

## Adam Zack

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**From:** Mark Ruffo <mark.ruffo@gmail.com>  
**Sent:** Thursday, October 14, 2021 6:32 PM  
**To:** Vacation Rental Comments  
**Subject:** VR Moratorium and Caps

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Dear Planning Commission Members,

I would like to add my name to the below letter authored by Hosting on the Rock.

In addition, I'd like to plainly state that I feel the commission has already acted without balanced consideration for many residents and home-owners in the San Juan Islands. A small number of very vocal residents have advanced a narrow agenda without adequate discussion and with a noticeable lack of data supporting their argument. There are legitimate reasons to regulate the hospitality industry, but the VR moratorium and other proposed restrictions are extreme and potentially damaging to the communities on the islands - taking jobs away, hurting long-time residents and part-time residents that love the islands as much as those advocating for new aggressive, potentially illegal, government imposed restrictions on private property.

Thank you,

Mark Ruffo

### A Brief Review:

In 2018, after an 18 month process, San Juan County put strict regulations in place for VR permits, including an annual fee and compliance reporting, a 24-hour contact number on the same island, and a rigorous list of items, such as quiet hours and occupancy restrictions meant to address neighborhood concerns.

At the end of 2019, the Vacation Rental Work Group (VRWG) formed on Orcas to combat VRs, only a year after the restrictions were enacted. The positive effects of the revisions could not possibly have been felt at that time. Among the list of their requests were a Moratorium, caps, and required water metering and reporting. (<https://www.dropbox.com/s/mn6f8amcpbt8jv1/2019-12-18-VRWG%20letter%20to%20Council.pdf?dl=0>.)

County Council Member Cindy Wolf initiated the Moratorium motion (not on the agenda), which passed unanimously. This island-wide Moratorium caught the attention of VR owners, who organized under the name of Hosting on the Rock (HOTR), and began to follow Council and PC meetings, listening to the public testimonies of dozens of community members.

We dug into the data available from the SJC Department of Community Development, and found that by 2021, the 2018 regulations had indeed begun to work, as evidenced by the drop in new permit applications from 2018 through 2020 and the \$100,000 collected in fees from non-compliant permits. *It is abundantly clear that very few island residents know about the strict requirements that VR owners must currently follow.*

We noticed the disruption that the Pandemic brought to the islands, increasing the popularity of our rentals as drive-to destinations became the focus of vacations, the price of housing, and the influx of remote workers and of second homeowners. We did NOT notice any adjustment by VR detractors because of these pandemic-related factors that continue to affect tourism and housing in our county.

We participated in a VR panel organized by the SJICN, during which we were deeply impressed by the work of Doug Whittaker (with Confluence Research and Consulting firm, Doug studies tourism and visitor capacity, and conducted a 3-year study of our islands), who related that SJC residents are superlative in our sweeping agreement that we live in a special place. He also warned us to follow anecdotal stories with quantitative studies in order to solve problems effectively.

Dozens of VR supporters have given testimony at Council and PC meetings, citing personal examples of how their rentals have allowed them to continue to live on the islands by providing additional income, often during times of financial stress caused by unpredicted life events. The story that corporations are buying homes here to run as VRs has not surfaced: this is a myth with no legs. The vast majority of owners are merely your neighbors, who desire safe, quiet communities as much as anyone.

#### **What Hosting on the Rock VR owners have offered:**

Revenue derived from the 2% Lodging Tax has infused over 4 million dollars into our community and services since 2017.

Significant revenue from application fees (\$1,000 or \$2300 per permit, depending on type), from annual compliance fees (\$145 or \$160 per permit), and from fines for renting without a permit (over \$100,000 collected since 2018) are available to fund enforcement. We consider the accurate and timely enforcement of non-permitted rentals and of non-compliant permitted rentals to be top priority.

On 2/19/21, the Council received a letter from HOTR voicing opinions regarding the Moratorium and Caps. *This one letter alone had 306 signatories.* VR owners are participating in the conversation and have offered many forward-thinking suggestions and solutions.

VR supporters have called in to make public testimony:

- August 20, 2021 - 11 yes for CAPS, 12 No, 5 unknowns
- July 12, 2021 - 24 yes for CAPS, 20 No
- March 9, 2021 - 28 Yes for CAPS, 30 No 3 unknowns
- February 23, 2021 - this was about the Moratorium (not Caps) and 90 were for Moratorium, 56 Against.

To explore assumptions about the impact of VRs on rental housing, HOTR initiated an informal housing survey of VR owners. Top take-aways from the results are:

- - The question “If you could no longer use your property as a VR, what would you do with it?” had a 68% response rate for “Leave it empty except when my family or friends were visiting”. Only 17% said that they would “Turn it into a year-round rental”.
  - The question “If you turned your VR into a year-round rental, approximately how much rent per month would you charge?” showed 70% would charge “\$2500/month or more”, well above the affordable amount for workforce housing. 22% showed “\$1501-\$2500/month” which leaves a paltry 7% of the homes that would actually be affordable for workforce housing.

- The top two reasons for buying their second homes were “Retirement Property” (19%) and “So that I could afford to live here” (19%). A close third was “Second home for vacationing” (13%). The answer “To run as a vacation rental” garnered only 9% of the responses.
- 86% of the owners have never rented their homes year-round, and the comments were clear that this was not desirable due to potential damage from bad tenants.

HOTR has explored legal precedents in other jurisdictions ([Click here](#)). Top take-aways from this research:

- Two San Juan County rulings establish that:
  - VR permits cannot be denied because neighbors are dissatisfied with vacation rentals
  - Conditions of VR permits provide powerful tools to deal with neighborhood disruptions and any adverse impacts on human or natural environments
- Property owners have a federal constitutionally protected right to rent property for profit
- Lotteries cannot be used to grant short term rental permits
- Governments must reimburse land owners when regulations cause a decrease in property value
- Vacation rentals are no more commercial than long term rentals and regulations must apply equally to both

We note the revised Eastsound Water Users Association (EWUA) water study, which confirms that VR guests in Eastsound on Orcas do not use more water than year-round residents. ([Click here](#)). Another study of similar integrity could be conducted county-wide.

Most recently, HOTR has begun to develop a “Good Neighbor Pledge”, a voluntary agreement to further address neighborhood concerns and express our good will to our island communities. In addition to educating SJC residents about the strict 2018 regulations, these are ideas under consideration:

- Notify our neighbors once a year of our 24-hour contact number
- Set up a HOTR call service to respond to disturbances
- Give Back with voluntary gifting to local housing non-profits
- Build incentives to convert VRs and second homes to year-round housing. Click below for Winter Park, Colorado's innovative example <https://www.playwinterpark.com/short-term-fix>

Given that the VRWG had a 2 1/2 year headstart in their campaign to disseminate negative information about VRs, we feel that HOTR has brought constructive data, opinions and potential solutions to the discussion.

## Our requests

1. *Caps as a means to limit permits seems to be the current direction. This may seem to be a simple solution, but there are legal precedents that deny the constitutionality of both caps and lotteries to distribute permits.* This could make SJC vulnerable to costly legal litigation.
  - Strict caps handicap the middle class - the working island residents. Wealthy homeowners do not need to rent their second homes, as evidenced by the nearly 40% vacant homes in the county. People who need income must be allowed to rent their homes when needed.

- Strict island-wide caps will do nothing to improve specific neighborhoods that are experiencing high concentrations of VRs.
- Strict caps will increase piracy (renting without permits). Enforcement must be timely and effective.
- VRs are not the only contributor to tourism, and should not be singled out for zero growth. Strict restrictions should include hotel lodging, camping, boating and friends and family members who are visiting. ALL of these visitors use the ferries, water, sewers, parking spaces and services. Tourism supports a vast amount of jobs and businesses on the islands. Stop vilifying VRs and address over-tourism more broadly, using data to set policy.

*If caps must be used, set them with some room for growth.*

*2. Limit the growth of VRs by other means.*

- Provide financial subsidies so that local homeowners can choose to provide year-round workforce housing. Once again we cite Winter Park, Colorado's innovative example: <https://www.playwinterpark.com/short-term-fix>
- Provide education about screening tenants, WA landlord/tenant laws and management of year-round rentals.
- Enact a luxury tax on homes above a certain value that is then used to subsidize rentals, making this a viable financial option.

*3. Allow the 2018 regulations to take effect.*

Continue enforcement so that unpermitted rentals are no longer hosting guests, and all remaining permits are in compliance. Only then can the actual effect on neighborhoods be evaluated.

*4. Ban the timeshare or fractional home ownership model in SJC.*

Acknowledge that vacation rentals are not the sole cause of our lack of affordable rental housing, of why our businesses don't have workers, of why we have a high volume of tourists, or why our housing prices are high. These are complex national issues, and VRs should not be scapegoated based on anecdotal stories.

We appreciate your consideration,

Jan Scilipoti

Vicki Leimback

Linda Bannerman

