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May 1, 2019

Sent via electronic mail to: JamesLower@house.mi.gov

Hon. James Lower, Chair
House Local Government and Municipal Finance Committee
S-1089 House Office Building
P.O. Box 30014
Lansing, MI 48909

Subject: HB 4046

Dear Representative Lower:

I am writing on behalf of the City Commission of the City of St. Joseph to express its strong concerns regarding and opposition to HB 4046, both as introduced and in the form of the proposed substitute H-1. The City Commission has previously passed resolutions expressing opposition to HB 4046's predecessor in the 2017-18 term of the legislature, HB 4503 (2017).

The City of St. Joseph and its citizens have been actively involved for many years in considering the benefits and challenges associated with short-term residential rentals, and crafting regulations in order to best provide for these uses in our community. St. Joseph is blessed by wonderful beaches, a strong downtown, and "small town charm" and surrounded by many attractions in neighboring communities, and it is no surprise that our community hosts many visitors, especially in the summer season.

In the years leading up to 2006, the City's ordinances did not distinguish "short-term" or vacation rentals from other rentals of residential properties. The community required the registration of rental properties and the building inspection department and/or the fire department inspected rental units every two years. Small registration and inspections fees calculated to defray the cost of the inspections were levied. It appears this is similar to the condition that would be

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re-established if substitute H-1 should be approved, and we can tell you that in our experience this did not work for our community; indeed it was precisely the condition that our residents objected to.

In the summer of 2006, residents began attending City Commission meetings to lodge complaints about vacation rentals. These residents reported that there had been an increase in the number of vacation rentals in neighborhoods near the downtown business district and beach. Many of the complaints were, on the surface, regarding specific actions such as noise and overcrowding, but going beyond those concerns, at a deeper level residents felt that these rentals were breaking apart the residential character of the neighborhoods and the community. Many residents commented in public meetings, and the City received a petition signed by more than 250 residents calling for the prohibition of short-term rentals.

The City Commission determined that this matter warranted thoughtful review to determine if regulation might be appropriate, and over a period of several months surveyed residents and worked with staff and special counsel to investigate the matter and consider possible courses of action. It heard from owners and supporters of short term rentals as well as from neighbors and other community members.

It became clear from the evidence received that a majority of residents in affected areas strongly believed that their neighborhoods were losing their essential character as residential neighborhoods and were assuming a new character of a non-residential resort community. They noted that as permanent residences transitioned into short-term rentals, residents lost touch with their neighbors. Houses were crowded with strangers in the summer, and stood vacant the rest of the year. The Commission concluded that these concerns were justified and that it was appropriate to research a plan of regulation.

The Commission understood that it was balancing property rights; not only the rights of owners who might wish to operate a short-term rental, but the rights of adjacent property owners who had purchased their homes expecting to live in a residential neighborhood, and who felt their neighborhood was being damaged by the introduction and expansion of commercial uses.

Although many residents called for the elimination of short-term rentals, the City Commission correctly understood that this is not permitted under Michigan law. Under the Zoning Enabling Act:

"A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful. (MCL 125.3207)"

Therefore, it was essential that any scheme of regulation provide for short-term rentals.

In addition, if a currently existing short-term rental should be in a location where the use might be prohibited by new zoning ordinance amendments, that short-term rental would be protected under the law and must be allowed to remain in that location:

"If the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment. [...]" (MCL 125.3208(1))

Therefore, no property owner who had been lawfully operating a short-term rental would lose the ability to do so. Moreover, that use could be preserved and passed on to a new owner, so long as it was continued. Only if a property owner voluntarily extinguished the short-term rental use of the property would that use cease to be authorized.

A number of health, safety and welfare concerns were also identified. Ultimately a two-pronged approach was followed: 1) a zoning ordinance amendment which defined short-term rentals as a separate use, allowed short-term rentals in some neighborhoods in the city, in some locations through a special use process, in other areas through a conditional use process; and 2) a general code of ordinances amendment, which provided for inspection and registration requirements for short-term rentals.

The zoning ordinance amendment was developed and reviewed through the usual process, which included public meetings before and a recommendation by the Planning Commission, followed by two ordinance readings by the City Commission. The general code of ordinance amendment proceeded on a parallel track; it was not within the purview of the Planning Commission but was given two readings by the City Commission.

Upon adoption of the ordinances, which took effect in February 2007, owners of previously existing short-term rentals were given a period of time to register and undergo initial inspections, and then new applications were accepted and processed. At the time of ordinance adoption, there were approximately 40 separate properties with a total of approximately 50 short-term units in the city. Those numbers have declined slightly over the last 12 years—earlier this year, there were about 35 properties with approximately 45 short-term units. Some previously existing units have ceased to be used as short-term units, while other new units have been registered in permitted locations.

We note that in condominium complexes, where owners have the right to directly collectively determine for themselves whether they believe on the whole allowing short-term rentals is an advantage to them as property owners and neighbors, the overwhelming answer has been "no". There are approximately nine condominium or site condominium complexes in our community in locations where short-term rentals are permitted under the zoning ordinance. To our understanding, only two of those allow short-term rentals. (This does not include a new site condominium which we understand does allow short-term rentals which is just beginning to complete its first dwelling units; we have indications that there is active interest in registering short-term rental units in this development.)

After several years with these ordinances, the City Commission further amended the zoning ordinance to remove an older traditional neighborhood from the permitted area. Several applications for short term rentals had been submitted and considered, and through the evidence submitted during public hearings before the Planning Commission and City Commission it became clear that further expansion of short-term rentals in this neighborhood was not desirable.

We do not claim that the regulations that we developed for our community are the best fit for other communities. We have spoken to other communities that are not fortunate enough to have hotels for visitors, and which feel that short-term rentals are a very desirable way to accommodate vacationers and boost their local economy, and would not wish to enact our ordinances, and we understand and respect that.

This is why we believe local control should be preserved, so that each community's residents—and the elected officials who those residents see every day on the sidewalk, in the grocery, and at municipal meetings—can assess their local conditions, review their collective vision for their community and their neighborhoods, consider the law and the already-established legal requirement to allow short-term rentals in the community, and with the benefit of that knowledge and insight, develop and consider regulations that are right for their community rather than submit to a one-size-fits-all scheme.

In the years since the ordinances were adopted, we have become aware of additional concerns that the legislation would exacerbate affordable housing difficulties in our communities. We believe that in our community a purchaser who plans to operate a short-term rental will in general be able to justify paying more for that property than a potential full-time resident could pay, further driving up home prices in our community, which already struggles with "missing middle" housing, which increases the difficulty local companies face in recruiting and retaining professional employees.

Some would say that higher home prices mean more taxes and more government revenue to pay for services; our belief is that higher property values are not a bargain for communities if they come at the cost of fewer residents, vacant structures much of the year, recruitment and retention problems for local companies, and declining enrollment in local schools. We want to be a genuine community of people, not only a tax base.

We appreciate the committee's consideration, and ask that you please take no action that would advance this bill, or any other bill that would prevent our state's residents—your constituents—from considering and enacting local zoning regulations regarding short-term rentals that are sensitive to their local situations and appropriate for their communities.

Thank you.

Respectfully,



John Hodgson
City Manager

Cc Committee members