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The Honorable City Council  
City of Los Angeles  
City Hall, Room 395  
Los Angeles, CA 90012

Sharon.Dickinson@lacity.org

Planning and Land Use  
Management Committee

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Department of City Planning  
200 North Spring Street  
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Re: **Further Response to Notice of Intent to Adopt  
Negative Declaration-NG-16-242-PL**

Case: DIR-2016-1243-CA; ENV-2016-1277-ND  
CF 14-1635-S2

Dear Honorable Members:

The following is submitted for the record in response to the letter, dated May 3, 2017, from the Director of Planning that responded to my letter, dated August 16, 2016.

**Erroneous reliance on limitation of 180 days**

Of the 21 Responses by Planning in the letter of May 3, 2017, 7 rely, in part, on the limitation of 180 days a year, such as the statement: “The City’s proposed ordinance would significantly limit the number of days a residence may be rented as a short-term rental to 180 days a year.”

However, since the ordinance would remove current zoning protections of the public wellbeing, safety, and health of all residential communities, the number 180 is simply an arbitrary number without any study or evidence that 180 days is an appropriate limitation for the purpose of mitigating adverse environmental impacts. In fact, the original draft ordinance by Planning included a limitation of 90 days. See Draft – CPC-2016-1245-CA – 4/15/16. Further, since short-term rentals are currently prohibited, the 180 provision is actually a new permissive right – not a limitation. The proposed Los Angeles Ordinance is based on speculation – not a study of

facts. A full Environmental Impact Report (“EIR”) is necessary to properly analyze available protections against the harm resulting from removal of the current prohibition of short-term rentals in residential communities, and to be able to base any new policies on evidence.

**Erroneous application of a “one size fits all” ordinance to all residential properties.**

The environmental impacts of public safety, noise, traffic, pollution, and use of energy and water would be different in single-family homes as contrasted with multi-family residences, different in hillsides as contrasted with flatlands, different in tourist destinations (Venice, Silver Lake) as contrasted with suburban communities, different in coastal communities as contrasted with inland communities. For example, the Community Impact Statement of the Bel Air-Beverly Crest Neighborhood Council filed in August 2016, presents evidence of the public safety risks of a constant stream of strangers (as contrasted with knowledgeable permanent residents) in hillside areas designated “Very High Fire Hazard Severity Areas” with a high risk of wildland fires, substandard streets, Red Flag streets, and emergency evacuation issues. The CIS states simple common sense when it says: “Short-term guests simply do not have the same experience as residents and consequently pose a significantly increased hazard for the community.” An example of one complaint in the council file relating to 658 N. Edinburgh includes advertising that states “No smoking inside the house (outside is fine)” and “Event or Party has to be approved upon request.” A full EIR is necessary to study the extra burden that short-term rentals places on police and fire response times in Los Angeles. The August 2014 communication in the CF 14-0593 file from the Short-Term Rentals Awareness Coalition states: “There is evidence that in just one street in Venice, at least nine properties have been converted to transient rentals. As the constant revolving door of strangers in and out of the homes on the street grows, long-term residents complain about exacerbated parking problems, the noise from tourists, and trash from visitors with no connection with the community and that loss of sense of community, as they now have few opportunities to get to know their neighbors.” A full EIR is necessary to properly analyze the different environmental impacts presented in different type residential property and different environmental impacts in different areas of the City.

**Erroneous reliance on no new development; ADUs are a game changer**

The Responses by Planning erroneously rely on an unsubstantiated speculation that no new development is expected to occur and the proposed ordinance will affect only the use of existing residential structures in established neighborhoods. The Responses state: “Given the cost of construction in Los Angeles, the limited ability to offer short-term rentals does not make it economically feasible to construct new primary residences to be used as short-term rentals.” However, this argument has no application to the likely incentive to construct accessory dwelling units and detached accessory dwelling units under the newly permissive rules for ADUs. In 2017, the State mandated that people could, by right, add an ADU to any lot with a single-family residence. These units could be up to 1,200 sq ft, or big enough for a 3-bedroom apartment. These ADUs can be built faster and cheaper than typical apartment projects, and their likely

propagation throughout the City constitutes new real estate development for short-term rentals and a change in the physical environment that must be studied in a full EIR. The statement in Planning's response that the 180-day limit on short-term rentals makes it economically infeasible to construct new units strictly to be used as short-term rentals is without foundation and inconsistent with the facts. One analysis of the economics can be made by the City comparing its collected, and projected, tax revenue with the estimated number of units paying taxes. The enormous profitability of short-term rentals facilitated by online platforms is the only rational explanation for the recent growth of the industry – certainly, there has not been a sudden explosion of non-monetary reasons, such as a new desire to share a residence with strangers. The increased number of profitable, but illegal, short-term rentals compared with the much less profitable, but legal, long-term rentals, definitely reflects a new commercial use within residential zones. The proposed short-term rental ordinance will incentivize a significant uptick Citywide in construction activity of ADUs and DADUs to be used for short-term rentals because of their profitability. A full EIR is necessary to analyze the economics of the feasibility and desirability of constructing new accessory dwelling units to be used as short-term rentals, and the impacts from the fact that no additional parking for the second unit is required if the lot is within ½ mile of public transit. The EIR must examine the foreseeable environmental effects of having new accessory dwelling units throughout the City. Such new accessory dwelling units predictably will have traffic, parking, noise, air pollution, and greenhouse gas emission impacts, and make extraordinary demands on the City's infrastructure and services, including fire and police.

**Erroneous failure to acknowledge evidence of environmental impacts**

Anecdotal evidence is allowed to show environmental impacts. The record in the Council File is replete with testimony at public hearings and letters in the file by and from real people describing real facts that constitute direct and indirect environmental impacts experienced from the current illegal short-term rentals, including traffic, noise, public health and safety, aesthetics, air quality, public services, and changes to land use and planning that affect the living environment. In addition to the council file 14-1635-S2, there is evidence in the council file 14-0593, including letters from the short-term renters awareness coalition. The explosion of short-term rentals has not been accompanied by an equal decrease in hotel occupancy; hence there obviously has been more travel to Los Angeles and increased emissions from planes and cars, and traffic.

Evidence of the health and safety regulations of the City applicable to the hotel industry is in the LAMC and State law, and a full EIR is necessary to analyze the risks of a home sharing ordinance that does not have similar guest protections, including the bedding, kitchens, toilets, fire and smoke alarms, and electric and gas utilities. It is common sense that more information is needed regarding the risks of short-term rentals that are not subject to common standards of hygiene nor the public health and safety and fire regulations applicable to hotels.

The City's CEQA analysis states "One way to get a sense of potential effects is to look at the results in a city that adopted similar regulations" and then precedes to focus on Santa Monica.

However, evidence of environmental impacts can be gathered from the studies of cities throughout the country that have banned or severely restricted short-term rentals because of adverse impacts. For example, public safety, noise, and other impacts are detailed in the “Shared Economy Task Force” study by the neighboring city of West Hollywood that led to its ban in 2015. The Findings of the West Hollywood Ordinance 15-958 include: “Short-term vacation rentals for a period of thirty consecutive calendar days or less in the City are a source of increased noise and demand for City services. Short-term vacation rentals compromise the safety of residents by providing access to buildings, including keys and security codes, to transient occupants.” The study for the City Council of Arroyo Grande, dated May 27, 2014, states: “Complaints are typically specific in nature and have included excessive noise, increased street parking demand, and increased neighborhood traffic.” The City of Sedona, Arizona, enacted a total ban and cited the potential for increased traffic, noise, high occupant turnover, and density in single-family residential neighborhoods. The concern of the city of Rancho Mirage, CA, over noise led to a provision that no sound amplification device or musical instruments may be audible outside the property at any time. Santa Monica and the State of New York (for buildings with 3 or more units) prohibit short-term rentals unless the owner is present. A full EIR is necessary to analyze the applicability of the studies made by all the many cities in the country that have banned short-term rentals, including Anaheim, Santa Barbara (in residential zones), and Fresno (in low density residential zones).

See evidence of environmental impacts in “Public health and safety in hotels” on page 22, and “ADA compliance and enforcement” on page 23 of “Airbnb, Rising Rent, and the Housing Crisis in Los Angeles” found at [www.laane.org](http://www.laane.org)

See the investigative report on NBC4 News, March 2, 2017, that found Airbnb rentals with late parties and noise, trash on the street, cars blocking neighbor driveways, and guests throwing cigarette butts into foliage. A similar investigative report with additional evidence of adverse impacts was published on NBC4 News on May 24, 2017.

See log of West LA DOT with complaints (such as on Trolleyway) of short-term rental guests parking on the wrong side of the street, and on the sidewalk forcing pedestrians into the street, and on lawns, because of the excessive number of guests and cars that rent, causing safety hazards and aesthetic issues.

The City erroneously denies that short-term rentals are a new commercial activity in residential zones. For example, the web site, <https://stayardent.com>, lists Los Angeles as a market to which it offers “Our marketing group creates, uploads and manages professional quality online listings in order to optimize exposure across all major reservation websites, including Airbnb, HomeAway and VRBO and more. On average the properties in our portfolio generate over twice as much revenue as a typical rental property. Our top level property managers use industry leading pricing algorithms in order to maximize your rental property revenues and help you achieve superior return on investment.” The land use and environmental impacts of absentee

owners turning all aspects of the rental of entire homes over to property managers for 180 days a year must be studied in a full EIR.

In addition, since the proposed Ordinance has no limit on the number or proximity of short-term rentals, and 18 out of 20 homes on a block could be rented up to 180 days a year, the impacts of traffic, parking, safety, noise, trash, and air pollution, must be viewed as cumulatively significant so as to require a full EIR.

**Erroneous failure to study the applicability of Federal, State, County, and City laws and regulations**

Numerous Federal, State, County, and City Hospitality and Health and Safety laws govern the health and safety and security of guests from various hazards, and the provision of public services to prevent and remedy health and safety issues. Examples of laws, without limitation, include the Federal Americans with Disabilities Act. There are the provisions in Cal. Admin. Code 19, Section 3.09 governing hotels, motels, and lodging houses with respect to matters such as emergency procedures in the event of earthquakes, fires, and other risks, emergency training, requirements for a Fire Safety Director, evacuation of disabled persons, and other such matters. There are the “Healthy Homes Provisions” in Section 17920.3 of the State Housing Law and Regulation thereunder. There are regulations covering everything from swimming pools to carbon monoxide detectors. Airbnb is operating a lodging industry but it is not playing by the same rules. A full EIR is necessary to study the impacts to the health and safety of guests in residences subject to the proposed Ordinance, and the impacts on surrounding residences and communities that rely on police, fire, hospital and other public service protections. Planning asserts that allowing short-term rentals is merely an accessory use, but it should be viewed as in New York City that requires a change in zoning or of the certificate of occupancy. A hotel that wants to operate in a residential zone in Los Angeles must apply for a Conditional Use Permit – the 180 day a year limitation doesn’t change the nature of the use. Could a Four Seasons Hotel that operates for only half the year avoid the CUP requirement? If it looks like a duck, swims like a duck, and quacks like a duck, then . . . .

**Erroneous Reliance on Registration and on Compliance for Mitigation of Environmental Impacts**

An article in the “Canadian Press” on 5/28/2017 described that one year after a law similar to the proposed Ordinance was passed, only 967 hosts had registered and been issued permits out of an estimated 19,400 Airbnb hosts in 2016. Most other jurisdictions have experienced similar low percentages of registration. And even after registration, there is a low probability of compliance – remember, the over 7,000 hosts in Los Angeles are already operating illegally. The proposed Ordinance does not provide either the funds or personnel to monitor and enforce compliance. How would the City determine whether a property owned in the name of an LLC (limited liability company in order to limit liability to renters) or a corporation or trust (which is very common for estate planning purposes) is anyone’s personal residence? How would the City keep track of the number of rental days each year? How would the City assure that the host resides on

the property at least 6 months a year? Many jurisdictions, such as the City of Anaheim and West Hollywood realized that compliance was not likely and imposed a complete ban on short-term rentals. Other cities, such as Fresno and Santa Barbara, realized that mitigation of environmental impacts required a ban in residential zones. The likely effectiveness and ineffectiveness of the proposed limitations in the proposed Ordinance on the short-term rental business must be studied in a full EIR before they may be relied upon to mitigate significant adverse environmental impacts.

Sincerely,

*Raymond Klein*

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