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Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**THIRD SUPPLEMENTAL REPORT BACK RELATIVE TO PROPOSED HOME-SHARING
ORDINANCE (COUNCIL FILES 14-1635-S2, 14-1635-S3)**

On February 6, 2018, the Committee considered the proposed Home Sharing Ordinance (HSO) after two previous hearings. During the discussion, the PLUM Committee continued the matter and instructed the Department of City Planning (Department), in consultation with the Office of the City Attorney and the City Administrative Officer (CAO), to report back on the following additional policy considerations:

1. A general framework and review process that would allow qualified hosts to participate in home-sharing above the citywide cap, whereby the general framework should include review process options that address: identifying the appropriate department and decision maker; application filing fees; public hearing requirements, including neighbor notification parameters; appeal process provisions; and, non-compliance penalties, including appropriate fees and/or registration sanctions;
2. Options for neighbor sign-off as part of the discretionary process to allow qualified hosts to participate in home-sharing above the citywide cap; and,
3. A lower overall cap for home-sharing of 120 days, by which this change would only occur if a discretionary process is included allowing a mechanism to go above the citywide cap.
4. The financial implications (with the CAO) of imposing a pass-through fee to cover administrative and enforcement costs related to home-sharing, and how this would impact the portion of the Transient Occupancy Tax currently proposed to be used for this purpose.

Furthermore the PLUM Committee instructed the DCP to:

5. Include language in the proposed ordinance related to an opt-out provision for property owners to identify their properties as not available for short-term rentals and preclude registration.
6. Prepare, as needed, any amendments to the associated environmental clearance document.

The Department's response to each of the six items is detailed below.

1. General framework and review process that would allow qualified hosts to participate in home-sharing above the citywide cap

The draft ordinance defines home-sharing as the short term rental (less than 30 days) of one's own residence for periods that cannot exceed 180 days per calendar year. A limitation on home-sharing activity was proposed to maintain the predominantly residential component of homes and neighborhoods, to minimize the potential for nuisance activity and to preserve the City's housing supply by reducing the financial incentive to convert viable long-term rental spaces to short-term/transient use.

Based on the PLUM Committee instruction and discussion the Department has developed a general framework that would allow qualified hosts to participate in home-sharing beyond the annual cap. The "extended home-sharing" framework creates a two-tiered system in which hosts are permitted to exceed the cap through an administrative clearance system wherein hosts receive approval after certain conditions are met. If hosts are unable to meet these requirements a discretionary process is available to them that would include a longer processing time and increased application costs.

Administrative Clearance

The initial step in the "extended home sharing" framework for ministerial approvals above the cap involves a neighboring property notification process. Neighbors offer an ability to know first-hand whether a home-sharing operator is creating a nuisance or disruption that requires more in-depth review. The first part of the framework would require that a notice of the subject property's application to exceed the short term rental cap is mailed to owners and occupants within a 100 foot radius of the subject property. A property would be allowed an exception from the cap when a set of conditions are met, which may include:

1. All requirements for home-sharing registration have been met;
2. That there have been no objections received from neighboring owners and occupants within 100 feet of the location (after written notification and 15 days to respond); and
3. That the property is not the subject of an enforcement action the result of any nuisance violation described in LAMC 12.27.1.B during the last three years.

Administratively cleared expanded home sharing registrations will be valid for one year and shall require renewal on an annual basis to remain in effect (compared to renewals every two years for regular home-sharing). Renewal requirements would include a review of nuisance violation records to ensure that no issues have arisen in the previous year. Verified violations of the LAMC or other nuisance related infractions would result in the inability to re-register for extended home-

sharing at the end of the annual period. Hosts would need to wait until the proposed three year "no violation" period expires to re-register.

Filing fees for the administrative clearance process will cost \$1,149 in addition to notification costs. These filing fees will be less than a discretionary-review option which is more staff-intensive. The Administrative Clearance application fee would cover the cost of mailing out the notices, fielding comments from neighbors, and verifying any nuisance violations, and would be consistent with the fees charged for other ministerial, administrative reviews.

Discretionary Review

If an applicant is unable to meet the criteria for an administrative exception, then a discretionary process could be provided to offer additional opportunity for relief beyond the annual cap. This discretionary process is proposed as an Extended Home Sharing Use Permit. The following draft findings could be required to be met as part of staff discretionary review:

- 1) That the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region;
- 2) That the project's operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety; and
- 3) That the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

These findings could be evaluated along with the following home-sharing specific considerations, or could be supplemented with additional findings based on the following:

- 1) There is no substantial evidence of continued nuisance behavior from the location; and
- 2) The impact on street access, parking or circulation in the surrounding neighborhood is limited; and
- 3) The proposed location will not result in an undue concentration of short-term rentals in the immediate area and will not create a cumulative impact to the residential character of the neighborhood
- 4) The home-sharing space is not well-suited as a long-term rental.

The initial decision maker for this process as initially proposed is the Director of Planning, with appeals to the Area Planning Commission. As a result of the discretionary process, the Director may approve the extended home-sharing use in whole or in part, impose conditions, or deny the application. A public hearing would not be required, however, the Director would have the option of holding a public hearing at his/her discretion. Any required public hearing shall include posting at the site, and written notice to property owners and occupants within 100 feet.

The Director may impose conditions of approval related to the interests addressed in the findings above. A copy of the written decision will be sent to the applicant, to all abutting/adjacent owners of properties and to interested parties. Appeals by an applicant or aggrieved person that owns property or resides within the 100 foot radius may be filed and shall be heard by the Area Planning Commission.

Application Filing Fees for this entitlement could be approximately \$5,660, which is based on existing fees for a closely matching entitlement process, a Conditional Use Permit (CUP) of the Zoning Administrator for Other Similar Quasi-Judicial Approvals. This fee is an initial estimate and will be subject to change after direction from Council is received and further analysis is completed.

Discretionary permits will be valid for a two year period. Upon renewal, consistent with the administrative renewal process described above, a review of nuisance violation records would take place to ensure that no verified infractions have arisen during the previous two years. Properties without any violations would be eligible for an expedited renewal. Properties with infractions would not be eligible for renewal until three years from the infraction. Upon renewal, the Director will also verify that no additional nuisance complaints have been received. If there are indications that any conditions of approval or other home-sharing requirements may have been violated, the Director may choose to hold a public hearing to further investigate, similar to a Plan Approval process per LAMC 12.24. M. The Director shall also have the authority to revoke a permit, temporarily suspend a permit, or place further restrictions/conditions on a permit.

Penalties

As part of the extended home-sharing use, enhanced penalties for non-compliance or nuisance behavior would be recommended for consideration. Increased fines can be established for properties operating under an extended home-sharing registration. Also, rather than a “three-strikes” policy for revocation (based on three violations of the ordinance), the standard could be “two-strikes” for extended home-sharing.

Finally, it is important that the registration renewal process account for any nuisance complaints and violations that have accrued during the past registration period. For example, the administrative clearance registration or renewal process would not be available to hosts if there has been a verified nuisance violation. The discretionary process would allow for a process to ensure any conditions of the determination unique to the property are maintained.

Staffing and Resources

In the prior January 11, 2018 report, the Department identified a concern regarding the level of staffing resources needed under a discretionary approach to extended home-sharing. There is the potential for a high number of applicants given the level of activity in the marketplace. While it is not known how many hosts will be eligible after the new regulations are in place, today there are an estimated 6,700 properties in Los Angeles that exceed 180 days of short-term rental a year (and 7,500 properties that exceed 120 days of short term rental a year). Even if many of the current hosts operating beyond the 180 day cap per year are not eligible for home-sharing (due to the primary residence and other requirements), there is a potential for several hundred to several thousand applications for extended home sharing each year. The fees for the registration are expected to cover the costs for staff time.

Based on the potential caseload of several hundred to several thousand applications per year, a new Home-Sharing section within the Department of City Planning would be established. Position authorities would be required for a team of staff to process the requests. Depending on the number of applications, it is estimated that launching this new section may require a staff of up to ten planners, consisting of up to one Principal Planner and one Senior City Planner as senior managers, in addition to two City Planners and four City Planning Associates. Two clerical staff may also be required as necessary.

Additional staff may be necessary to maintain appropriate case processing times for the discretionary cases. In the event of larger numbers of applications, a second module of planners may be required to expand case processing staff by geography. This may need to include up to three City Planners, six City Planning Associates, and two clerical staff, depending on the number and distribution of cases.

Finally, additional space allocation would be required for the Development Services Center, City Hall, and/or Van Nuys in order to accommodate this new section within the Planning Department. Staffing is expected to be primarily funded through filing fees intended to be full cost recovery. These fees are needed in addition to the proposed 10% TOT allocation (or fee option discussed below in #4) that would be used for general administration and enforcement.

2. Options for neighbor sign-off as part of the discretionary process to allow qualified hosts to participate in home-sharing above the citywide cap

A major consideration is the role of public notice and neighbor consent as part of an extended home-sharing use determination. As proposed for consideration, a formal objection from notified neighbors (within 100 feet) would disqualify an applicant from the ministerial (by-right) exception from the annual cap. Applicants could still apply for extended home-sharing through a discretionary process.

The proposed framework for an administrative permit to exceed the cap would require notice be sent to adjacent neighbors. Neighbors could register comments or concern within the notified comment period. Any objections received would require discretionary process outlined above in lieu of an administrative process.

As an alternative, a streamlined process would allow administrative approvals of extended home sharing with neighbor notification only, without a comment period. As these are annual permits, any violations that may occur during the subsequent twelve-months would render a property ineligible for renewal at the conclusion of the initial permit.

Other policy options include modifying the proposed 100-foot notification radius, to either a more expansive or narrower notification radius. On a standard 50 foot wide lot, the 100-foot notification radius would include two properties on each side, as well as the properties across the street. This is designed to capture the neighbors likely to be directly impacted by the activity.

3. A lower overall cap for home-sharing of 120 days, by which this change would only occur if a discretionary process is included allowing a mechanism to go above the citywide cap.

The Department's initial recommendation to the City Planning Commission on August 25, 2016 was to place a 120-day annual cap on home-sharing activity. As discussed in the Department's January 11, 2018 report to the PLUM Committee, a cap of 90 or 120 days would be recommended based on the break-even point of short-term rentals over long-term rentals to ensure long-term rentals remain the priority in housing policy. Establishing caps in these ranges would prioritize long-term renters.

The creation of a mechanism for qualified properties to exceed the cap (extended home-sharing) could be established in conjunction with lowering the currently drafted 180 day cap. Responsible operators would have an opportunity to exceed the cap through a review process that would require performance criteria and neighbor notification.

At the February 6, 2018 meeting, PLUM Committee members also discussed the possibility of a establishing an upper limit to extended home-sharing, above the 120 day cap. A committee member discussed a 120 day standard cap and a 240 day extended cap through an administrative process. Under this scenario, an administrative clearance would authorize up to 240 annual days of home sharing. Such a scenario would meet the needs of the majority (approximately 75%) of current hosts who rented short-term in Los Angeles last year. Any host who sought to exceed the 240 day cap would be required to apply for the discretionary permit. It is important to state that options to increase the days of home sharing may provide financial incentives to favor short-term rentals over long-term use of the City's housing stock.

4. The financial implications of imposing a pass-through fee to cover administrative and enforcement costs related to home-sharing, and how this would impact the portion of the Transient Occupancy Tax (TOT) currently proposed to be used for this purpose.

A fee to offset the costs for administrative and enforcement costs relating to home-sharing was discussed in the prior two Department reports (October 19, 2017 and January 11, 2018). A fee may be enacted to the extent it is reasonably related to the cost of the City services to administer and enforce the registration process. Depending on the intent, the fee could supplement, reduce or completely replace the currently proposed 10% TOT allocation for administration and enforcement. Such a fee could be based on a flat fee per night booked.

While the City does not have precise figures for the entire home-sharing universe, there were approximately 456,000 nights booked on Airbnb alone in 2016. Assuming Airbnb is approximately 60% percent of the home-sharing marketplace and there will be a 46% reduction in taxable activity after adoption of the ordinance (CAO 2017 estimate), plus a 34% increase since 2016 equals an estimated 550,000 nights booked in 2017. Using this information, the following additional revenues for administration and enforcement could be collected based on different fee rates:

- A \$3 per night fee would provide approximately \$1.65 million, and
- A \$4 per night fee would provide approximately \$2.2 million, and
- A \$5 per night fee would provide approximately \$2.75 million.

The proposed ordinance dedicates 10% of all TOT revenue generated from Home Sharing to administration and enforcement of the ordinance. Based on an estimated TOT revenue of \$25 million, this would result in \$2.5 million for administration and enforcement. Therefore, a \$5 per night fee could cover the cost of general administration and enforcement, effectively replacing the need for the TOT allocation.

5. Include language in the proposed ordinance related to an opt-out provision for property owners to identify their properties as not available for short-term rentals and preclude registration.

The current language regarding landlords and homeowners agreement states:

Renters or lessees of units may not engage in Home-Sharing without prior written approval by the Landlord. If a renter or owner is subject to the rules of a lease agreement, homeowner's or condo association, or any other legal contract, allowance to engage in Home-Sharing through this subsection shall not be inferred to grant any permission that invalidates provisions in those documents.

The following language can be added at the end of this paragraph:

Property owners or a qualified condo association may request, in writing, that their properties be prevented from being authorized for Home Sharing. These homes may not be listed unless the City is notified, in writing, by one of those entities, that the property may again be used for this purpose.

6. Prepare, as needed, any amendments to the associated environmental clearance document.

The Department has prepared updated environmental analysis and materials that will be circulated prior to final City Council action.

CONCLUSION

The Department will continue to provide policy details to help inform the City Council's consideration of short-term rental regulations.

If you have any questions, please contact Matthew Glesne of the Department of City Planning at (213) 978-2666 or at matthew.glesne@lacity.org

Sincerely,



VINCENT P. BERTONI, AICP
Director of Planning

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