

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: May 8, 2015

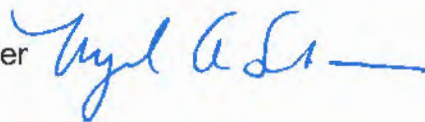
CAO File No. 0220-05153-0000

Council File No. 14-0600-S89

Council District: All

To: Paul Krekorian, Chair, Budget and Finance Committee

From: Miguel A. Santana, City Administrative Officer



Reference: 2014-15 Budget Recommendation

Subject: **Application of Transient Occupancy Tax for Short-Term Rentals**

SUMMARY

On May 21, 2014, with the adoption of the 2014-15 Budget, Council directed the City Administrative Officer and the Office of Finance to report on the application of the transient occupancy tax on short term rentals (C.F. No. 14-0600-S89). Subsequently, Council adopted an amending motion on December 9, 2014, directing: 1) the Office of Finance, in consultation with the City Attorney, to send a notice to each host on the Airbnb site and all similar short-term rental sites to inform the hosts of City laws regarding temporary occupancy, and 2) the City Administrative Officer to identify existing contractual arrangements between cities and Airbnb/Airbnb competitors and report back to the Budget and Finance with a proposal for similar agreements.

FINDINGS

The Los Angeles Municipal Code (LAMC) Section 21.7 defines a "hotel" as any structure, or portion of thereof, intended for occupancy for dwelling, lodging, or sleeping purposes by a "transient" for a period of 30 days or less. The transient occupancy tax (TOT)—alternatively referred to as the hotel or lodging tax—is to be paid by the transient (guest) on the rent charged by the operator of the hotel (host). This tax is paid directly to the host, who then remits it to the City.

According to the City Attorney and Office of Finance, a private dwelling rented through Airbnb or similar website platform fits the LAMC definition of hotel. However, in accordance with the code section, it would be the host (i.e., the owner or lessee of the private dwelling listed on the website) who has the primary responsibility for collecting and remitting the transient occupancy tax to the City. The Office of Finance's compliance efforts include discovery programs to identify unregistered "hotel" operators who are subject to the transient occupancy tax.

In the interest of collecting the transient occupancy tax from short-term and vacation rental websites, the Office of Finance has contacted multiple website operators in an effort to obtain host information and to educate the businesses regarding the City of Los Angeles tax requirements. Additionally, the Office of Finance provided a transient occupancy tax seminar to members of the Los Angeles Short-term Rental Alliance, an organization that supports short-term rentals and advocates for favorable laws and regulations. The Office of Finance is also modifying the department website in order to provide users with more information about the transient occupancy tax requirements.

This Office has reviewed other local government approaches to growth in residential short-term rentals, as facilitated by Airbnb and other websites, specifically with regards to zoning and tax compliance. These approaches can be categorized as follows:

- Nonintervention, whereby no stance has (yet) been taken for or against short-term rentals;
- Exclusion, whereby existing or new prohibitions are affirmed, perhaps coupled with enforcement and misdemeanor violations; or,
- Permitted, usually with restrictions, whereby hosts may be required to register and collect taxes, conform to parking or noise restrictions, or limit the days that the unit may be rented.

Aside from tax compliance, the City's current approach may be categorized as one of non-intervention. A second report will be issued by this Office and will make preliminary recommendations concerning issues related to permitting or excluding short-term rentals—such as community needs, zoning regulations, and affordable housing—in response to Motion (Bonin-Wesson-Labonge) which requested a comprehensive study of the sharing economy (C.F. No. 14-0593).

The City is legally entitled to collect TOT from short-term rental hosts, directly or via agreements with hosting platforms, while continuing to develop overall short-term rental policy. Regardless of whether the City adopts more permissive or restrictive regulations for the short-term rental market, it should ensure that all hosts comply with existing requirements for the collection of the transient occupancy tax. To facilitate collection of local transient occupancy taxes, Airbnb currently has agreements with the U.S. cities of Malibu, San Jose, San Francisco, Chicago, Washington, D.C. and Portland, Oregon, whereby Airbnb collects transient occupancy taxes from guests on behalf of the host and remits this revenue to the local government. The agreements reviewed by this Office are voluntary and do not require modification to existing tax regulations. In exchange for simplifying collection and recovering uncollected revenue, terms of a proposed agreement with Airbnb (or other short-term rental websites) may include language wherein the company does not admit to being an "operator" as defined by the LAMC, while remaining silent on uncollected tax revenue prior to the agreement's execution date. Additionally, the agreement may not require the provision of identifying data on hosts to be used for enforcement purposes. Representatives of the Office of Finance and the City Attorney have initiated discussions with Airbnb concerning the collection of transient occupancy tax. To that end, it is recommended that the Office of Finance, with the assistance of the City Attorney, be instructed to negotiate collection agreement(s) with Airbnb and similar short-term rental websites for the collection and

remittance of the transient occupancy tax on behalf of hosts and report to Council on the terms of the proposed agreements.

RECOMMENDATION

Instruct the Office of Finance, with the assistance from the Office of the City Attorney, to negotiate a contract with Airbnb and similar short-term rental websites for the collection and remittance of the City's transient occupancy tax and report to Council on the terms of the proposed agreement(s).

FISCAL IMPACT STATEMENT

It is anticipated that entering into an agreement with Airbnb and similar short-term rental websites will increase General Fund revenue from the transient occupancy tax by an indeterminate amount. The Proposed Budget for Fiscal Year 2015-16 assumes \$5 million in transient occupancy tax revenue from such collection agreements, which presumes approximately \$38.5 million in annual short-term rental revenue generated within the City.

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