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LAS VEGAS SUN



PHOTO BY GUY LAWRENCE / LAS VEGAS SUN
 On October 1, left, and Kyle Waugh are pictured in one of the houses they rent to visitors in Las Vegas Country Club Estates.

Renting trouble

"A neighbor doesn't change every two days. We don't lack bedrooms in this house. Our security clearly has been breached."

Thalia Jander, UNIVERSITY OF CALIFORNIA BOARD MEMBER OF COUNTRY CLUB HOMEOWNERS ASSOCIATION

Owner of vacation homes embroiled in legal battle

By Steve Kasper and GJ Smith
 LAS VEGAS SUN

During a trip to a San Diego-area beach community, Kyle Waugh discovered the pleasures of renting a vacation home.

The 30-year-old Las Vegas entrepreneur was struck by the thought that there was a easy alternative to hotels. If the concept worked in San Diego, he figured, it would certainly fly in Las Vegas.

But some Las Vegas Country Club residents say Waugh made

the wrong choice in 1997 when he began buying residences in the gated community to use as short-term vacation rentals.

The residents began complaining that his guests — including bridegroom-to-be wedding photographers — were parking late into the night and clogging the streets with traffic.

As a result, both the country club and Clark County are embroiled in litigation with Waugh that will test the ability of residential communities to ban rentals of less than 30 days from their neighborhoods. The

See B20416, B1

"I find it appalling that (neither) the country nor the country club are going after anybody else. But when you're a pioneer, you take BITTERS."

Kyle Waugh, WHO RENTS HOMES IN LAS VEGAS COUNTRY CLUB

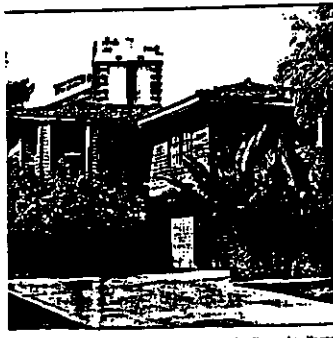


PHOTO BY GUY LAWRENCE / LAS VEGAS SUN
 One of 992 Pleasant Drive is owned by Vacation Homes Las Vegas in Las Vegas Country Club Estates. The country club and Clark County are involved in litigation with the owner of the company, Las Vegas Sun.

Controversial rentals

The Las Vegas Country Club, which opened in 1968, has 1,200 homes. Kyle Waugh, owner of Vacation Homes Las Vegas, owns 25 of the residences and rents them as vacation rentals. His inventory includes 10 townhouses, five single-family homes and a condominium. The numbers show the location and number of

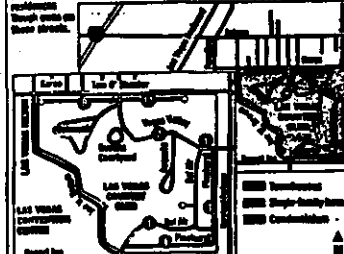


PHOTO BY GUY LAWRENCE / LAS VEGAS SUN
 SOURCE: Clark County Assessor's Office

ASSEMBLY JUDICIARY

DATE: 4/3/03 ROOM: 3138 EXHIBIT C

SUBMITTED BY: Assemblyman B. Antle

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Rentals

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county is trying to enforce a 1998 ordinance written specifically to curtail Waugh's activities. "These are not neighbors, they're hotel-motel guests," said University System Regent Thalia Dondoro, a former county commissioner and a board member of the country club's leading homeowners association.

"A neighbor doesn't change every two days. We don't lack hotel rooms in this town. And we certainly don't want to be in competition with the hotels."

"This is a gated community. Our security clearly has been breached."

Waugh, who is listed in county records as owner of 25 Las Vegas Country Club residences, countered that his opponents don't have their facts straight. He said no one has ever filed a police complaint against his homes and townhouses, which are rented mostly by conventioners. He also argued that he has spent more than \$1.5 million to renovate his properties, increasing the value of neighboring homes that surround an 18-hole golf course.

"When the county passed the ordinance, it was to get me out of business. But what the county doesn't realize is that it would put dozens of other people out of business, too," Waugh said. "Yet they have not sued those people. There are hundreds of homes in the valley that are rented for less than 30 days, including others in the country club."

"I find it appalling that (neither) the county nor the country club are going after anybody else. I had no idea it would generate the resistance and negativity that it has. But when you're a pioneer, you take arrows."



STEW MARCUS / LAS VEGAS SUN
Thalia Dondoro, a resident of the Las Vegas Country Club Estates, opposes short-term rentals of homes in the Country Club during an interview at the Country Club's Master Association office.

On the surface, Waugh would appear to have the connections to continue leasing the residences as part of his company Vacation Homes Las Vegas. He is the son of retired Assistant Sheriff Steve Waugh. His marketing consultant, Jason Goldwater, is the younger brother of Assemblyman David Goldwater, D-Las Vegas.

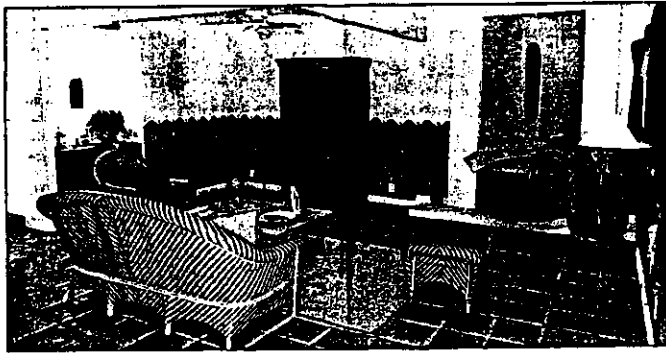
But in a twist of fate, the lawmaker aides with the country club and the county.

"If the county or homeowners association want to prohibit the use of land for commercial uses, it's absolutely within their power to do so," the assemblyman said.

Waugh, a Valley High School graduate, skipped college

to work for a stock brokerage company. But when the stock market experienced a downturn in the late 1980s, he became a partner in a window-cleaning business that he continues to operate. He briefly owned an Indian restaurant. He also ran Death Row Clothing Co., which produced hip-hop fashions, such as a sweat shirt depicting the Grim Reaper and a T-shirt with a gravestone and the message, "Born Hard, Die Hard."

But he said he made his biggest killing around 1995 when he sold a lucrative landscaping business whose clients included large commercial and apartment complexes. He used that money to get his start in real estate, eventually obtaining a broker's license.



PHOTOS BY SAN MARCUS / LAS VEGAS SUN

This is the living room of one of the homes in the Las Vegas Country Club owned by Vacation Homes Las Vegas. The Las Vegas Country Club homeowners association has sued Vacation Homes to cease operation, claiming that the short-term rentals are illegal.

County records show he owns 32 properties that he bought for a combined \$6.9 million, for which he remains heavily mortgaged. Waugh said that through creative financing he was able to acquire many residences with little or no out-of-pocket money.

Las Vegas Country Club Estates, opened in 1989, and its Regency Towers have been home to numerous entertainers and prominent businessmen.

High-profile

Residents include comedians George Carlin and Rodney Dangerfield, actress Debbie Reynolds and singers LaToya Jackson, Steve Lawrence and Eydie Gorme. Casino owners Sheldon Adelson of the Venetian and Kirk Kerkorian of MGM MIRAGE live there, as do Harrah's executive Claudine Williams and Burton Cohen, former president of the Desert Inn hotel-casino.

Real estate agent Bette Leal, a longtime resident, said her chief objection to Waugh is that he is operating a business in a residential community. Like many of her neighbors in the 1,341-home community, she believes Waugh's clientele should be staying in hotels.

"The people who stay in his places are partying, staying up late, consuming alcohol, leaving people in who don't live there," Leal said. "This hurts the integrity of our neighborhood, its desirability and our right to the pursuit of happiness."

"The irony is that the people who are renting his properties probably live in nice homes in their communities and would be just as angry if someone were renting out their neighboring homes for this purpose."

But not every homeowner opposes Waugh, and he has a stack of letters as proof. One, Arlene Miller, lives next to a Waugh townhouse. She said that if the country club really wanted to crack down on transients, it would turn its attention to an apartment complex that also operates within the community.

"It's selective intimidation," Miller said. "I've never had a problem with him (Waugh). His place is clean. The people are quiet. We're not getting riffraff here."

"People are jealous of the fact that he's young and creative and makes money. He's not part of the old establishment here. They're used to having control over how things are done here."

No one argues that Vacation Homes Las Vegas, an affiliate of Waugh's Oracle Real Estate Group, is not a lucrative business. He claims to gross millions of dollars annually, relying heavily on advertising from a website. He said his properties, which use weekly maid services and are decorated in different styles, average about 50 percent occupancy year-round. At rents from \$239 a night to \$10,000 a week, he said he can easily cover his mortgages.

But Waugh has been involved in legal wrangling since 1998, when he defeated the Georgetown West Townhouse Owners Association's lawsuit. Georgetown is one of 17 associations at

the association alleged that Waugh altered a property without permission. But then-District Judge Myron Leavitt, now a Nevada Supreme Court justice, dismissed the lawsuit because the association failed to offer Waugh mediation or arbitration.

Waugh said one reason he believed his business was legal was that Georgetown's zoning at the time included hotel uses, a designation that predated the country club. But because of growing complaints from residents, the Clark County Commission in 1998 approved an ordinance aimed at phasing out vacation homes in residential communities by this August. The county also eliminated Georgetown's hotel zoning.

Armed with its county victory, the Georgetown association once again sued Waugh in 1999, alleging he was illegally conducting a hotel/motel-type business.

That argument rested on the fact that the association's regulations prohibited commercial uses of residential property. That lawsuit also was dismissed when District Judge Lee Gates agreed that Waugh was using his residences as rental properties rather than for commercial purposes.

"At no time have the defendants desired or intended to alter the residential nature of the property," Waugh stated in a March 1999 affidavit. "Certainly the defendants are not the only owners of property within the homeowners association who choose to rent their property."

Turning sour

But Waugh's legal fortunes turned sour later that year when he lost part of a lawsuit filed by the country club's umbrella homeowners group. District Judge Stephen Huffaker ruled that Waugh's properties could not be used for business meetings such as seminars and that the guest list for any such residence could not exceed 15 individuals.

Dawn Cica, an attorney and Las Vegas Country Club Estates Master Homeowners Association president, said there are homes owned by corporations that are used by employees for short-term visits.

"But that is really different because the people who stay in these places are staying in a home that is owned by their company," Cica said. "They have a vested interest in not damaging the property and in being good neighbors because they may be coming back."

"In his (Waugh's) case, the employers of the people staying there do not own the property and, most likely, those lodgers will never stay there again."

The association amended its regulations to ban rentals of fewer than 30 days, and argued that Waugh was in violation. But Huffaker referred that dispute to arbitration before the state Real Estate Division. Arbitrator Bill Turner, who toured some of Waugh's properties, is expected to issue a nonbinding ruling within 30 days.

Waugh also lost another lawsuit last year

community Association in Henderson. Waugh, who rented homes for vacations on Ultra and Ping drives in that gated golf course community, was ordered by District Judge Mark Denton to curtail that activity. The reason was that Waugh was in violation of an association regulation that prohibited rentals of fewer than 30 days.

"In any given week at least 20 to 40 guests come through the gate for each of those residences," the association said. "During a busy convention week, those numbers increase exponentially. For example, during the recent Computer Electronics Show, four buses arrived at the Ultra residence every 15 minutes to transport guests. These buses disrupt the neighborhood and use other driveways to maneuver in and out of the community."

"The parties that take place at these residences generate loud noise and continue throughout the night, and neighborhood teenagers are often invited to attend and enjoy the open bars therein."

Legislative action

Last month Deputy Clark County District Attorney Robert Warhol, in a letter to country-club master association manager Donna Erwin, warned that a bill being considered by the Nevada Legislature would undermine the county's ordinance against vacation-home rentals in residential neighborhoods.

Warhol charged that the main lobbyist for Senate Bill 265 was attorney Mark Fiorentino, a member of the same Las Vegas law firm — Kumpster Kasperer Boomer & Reaslaw — that represents Waugh.

Florentino conceded that the original bill would have assisted Waugh. That's because it would have prevented the county from using its amortization clause to phase out land uses it no longer desired, such as vacation home rentals in residential areas. But Fiorentino said the intent of the bill was actually to serve another client, the Nevada Outdoor Media Association, by allowing existing billboards to survive zoning changes.

It took political maneuvering from Assemblyman Goldwater and Sen. Bob Coffin, D-Las Vegas, to amend the bill so that it preserves the county's right to phase out unpopular land uses. The amended bill, which passed the Senate Government Affairs Committee and is before the full Senate, now helps billboard companies but not Waugh.

Both lawmakers in fact, lives in a condominium there and said he opposes what Waugh and his own younger brother are doing. He is particularly concerned whether Waugh is taking precautions to protect neighbors from drunken guests, Goldwater said.

"We try in the state Legislature not to get involved in land-use issues," the assemblyman said. "My brother makes a living and does a great job for Mr. Waugh, but my advice to them is to work with the homeowners and find something else that might work."

Waugh and Jason Goldwater said, however, that they have made repeated overtures to work with the country club, to no avail.

The county sued Waugh last month, alleging he was in violation of the ordinance that phases out vacation homes. Warhol said only those vacation homes that legally existed prior to August 1998 are allowed to operate through this August. County records show that Waugh purchased 16 country club residences after the ordinance went into effect.

"That's their strategy — sue and fine," Waugh said. "I can't even work on exteriors of my properties without being sued. We believe what the county is doing is unconstitutional because we have property rights, too. That ordinance prohibits an entire industry ... What they're saying is that people have to stay in hotels."

Steve Kasperer and Ed Reaslaw are reporters for the Sun. Kasperer can be reached at (702) 259-4075 or by e-mail at skasperer@sun.com. Reaslaw can be reached at (702) 259-4075.

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