



**MEMORANDUM
COMMUNITY DEVELOPMENT RESOURCE AGENCY
ADMINISTRATION**
County of Placer

TO: Honorable Board of Supervisors **DATE:** August 31, 2021
FROM: Steve Pedretti, Community Development Resource Agency Director
BY: Eric Brumfield, Deputy County Counsel
SUBJECT: Short-Term Rental Appeal Hearing – Brett Williams for Agate Bay Realty, Appellant

ACTION REQUESTED

1. Consider additional briefing and conclude the public hearing continued from July 27, 2021 on the appeal filed by Brett Williams (Agate Bay Realty) over the County hearing officer’s decision to uphold 33 individual citations of \$500 (totaling \$16,500) for renting 33 properties on a short-term basis without the benefit of a permit pursuant to Section 9.42.060(C)(5) of the Placer County Code.

BACKGROUND

Procedural and Chronological Background

On July 27, 2021, the Board conducted a public hearing to consider the above appeal. The Board closed the public hearing and requested staff provide additional briefing for the Board’s consideration in this matter. Staff refers the Board to Attachment A for the history of prior actions in this matter.

While Mr. Williams raised several criticisms to the application process for the County’s Short-Term Rental (STR) program, the fact remains that Mr. Williams did not produce evidence of trash services for the 33 properties he was managing by the extended deadline he was given. As a result, each of the properties was cited \$500.00 for failure to operate a STR with a permit. This is not one fine of \$16,500 levied on Mr. Williams (although he has taken responsibility for managing these properties). It should also be noted that there are several property managers who handle STRs and no other property manager had a problem meeting this requirement and obtaining STR permits by the July 31, 2021 deadline.

As to the exchange with Mr. Williams on the trash requirement, staff provides the following chronology (which is also included in the administrative record):

- January 28, 2020 – Mr. Williams emails STR asking about trash requirements.
- January 28, 2020 – Staff confirms that properties will need proof of trash service.
- July 28, 2020 – Mr. Williams submits STR applications for batch processing and permit fees, notes self-verification forms will be mailed; proof of trash service is not provided.
- July 31, 2020 – Deadline for applications for STR permits (extended from March 31, 2020 due to COVID shutdown).
- September 23, 2020 – STR staff informs Mr. Williams that self-certifications and proof of trash service are still needed.
- September 23, 2020 – Mr. Williams responds and complains of trash service requirement for professionally managed properties.
- September 25, 2020 – STR staff offers Mr. Williams an alternative form to provide proof of trash service through letter from TTSD, again requests proof of trash service.

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- October 17, 2020 – Mr. Williams asks if a letter from TTSD would be sufficient proof of trash.
- October 17, 2020 – Staff confirms that letter from TTSD is sufficient proof of trash.
- November 3-4, 2020 – STR staff informs Mr. Williams (by telephone and email) they need proof of trash for all properties and self-certifications by November 18, 2020.
- November 13, 2020 – STR staff informs Mr. Williams they still need proof of trash for all properties and missing documents for three additional properties by November 18, 2020.
- November 18, 2020 – Deadline for Mr. Williams to produce proof of trash for 33 rental properties passes. No proof of trash received.
- November 30, 2020 – Mr. Williams sends proof of trash to Revenue Services.
- December 4, 2020 – Date of citations (8 of the 33 properties were cited for no proof of garbage prior to December 4, 2020 but all 33 citations were collectively appealed).

STR Program

Placer County's Short-Term Rental (STR) Ordinance (Article 9.42 of the Placer County Code) requires all individuals and entities who operate vacation rentals in the County to obtain a permit prior to renting the property. The Ordinance includes provisions allowing for the imposition of fines on operators who fail to obtain a permit and provides for an appeal process that ends with a hearing in front of the Board of Supervisors, if requested by either party.

In accordance with Placer County Code Chapter 9, Article 9.42, Section 9.42.030,

It is unlawful for any person to advertise, maintain, operate, or use a short-term rental in the Eastern Placer County Short-Term Rental Area without a short-term rental permit...

BOARD ACTION

Pursuant to Placer County Code Section 9.42.060(C), the Board shall issue a decision on the appeal at the conclusion of the hearing, and may sustain, modify, or reverse the decision of the hearing officer. Any amount determined to be due shall be due and payable upon the decision of the Board. This hearing is the final level of administrative appeal.

As noted above, the total amount of fines due is \$16,500 but is allocated to each of the 33 properties in the amount of \$500.00. This is the initial fine amount identified in Section 9.42.060(A). As discussed in Attachment A, the hearing officer issued an order upholding the \$16,500 amount. It is this order that Mr. Williams is appealing. If the Board elects to reduce and/or waive any amount of this total, the Board must identify the circumstances and facts that would support such a reduction. As this is the first appeal under the STR permit program, this appeal and any reduction will likely become precedent for future such appeals.

The fine amounts were originally set by the Board at the time of adoption of the STR program, in part, to offset staff costs for bringing violations into compliance and to proceed through the hearing process. In this situation, staff expended a significant amount of time working with Mr. Williams in an effort to achieve compliance over a ten-month period. Those efforts are evidenced through the email history included in the administrative record.

RECOMMENDATION

Staff recommends the Board uphold the Hearing Officer's decision that the 33 individual citations issued for renting without an STR permit are valid, and order payment in the total amount of \$16,500 (\$500 fine for each STR operator). Staff supports this recommendation based on the

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facts and evidence provided in this staff report, the July 27, 2021 staff report and the administrative record and the following facts:

1. The permit requirements are very clear within the STR Ordinance and include providing proof of existing garbage service (section 9.42.030(B)(8)).
2. Approximately 2,600 STR Permits were issued in 2020 to property owners and other professional property management firms who were able to complete the process without any difficulty by said applicants complying with the proof of trash removal requirement.
3. Mr. Williams was the only property manager given an extension beyond the July 31, 2020 deadline to satisfy the proof of trash requirement.
4. Mr. Williams failed to meet the extended November 18, 2020 deadline. As of that date all 33 properties Mr. Williams managed were out of compliance with the STR program for failure to operate with a valid permit due to Mr. Williams' failure to satisfy a requirement that he knew about since at least January 2020.

FISCAL IMPACT

None.

ATTACHMENTS

Attachment A: July 27, 2021 Staff Report

On File with the Clerk of the Board

- All Exhibits
- Hearing Transcript – March 17, 2021
- Hearing Officers' decision



M E M O R A N D U M
COMMUNITY DEVELOPMENT RESOURCE AGENCY
ADMINISTRATION
 County of Placer

TO: Board of Supervisors **DATE:** July 27, 2021
FROM: Steve Pedretti, Agency Director
BY: Eric Brumfield, Deputy County Counsel
SUBJECT: Short Term Rental Appeal Hearing – Brett Williams for Agate Bay Realty, Appellant

ACTION REQUESTED

1. Conduct a public hearing to consider an appeal filed by Brett Williams (Agate Bay Realty) over the County Hearing Officer’s decision to uphold a citation of \$16,500 for renting 33 properties on a short-term basis without the benefit of a permit pursuant to Section 9.42.060(C)(5) of the Placer County Code.

BACKGROUND

Placer County’s Short Term Rental Ordinance (Article 9.42 of the Placer County Code) requires all individuals and entities who operate vacation rentals in the County to obtain a permit prior to renting a property. The Ordinance includes provisions allowing for the imposition of fines on operators who fail to obtain a permit and provides for an appeal process that ends with a hearing in front of the Board of Supervisors, if requested by either party.

In accordance with Placer County Code Chapter 9, Article 9.42, Section 9.42.030:

It is unlawful for any person to advertise, maintain, operate or use a short-term rental in the Eastern Placer County Short-Term Rental Area without a short-term rental permit.

Mr. Williams is a certified property manager and participant in the Placer County Short Term Rental program. He actively rented 33 properties represented by his agency, Agate Bay Realty, prior to the issuance of valid Short-Term Rental permits for the properties. Based on Mr. Williams’ failure to obtain permits prior to renting, the owners of the violating properties were fined \$500 each. The determination was made in accordance with Placer County Code, Section 9.42.060(A), which provides:

Fines. The fine for code violations(s) pursuant to this section may be an administrative penalty of up to five hundred dollars (\$500) per day for each violation contained in a first administrative citation, and up to one thousand (\$1000) per day for each violation contained in a second or subsequent administrative citation.

Mr. Williams advised the Community Development Resource Agency (CDRA) Department that he (Agate Bay Realty) would assume responsibility for the citations as the permit process was part of the services provided to his clients. Mr. Williams requested an appeal of the citations on December 10, 2020 in accordance with Placer County Code Section 9.42.060(C). The appeal was heard by the Hearing Officer on March 17, 2021, and a decision was issued on March 24, 2021 that upheld all citations. Thereafter, Mr. Williams appealed the Hearing Officer’s decision to the Board of Supervisors in accordance with Placer County Code Section 9.42.060(C)(5).

Pursuant to the provisions of Placer County Code Section 9.42.060, Mr. Williams and CDRA have the right to argue their respective positions, to be represented by counsel, and to refer to documents or testimony given at the hearing held by the Hearing Officer. However, the parties are not allowed to introduce any new

documents, testimony, or other evidence unless the party offering the new evidence can show good cause as to why the new evidence was not presented at the prior hearing before the Hearing Officer.

During the hearing, the Board may request additional briefing of any issue and may continue the hearing as deemed necessary. The Board shall issue a decision on the appeal at the conclusion of the hearing, and may sustain, modify, or reverse the decision of the Hearing Officer. Any amount determined to be due shall be due and payable upon the decision of the Board. This hearing is the final level of administrative appeal.

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