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November 12, 2020

**VIA EMAIL:**

Planning and Land Use Management Committee  
City of Los Angeles  
200 North Spring Street, Room 1010  
Los Angeles, CA 90012  
[clerk.plumcommittee@lacity.org](mailto:clerk.plumcommittee@lacity.org)

**RE: Item 9, PLUM Agenda for 11/12/20; Vacation Rental Ordinance (CF No. 18-1246)**

Dear Honorable Councilmembers:

On behalf of UNITE HERE Local 11 and its members (“Local 11”), this Office respectfully submits the following comments to the City of Los Angeles (“City”) Planning & Land Use Management Committee (“PLUM”) regarding the proposed Vacation Rental Ordinance (“VRO”)<sup>1</sup> that would amend the Los Angeles Municipal Code (“LAMC” or “Code”) to allow home-sharing at 14,740 non-primary homes. The following comments incorporate by this reference all comments raised by all other commenting parties,<sup>2</sup> including but not limited to the two expert comment letters attached hereto.

In short, Local 11 opposes the VRO because the City has failed to adequately analyze, identify, and mitigate housing and noise impacts resulting from the VRO. So too, the City has failed to sufficiently analyze, identify, and mitigate cumulative impacts resulting from the VRO and related City efforts to unduly loosen its Code to legalize home-sharing activities across the City—specifically, the Home-Sharing Ordinance (LAMC § 12.22.A.32 *et seq.*) (“HSO”)<sup>3</sup> allowing home-sharing of approximately 23,151 primary homes and the proposed HSO amendment allowing home-sharing of 4,000 primary homes subject to the City’s Rent Stabilization Ordinance (“RSO”).<sup>4</sup> In each instance, the City has prepared (or plans to prepare) a separate negative declaration finding no impacts because of the relatively small number of properties at issue. By chopping its widespread effort to legalize home-sharing into three smaller actions, the City is distorting the environmental consequences of its effort and circumventing informed decision-making under the California Environmental Quality Act (“CEQA”).<sup>5</sup>

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<sup>1</sup> Department of City Planning (“DCP”) Case Nos. CPC-2019-7045-CA, ENV-2019-7046-ND, ENV-2019-7375-CE, and Council File (“CF”) No. 18-1246.

<sup>2</sup> Inclusive of the entire administrative record for the DCP/CF cases referenced herein.

<sup>3</sup> DCP Case Nos. ENV-2016-1277-ND, CPC-2016-1243-CA, and CF No. 14-1635-S2.

<sup>4</sup> DCP Case Nos. CPC-2020-2762-CA, ENV-2020-2763-ND, and CF No. 18-1245

<sup>5</sup> See e.g., *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283-284; *Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1452-1454; *San Joaquin Raptor/Wildlife Rescue Center v. Cnty. of Stanislaus* (1994) 27 Cal.App.4th 713, 730.



For the sake of brevity, Local 11 wishes to highlight three glaring CEQA issues with the VRO and the City's improper piecemeal review of its widespread legalization of home-sharing:

1. The VRO and HSO fail to consider the effect of the HSO Amendment on RSO units. While the VRO's negative declaration admits that the HSO is a "related project,"<sup>6</sup> it makes no mention of the HSO/RSO amendment and relies explicitly on the prohibition of home-sharing on RSO units as a measure to avoid some impacts.<sup>7</sup> Similarly, the HSO's negative declaration relies on the RSO restriction to avoid finding any impacts.<sup>8</sup> Moreover, contrary to claims of more robust/enhanced enforcement efforts since the passage of the HSO,<sup>9</sup> the City has merely sent letters to property owners informing them that RSO and Ellis Act removed units are "categorically ineligible" to partake in home-sharing<sup>10</sup>—which is on the verge of being upended given the City is now considering allowing RSO units to participate in home-sharing.<sup>11</sup> The VRO's reliance on the RSO prohibition is a fatal flaw to its adoption.
2. As pointed out by land-use expert and former City Planner Michael Tharp (see "Exhibit A" comments attached hereto), the HSO, VRO, and HSO/RSO amendment essentially remove roughly 42,000 units that would otherwise be available to provide long term housing—which is more than the 36,571 shortfall of very low-, low-, and moderate-income units need for the City to meet its Regional Housing Needs Assessment ("RHNA") obligations. Surely, no reasonable person aware of the City's housing crises would call 42,000 units potentially available for long-term housing as merely a drop in the bucket—especially for those desperately seeking affordable housing opportunities.<sup>12</sup> This is a significant land use impact that goes unanalyzed and unmitigated.
3. As pointed out by noise expert Derek Watry (see "Exhibit B" comments attached hereto), the VRO would reasonably cause noise levels ranging 57-72 dBA, which exceeds the 3 dB increase in ambient noise levels in many communities around the City (ranging between 52-64 dBA) and, thus, must be considered a significant noise impact precluding any CEQA exemption. So too, Mr. Watry highlights how the City fails to identify any additional effective enforcement mechanisms to prevent raucous noise resulting from more home-sharing. The VRO simply ignores these real noise impacts and assumes existing illusory mitigation measures will miraculously become effective.

In sum, the City cannot take any further action on home-sharing—including the adoption of the VRO—without first analyzing the cumulative impact of the HSO, VRO, and HSO/RSO amendment holistically in a single CEQA review—as urged by two experts. This review must fully disclose the real impacts on the City's housing stock and increase noise levels suffered by residents,

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<sup>6</sup> VRO Negative Declaration (Jun. 2020) p. 10, [https://clkrep.lacity.org/onlinedocs/2018/18-1246\\_misc\\_000\\_10-27-20.pdf](https://clkrep.lacity.org/onlinedocs/2018/18-1246_misc_000_10-27-20.pdf).

<sup>7</sup> Ibid., at pp. 6, 9, 14, 18, 19, 21-22.

<sup>8</sup> HSO Negative Declaration (8/24/18) pp. 1, 7, 10, <https://planning.lacity.org/pdiscaseinfo/document/MjAwMTUy0/03b6cd7a-61f3-4d27-8bc5-9bb6e20119bc/pdd>.

<sup>9</sup> Supra fnn. 7 & 8.

<sup>10</sup> City (2/19/20) Home-Sharing Enforcement, [https://clkrep.lacity.org/onlinedocs/2014/14-1635-S2\\_rpt\\_PLAN\\_02-20-2020.pdf](https://clkrep.lacity.org/onlinedocs/2014/14-1635-S2_rpt_PLAN_02-20-2020.pdf).

<sup>11</sup> City Presentation on HSO Amendment (Jul. 2020), [https://planning.lacity.org/odocument/aea02b11-3919-41bd-be52-1c69ce7a2edd/HSO\\_RSO\\_Presentation\\_-\\_Staff\\_Public\\_Hearing.pdf](https://planning.lacity.org/odocument/aea02b11-3919-41bd-be52-1c69ce7a2edd/HSO_RSO_Presentation_-_Staff_Public_Hearing.pdf)

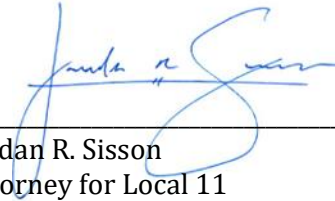
<sup>12</sup> Whether as one of the 23,151 rooms located in a primary residence lost due to the HSO; the 14,740 units in a vacation home lost due to the VRO, or the 4,000 rooms/units located in RSO properties lost due to HSO/RSO amendment.

as well as identify meaningful and enforceable mitigation measures. Local 11 appreciates the opportunity to provide these comments and respectfully urges this honorable body to stay any action on the VRO today.

Finally, Local 11 reserves the right to supplement these comments at future hearings and proceedings for these ordinances and amendments. To the extent not already on the notice list, Local 11 requests all notices of CEQA actions, CEQA determinations, or public hearings to be held on these ordinances/amendments under state or local law requiring local agencies to mail such notices to any person who has filed a written request for them.<sup>13</sup> Please send notice by electronic and regular mail to: Jordan Sisson, 801 S. Grand Ave., 11<sup>th</sup> Floor, Los Angeles, CA 90017 ([jordan@gideonlaw.net](mailto:jordan@gideonlaw.net)).

If you have any issues, please do not hesitate to contact me.

Sincerely,



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Jordan R. Sisson  
Attorney for Local 11

Attachments:

Exhibit A: Expert Land Use Comment Letter dated November 11, 2020  
Exhibit B: Expert Noise Comment Letter dated November 10, 2020

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<sup>13</sup> See Pub. Res. Code §§, 21092.2, 21167(f) and Gov. Code § 65092 and LAMC § 197.01.F.

**EXHIBIT A**

November 11, 2020

VIA EMAIL:

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Re: Home Sharing Ordinance (HSO); Proposed Vacation Rental Ordinance (VRO); Proposed HSO Amendment Affecting Rent-Stabilization Ordinance (RSO).

Dear Honorable Commissioners:

Please see my comments below regarding the potential cumulative housing impacts resulting from the 1) adopted Home Sharing Ordinance (HSO) allowing home-sharing at primary residences, 2) proposed HSO amendment allowing home-sharing of units subject to the Rent-Stabilization Ordinance (RSO), and 3) proposed Vacation Rental Ordinance (VRO) that would allow home-sharing at non-primary residences. In short, these three actions are simply components of the larger effort by the City of Los Angeles (City) to legalize home-sharing in the City. Cumulatively, this will adversely impact the City's housing stock, which will have a disparate impact on individuals and families seeking affordable units.

#### **BRIEF BACKGROUND**

First, the Los Angeles City Council passed what is described as the Home Sharing Ordinance (No. 185931) by a two-thirds majority of all of the members of the Los Angeles City Council on December 11, 2018. It became effective on July 1, 2019.

Reasons stated for the need for this ordinance were, among other things, that short-term rental of residential properties, other than a primary residence, create unfavorable consequences, including negative impacts on the residential character of surrounding neighborhoods and increased nuisance activity; converting long term housing units into short-term rental units will reduce the amount of housing stock available in the City and will contribute to increased rents while decreasing the availability of affordable housing; that there are cases of large numbers of housing units with buildings, or entire buildings that have been effectively converted to short term rentals; and, there is a well-documented, extreme shortage of housing in the City of Los Angeles; and that the measures set forth in Ordinance No. 185931 are necessary to prevent further conversion of long-term housing stock into short-term rentals.

The Ordinance sets up a process to allow short-term rental (stays of less than 30 days) in a "Host's" primary residence. To qualify as a primary residence, the Host must live in that residence for more than 6 months of the year. The length of time a home could be shared by a guest is limited to 120 days in a calendar year, unless a permit to allow "Extended Home-Sharing" is issued. The Ordinance, as currently written, prohibits Home-Sharing of dwelling units that are subject to the Rent Stabilization Ordinance (RSO).

The environmental review of the HSO was conducted via a Negative Declaration (Case No. ENV-2016-1277-ND).<sup>1</sup>

Second, on October 22, 2019, the Planning and Land Use Management Committee of the Los Angeles City Council recommended to the full City Council that it adopt the Committees recommendation to instruct the Department of City Planning, with the assistance of the City Attorney, to develop recommendations for a Citywide Program to regulate home-sharing in primary residences that are subject to the Rent Stabilization Ordinance (RSO); that only owner-occupied units subject to the RSO be allowed to participate in the home-sharing program; and that the Department of City Planning prepare a report with recommendations on any displacement, enforcement and budgetary issues associated with the program.

On October 30, 2019, a motion was presented by Councilmember Monica Rodriguez directing the Department of City Planning to report on the enforcement mechanism that would assure that all units subject to the RSO that participate in the short-term housing program are owner-occupied. At its meeting on October 30, 2019, the City Council adopted the Planning and Land Use Management Committee Report as amended by motion presented by Councilmember Rodriguez.

On November 5, 2019, the City Council voted to amend the Council action of October 30, 2019 regarding a program that would regulate home-sharing in property owner-occupied primary residences subject to the RSO. The City is now moving forward, consistent with the direction given to the City Planning Department, to allow mom and pop landlords to participate in home-sharing as a source of supplemental rental income while seeking to ensure that there is no erosion of the protections provided to tenants living in RSO housing.

The environmental review for the RSO Amendment has yet to be released but it is apparently being reviewed via a Negative Declaration based on the case no suffix (i.e., Case No. ENV-2020-2763-ND).<sup>2</sup>

Third, on December 19, 2019, the City Planning Commission approved and recommended City Council approval of the Vacation Rental Ordinance (VRO), which would allow vacation homes (i.e., non-primary residence) to partake in home-sharing for up to 90 days. So too, the proposed VRO would cap the number of vacation homes partaking in home-sharing to 1% of the citywide housing stock and 1% of the housing stock in each community plan area.<sup>3</sup>

The environmental review of the VRO was conducted via a Negative Declaration (Case No. ENV-2019-7046-ND)<sup>4</sup> and categorical exemption (ENV-2019-7375-CE).<sup>5</sup>

## **POTENTIAL IMPACTS OF THE ADOPTED AND PROPOSED ORDINANCES**

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<sup>1</sup> See Initial Study (7/22/16) [https://clkrep.lacity.org/online/docs/2014/14-1635-S2\\_misc\\_12-07-2016.pdf](https://clkrep.lacity.org/online/docs/2014/14-1635-S2_misc_12-07-2016.pdf); see also Negative Declaration (8/24/18) <https://planning.lacity.org/pdiscaseinfo/document/MjAwMTUyO/03b6cd7a-61f3-4d27-8bc5-9bb6e20119bc/pdd>.

<sup>2</sup> See <https://planning.lacity.org/pdiscaseinfo/search/encoded/MjM3NjE3O>.

<sup>3</sup> See <https://planning.lacity.org/pdiscaseinfo/document/MjM2MDgwO/46e6f77e-051c-4e11-ad6d-6ce8558211cd/pdd>.

<sup>4</sup> See [https://clkrep.lacity.org/online/docs/2018/18-1246\\_misc\\_xxx\\_10-27-20.pdf](https://clkrep.lacity.org/online/docs/2018/18-1246_misc_xxx_10-27-20.pdf).

<sup>5</sup> See Initial Study (7/22/16) [https://clkrep.lacity.org/online/docs/2014/14-1635-S2\\_misc\\_12-07-2016.pdf](https://clkrep.lacity.org/online/docs/2014/14-1635-S2_misc_12-07-2016.pdf); see also Negative Declaration (8/24/18) <https://planning.lacity.org/pdiscaseinfo/document/MjAwMTUyO/03b6cd7a-61f3-4d27-8bc5-9bb6e20119bc/pdd>.

The proposed Ordinances will allow the sharing of a primary residence, with restrictions, which will reduce the number of housing units available for long-term housing for some low- and moderate-income families during a time of critical housing needs for these people. Even a small reduction in the availability of dwellings has a significant impact on people in this income level, limiting their ability to live within the City boundaries and potentially leading to an increase in homelessness in a city that already has one of the largest homeless populations in the country. The impact on these people, even if the number is small, is still significant and should not be dismissed by a finding of “No Impact” as was done for the Negative Declaration.

In looking into the creation of the City’s shared-term housing policy, codified in LAMC Section 12.22A32, insight is gained by examining the creating ordinance (No. 185931), adopted by the City Council December 11, 2018 and effective as of July 1, 2019. The “Whereas” introduction in the Ordinance attempts to provide a rationale and justification for the Ordinance. Each of the following sentences from the Ordinance begins with, “Whereas...”

*“...in recent years, technology and innovation have expanded the use of short-term rentals (stays of 30 consecutive days or less) as a form of temporary lodging to allow visitors to stay in and experience a local community”*

Technology and innovation are generally considered to be a positive influence. Communities may benefit by visitors staying in and experiencing a local community. However, demand and profit have expanded the use of short-term rentals of residential dwelling units, leading to an increase in visitors in the community, but without providing any increase in much needed long term, affordable dwelling units for low and moderate income persons and units available for an ever-increasing number of homeless people.

*“...short-term rentals in property other than a primary residence create unfavorable consequences, including negative impacts on the residential character of surrounding neighborhoods and increased nuisance activity.”*

This is a conclusion not necessarily supported by facts. The primary resident living long term on a property can be a nuisance as well. However, it is clear that short-term rental of residential properties does reduce the amount of housing available, especially long-term housing for low- and moderate-income families. There are regulations and ordinances providing remedies for dealing with nuisances such as noise and late-night parties and laws against vandalism and criminal activities that apply to both long-term and short-term residents. Those laws and regulations should be applied equally to both long-term and short-term residents in order to mitigate any unfavorable impacts on the residential character of surrounding neighborhoods. Instead, the Ordinances set up a complex regulatory system for registering, qualifying, and carrying out the rules and regulations in order to participate in the Home Sharing or Vacation Sharing programs, making those rules and regulations difficult, if not impossible to enforce. Instead, it is likely that enforcement will be carried out unequally, based on the complaints of neighbors who are or imagine themselves to be inconvenienced by Shared-Housing and by others who are resentful due to the limitations and regulations placed on shared housing and therefore denied participation. The City Council should focus its efforts on increasing the housing stock available throughout the City and bring about an end to the shortages of long-term residential units.

*“...the conversion of long-term housing units to short-term rentals reduces housing stock and contributes to increased rents and decreased availability of affordable housing. In some cases,*

*large numbers of housing units within a building, or even entire buildings, have been effectively converted to short-term rentals”*

This ordinance in particular, and City policies in general, fail to deal with the real issue, that there is a critical need for additional housing units for low- and moderate-income housing and housing for the homeless. The loss of (affordable) long-term housing is bemoaned without using the City’s substantial power to facilitate and permit the creation of more units by allowing higher densities and increasing the number of dwelling units available citywide, allowing market forces to control affordability. There are many causes for the reduction of housing stock, increased rents and decreased availability of affordable housing. Conversion of long-term housing units to short-term rentals should be one of the easiest problems to fix.

*“...the extreme shortage of housing in the City of Los Angeles (the City) has been well documented, and measures are needed to prevent further conversion of long-term housing stock into short-term rentals.”*

Few would argue about the fact that there is a shortage of available housing, especially for low- and moderate-income individuals and families and for the homeless. Some of the blame lies on the conversion of long-term housing to short term housing, resulting in the lack of enough residential units to meet the needs of existing residents (many of whom are crammed in crowded homes, apartments, units and even forced to resort to living in their personal vehicles), much less those who would also like to live in Los Angeles.

At the same time, limiting the number of days available for short-term housing increases the impacts on surrounding neighborhoods, limits the availability of long-term housing for a significant portion of the year, and does nothing to increase the number of dwelling units available in the community.

The Home Sharing Ordinance, the Vacation Rental Ordinance, and the motion to allow some rent stabilized units to participate in Home Sharing potentially diminishes the number of long term affordable housing units available to low- and moderate-income families at a time when there is already a critical shortage of such units throughout the City.

*“...this ordinance will protect the City’s affordable housing stock by allowing only an authorized host to share his or her registered primary residence with transient users”*

The ordinance does not create any much-needed new housing stock. It simply limits the amount of time long-term residential uses are available and makes both long-term and short-term housing impractical by allowing short-term residential uses for significant periods of time throughout the year.

*“...this ordinance will protect the City’s affordable housing stock by continuing to prohibit a property owner from converting a housing unit into a short-term rental that is not zoned or authorized for transient use.”*

The City’s affordable housing stock is in need of more than just protection. It is in need of additional affordable housing units. The City’s action to amend the existing HSO to allow inclusion of some Rent Stabilized Units into the program does nothing to increase the number of affordable housing units. What it does do is place an artificial limit on short-term housing, removing more housing units from long-term availability by allowing up to one unit out of four to be excluded from the Rent Stabilization Ordinance, while doing nothing to actually meet the need for affordable housing.

## **DRAFT RSO AMENDMENT TO THE HOME-SHARING ORDINANCE**

The biggest change proposed by the amendment to the Home-Sharing Ordinance is that a Primary Residence that is subject to the rent Stabilization Ordinance may be eligible for Home-Sharing if it is the Primary Residence of the owner of the unit to be used for home sharing and is located on a parcel containing 4 or fewer dwelling Units. It also limits the number of units eligible for Home-Sharing to one per parcel, places a Citywide Cap of the total number of active Home-Sharing registrations in owner-occupied units subject to the Rent Stabilization Ordinance to 4,000.

While the overall number of units affected by this amendment may be a small percentage of the long-term housing supply available in the City of Los Angeles, it still has the potential to remove up to 4,000 dwelling units from the long-term housing supply during a calendar year, without providing for any type of replacement housing for those units lost to short-term rental uses.

## **PROPOSED VACATION RENTAL ORDINANCE**

The City is contemplating adopting a Vacation Rental Ordinance, similar in many ways to the Home Sharing Ordinance. The stated purpose of the Vacation Rental Ordinance is to allow for housing units that do not serve as primary residences, but are used intermittently as vacation homes and are thus not likely to be rented as long-term housing, to be used for short-term rental purposes. The Ordinance is intended to allow Dwelling Units that are owned as secondary residences by property owners, and not rented on a long term basis due to occasional use by the owner, to be utilized during times in which they are not occupied by the owner for short term stays. In addition, the VRO seeks to lessen the impact of Vacation Rental activity by setting limits as to the number and location of Vacation Rental permits in order to protect the availability of long term housing, and to protect residents and communities from the impacts of an over-concentration Vacation Rentals.

While the owner is required to reside in the unit on an occasional or intermittent basis, the unit can only be used for Vacation Rental for a maximum of 90 days in a calendar year. This limits the desirability of participating in the Vacation Rental Program, may lead to having unoccupied dwellings for extended periods of time, which can be a blight on the surrounding neighborhood due to lack of maintenance or danger from unauthorized persons occupying the dwelling. While the alternative may be to have a long-term rental occupant, that could interfere with the Owner's ability to use the property occasionally.

In order to have more than one Vacation Rental unit in a building, there must be at least 21 units in the building. However, in order to reach the allowed maximum of 10 units, one must have a 200 unit or more building. This could still result in removing up to 10 dwelling units for every 200 unit building from the supply of available long-term housing. The proposed ordinance also imposes a cap of 14,470 active Vacation Rental units, creating great difficulties in keeping accurate records which in turn makes it difficult for an Owner to accurately determine when and if the dwelling is eligible to be used for a Vacation Rental at any given time.

Like the HSO, a Negative Declaration (ENV-2019-7046) was prepared for the VRO and shares many of the same assumptions as were set forth in the ND for the HSO. The ND for the VRO asserts that by limiting the number of Vacation Rentals to 1% of the housing available City-wide and to 1% of the housing available in each community plan area, there will be no significant impact on the supply of long-term housing throughout the City. However, it potentially removes 14,470 long term housing units for each year from the City's long-term housing supply. If one is seeking shelter and cannot find it due to

available affordable housing being in short supply, the impact on that person is certainly significant. The ND's for both the HSO and the VRO should be reviewed for the cumulative impacts of both ordinances on the availability of long-term housing availability, and an Environmental Impact Report prepared in order to adequately analyze those potentially significant impacts.

## **PROJECT-PIECEMEALING OF CITY'S LEGALIZATION/EXPANSION OF HOME-SHARING**

As discussed above, the proposed ordinances and amendments were reviewed separately in different Negative Declarations (ND(s)). The HSO ND found that there would be no housing impacts despite potentially legalizing 23,151 unique active listings as of October 2017.<sup>6</sup> While the ND for the HSO Amendment has yet to be released, the City has already signaled a finding of no housing impacts due to the amendment's cap of 4,000 RSO units,<sup>7</sup> which will surely be echoed in the forthcoming ND. The VRO ND found no housing impacts despite allowing up to 14,740 vacation homes to be home-shared.<sup>8</sup> In each instance, the City relies on the relatively small portion of units compared to the citywide stock, but ignores the cumulative effect of each of these City-actions. Collectively, these actions have allowed the removal of nearly 42,000 units that would otherwise be available to provide housing<sup>9</sup>--which exceeds the City's 36,571 shortfall of very low-, low-, and moderate-income units need to reach its Regional Housing Needs Assessment (RHNA) obligations.<sup>10</sup> Given the City's persistent inability to meet its RHNA goals (currently meeting only approximately 22 percent of its goals for very low-, low-, and moderate-income units),<sup>11</sup> it is arbitrary to claim these ordinances do not have a cumulative impact on housing.

## **CONCLUSION**

The Home-Sharing Ordinance, the proposed Amendment to the Home-Sharing Ordinance, and the Vacation Rental Ordinance, all of which allow property owners to enter into short-term (less than 30 days) rental uses of their property, seek to allow, but place limits on, Home-Sharing. The true intent of these ordinances has been to allow some property owners to earn additional income through the short-term rental of properties, including some properties subject to Rent Stabilization. Limits are placed on the length of the stays permitted, the number of days in a calendar year that can be rented, the number of rent-stabilized units that can participate in Home Sharing, the spacing between short-term rental units, as well as the procedures, rules and regulations to be followed to be allowed to participate in short-term Home Sharing and Vacation Rentals.

The myriad of rules, regulations and policies that are proposed by the HSO, VRO and the proposed amendment to the HSO, with limitations on the number of units to be used for short term, vacation and owner-occupied housing subject to the RSO insure that there will be difficulty and confusion in the enforcement of these rules and regulations. All three proposed pieces of legislation should be considered together and an EIR prepared in order to accurately evaluate and analyze the over-all cumulative impacts of the various short-term housing programs on the availability of long-term affordable housing.

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<sup>6</sup> Negative Declaration, supra fn. 1, pp. 2, 25-26.

<sup>7</sup> See [https://planning.lacity.org/odocument/cfb3afb9-860b-4289-9a14-371991cefd42/FAQ\\_HSO\\_Amendment\\_2.pdf](https://planning.lacity.org/odocument/cfb3afb9-860b-4289-9a14-371991cefd42/FAQ_HSO_Amendment_2.pdf).

<sup>8</sup> Supra fn. 4, pp. 16, 51-52.

<sup>9</sup> Whether as one of the 23,151 rooms located in a primary residence lost due to the HSO; 4,000 rooms/units located in RSO properties lost due to HSO amendment; or the 14,740 units in a vacation home lost due to the VRO.

<sup>10</sup> See 2019 Annual Element Progress Report (Jan. 2020) [https://planning.lacity.org/odocument/8204713d-6574-46b6-b41c-6f6311c247f6/LosAngeles2019\\_Summary.pdf](https://planning.lacity.org/odocument/8204713d-6574-46b6-b41c-6f6311c247f6/LosAngeles2019_Summary.pdf).

<sup>11</sup> Ibid.

These Ordinances effectively remove long term housing from the available housing stock, reducing the number of available, affordable housing units at a time when there is a critical shortage of affordable housing. Even the removal of a small number of affordable housing units from the Citywide supply has a significant impact on low- and moderate-income people seeking affordable long-term housing.

The true environmental impact of the Ordinances has not been adequately addressed. Home sharing will result in a potential increase in the number of people living in dwelling units throughout the City, which in turn is likely to increase the amount of traffic in neighborhoods, increase the use of public transportation, create more trash, waste water and solid waste throughout the City, and yet the supposed environmental evaluations of these potential impacts have been determined to have “No Impact,” or “No Significant Impact.” This fails to take into account the possible locations of the shared-housing, the impacts that shared-housing will have on air quality, traffic congestion, and reduction of the number of long-term affordable housing units. It is suggested that the Negative Declarations that were issued for these projects be reconsidered and that the implementation of the Ordinances be delayed until such time as an adequate analysis of their true environmental and cumulative impacts can be made.

Thank you for your consideration and attention to these matters.

Very truly yours,

*Michael Tharp*

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## RESUME

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### PROFESSIONAL EXPERIENCE

Self employed consultant working on urban planning and development issues, including preparation and review of environmental impact reports and statements; represent of clients in matters pertaining to land use planning, subdivisions, parcel maps, land use entitlements, building and safety code issues, conditional use permits, design review boards, and zone variances; project management of movie studio construction projects; member of movie studio master plan development team which obtained entitlements to construct 3,000,000 square feet of studio related development. Successfully assisted client in setting up trading company office in Asia. Development team leader in procuring entitlements for combined 2,000,000 square foot business park and 18 hole professional golf course. Work on development projects in communities throughout Southern California. Successful representation of clients, including developers and certified Neighborhood Councils, before the City Planning Commission and Office of Zoning Administration in the City of Los Angeles. Municipal planning, project management, government relations and land development consulting.

Senior Vice President, Planning, at Engineering Technology Incorporated (ETI). In charge of planning, processing and environmental sections of land planning and civil engineering firm. Represented private developer interests involved with real property transactions, land use, zoning entitlement, subdivisions, parcel maps and land use planning issues before City Planning Commissions, Office of Zoning Administration and other public agencies. Directly responsible for variety of projects ranging from yard variances for single family dwellings to obtaining zoning entitlement for commercial development of multi-million square feet in downtown Los Angeles. Assisted charitable and religious institutions with various land use issues. Work closely with public agencies, including Departments of Building and Safety, Fire, Planning and Transportation in obtaining approvals for developments, ranging from single family one lot developments to multi-million square feet mixed use developments covering hundreds of acres.

Attorney, associated with Gleaves Swearingen Larsen and Potter in Eugene, Oregon. Primary focus on real property, land use and planning law, litigation and business law. Represented clients before municipal agencies including City Council, City Planning Commission, Eugene Renewal Agency and Lane County Board of Commissioners.

Director of Housing and Renewal, City of Eugene, Oregon. Direct supervision of urban renewal section, downtown development section, historic preservation section and public housing section. Worked closely with Federal, State and local officials to revitalize central business district, including project management and fiscal responsibility for construction of community

conference center built in conjunction with privately owned Hilton Hotel and publicly owned performing arts center.

City Planner, City of Los Angeles. Supervised professional staff in coordination and implementation of "bus on freeway" program. Project Coordinator for multi-agency task force reporting to Los Angeles City Council on impact of implementation of California Coastal Act. Assisted in preparation of various community plans, including specific plans, environmental impact reports for community plans, working with City Council appointed Citizen's Advisory Committees and drafting specific plan ordinances.

## EDUCATION

Coro Southern California, City Focus: Nine month experiential educational program dealing with major issues such as health care, economic development, provision of basic services such as water and power, confronting the City of Los Angeles. Prepared special project regarding availability of affordable housing in Westlake Community for City Council office.

Juris Doctorate: Southwestern School of Law. Course work in planning, land use and environmental law. One year clinical program in Los Angeles City Attorney's Office, Civil Division, Land use and Environmental Section.

Masters degree in Public Administration: University of California at Los Angeles. Majored in State and Local Government Affairs. Graduate level course work in urban planning at the School of Architecture and Urban Planning and in business management systems at the Graduate School of Business Administration.

Bachelor of Arts in Political Science: University of California at Los Angeles. Majored in International Relations; minor in Speech and Small Group Communications.

## COMMUNITY ORGANIZATIONS

Past Member, Colorado Boulevard Specific Plan Design Review Board, appointed by Councilmember , CD 14.

Member, Eagle Rock Neighborhood Council Planning and Land Use Committee

Past President, The Eagle Rock Association (TERA); Past Board Member; Past Chair of TERA Preservation, Planning and Development Committee.

**EXHIBIT B**



10 November 2020

Mr. Jordan R. Sisson  
Law Office of Gideon Kracov  
801 S. Grand Ave., 11th Floor  
Los Angeles, CA 90017

Subject: *Vacation Rentals Ordinance Project, Los Angeles, California*  
Review of EIR Noise Analysis

Dear Mr. Sisson:

As requested, we have reviewed the information and noise impact analyses in the following documents:

*Vacation Rentals Ordinance Project, Los Angeles, California*  
*Case No. ENV-2019-7046-ND, Initial Study ["VRO Initial Study"]*  
*June 2020*

*Draft ordinance amending Sections 12.03 and 12.022 of the L.A.M.C. to permit non-primary residences to be used as Vacation Rentals ["DVRO"]*  
*(Undated)*

*Draft Ordinance Amending Section 12.22 of the L.A.M.C. to permit owner-occupied units to be used for home-sharing ["Draft HSO Amendment"]*  
*May 14, 2020*

*Home Sharing Ordinance CPC-2016-1243-CA*  
*Case No. ENV-2016-1277-ND, Initial Study ["HSO Initial Study"]*  
*July 22, 2016*

Wilson, Ihrig & Associates, Acoustical Consultants, has practiced exclusively in the field of acoustics since 1966. During our 54 years of operation, we have prepared hundreds of noise studies for Environmental Impact Reports and Statements. We have one of the largest technical laboratories in the acoustical consulting industry. We also utilize industry-standard acoustical programs such as Environmental Noise Model (ENM), Traffic Noise Model (TNM), SoundPLAN, and CADNA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

## Adverse Effects of Noise<sup>1</sup>

Although the health effects of noise are not taken as seriously in the United States as they are in other countries, they are real and, in many parts of the country, pervasive.

**Noise-Induced Hearing Loss.** If a person is repeatedly exposed to loud noises, he or she may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high levels of industrial noise.

**Speech Interference.** Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result. The problems and irritation that are associated with speech disturbance have become more pronounced during the COVID-19 pandemic because many people find themselves and the people they live with trying to work and learn simultaneously in spaces that were not designed for speech privacy.

**Sleep Disturbance.** Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as increased fatigue, depressed mood, and decreased work performance.

**Cardiovascular and Physiological Effects.** Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

**Impaired Cognitive Performance.** Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes) and it makes reading, paying attention, solving problems, and

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<sup>1</sup> More information on these and other adverse effects of noise may be found in *Guidelines for Community Noise*, eds B Berglund, T Lindvall, and D Schwela, World Health Organization, Geneva, Switzerland, 1999.

memorizing more difficult. This is why there are standards for classrooms background noise levels and why office and libraries are designed to provide quiet work environments. While sheltering-in-place during the COVID-19 pandemic, many people are finding working and learning more difficult because their home environment is not as quiet as their office or school was.

### Comments on VRO Initial Study

The purpose of the proposed ordinance is to permit residential units that are not used as a primary residence to be rented for short periods of time as “vacation rentals”. In other words, to allow residential units in areas that are not zoned to permit hotel usage to be *de facto* rented out as hotel rooms.<sup>2</sup> The residential units that would be eligible to be so rented are “housing units that do not serve as primary residences, but are used intermittently as vacation homes and are thus not likely to be rented as long-term housing”. [DVRO at p. 1] Although this would allow for the City of Los Angeles to effectively increase the number of available hotel rooms and would enable the owners of the vacation homes to earn money from their assets, these benefits would impose negative externalities on the neighbors of these units. One such externality would be the increased level of noise brought to the area by this new economic activity.

*Noise* is most often defined as “unwanted sound”. In the context of residential zones, noise is often associated with parties, large gatherings to watch sporting events on television, and people coming and going at late hours of the night. While it is certainly possible for all of these to occur when a vacation residence is being utilized by the owner, they are each more likely to occur when the residence is occupied by transient renters. Why? Because the owner – even if only occupying the unit periodically – will naturally have a higher level of consideration for his or her neighbors with whom a long-term relationship may be expected. In contrast, transient renters on vacation are much less likely to have this consideration because they may never return to the area after their stay. Anyone who stays at hotels regularly will sooner-or-later experience a hallway that is “taken over” by a group of people who feel free to roam freely amongst their various rooms talking and laughing all the while, often to the wee small hours of the morning. The DVRO Initial Study acknowledges this scenario: “. . . there is the possibility of isolated instances of increases in operational noise levels in homes that are rented as Vacation Rentals simply due to the transient nature of short-term rental guests.” [DVRO Initial Study at p. 50]

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<sup>2</sup> The Los Angeles Department of City Planning Zones that permit hotel usage are: R5, CR, C1, and C1.5. In addition to Zone R5, residential uses are permitted in Zones R2, RD1.5, RD2, RD3, RD4, RD5, RD6, RMP, RW2, R3, RAS3, R4, and RAS4.

Although the DVRO Initial Study acknowledges the possibility of noise disturbances that would result from passage of the ordinance, it dismisses this potential impact on neighbors by asserting that these conditions imposed by the ordinance would make any potential noise impact less than significant:

- i. Prohibiting the use of sound amplifying equipment after 10:00 p.m.
- ii. Prohibiting gatherings of more than eight people after 10:00 p.m.
- iii. Stipulating (redundantly) that the Los Angeles Municipal Code would be enforced.

As someone who has discussed residential noise issues with people for nearly three decades, I can state unequivocally that enforcement of noise limits by police departments is generally low on the list of priorities. Every police department has limited resources, and although a disrupted evening or sleepless night is anxiety-producing for the noise recipient, that loss or harm pales in comparison to property crimes, violent crimes, and other more urgent issues with which the police department must contend. As the DVRO Initial Study acknowledges, “the transient nature of short-term rental guests” means they are likely to disregard these rules, so citing them as mitigating conditions is somewhat moot.

I would now like to present a fair argument why the noise issue should be carefully considered by a full CEQA environmental impact noise analysis by sketching out what an appropriate analysis should consist of and what it should not.

Every CEQA analysis contains these essential elements:

- i. A characterization of the existing, baseline conditions
- ii. The establishment of a threshold of significance
- iii. An estimation of changes that will result from the project
- iv. An assessment of those changes with respect to the baseline conditions and threshold of significance

Through an examination of public records, I have located a number of recent noise studies in neighborhoods throughout Los Angeles. Table I presents average noise levels in the areas around the subject projects measured between 7:00 a.m. and 10:00 p.m.<sup>3</sup>

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<sup>3</sup> In acoustics, the “average” noise level is represented by the *equivalent level*, the steady noise level that contains the same amount of energy as the time-varying noise level over the duration of the measurement. The notation “Leq” denotes the equivalent level.

**Table I Noise Levels in Residential Areas<sup>4</sup>**

Subject Project	Project Address	Date of Measurement	Leq (dBA)
Parkview	4020 Compton	May 2019	52
The Angel Supportive Home	8547 Sepulveda	Feb 2019	52
Public Storage – No. Hollywood	10810 Vanowen	Feb 2019	55
Public – Storage – Playa Vista	12681 W. Jefferson	May 2018	59
Del Rey Pointe	5000 Beethoven	Apr 2017	60
Woodland Hills Hotel	20410 Ventura	2019	62
Burbank De Soto	21051 Warner Center	Jul 2017	62
Keyes Porsche Gen 5	20625 Ventura	Sep 2019	62
7366 South Osage	7366 S. Osage	Oct 2018	63
2255 Sawtelle	2255 Sawtelle	Dec 2018	63
Devonshire Campus	17081 Devonshire	Mar 2019	64

For context, the Los Angeles Municipal Code’s “presumed ambient noise level” in residential zones is 50 dBA during the daytime. [L.A.M.C. § 111.03]. The California Building Code, Title 24, considers a noise environment of 60 dBA CNEL or less to be sufficiently low as to not required any consideration of noise insulation, and the Los Angeles General Plan Noise Element consider a noise environment of 65 dBA CNEL or lower to be “Normally Acceptable” for residential use (depending on the noise level and nature of the residence) and up to 70 dBA CNEL to be “Conditionally Acceptable”.<sup>5</sup> While the ambient noise levels in Table I are average (equivalent) levels for periods ranging from 10 minutes to 1 hour, they are consistent with CNEL levels between 55 and 65 dBA CNEL.

The City of Los Angeles has published *L.A. CEQA Thresholds Guide: Your Resource for Preparing CEQA Analyses in Los Angeles* (2006). In this document, the only metric presented for consideration of operational noise impacts is the CNEL. This is an inappropriate metric for this noise source, and this directive violates CEQA which mandates that noise be assessed against all applicable regulations and the existing environment. The CNEL is ubiquitously used to provide the broad context of the noise

<sup>4</sup> References for cited noise studies are provided at the end of this letter.

<sup>5</sup> The CNEL is a 24-hour equivalent level that is calculated using noise levels that have been weighted (increased) by 5 dB from 7:00 p.m. to 10:00 p.m. and 10 dB from 10:00 p.m. to 7:00 a.m. The weightings reflect the increased sensitivity most people have to noise during the weighted time periods.

environment, and it is well suited to characterizing noise from continuous sources such as freeways. It is less well suited to characterize noise sources that are periodic in nature such as jet aircraft take-offs and landings, but even for that it is reasonable to use this as one metric among many since aircraft operations occur during the majority of a day. In contrast, a party or a sporting even gathering only occurs for a few hours of the days, so “averaging” the noise from either of these over a 24-hour period is non-sensical.

Reasonable thresholds of significance would be based on the existing environment and regulations in the L.A.M.C. noise ordinance. For the former, we return to the levels presented in Table I and note that the L.A. CEQA Threshold Guide considers a 3 dB increase in CNEL to constitute a significant noise impact in areas where the existing noise environment is in the “Normally Acceptable” range (as all in Table I are). Since the equivalent levels throughout the day form the basis for the CNEL calculation, it follows that a 3 dB increase in the equivalent level during a disruptive event should also constitute a significant noise impact. Using the data in Table I, this means an exterior equivalent level in the 55 to 65 dBA range would constitute a significant impact in many neighborhoods.

I reiterate that the noise data in Table I was all collected prior to the 10:00 p.m. curfew imposed by the DVRO so there is no limit on the number of people who could be on the property. Consider the case of a single-family residence being rented for a weekend event, say, a wedding or a big collegiate football game. If there were 20 people present, split equally between men and women, and half of the people were speaking with raised vocal efforts because they are outside, the noise level 20 ft away in the neighbor’s yard would be 57 dBA. As established above, even this modest noise level would constitute a significant noise impact in some of the quieter neighborhoods.

If the gathering were to escalate to something more like a festive party, the number of people speaking loudly would inevitably increase due to the “cocktail party effect”. This phenomenon – familiar to anyone who has ever been at a large gathering or in a bar – is rooted in the both game theory and signal processing. The signal processing element is that someone must speak about 10 dB louder than the background noise level to be understood. The game theory element is that disparate actors in a party or bar situation find it virtually impossible to “agree” to limit their vocal efforts so that everyone is speaking at a level that is exactly 10 dB above the background noise level. Inevitably, someone speaks 11 or 12 dB louder to be better understood. This essentially forces others to increase their vocal efforts accordingly, leading to an upward spiral of the noise level that ends only when people reach the point when they have to yell to be heard (usually at the point of poor speech intelligibility). In this scenario, it is reasonable to assume that of the 20 people, a few would be speaking with a raised vocal effort and most would be speaking with a loud voice. This would result in a sound level of 65 dBA in the neighbor’s yard.

Finally, consider every neighbor’s worst-case scenario: the boisterous party which is a lot like the festive party, except that one male starts shouting. This one person can cause the noise level in the neighbor’s yard to elevate to 72 dBA, well above the level that would constitute a significant noise impact.

**Table II Noise Levels of Outdoor Gatherings**

Speaker Description	Number of Speakers	Level of one speaker	Level of all speakers
<b>Typical Gathering</b>			
Non-speakers	10	--	--
Male, raised vocal effort	5	48	55
Female, raised vocal effort	5	47	54
Combined level			<b>57</b>
<b>Festive Gathering</b>			
Non-speakers	10	--	--
Male, raised vocal effort	2	48	51
Male, loud vocal effort	3	59	63
Female, raised vocal effort	2	47	50
Female, loud vocal effort	3	54	59
Combined level			<b>65</b>
<b>Boisterous Gathering</b>			
Non-speakers	10	--	--
Male, raised vocal effort	1	48	48
Male, loud vocal effort	3	59	63
Male, shouted vocal effort	1	71	71
Female, raised vocal effort	1	47	50
Female, loud vocal effort	3	54	59
Combined level			<b>72</b>

In addition to considering how a project will alter the existing environment, CEQA also requires an analysis of whether project noise would exceed standards established in the local general plan and noise ordinance. I’ve discussed the general plan metric above (CNEL) and explained why that is inappropriate for the noise issue of concern here. Interestingly, the Los Angeles noise ordinance (L.A.M.C., Chapter XI, Noise Regulation) does not contain any quantified decibel limits for exterior noise from residences. It does,

however, have a general prohibition on “any loud, unnecessary, and unusual noises which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivities residing in the area”. [L.A.M.C. § 116.01]. Section 116.01 includes a list of pertinent factors to be considered when making this assessment, most of which support the argument against the Vacation Rental Ordinance and the noise issues it would potentially introduce into non-commercial, residential neighborhoods. This list follows, along with my comments in *italicized* typeface:

- (a) The level of noise;  
*Reasonably foreseeable levels of exterior noise have been presented above and have been shown to exceed the existing ambient noise levels by considerable margin.*
  
- (b) Whether the nature of the noise is usual or unusual;  
*What makes the potential noises at issue here unusual is that the neighbors heretofore had no reason to expect they would be subjected to noise from a temporary rental property in a zone that is not zoned for that purpose.*
  
- (c) Whether the origin of the noise is natural or unnatural;  
*Large, festive gatherings and boisterous parties – while enjoyable for the participants - are decidedly unnatural.*
  
- (d) The level and intensity of the background noise, if any;  
*As has already been established, the background noise levels in many of Los Angeles’ residential neighborhoods is quite low and easily exceeded by the types of activities foreseeable with passage of the Vacation Rental Ordinance.*
  
- (e) The proximity of the noise to residential sleeping facilities;  
*Clearly, since the intent of the VRO is to enable the use of otherwise vacant lodging as transient vacation lodging, this activity is necessarily near sleeping facilities.*
  
- (f) The nature and zoning of the area within which the noise emanates;  
*This is key: When people buy or rent lodging in an area that is zoned for residential use, they do not and should not expect to find themselves subject to noise from a “hotel” room or party house that has suddenly manifested as a result of the VRO.*

(h) The time of the day and night the noise occurs; and

(i) The duration of the noise;

*These two are related. Noise is most likely to occur in the evening and persist into the night. Even after the 10:00 p.m. curfew, there is no guarantee (and, indeed, it is unlikely) that a boisterous party would shutter. The noise ordinance already prohibits this in owner-occupied residences, yet it happens with regularity.*

(j) Whether the noise is recurrent, intermittent, or constant; and

*The noise would potentially be recurrent with each new renter. For many years the house next to mine was a rental, and the turnover rates was fairly high – there would be a new tenant every year or two. Some were fine, some were not. For those that were not, neither the landlord nor the police were quick or decisive in dealing with the issue. Every time the house was re-let, there was an uncomfortable period as I waited to find out how the new occupants would behave. This sort of uncertainty would be introduced to neighbors of VRO units, but they would have to contend with it on a weekly basis.*

(k) Whether the noise is produced by a commercial or noncommercial activity.

*I believe this is also key: Returning to the notion that noise is unwanted sound, people are typically upset by noises that they think inappropriate, e.g., a loud party. However, they are even more upset when the noise is not simply the consequence of an inconsiderate neighbor but, rather, the consequence of a neighbor profiting at the noise-recipient's expense. I have served as an expert consultant and witness in legal actions involving this issue.*

My comments to this point have focused on the DVRO. However, it is apparent that the DVRO is merely a component of the City of Los Angeles' larger effort to liberalize its zoning laws to allow for-profit home-sharing. My understanding is that in late-2018 the city adopted its Home-Sharing Ordinance (HSO)<sup>6</sup> relying on a Negative Declaration (ND)<sup>7</sup> to allow home-sharing at primary residences. Currently, the City is considering an amendment to the HSO (HSO Amendment)<sup>8</sup> relying on a separate ND processed under case

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<sup>6</sup> Ordinance No. 185931, [https://clkrep.lacity.org/onlinedocs/2014/14-1635-S2\\_ORD\\_185931\\_07-01-19.pdf](https://clkrep.lacity.org/onlinedocs/2014/14-1635-S2_ORD_185931_07-01-19.pdf).

<sup>7</sup> Initial Study (7/22/16) [https://clkrep.lacity.org/onlinedocs/2014/14-1635-S2\\_misc\\_12-07-2016.pdf](https://clkrep.lacity.org/onlinedocs/2014/14-1635-S2_misc_12-07-2016.pdf); Negative Declaration (8/24/18) <https://planning.lacity.org/pdiscaseinfo/document/MjAwMTUyO/03b6cd7a-61f3-4d27-8bc5-9bb6e20119bc/pdd>.

<sup>8</sup> Draft Ordinance (5/14/20) [https://planning.lacity.org/odocument/4a5e8dce-f1f0-4d45-a2f3-b62855544973/Draft\\_Ordinance\\_HSO\\_Amendment.pdf](https://planning.lacity.org/odocument/4a5e8dce-f1f0-4d45-a2f3-b62855544973/Draft_Ordinance_HSO_Amendment.pdf).

number ENV-2020-2763-ND<sup>9</sup> that would allow home-sharing at units subject to the City’s Rent Stabilization Ordinance (RSO). Here, the City is proposing the VRO relying on yet another ND to allow home-sharing at vacation homes (discussed above). Although each of these projects concerns itself with a different type of housing stock, each is incrementally allowing greater noise levels in residential areas without considering the cumulative impact of the similar, parallel actions. While the VRO Initial Study admits that the HSO is a “related project” (VRO Initial Study at p. 10), it makes no mention of the HSO Amendment and, in fact, suggest RSO properties will not be affected (*id.* at pp. 6, 9, 14, 18, 19, 21). Conducting three separate NDs for components of a larger program to liberalize home-sharing is blatant project-piecemealing that is prohibited by CEQA. These three components must be analyzed together in a single CEQA review to inform the public and decision-makers of the real noise impact resulting from the City’s liberalization of home-sharing activities.

Lastly, it cannot be stressed enough how ineffective enforcement of existing regulations will be. My understanding is that since the HSO went into effect in July 2019, the City’s enforcement efforts have been limited to sending property owners warning letters that RSO and Ellis Act removed units were “categorically ineligible” to partake in home-sharing.<sup>10</sup> The VRO Initial Study contains no discussion regarding how the City has tackled noise and other nuisance activities since the passage of the HSO, a discussion that would inform the impacts of the subject project. As such, the City’s claim that noise will be adequately mitigated via enhanced “enforcement mechanisms” established per the HSO is unsubstantiated.<sup>11</sup>

In closing, I believe that noise issues that are reasonably foreseeable with the passage of the VRO are legitimate and, for an unlucky few, would be manifest—which the VRO Initial Study fails to adequately assess. While it may very well be the intention of the ordinance that the police and other enforcement mechanisms will quell these issues, they are often not quelled today in permanent residences, and the temporary nature of the VRO tenancy would only exacerbate the likelihood of them in those units. In my opinion, this is a situation where needs and rights of those who would not be willing participants in the activity authorized by the VRO are being subverted for the economic profit of those who do

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<sup>9</sup> The ND prefix designates the project’s CEQA review under a negative declaration. See <https://planning.lacity.org/pdiscaseinfo/search/encoded/MjM3NiE30>.

<sup>10</sup> City (2/19/20) Home-Sharing Enforcement, [https://clkrep.lacity.org/online/docs/2014/14-1635-S2\\_rpt\\_PLAN\\_02-20-2020.pdf](https://clkrep.lacity.org/online/docs/2014/14-1635-S2_rpt_PLAN_02-20-2020.pdf); VRO Initial Study, p. 21 (assuming 40% decline in number of “illegal listings” will automatically correlate to enforcement of noise issues).

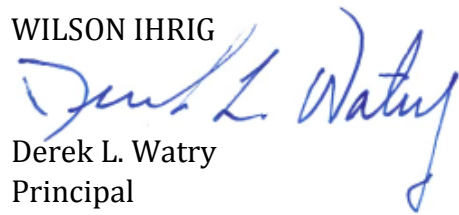
<sup>11</sup> Department of City Planning (10/27/20) Letter of Determination for Case No. CPC-2019-7045-CA, p. B-1, [https://clkrep.lacity.org/online/docs/2018/18-1246\\_rpt\\_CPC\\_10-27-2020.pdf](https://clkrep.lacity.org/online/docs/2018/18-1246_rpt_CPC_10-27-2020.pdf).

take advantage of the ability to rent their otherwise empty lodgings. In terms of noise issues, this is a situation where it would be best to obviate them rather than deal with them as they arise, causing frustration on the part of neighbors and another unwelcome burden on the part of the police. The full impact of liberalizing zoning laws to allow for-profit home-sharing may only be considered through a holistic CEQA review to evaluate the noise impacts and cumulative impacts resulting from the HSO, HSO Amendment, and VRO.

Please contact me if you have any questions about these comments.

Very truly yours,

WILSON IHRIG



Derek L. Watry  
Principal

## Referenced Noise Studies

1. Urban Crossroads, *Parkview Noise Impact Analysis, 4020 Compton Ave., Los Angeles 90011, 8/27/19*  
<https://planning.lacity.org/odocument/2dce9cbc-8d44-458d-86f2-68c660767829/ENV-2019-4650-H.pdf>
2. Envicom Corporation, *The Angel Permanent Supportive House Project, 8547 Sepulveda Blvd., North Hills, CA 91343, 4/2/19*  
<https://planning.lacity.org/odocument/9e79c765-6ca5-4c11-a433-6a5282849101/ENV-2019-3845-H.pdf>
3. Meridian Consultants, *Noise Study for the Public Storage – North Hollywood Replacement Project, 10810 Vanowen St., North Hollywood, CA 91605, 2/27/19*  
<https://planning.lacity.org/odocument/ebf81ed0-bc43-41ba-9fd0-d177a887776a/ENV-2018-6903-E.pdf>
4. Meridian Consultants, *Noise Study for the Public Storage – Playa Vista Project, 12681 W. Jefferson Blvd., Los Angeles, CA 90066, Nov. 2018*  
<https://planning.lacity.org/odocument/22bb8a2a-27d5-4779-81ff-32e933f5fccd/ENV-2018-6891-E.pdf>
5. Impact Sciences, *Del Rey Pointe Project, 5000 Beethoven St., Culver West 90066, 4/11/17*  
<https://planning.lacity.org/odocument/38f1673d-c483-4ce8-abd7-74a22433bf13/ENV-2016-4267-C.pdf>
6. City of Los Angeles, *Woodland Hills Hotel Project IS/MND, 20401 Ventura Boulevard, Woodland Hills 91364, June 2020*  
<https://planning.lacity.org/odocument/485d45cd-ec38-4132-996f-8b737d54445e/ENV-2016-4786.pdf> and <https://planning.lacity.org/odocument/cb5c036b-60ad-4ed6-92e8-3618fc1ca211/ENV-2016-4786-G.pdf>
7. ESA, *Burbank De Soto Project, 21051 Warner Center, Woodland Hills 91367, Dec. 2019*  
<https://planning.lacity.org/odocument/ad31d928-4da7-4f8a-83c1-002b76dae04d/ENV-2017-1706-I.pdf>
8. Envicom Corporation, *Keyes Porsche Woodland Hills Gen 5 Project, 20625 Ventura Blvd., Woodland Hills, CA 91364, 9/16/19*  
<https://planning.lacity.org/odocument/32d59cb0-3448-4eff-85f8-b6452b5ff806/ENV-2019-5436-G.pdf>
9. DKA Planning, *7366 South Osage Avenue Project, 7366 S. Osage Avenue, Westchester, 90045, 10/9/18*  
<https://planning.lacity.org/odocument/d550e2b3-8bb1-476c-a5fd-a042fe453ca5/ENV-2018-4796-E.pdf>

10. Parker Environmental Consultant, *2255 Sawtelle Boulevard Project, 2255 Sawtelle Blvd., Los Angeles, CA 90064, 12/17/18*  
<https://planning.lacity.org/odocument/259f08a6-bb3c-46a0-8e4d-7b6d214deb9c/ENV-2018-7626-G.pdf>
  
11. Eilar Associates, *The Devonshire Campus – Granada Hills Charter School, 17081 Devonshire Street, Northridge, 91325, 3/14/19*  
<https://planning.lacity.org/odocument/7b6d740b-fda7-4f2e-94cd-1a284ead4dd3/ENV-2018-7112-C.pdf>

## **DEREK L. WATRY**

*Principal*

Since joining Wilson Ihrig in 1992, Derek has gained experienced in many areas of practice including environmental, construction, forensic, architectural, and industrial. For all of these, he has conducted extensive field measurements, established acceptability criteria, and calculated future noise and vibration levels. In the many of these areas, he has prepared CEQA and NEPA noise technical studies and EIR/EIS sections. Derek has a thorough understanding of the technical, public relations, and political aspects of environmental noise and vibration compliance work. He has helped resolve complex community noise issues, and he has also served as an expert witness in numerous legal matters.

### **Education**

- M.S. Mechanical Engineering, University of California, Berkeley
- B.S. Mechanical Engineering, University of California, San Diego
- M.B.A. Saint Mary's College of California

### **Project Experience**

#### ***12<sup>th</sup> Street Reconstruction, Oakland, CA***

Responsible for construction noise control plan from pile driving after City received complaints from nearby neighbors. Attendance required at community meetings.

#### ***525 Golden Gate Avenue Demolition, San Francisco, CA***

Noise and vibration monitoring and consultation during demolition of a multi-story office building next to Federal, State, and Municipal Court buildings for the SFDPW.

#### ***911 Emergency Communications Center, San Francisco, CA***

Technical assistance on issues relating to the demolition and construction work including vibration monitoring, developing specification and reviewing/recommending appropriate methods and equipment for demolition of Old Emergency Center for the SFDPW.

#### ***Central Contra Costa Sanitary District, Grayson Creek Sewer, Pleasant Hill, CA***

Evaluation of vibration levels due to construction of new sewer line in hard soil.

#### ***City of Atascadero, Review of Walmart EIR Noise Analysis, Atascadero, CA***

Review and Critique of EIR Noise Analysis for the Del Rio Road Commercial Area Specific Plan.

#### ***City of Fremont, Ongoing Environmental Services On-Call Contract, Fremont, CA***

Work tasks primarily focus on noise insulation and vibration control design compliance for new residential projects and peer review other consultant's projects.

#### ***City of Fremont, Patterson Ranch EIR, Fremont, CA***

Conducted noise and vibration portion of the EIR.

#### ***City of King City, Silva Ranch Annexation EIR, King City, CA***

Conducted the noise portion of the EIR and assessed the suitability of the project areas for the intended development. Work included a reconnaissance of existing noise sources and receptors in and around the project areas, and long-term noise measurements at key locations.

***Conoco Phillips Community Study and Expert Witness, Rodeo, CA***

Investigated low frequency noise from exhaust stacks and provided expert witness services representing Conoco Phillips. Evaluated effectiveness of noise controls implemented by the refinery.

***Golden Gate Park Concourse Underground Garage, San Francisco, CA***

Noise and vibration testing during underground garage construction to monitor for residences and an old sandstone statue during pile driving for the City of San Francisco.

***Laguna Honda Hospital, Clarendon Hall Demolition, San Francisco, CA***

Project manager for performed vibration monitoring during demolition of an older wing of the Laguna Honda Hospital.

***Loch Lomond Marina EIR, San Rafael, CA***

Examined traffic noise impacts on existing residences for the City of San Rafael. Provided the project with acoustical analyses and reports to satisfy the requirements of Title 24.

***Mare Island Dredge and Material Disposal, Vallejo, CA***

EIR/EIS analysis of noise from planned dredged material off-loading operations for the City of Vallejo.

***Napa Creek Vibration Monitoring Review, CA***

Initially brought in to peer review construction vibration services provided by another firm, but eventually was tapped for its expertise to develop a vibration monitoring plan for construction activities near historic buildings and long-term construction vibration monitoring.

***San Francisco DPW, Environmental Services On-Call, CA***

Noise and vibration monitoring for such tasks as: Northshore Main Improvement project, and design noise mitigation for SOMA West Skate Park.

***San Francisco PUC, Islais Creek Clean Water Program, San Francisco, CA***

Community noise and vibration monitoring during construction, including several stages of pile driving. Coordination of noise and ground vibration measurements during pile driving and other construction activity to determine compliance with noise ordinance. Coordination with Department of Public Works to provide a vibration seminar for inspectors and interaction with Construction Management team and nearby businesses to resolve noise and vibration issues.

***San Francisco PUC, Richmond Transport Tunnel Clean Water Program, San Francisco, CA***

Environmental compliance monitoring of vibration during soft tunnel mining and boring, cut-and-cover trenching for sewer lines, hard rock tunnel blasting and site remediation. Work involved long-term monitoring of general construction activity, special investigations of groundborne vibration from pumps and bus generated ground vibration, and interaction with the public (homeowners).

***Santa Clara VTA, Capitol Expressway Light Rail (CELR) Bus Rapid Transit (BRT) Update EIS, CA***

Reviewed previous BRT analysis and provide memo to support EIS.

***Shell Oil Refinery, Martinez, CA***

Identified source of community noise complaints from tonal noise due to refinery equipment and operations. Developed noise control recommendations. Conducted round-the-clock noise measurements at nearby residence and near to the property line of the refinery and correlated results. Conducted an exhaustive noise survey of the noisier pieces of equipment throughout the refinery to identify and characterize the dominant noise sources that were located anywhere from a quarter to three-quarters of a mile away. Provided a list of actions to mitigate noise from the noisiest pieces of refinery equipment. Assisted the refinery in the selection of long-term noise monitoring equipment to be situated on the refinery grounds so that a record of the current noise environment will be documented, and future noise complaints can be addressed more efficiently.

***Tyco Electronics Corporation, Annual Noise Compliance Study, Menlo Park, CA***

Conducted annual noise compliance monitoring. Provided letter critiquing the regulatory requirements and recommending improvements.

***University of California, San Francisco Mission Bay Campus Vibration Study, CA***

Conducted measurements and analysis of ground vibration across site due to heavy traffic on Third Street. Analysis included assessment of pavement surface condition and propensity of local soil structure.