

From: Maggie Mallea <maggie@rischpisca.com>

Sent: Monday, December 06, 2021 11:52 AM

To: Participate <participate@ketchumidaho.org>

Cc: Amanda Breen <ABreen@ketchumidaho.org>; Jim Slanetz <jslanetz@ketchumidaho.org>; Courtney Hamilton <CHamilton@ketchumidaho.org>; Michael David <m david@ketchumidaho.org>; Neil Bradshaw <NBradshaw@ketchumidaho.org>

Subject: Proposed Short-Term Rental Ordinance

Importance: High

Good morning,

Please see the attached correspondence regarding the proposed short-term rental ordinance.

Thank you,

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December 6, 2021

Sent Via Email to: participate@ketchumidaho.org

Neil Bradshaw, Mayor
Courtney Hamilton, Council President
Amanda Breen, Councilor
Michael David, Councilor
Jim Slanetz, Councilor
480 East Ave. N.
P.O. Box 2315
Ketchum, Idaho 83340

RE: Proposed Short-Term Rental Ordinance

Dear Mayor and Council:

This firm serves as general counsel to the Idaho Association of REALTORS® and has been requested by your local REALTOR® association, the Sun Valley Board of REALTORS®, to provide analysis and comment on the draft Ketchum ordinance proposed to regulate short-term rentals.

As you are probably aware, my client has a longstanding history of advocating for private property rights throughout the State of Idaho. My client believes that one of the most fundamental rights of every individual is the right to own real property and enjoy the use thereof. It is for this reason that the REALTORS® played a significant role in enacting the legislation that governs regulation of short-term rentals, specifically Idaho Code § 67-6539. My client was also involved in enacting similar legislation which limits homeowners associations' ability to regulate short-term rentals, Idaho Code § 55-115(3). My client has invested significant resources in enacting these policies and remain vigilant in ensuring compliance.

Idaho Code § 67-6539 has stated purpose of protecting "the private property rights of Idaho homeowners by ensuring the right to rent their property." The statute enumerates a prohibition against an express ban of short-term rentals and also prevents the passage of any regulation that has the practical effect of prohibiting short-term rentals.

We believe that the proposed Ketchum ordinance has just such a practical effect. The chief component creating the practical prohibition is the ordinance's imposition of additional standards for residential property which are imposed simply due to the use of the property as a short-term rental. Targeting a property simply due to its use as a short-term rental rather than for health and safety concerns is precisely what Idaho Code 67-

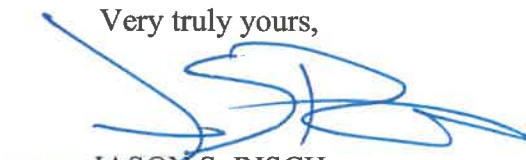
6539 seeks to prevent. This is especially true when one considers the costs of some of the additional standards imposed.

Also of concern is the fact that Ketchum looks to find support for its ordinance from the existence of other short-term rental regulations in jurisdictions across the state; Sandpoint specifically. My client has been monitoring these other ordinances and their level of implementation since the enactment of Idaho Code 67-6539, and while most all have language that is also in violation of Idaho Code, those jurisdictions are working to revise those ordinances to bring them into compliance and in some instances, Sandpoint specifically, the offensive aspects of the ordinance are not being enforced. Simply because there is more than one jurisdiction with an improper ordinance does not make those ordinances any more enforceable.

The REALTORS® are not unsympathetic to Ketchum's efforts to increase workforce housing but cannot stand by when private property rights are infringed upon in the name of a worthy cause. My client is aware of no reasonable study that links the decrease of short-term rentals in a market to an increase in work force housing.

The Sun Valley REALTORS®, though its representative Bob Crosby and the Idaho REALTORS® through its representative Max Pond, have attempted to articulate these concerns with the City of Ketchum over the last few years. At times the conversations are well received, yet at other times it appears the council is dead set on banning or overregulating short-term rentals. Indeed, this proposed ordinance appears to reflect a disregard for some of the advice my client has presented over the years. My client has a reputation of working with many municipalities to find ways to work within legal parameters to protect private property rights while addressing troublesome issues facing local communities. My client requests that the current proposed ordinance be rejected and that communication and cooperation continue until a time where a substitute ordinance can be drafted that will be to the mutual satisfaction of all concerned.

Very truly yours,



JASON S. RISCH

JSR/mm

Cc: Cindy Hunter, President, Idaho REALTORS®
Jed Gray, President, Sun Valley Board of REALTORS®
Max Pond, Government Affairs Director, Idaho REALTORS®
Bob Crosby, Government Affairs Director, Sun Valley Board of REALTORS®