

Cope, Sean

From: Benjamin Barbour [REDACTED]
Sent: Tuesday, April 13, 2021 6:37 AM
To: Cope, Sean
Subject: 1425 Winding Ridge Terrace, Notice of a Public Hearing for the Zoning Appeal of Notice and Order to Abate

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Good morning Mr. Cope,

I'm writing to ask the city to uphold the Notice of Violation and Order to Abate for the property on 1425 Winding Ridge Terrace.

The property has been a non-owner occupied short term rental since 2017. It was sold to a LLC in July 2020.

It's obvious the owners do not care much for the house or the neighborhood. The house is not very well cared for and renters observed behavior demonstrate a they either don't know what the local regulations or they don't care what they are. Rentors are seen feeding deer and having uncovered wood burning fires during burn bans. What's more concernin is that over the past year, the property was renting out during the governor's short term rental stop order during Covid-19 and it did no care about or enforce gathering restrictions during Covid-19. This neighborhood has an older population and everyone went to great efforts to keep each other safe! Some other neighborhood concerns include: trash cans remaining outside for days in a neighborhood with an active bear population, unshoveled sidewalks causing unsafe passage conditions, large cars and trucks parked on the side of the road overnight, and smoking outside under the pines on years of accumulated dried pine needles. The marajana smell at times is overpowering as well. While both are not illegal they demonstrate the companys and rentors disregard for local concerns. It only takes a single spark to start a neighborhood fire and the smell makes evening walks uncomfortable for all.

We are very concened about unitended consequences or accidents (fire being a big one) that will eventually happen due to the owners negligence with their rentors. It could have tragic and lasting consequences on the property's neighbors and the neighborhood in general.

Everyone looks out for each other here and we care very much about our neighborhood's appearance and our property values. The LLC's actions are detrating from those and from the natural beauty of the area.

Again, I reiterate my request for the city to uphold the Notice of Violation and Order to Abate for the property on 1425 Winding Ridge Terrace.

Thank you for your time and consideration in this matter.

Benjamin Barbour
[REDACTED]

Cope, Sean

From: Ed Sawyer [REDACTED]
Sent: Monday, April 12, 2021 7:24 PM
To: Cope, Sean
Subject: STR permit transfer

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Mr. Cope,
I understand that there is an attempt to allow a transfer STR permit from an original owner to an LLC before the city council.

I have lived next to an STR in Colorado Springs now for almost four years and it has not been a rewarding experience. I have lived in our house for over 35 years and have spent thousands of dollars to improve our home in this R-1 zone. I did not originally move here with the thought of a "motel" being run next door.

Imagine if you will, 35-40 "guest arriving by car and Uber at all hours of the night. These STR owners have turned their backyard into a recreational zone, with a lighted basketball court, horse shoe pit, party lights and tree house playground. Add to this that they encourage guests to bring their dogs and so we have had up to 5 dogs next door. This has been a quiet cul-de-sac for at least 25 years and now we have a "motel" next door.

If this is allowed to be passed and the owner is allowed to transfer their permit to an LLC, the "flood gates" will be open. LLCs can and will be owned and controlled completely anonymously. LLCs with these permits can easily change ownership behind the scenes and keep these permits in perpetuity.

There is little control over these STRs now and this will only weaken existing requirements. I have tried to verify that the STR next door has had repeat customers when in fact they are not listed on Airbnb. What does this suggest? Perhaps that they are having repeat business without the city getting their tax revenue because they are not going through any of the STR platforms listed.

I remember so well, when after the new STR permits were required that after almost 5 months I personally had to call Mr. Hammes and ask him to verify that they had acquired a permit. His reply was that the owners were not aware that they needed a permit. Yet even after all these months, no fines or penalties were imposed. Why have rules when they are not enforced?

At a time when most of the major cities have enforced new stricter laws on STRs why would you allow any type of procedure that increases the chance of STRs to proliferate?

Thank you for your time,

Sincerely,

Ed and Maggie Sawyer

Cope, Sean

From: Elizabeth Fry [REDACTED]
Sent: Saturday, April 10, 2021 6:59 AM
To: Cope, Sean
Subject: Notice and Order to Abate Short-Term Rental, 1425 Winding Ridge Terrace

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TO: Colorado Springs City Planning Commission

Please vote to uphold the Notice and Order to Abate for a Short-Term Rental at 1425 Winding Ridge Terrace.

People living in a residence are part of a neighborhood community; they have a vested interest in preserving and protecting the health, safety, and general welfare of their neighbors. They recognize their neighbors and are concerned about each other's safety. They let someone know if their garage door is open or a package has been left at their door. They notice an ambulance stopped in front of a house and ask if they can be of assistance. They check on elderly people if they haven't seen them for a while.

The occupants of non-owner occupied short-term rental residences aren't part of the neighborhood community. They don't have a vested interest in the neighborhood and are not concerned about the neighborhood residents' health, safety, and general welfare. Such a residence is out-of-place in our single-family neighborhood. Please uphold the Notice of Violation and Order to Abate for a Short-Term Rental located at 1425 Winding Ridge Terrace.

Thank you.

Elizabeth Fry
[REDACTED]

4.13.2021

Re: File #: CPC AP 21-00036 -- Response to Zoning Appeal of Notice and Order to Abate

To Whom It May Concern:

We received the "Property With Violation" notice because we own and live at a property near 1425 Winding Ridge Terrace, the property that is in violation of its Short-Term Rental permit.

We oppose the Short-Term Rental (STR) that is being advertised as an Airbnb and a Vrbo because it is not in compliance with Colorado Springs Ordinance 7.5.1702.B that states as follows:

B. The short-term rental unit permit does not run with the property, but is issued to the specific owner of the property. The permit shall expire upon sale or transfer of the property. The permit shall not be transferred or assigned to another individual, person, **entity**, or address but may be managed by a third party on behalf of the owner.

It is clear that, pursuant to a QuitClaim Deed, dated and filed on July 17, 2020, that the owners, Ian Kallenbach and Molly Kallenbach, transferred ownership of the property located at 1425 Winding Ridge Terrace, Colorado Springs, Colorado, 80919, from their personal ownership to the ownership of 1425 Winding Ridge Terrace LLC, an LLC (Limited Liability Corporation) an entity, causing the permit to expire on July 17, 2020. 1425 Winding Ridge Terrace LLC does not currently have a permit to operate a Short-Term Rental (STR).

The City of Colorado Springs amended the Short-Term Rentals (STR's) on 12.26.2019, to protect single-family residential neighborhoods, like this one, which is zoned as a PUD, from the negative effects of non-owner occupied STR's. Furthermore, this amendment action by the city clearly indicates that the City's intent is that any non-owner occupied STR's SHOULD NOT be permitted in single-family PUDs.

In addition, this STR does not belong in this single-family residential neighborhood because of the substantial negative impact that this STR has had on this neighborhood through numerous nuisances: fire safety violations (unlawful use of open wood burning fire pits), general welfare and security due to increased traffic, loud parties, STR residents feeding wildlife and it is not evident that the owner has provided proof of liability insurance in the amount of not less than \$500,000, as specifically required under the STR Permit Application. These nuisances are more significant than a nuisance that

any neighbor could create because out-of-state occupants who, unlike an owner-resident or long-term renter, clearly do not understand or comply with the unique safety laws and regulations regarding fire safety and wildlife. Additionally, the STR poses an unusual nuisance to the neighborhood because out-of-state occupants do have a vested interest in the overall welfare of the neighborhood.

Furthermore, allowing this non-owner occupied STR to remain in our neighborhood removes the opportunity of a future owners and/or long-term renters of that house to take advantage of the area's amenities, such as excellent public schools and the natural esthetic beauty of the neighborhood.

The City's Staff Recommendation supports our opposition to this appeal and recommends that the appeal be denied and upholds the Notice and Order to Abate Violation issued against 1425 Winding Ridge Terrace, based its finding that the appeal does not meet the criteria for granting an appeal as outlined in City Code Section 7.5.906.A.1 and 7.5.1007. If the Planning & Community Development Department grants this appeal, then this Department gives no effect to the existing amended ordinance or the guidelines provided in the existing City Code.

Respectfully yours,

Fred and Debbie Jones

Cope, Sean

From: Gwyn James [REDACTED]
Sent: Tuesday, April 13, 2021 5:39 PM
To: Cope, Sean
Subject: Appeal of a Notice at Order to Abate for a STR - 1425 Winding Ridge Terrace - CPC AP 21-00036

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Mr. Sean Cope,

We encourage the city to uphold the Notice of Violation and Order to Abate at 1425 Winding Ridge Terrace. The non-owner-occupied short term rental is a business and is incompatible with our neighborhood. It reduces cohesion and safety, as well as prevents other families from living at the property who want to contribute to our neighborhood and city.

The LLC that owns the property does not adhere to the local laws or informs its guests regarding those laws. This has caused a variety of problems in our neighborhood that have become an ongoing issue.

We are therefore concerned about our neighborhood and the overall welfare of our beautiful City. Again, recommend that the City Council uphold the Notice of Violation and Order to Abate.

Sincerely,

Mark and Gwyn James
[REDACTED]

My name is Jessica Lambert and I am an adjacent neighbor to the property at 1425 Winding Ridge Terrace.

The Appeal of the Notice of Violation and Order to Abate should be denied because none of the reasons for appeal can be met. The case can be decided by interpreting the plain language of the Colorado Springs Ordinance, Section 7.5.1702.B. The Ordinance directly applies to cases such as this one. In this case the property was transferred from Ian and Molly Kallenbach to 1425 Winding Ridge Terrace, LLC (The Appellant) (Quitclaim Deed July 17 2020). Upon transfer to The Appellant the permit expired. There are no exceptions to the Ordinance.

Even if The Appellant transfers the property back to Ian and Molly Kallenbach, the permit expired upon the first transfer. Adding another transfer would not cause the first transfer to disappear. The Appellant is a separate, legal entity, despite who the transferor may be.

The Notice and Order to Abate was reasonable. Ian Kallenbach and/or an authorized manager, Andrew Wood, acknowledged, by initialing and signing, that he had read and understood the Colorado Springs Municipal Code regulating Short Term Rental Units in his Short Term Rental Applications (STR-0933 Application 8-8-2019 SMC and STR-0933 Application 7-29-20 SMC).

Allowing transfers to an LLC would have many unintentional consequences and would undermine the current ordinance. LLC membership, especially anonymous membership like that of The Appellant, can shift to anyone after the transfer. There is no continuity of ownership required of membership of an LLC, and it would be an easy way to get around the current ordinance. Section 7.5.1702.B would be meaningless if the transfer in question was allowed. If the City were to allow such a transfer, they must also undertake the task of policing LLC membership.

If the appeal is denied, the distribution of the benefits and impacts between the community and The Appellant would favor neither party. Compelling The Appellant to adhere to the laws would create trust and confidence that the City requires all parties to abide by the Ordinances of the City. There is no ambiguity as the Code currently stands, but to hold otherwise would foster distrust for the City from a whole community of Colorado Springs residents.

The burdens placed on The Appellant do not outweigh the benefits accrued by the community if the appeal is denied. The Appellant does not have a permit. No burdens have been placed on The Appellant by denying the Appeal. In fact, The Appellant has unjustly benefited by being able to continue to use the property as a non-owner occupied short term rental since July 17, 2020, without a permit.

Despite having been out of compliance since July 17, 2020, The Appellant holds itself above the law as evidenced by it's reservation page on VRBO.com, The Appellant does not seem to have any intent to bring the property into compliance as the property has reservations through November 29, 2021, on VRBO.com, as of Monday, April 5. (The property is improperly located on the VRBO.com map.)

The Appellant and its members are benefited by being organized as an LLC, most importantly individual liability protection. Members should not be allowed to go back in time and reap the benefits of sole proprietorship, while maintaining the benefits of being a member of an LLC. It is without consequence that a former owner may or may not be a member of the LLC.

The property is a disruption to our community. As Mr. Kallenbach states in the Appeal, an employee of the City has described myself and my husband as “very vocal to the code enforcement department.” It should be noted that all of our filed violations with code enforcement have to do with this single property. All the violations that have been reported are either illegal acts, or such negligent acts that they may potentially cause significant harm in our neighborhood. Additionally, we report only a fraction of the violations that happen at this property as we have chosen to pick the battles we feel are most dangerous to our neighborhood. We have been forced to become very vocal.

As I write this, we are in a high fire danger, and I can see the current renters smoking on the deck, ashing their cigarettes over the deck railing onto the very dry hillside. These types of acts are not illegal, but they happen by the dozens, and they put not only our neighborhood at risk but also our lives. As Mr. Kallenbach noted in his Appeal, he feels he needs to protect his family from “many people you have never met before, to include guests of your contracted guest.” Mr. Kallenbach does not feel safe from his own renters and neither do the residents of this neighborhood.

Alternatively, if the Appeal is upheld, the permit should be revoked by the City because the property is “a nuisance, hazard or unreasonably interfere[s] with the quiet enjoyment of other people’s premises,” (STR-0933 Application 8-8-2019 SMC and STR-0933 Application 7-29-20 SMC).

In the case that the Appeal is denied, but The Appellant further appeals this matter to the City Council, I request that the Planning Commission issue a preliminary injunction prohibiting the property from being used as a short term rental until a Final Judgement has been issued. Fire risk is at a high during the coming season, and given that the renters of this property have a history of high risk behavior, especially concerning fire, with no oversight, it would be unfair and inequitable to further require the neighbors to bear the risk, and potential damage, of the illegal short term rental of the property. The Appellant has benefited by operating since July, 2020, without a permit.

Thank you,
Jessica Lambert

Cope, Sean

From: Karen Wylie [REDACTED]
Sent: Wednesday, April 14, 2021 9:57 AM
To: Cope, Sean
Subject: 1425 Winding Ridge Terrace Short-Term Rental Appeal File # CPC AP 21-00036

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Dear Mr. Wysocki and Mr. Cope

I am writing on behalf of my family and neighborhood to ask that you deny the appeal of the order to abate at 1425 Winding Ridge Terrace. Our family has lived on Winding Ridge Terrace for approximately 32 years. It is one of those neighborhoods that people love to live in and stay a long time. Many other neighbors have lived here as long or longer than we have, including one of the next door neighbors to 1425 Winding Ridge and also the neighbor across the street from 1425. Many people on our street have been affected by the effects of the continual short term rental of 1425 Winding Ridge. I am pleased that the city of Colorado Springs has recognized the detrimental affects of continual short term rentals in single family residential neighborhoods by the ordinance that was passed in 2019 prohibiting non-owner occupied short term rentals in neighborhoods such as ours. The short term rental at 1425 Winding Ridge seems to be a text-book case of what is wrong with these rentals and why the City banned them. As is stated on the City's website:

"Why do we need regulations?

- To establish a community standard for the integration of short term rental units within existing neighborhoods while maintaining neighborhood and community character.

-To ensure health and safety of visitors and residents by re-affirming police, fire, and building safety guidelines for transient lodgers who may not be familiar with local laws..."

Our neighborhood has experienced a decline in character based on the number of people occupying that house over time. Neighbors do not know who is staying there, don't know the degree of safety that we can expect for ourselves, our children, our pets. The behavior of the occupants is out of line with the character of our neighborhood, as many people staying there view it as a vacation, and as a time to party with no long term accountability for the effects of their behavior. The owners of 1425 have been notified of the troubling and at times illegal behavior of some of the occupants and as I understand from next-door neighbors of the house, have not been responsive to complaints.

I think, as a neighborhood, we are concerned mainly about traffic and parking issues (it is a large house and groups often stay there bringing a number of vehicles and in some cases large trailers for their "toys"). Many people come in rental cars that are not equipped for traveling on the snow and ice of our hilly street, and since our street is rarely plowed, present a danger to children who might be playing or people who might be walking or shoveling nearby. But first and foremost we are concerned about fire danger. We have been extremely concerned about the lack of knowledge by guests about our fragile environment, fire danger and our recent history of severe and dangerous fires in our area. In fact, ironically, two houses on the street immediately behind 1425 Winding Ridge, (Oak Hills Drive) have burned down in the last several years. One house that burned is directly behind mine, and posed a frightening risk to our family as the fire made it's way up the hill toward our house.

Another disturbing development in this situation is that the owner of 1425 recently transferred ownership of the house to an anonymous LLC. While I understand that this is the event that triggered the order to abate, it is also

further reason why the appeal should be denied because now the neighborhood has no way of knowing who owns the house and there is no one to address concerns to, leaving the neighborhood no choice but to complain directly to the city for every violation and infraction. Not only does this seem irresponsible, but it further degrades the character of the neighborhood as it now makes that house and it's owners a corporate business, eliminating any hope of residential quality or character.

This business should not be in our neighborhood. Please help us preserve the quality and character of one of the finest neighborhoods in the city, where my husband and I raised our children, and we are now priveleged to be part of the neighborhood community that is bringing new families, hoping to raise their children in the same safe and nurturing environment.

Thank you for considering our opinion,

Karen and John Wylie


Cope, Sean

From: Liese Butler [REDACTED]
Sent: Friday, April 9, 2021 10:47 AM
To: Cope, Sean
Subject: zoning issue- 1425 Winding Ridge Ter. File# CPC AP 21-00036

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Hi!

I would like to address the zoning appeal at 1425 Winding Ridge Terrace- File # CPC AP 21-00036.

First and foremost, Allowing short term rentals to continue at this address, after it was transferred to an LLC, would be a direct violation of the current laws set in place by the city. These laws were set in place to protect the quiet neighborhoods that are throughout this city. If you were to allow a non-owner occupied short term rental at this location, it would be in direct violation of the current laws- as the ownership was transferred to an LLC, thus making the " grandfathered in" law null and void... so to me, this is a non issue....there is no question that short term rentals at this location should cease immediately!! If one were to allow this to happen, it would only open the door for more short term rentals throughout the city, to find and implement this loophole- and the city would one again be in the position of coming up with new laws to handle this ever increasing problem! Since the permit expired upon transfer over to the LLC, there is actually no permit to revoke at this time....seems fairly cut and dry to me :)

The second issue is the lack of oversight into these short term rentals in quiet neighborhoods. During the years when 1425 was a short term rental, we have seen a lot of negligence at the home. Open pit fires constantly are a problem, even when burn bans are in effect in the city. Smoking, both cigarette and marijuana, is constantly an issue, with butts being thrown into the - very dry- canyon off the deck. There are constantly LOTS of cars at the residence- many times the 3 car driveway is full with 3-4 more cars parked on the street. Loud parties, trash in the yard, feeding the local wildlife, I could make a list a mile long!! The house is also not cared for. No snow removal on sidewalks leading to ice build up and VERY dangerous walking conditions in front of the house. Trash in the yard, and trash cans being left out for days- thus attracting bears....and I believe this is also a city ordinance- trash cans can't be left out overnight due to bears in the area.

I realize that these issues were all considered when the city first implemented the new short term rental laws, only allowing them when the owners are living in the house. Once again, this is not the case, and since their permit expired upon the transfer to the LLC- they must now abide by the laws in place.

Thank you for your time and consideration!!
Liese Butler
[REDACTED]

Cope, Sean

From: LYNN [REDACTED]
Sent: Wednesday, April 14, 2021 10:26 AM
To: Cope, Sean
Subject: City Planning Commission Item CPCAP 21-00036

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Dear Sean,

I have problems getting to speak at City Planning and City Council meetings so I am writing this letter to let you know that my husband and I are totally in support of your action to revoke the STR permit that changed ownership from private individuals to an LLC. We were originally opposed to allowing STR's in the R-1 Zone so we definitely want those that have been approved to be owner occupied. Allowing the transfer of the STR permit to be transferred to an LLC would lead to more and more non-owner-occupied STRs which are really commercial uses in a R-1 Zone.

In addition, we were pleased to see that Neighborhood Services (Code Enforcement) is actually enforcing City Code. It has been our experience over the last two years that any code violations we have reported to the city have been ignored or, if they were checked on, Neighborhood Services helped the home owners weasel out of complying with the code as it is written. We appreciate your work.

Sincerely,
Liz and Lynn Bevington

[REDACTED]

Cope, Sean

From: Michael Varner [REDACTED]
Sent: Monday, April 12, 2021 5:36 PM
To: Cope, Sean
Cc: Judy Varner
Subject: Zoning Appeal of Notice and Order to Abate CPC AP 21-00036
Attachments: Mount Woodmen Estates Covenants 1.pdf; ATT00001.htm; Mount Woodmen Estates Covenants 2.pdf; ATT00002.htm

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Michael J. Varner

[REDACTED]

Colorado Springs, CO 80919

[REDACTED]

[REDACTED]

April 12, 2021

Subject: CPC AP 21-00036 An Appeal of a Notice at Order to Abate for a Short-Term Rental located at 1425 Winding Ridge Terrace

Dear Mr. Sean Cope,

I read the Notice of a Public Hearing for the Zoning Appeal of Notice and Order to Abate posted in front of 1425 Winding Ridge Terrace.

I am asking the City to uphold the Notice of Violation and Order to Abate for two key reasons:

1. The home at 1425 Winding Ridge Terrace is located in Mount Woodmen Estates Filing No. 5 and this subdivision has covenants. The covenants state in Article 1, Section 101 that “no business, profession or other activity conducted for gain shall be carried on within any lot or building site”. These covenants are enforce until at least 2027. (See also Attachments)
2. The intent of the City’s ordinance and the subdivision's covenants will be undermined if the Order to Abate is not enforced.

Respectfully,

Michael J. Varner

enclosure: Attachments 1 and 2

Cope, Sean

From: Mike Gallegos [REDACTED]
Sent: Sunday, April 11, 2021 8:45 AM
To: Cope, Sean
Subject: 1425 Winding Ridge Terrace

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Dean Mr. Sean Cope,

I am writing to request that you uphold the Notice of Violation and Order to Abate at 1425 Winding Ridge Terrace.

My wife and I have lived on this street with our three children, a few doors down from the subject property, for about 7 years. We love this neighborhood, and feel that the situation at 1425 significantly decreases the quality of the neighborhood and negatively impacts the qualities that make our neighborhood so great. For us, this street is the perfect combination of a neighborhood in which to build community, a quiet and peaceful setting, and a place to live in harmony with nature.

First, it seems very simple that an SRT permit should no longer exist for this property. It is my understanding that the previous owner was grandfathered in, so with a change in ownership there is no longer a permit and we request that a new permit not be issued to the new owner. It is against the intent of the city ordinance to have a business like this in a neighborhood community such as ours. I understand the value of tourism in our great city, and very much support economic development that provides opportunities for others to experience Colorado Springs. However, it is very clear that a family-oriented and tight-knit street is not the place for commercial enterprises and short term lodging.

Next, we have great concern over the care of our neighborhood with this property operating as a SRT. There are many unique qualities to living in a mountain area with lots of trees and wildlife. It is not possible, and unreasonable to even expect, that an out-of-state visitor could understand and uphold the way of life we value on our street. When it snows, we all help each other out with shoveling driveways and sidewalks, assisting the elderly and building community. If the business at 1425 doesn't address this quickly, there are dangerous ice conditions that take away from the daily walks so many of our neighbors enjoy (and violates another city law when not shoveled within 24 hours). We have had many instances of visitors not having vehicles to drive our steep hills in the snow, causing dangerous conditions for the rest of us driving around them, and I've even helped some very kind visitors to 1425 that were ill-prepared and uneducated in how to drive in the snow. On the other end of the weather spectrum, with our trees and scrub oak in open space through valleys and hills around our house, our neighborhood poses very significant fire danger during dry months. We have regular fire mitigation and education from the fire department, and it is an issue that we all take very seriously on our street. Therefore, seeing guests at 1425 light fires and throw cigarette butts in the dry yard is disturbing as it could very quickly lead to our entire neighborhood burning down. Personally, I love living with the wildlife in our neighborhood, so I also hate to see visitors to 1425 feeding the deer and putting trash bins out early (or leaving late) - they have no idea of the impact they are having on our animals here because they are just simply here for a quick weekend getaway. We also get plenty of patrons that "know" the legality of marijuana in Colorado, yet don't understand the actual city laws around marijuana nor have any respect for those of us trying to raise children without that around constantly.

Finally, I see a big issue with the ownership of 1425 being an LLC. In fact, on the Secretary of State site, the registered agent for the LLC is actually listed as another business. I work in the mortgage industry and fully understand why people want to own property in an LLC. And there are very specific reasons in which you cannot get a residential mortgage for a business such as an LLC. An LLC wanting a loan gets turned to a commercial loan 100% of the time. 1425 is a residential property and should be treated as such. The multiple layers built in to hide the human owners of 1425 from liability is not right, and goes against everything we want for our neighborhood.

We respectfully urge you to uphold the Notice of Violation and Order to Abate at 1425 Winding Ridge Terrace, and request that you not issue a new SRT permit for this property or any others in our neighborhood in the future.

Thank you very much.

Mike and Megan Gallegos



My name is Rick Lambert. My house is next door to the house at 1425 Winding Ridge Terrace. This property has been under new ownership since July 2020, which is when the previous owner's non-owner occupied STR permit expired, per city ordinance.

The City's STR ordinance states that an STR permit is issued to a specific owner of the property and expires upon transfer of the property to an entity. An LLC is a separate legal entity from its members. In this case ownership was transferred from the individuals of Ian and Molly Kallenbach to the entity of 1425 Winding Ridge Terrace LLC, on July 17, 2020. Per city ordinance, the permit did not transfer to the new ownership entity. There really is no other way to read the ordinance.

We received an email on March 9 from Peter Wysocki saying that the definition of "change of ownership" would be brought up during the Planning Commission meeting. Opening up the ability for a non-owner occupied STR to switch ownership to an LLC is a slippery slope as ownership of an LLC can be easily changed with some simple paperwork filing. In cases such as this one, the members of the LLC are anonymous, so there really is no public knowledge of who the owners are, and the owners today could be different from the owners in the future without changing the LLC's ownership of the property. Allowing this to occur has the potential to open the floodgates of non-owner occupied STR's transferring to LLC's so that ownership changes can occur without losing a grandfathered-in permit. It is also incredibly difficult logistically to track LLC membership.

Mr. Kallenbach states in his appeal that the intent of the code is to prevent the community from unwanted risks from ownership changes. This is exactly what is happening in this case. Allowing a permit for a non-owner occupied short term rental to transfer to an LLC entity would create the risk he mentions from ownership changes, especially with an LLC. With this transfer of ownership, the community is now in the position of increased risk due to the owner not having a permit. The intent of the ordinance is to decrease the number of non-owner occupied STR's in certain residential areas over time by not allowing any new ones, and having the grandfathered ones removed over time through sale or transfer of the properties. The ordinance was put into effect by the City Council as they understood that non-owner occupied STRs are detrimental to neighborhoods and limit the housing available in the city.

The appeal states that there was conversation about transferring the ownership of the house back to the original owners to regain compliance. This would have obviously been a second transfer of ownership, which would have meant that the STR permit would have been even further out of compliance with City Code. Such a solution, in an attempt to regain compliance, is incompatible with the current laws.

There is a secondary issue. The permit renewal identifies Mr. Kallenbach as the owner. In fact, he was not the owner of the property at the time of the renewal. The property transferred to 1425 Winding Ridge Terrace LLC, on July 17, 2020. Only one week later, on July 24, 2020, Ian Kallenbach signed and dated the renewal permit that identified himself as the owner. This misrepresentation alone should be grounds for a denial of the appeal.

Beyond the fact that a transfer of property ownership occurred, the owner's appeal shows that unsupervised lodging businesses are incompatible with our neighborhoods. From his appeal, "Either rent your property with lots of liability to many people you have never met before, to include guests of your contracted guests, or don't rent your property." This shows that Mr. Kallenbach understands the lack of control of having "many people you have never met before" come into the neighborhood. Mr. Kallenbach is so concerned with this liability that he created an LLC to protect himself. The neighbors who actually live in the neighborhood and deal with the day-to-day happenings of "the many people [we] have never met before" aren't afforded any protections from the rental property. They are forced to take on the increased risks as the new owner decreases its liability. No known owners are seen at the property or live in the neighborhood, but they are aware how dangerous it is to have short term renters in the neighborhood.

In the appeal, Mr. Kallenbach states that he is guilty of ignorance and not understanding the code. This is not backed by the signed documents. On the application for the short term rental that was filed by the owner on July 24, 2019, the owner initialed that he agreed to abide by the city codes, and that he had read and understood the Colorado Springs Municipal codes regulating STRs (Title 17, Chapter 7). The transfer of ownership to an LLC was intentional, and he intended to protect himself from the liability associated with the damage this STR causes to the neighborhood. Ignorance of the law is not a legitimate excuse.

According to our emails with the city, as well as what is written in the appeal, the owners have known for some time that they have been operating their non-owner occupied STR without a permit. Despite knowing this, they have accepted lodging reservations for their property through the end of November, 2021. The picture below is of the dates the property is already reserved (in grey) in May and June on the VRBO website, picture taken on April 5, 2021.



Mr Kallenbach's appeal statement shows he is interested in protecting his family's financial interests, only. Our neighborhood is concerned about our families lives. There is no comparison.

Although the main issue is about the transfer of ownership, the intent of the City's STR ordinance at the time of the transfer on July 17, 2020, should also be discussed. City Council understands that unsupervised lodging activity is not a compatible use of our City's neighborhoods and changed the City Code in December 2019 to reflect that understanding and prohibit non-owner-occupied STRs in single-family zones. The STR activity at 1425 Winding Ridge Terrace provides a good example as to why un-hosted and unsupervised lodging activity is not a compatible use. Multiple City Code violations have occurred at the property, and Mr. Kallenbach admits to a lack of control over the renters and their guests that requires legal protection. Public health, safety, and general welfare has been affected by the non-owner occupied STR at 1425 Winding Ridge Terrace. The appeal of the notice and order to abate needs to be denied to uphold these safety and welfare standards.

The transfer of property ownership should have resulted in the grandfathered STR permit not transferring to the new ownership LLC entity. Due to misrepresentations on the permit renewal, illegal rental of the property has continued since July 17, 2020. For these reasons alone, the City must uphold the ordinance in this case and deny the appeal.

We also believe that it would be negligent to permit even an owner-occupied STR due to the code violations and the risk it causes to the neighborhood. Multiple code violations have occurred at the property, and even Mr. Kallenbach, who lives out of town, admits to a lack of control over the renters and their guests, requiring legal protection. As stated in the short term rental permit application, the public health, safety, and general welfare of the neighborhood must be protected. The owner's disregard of the law, the violations and lack of action towards these violations, make this ownership group unfit to receive any sort of a short term rental license now, or in the future.

Intermittently, I would like to see the unpermitted non-owner occupied short term rental activity at 1425 Winding Ridge Terrace enjoined until a Final Judgement has been issued. It is being operated without a permit, and even if the city's Notice and Order to Abate is stayed in an attempt to change the current ordinance, unpermitted, illegal conduct under the current ordinance does not get a pass. Mr. Kallenbach states in the appeal that he needs this protection because of "loopholes in 3rd party company contracts like homeowners insurance, AirBnB, and VRBO online contracts." At this time, the neighbors would not be protected from any negligent or illegal acts that occur at the property. The non-owner occupied STR is operating without a permit and no insurance company would extend their coverage in this scenario. We are entering fire season, and the damage that can be caused in our neighborhoods by fire is well known in this community. We have had a house less than a 1000 feet away burn down in the last year, and all we have to do is look to the Mountain Shadows community just a couple of miles to our west to know how life changing and devastating fires can be.

My neighbors and I are grateful to the Planning Commission for your time and careful consideration of this matter today. I hope that you share our concern that allowing this STR permit to transfer with the property ownership today will violate City Code as written, and as intended, by the City Council.

Sincerely,

Richard Lambert

The first page of the Short term rental permit application has the following paragraph in it.

"In the permitting of such use, or in the renewal of a permit, the Manager, Planning Commission, or City Council shall have the authority to require such reasonable conditions as necessary to protect the public health, safety, and general welfare and to ensure that the use, value, and qualities of the neighborhood surrounding the proposed location will not be adversely affected."

The Short term rental permit application Owner/Applicant acknowledgement of responsibilities:

"I understand that should the short term rental become a nuisance, hazard or unreasonably interfere with the quiet enjoyment of other people's premises, in accordance with 7.5.1707, that this Short Term Rental Permit will be revoked by the City of Colorado."

Cope, Sean

From: ROBERT L JR APRIL Curtis [REDACTED]
Sent: Monday, April 12, 2021 7:29 AM
To: Cope, Sean
Subject: STR transfer

CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!

Dear Sean Cope,

I am unable to call into the city meeting regarding the allowance of a grandfathered STR permit to transfer to a sale, in this case an LLC. The whole point of not allowing STR in residential areas is to preserve our neighborhoods. I do not want to live near homes that are being used for short term rentals. The house that is a flag lot behind my house was doing this over the summers. They owners would pack up and leave and we would have complete strangers behind us. All the surrounding neighbors were upset and we let the owners know and they stopped. If a permitted home is sold and now a business (LLC) this becomes a bigger problem as I see it. Now you have a business with permission to rent in a residential neighborhood with no intention of living and participating in the community for any purpose other that you make money.

I do not want this transfer of the STR permit to happen as it will open the door to many other people turning what should be a private residential home into a business. Thank you.

April Curtis