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October 26, 2012

Maureen O'Meara, Town Planner
Town Of Cape Elizabeth
P.O. Box 6260
Cape Elizabeth, Maine 04107

Via Electronic Mail

RE: Short Term Rental Ordinance Provisions

Dear Maureen:

Enclosed please find a further draft of the Zoning Ordinance provisions in regard to Short Term Rentals whereby changes to the current Ordinance are indicated in compare format. We have cleaned up the Applicability provision, modified the Contact Person provision to include a sentence in regard to owner responsibility, and have proposed an Effective Date provision being the last paragraph in the enclosed draft.

In addition, I enclose a suggested set of findings for the Town Council to make, if it wishes, if it proceeds to enact these Ordinance provisions.

The current draft does not adopt a suggestion made by a resident that the Town prohibit the entering of Short Term Rental Agreements by anyone other than the record title holder of the property. It appears to me that it is the use of the property and activity upon the property that is being regulated under these provisions, and whether short term rentals should be allowed or not should not turn on whether a family member for a senior citizen, an agent for a serviceman away on duty for an extended period, or a lessee or agent for the record owner, should be the determining factor. My view is that the Town should regulate what happens with the property, not who signs the contract, but that is simply my view.

I understand there was also a suggestion that the remedy for continued violations should be stronger. I have not made any change to the current draft which calls for suspension for one year after three substantiated complaints. If the property is primarily used on seasonal basis, one year would obviously cover every season. The one year period could be shortened or lengthened by the Town Council in adopting this Ordinance, but it would appear that a one year suspension

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would be a significant economic hardship for the owner of a property with significant short term rentals, which should be sufficient penalty after three substantiated complaints. Again, this is a Town Council judgment call.

If I can assist further at this point in time, please advise.

Best regards,

Monaghan Leahy, LLP

Thomas G. Leahy

By Thomas G. Leahy, Esq.

TGL/kt

Enclosures

cc: Michael K. McGovern, Town Manager (with enclosures)