

Report of the ad hoc short-term rental committee

Date: May 31, 2022

The short-term rental committee was tasked with exploring the issues around the increased use of Internet platforms such as Airbnb, VRBO, and weneedavacation, and their rentals for fewer than 30 days. Is there a problem? Are short-term rentals driving out long-term rentals? Are we successfully collecting the taxes due after the State passed Chapter 337 and changed the laws in 2018?

According to the most recent census, West Tisbury has 2374 housing units with an occupancy rate of 63.6%. We have 278 registered rentals, which produce a little over \$300,000 a year in tax revenue to the Town. According to the Martha's Vineyard Commission's housing needs assessment there was a decrease of 603 units in year-round occupied housing on the Island, despite the fact that the number of units increased by over 4%. The Marriott hotel corporation now lists over thirty properties on the Vineyard for short-term rentals, and three currently in West Tisbury.

This is not a unique problem to our island and communities on the Cape. Vacation locales all over the country such as ski towns in the west are also facing a housing crisis, and workers are not able to find a place to live.

We researched regulations in other communities, which range from outright prohibition to no regulation at all. Towns charge various fees for registration; they have various fees for violations; they sometimes permit only the primary residence being rented; sometimes they require owner occupation at the same time. Chapter 337 allows municipalities to require permitting fees and inspection, to limit STRs to owner occupied or permanent residents, to set annual renting frequency limits, to regulate such things as signs and parking, and to require a local contact person to be named. Currently the only island town that has any regulations on STRs is the town of Tisbury, which requires registration and inspection, but has no other limitations or regulations.

We examined the various potential purposes of a regulation:

Ensuring that the tax is collected properly: Although it is possible that a few rentals are slipping under the radar, the Internet platforms and local realtors are actually collecting the appropriate taxes and sending the funds to the state, which in turn pays the town. We do not see tax collection problems as a rationale for a new regulation.

Health and safety code: Although health and safety may be a legitimate concern for year-round rentals, when tenants are sometimes forced to accept subpar conditions for a place to live, we do not see this as a problem for STRs. Short term tenants will complain to the health department and will write negative reviews on the Internet platforms. We think the market will take care of health and safety issues.

Protect year-round tenancy and affordability: This is an unknown, and there is some disagreement within the STR Committee. It seems clear that short-term rentals are more lucrative than long-term, and they possibly drive up the cost of housing and remove year-round rental properties from the inventory. It is also possible that it is an expanding seasonal population that is the issue. But the high cost of real estate makes affordability a challenge regardless of what is going on in the rental market. Many landlords are island residents who rent for a short period to supplement their income and would not rent long-term anyway. Similarly many seasonal residents would leave their properties vacant rather than rent year-round, because they want to use them themselves part of the summer, in the shoulder season, or for holidays. Additionally, the members of the committee have seen numerous cases where owners flip to short-term rental because of difficulties with year-round tenants.

Protect the right to rent: The SJC ruling in the *Styller v. Lynnfield* case last year, which found that short term rental was a commercial business use in a residential zone, leads us to think that it is important to protect the tradition of families supplementing their income by renting their homes. The current West Tisbury by law allows for rental up to three bedrooms without a permit, but it does not speak to the rental of a whole house. Many properties are currently in violation, and realtors are unaware of the three-bedroom limit. If nothing else is done, the committee believes this should be fixed.

The preservation of community character: There is the specter of Marriott or the Copley group or investors from Boston potentially buying multiple units for short-term rental and creating empty neighborhoods with no connection to the community. This appears to be happening in Edgartown, but not yet in West Tisbury. The STR Committee believes that we should get ahead of the curve and explore how to protect homeowners, neighborhoods, and the tourist economy while discouraging off island corporate investors from turning neighborhood homes into short-term rental enterprises. The goal would be to slow the conversion of year-round properties to weekly rentals.

We propose that year-round residents may continue renting out their property, without restriction, as a short-term rental in residential areas, and that this right be codified. Even if a resident has several properties, the commitment to the neighborhood would be protected through their ongoing membership in that neighborhood. We propose that non-residents should also be able to rent one unit but not multiple units. All other short-term rentals should be prohibited. Any rental of more than 30 days would not be affected. The town could use the street list or the IRS filing status to determine residency.

Bar Harbor Maine recently adopted a by law that treats residents and nonresidents differently, and Nantucket has such a pilot pending. If this concept is desired, we should get an opinion from counsel.

There is a question about whether the town should require local registration of rentals. This may be an unnecessary burden on the administration, and the Town gets a report from the State with a list of tax paying properties.

Should there be a minimum number of nights permitted, to discourage weekend party houses? We propose that there be a minimum rental period of seven days.

What should a violation penalty be and who should enforce it? The other communities we surveyed that list penalties have fines of \$300 per day, enforced by the building inspector.

We hope to get feedback on this concept before going further with many detailed specifics such as definition of STR and resident. We then want to engage the larger community in discussion prior to a bylaw on the 2023 Warrant.