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REPORT NO. R 22 - 0252
JUL 21 2022

REPORT RE:

DRAFT ORDINANCES AND BALLOT RESOLUTION RELATED TO A CERTIFIED INITIATIVE PETITION REGARDING LAND USE AND REPLACEMENT HOUSING REQUIREMENTS FOR HOTEL DEVELOPERS, A PROGRAM TO UTILIZE VACANT HOTEL ROOMS FOR UNHOUSED INDIVIDUALS, AND POLICE PERMIT REQUIREMENTS FOR HOTELS

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. 22-0822

Honorable Members:

The City Clerk has presented the City Council with a certified initiative petition in support of a proposed ordinance regarding land use and replacement housing requirements for hotel developers, a program to utilize vacant hotel rooms for unhoused individuals, and police permit requirements for hotels. The City Charter requires the City Council to take certain actions upon presentation of a certified initiative petition. This report summarizes the background of the initiative petition, the provisions of the proposed ordinance, and the City Council's options under the Charter. Accompanying the report are a draft ordinance and ballot resolution to facilitate City Council action on the initiative petition.

Background

On June 10, 2022, a group of proponents submitted an initiative petition to the City Clerk containing voter signatures in support of a proposed ordinance regarding land use and replacement housing requirements for hotel developers, a program to utilize

vacant hotel rooms for unhoused individuals, and require a police permit to operate a hotel. On July 1, 2022, the City Clerk completed its preliminary review of the initiative petition and accepted it for processing. The City Clerk thereafter examined the voter signatures contained on the petition using the random sampling method authorized in the City Election Code and in accordance with Charter Section 451. The City Clerk has now completed that examination and has determined that the initiative petition contains a sufficient number of valid voter signatures to qualify for presentation to the City Council. The City Clerk certified the petition as sufficient on July 19, 2022, and presented the certified petition to the City Council on July 20, 2022.

Summary of the Proposed Ordinance

The proposed ordinance would require a hotel development project of 100 or more rooms to obtain a land use permit based on factors including the market demand for the project and the project's impact on affordable housing, transit, social services, employees, and local businesses. A hotel development project of 15 or more rooms would be required to replace demolished or converted housing with an equivalent amount of affordable housing at or near the project site. The ordinance would create a program, subject to funding availability, to place unhoused individuals in vacant hotel rooms. A hotel would be prohibited from refusing lodging to program participants. The ordinance would establish special police permit requirements for hotels. A hotel would need to meet specified standards, including compliance with wage theft and employment laws, to obtain a permit and avoid disciplinary action. The requirements of the ordinance would be subject to certain exceptions and waivers.

More specifically, the proposed ordinance would amend the Los Angeles Municipal Code as described below.

1. Hotel Development Land Use Requirements

The proposed ordinance would require a project that includes the creation or addition of 100 or more guest rooms, transient-occupancy residential structure dwelling units, or combination thereof, to obtain a conditional use permit through the noticed public hearing process in Los Angeles Municipal Code (LAMC) Section 12.24, which involves the City Planning Commission as the initial decision-maker and an appeal to the City Council.

The conditional use permit would be based on findings that consider:

- a) market demand for the hotel;
- b) whether the hotel will negatively impact demand on public transit, affordable housing, child-care, and social services;

- c) whether the hotel applicant will take measures to employ residents of adjoining neighborhoods;
- d) whether the hotel applicant will take measures to encourage use of public transit or other non-automotive means of transportation; and
- e) whether the hotel will displace or negatively impact small businesses in the vicinity and whether it will adopt measures to increase demand for local goods and services.

2. Hotel Development Replacement Housing Requirements

The proposed ordinance would add a new Section 12.84 to the LAMC to require "Hotel Development Projects," generally defined as hotels with at least 15 guest rooms for transient guests, to replace each residential dwelling unit demolished or converted as a result of the project and those demolished or converted in the five-year period immediately preceding the development application. The proposed ordinance contemplates that the Planning and Housing Departments will implement the provisions. Specifically, the proposed ordinance would do the following:

- Require replacement of residential dwellings with residential housing affordable to extremely low, very low, low, and moderate income households, depending on whether or not the units were occupied by tenants. The affordability restrictions would be secured through a deed restriction for the life of the replacement units or 99 years, whichever is greater. Replacement housing units can be for sale or rent. Developers may replace housing through new construction or acquisition or rehabilitation of existing residential dwelling units. Replacement units must be located at the same site as the Hotel Development Project or within the same community plan area or three miles from the project, whichever is closer, depending on the availability of land.
- Require developers to make the replacement residential units available to displacees, employees of the hotel development who meet income requirements, and others who qualify for the units.
- Exempt the following: hotel projects with fewer than 15 guest rooms; projects developed in accordance with an existing development agreement adopted by ordinance under Government Code Section 65864; projects subject to the City's Residential Hotel Unit Conversion and Demolition Ordinance, LAMC Section 47.70 *et seq.*; projects subject to replacement-unit obligations under the settlement agreement in *Wiggins, et al. v. Community Redevelopment Agency of the City of Los Angeles*, LASC Case No. BC276472 or Development Guidelines and Controls for Single-Room Occupancy Hotels in the City Center and Central

Industrial Areas; and projects for which the replacement requirements would interfere with vested rights.

- Subject new hotels to the Citywide Affordable Housing Linkage Fee in LAMC Section 19.18 to help generate local funding for affordable housing production and preservation.
- Authorize the City Council to grant administrative relief from the replacement requirements after a hearing if the City Council finds that the requirements will cause extreme hardship or violate the United States and California Constitutions.
- Require developers to submit a plan specifying how they will comply with the replacement requirements and select tenants for replacement units, and require the City to execute and enforce agreements with developers to ensure compliance.
- Authorize the City Attorney, current and former tenants of residential dwelling units to be demolished or converted by the Hotel Development Project, or nonprofit affordable housing organizations to enforce its provisions.

3. Hotel Housing Voucher Program

The proposed ordinance would create a “Hotel Voucher Program” that would do the following:

- Require the Housing Department to administer a program that uses pre-paid vouchers to place unhoused individuals and families in vacant rooms in hotels or similar establishments. The proposed ordinance has no designated source of funding and is contingent on funding being secured by July 1, 2023. The City would pay fair market value or a price negotiated between the Housing Department and the hotel.
- Waive transient occupancy taxes on persons who pay for a hotel room through this program.
- Prohibit hotels and similar establishments from: (a) refusing available rooms to an individual or family or subjecting them to additional rules that are not applicable to the public because the individual or family (1) is unhoused, (2) uses a pre-paid voucher, or (3) participates in a city program for housing in the hotel; and (b) refusing an available room to a voucher program participant when the participant cannot present government-issued identification but can prove authorization to participate in the Hotel Voucher Program.

- Require the Housing Department and hotels to provide reports about vacancies, among other reporting requirements.
- Allow the recovery of civil penalties; attorneys' fees; and legal, equitable, and injunctive relief for violations of the law. No criminal penalties would be available.
- Exempt corporate housing, rooming houses, boarding houses, single-room occupancy housing, residential hotels, housing that is only available to students of an education institution, short-term rentals, and bed and breakfast establishments.
- The proposed ordinance would be effect through June 30, 2032 unless the City Council chooses to extend the program. However, the provision prohibiting the refusal of available lodging because the party seeking the lodging is unhoused does not expire.

4. Hotel Police Permit Requirements

The proposed ordinance would add to the City's existing police permit regime, a requirement that hotel owners and operators obtain a permit from the Board of Police Commissioners (BOPC). The ordinance would prohibit a hotel operator from operating a hotel until it obtains a written permit, which must be renewed annually. Each hotel owner or operator would be required to submit an application within 60 days of the effective date of the ordinance. The applicant would be permitted to operate while the application is pending.

In addition to providing information regarding hotel ownership, contractors, location and services, the applicant also would be required to state that the hotel will not refuse lodging for available guest rooms because the person or family participated in a program to utilize vacant hotel rooms for unhoused individuals. The applicant would be required to provide monthly reports detailing the number of occupied and unoccupied guest rooms and the total number of guest rooms available to rent for each day.

BOPC may deny a permit application for any of the existing grounds set forth in LAMC Section 103.31(a), as well as the additional grounds that within five years prior to the application date: (1) the applicant was found to have violated federal, state, or local employment laws; (2) was convicted of violating Penal Code Section 487(m); or (3) was found to have violated any federal, state, or local public health or safety law reasonably related to the business of the hotel. BOPC decisions would be appealable to the City Council.

Council Options

Charter Section 452 provides that, when a valid and certified initiative petition requesting adoption of a proposed ordinance is presented to the City Council, the City Council must take one of the following actions:

- (i) Adopt the proposed ordinance;
- (ii) Submit the proposed ordinance to a vote of the electors of the City at a special stand-alone election held no earlier than 110 days but no later than 140 days after the Council acts; or
- (iii) Determine to submit the proposed ordinance to a vote of the electors of the City at either the next regular City election or the next Statewide election occurring more than 110 days from the date of Council action (i.e., the City's Primary Nominating Election held on March 5, 2024).

Charter Section 452 provides that the City Council must take one of these actions within 20 days after the presentation of a valid certified petition. For this initiative, that deadline is August 9, 2022.

Should the City Council wish to adopt the proposed ordinance, we have attached the ordinance proposed in the initiative. (See Option 1 Attachment.) Should the City Council wish to submit the proposed ordinance to the voters, we have attached a ballot resolution determining to submit the proposed ordinance to the voters at the next regular City election occurring in more than 110 days. That election is the City's Primary Nominating Election to be held on March 5, 2024. (See Option 2 Attachments.)¹

¹ Please note that we have not transmitted documents for a special stand-alone election. If the City Council wishes to call a special election for the initiative, we will transmit the appropriate election ordinances and resolutions for City Council approval.

If you have any questions regarding this matter, please contact Deputy City Attorneys Elaine Zhong at (213) 922-7715, Donna Wong at (213) 978-8064, John Nam at (213) 978-8380, or Assistant City Attorney Harit Trivedi at (213) 978-7100. A member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

DM:HT:cl
Transmittals