

Membership Update Regarding Short Term Rentals and Sober Living Homes

Two years ago, at the Board of Directors Meeting of December 9, 2015, the attending homeowners received a presentation from counsel retained by Nellie Gail Ranch for the purpose of advising regarding the Association's rights and responsibilities with respect to sober living homes. Some homeowners expressed concerns related to various nuisance activities at some homes within the Nellie Gail Ranch community that are rented for such purposes.

Since that time, inquiries have also been made by homeowners with respect to residences being used for short-term rentals on such sites, including but not limited to, Airbnb, VRBO, and others.

An update regarding the foregoing issues was provided this year at the January 16, 2018, meeting and the Board of Directors wish to share the following information with the Nellie Gail Ranch membership.

First, a distinction should be made between "Licensed Treatment Facilities" and "Sober Living Homes." Many homeowners may consider the term "Sober Living Home" to be inclusive of both, but they are different. A "Licensed Treatment Facility" is licensed by the California Department of Health Services and may serve (or provide treatment to) six or fewer persons, and are considered by the State to be a residential use of the property. Sober Living Homes, on the other hand, are not licensed to provide treatment, do not have a limitation on the number of persons living in them, but are heavily protected under anti-discrimination laws both at the State and Federal levels. Currently, the State registry identifies three "Licensed Treatment Facilities" in Nellie Gail Ranch. As "Sober Living Homes" are not registered with the State, we do not have an official count on homes used for that purpose.

At this time, we understand that the City of Laguna Hills' position on either "Licensed Treatment

Facilities" or "Sober Living Homes," is that the use of residences for the foregoing purposes are protected by State law, and the City is not currently undertaking any substantial effort to regulate, or otherwise require homes to register for these purposes.

As it pertains to short-term rentals, we also understand that the City does not have restrictions on short-term rentals, and we understand that the City does not plan to allocate resources to create municipal codes to regulate, or otherwise enforce Short Term Rentals.

As a consequence, the next step is to evaluate the Association's rights and responsibilities as it relates to the creation of restrictions or enforcement standards related to use of homes for short-term rentals. The Association's legal counsel was tasked with evaluating current legislation, the viability of CC&R Amendments, and possible restrictions that may be considered to address Short Term Rentals. The following are some highlights:

- "Sober Living Homes" are currently protected under the law as a protected class. The law generally treats "Sober Living Homes" as

residences rather than treatment facilities or businesses, thereby impeding the Association's ability to pursue these homes under the relevant provisions of the CC&Rs.

- California Senate Bill 1283, introduced by Senator Bates in 2016, was proposed legislation authorizing a city to enact ordinances mandating sober living homes, or similar facilities, to register such uses, consistent with specified state and federal law, and with specified exclusions. However, there has been no recent legislative action to move this bill forward. For more information go to <https://leginfo.ca.gov> or contact Senator Pat Bates through her website at <http://district36.cssrc.us>.

The Association's CC&R's, recorded in 1976, did not contemplate short-term rentals, and the recently booming business model emerging therefrom. In order to address short-term rentals, the Association would have to amend the CC&Rs in order to restrict short-term rentals. This can be a substantial endeavor, as the Association's CC&Rs require the affirmative vote of at least 75% of the entire membership. Even if an amendment were passed, the law provides that any such amendment would not apply retroactively, and would only take effect against each property upon change of ownership.

So, what can the Association currently do? The Association is empowered to respond to homeowner reports of harmful, dangerous or offensive nuisances. The Association may respond to written reports including date, time and specific description of any use of a home that creates those types of nuisances. Homeowners who report these concerns need to be willing to be a witness in the event of any legal actions taken in regard to these matters. This is not just applicable to sober living or short-term rental uses, but it applies to any use that causes a community nuisance or is otherwise a violation of the Association's governing documents. The CC&R provision governing nuisance is intended to address ongoing and pervasive community nuisances, not singular nuisances or neighbor to neighbor disputes. If you believe you have a dispute with your neighbor, please consider first working with your neighbor to resolve the dispute to resolve concerns. Nellie Gail Ranch is first and foremost a community. Should you have any further inquiries, please forward to admin@nelliegailranch.org.