

SELECTED EXAMPLES OF CASES UPHOLDING MUNICIPAL ORDINANCES RESTRICTING STVRs

Styler v. Zoning Board of Appeals of Lynnfield (June 7, 2021) In a ruling that could affect short-term rental owners and municipalities across Massachusetts, the Supreme Judicial Court (Court) held in *Styler v. Zoning Board of Appeals of Lynnfield*, (June 7, 2021) that short-term rentals were not a permissible use under the town of Lynnfield's zoning bylaw prior to its amendment in 2016. The Court rejected the argument that short-term rentals were a permissible primary use as a "one-family detached house," calling it "fundamentally flawed" for failing to "recognize that the short-term rental use of a home is inconsistent with the zoning purpose of the single-residence zoning district in which it is situated, i.e., to preserve the residential character of the neighborhood."

Homeaway.com, Inc. v. City of Santa Monica 918 F.3d 676 (9th Cir. 2019) – *Upheld Santa Monica's ordinance restricting STVRs to home sharing.* Ninth Circuit Court of Appeals affirmed the City of Santa Monica's home sharing ordinance. The Court agreed with the district court that the City's ordinance is a lawful housing and rental regulation with the "central and significant goal" of preserving the City's "housing stock and preserving the quality and nature of residential neighborhoods".

Rosenblatt v. Santa Monica 940 F.3d 439 (9th Cir. 2019) – *Upheld Santa Monica's ordinance prohibiting STVRs except for hosted short term home shares during which the primary resident host lives in the unit with the guest.* Affirmed by the Ninth Circuit Court of Appeals; U. S. Supreme Court declined to review the judgement (5/18/2020).

South Lake Tahoe Property Owners Group v. South Lake Tahoe (El Dorado County, SC-20180243, Law and Motion Calendar Dept. 9, decided 6/12/2020) – *Upheld in substantial part a citizen's measure eliminating STVRs in residential zones (with a 3 year phaseout).* This was a summary judgment proceeding; decision rendered by the El Dorado county judge.

2 Pacific Grove Lawsuits – brought against Pacific Grove over a voter passed Measure phasing out STVRs in certain areas outside the Coastal zone using a lottery system but still allowing home sharing. The first case (STRONGpg v. City of Pacific Grove) was dismissed, and it was described as a fishing expedition to extract concessions from the City such as grandfathering in existing STVRs. The second case (Hobbs v. City of Pacific Grove) was funded by the Goldwater Institute and Airbnb. The trial date was set for 12/16/2019, but was dismissed by the plaintiffs themselves, who then filed an appeal, but the appeal is pending because plaintiffs failed to pay the filing fee.

Wallace v. Town of Grand Island 194 CA 19-00925(6/12/2020) – *The NY Supreme Court Appellate Div. 4th upheld the City's zoning regulations prohibiting STVRs except for owner-occupied (i.e. home sharing) with a one year amortization period which could be extended up to 3 times.*

The Wallace case is important because it is based on a U. S. Supreme Court case, Penn Central Transportation Co. v New York City 438 US 104 (1978), where the Court found that the plaintiff failed to provide financial evidence that "the subject premises was not capable of producing a reasonable return on his investment or that it was not adaptable to other suitable private use."

At best, the plaintiff established a “mere diminution” in property value, which is not sufficient to establish a regulatory taking. The Court observed that the plaintiff was not precluded from selling the property at a profit, or from renting it on a long-term basis. Finally, the Court noted that, even if the plaintiff successfully established a regulatory taking, the proper relief for his claim would have been a hearing on just compensation, not invalidation of the law.