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Fwd: matt berger/

1 message

John White <john.white@lacity.org>
To: Carolina Peters <carolina.peters@lacity.org>

Tue, Apr 18, 2017 at 1:57 PM

Please print and attach the email below to Council file No. 14- 1635-S2 as a public comment

----- Forwarded message -----

From: **matt** <lkpx@sbcglobal.net>
Date: Fri, Apr 14, 2017 at 3:32 PM
Subject: matt berger/
To: john.white@lacity.org

Dear Mr. White,

Mr. Orenstein,

Hi. I am writing you in regards to the draft ordinance regarding short-term rental that is presently before city council. I strongly oppose that ordinance for many reasons.

First, I would like to state that the city has originally zoned residential areas to support families and the community life of families. Just because an industry of short-term rental platforms has evolved from the internet, the government is not all of a sudden sanctioned to legislate a complete zoning change and destroy family and family community life for the individual financial gain of a few, for the massive financial gain of the platforms, or to raise city tax revenue. What all of a sudden gives investors or homeowners the right to change the character and laws of our communities because a new app has been created?

Yet, here we are, with a knee jerk reaction, legalizing a complete zoning change without even questioning whether any short-term rental should be permitted at all. Shouldn't the community first collectively decide through a vote whether to make this radically new zoning change, rather than just legislate it because the city has identified a new income source? How can Mayor Garcetti legally begin accepting money from the platforms even though existing ordinance forbids short-term rental?

Many cities across this great country survive just fine on a much more limited tax base than ours.

Second, the proposed short-term rental draft ordinance has several significant loopholes and lack of enforcement mechanisms that virtually legalize platforms and "Airbnb hotels." For example, Section 2b of the draft ordinance provides states that " Home-Sharing may only be authorized and take place in the Primary Residence approved for residential use."

Although the ordinance states that it must be approved as the Primary Residence there is no enforcement mechanism to prove or substantiate this claim that the home is indeed the owner's primary residence. Under the present draft, anyone can be authorized and still rent out the whole house, or two houses if it's a duplex, as long as they apply, state on the application, or bring paperwork to the effect that it is their "primary residence." In fact, in the proposed draft, there exists no real requirements for the applicant to prove it's their primary residence. Merely stating or bring paperwork as such

doesn't make it a primary residence.

Hence, the draft ordinance must be amended to require that the applicant must show before registration and during the rental, that they are actually occupying or residing there as there primary residence. And, in fact, the only way to really prove that the registered property is the registrant's primary residence is to require the registrant to agree to blind inspections at any time and on any day. Otherwise, the city and affected parties will have no ability to prove that the registrant is in violation because under the law, the enforcement authorities cannot enter without consent. Under the present draft, the owner can just show up and say, "I'm living here as my primary residence," although they are clearly in violation and the city will have zero recourse.

Additionally, although the proposed draft states that short-term rent only in the primary residence, there is no language in the draft that requires the landlord, owner, investor to be residing on the premises during the rental. Similarly, they must only state on a form that it is their primary residence and there is no way to prove that the home is not their primary residence or that they live on the premises.

Likewise, although the owners of a duplex may be a company or a group, they can easily use multiple names to rent both units as a primary residence and be absentee landlords/owners/investors, although they own it collectively. Similarly, there will be no way to prove that they are violating this primary residence provision without obtaining a search warrant, which the city will never get or attempt to get.

For the above reasons, the proposed ordinance and primary residence language, surreptitiously legalizes "Airbnb hotels," and is incapable of proper enforcement.

Third, the ordinance fails to clarify what primary residence means. Under the draft, the registrant can reside on a separate structure, place, recreation room, accessory living quarter, or accessory dwelling on the property while renting other units and still call it his primary residence. The ordinance must state that primary residence means that the registrant/owner must live/reside in the unit being rented.

Fourth, the ordinance does not state that the registrant must be the owner.

Fifth, the ordinance must state that for purposes of this ordinance, only a properly zoned residential unit may be rented which does not include a recreation room, accessory dwelling unit, garage, accessory living quarter, or any other structure.

Sixth, the draft ordinance calls it home-sharing. However, the ordinance does not define true home-sharing as Santa Monica does in its ordinance. The draft ordinance only states that the registrant must call it his primary residence. True home-sharing as defined by the Santa Monica statute specifically states "home sharing means that only a room in a house, a couch or a bed in a part of the house may be used for home-sharing and the owner must be occupying or residing in the house during the entire rental period."

Seventh, the 120-day provision in the draft ordinance, is in effect, the legalization of "Airbnb hotels." If a person cannot survive without renting a part or the whole house for less than 120 days, then they shouldn't be owning the property. There are very few families that will want people sharing a home with them for 120 days. This clearly is a loophole that will permit investors to run "hotels," as my neighbor is doing day in and day out.

I do not oppose people renting their houses if and when they go on vacation or folks that seek social interaction within their home on a periodic basis, but nobody is on vacation for 6 months of a year and renting it short-term rather than monthly or bi-monthly or 6 months at a time. This provision clearly is designed to permit investors to run their houses as a business or a hotel.

The time provision should be set to allow normal homeowners to rent for periods when they go on vacation, 15-30 days a year and for those who seek periodic visitation within their own home while they reside there.

Eighth, the three strikes provision of enforcement before revocation of the permit is unworkable and certainly tailored to protect the platform hotel lobby and their high-priced lawyers. Under this provision, neighbors have to turn in the offending party 3 times before the city will even attempt to seriously prosecute. It makes a mockery of the whole enforcement mechanism in the ordinance. As the ordinance exists, neighbors will have to videotape, conduct surveillance, collect evidence and testify against their neighbors three times, a herculean task.

This provision is amazing in its scope and impossible in its application. We will need a whole intelligence network to stop illegal activity. And we will have to work in tandem with the enforcement authorities who will be discouraged if they have to continually go out and investigate and enforcement is not taking place. And even after that huge amount of work, it doesn't mean that they will have their permit revoked. Certainly, the offending party's lawyers will fight the evidence and the prosecution and drag it on forever or until it is dropped. Meanwhile, during all of the investigation and violations, the offending party will continue to offend, creating a lot of conflict in the community. And even after it is revoked, they may continue to offend because the money is so great. And then, even after revocation, they will begin again when they get the permit back.

In my situation, I had to catch my neighbors/investors red-handed, not only with violations of renting illegal garage units, but also with illegal short-term rental. We have unknown transients coming all day and night, partying, drinking, smoking, waking us up. I don't know who they are, where they come from or what they are capable of doing to me or my family! And under this ordinance, it will just get worse because it will legalize this illegal behavior. The owners have proven repeatedly that they will not follow the law and they have stated in writing many times that they don't believe that the law applies to them and that they can operate a business out of their property and we can't stop them.

To prosecute them, I had to miss my job and lose a lot of money to go and testify in order to get the cases to the City Attorney. It's been a lot of work and trouble with my neighbors. And still, after a year, they continue to violate every single day. The city is doing nothing to stop them, even after all the effort by me and the city housing authorities. Nothing! The cases just sit at the City Attorney. So, if this faulty ordinance passes, I will have to do the same thing three times to get any type of enforcement and even then nothing may happen.

The neighbors/investors have been laughing in my face, telling me that the city will never do anything and that I should just quit fighting them, take my kids out of school and move somewhere else so they can run their "hotel." I believe that this three strikes provision is a totally corrupt and unenforceable statute and is a provision to legalize the platform hotels.

Ninth, we bought and invested in our residential properties, some which have been in families for decades, believing that we were joining a community of families as provided by the existing zoning. Now, all of a sudden, we are expected to accept unknown individuals coming and going at all hours in a neighbor's house, waking us up in the middle of the night, partying, smoking, drinking around our children. It is not safe or secure or comfortable. We no longer have children of families with whom our children can befriend, go to school with, share holidays, learn from. Instead, we have a daily group of transients with no regard for our families, our way of life, or our community.

With the proposed ordinance, we will have blocks of platform hotels, our neighborhoods will be destroyed for the benefit of a few. We must do what Santa Monica has done to limit these community rat holes.

Tenth, this ordinance does nothing to create affordable housing, in fact, it substantially reducing the affordable housing stock. I find it unbelievable that Mayor Garcetti and City Council talk all day about affordable housing and yet draft an ordinance that legalizes these platforms that are driving up the costs of housing to astronomical levels and severely limiting the amount of housing stock for people of this city who live and work and want to raise families in this city.

This ordinance turns a blind eye to those of us who have been loyal citizens and paid our taxes all of these years. They seem to only listen to those who have large sums of money to fuel their political campaigns. We seem to mean nothing to them. I've attempted to call and speak to the council people and their staffs, but no one wants to hear unless one has a lot of money to contribute. It's really upsetting. We are trying to work through the political and judicial process and it's failing the families of this city. Do we need to take the law into our own hands and end this disturbance and threat to our families once and for all or do we need to just pack it up and move to protect our families and our way of life?

As I have stated above, there are many loopholes, weak enforcement mechanisms, bureaucratic hurdles, and weak definitions in the proposed legislation. We need an ordinance that is simple and direct with instant and effective and complete enforcement. Why all of a sudden must the taxpaying residential families of this city have to agree to short-term rental? We never had this problem before. Can't the City live off of all of the revenue it receives now? Why do we have to accept Airbnb hotels or any other type of new zoning that will ruin our community and familial life and cause a constant nuisance for the property taxpayers of the city? Surely, there is not a majority of homeowners that want to turn communities into transient blocks of hotels.

All of the studies have shown that it's just a handful of greedy investors who are behind these rentals to the detriment of our families and communities. We don't need to legalize this type of activity just because the platforms and some greedy investors want it.

Please enact an ordinance that severely restricts use to true-home sharing as Santa Monica has done and does not allow investment groups or owners to run hotels out of their properties.

The ordinance should provide the following 1) Primary residence must be enforceable by anytime inspections without a warrant; 2) Primary residence must mean that the owner(s) are using each rental unit or home as a primary residence and can only rent out a bed, couch, or a room for a restrictive number of days of the year 3) One violation should be sufficient for the registrant to lose his or her permit; Why should the city and the neighbors have to continually be violated and get evidence and go through hearings to prove multiple violations? Either the registrant follows the law or he loses his rights; 4) Owners of duplexes cannot use one residence as a primary residence and rent the other unit as a hotel. They can only rent the unit that they live in as their primary residence. Where there are multiple owners, only the unit occupied by one of the owners, otherwise it is considered an investment property; 5) Recreation rooms, accessory buildings, accessory living quarters, garages, cannot be used for rental under this ordinance; 6) A primary residence of the owner cannot be a recreation room, accessory building, accessory living quarter, garage or other structure on the property nor can the owner live in said structures and be considered using the property as his primary residence and rent any other unit, house, apartment, or structure on the property; 7) The owner can only rent said property for 15-30 days maximum per year.

As a former lawyer, I'm appalled at the ordinance as drafted. It will create total chaos and protect no one except the platforms and investors, be a huge waste of money for your enforcement team, and clog up the judicial authorities

with cases that will never be resolved, but will all have to be dismissed. Meanwhile, the families and taxpayers of this city will bear the brunt of this deleterious activity. Recently, NBC did an expose on this subject in which I participated. I can send you a DVD of that production.

It appears that with the proposed short-term rental ordinance and the new Ordinance adding Subdivision 10 to Section 14.00.A of Chapter 1 of the Los Angeles Municipal Code to preserve and create affordable housing units by establishing a process for granting legal status to certain existing unpermitted dwelling units in multiple-family buildings, and amending Subsections (a) and (e) of Section 19.14 of Chapter 1, the neighbors duplex and illegal recreation units will now become a legal triplex hotel. Unbelievable. Just forget about the families, the children, and the green space and the congestion, install a concrete jungle like New York.

I guess the politicians just don't have the courage to force developers to build affordable housing. They have to impose that density on family neighborhoods.

Thanks for your time. Matt Berger 323-528-7366 sqrlcrv@gmail.com

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