

## A View on STR Legislation

On the last Thursday's town board agenda was the topic of the status of STR legislation. I can report that Senator Tim Moffett's SN 667 is still in play. Our town attorney stated it still can come before the legislature anytime before the speaker closes this short session. The title of the bill says it all: "An Act to Limit the Regulation of Short-Term Rentals by Local Governments to Protect Property Rights and to Establish Guidelines for Regulating Short-Term Rentals. "The bill passed the first reading in April and is now in the rules committee.

At our board meeting, several commissioners expressed a strong interest in wanting Highlands to move forward with the amortization of STRs. They would pass an ordinance allowing current STRs to continue operations until a designated period, say for another three years. When the STR issue surfaced with intensity several years ago, the board considered amortization as a remedy for prohibiting and removing STRs in residential zones. The plan was put on hold, and an ordinance was adopted on September 15, 2022, allowing residential property owners already operating STRs to continue under a grandfathered status. Our attorneys advised us that this ordinance was on solid legal footing. And I will say with the spread of STRs back around 2021, I saw amortization as a viable option to protect the residential character of our neighborhoods. I still want to protect our neighborhoods from STR over-development, not just by imposing amortization.

All of my board colleagues share the same concern about protecting neighborhoods. We have a group called Save Highlands and a counter group that I would call Save Our Neighborhoods. Some on the town board feel that amortization will eliminate STRs which they believe are businesses operating in our neighborhoods. They also feel the current ordinance grandfathering STR creates an unequal status within neighborhoods. They make good points.

My views on amortization have evolved in the last several years to where I think the town should think long and hard about pursuing such a course. First, several years ago, I thought neighborhoods were being inundated with STRs. Our staff had no way of knowing how many STRs were in operation until software was purchased that was very effective in tracking the number of STRs in Highlands. It turns out that within the town about 285 STRs are in operation. Put in perspective, there are about 2,400 residences in and out of areas zoned residential. When I heard those figures, I was pleasantly surprised that there were not as many STRs as I had once feared.

In short, using tracking software, our administrative staff knows who is operating under the grandfather clause of the ordinance. If someone attempts to start a new STR, the software informs our zoning administrator, and a cease and desist order is issued. Also, if a homeowner has the STR grandfather status but stops operating the property as an STR for 12 months or more, that grandfathered use is then made null and void. Instead of STRs increasing in residential zones, I believe they will diminish over time. I believe the current ordinance will be a better option to manage STRs rather than going to amortization.

I encourage the board to be very deliberate before adopting an STR amortization ordinance. Such an ordinance could negatively impact the town. First, as our town attorney has stated, Highlands will be sued over amortization, maybe by several organizations. I know the STR industry will be strongly interested in challenging the ordinance. Second, I do not think Highlands would have a good chance of defending the amortization ordinance in the courts. The cost of mounting a defense could be very sizable, including our attorney fees and, if we lost, the fees of the opposing side.

As a final note, I return to Senator Moffett's SB 667 Legislation. Our move to amortization could be the trigger to propel Senator Moffett's bill forward into law. Some legislators who are currently okay with towns setting their own STR rules might think our actions to enact an amortization law might go against individual property rights. The state legislation may preempt municipalities with a sweeping state law that would limit local STR controls. In short, Highlands might lose what authority we currently have.