



TALBOT COUNTY, MARYLAND
SHORT TERM RENTAL REVIEW BOARD
215 Bay Street, Easton, Maryland 21601
410-770-8030

November 14, 2019

The Honorable Corey W. Pack
The Honorable Chuck F. Callahan
The Honorable Frank Divilio
The Honorable Pete Leshner
The Honorable Laura E. Price

RE: Board Recommendations after Public Hearings

Dear Council:

At the request of the Talbot County Council on August 9, 2019, the STR Board held four work sessions on August 22 and 29 and September 17 and 19, 2019, to gather contributed input on the STR process and consider experience gained by the STR Board in the time since the Board was formed on November 11, 2018, when the Talbot County adopted the new Chapter 190 of the Talbot County Code. In the public meeting on August 9, 2109, Talbot County Council President Mr. Pack stated "Our direction to the Board should be to listen to the public ... If there is any part of this process that is not working as well as it could, let's hear about it. If we discover there are any gaps in the process as legislated,let's make sure we close those gaps." The Council Vice President stated: "(We) need this work session to see what's working and to see what's not working ... We're going to listen to the public and we're (going to) make it right." Views expressed by the other three Council members supported this direction. Councilman Divilio also expressed the need for improvement to increase efficiency and reduce costs.

This Board carefully considered all of the public comments made at such work sessions and County staff created a summary of the areas of comments, which is attached to this letter as Exhibit 1 for your use. After receiving testimony from over 40 residents, owners, renters, businesses, and government bodies and over 90 written comments through this extensive process, and fully considering such comments, the Board makes the following recommendations to you for possible change:

1. **Definition of Resident Agent.** Currently there is no formal definition of a resident agent in the Code. However, Code Section 190-63.2.C allows the applicant to retain the services of a resident agent, who must have a home or office within 30 miles of the short-term rental unit and can respond to the unit during periods of rental.

Board Recommendation: Add the following:

Duties of Owner or Resident Agent: The Owner and/or Resident Agent shall immediately investigate any complaint, from whomever received, of a violation of Section 190-33.20 of the Talbot

County Code. Upon determining that a violation has occurred or is continuing to occur, the owner and/or the Resident Agent shall request that any occupant of the short-term rental facility that he or she owns or for which he or she is serving as resident agent shall immediately cease and desist from any and all violations.

2. **Change of Resident Agent.** There is nothing in the Code that requires the license holder to inform anyone if the Resident Agent changes.

Board Recommendation: Add a provision that the license holder must notify the County immediately if the Resident Agent no longer represents them and shall notify the County in writing no later than 15 days after the end of such representation with the name and contact information for a new Resident Agent.

3. **Add requirement for a carbon monoxide detector.** Current law does not require such a detector.

Board recommendation: The Board recommends that short-term rental properties in Talbot County should be required to have carbon monoxide detectors.

4. **When new applications may be filed.** New applications are only accepted in January, February, July and August (TC Code Sec. 190- 63.2.B). Renewals are to be filed at least 60 days prior to the expiration of their license. (TC Code Sec. 190-63.3.A)

Board recommendation: The Board recommends that new applications should be able to be filed year round.

5. **Who receives notice/private road.** If the STR will abut or use a private road, should those who abut the private road receive notice of the application or Board hearing on the issuance of their license.

Board recommendation: The form application should be amended to ask an applicant if the property has a right of access over a private road. If the property has a right of access over a private road, all other owners of properties who also have a right of access to such road should be notified of the filing of such application, in the same manner that others are notified under Talbot County Code Sec. 190-63.2.F.1.

6. **Concerns about use of private road by STR renters.** Concerns were raised by several related to STR renters not properly using private roads.

Board recommendation: Add provisions to the form House Rules related to the use of the private roads by STR renters.

7. **Number of Notices for New Application.** Current law requires new applicants to send a notice of the filing of their application (T.C. Code Sec 190-63.2.F) as well as notice of the Board hearing (T.C. Code Sec 190-63.2.I) to certain persons.

Board recommendation: Change the Code such that only one notice is sent. That notice should be sent at least 21 days before the Board Hearing to the persons identified in T.C. Code Sec. 190-63.2.F.1. Delete provisions related to a notice being sent at the time of

application (e.g. T.C. Code 190-63.2.F.3). However, the Board asks that the Council consider asking County staff to find a way to post a list of all applications and associated property address/owner information as applications are filed. This would increase overall efficiency, reduce costs, and provide improved access to information by the citizens of Talbot County.

8. **Method of mailing notice.** Current law for notice of application: certified mail, return receipt requested or other shipping carrier with adult signature required (190-63.2.F.2) Current law for notice of hearing: certified mail (190-63.2.I.4).

Board recommendation: Since the Board has decided to eliminate one mailing and thereby reduce mailing costs, the Board recommends that such notice should be mailed via priority mail with delivery confirmation. This option allows for further efficiencies, since the United States Postal Service provides delivery confirmation on these types of mailings online.

9. **Allow inspections to be done before filing a new application.** T.C. Code Sec 190-63.2.C seems to imply that inspections may only be done after the filing of a new application.

Board recommendation: Allow inspections to be done before the filing of a new application, but such inspection reports should be dated within 45 days of the filing of the application.

10. **Clarify that third-party IRC inspections are allowed for new applications.** T.C. Code Sec. 190-63.2.C seems to require a County inspection (Refers only to Planning and Code Enforcement), even though the Operating Guidelines in 190-33.20.C.9 allow for a third-party inspection.

Board recommendation: Clarify the law such that third-party building inspections, by certified inspectors, are allowed.

11. **Allow third-party inspections for potable water and sanitary facilities.** The STR operating guidelines in current law require that “A short-term rental license shall not be issued until the Health Department has determined that the short-term rental property complies (with current Health Department rules for potable water and sanitary facilities). (190-33.20.C.12) New application requires “A satisfactory inspection report from a licensed inspector as to water quality and, if applicable, septic system operation.” (190-63.2.8)

Board recommendation: The Board would recommend amending the Code such that the use of third-party inspectors for potable water and sanitary facilities, if the Health Department agrees to such a change and such inspectors have some type of licensure or certification.

12. **Add a requirement that all STR advertising must be consistent with the parameters of the law, license and house rules.** There is no such requirement in current law. (e.g. no special events, no fireworks, total occupancy).

Board recommendation: Add a provision to the Code that all STR advertising must be consistent with the Talbot County Code and the house rules promulgated by the Department of Planning and Zoning.

13. **Correct errors or inconsistencies.** The Board considered the errors and inconsistencies that were included in Bill 1413, which was allowed to lapse by Council.

Board recommendation: Make the following changes:

190-33.20. Short-Term Rental

C. OPERATING GUIDELINES

1. The maximum number of persons permitted to be on-site associated with any short-term rental shall be limited at all times to the lesser of 12 persons or two persons per bedroom in the primary dwelling, excluding infants under eighteen months of age, and not including any bedrooms within an accessory dwelling.

* * *

9. The short-term rental property shall comply with the International Residential Building Code adopted by Talbot County, as amended, with respect to emergency escape and rescue openings, exits and smoke alarms. The property shall be equipped with fire extinguishers in the kitchen and any other area in which flammable or combustible materials are kept or stored. All inspection reports shall be submitted to the Talbot County Department of Planning and Zoning on a form prepared and approved by the Planning Director. A third-party International Code Council (ICC) certified building inspector may complete the form, or requests for County inspections must be accompanied by a \$40 inspection fee. This fee may be reset and changed from time to time by the County Council through the fee schedule during the annual budget process.

190-78 Terms Defined

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SHORT-TERM RENTAL

Any lease or other transfer of the right to occupy a dwelling unit other than a hotel, motel, inn, or bed-and-breakfast establishment, for not less than ~~one~~ **three** nights and not exceeding 14 weeks.

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TRANSIENT OCCUPANCY

Occupancy of a hotel or motel unit, inn, ~~or~~ **or** bed-and-breakfast, ~~or licensed short-term rental~~ for short-term periods, not less than one night nor more than four months.

14. Clarify that the per bedroom occupancy requirement also applies to accessory dwellings that are rented. T.C. Code sec 190-33.20.C.1 is not clear that the occupancy limit also applies to accessory dwellings that are rented, and not just the primary dwelling.

Board recommendation: Amend the Code as follows:

190-33.20. Short-Term Rental

* * *

C. Operating guidelines.

1. The maximum number of persons permitted to be on-site associated with any short-term rental shall be limited at all times to the lesser of 12 persons or two persons per bedroom in the ~~primary~~ dwelling **that is rented**, excluding infants under eighteen months of age, ~~and not including any bedrooms within an accessory dwelling.~~

15. Require Owner to be present at new application hearings. It is not clear under the Board's Rules of Procedure if Owners are required to be present at Board Hearings or if they may be represented by their Resident Agents at such hearings.

Board Recommendation: It is the Board's preference for Owners to be at such Hearings unless there are special circumstances. The Board had one case where the elderly owners lived overseas and could only obtain visas to be in the country for limited periods, for example. The Board asks that their Rules of Procedure be amended to require the owner to be present, but in the event of an unusual circumstance, allow such appearances to be via telephone, or, only in exigent circumstances, for the person to be represented by their Resident Agent so long as the Resident Agent is fully able to answer questions related to the property and the Owner understands that their Agent's statements in response to questions by the Board are binding upon the Owner.

16. Improve information on complaints provided to citizens. Since the August public comments, County Staff amended the County website and added a list of the ways that a citizen can make complaints related to an STR (County Code Compliance staff, the STR Helper 24/7 hotline, the Owner/Resident Agent, non-emergency law enforcement phone number, or to the Board itself.) County Staff also added the phone number to the County Code Compliance staff, to the STR Helper 24/7 hotline, and to the form notice letter that applicants must send to neighbors.

17. Maintain a list of STR violations for citizens to be able to access. The Board considered requesting that the County maintain a list of warnings and notices of violation issued to STR owners and providing access to the public to that list in some way (on website, possibly).

Board recommendation: County Staff offered to investigate the possibility of posting such information on the website. Staff committed to providing any history of complaints or violations to the Board prior to the hearing on a new license. Board members Hall and Suss expressed concern regarding posting violations on a public website, viewing it as an overreach and unnecessary.

18. Distribute House Rules more expansively. The Code (190-33.20.D) requires the House Rules to be posted at the property.

Board recommendation: The Board would ask that County Staff include sections on guidelines for the use of private roads and guidelines on how to be a good neighbor/renter in such House Rules.

19. Create Summary to be provided to new licensees about next steps and parameters for compliance.

Board recommendation: The Board would ask County staff to prepare a document to be given to the applicants at the hearing in the event that their license is granted outlining next steps in the process. (e.g. decision will be issued within 30 days, no rentals are allowed until decision is issued, etc.)

20. **Provide STR data to the public on the County website.** The Board discussed being able to provide certain information to the public related to licensed STRs in the County on the County website, such as: Address of STR, name, address, phone for owner and resident agent, date license was issued and any complaints/violations.

Board recommendation: County Staff indicated that they are exploring the capabilities of the current County systems to determine how difficult it would be to add such information to the County website/GIS systems. The Board encourages this process and, if feasible, would ask for implementation of such information dissemination. Board members Hall and Suss expressed concern regarding posting violations on a public website, viewing it as an overreach and unnecessary.

21. **Only one lease per rental.** The Board discussed adding a requirement similar to the Town of Easton's requirement for one lease per rental period per property. In effect, not allowing sub-leases or leases of a part of the property.

Board recommendation: The Board would ask that the Code be amended to disallow more than one lease per rental period per property.

22. **Change the type of sign posted by County Staff before a Board Hearing.** T.C. Code 190-63.2.I.3. requires the County Code Compliance Officer to post notice of the Board Hearing for new applications. The current signs indicate that the action is a "Pending Zoning Application".

Board recommendation: The Board requests that the County explore expending monies to have 10-20 short term rental specific signs made so that it is more clear that the pending action is an application for a short-term rental.

23. **Complete applications.** In February, the Board voted that they will not consider applications until the application is complete, i.e. all inspections have been completed, even if there are still deficiencies after application.

Board recommendation. The Board recommends that their Rules of Procedure be amended to reflect this position.

24. The Board heard from several citizens as follows:

- a. **Moratorium.** Several citizens asked for the Board to recommend a moratorium on the issuance of new licenses.
- b. **Disallow short-term rentals except in the owner's principal residence.** Several citizens asked the Board to recommend that only properties that are an owner's principal residence should be allowed to function as short term rentals in Talbot County.
- c. **Change version of the Building Code.** A few citizens asked for the Code to be amended to require compliance with the version of the building code currently adopted by the State of Maryland rather than the 2003 version adopted by Talbot County in the current Code.
- d. **Allow grandfathering of Building Code.** Several citizens asked the Board to allow homes built under previous versions of the Building Code to be exempted from

requirements to follow versions of the Building Code put into law after the homes were built and allow those homes to be licensed so long as they were in compliance with the Building Code in place at the time that the home was built.

- e. **Treat short-term rentals the same as B&B's and hotels/motels.** Several citizens asked the Board to ensure that the requirements for short-term rentals be the same as for bed and breakfasts and hotels and motels.

Board recommendation: The Board decided that such proposed changes to the Code were not within their regulatory purview and left any such possible change to the discretion of Council.

The Short-Term Rental Review Board would ask the Council to implement the above recommendations as soon as possible. Beyond the considerations and recommendations herein, the Board and Staff have collected, categorized and summarized the principal comments received in our workshops. The Board welcomes the opportunity to share what we have found with you and is happy to conduct any joint work sessions with Council, if such are desired, to expand upon the above recommendations.

Sincerely,



Scott Kane
Chairman

cc: Tammy S. Broll
John F. Hall
David McQuay
Martha W. Suss
Andrew Hollis, County Manager
Anthony Kupersmith, County Attorney
Mary Kay Verdery, Director, Department of Planning and Zoning

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