EXECUTIVE SUMMARY

Re-zoning residential properties to eliminate Short-Term Rentals (STRs) essentially reclassifies residential property as commercial, a specific issue currently being litigated in federal courts. I am recommending that the Committee defer action on Agenda Item 3.1. Waiting for ongoing federal litigation to set a clear legal precedent protects Mesquite taxpayers from funding an unnecessary and expensive legal battle.

1. Avoid Unnecessary Taxpayer Legal Costs

- Active Litigation: Federal courts, including the 9th Circuit Court of Appeals (Case No. 26-278) and Nevada District Court, are actively reviewing residential property rights and STR classifications.

- Financial Prudence: If we act now, Mesquite taxpayers will pay to defend this ordinance in court. If we wait, other jurisdictions fund the litigation, providing us with a clear, court-tested legal foundation at zero cost to our residents.

2. Alignment with Recent City Council Precedent

At the July 28, 2026 meeting, the City Council wisely denied an STR application due to an active legal ownership dispute, following the City Attorney's advice not to insert the city into ongoing litigation. Applying that same common-sense approach on a city-wide scale means avoiding the broader federal legal battle currently underway.

3. Cautionary Example: Mohave County, Arizona

A recent news article highlighted Mohave County reclassifying 3,500 STRs as commercial properties. What was omitted is that this unilateral administrative move followed a failed legislative attempt (AZ HB 2326) and is now facing major legal challenges from groups like the Arizonans for Responsible Tourism, the Goldwater Institute and the Arizona Association of Realtors. The Arizona legislature wisely chose to wait for federal court rulings - We should do the same.

4. Private Governance (HOA's) VS. Municipal Mandates

Neighborhoods desiring strict STR restrictions already have an effective tool: amending their HOA CC&R's.

- For example, residents in my own neighborhood (The Reserve at Falcon Ridge) recently voted to disallow STRs through a democratic HOA process.

- Individual HOAs can address local neighborhood preferences without exposing the entire city to municipal liability.

RECOMMENDATION

While enforcing operational regulations remains a viable local tool, completely eliminating STRs across all residential zones at this time exposes the city, in my opinion, to significant legal risk. I urge the Committee to table this item until federal courts establish clear legal boundaries.

To: **City of Mesquite Master Plan Committee Members**

From: **Rick McIntire, Master Plan Committee Member**

Date: **August 3, 2026**

Subject: **Agenda Item 3.1: Re-Zoning All Existing Residential Zones To Remove Short-Term Rentals.**

This proposal to simply remove short-term rentals as an allowed use of a residence in every category of residential zoning, and only allow them in commercial zones would likely eliminate, as apparently intended, the existence of short-term rentals in the city. It basically classifies a residential home as a commercial property which is precisely the focus of current litigation working its way through federal court systems.

Another way to resolve the ongoing debate regarding short-term rentals without inserting our city into a protracted and expensive legal battle, is to simply be patient and wait for the current litigation to run its course and then act upon the final decisions of the courts. Why use city tax dollars to get into the middle of an active and ongoing legal battle? Why don't we just remain patient, and let other Cities, Counties, and States spend many millions of dollars of their tax revenues to litigate the matter in court. When the dust settles, we will have a legal foundation from which to build public policy regarding short-term rentals, and the good news is that everyone else will have paid for that to happen.

Depending on the final federal court rulings, re-working our zoning ordinances may make sense. If the rulings allowed for such zoning modifications, that would be the time to move forward to restrict, impose distancing standards, or eliminate short-term rentals in all residential areas with solid legal backing to do so. Currently these litigations are happening in the 9th Circuit Court of Appeals, Case No. 26-278 and Nevada District Court.

At our last City council meeting (July 28, 2026), many of you will recall a short-term rental application under consideration that involved a home, apparently owned by two people who were clearly engaged in a legal battle over the ownership of the home, one side did not want the home used as a short-term rental, the other did. Our City Attorney rightly cautioned the City Council Members, suggesting it would not be good to get in the middle of that legal ownership dispute. On that sound advice, and, using their own common sense, our City Council Members wisely denied the application. I would submit that everyone witnessing this, fully agreed with that determination. When those two people and their legal court battle gets resolved, the home will likely be owned by just one of them, or, someone else, and the clear legal owner can then move forward according to their own desires.

That was a tiny example of good governance, smart decision making, and represented the best interests of the 24,000 people of Mesquite. Plainly stated, getting in the middle of that legal battle would have been a foolish, and possibly expensive, choice.

On a much larger scale, the legal battle working its way through the federal courts regarding short-term rentals, or more specifically property rights, is not something we would want to get in the middle of. I am suggesting we let everyone else spend their time and their money on lawyers and legal processing to argue and fight in the courts, and when it's all said and done, we'll know how to craft public policy, free of charge.

A news article was recently circulated regarding The Mohave County (Arizona) Assessors actions to arbitrarily designate 3,500 short-term rentals in Mohave County as commercial property subject to different tax regulations. What wasn't reported in the article is that the action is under attack and will likely end up in another protracted legal battle. It is a prickly topic of political debate there in Mohave County, since, in 2025, the elected Assessor Jeanne Kentch tried, unsuccessfully, to get the state legislature to enact a law (HB 2326) to designate residential properties as commercial. Following that failed attempt, she arbitrarily enacted her own law in Mohave County, and that isn't going over too well. Groups like Arizonan's for Responsible Tourism, the Goldwater Institute, and the Arizona Association of Realtors, are all lining up to legally overturn the unilateral actions of one elected official.

The Arizona legislature did not act on Jeanne Kentch's 2025 bill (HB 2326) citing several objections (property rights, negative impact on tourism, strong opposition from industry groups, already existing law, etc.), and they also recognized current federal court battles over residential property rights. The bill never even received a hearing in any legislative committee. Instead, they effectively chose to wait for the outcome of those legal arguments working their way through the federal courts. That seems like a prudent path to take, and I am suggesting we do the same.

As many of you well know, personally, I am not a fan of short-term rentals and, in fact, I very recently led the effort to amend The Reserve at Falcon Ridge HOA CC&R's to disallow them in our neighborhood. That effort passed with a vote of the 68 homeowners on a thin margin of just two votes. The Reserve HOA no longer allows short-term rentals. The process that I led, our Board of Directors endorsed, and a 67% majority voted into our governing documents, can be duplicated in any HOA choosing to do so. In my opinion, this was a very good democratic method to serve the will of the people in our neighborhood.

So, as much as I dislike Short-term rentals, I dislike the erosion of individual residential property rights just a little more, and I could absolutely be wrong, but, I sense that the U.S. Supreme Court (if it gets there) will likely rule in favor of people's individual property rights. They have been known to do that in the past. Now, more importantly, while taking this action to eliminate all short-term rentals might make a few hundred people temporarily assuaged, the other 24,000 residents may not like paying perhaps hundreds of thousands or even millions of their tax dollars to legally defend such an action when we can choose to just be patient and wait for the court rulings to come down, . . . that other people paid for.

Thank you for your consideration of my position and my opinion on this matter.

Respectfully,

Rick McIntire

In order to illustrate the Nevada Legislatures Intent regarding STR's, their passage into law of AB 363 codified the following pertinent section of the Nevada Revised Statutes:

NRS 268.09795 Ordinance regulating rental of residential unit as transient lodging and accommodations facilitators: Requirements; penalties; restrictions on regulations; preexisting authorizations.

. . .

4. The city council or other governing body of an incorporated city shall not enact or enforce a complete prohibition on the rental of a residential unit or a room within a residential unit for the purposes of transient lodging. Any ordinance or regulation which is inconsistent with this subsection is null and void and the city council or other governing body of an incorporated city shall repeal any such ordinance or regulation.

. . .

It seems very clear that the Nevada State Legislature intended for STR's to be allowed to exist. Any action by our City Council to cause or enforce a complete prohibition would be considered "null and void".

If we are looking for defensible ideas on controlling the number and density of STR's in new neighborhoods, we might want to have a discussion about city owned land sales to developers who are building in a planned unit development (PUD). As a condition of the sale, requiring developers to default to NOT allowing STR's in a Common Interest Community (HOA) could be very effective.