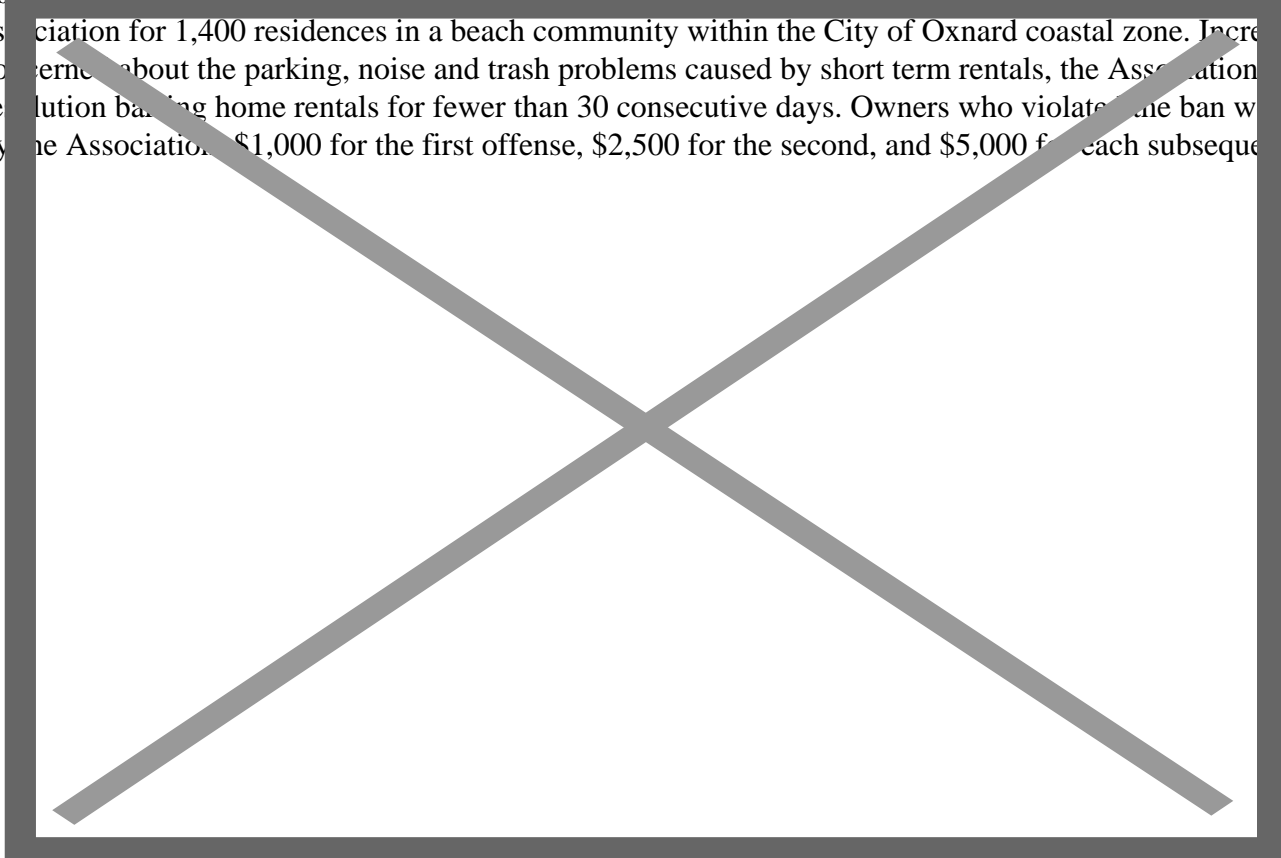


Ban on Short-Term Home Rentals Is a “Development” Subject to the Coastal Act

Underlining the broad and expansive definition of "development" under the California Coastal Act, the Second Appellate District ruled that a coastal homeowners' association's ban on short-term rentals is considered "development" subject to the requirements of the Coastal Act. *Greenfield v. Mandalay Shores Community Association*, 21 Cal. App. 5th (2018). The Mandalay Shores Community Association is the homeowners' association for 1,400 residences in a beach community within the City of Oxnard coastal zone. Increasingly concerned about the parking, noise and trash problems caused by short term rentals, the Association adopted a resolution banning home rentals for fewer than 30 consecutive days. Owners who violate the ban would be fined by the Association \$1,000 for the first offense, \$2,500 for the second, and \$5,000 for each subsequent offense.



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Coastal Commission enforcement supervisor advised the Association that its ban on short term rentals constituted a "development" under the Coastal Act which required a coastal development permit. The plaintiffs, owners of a home in Mandalay Shores, then sued the Association to prevent enforcement of the ban, asserting it violated the Coastal Act. The trial court denied the plaintiffs' motion for a preliminary injunction, ruling that the Association's ban on short term rentals was not a "development" under the Coastal Act. The court of appeal reversed the trial court judgment, ruling that it had not correctly construed the Coastal Act. The court stated that, because a key goal of the Coastal Act is to maximize public access, "development" is broadly defined to include changes in density or intensity of use of land, and not just alterations of land or water. For example, the court explained, locking a gate that is usually open for public beach access over private land, or posting a "no

trespassing" sign on a parcel used for beach access, are both "developments" because they have a significant adverse impact on public use of coastal resources. Similarly, the court reasoned, preventing non-residents from vacationing—as they had for decades—at Mandalay Shores through the short-term rental of beach homes created a "monetary barrier to the beach." The Association's ban was therefore a "development" subject to the provisions of the Coastal Act. The question of whether short-term rentals should be regulated or banned would need to be decided by the Coastal Commission and the City of Oxnard, not a private homeowner's association. The appellate court ordered the trial court to grant the plaintiffs' motion for a preliminary injunction, thereby preventing continued enforcement of the Association's ban on short-term rentals.

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