



The Court of Appeal held that absent a distinction between short- and long-term rentals, both are permitted under city zoning ordinances, and any ban on short-term rentals that changes the status quo is an amendment that requires Coastal Commission approval. *Darby T. Keen v. City of Manhattan Beach* 77 Cal. App. 5th 142 (2022).

The City of Manhattan Beach enacted zoning ordinances banning short-term rentals in 2015 and instituting an enforcement mechanism in 2019 without seeking the Coastal Commission's approval. The City had originally intended to seek Coastal Commission approval but withdrew its application after the Coastal Commission expressed that it did not support a full ban on short-term rentals in the Coastal Zone. The City justified not seeking Coastal Commission approval by claiming that the existing zoning ordinance from 1994 already banned short-term rentals.

A property owner petitioned for a writ of mandate to enjoin the City from enforcing the 2015 and 2019 ordinances after the City tried to enforce the ban on his property. He claimed that the City should have sought Coastal Commission approval.

The Court of Appeal held that the City ordinance banning short-term rentals was invalid because the City failed to obtain the Coastal Commission's approval. The court reasoned that the City's zoning ordinances prior to 2015 allowed short-term rentals because the code did not distinguish between short- and long-term rentals. This meant that rentals of residential properties for any time period were allowed. The court also rejected the City's argument that short-term rentals should be treated as hotels under the City code, concluding that the homes that are typically rented out as short-term rentals did not fall under the code's definition of a hotel.

The court also dismissed the other arguments the City relied on to justify the ban. The court rejected the claim that the concept of permissive zoning applied, under which zoning ordinances prohibit any use they do not expressly permit, noting that the City's pre-2015 ordinances did permit short-term rentals. It likewise rejected the argument that the court should defer to the City's interpretation of its own ordinances, finding that their plain language did not support that interpretation. The City's 2015 ban on short-term rentals amounted to an amendment of the City's existing ordinances to ban short-term rentals, which required Coastal Commission approval.

Authors



Kaela Shiigi

Associate

KShiigi@perkinscoie.com [415.344.7064](tel:415.344.7064)

Topics

[California Coastal Act](#)

Blog series

California Land Use & Development Law Report

California Land Use & Development Law Report offers insights into legal issues relating to development and use of land and federal, state and local permitting and approval processes.

[View the blog](#)