2d 899 (Md.App. 2007) ("It must be conceded, as general rule, that, when a zoning ordinance enumerates specifically the permitted uses within a particular zone, the ordinance 'establishes that the only uses permitted in the zone are those designated uses permitted as of right and uses permitted by special exception. Any use other than those permitted and

being carried on as of right or by special exception is prohibited'."); Tonnesen v. Town of Gilmanton, 943 A.2d 782 (N.H. 2008) ("Permissive zoning ordinances 'prohibit uses of land unless they are expressly permitted as primary uses or can be found to be accessory to a permitted use'."); Heim v. Zoning Board of Appeals of the Town of New Canaan, 960 A.2d 1018 (Conn. 2008) ("Permissive zoning regulations require that 'the uses which are permitted in each type of zone are spelled out. Any use that is not permitted is automatically excluded'."); Frison v. City of Pagedale, 897 S.W.2d 129 (Mo.App. 1995) ("A permissive zoning ordinance is drawn to show those uses which are permitted for a particular district, and any use which is not expressly permitted in a given zone is excluded from it.").

[8] 8 McQuillin Mun. Corp. §25:56 (3rd ed.). See also, City of Warwick v. Campbell, 107 A.2d 334 (R.I. 1954) ("Zoning ordinances may be permissive in form, permitting specified uses and buildings and prohibiting all others within a district, or they may be prohibitive in form, prohibiting specified uses and buildings and permitting all others".); North Haven Auto Sales and Service, Inc. v. North Haven Zoning Board of Appeals, 2014 WL 2854034 (Ct. 2014) ("Under the prohibitory type of ordinance uses are allowed except those expressly prohibited.").

[9] Stephen E. Milo, et al. v. City of Venice, Case No. 2008 CA 552 SC (Order On Petition for Writ of Certiorari dated March 14, 2008). In that case, after considering the language of the contested zoning ordinance, the Court found, "The drafters intended that homes in RSF ["Residential Single Family"] zoning districts could be used on a temporary basis and there is no indication that the drafters limited duration or frequency". The City of Venice did not appeal the Circuit Court's decision to the Florida Second District Court of Appeal, but instead in 2009 amended its ordinance. The amended zoning code provides, "All forms of new resort dwellings are expressly prohibited within the RSF district". Chapter 86, Article V, Division 9, Section 86-151, City of Venice Land Development Code defined the term "resort dwelling" to include single-family residences in the Residential Estate and Residential Single Family Zoning Districts which were offered for rent or lease for periods of less than 30 days, or one calendar month, whichever was less. Said Section further treated single-family residences that were being used for transient purposed prior to the effective date of the ordinance as "legal nonconforming resort dwellings" subject to regulations intended to reduce the "negative" affects that such uses have upon the character and stability of a residential neighborhood.

[10] Florida Attoney General Advisory Legal Opinion, AGO 2014-09, November 13, 2014.

[11] In Informal Legal Opinion to Albert J. Hadeed, Flagler County Attorney, dated October 22, 2013, the County Attorney advised the AG that upon a review of its own local zoning ordinance, the County "concluded that a residential zoning category, in and of itself, is not sufficient to serve as a pre-existing prohibition of vacation rentals in private homes". After noting that the County Attorney advised the AG that prior to June 11, 2011 "no county regulations of vacation rentals existed on that date", the AG stated, "This office agrees with

the county's conclusion that a local zoning ordinance for single-family homes existing on or before June 11, 2011, that did not restrict the rental of such property as a vacation rental, cannot now be interpreted to do so."

[12] Chapter 86, Article V, Division 9, Section 86-151, City of Venice Land Development Regulations:

Sec. 86-151. - Resort dwellings.

Generally; intent. These regulations apply only to resort dwellings, defined herein. City council finds that resort dwelling rental activities in single-family neighborhoods negatively affects the character and stability of a residential neighborhood. The home and its intrinsic influences are the foundation of good citizenship. The intent of these regulations is to prevent the use of single-family residences for transient purposes in order to preserve the residential character of single-family neighborhoods. In RE or RSF zoning districts, units offered for rental or lease for periods of 30 days or one calendar month or more, are not considered to be resort dwellings and are not subject to regulations applicable to resort dwellings.

(1) No new resort dwelling units are allowed in RE or RSF zoning districts.

(2) For existing resort dwellings, the regulation of resort dwelling activities is deemed to be an issue affecting the general health, safety and welfare of the city and its residents. For existing resort dwellings, the following regulations will apply:

a. If a lot zoned RE or RSF has more than one legally existing dwelling on the property, the prohibition of resort dwellings shall apply to all structures on the lot. For all existing legal nonconforming resort dwellings, all inspections and applicable approvals must be current for each unit or structure that is used as a resort dwelling.

b. Except as provided herein, each residential property where resort dwelling use is in effect shall prominently display on the primary structure on the subject property, a permanent notification, on an all-weather placard 11" x 17" in size located adjacent to the front entrance and with black lettering on a white background with at least 14 point type, alerting the public of the resort dwelling use and containing the following information:

1. The name of the managing agency, agent, vacation rental manager, local contact or owner of the resort dwelling, and a telephone number at which that party may be reached on a 24-hour basis;

2. The maximum number of occupants permitted to stay in the resort dwelling per Chapter 69A-43, FAC, Uniform Fire Safety Standards for Transient Public Lodging Establishments, Timeshare Plans and Timeshare Unit Facilities;

3. The maximum number of vehicles allowed to be parked on the property;

4. The number and location of on-site parking spaces and the parking rules prohibiting on-street parking;

5. The trash pickup day and notification that trash and refuse shall not be left or stored on the exterior of the property except from 6:00 p.m. of the day prior to trash pickup to 6:00 p.m. on the day designated for trash pickup;

6. Notification that an occupant may be cited, fined and/or immediately removed by the owner or manager, pursuant to state law, in addition to any other remedies available at law, for creating a disturbance or for violating other provisions of the ordinance from which this section derives;

7. Notification that failure to conform to the parking and occupancy requirements of the structure is a violation of the ordinance from which this section derives;

8. The name and phone number of the contact person available 24-hours per day, seven days per week for the purpose of responding promptly to complaints regarding the conduct of the occupants of the resort dwelling.

c. Use of a single-family residence in the RE or RSF zoning district as a resort dwelling is deemed to be a change of use as compared to its original permit approval unless it can be demonstrated by the owner that the original approval was for a resort dwelling at the time of permitting or at some subsequent time in which all applicable commercial lodging codes were applied for review of the use and structure. All currently operating resort dwellings must request immediately a change of use and revised occupancy permit for the purpose of notifying the city that said dwelling is being used for resort purposes and requesting all necessary permits and inspections to determine that all applicable zoning, building and life/safety codes have been met.

d. The owner or manager shall maintain a tenant and vehicle registration log which shall include the name and address of each resort dwelling's tenant, and the make, year and tag number of the tenant's vehicle(s). Such registration log will be subject to inspection by the city upon request by the city manager or his designee.

e. All parking must be off-street for resort dwelling units. Not less than one paved, off-street parking space per resort dwelling bedroom must be provided. Minimum yard areas for the applicable zoning district must be maintained for all resort dwelling units.

[13] Typical local government uses for amortization periods in the zoning context is the elimination of legally nonconforming billboards. See, Lamar Advertising of East Florida, Ltd. v. City of Daytona Beach, 450 So.2d 1175 (Fla. 5th DCA 1984). See also, Lone v. Montgomery County, 584 A.2d 142 (Md.App. 1981) wherein the Court upheld the County's 10-year amortization period to require the conversion of a nonconforming multi-family property to a conforming single-family one.

Very truly yours,

David M. Levin