

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*

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RE: *Opposition to Proposed Urgency Ordinance Imposing a Moratorium on the Issuance of Vacation Rental Certificates*

Dear Mayor Moon and the Palm Springs City Council,

We ask that you not adopt the *Proposed Urgency Ordinance Imposing a Moratorium on the Issuance of Vacation Rental Certificates* (Ordinance) as it would deny your constituents property rights, deny the city tax revenue, and set Palm Springs on the wrong path.

Under Palm Springs's existing laws, the city has become the nation's leader in compliance with local short-term rental ordinances – with an estimated 96 percent of short-term rental owners and managers operating in compliance and operating without complaints. This means safe and secure rental environments and additional tax revenue for the city.

We ask that you not adopt the Ordinance as it could:

- Make tax collection more difficult,
- Depress tax revenue for the city,
- Penalize newspapers and coffee shops for postings made by others,
- Undermine a fundamental benefit of the internet, and
- Would likely be found unconstitutional.

Short-term rental services provide necessary income to several of your constituents. Over 52 percent of hosts nationwide live in low-to-moderate income households. More than 48 percent of the income hosts earn through certain short-term rental services is used to cover household expenses.

Consider, for example, the resident who does not want to stay in Palm Springs for the Coachella or International Film Festivals. Short-term rental services allow these residents to getaway by sharing their homes and using that revenue for a trip out of town.

But adoption of the Ordinance just makes it harder for your residents to enjoy the benefits of short-term rental services.

Make Tax Collection More Difficult and Could Depress Current City Tax Revenue

We've seen high compliance rates when localities, like Palm Springs, create reasonable registration and regulation for short-term rentals. And through reasonable and responsible regulations, Palm Springs has achieved 96% compliance.

This has, in turn, generated \$5.2 million in annual transaction occupancy taxes for the city. And barring passage of this Ordinance that tax revenue is likely to increase further.

Of course, through the Ordinance's overly restrictive and regressive structure it would not only depress compliance but could depress tax revenue for the city. Understand that the Ordinance will not prevent the

presence of new short-term rentals in Palm Springs -- but would merely send them underground. This means less tax revenue for the city and less oversight of short-term rental activity.

Penalize Newspapers and Coffee Shops for Postings Made by Others

It would be absurd to hold responsible and penalize *newspapers* for classified ads, or *coffee shops* for bulletin boards that advertise rooms for rent. But that is precisely what the Ordinance would do.

Section 1(b) of the Ordinance holds liable *any* entity that maintains an advertisement of a non-compliant short-term rental.

If you pass the Ordinance, are newspapers and coffee shops expected to inspect and review every bulletin board or public listing? Is Palm Springs law enforcement going to fine these newspapers and coffee shops for non-compliance?

Would Undermine a Key Benefit of the internet and would Likely be Unconstitutional

The Ordinance requires hosting platforms like HomeAway, Airbnb, and VRBO to somehow determine whether a listing posted on their site by a city resident is in full compliance with applicable ordinances. If a non-compliant short-term rental lists on a hosting platform, the Ordinance would impose fines *on the platform*. Such a requirement is surely unconstitutional as the Ordinance is preempted by federal law.

The internet is an open resource that enables people from all parts of Palm Springs to publish their views and pursue their goals. While some nations discourage user-generated content, the United States created a fertile ground for business models that have transformed the world.

Moreover, this openness is bolstered by Section 230 of the federal Communications Decency Act, which says platforms can't be held strictly liable for content posted *by others*.

However, the Ordinance ignores Section 230. This not only threatens a core tenet of the internet, but is at odds with federal law – resulting in the likely injunction of the Ordinance.

We ask that you not deny your constituents the right to earn extra money by sharing their homes. We hope that any short-term rental policies should be developed through an open and transparent dialogue among policymakers, industry stakeholders, property owners, and the public.

So while we ask that you not adopt the Ordinance, we welcome the opportunity to work with you on reasonable regulations that allow all to prosper.

Sincerely,



Carl Szabo

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NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org

Should the Desert Sun be held accountable for rentals posted in the classified section?

