



The entrance to Vail Town Hall

Letters to Vail

VAIL HOMEOWNERS ASSOCIATION

New STR Regulations—Just Barely—What they Accomplish And Another Conflict of Interest

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After months of study and fretting, last week the Vail Town Council adopted new Short Term Rental (STR) regulations by a 4–3 vote (Langmaid, Mason, Stauffer and Davis in favor; Foley, Seibert and Coggin opposed). At a time when many other communities are taking action to reign in STRs, the new regulations require only the

posting of a sign with certain information about the unit and new fees and fines. The new fees are projected to cover the Town's cost of administering STRs (previously that department operated in the red). And while increased fines might reduce infractions by renters, nothing was done to limit the number of STRs. Moreover, the new fees will be pocket change for anyone who seeks to convert a housing unit to an STR, meaning that there is no limitation on the number of STRs that might be established in Vail. For those who are concerned about the rising number of STRs and their impact on the Town, this was a tremendous disappointment.

Some on the Council (in particular, Langmaid and Mason) wanted to go further and limit STRs, but others (those opposed to even these regulations) claimed that it would be unfair to limit owners' property rights. What the opponents do not seem to understand is that all land use regulations, most notably zoning regulations, limit property owners' rights to freely do as they please with their property. The ability of communities to describe how property within the jurisdiction of the community is to be used and to manage the community growth is one of the distinguishing features of most communities. And, from even before there was an incorporated town, the Vail fathers laid out land use regulations in covenants that covered what could be built and where it could be built. When the town was later incorporated, those covenants largely were the basis for the town's zoning regulations. So, it is a false claim to oppose STR regulations because they will impact a property owner's use of their land.

STRs pose a significant risk of forever changing the Vail community. Unmitigated growth could hollow out middle class and worker housing, further exacerbating current employee shortages. One need only look 40 miles to the SW to see how STRs can impact communities. In Aspen, STRs were expanding at such a rate that they threatened to upend community values and policies. The Aspen City Council stated that the situation was so serious that it endangered the sustainability of the community. As a result, a moratorium was placed on further STRs while the Council studied what to do. That was followed by a cap on STRs to 8% of the city's residential units (which was 75% of the current STRs) with a "three strikes" enforcement rule for violations of the regulations. Current STRs were grandfathered, allowing attrition to bring the number down to the new limit. Pitkin County also placed a limit on the total number of STRs that would be permitted.

That Vail was not able to place any limits on STRs does not bode well for the on-going Destination Stewardship Plan. If this is the best that the Council could do on STRs, it is difficult to see how it might deal with the larger issues of community sustainability, community carrying capacity and how to preserve Vail's uniqueness for future generations.

Another Conflict of Interest

The debate over the STR regulations saw yet another conflict of interest in the process of Vail governance. Council member Travis Coggin is a short-term renter. The regulations would have a direct impact on his income. Yet, he never recused himself or stood down in the consideration of those regulations

While his vote was not determinative, that is not the point. There is no way to tell at the beginning of the consideration of STR regulations what the final vote would be, but it was clear that consideration was going to include provisions that could cost STR license holders money. That alone should have triggered a recusal. Individuals with conflicts should not participate in any aspect of the consideration of the issue. And, even though his vote was not determinative, there is no way to know if Travis Coggin's participation influenced or gave support to other Council members to oppose the regulations.

Ed Note 6/29/22: It has come to VHA's attention that Council member Travis Coggin was not totally opposed to the STR regulations. He opposed the posting of information but was agreeable to the provisions on fees and fines. Conflicts of interest are not however excused by how an individual ultimately votes. Council member Coggin had a conflict of interest which should have triggered a recusal, which did not happen.

This was not an isolated instance. In recent years, there have been multiple instances of Council members and/or members of the PEC considering and voting on matters notwithstanding personal conflicts of interest. All the while, the VHA has advocated for a comprehensive conflict of interest and code of conduct. [See links to [8/30/21](#) and [3/1/20](#) VHA reports] Other communities have such provisions, but with only a couple of individual exception, Vail leaders have steadfastly refused to take up the subject even though the creation of a conflict of interest and code provision is not rocket science.

The fact that the TOV does not have a comprehensive Code of Ethics and Conflict of Interest rules is regrettable because conflicts of interest undermine the integrity of government. Even the appearance of a conflict can make it seem that decisions are biased and that special interests control agendas. And it is not sufficient that an affected person says that they can be fair; who is not going to say that? When a conflict exists or even appears to exist, the affected person should be prohibited from voting on the matter.

Many other communities have prohibitions against government officials acting on matters when they have a conflict of interest, but the TOV's only conflict of interest provisions is (1) a prohibition of Council members having a financial interest in the Town's business (Town Charter § 3.7) and (2) a prohibition of Council members and members of Town Boards and Commissions using the Town's confidential information or accepting certain gifts (C.R.S. 24-18-104).

The TOV did consider a Code of Ethics in 1997, but it was put aside because of an upcoming Council election. The draft appeared again in a 1998 work session, but there was no action, and the matter apparently died. In 2020, the Council heard a presentation from Sam Light, general counsel for the Town's insurer, on ethical codes for local government, but again, nothing was done.

As the VHA previously stated, there is no good reason why the TOV does not have strong conflict of interest prohibitions. While Vail might be a "small town," it is a \$40 million enterprise, and it regularly deals with issues that implicate millions for those involved. It does not speak well of the integrity of its process when there are reoccurring conflict issues, ones that could be avoided with a comprehensive code.

VHA provides clear and concise discussions of matters affecting the Vail community in the belief that an informed citizenry will be an engaged citizenry. We intend to promote more citizen involvement and community discussions of issues facing the Town. If these are issues that concern you, please make your views known to [town officials](#). Public discussion of current issues by concerned citizens creates an environment to further community initiatives. We heartily encourage your input in shaping the road ahead.

VHA publications are at the forefront of providing guidance on initiatives that will protect hard fought gains to preserve the environmental and community assets that are the foundation of the Vail lifestyle.

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vailhomeownersassoc@gmail.com

Post Office Box 238 Vail, Colorado 81658

Telephone: (970) 331-2099 Email: vha@vail.net Website: www.vailhomeowners.com

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