



Office of the City Attorney
Heather L. Stroud

VIA TRUE FILING

November 3, 2022

California Court of Appeal
Sixth Appellate District
333 West Santa Clara Street
Suite 1060
San Jose, CA 95113

RE: Request for Partial Publication - *Hobbs v. City of Pacific Grove*, Case No. H047705

Dear Honorable Administrative Presiding Justice and Associate Justices:

The City of South Lake Tahoe and League of California Cities (Cal Cities) respectfully request that the Court of Appeal, Sixth Appellate District, order partial publication of *Hobbs v. City of Pacific Grove*, Case No. H047705, under California Rules of Court 8.1110 and 8.1120(a). This opinion meets multiple standards for certification, specifically, it applies an existing rule of law to a significantly different set of facts and involves a legal issue of continuing public interest under California Rules of Court 8.1105(c)(2) and (6). Specifically, we request that Section II(B) be published for the reasons stated below. Section II(B) of the opinion addresses constitutional claims regarding Pacific Grove's regulation of short-term vacation rentals that are of statewide interest. Many cities have adopted similar regulations given the proliferation of short-term vacation rentals and cities' desire to limit their impacts on neighborhoods and preserve affordable housing for their workforce.

Interest of Parties in Publication

Cal Cities is an association of 479 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life for all Californians. Cal Cities is advised by its Legal Advocacy Committee, comprised of 24 city attorneys from all regions of the State. The Committee monitors litigation of concern to municipalities and identifies those cases that have statewide or nationwide significance. The Committee has identified this case as having such significance and has filed an amicus brief in support of the City of Pacific Grove.

The City of South Lake Tahoe is interested in this case because it has very similar factual and legal issues to a case up on appeal in the Third Appellate District involving the City of South Lake Tahoe, namely *South Lake Tahoe Property Owners Group v. City of South Lake Tahoe*, Case No. C093603. Cal Cities has also identified that case as having statewide significance and has filed an amicus brief in support of the City of South Lake Tahoe.

Document received by the CA 6th District Court of Appeal.

Partial Publication is Warranted

Rule of Court 8.1105(c) provides that an opinion “should be certified for publication in the Official Reports” if it meets any one of nine enumerated standards. Section II(B) of this opinion satisfies two of these standards, and publication is therefore warranted.

First, the opinion applies an existing rule of law to a significantly different set of facts under Rule of Court 8.1105(c)(2). Plaintiffs in the case asserted “that their economic interest in renting their vacation homes exclusively for transient visitors was an entitlement subject to state or federal constitutional protection as a matter of law.” (Opinion at 10.) Plaintiffs further asserted they had a “vested right” in this particular economic use of their property that extended beyond the explicit one-year term of their license. (*Id.*) The opinion’s analysis of the constitutional claims of due process and vested rights applies existing law to this new set of facts to answer the question of whether a city may change regulations to extinguish a use that was once allowed, including by use of a lottery system to reduce the number of licenses that may continue that use, when warranted by protection of public health and safety. The opinion’s discussion of these issues involves a set of facts that based on our research are not addressed in existing published opinions, but that may and do arise on occasion in local land use regulation.

Second, the opinion involves legal issues of continuing public interest under Rule of Court 8.1105(c)(6). As short-term vacation rentals have proliferated in communities across California in part because of online platforms facilitating advertising and rental transactions, many cities have adopted regulations to address this land use. Like Pacific Grove, the City of South Lake Tahoe’s regulations provided for a one-year license for short-term rentals of less than 30 days. This is a common permitting scheme for uses such as short-term rentals. Also like Pacific Grove, the City of South Lake Tahoe, following a successful citizens’ initiative, began to prohibit short-term rentals in residential areas and did not renew the one-year licenses after the citizens initiative came into effect. Cities are tasked with protecting the public health of safety of their residents and it is critical that limited-term licensees are not entitled to perpetual renewals, or else cities would never be able to change regulations once adopted, even in the face of increasingly significant impacts from the use, and even in the face of a citizens initiative to extinguish the use.

While this case arose in the context of short-term vacation rentals, the reasoning in the opinion could have implications for other types of land use regulation and is of continuing public interest.

For these reasons, the City of South Lake Tahoe and Cal Cities urge the Court to order partial publication of this case.

Respectfully,



Heather L. Stroud
City Attorney

PROOF OF SERVICE (CCP 1013a(3))

State of California, County of El Dorado

6th District Court of Appeals
CASE No.: HO47705

I am employed in the County of El Dorado, State of California. I am over the age of 18 and not a party to this action. My business address is 1901 Lisa Maloff Way, Suite 300, South Lake Tahoe, California 96150.

On November 3, 2022, I served the within document described as **CITY OF SOUTH LAKE TAHOE'S AND LEAGUE OF CALIFORNIA CITIES REQUEST FOR PARTIAL PUBLICATION** on the interested parties in this action by transmitting a true copy thereof electronically through "True Filing" to the parties listed as follows:

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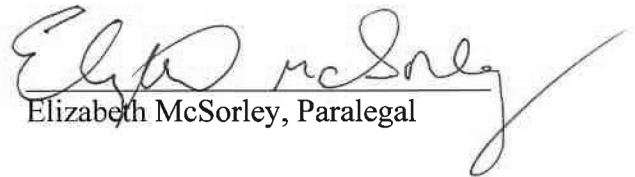
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I declare under penalty of perjury under the laws of the State of California that the foregoing is
true and correct. Executed on November 3, 2022 at South Lake Tahoe, California.


Elizabeth McSorley, Paralegal