

Monterey County Short Term Rental Enforcement
Proactive Short Term Rental Enforcement & MCVRA Legal Action

Updated March 29, 2022

On December 8, 2021, Monterey County Supervisors unanimously voted to implement a Supervisorial District 5 short term rental (STR) Pilot Program. Before that meeting, your MCVRA pulled out all the stops using many letters, public demonstrations, broad media coverage, and one-on-one meetings with Supervisors to oppose the Pilot Program. Even though MCVRA represents a large contingency of voters, and provides huge benefits in tourism dollars and TOT revenue for one of the poorest counties in the state, the Supervisors did not listen. The Supervisors voiced no concern whatsoever for service workers' jobs or lost TOT, in spite of facing \$78 million in unfunded pensions.

The Pilot Program will shut down EVERY STR operating in District 5 without a permit. District 5 includes Pebble Beach, Big Sur, Carmel Highlands, the unincorporated areas surrounding Carmel-by-the-Sea, Carmel Valley, and the Highway 68 corridor. About 82% of all Monterey County STRs are in District 5. If you do not know if you are in District 5, [CLICK HERE](#) for a map. Since that BOS meeting, the County has deliberately stopped calling this a Pilot Program. Rather, they explain that this is merely prioritized, proactive enforcement of existing County code. In the past, Monterey County STR enforcement only occurred when a complaint was made by a neighbor. Proactive enforcement will not wait for a complaint. We fear this will spread to all areas in the County in the future.

County staff came back to the BOS on March 1, 2022 where the funding was unanimously approved for additional code enforcement employees. With this additional staff, proactive enforcement will commence in three steps:

- First, the “educational” phase which is projected to take just 30 days. During that time, every STR owner will be notified that STRs must have a permit. Host Compliance and records of TOT payments will be used to identify owners. Owners who wish to continue operations will be expected to apply for a permit.
- Next, STR owners still operating who have not been paying TOT and have no permit, or are in an area where STRs are not permitted (such as by HOA rules), will be subject to citations and fines. It was unclear how long this phase would take.
- Finally, STR owners still operating who have been paying TOT but have no permit would be subject to citation and fines.

The December 2021 BOS meeting could have been worse. The Supervisors did not discuss an option that County staff offered – whether STR operations could continue while a permit application is in progress. County staff suggested that operations be ceased during the application process but this was not discussed or voted on. Presumably an owner who has a permit application in progress will not be subject to enforcement unless the permit gets denied.

MCVRA members and STR owners described the existing unworkable permitting system. The inland permit costs over \$7,000, takes many months, may be denied, or may be granted but with unreasonable restrictions on rental days per year. The coastal permit is simply not available to non-hosted STRs. Hosted STRs may seek a BnB permit but it costs over \$14,000, takes well over a year, and thus none have ever been granted. We emphatically stated to the Supervisors that the Pilot Program is a BAN in the coastal zone. The Supervisors paid no attention.

Legal Action

With no other option, MCVRA and a group of STR owners selected and retained an attorney. We ask you to donate to our legal fund. Please go to <https://mcvra.org/legal-actiondonate> to donate. Read on for more information.

The December meeting was just the latest in many meetings with County staff, with the County Planning Commission, with individual Supervisors, and with the Board of Supervisors. Over 7 years we have objected to the flawed discretionary (read arbitrary) permitting processes proposed in each of the five versions of draft ordinances. We pointed to successful, reasonable permitting methods used by other jurisdictions. No one listened. Now this proactive enforcement will require every STR owner to apply for a permit via that same flawed permitting system. Our appeals to reason got us nowhere.

We have strong legal arguments. Last year in Santa Barbara the Court of Appeals ruled that banning STRs in the coastal zone was a violation of the Coastal Act. In January 2022, our attorney filed a lawsuit to stop this enforcement in the coastal zone.

There are also other damaging legal arguments against the County outside the coastal zone. For example, if STRs are illegal, the County should not have accepted and collected TOT for the past half century. They should have rejected the TOT payment and delivered cease and desist orders to the owners. For those of us who have been paying TOT, we have received quarterly TOT notices not suggesting, but demanding payment. In just one calendar year they have collected \$2.3 million in TOT taxes from STRs alone. Anti-STR ordinances have been defeated in places that did not involve the Coastal Commission. But the inland area does not have the leverage of the Coastal Act. Even though we object to the inland permitting process, MCVRA is advising inland STR owners to apply for a permit. We and our attorney are closely watching these permit applications before we might take legal action affecting the inland areas of the County.

The funds to retain our attorney and initiate legal action were provided by just four people and your MCVRA due to the urgency of this matter. Some of you have now also contributed to our legal fund. Thank you to all that have recently contributed. Your MCVRA and these generous donors cannot sustain this effort without your financial help. We ask everybody who has a stake in this to donate by going to <https://mcvra.org/legal-actiondonate>. Your other option is to go out of business.

With appreciation,
Your MCVRA Volunteer Directors