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REPORT NO. R 21 - 0055
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REPORT RE:

**LEGAL PROCESS FOR THE CITY TO COMMANDEER HOTEL AND MOTEL
ROOMS FOR USE AS HOMELESS HOUSING DURING THE COVID-19 PANDEMIC**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 21-0113

Honorable Members:

This report responds to the motion introduced by Councilmembers Bonin and Raman requesting information on how the City may commandeer hotel and motel rooms for use as homeless housing during the pandemic. As discussed below, the Mayor's emergency powers grant him the authority to commandeer private property for public use when needed for the protection of life, and to bind the City to pay fair market value to compensate the property owner.

During a local emergency, Los Angeles Administrative Code (LAAC) Section 8.29 designates the Mayor as the Director of the Emergency Operations Organization. As the Director, LAAC Section 8.30 authorizes the Mayor to commandeer private property as is needed for the protection of life and property of the people. The law allows the Mayor to bind the City for the fair market value, which can be paid after the City has taken possession.

Courts have held that the proper compensation for a temporary taking is the rental value for the period of time of the taking. Lost profits or intangibles such as goodwill are generally not recoverable. Given the reduced demand for hotel and motel rooms, the current rental value of the rooms is likely below historic market rates.

The courts have held that compensation need not be paid in advance of commandeering property. If the owner of the hotel or motel demands compensation the City believes is unreasonable, the City would afford the property owner a post-commandeering administrative hearing with an impartial hearing officer to determine the appropriate amount of compensation.

Because of the need to act quickly during the pandemic, such an administrative hearing process would likely satisfy the constitutional requirements. We recommend that the City inform, in writing, a hotel or motel owner of the City's need to commandeer a specific number of rooms. The letter should explain to the owner that if the City and owner cannot agree to an amount of compensation, the City will proceed to take possession of the rooms and afford the owner a hearing to determine the amount of compensation on a later date.

If you have any questions regarding this matter, please contact Deputy City Attorney PJ Shemtoob at (213) 978-8120.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:PJS:pj