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January 2, 2020

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OFFICE OF THE CITY ATTORNEY
CITY OF ANN ARBOR

Stephen K. Postema
City Attorney
301 E. Huron
Third Floor
Ann Arbor, MI 48104

Re: Short-Term Rental regulation

Dear Mr. Postema:

I represent several owners of short-term rental property located in the City of Ann Arbor. I am writing to express my clients' concerns over a proposed Council resolution directing the City Administrator to pursue a framework of regulations that would prohibit all non-owner-occupied short-term rentals (STRs) in the City (R-19-2390). This resolution is based on a seriously flawed study prepared by Carlisle-Wortman Associates, Inc. (dated November 8, 2019 – the "Report") and would unfairly and arbitrarily discriminate against my clients and those similarly situated.

Among the many inaccuracies and inadequacies in the Report are:

1. The Report misrepresents the results of the three community input meetings held on the topic.

As the Report indicates, the public meetings were well attended and lengthy, allowing for robust sharing of opinion. As the Report spells out, attendees generally belonged to one of two groups – those seeking more regulation and those seeking less regulation. While the Report generally clarifies points made by both groups, it fails to articulate the tenor of these meetings or to describe the support one group clearly demonstrated over the other at each meeting. *People in favor of less regulation significantly outnumbered those in favor of more regulation.* This was demonstrated via comment, applause and actual votes that were taken.

2. The Report cherry-picked "comparative municipalities" that in several instances, bear few similarities to Ann Arbor and that had all opted for significant regulation.

A number of the cities selected for inclusion are nothing like Ann Arbor. An example is Santa Monica, CA where there are numerous relevant factors that disqualify it as an apt comparison. Other cities that are far more similar to Ann Arbor were not selected, such as Columbus, OH. The truly common feature of the cities selected for comparison is that they are all highly regulated.

3. The Report lacks any meaningful analysis of the need for further STR regulation, or how various regulatory approaches might actually address Council's stated concerns.

STRs in Ann Arbor are already regulated via zoning and various police power ordinances. The Report accepts as a given that more regulation is necessary (and, perhaps not coincidentally, that Carlisle Wortman stands ready to take on the additional work that would be required). Before Council imposes any regulations, especially regulations that target a subset of its taxpayers, it should first quantify and analyze the need for further regulation and then carefully consider how and to what extent any proposed regulation might actually address their stated concerns. It should also consider any unintended consequences of such further regulation. Other than to report the complaints of a minority of those who attended the public meetings, the Report is utterly lacking in any quantitative analysis of the extent of the problem or even whether a significant problem exists. Nor is there any analysis made of how various regulatory approaches might actually address Council's stated concerns. Finally, the Report fails to discuss the hardships of singling out one subset of taxpayers for regulation.

4. The Report lacks any data supporting the notion that Short-Term Rentals have a negative impact on affordable housing.

The Report cites only two sources to establish the possibility that STRs have a negative impact on affordable housing: (a) because "pro regulation" attendees of the public meetings made that claim, and (b) because the City of Santa Monica used affordable housing as a stated reason to regulate STRs. Despite the utter lack of supporting data, the proposed City Council Resolution cites this as its rationale for imposing draconian regulation on a subset of taxpayers. This is arbitrary, capricious and unfairly discriminatory.

How would such regulation fit into a cohesive strategy for addressing affordable housing? Council has yet to articulate one, and so this is an *ad hoc*, band-aid approach at best. Absent an articulated housing strategy, how can private citizens evaluate real estate investment decisions in Ann Arbor?

Council is proposing a blunt and discriminatory instrument to address a "problem" that it has not objectively identified or thoughtfully analyzed. It is attempting to move from flawed report, directly to regulation, without providing an opportunity or forum for the public to comment on the report. Before imposing any regulation that unfairly impacts one set of taxpayers, the City has an obligation to establish a sound factual basis for such regulation, to allow for public input and to fully and rationally explore less burdensome alternatives. This has not been done with respect to STRs.

On behalf of my clients, I respectfully request that Council be advised to table its proposed resolution until such time as all issues related to this decision-making and regulation can be enumerated, objectively and factually evaluated, and then considered in an unbiased forum for further action.

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Very truly yours,



Paul A. Callam