Blogs
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A city's ban on short-term vacation rentals in the coastal zone constitutes "development" under the California Coastal Act. Therefore, the Coastal Commission must first approve a coastal development permit, an amendment to the city's certified local coastal program, or an amendment waiver before such a ban can be imposed. *Kracke v. City of Santa Barbara*, 63 Cal. App. 5th 1089 (2021). Until 2015, the City of Santa Barbara allowed short-term vacation rentals as long as the owner registered the unit with the city, obtained a business license, and paid transient occupancy taxes. In 2015, the City Council directed its staff to regulate short-term rentals as hotels under the city's zoning code. Because the zoning code did not permit hotels in most residential districts, the city's action was effectively a ban on short-term rentals in most residential areas. As a result, the number of short-term rentals in the coastal zone dropped from 114 to 6. The owner of a company that managed short-term rentals filed

The Coastal Act requires a coastal development permit for any "development" in the coastal zone. "Development" is defined in the statute to include changes in the density or intensity of use of land and changes in the intensity of access to water. Courts have interpreted the term broadly to encompass any impediments to access, not merely physical alterations. The court of appeal held that the city's change in policy "necessarily" changed the intensity of use of and access to land and water in the coastal zone. Accordingly, the city was required to first obtain Coastal Commission's approval, either through a coastal development permit, an amendment to its certified local coastal program, or an amendment waiver. The court explained that the reduction in the number of short-term rentals in the coastal zone was inconsistent with the Coastal Act's goal of improving the availability of lower cost accommodations along the coast. Further, the court explained, its decision was consistent with *Greenfield v. Mandalay Shores Community Association*, 21 Cal. App. 5th 896 (2018), in which the court of appeal held that a homeowner's association's ban on short-term vacation rentals was "development" under the Coastal Act because it changed the intensity of use and access to single-family residences in the coastal zone. The court's decision is also consistent with the Coastal Commission's policy. In 2016, the Coastal Commission sent a guidance letter to local governments explaining its position that regulation of short-term vacation rentals constituted development under the Coastal Act. (The Coastal Commission filed an amicus brief supporting the petitioner.) The court's decision in this case reinforces the broad powers of the Coastal Commission over local policies that impede access to the coastal zone. This case, together with the court's 2018 decision in *Greenfield*, hold that any restrictions on short-term vacation rentals in the coastal zone—whether by a private entity or a local government—are subject to the Coastal Act and must be approved by the Coastal Commission.

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