

CITY OF PALM DESERT STAFF REPORT

MEETING DATE: October 24, 2024

PREPARED BY: Richard D. Cannone, AICP, Development Services Director

SUBJECT: INTRODUCTION OF AN ORDINANCE UPDATING PALM DESERT MUNICIPAL CODE CHAPTER 5.11, DISCLOSURES UPON TRANSFER OF RESIDENTIAL PROPERTY AND MAKING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

RECOMMENDATION:

Hold a public hearing and introduce an ordinance entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, UPDATING PALM DESERT MUNICIPAL CODE CHAPTER 5.11, DISCLOSURES UPON TRANSFER OF RESIDENTIAL PROPERTY AND MAKING FINDINGS UNDER CEQA."

BACKGROUND/ANALYSIS:

Recently, issues have arisen regarding the purchasing of homes for short-term rental (STR) purposes, particularly concerning the misrepresentation of dens as legal bedrooms. To address this, staff have sent notifications to the California Desert Association of Realtors®, homeowner associations (HOAs), and sales offices within HOA communities. These communications emphasize that a legal bedroom must have a properly sized window or door that opens directly to a public street, alley, yard, or court. Rooms that do not meet this requirement, such as those adjacent to enclosed atriums, are classified as "dens" and cannot be marketed as bedrooms.

Sellers of residential properties are required to provide certain statutory disclosures under Section 1102.6 of the California Civil Code. Additionally, the California Civil Code §1102.6a allows cities and counties to require sellers to present a local transfer disclosure statement that includes local requirements. It's important to note that there are statutory exceptions, such as foreclosure sales and sales by fiduciaries.

On February 10, 2022, the City Council adopted Ordinance 1375, which amended various sections of the Palm Desert Municipal Code (PDMC) concerning public notifications of development projects. This included the introduction of Chapter 5.11, which mandates that sellers of single-family residential properties deliver a real estate transfer disclosure to prospective buyers, informing them of likely development in the area through a provided weblink and phone number.

To enhance public awareness, staff propose adding the following language to the disclosure:

2. *Buyer is advised that the property is subject to the City of Palm Desert's short term rental regulations contained in Chapter 5.04 of the Palm Desert Municipal Code and is advised to review the City of Palm Desert's website*

regarding short term rentals. The website can be accessed at <https://www.palmdesert.gov/our-city/departments/planning/short-term-rentals>.

This weblink includes the STR regulations, information confirming your bedroom count, and how to obtain a permit.

Regarding enforcement, California Civil Code §1102.13 states that failure to comply with transfer disclosure requirements does not invalidate the property transfer. However, individuals who willfully or negligently fail to fulfill these duties may be liable for actual damages suffered by the buyer. Thus, if a seller neglects to provide a required local disclosure, the buyer may have recourse under Civil Code Section 1102.13.

Legal Review:

This report has been reviewed by the City Attorney's Office.

Public Input:

A ten-day public hearing notice for this item was posted in the Desert Sun newspaper on Friday, October 11, 2024. No comments have been received by City staff regarding this action.

Environment Review:

The proposed Ordinance is exempt from further environmental review under CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), known as the "common sense" exemption. This determination is based on the clear assessment that there is no possibility the ordinance may have a significant effect on the environment. The ordinance provides an additional residential disclosure without expanding land use or initiating new developments, thereby maintaining existing environmental baselines and prevents abrupt changes in land use intensity. The ordinance reaffirms current use regulations and does not alter existing physical environmental conditions or promote increased development, thus qualifying for the CEQA "common sense" exemption as it bears no potential for significant environmental impact.

FINANCIAL IMPACT:

None

ATTACHMENTS:

1. Ordinance
2. Ordinance Attachment A