



September 19, 2022

*Sent via email*

Heidi Duron, MPA  
Planning Director, Land Use Services Department  
San Bernardino County  
385 N. Arrowhead Avenue  
San Bernardino, California 92415

**Re: Program 4 in Draft Housing Element**

Dear Ms. Duron:

Previously, the Morongo Basin Conservation Association and the Center for Biological Diversity submitted a letter to the Board of Supervisors and Planning Commission for San Bernardino County (“County”) on June 6, 2022 (the “June 6th Letter”)<sup>1</sup> outlining various legal deficiencies with San Bernardino County’s Proposed Short-Term Rental Ordinance and Draft Housing Element. We urged the County to adopt a Housing Element that does not inappropriately count short-term rentals (“STRs”) towards the County’s housing allocation and goals. We requested that instead the County adopt STR policies which adequately balance the needs of the community, environment, and STR owners, and is in compliance with state housing laws and the California Environmental Quality Act (“CEQA”).

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<sup>1</sup> A copy of the June 6th Letter is available [here](#).

We are heartened to see that the County has revised the implementation timeline for Program 4 of the Draft Housing Element and committed through Program 4 to exclude counting STRs towards the County's regional housing needs assessment ("RHNA") allocation. At the same time, we are concerned that legal deficiencies and inconsistencies remain between the STR Ordinance and both the Draft Housing Element and the General Plan. The County to date has not conducted a proper CEQA review of these plans and policies. We are concerned by the County's continued lack of acknowledgement of the impacts that an unlimited number of STRs has had on the local housing stock and on the sensitive desert and mountain environments.

While we continue to view the County as out of compliance with its legal obligations, we believe the County can take significant steps to address their responsibility to the unincorporated communities. This can be accomplished by incorporating further detail and guidelines into Program 4 of the Draft Housing Element to ensure that the County properly assesses and develops policies that prioritize the long-term needs of the community and the environment, while considering the interests of STR owners. These potentially competing interests must be carefully balanced.

We request an in-person meeting with you to discuss how to appropriately implement these proposals.

## **A. Background on the Conservation and Community Groups**

The Morongo Basin Conservation Association ("MBCA") is a community-based non-profit that has dedicated 53 years to preserving the economic and environmental welfare of the Morongo Basin located in East Desert Region of San Bernardino County.

The Center for Biological Diversity ("Center") is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center and its members have worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in San Bernardino County.

Mojave Desert Land Trust ("MDLT") was founded in 2006 as a nonprofit 501(c)3 desert conservation organization headquartered in Joshua Tree, California. MDLT acquires, restores, and protects biologically and culturally important lands throughout a 26-million-acre service area in the California deserts. To date, MDLT has conserved more than 120,000 acres of land in national park units, national monuments, wilderness areas, wildlife corridors and other areas of importance to conservation.

The Sierra Club is a national nonprofit organization of over 830,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives.

Unincorporated San Bernardino Together (“USBT”) was formed to give voice to the communities in the unincorporated area of the mountain and the desert regions. USBT’s initial focus has been on the over-saturation of short-term rentals.

## **B. Proposed Revisions to Program 4.**

We recommend the following revisions to Program 4 to ensure the County complies with applicable laws and prioritizes their responsibility to address the needs and long-term health of the community as well as protect the sensitive environment under their care, while also considering the opportunities an STR market can offer the community and our tourist guests.

MBCA wrote separately to the County on June 28, 2022, outlining many of these proposals.<sup>2</sup>

To give this study the time and focus it requires, we recommend that an *interim cap* on the number of STRs be established at the onset of the study, to cover the time period of the study. We recommend this cap be established by the end of 2022.

Program 4 (page 5-8 to 5-9) should be revised as indicated in the following. We show the suggested revisions in **red**. Black text is directly from the County’s September 2022 Public Review Draft of the Housing Element Technical Report. *Black italics* text is also from the County’s Draft but has been moved from *page 2-92 to 2-93* to be included in Program 4 itself.

### **Program 4. Short-term Rentals**

The proliferation of short-term, whole-home rentals can reduce the amount of available rental housing (particularly that which is affordable) for people who work in a seasonal and permanent basis in the Mountain and Desert regions (and has drive up the cost of housing in the Valley region). Short-term rentals may also have a negative impact on local hotel/motel businesses. The County permits private homes, including ADUs, to serve as short-term rentals in the Mountain and Desert regions (maximum stay of 30 days). In the Valley region, private homes or ADUs must be rented for a term longer than 30 days.

To increase the availability of long-term housing options, the County will conduct a public planning process and a study to determine if the County should establish a limit on the number of private homes or ADUs that can be developed and used as short-term rentals in the Mountain and Desert regions. The study should also evaluate the potential effectiveness of various incentives to encourage long-term rentals, particularly for local employees and lower income residents, as well as where and how many property owners are changing from long- to short-term rental patterns, where and how many property owners are developing new housing units explicitly for use as a seasonal home (by the property owner) and that is being made available to others as a short-term rental, the number of hosted vs. unhosted short-term rentals.

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<sup>2</sup> MBCA’s June 28, 2022 letter is available [here](#).

*The County will evaluate the prior tenancy history of homes that obtained short-term rental permits to better understand whether a substantial number of property owners are terminating or deciding against renewing leases with long-term tenants in order to convert the property to a short-term rental. The County will also evaluate the supply of rental properties (and at what rate) in locations where short-term rentals are popular. The purpose is to understand the degree of displacement that is occurring and has occurred. If the study identifies a significant negative effect on the supply of affordable rental housing and/or motel/hotel industry, the County will establish incentives to encourage long-term rentals and/or limit the number of total and/or new short-term rentals that can be permitted in the Mountain and Desert regions.*

**Objective:** Conduct a public planning process and study to determine the **past**, current and projected impact of short-term rentals on the housing supply throughout the unincorporated county and on the motel/hotel businesses in the Mountain and Desert regions. Establish and implement strategies based on the study's findings. Update and resubmit 2018 through 2021 annual progress reports (APRs) and ensure that future reports account for units (ADUs, site-built homes, or manufactured homes) that apply for a short-term rental permit (unhosted only) and communicate this information to HCD to remove such units from being counted as long-term housing units (at any level of affordability).

**Responsibility:** Community Development and Housing, Land Use Services

**Funding Source:** General Fund

**Timeframe:** Initiate study in 2022. **By the end of December 2022 bring forward an interim cap to cover the duration of the study period. By the end of 2023, after in-depth study, committee discussions, public outreach and engagement, bring forward for consideration by the Board of Supervisors revised policies including a revised cap** on the total number of short-term rental permits on an annual basis and/or a percentage of total housing units within each community planning area in the Mountain and Desert regions. Establish and begin implementation of recommended solutions by 2024 if the study's conclusions support the establishment of incentives and/or a limitation (by region and/or for specific unincorporated communities). Update 2018-2021 APRs in 2022 and adjust future APRs annually to remove units used for short-term rentals.

## C. Proposed Timeline and Study Content to include in Program 4

Program 4 should also include a detailed process and timeline for public outreach and engagement to ensure that the County has all appropriate evidence, data, and information prior to developing and adopting new STR policies and to ensure their successful implementation.

**We recommend Program 4 meet the following timeframes and progress milestones:**

### Fall 2022:

Initiate a study to determine the current and projected impact of short-term rentals on the housing supply throughout the unincorporated county and on the motel/ hotel businesses in the Mountain and Desert regions. This study shall be a partnership between the County and the two distinct Mountain Region and Desert Region Advisory Committees. The Committees shall be formed and should include representatives from the following:

- Local Short-Term Rental Management Companies and STR Owners
- Local Business Owners, Realtors, Motel and Hotel Owners,
- Local Neighborhood Residents
- Local Housing, Homeless, Family and Foster Youth Service Providers
- Local Community and Environmental Groups
- Local School Districts and Community Colleges
- Local Military Bases and National Parks/Monuments
- Local Agencies such as Water Districts

### By the end of 2022:

In coordination with the Committees, the County will draft and bring forward for consideration by the Board of Supervisors, an **interim cap** proposal for the total number of short-term rental permits to be in effect during the approximate year of study.

### 2023:

Conduct the studies described below. Continue to conduct a public planning process including outreach to community members and organizations via possible workshops, email, mail, and invitations for written and oral comments in order to receive information and feedback on STR impacts, further study suggestions, and proposed STR policies.

Use the process as an opportunity to form a holistic overview of these regions.

### Fall of 2023:

Conclude study and identify the Advisory Committee's recommended strategies. Draft proposed caps, density limits and proposed short-term rental policy revisions for review by the Planning Commission and Board of Supervisors.

The language could include items such as: proposed limits on permits, density limits for specific neighborhoods, limits on the amount of permits a corporate entity and/or a natural person can hold, driver's license requirements (as required by

County policies for building permits) to identify responsible parties, as well as posting owner/responsible parties' contact information and permit expiration dates on the County website's map of STR permits, and clear administrative processes for Code compliance and sanctions for failure to follow County ordinances.

2024:

Initiate implementation of strategies for housing and programs to meet community needs based on the study's findings.

**We recommend the studies include the following components:**

1. A study of current long-term population and demographics. A survey of current housing availability, tenure, and vacancy rates. Analysis of how many dwelling units have changed from long to short-term rentals and resulting displacement.
2. Review of the impacts of the operation of STRs in the County, including an economic cost/benefit analysis of STRs on County operations and revenues.
3. Review of impacts of STRs on schools and how the availability of housing affects the operations and staff of school districts, military installations, national parks, national monuments, health facilities, and public agencies.
4. A survey of existing STR owners to determine who the responsible parties and owners are for the STRs to assure compliance with the regulations and confirm permit expiration dates and status.
5. Analysis of the County's enforcement policies concerning unauthorized grading and/or destruction of native plants and effects on wildlife.

**D. Conclusion**

The proposed revisions to Program 4 will help the County in recognizing and accounting for the impacts of STRs and to chart a path forward that considers the community, environment, and STR owners. Although to date we see serious legal deficiencies in the County's approach outlined in the June 6th Letter, we are proposing these revisions to Program 4 with the intent of addressing these issues collaboratively as partners. We look forward to working with the County on these issues.

Thank you for your time and consideration.

Sincerely,



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