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February 6, 2024

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: RESPONSE OF COMMISSION INVESTIGATION DIVISION TO CITY COUNCIL  
ORDINANCE NO. 188072 (RESPONSIBLE HOTEL ORDINANCE) POLICE PERMIT  
REQUIREMENT.**

Dear Honorable Members:

On November 28, 2023, the Honorable City Council passed the Responsible Hotel Ordinance (RHO) and requested a report back within 45 days from the Chief Legislative Analyst, Los Angeles Housing Department (Housing), and Department of City Planning (Planning) regarding potential alternatives to a police permit for Short-Term Rentals (STR). To date, there have been no reports received from these entities. The anticipated effective date of the RHO is July 1, 2024.

Commission Investigation Division (CID) is the regulatory arm of the Honorable Board of Police Commissioners (Board). CID is responsible for the processing, investigation, issuance, and enforcement of more than 60 different police permits. CID would be tasked with implementing and enforcing the permit requirements found within the RHO. Preliminary research conducted by CID has identified that such a task would strain resources significantly, have limited effectiveness, be costly to the City of Los Angeles ("City"), and largely duplicate current tasks performed by Planning. It is the recommendation of CID, that the council respectfully consider an alternate proposal.

## **Background**

On July 1, 2019, following an extensive four-year process, the City Council implemented the Home Sharing Ordinance (HSO) (Ordinance No. 185931). The ordinance aimed to preserve existing housing (particularly affordable housing) through regulation, protect the hotel industry, and provide residents with the ability to earn additional income through home-sharing.

A study conducted by McGill University researchers suggested that the HSO has failed to achieve any of these identified benchmarks. The study demonstrated that rents in the City have increased an average of \$810 annually, approximately half of all STRs remain unregulated or non-compliant, the hotel industry has lost approximately 400 jobs and reduced wages, and the primary benefactor of STRs is a small number of commercial operators (the top 10% of hosts earn 53.8% of the market share).

The research suggested that the core issue was not the enactment of the HSO, but rather a clear lack of enforcement and regulation. Consequently, we recommend that the RHO not replicate this four-year-old initiative but instead complement it.

Note: CID has discussed the McGill research study with Planning, who refuted the veracity of the report. Planning recommends an independent analysis and verification of the methodology and data provided. A formal response to the study has not yet been provided by Planning as instructed within Council File No. 22-1506 (Council Instruction: February 7, 2023).

## **Short-Term Rental Overview**

In November 2019, Planning estimated there were approximately 36,600 STRs within the City. By June of 2023, this number had decreased to approximately 9,500 STRs. The precipitous drop was merely attributed to the enactment of the HSO and the COVID-19 pandemic. As of January 19, 2024, Planning reported 4,022 “active” STR listings within their system and the total number of “monitored” STRs was 9,419.<sup>1</sup>

During a 12-month assessment from November 2020 to October 2021, “Better Neighbors Los Angeles” (BNLA) conducted an assessment of “AirBNB” listings within the City. Their findings revealed that only 31.4% of listings appeared to be compliant, 18.9% were non-compliant, and approximately half (49.7%) were considered “suspect.” Of note, the data within BNLA’s assessment assumed that all listings complied with the HSO’s “primary residence” rule, and any violation of this rule would further diminish estimated compliance.

Note: Planning also challenges the veracity regarding the findings of BNLA.

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<sup>1</sup> The figure (9,419) represents both compliant and non-compliant known listings and therefore represents the minimum number of STRs that would require a police permit or directed enforcement efforts to gain compliance toward simply registration.

Despite Planning's use of an "Application Programming Interface" with automated web crawler technology that actively searches for rogue STR listings, BNLA estimated that compliance with the HSO was only 48%. Similarly, McGill University researchers estimated that between 45-50.9% of STR listings were illegal, emphasizing a growing tendency among hosts to circumvent the HSO due to insufficient regulatory enforcement. Even by Planning's estimation (comparing active versus monitored listings) only 42.7% of STRs are "registration" compliant. The data suggests that merely complying with the registration component of the HSO has proved difficult.

### **Costs and Revenue**

Planning charges an initial application or renewal fee of \$192 for standard HSO applications. Meanwhile, extended home-sharing applications incur a fee of \$1,030. If an applicant requires a "discretionary" review of an extended home-sharing application, the cost rises sharply to \$5,726. These fees and costs are intended to recover the administrative services rendered during the appeal process.

McGill University researchers estimated that STR hosts earned \$254.7 million in revenue between May 2021 and April 2022. Simultaneously, STRs contributed approximately \$2.2 million in per-night fees and \$33.9 million in Transient Occupancy Tax (TOT) revenue to the City's budget.

Revenue reported by Planning for the Fiscal Year 2021-2022 was comparable to the numbers reported by the McGill University study at \$2.3 million in per-night fees and \$33.9 million in TOT. Additionally, Planning reported revenue of \$1.6 million in registration fees.

Planning utilizes "Host Compliance" software provided by Granicus at a triennial cost of \$2.16 million. Granicus is an internet and mobile-based online registration portal designed for the collection of application fees. Host Compliance software streamlines several administrative tasks including registration, renewal, automated fee and tax collection (in some instances), complaint intake, and host platform compliance.

### **Identified Staffing and Workload Concerns**

Since the HSO was introduced (Over four years ago), Planning has processed almost 30,000 applications and responded to nearly 40,000 email inquiries. Most of Planning's staff hours are spent conducting "ministerial" approvals of applications, data gathering, and reporting.<sup>2</sup>

Currently, despite a budget allocation for 24 administrative staff positions (planning series, management series, and clerical series staff) the HSO program at Planning is managed by 17 employees. The administrative workload handled by these professionals is substantial.

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<sup>2</sup> A ministerial review is the mere acceptance of an application and a basic review to ensure all items requested have been provided. The application does not undergo any additional scrutiny regarding verification of the information provided.

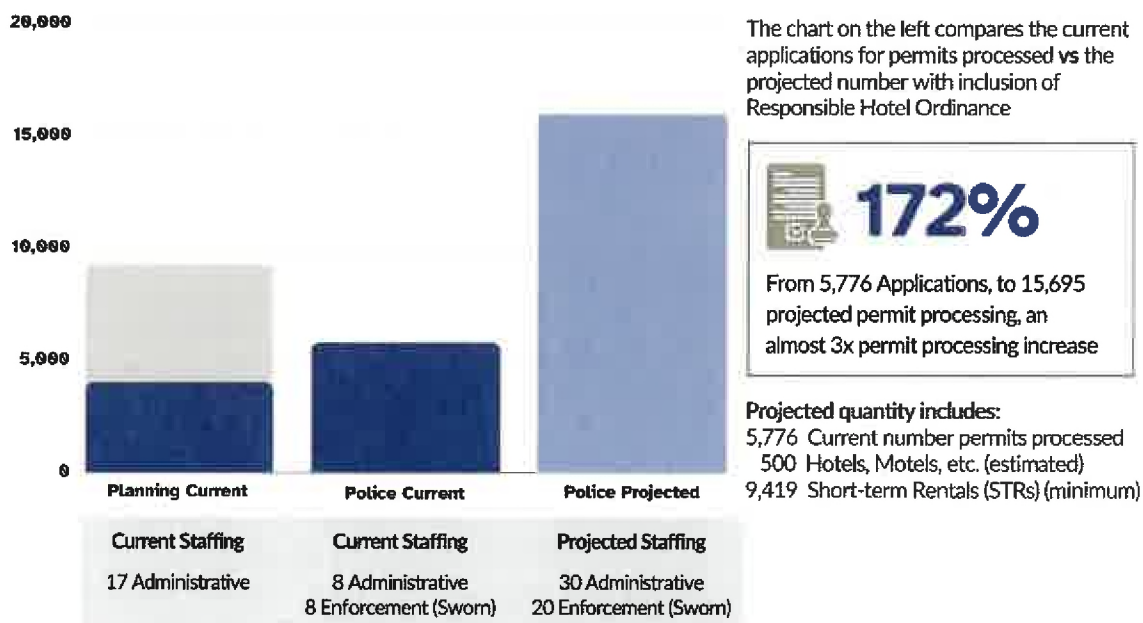
The average application review takes approximately one hour. Much of that time is spent identifying and correcting errors or omissions by the applicant. Consequently, there are limited efforts to achieve enforcement, regulation, and compliance. Even with allocated time for enforcement and regulation, Planning lacks the authority to impose citations for non-compliance. Currently, only “discretionary” registrations or renewals undergo additional scrutiny. Discretionary applications are those that have been individually flagged for a violation of the HSO.

### Current Workload and Projections

On January 19, 2024, the Office of the City Administrative Officer (CAO) issued a bleak economic outlook for the City and included the recommendation to limit or eliminate non-critical staffing. Among the primary concerns of “overspending” was the Police Department’s salary costs.

In 2023, CID issued 5,776 police permits. Of those, 1,458 were unique in that they required either initial processing, specific administrative scrutiny (such as a one-night dance permit, which is non-renewable), or enforcement to achieve initial compliance. The remaining 4,318 were renewals. Even renewals required both administrative reviews (periodic audits), as well as ongoing enforcement efforts, which included, responding to complaints, performing site inspections (compliance with rules and law) or conducting undercover operations (for criminal activity, such as prostitution). These tasks were accomplished by eight assigned administrative positions and approximately eight sworn enforcement positions (officers or detectives).

### Total Permit Processing vs Projected



Efforts to offset the burden of the RHO by removing other Board permits is not feasible. The top seven most prolific Board permits accounted for 64% of all issued permits. Those permits included: Auto Parks (1,064), Valet Parking Attendants (637), Massage Establishments (469), Mechanical rides and carnivals (440), Tow unit operators (421), Café Entertainment and Shows (362), and Locksmiths (322). Although all of these permits have a clearly defined law enforcement component, the removal of all of these top permits would only amount to 37.5% of the projected 9,919 additional Board permits required under the RHO.

### **Ordinance Redundancy**

The requirements to gather information from STR hosts in both the RHO and HSO exhibit significant redundancy. One notable exception to the Police Permit is the inclusion of a “Live Scan” fingerprint requirement and location history search. This requirement is essential to determine whether applicants have specified criminal history concerns, such as employment law violations or wage theft violations.

During discussions, Planning expressed concerns about adding a Live Scan component to their web-based platform, however, no such web redesign is required. There is no online component to the Live Scan process. To complete the Live Scan process, applicants must conduct the process at a third-party vendor. Upon receipt of the Live Scan, the Department of Justice will report any criminal history findings back to CID.

CID would additionally be tasked with conducting a search of any location history concerns (specific to the subject property) for evidence of unruly gatherings, permitted prostitution, human trafficking, or narcotics sales and/or manufacturing. Concerns specific to public safety and nuisances that would justify a denial or suspension of an RHO permit demonstrate the need for an essential but limited law enforcement presence in the STR permitting or registration process.

To streamline this component, it is suggested that a questionnaire to be added to Planning’s registration process which would require the applicant to affirm they have not violated any terms in which their application could be denied. It is further recommended that false or misleading statements to such a questionnaire would subject the permit application to denial or revocation.

### **Enforcement Challenges**

Public complaints, usually by neighbors of an STR, may be made at any time through a complaint hotline operated via Host Compliance (Planning’s Permitting Software Platform). The platform attempts to contact property owners for immediate resolution or otherwise records a “flag” within their database for eventual review and referral by Planning staff. During the initial 3-year inception period, 4,370 complaints were logged.



Planning has no enforcement authority and may, at their discretion, issue warning letters requesting compliance with laws and regulations. Consequently, HSO violations are merely referred to other City departments, including Building and Safety (code enforcement), Housing (use violations), Police (nuisance, noise, and crime), Fire (hazards), Sanitation (trash), Transportation (traffic and parking), and Street Services (public right of way concerns).

Upon identification of a non-criminal sustained complaint, most departments implement the Administrative Citation Enforcement (ACE) Program with a base fine of \$572 per violation. If a citation has been issued to the property within the past three years, Planning conducts a “discretionary” review of subsequent applications. If it is determined that the STR has failed to become compliant after receiving an initial citation, a second citation is issued to reflect “ten days of violations” at a fine amount of \$5,726.

Note: The fee for an extended home-sharing application was \$1,030 (\$838 more than a standard home-sharing application). From a business-oriented cost-benefit analysis, it would be more profitable to assume the remote risk of getting fined by the City than to pay the extended home-sharing fee.

Noteworthy enforcement challenges to the HSO include inadequate or fraudulent residence verification, exceeding permissible booking limits (over 180 days), double-bookings, improper listing of units as long-term (tenant) rentals, improper use of Accessory Dwelling Units, the inability to hold STR hosting platforms accountable, illegal conversions, circumvention of the Rent Stabilization Ordinance, and deliberate evasion of HSO guidelines. CID would be faced with these same challenges during a Police Permit review. Planning adeptly identifies the difficulty of documenting circumstances or behavior that may be fleeting or transitory.

As of June 2023 (approximately four years since the inception of the HSO) approximately 1,800 STRs have been referred to enforcement (primarily Building and Safety or Housing) resulting in the issuance of fewer than 1,000 citations. The average “life cycle” for the few properties subjected to the entire complaint process was two to three years from the initial warning, indicative of an ineffective enforcement model.

Under the HSO, the zoning administrator has the authority to modify, discontinue, or revoke STR registrations under Los Angeles Municipal Code (LAMC) sections 12.22.A.32(c)(4)(iii) and 12.27.1B. To date, there have been no such suspensions or revocations.

During a year sample between 2021 and 2022, McGill University researchers estimated that the City could have levied as much as \$302.2 Million in fines based solely on obvious non-compliance violations observed by researchers. Additionally, they estimated a TOT shortfall of \$14.2 Million during that same timeframe.

In the upcoming years, the City will be on the world stage with the arrival of the “FIFA World Cup” and the Los Angeles 2028 Olympic Games. There is a critical need for the City to rapidly coordinate and streamline the registration, permitting, and enforcement process.

**Concerns:**

CID’s primary concern is the exorbitant staffing and unnecessary administrative redundancy that is readily apparent within the mandates of the two ordinances (HSO and RHO). Both are required to collect user information, charge a cost recovery fee, and largely conduct ministerial administrative tasks to fulfill the requirements of the laws. Consequently, the original intent to regulate the industry, identify scofflaws, and ensure safety within the industry would be lost in the sheer volume of administrative work.

The implementation of the RHO requires CID to identify and engage a vendor capable of providing online and mobile application data, most likely through an external source. This process typically spans a minimum of six months, involving vendor selection and subsequent programming and development of an online application. The ability to implement this essential aspect of data collection is unattainable by the ordinance effective date of July 1, 2024.

Note: Planning personnel estimated that the timeline to properly seek out, identify, and engage a vendor would take one year.

Additionally, the ordinance does not allow for the operation of an STR or Hotel until a permit is obtained (See section 51.37, RHO). Current obstacles as detailed above all but guarantee that the overwhelming majority of STRs and Hotels within the City will become immediately non-compliant simply because their applications can not be processed within the prescribed timeframe due to evident administrative and staffing barriers.

Furthermore, the ordinance mandates the creation of a public, searchable database for data collected during the permit process. It should be noted that four years after the implementation of the HSO, Planning recently achieved a publicly searchable database of STRs.

**Recommendations**

Following CID’s thorough review of the ordinance and extensive research into the matter, we concur with Planning’s recommendation for the City to develop a dedicated Home-Sharing Section with multi-disciplinary authority that encompasses the various roles identified within the “Enforcement” section above.

In the absence of a dedicated team, CID proposes a collaborative approach where CID and Planning work cohesively to bolster their existing database by incorporating a Board Permit.

The current online application would undergo minor adjustments to include a link to a printable Live Scan application. CID would then analyze the returns to identify any “red flags” that warrant further investigation. Depending on the workload of a final ordinance, CID would create a section of administration and enforcement with the intent to supplement rather than duplicate Planning’s efforts. The section would also be responsible for applications and permitting of all commercial “hotels” as mandated within the ordinance.

Should you have any questions regarding this analysis and response, please contact me.

Very truly yours,



SCOTT MOFFITT, Lieutenant  
Commanding Officer  
Commission Investigation Division

#### Attachments

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#### REFERENCES:

1. Wachsmuth, David, McGill University, The Economic Impacts of short-term rentals in Los Angeles, October 2022
2. Better Neighbors Los Angeles, The Los Angeles Home-Sharing Ordinance – 2021 Enforcement Report and Recommendations, 2021
3. Bertoni, Vincent, Planning, Report to City Council (CF 14-1635-S10), October 2023



CID recommends the following ordinance amendments to streamline definitions, clarify procedures, and enhance enforcement capabilities. The adjustments align with the goal of creating a more consistent and effective regulatory framework.

#### **SEC 103.401. DEFINITIONS**

DELETE the term “Applicant” since it is already defined within section 103.01 (Article 3, Division 2).

CONFORM “Hotel Operator” and “Hotel Owner” definitions with (or to) “Owner” as defined within section 103.01 and all subsequent references to either Hotel Operator or Hotel Owner.

AMEND the definition of “Hotel” within Article 3, Division 10, Section 103.401, replacing it with “Hotel” as defined within Article 20, section 51.36. This change aims to exclude STRs from the definition of a hotel and provide conformity within the code.

DELETE the definitions of “High Occupancy Lodging,” “Low Occupancy Lodging,” and “Medium Occupancy Lodging,” as defined within Article 3, Division 10, Section 103.401 and all subsequent mentions of these terms.

CONFORM “Permittee” as defined within 103.401.10 with “Permittee” as defined within section 103.01.

RESOLVE conflict between “Person” as defined within section 103.401.11 and “Owner” as defined within section 103.01.

ADD a definition for “Home Sharing Registration Number” to comply with the term as defined by the Department of City Planning under the Home Sharing Ordinance.

#### **SEC 103.402. PERMIT REQUIRED; RENEWAL**

AMEND 103.402 (c) for inspections regarding short term rentals only but include the allowance for an inspection should a valid, articulable concern be raised at any point while in possession of a Board permit and ADD that an inspection of a hotel, shall be required within the parameters established by the Board.

#### **SEC 103.403. APPLICATION FOR PERMIT**

ADD section 103.403.1 to read, “A Short-Term Rental as defined in Section 12.22.A.32 of the Los Angeles Municipal Code shall require a Board permit under this section and is subject to denial of an application for standards established within Section 103.404. and enforcement as discussed in subsequent sections (103.405, 103.406, 103.407).”

ADD section 103.403(a)1 to read, "An application for a Short-Term Rental Permit shall be filed electronically on a form and in a manner prescribed by the Department of City Planning within the Home Sharing Registration process. Applicants shall acknowledge that all information as

submitted will be forwarded to the Board for issuance of a Police Permit. The applicant portal shall be modified for receipt of additional information as required by this ordinance or by Board rules."

TRANSFER responsibility within section 103.403(c) from the Board to Department of City Planning.

#### **SEC 103.404. GROUNDS FOR DENIAL OF APPLICATION**

AMEND section "103.404 (d)" Within the past 12 months, a Short-Term Rental has failed to remain properly registered and compliant with the Department of Planning and maintain a valid Home Sharing Registration number as established within the Home Sharing Ordinance.

CONFORM section 103.404(e) with section 12.22.A.32(c)(4) (Home Sharing Ordinance), sections (i) and (ii) regarding suspensions and revocations of registration. The revocation of a Home Sharing license should result in grounds of denial or revocation of a police permit as described within amended section 103.404(d).

AMEND section "103.404 (e)" to "Short Term Rental" rather than "Low Occupancy lodging"

ADD section "103.404 (g)" to conform with the wording within Chapter X, contained within Section 103.31.(a).1 "The applicant made a false or misleading statement of a material fact or omission of a material fact in the application."

The ACE Program contains an established schedule of fine amounts for violations unless the code allows for greater penalties. ADD higher base penalties for violations of a police permit (enforceable through the ACE program) to reflect both the significant cost and administration required to identify and prosecute violators and consider a punitive component to the fine schedule to discourage scofflaws.

ADD section 103.408 which grants authority for the Police Department or other appropriate enforcement authority to levy a fine for a violation of (a) the Responsible Hotel Ordinance, or (b) the Home Sharing Ordinance. The prescribed administrative fines for a violation of either section shall be \$1,250 for a first offense and \$2,500 for a second offense. (c) Three violations of either section should be subject to criminal penalties and/or a \$5,000 fine.

DIRECT the Bureau of Contract Administration, Office of Wage Standards to assume responsibility for investigation and processing of labor compliance violations as they pertain to this permit (as established within Chapter XVIII, Article 8 of the LAMC).