

MEMORANDUM

Date: August 6, 2013

TO: Town Manager
FROM: Dave Bullock, Town Manager
SUBJECT: Request for Consideration of Resolution 2013-26, Support for Repeal of House Bill 883 - F.S. 509.032(7)(b)

Commissioner Duncan serves as the Town's representative to the Manasota League of Cities and has been serving as their Acting President.

At the Manasota League of Cities' July 2013 Meeting, Holmes Beach Commissioner and Manasota League member, Jean Peelen held discussion related to F.S. 509.032(7)(b) which prohibits local government restrictions on vacation rentals.

Florida State Statute 509.032(7)(b)

A local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

Attached is a position statement forwarded by Commissioner Jean Peelen which explains the legislation's impact to her community as well as a proposed resolution (attached) for Commission consideration at the August 14, 2013 Special Meeting. Also provided is a draft resolution for consideration at the Manasota League of Cities' September 12, 2013 Meeting expressing the League's support to repeal F.S. 509.032.(7)(b).

This item is placed on the August 14, 2013 Special Meeting for Commission discussion at the request of Commissioner Duncan who is seeking Commission direction regarding the Town's position on this legislation.

REPEAL STATE STATUTE 509.032(7)(b)

In June of 2011, the Florida legislature severely undermined the constitutional right of Florida cities to home rule by passing HB 883(7)(b), now known as Florida Statute 509.032(7)(b). This provision prohibits local governments from regulating vacation rentals. The one concession allowed is that if vacation rental rules already were in place, they could be retained. The threat, though, is that if any aspect of the current rental rules are changed, the city will be penalized by having to give up all rules.

Florida State Statute 509.032(7)(b)

(b) A local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

The legal effect is that cities have been stripped of the power to govern themselves in respect to whether they want to encourage long time renters, like snow-birds, weekly renters, or daily renters. Because of 509.032(7)(b) we cannot say "This neighborhood has been strictly residential for many years and we'd like to keep it that way." Nor can we say "we would like to require weekly rentals over here but around our schools we'd like just longer term rentals." Because of 509.032(7)(b) cities have lost that power.

The practical effect is that smart developers are beginning to bust residential neighborhoods, replacing existing houses with very large houses meant only for renters. You can immediately tell they are meant only for renters because they have a large number of very small bedrooms – rather like rooming houses.

Imagine living in a nice neighborhood for twenty years and suddenly have a new house meant only for rental built next door to you, or on either side of you, in which 16 or 18 people move in every two or three days. Imagine the noise, the cars, the parties, the trash.

Until recently we thought it was only beach type cities that were affected, but recently we see something new happening. In Bradenton, a new attraction called Riverwalk opened. It is a charming walk along the river close to downtown restaurants and bars. In a nearby wealthy area, a homeowner started renting his house nightly. There will be more incidents like this and should engender concern from cities all around Florida.

Section 509.032(7)(b) is an attack on home rule and cripples the abilities of the cities to serve our citizens and to serve our tourists. We request the Florida League of Cities to support the effort to repeal Section 509.032(7)(b).

RESOLUTION 2013-26

A RESOLUTION OF THE TOWN OF LONGBOAT KEY, FLORIDA, RELATING TO FLORIDA STATUTES SECTION 509.032(7) PREEMPTION OF LOCAL AUTHORITY TO CONTROL VACATION RENTALS; RELATING TO REGULATION OF VACATION RENTALS; RELATING TO ZONING OF VACATION RENTALS; RELATING TO THE TOWN OF LONGBOAT KEY'S ABILITY TO EXERCISE HOME RULE POWERS FOR THE BENEFIT OF ITS CITIZENS; RELATING TO THE REPEAL OF FLORIDA STATUTE, SECTION 509.032(7); PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Florida Legislature adopted Section 509.032(7) [formerly known as HB883 (2011)] which preempts the Town of Longboat Key's ability to control vacation rentals, and;

WHEREAS, the legislation results in vacation rentals being essentially unregulated, and the inability of municipalities to amend any current regulations, and;

WHEREAS, land use, development, and zoning have traditionally fallen under the control of and are within the expertise of the Counties and Cities of the State of Florida, and;

WHEREAS, the ability of the Town of Longboat Key to exercise its home rule powers to control vacation rentals would allow the Town to tailor land use controls to equitably ensure that the use of properties in the residential area are not unreasonably impacted by commercial uses, and;

WHEREAS, the existence of F.S. Section 509.032(7) would allow for the establishment of commercial rental activities in formerly residential areas where up to 20 individuals rent a home for short time periods of as little as a day, with resultant noise, trash, public safety, and parking problems, and;

WHEREAS, unregulated commercial rental activities in residential areas have the same negative impact to the residential areas as hotels and motels, and;

WHEREAS, the intensity of use of a vacation rental is comparable to the intensity of use of motels and hotels which is not appropriate in an area of single family residences, and;

WHEREAS, throughout Florida, motels and hotels are typically not an allowed use in residential areas, and;

WHEREAS, unregulated vacation rentals in residential areas are having an extremely negative impact on the quality of life of the surrounding home owners due to the unreasonable intensity of use.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF LONGBOAT KEY THAT:

SECTION 1. The above Whereas clauses are true and correct and are hereby ratified and confirmed.

SECTION 2. The Town Commission of the Town of Longboat Key urges the Legislature of the State of Florida to repeal F.S. Section 509(7) to allow municipalities to adopt reasonable controls for vacation rentals.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

PASSED at a meeting of the Town Commission of the Town of Longboat Key, Florida, on the _____ day of August, 2013.

James L. Brown, Mayor

ATTEST:

Trish Granger, Town Clerk

RESOLUTION FOR REPEAL OF FLORIDA STATE STATUTE 509.032(7)

A RESOLUTION OF THE MANASOTA LEAGUE OF CITIES, RELATING TO SECTION 509.032(7) PREEMPTION OF CITY AUTHORITY TO CONTROL VACATION RENTALS; RELATING TO REGULATION OF VACATION RENTALS; RELATING TO ZONING OF VACATION RENTALS; RELATING TO THE ABILITY OF THE CITIES OF FLORIDA TO EXERCISE HOME RULE POWERS FOR THE BENEFIT OF ITS CITIZENS; RELATING TO THE REPEAL OF SECTION 509.032(7); AND PROVIDING FOR AN EFFECTIVE DATE

Whereas, the Florida Legislature adopted Section 509.032(7) [formerly known as HB883 (2011)] which preempts Florida cities' ability to control vacation rentals.

Whereas, this results in vacation rentals being essentially unregulated, or in the inability of cities to amend any current regulations;

Whereas, land use, development and zoning have traditionally fallen under the control of and are within the expertise of the Counties and Cities of the State of Florida;

Whereas, the ability of Florida cities to exercise their home rule powers to control vacation rentals will allow the cities to tailor land use controls to equitably insure that properties in the residential area are not unreasonably impacted by commercial uses;

Whereas, the existence of Section 509.032(7) has allowed the establishment of commercial rental activities in formerly residential areas where up to 20 individuals rent a home for short time periods of as little as a day with resultant noise, trash, public safety, and parking problems.

Whereas, unregulated commercial rental activities in residential areas have the same negative impact to the residential areas as hotels and motels;

Whereas, the intensity of use of vacation rental is comparable to the intensity of use of motels and hotels which is not appropriate in an area of single family residences;

Whereas, throughout Florida, motels and hotels are typically not allowed in residential areas;

Whereas, unregulated vacation rentals in residential areas are having an extremely negative impact on the quality of life of the surrounding home owners due to the unreasonable intensity of use ;

Now, therefore, be it resolved by the Manasota League of Cities the following:

Section 1. The Manasota League of Cities urges the Legislature of the State of Florida to repeal Section 509(7) to allow cities to adopt reasonable controls for vacation rentals.

Section 2. This resolution shall become effective upon its adoption by the city.

Passed and adopted, by the Manasota League of Cities in regular session assembled, this ____ day of _____, 2013.

Signatures