

Re: CF 14-1635, CF-163552, 14-1635-53

Blanche Bersch
9652 Yoakum Drive
Beverly Hills, CA 90210
Tel: (310) 274-2205

Barbara Blinderman
1758 Clear View Drive
Beverly Hills, CA 90210
Tel: (310) 276-7799

August 8, 2016

Dear Mayor Garcetti and Members of the City Council:

We have previously expressed our opposition to the proposed Short Term Rental/Home Sharing Draft Ordinance (see attached).

This letter is supplemental and is the result of analysis of the latest draft ordinance. By legalizing the currently prohibited commercial use ... one that not only allows individuals to use a portion of their home as a home office, but additionally authorizes a flow of transients, adding traffic, noise, and increased fire dangers ... the proposed ordinance represents a fundamental change in the R-1 zone. It impacts the stability of local neighborhoods. What is further objectionable is that it will once again impose a burden on stable middle class neighborhoods while excluding the ultra rich who live in gated communities and will be protected by stringent CC&R's that prohibit rentals for less than 30 days.

As to the particulars of the draft ordinance:

1. There is no administrative office in place to enforce the terms of the ordinance. There is not even a dedicated phone number to call. The city has not been enforcing illegal rentals for years. It is irresponsible to pass this ordinance without providing an immediate conduit for complaints and easily accessible information on how to file and follow up on a complaint.

2. There is no provision for private enforcement. No one seriously thinks that the City will suddenly decide to provide the resources to enforce that part of the ordinance which impacts R-1 neighborhoods. The City has failed to enforce illegal short term rentals in the past. The staff report acknowledges that enforcement is a complicated and difficult process. The City Attorney has said he has no jurisdiction to require the Department of Building and Safety to enforce planning regulations. Without private enforcement, the current condition of widespread illegality will continue.

3. There is no requirement for liability insurance to protect neighborhood residents. Without a provision mandating that when one rents his or her property for less than 30 days he or she must purchase rental insurance, adjacent owners will be at increased risk that they will have little recourse to compensation from damage or injury to them caused by a short term renter. The existence of added risk once short term rentals are allowed has previously been noted. The result will be that nearby

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property owners may suffer substantial increases in their own property premiums. And disclosure that short term rentals are permitted or exist will be required as a condition of selling a home, resulting in significant reduction in the value of their property. The neighborhood loses on all counts.

4. Finally, you are all undoubtedly aware that Airbnb is suing San Francisco over the short term rental law it helped to create. It is not only Airbnb. Any short term rental company, on-line or communicating by any means ... or any landlord ... can be expected to challenge the provisions of the ordinance ... especially the 14% hotel tax. Whether Los Angeles can impose such a tax without a vote of the people is a question that it will take a court to decide. If the monies hopefully to be collected from the charge were to be used for enforcement, that would be a justification for the tax. But the city seems to have thrown into the ordinance a 5% figure for enforcement without any factual data to support the proposition that 5% will be sufficient for enforcement. Given the city's historical cavalier attitude toward enforcement of the long standing prohibition of short term rentals, there is little reason to believe that the 5% figure is the result of a serious analysis of that will be needed for full enforcement.

The City, in passing the Short Term Rental ordinance, is undercutting its commitment to maintaining the quality and stability of single family neighborhoods. We urgently request that you send the draft back to the planners so they may undertake the careful analysis, based on data rather than wishful thinking, before approving this fundamental change in the City's planning laws.

Sincerely,


Blanche Bersch


Barbara Blinderman

cc: matthre.glesne@lacity.org

City Watch: ken@citywatchla.com

LA Times: matt.lait@latimes.com

Daily News: ryan.carter@langnews.com

Daily Breeze: frank.surac@dailybreeze.com

E-Mail sent by Blanche Bersch to Matthew Glesne, Planning Department, June 17, 2016

REBUTTAL TO STAFF REPORT

As a homeowner in the Benedict Canyon area, I have become all too familiar with the problems created by short term rental units, including that of fire danger which is particularly problematic in canyon areas which are so susceptible to enormous loss of life and property from something as small as a cigarette butt thrown into the bushes. Those issues have been brought to your attention by many others, and it is not my intention to repeat them here. However, I must address the issue of enforcement, which seems to have had all too little attention from those who will be making decisions that will have such a major effect on my life and those of so many others.

I am a former deputy attorney general who wrote a number of Attorney General Opinions, one of which was on the state's building code. I am also a former member of the California Medical Board (then called the Board of Medical Quality Assurance). I therefore claim some knowledge of how government works and the fact that government taxes and fees are traditionally justified by the need to ensure that the activity being regulated and charged is carried out according to law.

The city council proposes to turn this principle on its head. It will require homeowners who wish to rent out their homes or a portion of their homes to register with the city and pay an annual fee. It will also require them to pay taxes on whatever funds they collect for this enterprise. However, all of the funds collected are to be used for the creation of affordable housing and none of them are to be used for enforcing the various regulations which purport to protect the interests of the neighborhoods where the rentals are located or the neighbors who are severely disadvantaged if the regulations are not obeyed. In short, it proposes to allow an activity (commercial rental in R1 areas), to collect funds from persons carrying out such activity, without any presumed need for those funds to assure that the activity is carried out in a lawful manner.

I do not oppose the creation of affordable housing. Indeed, I would support almost any program, including a raise in my taxes, to alleviate the problem of homelessness which we have allowed to fester for decades and which is now a blight on our city in addition to being a cause of so much misery to so many people. But this should not be funded by monies collected specifically in connection with the new regulated activity of "home sharing", leaving that activity to be carried out without sufficient oversight, with the city turning a blind eye to those who are hurt when the practitioners overstep their bounds.

What the city council proposes to do is simply not fair. In addition, it may not be legal. Finally, unless there is some provision which requires home sharers in no smoking areas (such as mine) to put written notices (at least 8 1/2x11") in every room that smoking is

allowed only in the house, it may turn out to be very expensive when the inevitable fire occurs from a visitor disposing of a cigarette. That also should be subject to verification by inspection, but then, there won't be enough inspectors, or perhaps none at all.

Blanche C. Bersch

Barbara S. Blinderman
1758 Clear View Dr.
Beverly Hills, CA 90210
Tel. and FAX: 310-276-7799
e-mail: bjblinderman@roadrunner.com

September 19, 2015

Councilmember Gilbert A. Cedillo, Chair
Councilmember Filipe Fuentes
Councilmember Jose Huizar
Councilmember Curren D. Price, Jr.
Councilmember Marqueece Harris-Dawson
Los Angeles City Council Housing Committee
200 North Spring Street
Los Angeles, CA 90012

Re: Short Term Rentals CF14-1635-S2

Dear Commissioners:

I attended your September 2 meeting at which you heard comments by many concerned citizens on the motion by Councilmen Bonin, Wesson and Koretz to prepare and ordinance governing short term rentals in the City of Los Angeles. I appreciated both the comments made by residents and representatives of various groups, including those who oppose any amendments to the existing city code, those individual citizens who are fearful of losing income from those with whom they share their lodgings, and business interests unions, and low cost housing advocates who will be negatively impacted by the unfair competition resulting from the explosion of Airbnb and similar short term reservation services. I also appreciated the thoughtful and engaged comments of each of the members of the Commission.

I spoke at the hearing and said that any discussion about short term rentals must consider: Regulation, Registration, Enforcement and Finance. Having thought further about what is really going on I have an even more fundamental concern: Reviewing the memo dated March 19, 2014 from the Deputy Director of Planning Alan Bell to the Council Offices, what is the necessity of any amendment? Short term rentals are permitted, according to the memo, by Conditional Use Permits in appropriate zones. I have enclosed the Bell Memo for your convenience. What the City needs to do is enforce the existing laws, require registration for short term rentals where they are permitted so that violators may be cited and taxes may be collected, just as is required for hotels, bed and breakfasts, and other facilities that accommodate visitors.

It is also disturbing that the City has framed the issue in a manner that denigrates the interests of its residents in order to promote a commercial enterprise whose interests are profit, not the welfare of the city's residents. The mayor has included in his "Back to Basics" priorities the balancing of economic opportunity with "neighborhood quality of life." While your comments at the September 2 hearing showed both your knowledge and concern about all the issues that have been raised, I fear that the framework which has been established to consider short term rentals predetermines a result that will force the city's

residents to bear the brunt of the city's decision to cater to commercial interests in pursuit of illusionary goals. This conclusion is reinforced by the "Short Term Rental Questions" questionnaire sent by the Planning Department. The questions were loaded and set forth in a way that will allow the City to claim that it is doing what respondents wanted when it delivers the Amendment to the Council. At a minimum, it is a disingenuous public relations strategy. I can only hope that you will resist the pressures to give lip service to the welfare of the citizenry while pursuing the chimera of an explosion of tourism providing affordable housing for all. It doesn't work that way.

Airbnb is similar in its attraction and potential for abuse to Uber and Bitcoin. On the one hand it offers a service that provides quick, inexpensive alternatives to consumers. On the other hand, it is an invitation to abuses that have been extensively catalogued because it avoids regulatory safeguards. It thrives on avoidance of regulation and its disdain for the ability of government to enforce the rules it claims it doesn't need. It makes lots of money for the creative innovators who thought it up and uses its profits to undermine the stability of the communities in which it operates.

Having said that, and recognizing that the issues have been well analyzed by groups such as:

1. The Venice Neighborhood Council, which spoke from first hand experience on how the short term rental industry has negatively impacted their community;
2. The Los Angeles Alliance for a New Economy, which analyzed, with data, the negative impact of short term rentals on the rental market, both in increasing the costs of rentals and in removing rentals from the market;
3. Keep Neighborhoods First, which detailed some of the abuses that have resulted from illegal short term rentals;
4. The Bel Air-Beverly Crest Neighborhood Council, supporting the position of the Benedict Canyon Association, citing the fire hazards in brush and fire hazard zones and loss of value that results from the intrusion of short term rentals into a stable community;
5. The affordable housing NGO's, which pointed out the fallacy of the proposal to use any taxes from short term rentals to provide a fund for affordable housing. They convincingly showed that the result of allowing short term rentals would be a reduction in affordable housing stock;
6. The hotel union hotel industry representatives who spoke of the unfairness of competition that reduces wages and doesn't have to pay for the stringent rules that are required of hotels to insure public safety.

I would add a few points for your consideration. Believing, like many other residents, that the issue has already been predetermined as City policy they are suggestions of what to require if the city decides to amend the existing Municipal Code:

1. Please do the research before you take action. Why has Santa Monica imposed stringent regulations on short term rentals? Why has West Hollywood banned them? Why has San Francisco proposed restrictions to be voted on by the citizenry? Their actions are

instructive. They have acted to protect the welfare of their constituencies while the City of Los Angeles appears focused on catering to the profiteers.

2. Regulation: The City has a planning code that separates commercial and residential uses. There is a reason for residential zoning. It helps keep communities stable, wherever they are. Introducing commercial uses into R-1 zone is an invitation to chaos. The challenge, of course, is to distinguish a commercial enterprise from a private house sharing arrangement. Advertising on the internet is a no brainer. Commercial enterprises should not be permitted by right in residential zones.

2. Enforcement. Regulation and enforcement are the two fundamental responsibilities of a municipal government. The city isn't very good now at enforcing existing laws. It tends to eliminate inspectors to cut expenses. Any taxes that are imposed on Airbnb's should be used solely to provide enforcement.

3. Registration. Complaints about short term rentals are routinely received by the City with delay, obfuscation and claims of ignorance that any problem exists and an inability to determine if a property is being used as a short term rental. Registration is a first requirement to identify the property owner doing the renting in order to insure that fees and taxes are paid and that a recalcitrant property owner can be held accountable when complaints are made.

4. Use of short term rentals for parties must be prohibited. They are already causing havoc in the canyons and hillside areas where traffic is already overwhelming the streets, fire dangers are present, and noise cascades for miles. They advertise on the Airbnb website as houses that are great for parties. This is clearly illegal now, yet they go on in our canyon without any action by the City. If the City is unable to enforce present laws, how can it be expected to enforce complex regulations if it amends the code to allow short term rentals in residential zones?

5. Airbnb's must be required to properly inform its clients, on its website and in writing, of the rules, regulations, taxes and fees that the landlord will be required to pay. And it is the owner of the property, not a subtenant, that must be added as a responsible party. Additionally, every property owner who contemplates renting his or her property, must be advised to make sure he has sufficient liability insurance coverage. Whether it is the property owner or a lessee who uses Airbnb, when a user tosses a cigarette and a fire ensues there must be sufficient funds available to compensate the neighbors whose homes have been damaged.

These are not all inclusive concerns. They are my reflections on what I believe to be a serious misstep by the City. I thank you for your consideration and hope you will continue to be concerned and involved in the short term rental issue.

Sincerely,


Barbara Blinderman

**cc: Mayor Eric Garcetti
City Council**

Barbara S. Blinderman
1758 Clear View Dr.
Beverly Hills, CA 90210
Tel. and FAX: 310-276-7799
e-mail: bjblinderman@roadrunner.com

Tuesday, September 29, 2015

Department of City Planning
City of Los Angeles
Community Listening Session
Mar Vista Park Auditorium
11430 Woodbine St.
Los Angeles CA 90066

Re: Short-Term Rentals

I have submitted to the Housing Committee a letter expressing my concerns about the alliance of the City and the commercial short term rental industry. I'm submitting the letter to you rather than reading it, hope you read it, and would, in addition, like to make a couple of critical observations:

- 1. It seems as though the City has already made up its mind based on a policy to amend the planning and zoning code that sounded like a good idea, but nobody seems to have thought it through. The introduction of commercial uses into residential zones serves only to destabilize residential neighbors and reduce the availability of accessible housing for its residents.**
- 2. Recognizing that the City may insist on its pursuit of illusory goals of promoting both tourism and affordable housing (though the data shows otherwise and other cities have rejected that argument), I urge you to require, in any proposal you make, to insist on: Regulation, Registration, Enforcement, and Appropriate Finance to insure enforcement.**
- 3. The City is unable to enforce its housing and zoning laws now. In our area short term rentals are used for party houses. On Benedict Canyon, parties for 500 or more people are advertised as a profitable use for short term rentals. On Yoakum Drive, professional property managers are using short term rentals, for tourists and parties on a street so narrow that fire trucks can't negotiate them. On Wallingford, the rent and rape crowd has been notably reported as a use for short term rentals. And the Vineyard, at the end of Tower Road, advertises itself for weddings and charity events. That's a short term rental. The City does nothing. And at the Vineyard, the City won't even demand that the helipad on that property be removed, even though helipads are prohibited in residential areas. Any amendment to the code must include a prohibition of the use of short term rentals as party**

houses and the use of any taxes and fees on short term rentals for the exclusive use of enforcement by a new and effective police enforcement unit.

3. Registration must be a component of any ordinance. Without information on who is renting, there is no way to enforce. There is no reason not to require registration when a commercial use is proposed.

2. Any commercial use must be prohibited in residential zones. It isn't so difficult to tell what a commercial use is: if it advertises, on the net or anywhere else, or contracts with a property owner to use its service, it is commercial.

3. It seems uncontestable that the environmental damage caused by permitting short term rentals will be significant. When will the environmental documentation for the proposal be submitted and what efforts will be made to communicate the availability of environmental submissions to the public?

4. If new taxes are imposed, will it require a vote of the public?

5. Finally, there are those that share their houses and use a spare room or area of their home to help them keep their homes when they grow older, or to help with upkeep. I fear that those are the ones who will be wrongly impacted by a short term rental amendment to the planning and zoning code by being required to pay taxes and fees to the city. And they are the ones who are most likely to pay what is demanded by the city, and most easily abused by city demands for payment because they are the honest ones and don't use lawyers. They are not in a business to make money and are not driven by the greed that characterizes today's economic model. They are not a business. They should not be taxed.

Thank you.

