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November 20, 2023

CF # 22-0822-S2

The Honorable City Council
City of Los Angeles, Room 395
c/o City Clerk's Office
Los Angeles, CA 90012

RE: COMMISSION INVESTIGATION DIVISION'S RESPONSE TO CITY COUNCIL FILE 22-0822-S2 (RESPONSIBLE HOTEL ORDINANCE) PERMIT REQUIREMENT PROPOSAL.

Dear Honorable Members:

Commission Investigation Division (CID) is the regulatory arm of the Board of Police Commissioners (Board). CID is responsible for processing, investigating, issuing, and enforcing 64 different Board permits. The police permitting process is intended to verify legal and regulatory compliance as well as ensure public safety and security.

As the City of Los Angeles emerges from the COVID-19 pandemic and commercial businesses recover, it is anticipated that CID will oversee as many as 5,000 permits within the 2023 calendar year. The permitting process is intended to investigate items including (but not limited to): a proprietor's criminal history; ownership interests and legal standing; business and tax compliance; adherence to regulations imposed by fire, land use, building and safety, street services, alcohol and beverage control, transportation, and other general public safety concerns, etc.

On November 7, 2023, during a regular meeting of the Los Angeles City Council, CID was asked to examine the existing Responsible Hotel Ordinance and develop an impact assessment of the ordinance on current permit requirements. This assessment includes concerns with the presented ordinance, implementation strategies, a look at the personnel and economic impact, as well as anticipated costs of a police permit.

BACKGROUND

In 2022, the *Unite Here Local 11* labor union formulated a citizen-led ballot initiative titled “Land Use and Replacement Housing Requirements for Hotel Developers; Program to Utilize Vacant Hotel Rooms for Unhoused Individuals, Police Permit Requirement for Hotels.” This initiative qualified for placement on the March 5, 2024 municipal election ballot.

The “Los Angeles Responsible Hotel Ordinance” is a compromise agreement that would allow hotels to voluntarily provide shelter for unhoused individuals within their vacant rooms in accordance with a City contract that reflects a fair market rate. In exchange for passing the ordinance, the initiative would be removed from the ballot.

As currently presented, the ordinance would require all businesses engaged in the short-term rental of lodging facilities to obtain an annual Board permit within six months of the effective date of the ordinance. CID would gather specified details regarding the business, ownership, and employed subcontractors. The existing public safety and welfare component includes addressing public nuisances, prostitution, human trafficking, narcotic sales, loud and unruly gatherings, etc. Failure to comply with the terms of the permit would result in the permit being rescinded, suspended, or revoked. It would be anticipated that upon revocation of a permit, the business would no longer be permitted to publicly rent rooms for short-term lodging.

PERMITTING CONCERNS:

Neither the Board nor CID were consulted during the authoring of this ordinance for the purpose of reviewing police permitting best practices or to discuss the impact of such a proposal. During a review of the permitting requirements of the ordinance, the following regulatory and operational concerns were identified. Suggestions were provided for each concern which would assist in the implementation, issuance, or enforcement of such a permit.

Issue: Effective Date of the Ordinance

Although it is unclear what the anticipated effective date of the ordinance will be, it should be noted that implementation of a police permit requirement within the ordinance is a significant undertaking for the Los Angeles Police Department (Department), Board and CID.

Concern:

CID is not currently positioned to accept a significant influx of permits (estimated to be more than 9,000). The effective date of the ordinance should allow sufficient time for CID to implement a Hotel and Short-Term Rental Section and launch an online portal for the acceptance of permit applications. It is recommended that CID be provided at least four months for staffing and build-out prior to the effective date of the ordinance (prior to implementation of the six-month compliance window).

Issue: Permit classifications

A high-occupancy, commercialized hotel is a significantly different business model than a short-term studio apartment rental, and consequently should be treated differently under permit classifications. The ordinance does not clearly differentiate the breakdown of these different types of businesses.

Suggestion:

It is recommended that (3) separate permits are considered to reflect the variables within the short-term rental industry. Suggested permits include the following:

High Occupancy Lodging Permit	Hotels with 80 or more guest rooms intended for short-term lodging.
Medium Occupancy Lodging Permit	Commercial hotels or motels with between 6 – 79 guest rooms for short-term lodging or any single business capable of providing short-term lodging for 18 or more persons.
Low Occupancy Lodging Permit	Any residential or commercial structure intended for lodging, when at maximum occupancy, is capable of providing short-term lodging for fewer than 18 persons.

PERMIT APPLICATIONS:

Issue: “Automatic Approval”

It has been suggested that upon receipt of a completed application, CID would automatically issue the applicant a permit unless opposed by specified groups such as the Department, Mayor, or a City Council Office. In such cases, a hearing would be required. Applications would not undergo the normal investigative scrutiny of all other police permits and would effectively eliminate the public safety and regulatory compliance aspects of the police permitting process.

Suggestion:

To achieve a nearly “automated” approval process among low occupancy lodging permits, it is recommended that the City Council, in conjunction with the City Attorney create a “Class B” permit. Low occupancy lodging would represent most permittees. The creation of a separate class of permits would ensure that the current regulatory permitting process is not eroded (and consequently legally challenged) while achieving the recommended rapid approval as suggested within this ordinance. Instead, CID would initiate a “red flag warning system” in which Department databases and a public complaint portal could be queried by CID investigators to identify low occupancy businesses that are either a public nuisance or pose a public safety risk. The upper percentile of those businesses would undergo additional scrutiny, regulation, and if appropriate, the implementation of operating conditions.

Under the “Red flag warning system,” CID would develop criteria in consideration of their available enforcement resources to determine the most serious offenders. Offenders would initially be subjected to a progressive enforcement system to achieve compliance. Failure to achieve compliance from such offenders would result in a recommendation that the business’ permit be denied (upon application), suspended, rescinded, or revoked if active.

Upon creation of a “class B” permitting system, the Board could re-examine their existing 64 permits for reclassification of other permits that do not require rigorous compliance, regulation, and oversight.

Issue: Online permitting

It is suggested that the entire application be completed online. Currently the platform for online permitting does not exist within the Department.

Suggestion:

CID does not currently have the capacity to accept an online, cloud-based application. This ordinance would encourage the Department to develop the required online, cloud-based application to address customer satisfaction concerns and streamline the permitting process. This would present the challenge of quickly developing and rolling out an online platform for permitting applications. Upon development of an online platform, CID could eventually migrate other permits to this platform.

PERMIT OVERSIGHT:

Issue: Inspections

Police permits generally require an inspection of a premise to ensure it complies with existing rules and regulations as established by the Board. Inspections are an essential part of the regulatory process but add significant time and motion within the cost recovery calculation of a permitting fee.

Suggestion:

All hotels (as defined above within the parameters of high and medium occupancy) should be inspected. Due to the significant expenditure of resources for an inspection, it is recommended that absent a “red flag warning” business owners for low occupancy lodging only provide photographs of the concerned property within parameters established by the Board.

Issue: Subcontractor and Sublease disclosure

The ordinance currently requires that all subcontractors and subleases are disclosed and identified to CID to remain compliant with their permit. Presumably, such disclosure and identification would result in efforts by CID to ensure that such subcontractors and subleases are legally compliant.

Suggestion:

This creates a significant burden on most businesses that are operating legally and legitimately. It would also create a significant strain on CID resources to track, monitor, and process all instances of subcontractor or sublease changes, additions, or deletions as well as determine which contractors or leases are compliant with labor or legal regulations. Meanwhile, the very few businesses that are engaged in unscrupulous business practices or illegal activity would merely ignore this permitting requirement. Instead, it is recommended that medium and high occupancy permittees be required to upload a list of contractors and subleases on a bi-annual basis to an established online permitting platform. The uploaded list would only be reviewed by CID personnel during routine audits or inspections, or upon permit compliance or criminal investigation of the concerned business.

Issue: Public records request availability and public listing

The ordinance requires that application information be made available upon a public records request and also requires CID to generate a public list of permittees.

Suggestion:

The requirement that CID produce both a publicly available list and the requirement that CID also produce the completed application during a public records request is overly burdensome on available resources. It is suggested that the publicly available list, as proposed within section 103.403(e), contain all essential items deemed worthy of public disclosure. All public records requests would be referred to the publicly available list.

DENIALS AND APPEALS:

Issue: Grounds for application denial

Applications may be denied for cause if applicants fail to achieve the standards set forth within section 103.404. This section establishes concerns with both labor and legal violations and supports a good cause denial of an application. However, the time and motion required to fulfill such oversight is labor-intensive and will significantly drive a high cost for permitting fees, delays in processing of applications, and require additional Department resources.

Suggestion:

These requirements should remain in effect for both medium and high occupancy lodging permits. However, it is recommended that this requirement not apply to low occupancy lodging permits, unless CID is aware of a “red flag warning” through a public complaint or known police action.

Issue: Appeal rights to City Council

Any party may file an appeal to City Council in the event a permit is either issued or denied during a hearing.

Suggestion:

This has the potential to be overly laborious for the City Council and may result in either the intended or unintended disruption of other city business. It is recommended that the findings of the Police Permit Review Panel be considered binding and final. The only remaining recourse for an applicant or petitioner shall be through court proceedings.

STAFFING:

On November 4, 2023, the Department’s Personnel Division reported current staffing levels of sworn officers at 8,970, which is 323 officers below the current authorized strength of 9,293 sworn officers. Similarly, civilian staff was 2,610, which was 288 fewer than the budgeted authority of 2,898. There is a concerning shortage of both sworn and civilian personnel that would be required to fulfill the mission presented by the Responsible Hotel Ordinance.

It should be noted that the implementation of the ordinance would require the development of a Hotel and Short-Term Rental section within CID. Upon achieving anticipated high compliance

levels within the hotel permitting process, the workload of CID would nearly triple from under 5,000 permits to potentially more than 14,000 permits. Despite the above proposals to streamline work, current staffing is insufficient to handle this additional burden.

The new section would be intended to operate with full cost recovery obtained from permitting fees, however, it cannot be understated that the staffing for such a section would further drain the personnel resources of the Department.

The following civilian staff is recommended for supervision, permit application review and processing, administrative investigation and compliance, and issuance of permits: (1) Senior Management Analyst I (supervisor), (3) Management Analysts, and (2) Senior Administrative Clerks.

It is recommended that the executive branch of the Police Commission be provided with administrative staff to support the implementation and continued success of the Hotel and Short-Term Rental Section within CID. This employee would be responsible for hiring and human resource management: (1) Senior Personnel Analyst I.

Finally, it is recommended that the following sworn positions are developed for the purpose of investigation and enforcement of the ordinance: (1) Sergeant I (supervisor) and (4) Police Officer II's (each responsible for a geographic bureau within the City).

BUDGET:

The following chart represents the estimated costs of implementing a Hotel and Short-Term Rental Section within CID.

Expenses	Initial Costs	On-going annual
Personnel	\$1,554,597	\$1,554,597
Personnel (7 Civilian)	\$744,893	
Personnel (5 Sworn)	\$809,704	
Database Implementation ¹	\$1,932,946	
On-going support and maintenance		\$834,291
Supplies and Equipment	TBD	TBD
Facilities and additional overhead costs	TBD	TBD
(2) vehicles ²		

It should be noted that all positions within the section would be hired from among either the Department's existing workforce (sworn and civilian) or within the City's greater workforce (civilian) to fill all vacancies. These positions would have the potential impact of pulling services away from other critical needs throughout the city such as patrol operations.

¹ Numbers do not represent an actual quote for services but is instead a representation of an estimate based upon a comparative analysis of a neighboring police agency.

² Since most of the personnel within the new section would be reassigned from other positions within the Department, it is anticipated that existing vehicles would be re-allocated to CID by Motor Transport Division.

PERMIT COSTS:

It was requested that CID examine the anticipated costs of a hotel permit. The below costs were estimated based upon the above suggestions as it pertains to the processing, investigation, and enforcement of three separate permits. The actual fee to determine full cost recovery would require a time and motion study at the time a Hotel and Short-Term Rental Section is established and once the complete expenditures (as outlined above in the estimated budget) are realized.

Permit Type	Initial Permit Fee	Annual Renewal Fee
High Occupancy Lodging	\$1,000	\$600
Medium Occupancy Lodging	\$800	\$400
Low Occupancy Lodging	\$260	\$200

The ordinance may consider allocation of funds so that larger hotels bear the higher cost of supporting cost recovery for the Department. Additionally, it may be considered that certain financial permitting incentives (such as a reduced permit rate) exist for businesses that participate in the voluntary sheltering of unhoused individuals.

Should you have any questions regarding this analysis and response, please contact Lieutenant Scott R. Moffitt, Commanding Officer, Commission Investigation Division at (213) 996-1231.

Very truly yours,



RICHARD M. TEFANK, Executive Director
Board of Police Commissioners