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Division of Land Resource Protection
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Edmund G. Brown Jr., *Governor*
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VIA EMAIL: GRUSSELL@CO.SANTA-BARBARA.CA.US

Mr. Glenn S. Russell, PhD., RPA
Director, Planning and Development
President California County Planning Directors Association
County of Santa Barbara
123 Anapamu Street
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Dear Mr. Russell:

SHORT TERM "VACATION RENTALS" AS COMPATIBLE USE ON WILLIAMSON ACT CONTRACTED LAND

Santa Barbara County (County) has asked the Department of Conservation (Department) to comment on the issue of vacation rentals as a "compatible use" on land restricted under Williamson Act contracts. Specifically the request is in regard to renting of the main dwelling on an agricultural property. The Department offers the following discussion on compatible use as it relates to the Williamson Act.

In recent years there have been expanding opportunities for farmers and ranchers to utilize their land for adjunct non-agricultural commercial uses, as a means of broadening their income base. These uses are typically in addition to their agricultural and open-space uses. While some of these opportunities may be compatible with agricultural and open space use of the land, many proposed uses have the potential to displace or impair the property's agricultural productivity or open space character. The County's concern with short term vacation rentals is an example of one of the recent issues regarding compatible uses on Williamson Act contracted lands.

In summary, a use is compatible with a Williamson Act contract only if it does not compromise, displace or impair the agricultural use of the land or otherwise interfere with the land's devotion to agricultural use. However, the Williamson Act affords cities, counties and landowners latitude in determining whether a use is compatible with Williamson Act contracted land. Consequently, determining compatibility is a highly fact-specific analysis that encompasses a variety of factors.

Government Code § 51242 enables local governments to enter into Williamson Act contracts on land that is devoted to agricultural use and located in an area designated as an agricultural preserve. In return, restricted parcels are assessed for property tax purposes at a rate consistent with their actual agricultural and/or open space use, as opposed to potential market value. Because the Williamson Act provides a preferential tax assessment on contracted land in exchange for limiting the land to agricultural uses, any use other than the agricultural or open space use for which the property was placed under contract must be found to be compatible.

Typically, compatible uses are divided between activities that are clearly related to agricultural operations (such as vineyards or animal grazing), and those that require a special use permit (such

as permanent roadside stands or wine tasting venues). The latter examples promote the sale of agricultural products produced on-site (such as wine and cheese), and are commonly termed 'agritourism'. The potential of an educational opportunity for consumers regarding where their food and fiber comes from may exist if agritourism uses are executed with sensitivity.

The Department supports the activities of an agribusiness venture on land under a Williamson Act contract as long as the marketing events support and promote the agriculture commodity being grown on the premises. Once events begin to overtake the main venture, or feature products not produced on the property, they no longer reflect the agricultural intent of the Williamson Act and become incompatible with the statute.

The level of discretion that counties have in regard to agritourism on Williamson Act enrolled land has not been settled and remains open to interpretation. The Department takes a conservative approach, recommending partial nonrenewal for land that would house the infrastructure hosting large events or those where questions regarding the source of the items for sale could occur. This would distinguish that the tax benefits to the landowner for the production of food or fiber, and the conservation of agricultural land, are not extended to uses that could occur in nonagricultural settings.

In regard to the exclusive use of a principle residence as a "vacation rental," the Department's interpretation of compatible use is reflected in Santa Barbara County's Uniform Rules for Agricultural Preserves and Farmland Security Zones, where it states:

Uniform Rule 2: Compatible Uses within Agricultural Preserves

Land enrolled in the Agricultural Preserve Program is to be used principally for commercial agricultural production, with the exception of land enrolled for open space or recreational purposes. However, the Board recognizes that it may be appropriate to allow secondary uses on contracted land that are either incidental to, or supportive of, the agricultural operation on the property. This Rule provides guidance and criteria for evaluating these uses on land under Williamson Act and Farmland Security Zone contracts in terms of their compatibility and consistency with the purpose and intent of the Williamson Act. It is the goal of this County that, through application of the principles of compatibility in the Act, compatible uses allowed on contracted land will be beneficial to and inherently related to the agricultural use of the land.

In 1999 the Legislature spoke to the limitations upon compatible uses. In un-codified language adopted in Chapter 1018 of the statutes of 1999, the Legislature declared: "The latitude provided by the Williamson Act to participating local governments is not, and has never been, so great as to make uses that are not inherently related to, or beneficial to, the agricultural or open-space character of contracted land permissible under the compatible use provisions of the Williamson Act."

Department Recommendations and Conclusions

The Department recommends that any short term vacation rentals of the principle residence be limited in scope, and be allowable only if the landowner is on site to manage the agricultural

operations. Short term rentals, with examples such as Airbnb¹ or VRBO², take on a number of forms, including partial and full house rentals. A limited use arrangement would be analogous to a bed and breakfast, with the renter having a specified footprint within the house. The overall number of days that the rental can occur should be restricted so as to ensure it remains incidental to the agricultural uses on the property.

The Department cautions that if the primary residence is rented for most or all of the year, the connection between its use and the agricultural operation is lessened to the point that a determination of compatibility is highly unlikely. Although the landowner could file for nonrenewal or partial cancellation for the portion of the property where the residence is located, that outcome may open the door for landowners to request additional conditional uses that future diverge from the surrounding agricultural operation. For this reason, the Department recommends that any allowance for vacation rental of the primary residence remain limited in scope and duration.

Thank you for giving us the opportunity to comment on compatible use as it relates to the Williamson Act. Please provide this Department with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions regarding our comments, please contact Farl Grundy, Environmental Planner at (916) 324-7347 or via email at Farl.Grundy@conservation.ca.gov.

Sincerely,



Molly A. Penberth, Manager
Division of Land Resource Protection
Conservation Support Unit

¹ www.airbnb.com

² <http://www.vrbo.com/>

