

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: May 26, 2009

CAO File No. 0220-00540-0870

Council File No. 08-0644

Council District: All

To: The Mayor
The Council

From: Raymond P. Ciranna, Interim City Administrative Officer



Reference: Los Angeles Housing Department Transmittal dated January 12, 2009; Received by the City Administrative Officer on March 2, 2009

Subject: **ADMINISTRATIVE FEE RELATIVE TO RESIDENTIAL UNIT STATUS DETERMINATION APPEALS**

SUMMARY

The Los Angeles Housing Department (LAHD) requests authority to amend the Los Angeles Municipal Code (LAMC) Section 47.76 to establish an administrative fee in the amount of \$988 for appeals relative to residential unit status determinations as provided in the Residential Hotel Unit Conversion and Demolition Ordinance. The intent of establishing a fee is to recover the cost of processing and investigating the appeal filed by a residential hotel owner on the number of residential units in residential hotels.

Background

In August 2008, the City adopted an Ordinance amending the Residential Hotel Unit Conversion and Demolition Ordinance, Article 7.1 of Chapter IV of the LAMC to clarify procedures regarding the determination of residential hotels and the classification of rooms in residential hotels as either tourist or residential. As outlined in Section 47.75 of the Ordinance, LAHD will determine whether a building is a residential hotel. A residential hotel is defined as "any building containing six or more guest rooms or efficiency units, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, and which is also the primary residence of those guests. The term Residential Hotel excludes any building containing six or more guest rooms or efficiency units, which is primarily used by transient guests who do not occupy units in that building as their primary residence."

At the time the Ordinance was established, LAHD had identified 318 residential hotels in the City, with a combined total of 16,454 units. As of April 24, 2009, approximately 270 letters have been sent by LAHD to the owners of the buildings that have been designated as residential hotels, notifying them of LAHD's initial status determination of these properties as "residential." An owner of a hotel that alleges the building is not a residential hotel may file an appeal with

LAHD within 60 days of the post marked date of the Department's letter and pay a \$605 administrative fee. LAHD would then issue a determination of the appeal, with the basis for the determination described therein. If a hotel owner disagrees with the determination, the decision can be appealed to a Department Hearing Officer, which would require the payment of an additional administrative fee of \$205. As of this date, approximately 195 buildings have been determined as residential hotels. This number includes approximately 180 properties whose owners have not filed an appeal with regard to LAHD's initial residential hotel status determinations.

After or concurrently with LAHD's determination of a building's residential hotel status, the Department determines whether the "residential hotel" contains only residential units or some tourist units. In turn, LAHD will notify the owner of a residential hotel as to whether any of its units have been classified as tourist units. An owner that alleges that a residential/tourist unit status determination is incorrect may file an appeal with LAHD within 60 days of the post marked date of the Department's letter. Section 47.76 of the Ordinance authorizes LAHD to charge an administrative fee to process and investigate the appeal relative to the residential hotel unit determination. The Ordinance further provides that the administrative fee shall be added to Article 7.1 through a separate ordinance.

In a transmittal dated January 12, 2009, the LAHD proposed that the City charge \$988 to residential owners who appeal the Department's residential hotel unit determination. The LAHD based this amount on a time/task study conducted by the Department. Attachment A of this report provides a summary of the estimated time to complete each of the several tasks required to process an appeal. LAHD will utilize the following four existing LAHD staff in the Compliance and Code Enforcement Divisions, who will assume additional duties: a) Clerk Typist; b) Housing Inspector; c) Management Analyst I; and, d) Senior Management Analyst I. These positions are currently funded by the Code Enforcement Trust Fund.

In past actions involving fees, the City Attorney has opined that an assessed fee should be sufficient to only cover the cost of Special City services rendered. Fees that exceed the cost of providing government services may constitute "special taxes" and require a two-thirds vote of the electorate under Proposition 218. As a consequence, any recommended fee or fee adjustments should be based on the most recent cost recovery schedule. In calculating the administrative fee, LAHD based the salary amounts on the 2009-10 Wages and Count and the City's most recently-approved Cost Allocation Plan 30.

LAHD estimates that of the 318 buildings that the Department identified at the time that the Ordinance was established, 275 would be determined as "residential hotels." They based this assumption on several factors including: 1) number of properties that did not appeal LAHD's initial determinations; and, 2) number of exemptions and appeals that were approved. The LAHD also estimates that approximately 60 percent or 165 of the 275 residential hotels will appeal the residential/tourist unit status determination. This would equate to one-time revenue of approximately \$163,000. All proceeds from the proposed administrative fee will be deposited into the Code Enforcement Trust Fund. It should be noted that if a residential hotel owner disagrees with the Department's appeal determination, he can petition the decision to a Department Hearing Officer, which would require payment of an additional administrative fee of \$205. The LAHD estimates that review and determination of all appeals will be completed within 12 months

after fee implementation.

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Request the City Attorney, with the assistance of the Los Angeles Housing Department (LAHD), to prepare and present for adoption an ordinance to amend Los Angeles Municipal Code Section 47.76 to establish an administrative fee of \$988 to recover the cost of processing and investigating an appeal filed by a residential hotel owner over the LAHD's determination on the number of residential units in a residential hotel; and,
2. Authorize the General Manager, LAHD, or designee, to prepare Controller instructions and any necessary technical adjustments that are consistent with the Mayor and Council actions on this matter, subject to the approval of the City Administrative Officer, and authorize the City Controller to implement those instructions.

FISCAL IMPACT STATEMENT

There is no impact on the General Fund. The recommendations of this report are in compliance with City Financial Policies in that the proposed administrative fee would provide full cost recovery for the program activities reflected in this report.

RPC:AMY:02090211c

Attachment

Appeal of Residential Hotel/Residential Units Designation Administrative Fee Calculations

Calculation Factors

		Annual	Monthly	Hourly
MA I	Salary, fully burdened	\$ 104,375	\$ 8,698	\$ 50.18
CT	Salary, fully burdened	\$ 64,761	\$ 5,397	\$ 31.14
H Insp	Salary, fully burdened	\$ 130,909	\$ 10,909	\$ 62.94
Sr. MA I	Salary, fully burdened	\$ 152,678	\$ 12,723	\$ 73.41

Hearing fee Report Fee Total/Case

Dispute Resolution

Task	Staff Assigned	Per	Minutes per Task	Cost
1 Phone & Counter Consultation	MA I	Property	30	\$ 25.09
2 Dissemination of forms - via mail, fax & at counter	CT	Property	15	\$ 7.78
3 Application Intake - Research ownership & property data, database input, file set-up	CT	Property	30	\$ 15.57
4 Mail Correspondence, database entry, & filing	CT	Property	45	\$ 23.35
5 Respond to Phone Inquiries	MA I	Property	30	\$ 25.09
6 Mail decisions to parties and update records	CT	Property	30	\$ 15.57
7 Investigate claim and review evidence	MA I	Property	480	\$ 401.44
8 Site Visit Investigation	H Insp.	Property	180	\$ 188.82
9 Prepare Determination	MA I	Property	210	\$ 175.63
10 Senior Review of Determination	Sr. MA I	Property	90	\$ 110.12
Subtotal for Dispute Resolution				\$ 988.46