

# **A Tale of Two Cities**

## **Vacation Rentals in Trinidad, California**

### **SUMMARY**

Trinidad is a quaint seaside town in the heart of Redwood Country. It is a popular vacation destination for people searching for outdoor experiences along the Pacific Coast and in the ancient forests. It is also the type of small town where families dream of raising their children and retirees hope to enjoy a calm and uncomplicated life. Unfortunately, life is not as idyllic as it could be.

For the past twenty years or so, homes have been bought not only by those wishing to become permanent residents, but also by those seeking them for income purposes. As the latter group has opened short term rentals (STRs) in the houses they have purchased, conflict with some permanent residents has arisen.

The Humboldt County Civil Grand Jury (HCCGJ) determined an investigation into the points raised by Trinidad residents was warranted. Quite early in our study, it became apparent STRs are allowed as California Coastal Commission (CCC) policies support the establishment of STRs in Trinidad. Issues we chose to investigate included a lack of enforcement of STR regulations, the complaint appeal process, and possible conflicts of interest. After examining the city budget, it became clear the funds raised by the Transient Occupancy Tax (TOT) were vital to maintaining city services. We also found city officials have not been resolving some residents' concerns or requests in a forthright, timely manner.

The HCCGJ concluded Ordinance 2016-03 should resolve complaints and problems. The HCCGJ recommends all factions follow the procedures set up in the ordinances to bring a successful conclusion to the conflicts facing Trinidad.

### **BACKGROUND**

Several complaints were received from Trinidad citizens upset with the proliferation of STRs in their town. They also expressed concern about how their complaints were being handled by Trinidad city officials.

The HCCGJ interviewed a representative of the concerned residents. At that initial meeting, the representative presented the HCCGJ with a volume containing written complaints and responses as well as numerous e-mail exchanges. After studying this material, it was decided that an investigation should be initiated.

The HCCGJ realized there are usually at least two versions of the same story so it interviewed Trinidad city officials mentioned in the material we had received. Additional interviews were conducted with people from both sides of the issue. Many permanent residents, those who filed the bulk of the complaints, want the quality of their small town to remain as it has been for years. The anti-STR faction want its concerns taken seriously and acted upon quickly. In addition, the specter of conflict of interest on the part of some city officials was raised. On the other side, business owners and investors see tremendous potential in developing the tourism industry in this unique town. The Trinidad city governing body welcomes the increased tax dollars generated by the STRs as a means of keeping the small town financially viable. City government asserts it was attempting to solve troublesome issues, but such action takes time.

Additional research indicated there is a third player, the California Coastal Commission (CCC). As Trinidad lies within the coastal zone, the CCC has jurisdiction over some issues. When the city sent its original ordinance governing STRs to the CCC, it returned the ordinance with the direction to amend portions of it. After many meetings, discussions, and suggestions, Ordinance 2016-03 was approved by both the City of Trinidad and the CCC. This ordinance repealed and amended certain sections of the earlier ordinance as well as added new sections. It went into effect in 2017.

## **METHODOLOGY**

The Humboldt County Civil Grand Jury:

- Conducted interviews with complainants and city officials
- Read and reviewed over a thousand pages of documents from both sides
- Researched and read numerous public documents and local media
- Examined emails and other correspondence

## **DISCUSSION**

The small town of Trinidad embodies the hopes and dreams of many people within its tiny environs. Many of the residents want it to be the friendly, uncrowded place they remember existing when they moved there. Entrepreneurs hope to create businesses in its charming neighborhoods. Trinidad's city government hopes its decisions will make all these dreams come true.

However, Trinidad is not necessarily the peaceful place it appears to be at first glance. Fear, mistrust, frustration, and anger were expressed by some residents and city officials. What causes these emotions? The proliferation of short term rentals (STRs) and the problems they brought have changed the character of the town.

Trinidad is not alone in facing this issue. Cities and states throughout our nation, indeed the world, are experiencing the same concern. Just as Uber is changing the way people travel, STRs are transforming where visitors stay. In towns like Trinidad with limited or no commercial hotels/motels, residents have turned their spare rooms into overnight accommodations. It did not take long for real estate professionals and others to realize the profitability of buying houses and converting them to tourist rentals. At first, this new industry grew with little or no regulation. The lack of firm guidelines inevitably led to some of today's problems and conflicts.

Between 2000 and 2010, the vacation rental industry grew unrestricted according to city officials. As complaints about the STRs surfaced, the first city ordinance (2014-01) was proposed. It defined the zones within Trinidad which were opened to STR or Vacation Dwelling Unit (VDU) development. It stated:

*VDUs (also known as STRs) are permitted only in Special Environment Residential, Urban Residential, and Planned Development zoning districts. VDUs are also permitted in a legally established accessory dwelling unit subject to meeting the requirements of this Section. Each separate VDU must obtain its own, individual VDU License. There shall be no more than one VDU per parcel, except that on lots with three or more legally established dwelling units, the number of VDUs may not exceed seventy-five percent (75%) of the total dwelling units.*

While this ordinance provided a good start, it did not resolve some of the problems raised by residents. They were not only upset with the number of STRs, but also with the increased noise and traffic, to name just two issues. Many of them felt there was a conflict of interest as some city officials retained interests in STRs at the same time they were re-issuing renewals. Emails and other correspondence questioned whether required inspections were performed and expressed frustration at attempting to resolve complaints. As a result, revisions were drafted to address these concerns.

Since Trinidad lies within the jurisdiction of the California Coastal Commission (CCC), it had to be consulted. This added time to the process. As the CCC reviewed the document, it required changes and additions. Eventually, a revised Ordinance 2016-03 was approved by both bodies. It became effective in June 2017.

While Trinidad is to be applauded for being the first city in Humboldt County to develop and pass an ordinance governing STRs, it did not come soon enough to avoid the disagreements among city residents. Citizens chose sides; confrontations occurred among neighbors and between residents and visitors. The key issues were not only with the number of STRs, but also with a lack of enforcement of STR rules and regulations, the complaint process, and possible conflicts of interest by city officials.

## Number of STRs

One of the major complaints expressed by those opposed to STRs was the town's loss of permanent residents. With houses being bought for investment purposes, the number of units available to potential full-time residents, such as families and retirees, dwindled. According to the preamble to Ordinance 2016-03, the proportion of homes being used primarily as vacation rentals grew from 5% in 2000 to approximately 18% in 2014. The ordinance established the number of STRs allowed in Trinidad.

STR opponents point to a declining number of volunteers willing to support town activities. In the last city-wide election, there was a serious lack of candidates for office as well as to serve on city boards and commissions. The number of townspeople willing to volunteer as firefighters diminished.

## Lack of Enforcement

The HCCGJ read volumes of complaints from residents to city officials concerning perceived violations of the rules and regulations governing STRs. The organization Saving Trinidad Neighborhoods (STN) submitted a six-page, detailed memo to the California Coastal Commission (CCC) requesting edits and changes to the Local Coastal Program Amendment Application No. LCP-1TRN-16-0065-1 to Amend Regulation for Short Term Rentals. The STN's document included requests to change definitions of such words as *dwelling*, *bedroom*, *occupant*, and *visitor*. It also asked for revisions of the language in such documents as applications and building inspections. Along with other issues, it states concerns about water usage, septic system size, traffic, and parking.

The result of ongoing talks, formal meetings, and zoning discussions was the twelve-page Ordinance 2016-03. In it, the CCC stated that:

- *STRs are an allowable use in residential zoning.*
- *STRs serve a benefit to the Coastal Act's goals by providing coastal lodging.*
- *Coastal Act section 30213 protects lower cost visitor...uses, including STRs.*
- *The City has an obligation to accommodate those uses.*

This ordinance gave direction to Trinidad city government in its effort to develop a balance among the interests of the CCC, residents, property owners, STR owners, city businesses, and visitors. Many hours were spent in conversations, meetings, hearings, etc. to develop STR standards which include:

- Definition of terms
- Number of STRs allowed
- STR application process
- Renewal requirements
- Occupancy numbers

- Noise limits
- Parking rules
- Signage
- Trash, water, and septic limits

The list of topics represents most of the complaints filed by those opposed to STRs. The ordinance is too detailed in its discussion of each of these topics to be included in this report; however it can be accessed via the City of Trinidad website. The HCCGJ believes the number of complaints will decrease if the rules and regulations in Ordinance 2016-03 are followed by the residents, STR owners and property managers, visitors, and city council members.

Also contained within the Short Term Rental Ordinances is the process for handling violations. STR property managers or owners are required to meet with at least one of the STR occupants on the first day of tenancy to explain the regulations and to affirm occupants have represented themselves correctly. Tenants are required to initial a form called the Good Neighbor Contract to signify they understand and agree to abide by the rules. In addition, each STR must have a 24-hour contact phone number prominently in place within it. That number must be forwarded to the city clerk, law enforcement, the fire department, and to each neighbor within 300 feet of the STR. It also must be posted on the city's website.

The HCCGJ believes the city has developed an ordinance with the goal of improving the relationship between visitors and residents. The problem, however, is some residents claim enforcement has been lax. According to complaints, STR owners or property managers either have not responded or have responded inappropriately to neighbors' concerns. At the time of this report, Trinidad does not have a full-time deputy assigned, but residents hope one will be provided soon, which will allow for quicker responses to complaints.

## **Appeal Process**

According to city officials, the following is the complaint/appeal process which has been followed. Appeals are first heard and decided by the City of Trinidad's Planning Commission. If that decision is not satisfactory to any of the parties, they may appeal to the city council. If the council concurs with the city's planning commission's decision, the appeal is assumed to be denied. At this point, there has been a breakdown in the system in that sometimes the person filing the appeal is not informed of the final decision. Thus, the complainant does not know if the appeal has been heard or decided. The HCCGJ believes that notification of the city council's actions should be forwarded in writing to the complainant.

If a dispute continues after the appeal, according to the licensing agreement between the STR owner and the City of Trinidad, the ordinance says:

*STR owners agree to engage in mediation and act in good faith to resolve disputes with neighbors arising from the use of a dwelling as an STR. Unless an alternative dispute resolution entity is agreed to by all parties involved, dispute resolution should be conducted through Humboldt Mediation Services.*

Following the rules and communicating decisions should alleviate disputes with the complaint process.

### **Conflict of Interest**

A current city council member owns an STR and the partners of both a city official and another council member are STR property managers. Some in the community feel this situation raises the issue of a conflict of interest on the part of the council when they are discussing or deciding issues such as renewals and violations related to STRs.

The California Fair Political Practices Commission delineates conflict of interest issues in Chapter 7 of its Regulations Index. In Statutes 18700 and 18701, it presents the Basic Rule and Guide to Conflict of Interest Regulations and Determining Whether a Financial Effect is Reasonably Foreseeable. A citizen of Trinidad filed a complaint with the Enforcement Division of the Fair Political Practices Commission regarding conflicts of interest on the part of three city officials. The Commission replied that it

*...provides advice and opinions only to those persons whose duties are in question under the Act. As of this date, the governmental decision has not been made and the matter is hypothetical. For this reason, we will not pursue this matter further.*

The HCCGJ does not have jurisdiction to address the question of whether city council members and city officials have conflicts of interest. However, the minutes of some city council meetings indicate that those most closely associated with STRs have recused themselves from decision making. Nevertheless, it is unclear whether city council members consistently recuse themselves and what criteria are used in making such decisions. Persons who have questions regarding the conflict of interest laws as applied to STRs in Trinidad should contact the FPPC for more information.

### **FINDINGS**

F1. Trinidad's complaint and appeal process has been slow and inconsistent which has led to confusion and frustration among residents.

F2. Lack of compliance to Trinidad's Short Term Rental Ordinance by some Short Term Rental owners and property managers create frustration and animosity in the community.

F3. Trinidad would benefit in having law enforcement assistance during tourist season to handle immediate violations of the STR ordinance.

F4. It is unclear what criteria is used for city council recusal of those members who own or manage an STR which leads to a perception of conflict of interest within the community.

F5. Because there is often no written notification of the result of an appeal, complainants sometimes are unaware if a resolution has been reached.

F6. When properly utilized, Trinidad's Short Term Rental Ordinance provides workable methods for solving problems associated with Short Term Rentals.

## **RECOMMENDATIONS:**

The Humboldt County Civil Grand Jury offers the following recommendations to the City Council and to the citizens of Trinidad to consider for the peace and comfort of residents and visitors.

R1. The Humboldt County Civil Grand Jury recommends the city of Trinidad and the citizens of Trinidad follow the steps outlined in Ordinance 2016-03 to solve complaints in reference to Short Term Rentals. This should take place upon receipt of this report. **(F1, F2, F6)**

R2. The Humboldt County Civil Grand Jury recommends that the city of Trinidad consistently and strictly adhere to Ordinance 2016-03 to manage the short-term rental application and renewal process. This should take place upon receipt of this report. **(F1, F2)**

R3. The Humboldt County Civil Grand Jury recommends the City of Trinidad allocate a portion of Transient Occupancy Tax revenue to hire seasonal enforcement staff to deal specifically with Short Term Rental issues by December 31, 2018. **(F3)**

R4. The Humboldt County Civil Grand Jury recommends Trinidad city council members who own or manage Short Term Rentals always recuse themselves when STRs are considered, discussed, or voted upon. Said recusals should be recorded in the meeting's minutes. This should begin immediately upon receipt of this report. **(F4)**

R5. The Humboldt County Civil Grand Jury recommends the Trinidad city manager notify complainants in writing within seven working days of all city decisions on Short Term Rental complaints and appeals. This should begin no later than October 1, 2018. **(F5)**

## **REQUIRED RESPONSES**

Pursuant to Penal Code section 933.05, the Humboldt County Civil Grand Jury requires responses from the following governing bodies:

- City of Trinidad, City Council **(R1, R2, R3, R4 R5)**
- City of Trinidad, City Manager **(R1, R2, R3, R4 R5)**

## INVITED RESPONSES

- Saving Trinidad Neighborhoods (**R1, R2, R3, R4 R5**)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

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