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December 4, 2023

Town Board Members
Town of Taghkanic, NY

Re: Proposed Local Law No. 3 of the year 2023 regarding Short-Term Rentals ("STRs") presented at the public hearing of the Taghkanic Town Board on December 4, 2023 (the "Draft Regulation").

Dear Board Members:

I am writing to express my objections to STRs and thus the Draft Regulation, which are set forth in this letter. In addition, the Draft Regulation includes a number of drafting and conceptual problems that should be corrected if, despite objections, STRs are to be permitted. Some of those concerns are addressed in the accompanying Appendix to this letter. These issues deserve serious consideration and I therefore request that any Town Board action regarding the Draft Regulation be deferred for further deliberation.

The opening text of the Draft Regulation is incorrect and misleading. As has been previously correctly noted, STRs are not permitted under the existing Zoning Code. The Draft Regulation would not "further regulate" STRs, it would eliminate the current prohibition and permit them, and I do not believe that is in the best interests of Taghkanic residents. If the Draft Regulation is nonetheless to be adopted, it should at least recite correctly in substance that it is being adopted for the purpose of eliminating the current prohibition of STRs and to permit them subject to regulation.

Subsections A.1. and 2. of Section 1 say that the Draft Regulation will assist in "preserving the supply of dwellings available for long-term rentals and home ownership by maintaining and protecting Taghkanic's residential market" and "supporting property owners to stay in their homes by inhibiting real estate speculation and safeguarding long-term housing affordability." What evidence is there of the accuracy of these statements? Common sense suggests that quite the opposite would result, as the availability of STRs would encourage the acquisition of residential housing at inflated prices based on income generation from STRs, making residential housing increasingly unavailable to those seeking homes in Taghkanic. Permitting STRs would only encourage real estate speculation and, far from "safeguarding long-term housing affordability", would have a seriously negative impact on its affordability.

A further source of concern is implicit in the provisions of Subsections A.3 and A.4. of Section 1, which amount to admissions that STRs would present risks to the Town's residents, for which I believe there is no justification.

Subsection B. of Section 1 also states that STRs "have a positive impact within the Town by increasing tourism activity and providing an additional income source for homeowners". Here again no evidence is presented in support of the proposition. It might fairly be observed that increased tourism, if it in fact occurs, will add to the Town's expenses and burdens in terms

of road wear, law enforcement, legal fees and other regulatory expenses. That of course assumes that the Draft Regulation would be enforced. Given the failure to enforce the existing prohibition of STRs, it seems doubtful that the Draft Regulation would be effectively enforced, which is itself a strong objection to its adoption. It is only a guess that permitting STRs would increase tourism; it might merely increase nuisances and annoyances.

Subsection C. of Section 1 states that it is "the intent of the proposed regulations (*sic*: if enacted, the Draft Regulation will not be a "proposed regulation") to "balance the rights of property owners to the free use of their properties in Taghkanic with the rights of homeowners to enjoy the existing rural and residential character of the town". I am very concerned that permitting STRs will indeed impair "the rights of homeowners to enjoy the existing rural and residential character of the town". My wife and I are among those homeowners; we appreciate our life here precisely because of its existing rural and residential character and are profoundly opposed to permitting STRs, which we believe would be ultimately destructive of much of the Town's rural and residential character, both by their very nature and even more because we do not believe there would be any effective enforcement of such restrictions and requirements as the Draft Regulation would impose.

These are not merely personal concerns or views but are also reflected in several recent reports, which I strongly urge the board to read and consider carefully before taking any action on the Draft Regulation (they are available online at their respective websites and I am providing one set of copies to the Town Board). The September 2023 Report of New York State Comptroller Thomas P DiNapoli, "Rural New York: Challenge and Opportunities" considers some of these same issues. Although that Report does not cover Columbia County specifically, it does address relevant issues affecting similar rural counties with similar financial, population and housing issues, including Greene County. Addressing housing issues specifically, that Report says on pages 13 and 14 that:

> "Of the vacant housing units in rural counties, a disproportionate share are for seasonal recreational, or occasional use. These are typically considered vacation properties or second homes and may be used as short-term rentals. Short-term rentals, particularly those that are not owner occupied, remove housing units from the market and may contribute to housing supply shortages and higher housing costs. In Hamilton County there are more housing units than there are residents. Of the 7,965 housing units, 81.7 percent, or 6,508 units, are vacant; of these, 96.3 percent are for seasonal, recreational or occasional use. (See Figure 12). While Hamilton has the highest share, nearly every rural county greatly exceeds the statewide rate of 35.4 percent of vacant housing units used for seasonal, recreational or occasional use.
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> [Figure 12 statistical chart omitted]
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> Both declining housing stock and high rates of second homes and vacation properties have the potential to increase housing costs in a rural area. Declining housing stock increases limits supply [*sic*] of available housing. The presence of second homes and vacation properties has also been associated with increased housing prices in rural areas." [footnotes omitted]

The 2023 "Out of Reach" report of community group Hudson Valley Pattern for Progress (the "Pattern Group"), which specifically addresses housing issues in nine counties, including Columbia, expresses those very concerns, stating on page 12:

"The disproportionate regionwide increase in renter-occupied homes can be attributed to a variety of factors. Most subsidies, PILOTs (payments in lieu of taxes), and other incentives are designated for multifamily rental developments. Furthermore, according to a recent study, one in four single-family homes are now being acquired by investors as assets to rent. While the housing market has historically been a vehicle for personal and generational wealth, fewer and fewer householders are able to purchase homes. The ownership of more homes by investors and corporations instead concentrates those equity gains into the hands of fewer people over time."

The "Out of Reach" Report refers to the Pattern Group's April 2023 report "The Great People Shortage and Its Effects on the Hudson Valley" and a related third-party report, "Are Big Companies Really Buying Up Single-family Homes?".

The April 2023 "Great People Shortage" Report under the heading "TAXING AND MUNICIPAL FINANCE" states as follows:

"A warning about the proportion of second-home owners: In many parts of the Hudson Valley, a significant portion of residential property tax revenue comes from people who own second homes or short-term rentals. Analysts warned that these sources of revenue can be fickle because they are directly tied to a region's popularity. The Hudson Valley and Catskills have seen their popularity skyrocket since the Great Recession of 2008, which compelled families to forgo air travel and opt for "staycations." The trend toward cheaper, driving-distance vacations brought millions of people to our region. (The Covid-19 pandemic gave rocket fuel to this trend.) In turn, many chose to buy a second home here. Others saw the uptick in visitation as an opportunity to purchase homes and rent them to visitors through Airbnb, VRBO, or similar services. But analysists (*sic*) warned that property tax revenue generated by these properties is less reliable over the long term than revenue from fulltime residents. What happens if our tourism spotlight dims in the years ahead? Will second homeowners flock to a different region? Will short-term rentals wane? Will the dwindling number of full-time residents be enough to fortify the tax base? Analysis warned that these trends deserve careful monitoring because they can affect the long-term fiscal health and solvency of local governments. The same can be said for the overall wellness and vibrancy of communities when a significant proportion of its homes are owned by people who are only living there part of the time."

With that background, I seriously question the consideration given to the supposed rationales for permitting STRs. Again, I am very much concerned that permitting STRs will, rather than supporting and strengthening residential homeownership and preserving the existing rural and residential character of the town, impair and degrade those desirable features, surrendering too much of the Town's residential housing to investors, both individual and institutional, who acquire and own homes not actually as residences but as business vehicles to generate profits from STRs. It is the town board's responsibility to act on behalf of all its residents, not just what are currently a few with special interests, and I am very concerned that adoption of the Draft Regulation will violate that obligation.

I feel compelled to add that the timing of the Draft Regulation seems out of order. The Town produced a Comprehensive Plan in 2009 (I served on the Comprehensive Plan Committee). Comprehensive Plans are to be the framework and guidance for the preparation or revision of a Zoning Code. Now, some 14 years later the existing Zoning Code has yet to be revised as contemplated by the Comprehensive Plan, which does not contemplate STRs and which is now overdue for replacement, especially in light of the developments since its adoption. I am very strongly of the view that any regulation of STRs should be part of the comprehensive drafting of a new Zoning Code, not a separate transaction. If finally approved at all, STRs should be confined to those that are truly full-time hosted, that is, with a resident owner actually in residence for the entire period.

Again, for all the foregoing reasons I strongly urge the Town Board to defer any action regarding adoption of the Draft Regulation until it has deliberated further on its merits.

Very truly yours,

Jeffrey S. Tallackson

APPENDIX TO LETTER OF JEFFREY S. TALLACKSON TO THE TAGKANIC TOWN BOARD WITH REGARD TO Proposed Local Law No. 3 of the year 2023 regarding Short-Term Rentals ("STRs") presented at the public hearing of the Taghkanic Town Board on December 4, 2023.

The following comments on the Draft Regulation's provisions are not exhaustive or complete. Absence of a comment regarding a particular provision does not imply agreement or approval.

Section 1. Legislative Findings, Intent and Purpose

See comments in accompanying letter.

Section 2. DEFINITIONS.

2. Bedroom: What is the definition of "habitable"? What are "dedicated" provisions for sleeping?

3. Dwelling: What is the definition of "habitable"?

5. Good Neighbor Handbook: What precisely is to be in the "Good Neighbor Handbook" and by whom is it to be written? If there is to be such a document, its text should be part of or an appendix to the regulation.

6. Hosted Short-Term Rental (STR): If the Owner is present during the entire rental period, what is the significance of the 60-day overnight provision? How does this relate to currently existing accessory dwelling units?

8. Owner: This definition needs work. The phrase "LLC of one or more trustees" makes no sense. Presumably there should be a specific reference to members or owners of an LLC or a partnership, to a trust and its trustees and/or beneficiaries and there is no reference to corporate ownership or stockholders.

11. Resident Owner: This definition just underscores the apparent fiction of residency, if only nighttime presence for 60 days each year is required

13: STR Guest: As written this definition would include personal guests of the Owner who have nothing to do with an STR group, such as friends or family. It should be revised to make clear it means people who are part of an STR group.

14: Un-hosted Short-Term Rental (STR): So it is not an Un-hosted Short-Term Rental if the Resident Owner is present for even a single day during the rental period?

Section 3. SHORT-TERM RENTALS ALLOWED FOR RESIDENTS ONLY, IN THE TOWN OF TAGKANIC

What is the significance of the concluding phrase in the title of Section 3 and why is it set off with a comma?

This section simply underscores the illogic of the Draft Regulation and very clearly establishes the internal inconsistency of the Draft Regulation's stated premises with its actual requirements and restrictions. How can it possibly be said, as in Subsection 3.A. that the "operation of the property as a STR must be secondary to the Residential use of the property" if the residency requirement is merely being present in the Dwelling for 60 nights per year? The STR use of the supposed "residence" can apparently be for as many as 305 days per 365-day year. If that is not the intention, greater clarity is required.

Section 4. REGISTRATION AND PERMIT REQUIRED FOR SHORT-TERM RENTALS

As noted in the accompanying letter, an overall concern regarding the Draft Regulation is a substantial basis for doubt that its requirements will be enforced, and that as practical matter they

may be unenforceable. As has already been noted, STRs are forbidden under the current Zoning Code, yet there are a number of STRs currently operating in the Town of Taghkanic.

Subsection 4.B.3.c.: How is it appropriate to delegate to the CEO the power to in effect write additional regulations ("other property features, in the discretion of the Code Enforcement Officer, that may require the notice of local first responders")? That is the responsibility of the board.

Section 6. TYPES OF SHORT-TERM RENTALS PERMITTED IN TAGHKANIC

These provisions need clarification. What exactly would be the residence requirements?

Section 7. SHORT TERM RENTALS MAY NOT SERVE AS EVENT VENUES

Subsection A. prohibits advertising of STRs for event venues but does not by its terms prohibit their use for such events so long as they are not advertised. What would constitute advertising?

Subsection B., on the other hand, would prohibit events on a property that is authorized for STRs even if the event has nothing to do with its use as an STR, such as, *e.g.*, a wedding by a member of the Owner' family. How does the board think it is appropriate for the CEO to have the authority to in effect write the Town's laws by setting occupancy and guest limits? Those should be specified, or the procedure for specifying them, set forth in the regulation and be determined ultimately by the board.

Section 9. WHERE IS IT?

Section 10. REQUIRED POSTINGS AND COMMUNICATIONS.

Defined terms such as "bedroom" should be in initial capitals.

Section 11. EMERGENCY MANDATE.

How and by whom may the Town require communications and require their documentation? Is something or someone intended other than board action, such as by amending the regulation?

Section 12. REQUIRED RECORDKEEPING.

The opening phrase in Subsection A. that "The Town expects that . . ." is very strange. Presumably it is more than an expectation but is instead a requirement, as indicated by the following provisions, and should say so.