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Sent: Saturday, June 15, 2024 11:25 AM
To: Ryan Knight <rknight@shepardfirm.com>
Cc: Melbourne Beach Town Manager <TownManager@melbournebeachfl.org>
Subject: STR Questions regarding Presentation

Thank you, Ryan, for the great presentation. To save time, I have listed questions regarding Short Term Rentals . I look forward to the answers.

Question:

Section 30-44; How do you separate parking throughout the Town from Police citations to be processed by the Brevard Civil Traffic Infraction Hearings and Parking violations due to rentals to be processed through a Magistrate?

Answer: The Code provides that "all vehicles associated with the vacation rental, including visitors not residing at the vacation rental, must be parked in compliance with §§ 30-41 through 30-48" of the Town Code (§ 74.38). However, I don't see how an officer would be able to conclusively determine a parking violation would be associated with the vacation rental unless the officer actually observes people going from the car to the vacation rental. Otherwise, the officer would be speculating as to whether a vehicle is associated with the vacation rental. I think it would be much easier to not have the parking separated by Brevard Courts and Special Magistrate and just let the Special Magistrate handle all parking violations. There has been a shift from municipalities enforcing parking through the courts to utilizing the special magistrate. For example, if one were to contest a parking violation through the courts, it would require a hearing where the issuing officer would have to be present, along with an attorney, all for a parking violation less than \$50. If it is contested through a special magistrate, then it is much easier to schedule 5 or 6 violations for one scheduled hearing.

Section 30-43.1

(b)Town Code, shall be referred to the civil infraction hearing officer program as established by Sections 106-96 through 106-100, Brevard County Code. However, upon request of the defendant, contained in a notice of appearance or a written plea, the case shall be assigned to a county court judge.

Question:

Section 74-37; What is the suggestion for enforcing number of people occupying a residence which is in 74-37? Would this require copies of each rental agreement made by the property owners with tenant?

Answer:

The Code provides for maximum occupancy of 12 persons and provides the maximum occupancy shall be stated in the vacation rental registration form (§ 74-37(A)), so the Town has the listed maximum occupancy information provided in the registration form.

Enforcing this is extremely difficult and there is really no way to get around it due to the constitutional considerations under the U.S. Constitution and Florida Constitution for unreasonable searches and seizures. Essentially, an officer is not allowed to enter the residence except under specific circumstances. These specific exceptions are not usually found when there are occupants simply occupying the rental. There is a process to obtain an administrative inspection warrant, but it requires an affidavit and a reason to believe that a nonconformity exists. Simply stating the Town believes there are more than 12 occupants on a particular night would not satisfy this requirement.

Question:

Is the Town required to supply State of Florida registration requirements to vacation rental property owners?

Answer: No, this is incumbent upon the owner to properly register with the State.

Question:

Would this be an accurate description for Town Staff organization or department structure: Yes.

Building Department

1. Code Enforcement
 - A. Code enforcement Vacation Rental Duties
 1. Rental Business registration
 2. Complaints Registration.
 3. Parking violations enforcement.
 4. Noise violations enforcement.
 5. Violations per address tracking and times of notifications tracking.

Answer: Yes

Question:

11-19 section (b)

I believe our chapter 74 code gives applied notice time but as you suggest, it should be a definite time period of days. Does the Code enforcement paperwork or forms show a time period?

Answer:

Yes, the paperwork would be the Notice of Violation issued to the violator by the code enforcement officer. Per state statute 162.06, "the code inspector shall notify the violator and give him or her a reasonable time to correct the violation." Depending on the violation, the time period to correct the violation is usually 30 days. However, if there is a repeat violation, then reasonable time to correct the violation is not required.

§ 74-4. ENFORCEMENT.

Violations of this chapter shall be enforced as code violations in accordance with the provisions of Florida Statutes, Chapter 162, and §§ **11-15 through 11-22** of the Town of Melbourne Beach Code of Ordinances.

11-19 section (b) Except as provided in divisions (c) and (d) of this section, if a violation of a particular code is found, the Code Inspector shall notify the violator and give a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Inspector shall set a hearing before the special magistrate and notify the respondent of the hearing pursuant to § 162.12, Fla. Stat., or as such section may be amended. If the violation is corrected and then recurs or if the **violation is not corrected by the time specified for correction by the Code Inspector**, the case may be presented to the special magistrate even if the violation has been corrected prior to the hearing and the notice shall so state.

Question:

74-5; Does this section still apply as written or should the Commission be removed from the appeal process with BOA and then Magistrate? Not sure how the Commission would have the authority to make the decision.

Answer:

This wouldn't apply to notices of violations that would be sent to the magistrate for a hearing. This section would apply to the denial or revocation of a rental application or a disagreement over the requested occupancy. For example, if an applicant claims they provided all the necessary information to register a vacation rental, but the application was denied, then the proper