

**MARIPOSA COUNTY  
BOARD OF SUPERVISORS**

**AGENDA  
ACTION FORM**

**DATE: 8-6-02  
AGENDA ITEM NO.: #9**

**DEPARTMENT:** County Counsel

**BY:** Jeffrey G. Green

**PHONE:** 966-3222

**RECOMMENDED ACTION AND JUSTIFICATION:** (Policy Item: Yes\_\_\_ No\_\_\_ )

This Appeal has been brought by Tom and Eva Kroon relative to a decision by County Counsel to not process an appeal by Tom and Eva Kroon of a Planning Director decision. A more detailed explanation of County Counsel's decision and position is attached.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

**LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

<b>COSTS:</b>	<input type="checkbox"/> Not Applicable	
A. Budgeted current FY		\$ _____
B. Total anticipated costs		\$ _____
C. Required additional funding		\$ _____
D. Internal transfers		\$ _____

<b>SOURCE:</b>	<input type="checkbox"/> 4/5ths Vote Required	
A. Unanticipated revenues		\$ _____
B. Reserve for contingencies		\$ _____
C. Source description:		_____
Balance in Reserve for Contingencies, if approved: \$		_____

**SPECIAL INSTRUCTIONS:**  
List the attachments and number  
the pages consecutively:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<b>CLERK'S USE ONLY:</b>	
Res. No.: <u>02-315</u>	Ord. No. _____
Vote - Ayes: _____	Noes: _____
Absent: _____	Abstained: _____
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
<input checked="" type="checkbox"/> Minute Order Attached	<input type="checkbox"/> No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: \_\_\_\_\_  
ATTEST: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California  
By: \_\_\_\_\_  
Deputy

**ADMINISTRATIVE OFFICER'S RECOMMENDATION:**  
This item on agenda as:

_____	Recommended
_____	Not Recommended
_____	For Policy Determination
_____	Submitted with Comment
_____	Returned for Further Action

Comment: \_\_\_\_\_

A.O. Initials: [Signature]



# COUNTY OF MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

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PATTI A. REILLY, VICE-CHAIRMAN  
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DISTRICT III  
DISTRICT I  
DISTRICT II  
DISTRICT IV  
DISTRICT V



## MARIPOSA COUNTY BOARD OF SUPERVISORS

### MINUTE ORDER

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TO: JEFF GREEN, County Counsel  
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*  
SUBJECT: Kroon Appeal  
Resolution No. 02-315

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THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on August 6, 2002

#### ACTION AND VOTE:

**2:06 p.m.** Jeff Green, County Counsel;

Appeal of Tom and Eva Kroon of County Counsel's Decision to Not Process an Appeal by Tom and Eva Kroon of a Planning Director Decision

**BOARD ACTION:** Jeff Green presented the staff report, and he advised that the issue today is whether he followed the procedures adopted by the Board for processing this appeal. If his decision is overturned, the hearing would be scheduled for the Board to hear the appeal of the Planning Director's determination concerning the lack of appropriate permits for their transient rental operations. He responded to questions from the Board relative to confirmation of the letter that he faxed advising of the deadline for providing information to process the appeal of the Planning Director's determination; and whether the appellants or their attorney made any attempt to respond to the letter itself.

Input from the public was provided by the following:

- Oliver Saunders, Attorney at Law, stated he is a friend of the appellants, and he advised that the Kroons have been operating a transient rental business since 1972. He stated the Kroons were the first to operate such a business in the area and did so for several years before there were other operations. He stated he feels the issue is whether they are grandfathered for their use or whether they will be put out of business at this time. He stated he has had many meetings with County Counsel and they do not agree on the issues and he feels County Counsel is their enemy. He referred to Ordinance No. 375, which redefined a hotel as to include transient rentals, and he noted the Kroons had already been in business at the time of adoption of that Ordinance. He referred to a letter from 1983 from Bob Borchard, Planning Director, which advised the Kroons that they were considered grandfathered as they were in business since 1972, and the Ordinance was not adopted until 1973. He stated he did not receive the letter that was faxed from County Counsel's office requesting additional information, and stated he feels that the code requires a hard copy to be mailed with a proof of service. He questioned the authority for County Counsel to be able to set

deadlines. He stated he sent a letter in January, 2002, to the County, and there was no response until April, and now they are being given deadlines. He stated he feels they complied with submitting information prior to the 25-day deadline before the hearing. He noted that in 2000, an Ordinance was adopted requiring all transient rentals to have a separate certificate for each unit. Since the Kroons had a blanket certificate, they were not in compliance and should be grandfathered on that issue. He further stated that they are law-abiding citizens and they might have complied; however, there is a moratorium for giving new permits. In affect, this says they would be put out of business, and that is what they are appealing. He noted that the Kroons voluntarily paid taxes back to 1972. He also noted he had a binder, which is encyclopedic on this matter that was compiled by Debra Kroon.

Jeff Green responded to questions from the Board clarifying the issue before the Board today as to whether the appeal was timely rendered and whether the proper information was provided, with the transient rental use being a separate issue; relative to the fax transmission and follow-up with a hard copy and proof of service requirements; and the issue of whether the fax or hard copy was received.

- Attorney Saunders responded to questions from the Board and advised that he did not receive the fax, and that was his correct fax number that the letter from County Counsel was faxed to.

**2:42 p.m.** Recess

**2:50 p.m.** Attorney Saunders responded to additional questions from the Board relative to his lack of receipt of the fax and the letter from County Counsel requesting addition information for his appeal of the Planning Director's determination. He stated he wanted Debra Kroon to speak on why the Board should hear the appeal.

Jeff Green responded to a question from the Board and clarified the purpose of this matter and the fact that the appeal of the transient use is a separate issue.

-Debra Kroon stated she feels this matter is a case of "Murphy's Law" in that if anything can go wrong, it will. She referred to the "Cease and Desist" Order and noted that both issues were identified in this appeal. She also referred to the information, contained on pages 24 – 44 in the package that was provided to the Planning Department on May 25th. She referred to the requirements for statement of grounds of an appeal and stated she feels what was submitted in the appeal should be sufficient. She responded to questions from the Board relative to the date the information was submitted to the Planning Department and the deadline date for submitting information.

Sarah Williams, Planning Manager, responded to questions from the Board relative to the date of the original notice of violation and notices of intent, and as to what has transpired since those notices. She stated he submitted the appeal (for the matter to be heard before the Planning Commission) and subsequently paid the \$25.00 appeal filing fee. The appeal was sent to County Counsel to determine if there was sufficient information and whether it was timely filed. The appellants were given until May 28th by 5:00 p.m. to provide the information that was requested. On May 24th, she received letters and receipt information and had a telephone conversation with Debra Kroon, and she advised Debra that she wished she had included what she was telling her in the additional information for the appeal.

- Attorney Saunders stated he requested an appeal hearing in his letter in January and it was April before Planning responded by sending him the appeal form.

Jeff Green responded to additional questions from the Board relative to the fax and letter he sent and timeframes for the appellant to provide additional information; he advised that the fax and letter were not sent directly to the appellant since they were represented by an attorney and that this is common practice.

Discussion was held. Supervisor Parker stated he feels Attorney Saunders should be held responsible for not representing his clients as best as he could; and he referred to a conversation he had with Miss Kroon relative to rights to appeal prior to his knowledge of this situation.

Debra Kroon stated they received a letter from the County around Christmas of 2001, and their attorney responded in January, 2002, and the County did not respond back until April, 2002.

Jeff Green responded to questions from the Board relative to waiving the appeal process conditions to be able to hear the appeal of the Planning Director's determination. Discussion was held on this matter, as well as whether the appeal would be heard if no additional is received.

Debra Kroon asked whether the "Cease and Desist" Order would be held in abeyance until the hearing.

Sarah Williams responded to a question from the Board and advised that when a decision is appealed, everything is stayed until the hearing; she also noted that the appeal was made to the Planning Commission versus the Board; and she asked whether information presented during this discussion would be used during the hearing.

Following discussion, (M)Parker, (S)Balmain, Res. 02-315 was adopted upholding County Counsel's decision to not process the appeal by Tom and Eva Kroon of the Planning Director's decision; the Board waived it's appeal processing conditions to hear the appeal of the Planning Director's determination concerning the lack of appropriate permits for their transient rental operations and set the appeal hearing for October 1, 2002, at 10:00 a.m. before the Board of Supervisors, with September 6 at 5:00 p.m. set as the deadline for submitting any additional information; and direction was given for staff to be able to use the information that was presented today in the appeal hearing/Ayes: Reilly, Balmain, Stewart, Parker; Excused: Pickard.

cc: Eric Toll, Planning Director  
Attorney Oliver Saunders  
Tom and Eva Kroon  
File