



CITY OF MARCO ISLAND

Meeting Date: May 17, 2021

To: Marco Island City Council
From: Casey Lucius, Assistant to the City Manager
Date: May 17, 2021
Re: Vacation Rental Update

Objective

Our objective has been to be both proactive and reactive as we address the collateral neighborhood impacts associated with vacation rentals. Continuing to enforce current codes, implementing an enhanced communication strategy, and improving staff processes are steps the staff have taken to continue to improve the quality of life for the residents of Marco Island, both landlord and neighbor.

Background

At the October 5, 2020 City Council meeting, staff provided a report to City Council regarding the research and strategies developed by the cross-departmental team of employees working on issues associated with vacation rentals. That report also laid out the legal restrictions imposed on municipalities by Florida Statute 509.032.¹ Following that meeting, staff agreed to provide Council with quarterly vacation rental updates. A report was provided at the January 19, 2021 meeting with the recommendation that Council endorse the staff's existing communications and educational outreach strategy. The Council concurred with the staff's recommendation.

During our initial research of vacation rentals, we learned from the Collier County Tax Collector's Office that there are 2,931 individual tourist development tax (TDT) accounts for Marco Island. This means we can estimate that there are at least 2,931 dwelling units being

¹ Statute 509.032(a) enacted by the Florida Legislature in 2011 states: "Local laws, ordinances, or regulations may not prohibit vacation rentals or regulate the duration or frequency of their rental." Statute 509.013(4)(a)1 and 509.242(1)(c) defines a vacation rental as any condo, single family home or multi-family home which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, or which is advertised or held out to the public as a place regularly rented to guests.

used as vacation rentals on the Island. The TDT paid in 2019 by individual owners on Marco Island and realtors was \$2,964,412 (not including hotels and motels). Marco Island's total contribution to Collier County TDT in 2019 was \$7,475,000.

We also gathered information from various software companies that assist local governments with vacation rental compliance. According to data they collected, of the vacation rentals on Marco Island, approximately 36% are condominiums, 43% are single family homes, and 21% fall into an "other" category which may include timeshares or RVs. Of note, Marco Island has approximately 7,033 single family homes and 10,309 condominium units.

Actions Taken January 20, 2021 – May 5, 2021:

1. **Continued enforcement and community education of new noise ordinance:** An update was provided by Chief Frazzano at the May 3, 2021 City Council meeting. Total noise complaints over the previous six months totaled 374; 99 of which were verified violations. Of the total noise calls received, 112 occurred between 8:00pm and midnight. Most noise complaints focused on music from the home or noise in the pool area. When enforcing the noise ordinance and analyzing the data, the Police Department does not differentiate between rental properties and full-time resident properties.
2. **Vacation Rental webpage activity:** We continue to draw visitors to the City's vacation rental website. Between January - April 2021 there were 7,524 page views on the vacation rental website. This is an increase of 3,503 page views from the previous quarter. This site continues to be a helpful resource for vacation rental owners and neighbors.
3. **Collaboration with DBPR:** Staff continues to collaborate with the Department of Business and Professional Regulation (DBPR). They provided the City with a current 2021 registry of vacation rental properties on the Island. We also shared nine (9) property addresses with DBPR that have received repeated Notices of Violation for noise and are not licensed with DBPR. DBPR has an investigative office located in Fort Myers that investigates properties that are not properly registered with the State.
4. **Communication from residents:** Between January 20, 2021 and May 5, 2021, the City received 86 emails about vacation rentals (34 of the 86 emails were from the same resident). In the previous report to Council, staff reported receiving 62 emails from residents reporting vacation rental issues. Last Fall we received over 400 vacation rental emails from concerned residents.
5. **Communication from Property Management companies and owners:** Staff reached out to 60 vacation rental owners and managers to ask for input and provide a balanced perspective on this topic. The input received included successful owners who manage

their properties by 1) using noise meters to alert them of high levels of noise, 2) limiting rentals to at least one week or one-month, and 3) only renting to those with high/excellent online reviews.

- 6. Communication to residents:** On April 28, 2021 staff sent an email to 522 residents alerting them to the change in Council meeting date for this report and asking for resident input on the vacation rental issue. This list of 522 residents was derived from those who participated in a virtual Town Hall on vacation rentals last Fall.

Legislative Update

SB522 and HB219 preempting local regulations of vacation rentals did not pass during the recent legislative session. The current Florida Statute 509.032 remains in place and applies to Marco Island since there was no local regulation of vacation rentals in place before June 1, 2011. This law prevents local governments from prohibiting vacation rentals or regulating the duration or frequency of their rental.

Legal Opinion of Vacation Rentals in RSF District

The City Attorney has opined that vacation rentals are allowed in Residential Single Family District (RSF District) because there is no specific prohibition on vacation rentals stated in the land development code. Further, the City has not adopted or enforced any vacation rental prohibition within the RSF District. Consequently, any imposition of a prohibition on vacation rentals would be viewed as a new regulation and subject to existing preemption by Florida Statute 509.032.

Next Steps and Recommendation:

Staff is planning for upcoming holiday weekends and summer months and anticipating an increase in vacation rental activity. We will continue to communicate with residents and visitors to ensure they understand our current codes and community expectations. MIPD will continue to respond promptly to calls for service. We believe our actions to date have been effective with minimal fiscal impact to the City.

There are additional options Council may wish to consider:

1. City Council may direct the City Attorney to seek an Attorney General opinion on whether vacation rentals are allowed in RSF District given that the City's land development code was passed in 2001 prior to the 2011 Florida Statute 509.032.
2. City Council may consider a vacation rental registration process. If the Council is interested in this option, staff will bring back a draft ordinance for review. A registration process would allow the City to obtain a list of property addresses and contacts for each

rental, and ensure they are licensed with DBPR and paying taxes. However, implementation of a registration process would require additional staffing.

It is staff's recommendation that we continue to be proactive by communicating and educating property owners and visitors about our ordinances and community expectations.