

TOWN COUNCIL
SPECIAL CALL HEARING
Municipal Center Council Chambers
February 6, 2024; 11:00 am

AGENDA

I. **Call to Order:** *Mayor Labriola called the meeting to order at 11:00 am.*

II. **Roll Call:**

Present at the Meeting: John D. Labriola, *Mayor*
Michael Heidingsfelder, *Mayor Pro Tem*
Russell Berner, *Council Member*
Brad Belt, *Council Member*
Madeleine Kaye, *Council Member*

Also Present: Stephanie Tillerson, *Town Administrator*
Joe Wilson, *Town Attorney*
Jan Fox, *Short-Term Rental Compliance Clerk*
Dr. Solomon David, *Property Owner*

III. **New Business:**

A. Rehearing and Reconsideration of Previously Denied Appeal for 3528 Shipwatch Road

Ms. Fox presented the evidence by stating that Dr. David hired a rental company, VACASA Vacation Rentals, to advertise and rent his property at 3528 Ship Watch Road. On May 16th, while looking over rental advertisements, she noted that VACASA had a number of properties they were advertising that did not have an active rental license. She then reached out to VACASA to advise them about the properties being advertised without a license.

When checking again on May 30th, VACASA had not taken down the advertisement or renewed the rental license for the property at 3528 Ship Watch Road. At that time, the first ticket in violation of advertising without an active license was issued and sent to VACASA, with a copy sent to Dr. David. She noted that VACASA received and paid for the ticket, but the copy sent to Dr. David was undeliverable.

On May 27th, the rental license had still not been renewed, and a Code Enforcement Officer was sent to check the property. The Officer got pictures of seven-day passes in cars that were issued to renters, which verified that VACASA was renting the property after being notified by email that they were not to advertise or rent without an active license, so the second ticket was issued on May 30th. In addition to verifying that Dr. David did receive the copy of the second ticket, she contacted him to explain how serious the problem was since two tickets had been issued and one more ticket would jeopardize his license. On June 2nd, another seven-day pass was issued for renters, so the third ticket was issued.

Ms. Fox summarized that VACASA had two seven-day passes issued, and they also continued to advertise the property despite being continuously told that they were not allowed to advertise or rent the property without an active license. She noted that VACASA was found guilty when they paid fines for each of the tickets issued, jeopardizing Dr David's license.

The original Town Council Hearing was on September 5, 2023; the revocation decision was appealed in writing on October 6, 2023. Dr. David appealed for a rehearing at the December 5th Town Council meeting, which was scheduled for February 6th. None of the facts have changed since the original

hearing, but since the first decision was made, Dr. Solomon provided all of the email conversations he had with VACASA as proof that he was trying to work on getting the issue resolved.

Council Member Belt verified that the property had been continuously rented during the time in which the tickets were issued despite being notified of the violations and up until the renovation on September 7th, but had not been rented five months following the revocation.

Mayor Pro Tem Heidingsfelder clarified that the first letter sent by certified mail to Dr. David was undeliverable, questioning that there should have been a notification left in his mailbox. Council Member Belt clarified that the property had also been rented after failing an inspection. Ms. Fox stated that the property failed an inspection on April 20th; a re-inspection was not scheduled until June 1st but passed the inspection at that time.

Mr. Wilson added that when a property owner is notified and has appealed the revocation of a license, it is the recommendation that the property can be rented until that appeal hearing.

Dr. David began by stating that he usually receives certified mail without any issue and was unaware of what was happening until he received an email from Ms. Fox. He continued by providing background on the purchase and renovation of the property, which included pulling the proper permits. Noting that VACASA is a nationwide company, they knew the process that needed to be followed, and he, like many other property owners on the island, trusted the property management company to do their job.

Dr. David stated that he was unaware of any issues until he received the second ticket for the rental license not being in place. He was also surprised by the notification that the property had failed the inspection. He clarified that the property failed the inspection because VACASA did not let the inspector into the unit, not because of any issues with the unit itself. Following the notification, he immediately emailed VACASA, asking them to comply with the compliance rules and regulations. They responded that they were going to take care of everything, including the fines, and that he did not need to worry. Shortly thereafter, he received the third ticket and sent the entire month of May emailing back and forth with VACASA, asking and pleading with them to do what he had hired them to do. Dr. David stated that he fired VACASA as the management company.

Dr. David stated that he was unable to attend the September 7, 2023, appeal hearing due to the death of his father and having to take care of family issues. He tried sending a letter explaining everything in addition to VACASA's representation, but the rental license was revoked for one year. In the month following the appeal hearing, he attended a Town Council meeting to provide the detailed explanation he was unable to give at the appeal hearing. He then realized that his emails were not part of the evidence package, which he sent to Council Members, and at the next meeting he attended, he was given the opportunity to have his appeal reheard.

Dr. David stated that he was at this hearing because he trusted a nationwide company to do their job. They did not, yet he, as the homeowner, is the only one being punished, and there is no penalty for VACASA for their inaction. He hoped that moving forward, the Council put in place some regulations to also hold management companies responsible.

Council Member Belt asked when Dr. David terminated the contract and if he had pursued a break-of-contract claim against VACASA, with Dr. David responding that the contract did not allow him to pursue a claim against them.

Council Member Berner stated that the emails showed that VACASA was not responsive to resolving the issues and referenced an email written by Ms. Fox, which lists six or seven other properties in addition to Dr. David's, where VACASA had failed to obtain a rental license. It shows that this is not an isolated case and VACASA's complete failure to take care of its clients, and questioned if there were more. Ms. Fox stated that VACASA had obtained the rental licenses, which included late fees for all the other properties listed.

Council Member Belt asked who was responsible for the enforcement of Article 4 of the Municipal Code, Finance and Taxation, which includes the issuance, denial, and revocation of business licenses. Receiving the response that it would be the Finance Director, Ms. Szubert, he reviewed the article. He asked if she should be looking at the issues with VACASA and potentially denying or revoking the license given what appear to be numerous violations of ordinance requirements.

Council Member Kaye inquired as to the status of the property and the estimated loss of revenues over the past several months. Dr. David stated that the property is currently empty and that he estimates that there was about \$25,000.00 in lost revenues.

Mayor Pro Tem Heidingsfelder asked for clarification from Mr. Wilson on whether VACASA could be held responsible in Dr. David's situation. Mr. Wilson and Ms. Tillerson explained that they could not be held responsible for this particular procedure, but any business entity operating on the island is subject to a revocation hearing. As long as it falls into one of the categories for revocation of licensees under the existing ordinance, the revocation process can be initiated.

Council Member Belt stated that he was sympathetic to what had transpired but respectfully disagreed with Dr. David's expressed view that he was not responsible for the management company. He stated that the owner is responsible for its agents, and the most appropriate response would be to pursue a potential cause of action against that agent.

Mayor Pro Tem Heidingsfelder made a motion to change the revocation from twelve months to six months, allowing rentals after March 8, 2023. There was no second, so the motion failed.

Council Member Berner made a motion to reinstate the rental business license as of today. Council Member Kaye seconded the motion.

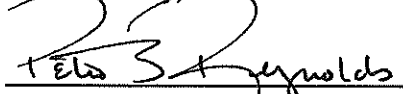
Mayor Pro Tem Heidingsfelder cautioned that in reinstating the rental license, this quickly Council is potentially setting a precedent for future cases.

Following the discussion, the motion was approved by a 4 to 1 vote, with Mayor Pro Tem Heidingsfelder voting "No."

IV. Adjournment:

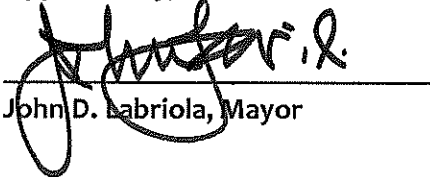
Mayor Labriola adjourned the meeting at 4:11 pm.

Submitted by,



Petra S. Reynolds, Town Clerk

Approved by,



John D. Labriola, Mayor

3-11-2024

Date