



October 17, 2023

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, CA 90012

Re: October 4, 2023 Planning Department Enforcement Analysis of The Home-Sharing Ordinance (CF 14-1635-S10)

Dear Members of the Los Angeles City Council,

On October 4, 2023, the City Planning Department (“Planning”) issued its analysis regarding enforcement of the Home Sharing Ordinance (“Report”). While the Report details many enforcement failures, it fails to provide a complete – and honest – assessment of the current short-term rental market in Los Angeles, including the proliferation of illegal rentals and their impact on the current housing and homeless crises. In so doing, the Report severely mischaracterizes – and in some cases misstates – the data in an apparent effort to minimize the Planning Department’s failures.

The Report does include recommendations, including many Better Neighbors has recommended for years, the report fails to embrace many of the changes necessary to bring the short-term rental market into compliance with the Home Sharing Ordinance (“HSO”), including a private right of action and requirement that all platforms participate in the City’s API data sharing program. Below, we identify the most glaring problems with the information provided in the Report. Finally, we assess Planning’s recommendations to address the enforcement crisis.

The Report Fails to Address the Number of Illegal Short-Term Rentals Advertised on Platforms, particularly Airbnb. In the Report, Planning states that as of July 2023, there were 9,526 short term Rental listings in the City, including 6,227 on Airbnb. The Home Sharing Ordinance (“HSO”) requires that all short-term rentals that are not exempt must be registered with the Planning Department. The HSO defines those units exempt from registration as “City-approved hotels, motels, bed and breakfasts, and Transient Occupancy Residential Structures (TORS).”

In its recent responses to our Public Records Act Requests (“PRA”), Planning has attested that as of July 2023, there were 4,231 registered units and a maximum of 598 exempt units, including three (3) Bed and Breakfasts, 19 TORs, and 576 hotel or motels. Based on this data, we know that the maximum number of legal short-term rental listings as of July 2023, was 4,829, which is the sum of the number of registered units (4,231) and the number of exempt units

(598)¹. The number of current listings tracked by Planning (9,256), however, means that there are 4,829 illegal short-term rentals, representing 49% of the current listings. This includes at least 1,398 illegal units on Airbnb. In practical terms, if the HSO were enforced by the Planning Department as intended, there are at least 4,829 rental units that would be immediately returned to the long-term rental market.

Planning's Data on the Number of Citations is Incomplete. In the report, Planning suggests that it has a robust enforcement program which has issued 983 citations since HSO enforcement began in 2019. The Report, however, fails to disclose that the number of citations issued has plummeted in the last two years with all the 983 citations issued prior to 2022. In our September 2022 Enforcement Report we found there were 84 citations issued in the first half of 2021, and only 14 were issued for the same period in 2022. More recent data shows that the number to have decreased even further with only eight (8) issued for the first half of 2023. This marks a decline of more than 90% with citations issued on less than .5% of violations. The Report is equally void of data on fine amounts, number of fines challenged or the amount of fines ultimately collected.

Planning's Data on the Amount of TOT Collected is Incomplete. While Planning claims that the City has collected TOT on short-term rentals for three fiscal years: 2019-2020, 2020-2021, 2021-2022, it fails to disclose data necessary to evaluate TOT collection, including; 1) the number of nights on which taxes were collected; 2) what was budgeted budget; 3) how many hosts failed to pay the TOT, or 4) what measures are being taken – if any – to recover unpaid TOT. This information is material to determine what measures should be taken regarding tax collection by the City.

The Report Fails To Address the Lack Of Enforcement Litigation by the City. Planning notes repeatedly that the prior City Attorney brought an action against VRBO that settled in 2022. It, however, fails to address the status of the other four subpoenas that were issued and why the settlement simply requires annual reports from VRBO, when the HSO requires monthly reporting.

Moreover, the Report complains that the ACE Citation program is unable to manage the volume of citations that are warranted by non-compliant hosts. But Planning fails to make any recommendations on fixing the program.

Proposed Amendments. The Report does, however, contain a number of recommendations, nearly all of which Better Neighbors has pressed for since at least 2021 and which have been detailed in our Annual Reports and Monthly Enforcement letters sent to Council, Planning, and the City Attorney.

¹ Since few of the City approved B&Bs, TORS, hotels or motels list as short-term rentals, the actual number of legal units is certainly lower.

Planning's recommendations fall into two categories: 1) those that require no change to the HSO; and 2) those that require amendment to the HSO. In addition, there are additional recommendations we have made, which Planning does not include.

First, those that do not require amendment to the HSO – each of which Better Neighbors LA continues to support - are:

- Update the Administrative Guidelines to require hosts submit reliable documents to prove primary residence;²
- Creation of publicly available database (released last Friday, so we cannot yet assess the effectiveness);
- Streamline the citation process and eliminate warning letters;
- Improve complaint handling and phone system;

We support all of these recommendations and have repeatedly said so. We hope they are enacted immediately.

Second, those recommendations that require amendment of the HSO and which Better Neighbors LA also support:

- Increase fine amounts;
- Prohibit home sharing use in ADUs;
- Prohibit home sharing in all units with any RSO units;
- Disallow all Extended Home Sharing (“EHS”).

We are fine with all these changes, and indeed have been so since the ordinance was adopted. That said, we do not think they address some of the most critical issues.

First, while we would happily support increased fines, we have for years suggested that Planning should be issuing fines for all violations rather than just a single “cost of business” \$500. Increasing such a fine to any number does far less than actually fining violators the many thousands or tens of thousands the ordinance calls for in the case of repeat violators. Moreover, as noted above, there are thousands of violators and only 8 citations of any size were issued in the first half of 2023. That is the real problem.

² We have consistently recommended that the City narrow its list of acceptable documents to 1) a property tax bill indicating the homeowner's exemption has been selected for homeowner hosts; and 2) a rental lease agreement and notarized landlord affidavit for renters.

Planning also does not directly address the Motion to amend the HSO that was authored by Councilmember Bob Blumenfield and which has been referred to the Planning and Land Use Management Committee, File: 14-1635-S12. Those are:

- Allowing aggrieved residents to sue over non-compliant rentals (“Private Right of Action”);
- Require all Platforms to participate in a data sharing arrangement with the City (“API”).

We believe both such steps are essential and urgent. Planning does allude to both somewhat negatively, warning that Private Right of Action would lead to “frivolous lawsuits,” before acknowledging that the two cities that have given its residents the right to enforce the ordinance, San Francisco and Santa Monica, have seen no litigation, frivolous or otherwise. The report fails to point out what is well known by California housing advocates: that robust enforcement in those two cities obviates the need for residents to bring suit. A private right of action is key to enforcement in circumstances such as the present – where the City has failed to prioritize enforcement – and the HSO should be amended to include the right.

On the issue of a required API, Planning claims that such a requirement is not possible but makes no effort to support this claim. API is a critical component to enforcement and its mandatory implementation for all platforms should be included in all proposed amendments to the HSO.

The City Council Should Hold All Departments with an Enforcement Role Accountable. In an effort to explain its enforcement failures, Planning suggests that all short-term rental related responsibilities be transferred to another Division, Office or Department. We take no position on whether this should occur other than to point out that Planning has those responsibilities today, and the Council needs to ensure Planning performs them competently. The same is true regardless of whether the responsibilities are transferred elsewhere. The HSO is a good law. It needs real enforcement to ensure housing stock is protected in the City.

Should you have any questions, do not hesitate to contact Better Neighbors LA.

Best,

/S/

Randy Renick