



August 21, 2019

The Honorable Elia Ortiz
Presiding Judge
Superior Court of the State of California
County of Napa
825 Brown Street
Napa, CA 94559

Subject: **City of Napa Response to the 2018-2019 Napa County Grand Jury Final Report entitled “Enforcing Short-term Vacation Rental Codes in Napa Valley”**

Dear Judge Ortiz:

The City of Napa has received and carefully reviewed the 2018-2019 Napa County Grand Jury Report entitled “Enforcing Short-term Vacation Rental Codes in Napa Valley,” dated June 24, 2019 (hereinafter “Grand Jury Report”). Pursuant to California Penal Code Sections 933 and 933.05, this letter documents the City’s responses to each finding and recommendation in the Grand Jury Report (hereinafter “City Response”). The City Response was prepared by City staff, including the Community Development Director, and presented to the City Council for their consideration. At the public meeting on September 3, 2019, the City Council approved this City Response, and directed the City Manager to submit this City Response on behalf of the City Council.

Therefore, this City Response represents the required response to the Grand Jury Report from the City Council of the City of Napa, as well as the invited response from the Napa City Manager.

General Responses

For clarity, the City Response only provides comments on matters under the control of the City of Napa. Thus, the City of Napa does not intend to make any representation regarding the operation of any other agency identified in the Grand Jury Report.

In the City of Napa, Code Enforcement is a division of the Community Development Department. At present, Code Enforcement Officers within the Community Development Department (CDD) handle most municipal code violations except for violations related to the solid waste/recycling program, storm water, and the public right-of-way. Code Enforcement Division staffing has fluctuated over the years, ranging from 1 to 3 full-time officers. At present, there are two full-time Code Enforcement Officers within CDD. Each inspector is assigned to respond to complaints from a specific geographic service area. One FTE Code Enforcement Officer is assigned to dedicate approximately 50% of her time identifying and investigating potential violations of the vacation rental ordinance, reaching out to potential code violators, and working with them to terminate unpermitted vacation rental activity.

Grand Jury Report Finding 1 – *Neither the County of Napa Code Compliance division nor the City of Napa Code Enforcement division have enough staff to manage all the code compliance and enforcement complaints they receive from the public on a timely basis.*

City Response – The City of Napa partially agrees with this finding.

In general, complaints to the Code Enforcement Division are prioritized so that health and safety related cases are investigated as a top priority. As noted above, vacation rental enforcement occupies one-quarter of available staff hours for City-wide code enforcement.

Grand Jury Report Finding 2 – *Both the County and City of Napa Municipal Code are outdated, unwieldy, and in need of revision. Officials recognize that the task is difficult with the current staff and violations cannot be completely remedied. This leaves code enforcement officers without sufficient resources to enforce the County/City codes for the benefit and protection of the citizens.*

City Response – The City of Napa disagrees with this finding.

The City’s Vacation Rental Ordinance was adopted in 2015 and updated in 2017. The ordinance is current, specific, relatively simple to administer, and not in need of revision.

Grand Jury Report Finding 3 – *The County has an estimated 450 non-permitted STVRs within the unincorporated areas of the County. This not only deprives the County of much-needed housing stock for residents and workforce, but also denies revenue to hotels, as well as Transient Occupancy Taxes to the County and its cities. The number of non-permitted STVRs in the City of Napa is unknown.*

City Response – The City of Napa agrees with this finding.

The nature of illegal vacation rental activities is fluid. The number of violations fluctuates seasonally and in response to external factors such as special events and the economy as a whole. City of Napa has estimated that there are more than 200 non-permitted vacation rental units at any given time, but the actual number is unknown.

Grand Jury Report Finding 4 – *Both the County of Napa Code Compliance officers as well as the City of Napa Code Enforcement Officers have restricted work schedules that limit their ability to monitor STVR violations during peak evening and weekend hours when many violations occur.*

City Response – The City of Napa disagrees with this finding.

The City contracts with Host Compliance, a company who actively and continuously monitors Airbnb, HomeAway, Flipkey, and similar vacation rental web sites and provides the City with a list of potential violations as well as evidence (screen shots and data), to provide the City's Code Enforcement staff with leads and documentation. Also, the City's Code Enforcement officer dedicates several hours per month working on the weekend to follow up on specific cases where weekend time is helpful.

Grand Jury Report Finding 5 – *STVR owners are aware of the resource limitations faced by City and County enforcement teams and are thus adept at avoiding detection and/or prosecution.*

City Response – The City of Napa partially agrees with this finding. There are some STVR owners that have violated the requirements of the Napa Municipal Code, and have avoided detection and enforcement by the City. However, the City has also identified illegal STVR owners and either obtained voluntary compliance, or issued citations to penalize the violator. In FY 2018-2019, City staff opened approximately 350 cases and resolved of the code violations through voluntary compliance. In one recent example with a persistent violator, the City filed a lawsuit to obtain compliance.

Grand Jury Report Recommendation 1 – *Both the County of Napa Code Compliance division and the City of Napa Code Enforcement division evaluate their staffing ratios versus complaints received and cases investigated. This should be completed by December 31, 2019.*

City Response – This recommendation will be implemented.

Grand Jury Report Recommendation 2 – *Both the County of Napa and City of Napa complete a revision to their respective Codes, by June 30, 2020. These revisions should remove outdated codes which are no longer enforced, as well as make it easier for residents to find answers to their most common code questions.*

City Response – This recommendation will not be implemented regarding the Vacation Rental Ordinance, which is current and effective.

Grand Jury Report Recommendation 3 – *When staff turnover allows, both the City and County of Napa consider an alternative workweek for new CE officer hires that would allow for evening and weekend coverage.*

City Response – This recommendation is currently being implemented, as described below.

Both Code Enforcement Officers are fully occupied during the regular work week addressing incoming calls and complaints, meeting with members of the public, and investigating existing cases. The Code Enforcement Officer who handles vacation rental enforcement works on the weekend occasionally as needed to address specific cases. The City is open to considering schedule flexibility with existing and future CE staff while ensuring adequate staffing levels during the regular work day.

The City of Napa thanks the Grand Jury for its service during the 2018-2019 term. We take our responsibility to address vacation rental violations seriously. If you or the Grand Jury Foreperson have any questions regarding the City's response, please let me know.

Respectfully Submitted,

Steve Potter, City Manager

cc: Kort van Bronkhorst, Foreperson, 2018-2019 Napa County Grand Jury
Michael Barrett, City Attorney
Vin Smith, Community Development Director
Erin Morris, Planning & Code Enforcement Manager