

Notice of Appeal of short term rental permit for 6060 Briarcliff Road

This appeal is against the short term rental application by Kevin and Robbin Gregory, owners of 6060 Briarcliff road by Randall Knize and Natalia Safonova, owners of 6070 Briarcliff Road.

History: 6070 Briarcliff was sold as a property in 1976 and 6060 Briarcliff several years later. The properties were approved by Colorado Springs sometime before this date. At that time there was no thought of having a short term rental, which is a commercial business in a zoned single family area, was even considered.

At the commission hearing, it will be shown that a short term rental at 6060 Briarcliff is incompatible with the city Ordinance 18-112 and the UDC 75.5.710 and therefore should be denied.

The application for the short term rental is the important document that describes what the commission must make their decisions. A short term rental permit must have an accurate description of what property or properties are being planned on being used. A short term rental obviously must have a room with sleeping accommodations. It must also have parking either on site or on the street and must have access to sleeping accommodation. The short term rental at 6060 Briarcliff cannot be accessed solely using the 6060 Briarcliff property, but requires access using the 6070 Briarcliff property. Therefore, the application filed by the owners of 6060 Briarcliff do either erroneously or inaccurately describe the property in their application. It should be important for the Commission to have all the correct information to make a decision on approval of the application.

If the application needs to correctly and accurately state all properties that are required to operate a short term rental, then there will be conflicts with the UDC 75.5.710 and Ordinance 18-112. The UDC and Ordinance are mostly a mirror image of each other. Ordinance 18-112 section 75.5.7102 B exactly says, "The short term rental unit permit does not run with the property, but is issued to the specific owner of the property". It does not say the permit applies to the address given on the application. So what property is is referenced in this quote? The only reasonable interpretation is that it must be the property(ies) that are used for the short term rental. Accepting this, the rental application must be accurate and state that 6070 Briarcliff must be used for this short term rental (I do not think the commission would ever accept an application that does not include other properties essential to an application). Further words in the Ordinance only refer to property and never to properties, lending credence to multiple properties are not eligible for operation as short term rentals.

Next, The Ordinance 75.4.1704 requires "The owner shall maintain and provide proof of property liability insurance in the amount of not less than \$500,000, or provide proof that property liability coverage in an equal or higher amount is provided by any and all hosting platforms through which the owner will rent the short term rental unit." The owners of 6060 Briarcliff have insurance for 6060 Briarcliff but do not have insurance for 6070 Briarcliff, which is a property that is required for access to the short term rental. It was the intent of city council and the mayor for the short term rental to have insurance that covers the renters for the whole visit, not for specific situations such as a specific room. The owners at 6070 Briarcliff do not have \$500,000 insurance for short term rentals and the owners 6060 Briarcliff policy does not cover 6070 Briarcliff, so the application does not cover the 6070 Briarcliff property. In today's contentious world, a good lawyer would not stop at suing 6060 Briarcliff but would also sue the owners of 6070 Briarcliff.

Finally, the owners of 6060 Briarcliff and their Airbnb customers have committed repeated criminal trespassing on the 6070 Briarcliff property.

Part of the driveway for 6060 and 6070 Briarcliff is used by both owners and is explicitly laid out in a 1992 easement, which codifies previous common law easement. This easement specifically states that the upper driveway between 10 and 16 feet wide can be used by both owners, There is no statement about commercial or airbnb use of this section of the driveway. The lower part of the driveway belongs and has exclusive rights to the respective property owners. The city plat map defines both properties.

The owners of 6060 Briarcliff and their Airbnb customers have been extensively involved in criminal trespassing on the lower driveway of 6070 Briarcliff, which is not allowed in the easement. There are more than 80 documented trespassing cases in 6 weeks that will be presented at the commission hearing. The owners and Airbnb customers were informed of this trespassing, Robbin Gregory, one of the owners told Natalia Safonova (6070 Owner) that she was harassing her and her Airbnb customers. Robbin sent a formal letter to us (6070 owners) stating that we were harassing her and her customers and that she would take legal action against us. One time when I came home she was so happy to try to present me with video from her camera showing my wife's harassment. My wife has a legal right to tell any unwanted and unsolicited people that are on our property that they are trespassing and should leave. At the Commission hearing we will present evidence that the owners of 6060 Briarcliff knew that there should not be any trespassing on the 6070 property. The actions they took did not prevent trespassing, which is a Colorado misdemeanor, 18-4-504(1) C.R.S.. Furthermore, they allowed their guests to park in front of our three-car garage, blocking all access. If we had a medical or other emergency, we could not leave our house. Robbin and Kevin sent us the above cited letter which included a copy of the 1992 easement. The easement is written in plain English so that the owners of 6060 must have known its meaning. If they could not understand the easement, they should have contacted either a lawyer or real estate professional to understand it, especially since they were operating a commercial business that relied on the easement.

In summary, the property at 6060 Briarcliff is not suitable for operation of a short term rental as specified in Ordinance 75.4.1704 since it relies on the use of two properties for operation, which is contrary to the Ordinance. This also means that the Airbnb customers are not fully insured when visiting the short term rental. The 6060 Briarcliff property was not designed for a commercial hotel which results in very extensive trespassing, which is a misdemeanor crime in Colorado. The owners we notified of the trespassing and their response was to threaten the owners of 6070 Briarcliff, which were only protecting their property rights. We recommend that there should be no short term rental permit at 6060 Briarcliff for the above reasons.