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August 27, 2020

The Honorable City Council
City of Los Angeles
City Hall, Room 395
Los Angeles, California 90012

Dear Honorable Members:

DEPARTMENT OF CITY PLANNING – REPORT BACK ON ESTABLISHMENT OF PER-NIGHT FEE (COUNCIL FILE 14-1635-S7)

The Department of City Planning is recommending adoption of the accompanying Resolution to set the rate for the per-night fee as defined in Section 12.03 A.32.(e)(5) of the Los Angeles Municipal Code (Home-Sharing Ordinance, Ordinance No. 185,931). On December 11, 2018, the City Council and Mayor adopted the Home-Sharing Ordinance to regulate the use of a primary residence for home-sharing as an accessory use and to establish related fees (C.F. 14-1635-S2). Rates for registration and applications for Home-Sharing and Extended-Home Sharing were established at a fee level that would be less than the full cost of providing the services in order to encourage compliance. To make up that fee deficit and also fund monitoring and enforcement, the original intent was to require a per-night fee for each night of Home-Sharing. To set the fee, it stated that “The City Council shall adopt, by resolution, a per-night fee based on an analysis of the cost of implementing, maintaining, and enforcing this subdivision.” City Planning engaged a consultant to perform an administrative fee study and determine an appropriate cost recovery per-night fee amount.

In alignment with industry standards on fee setting, the analysis separated the services being provided into three categories: 1) Administration, 2) Registration & Renewal, and 3) Monitoring and Enforcement. In consultation with the City Attorney, it was determined that a reasonable relationship exists between the establishment of a per-night fee and the proportional cost of service for Administration and Monitoring and Enforcement when compared to the number of nights being rented out. However, Registration & Renewal activities do not share the same proportional relationship of cost in comparison with the number of nights being rented out, and are not recommended to be covered by the per-night fee.

Therefore, City Planning is recommending that the Registration & Renewal fees remain at current fee levels (\$89 for Home-Sharing, \$850 for Extended Home-Sharing) which will be less than full cost recovery. Based on the consultant's calculation of cost of service, City Planning also recommends that a per-night fee be set at \$2.93 per night to cover the cost of registration, monitoring and enforcement.

RECOMMENDATIONS

That the City Council, subject to approval by the Mayor:

1. RECEIVE and FILE the administrative fee study report from NBS, dated August 5, 2020;
2. ADOPT the attached Resolution to authorize setting the per-night fee, as described in Section 12.03 A.32.(e)(5) of the Los Angeles Municipal Code, at \$2.93 per night, effective October 1, 2020; and,
3. INSTRUCT the Department of City Planning to report back with an updated fee study after two full years of implementation of short-term rental activity.

BACKGROUND

Upon adoption of the Home-Sharing Ordinance (HSO), City Planning provided a report back to Council with staffing and expense funding needs in order to implement the HSO (C.F. 14-1635-S7). The cost for this complement of resources was absorbed by City Planning in the Fiscal Year 2018-19, and subsequently through the General Fund in Fiscal Year 2019-20. Section 19.01 T of the Los Angeles Municipal Code, through the HSO, establishes registration and application fees to pay for a portion of costs associated with these services as follows:

Current Home-Sharing Registration and Renewal Fees

| Application Type | Fee |
|---|---------|
| Home-Sharing Application or Renewal | \$89 |
| Extended Home-Sharing Administrative Clearance or Renewal | \$850 |
| Extended Home-Sharing Discretionary Review Application | \$5,660 |

Based on the anticipated volume and associated workload, it was determined that these fees would not be sufficient to fund the full cost of staffing and resources. Several options were identified and contemplated by City Council, including a carve-out from Transient Occupancy Tax (TOT) receipts or a per-night fee, as a means to subsidize the full cost associated with registration and renewal activities and identify a source of funds for monitoring and enforcement activities. On April 16, 2019, as part of the action authorizing the staffing for the HSO program, City Council instructed City Planning to utilize current year General Fund appropriations to fund an administrative fee study to set the rate for a per-night fee. To set the rate, the HSO states that "The City Council shall adopt, by resolution, a per-night fee based on an analysis of the cost of implementing, maintaining, and enforcing this subdivision."

On April 29, 2019, City Planning released a Request for Proposals to conduct the administrative fee study. On May 31, 2019, four bids were received and evaluated, and NBS was selected as the consultant to perform the study. A contract with NBS was executed on June 20, 2019. NBS worked with City Planning, as well as other City departments, and released a final report with accompanying findings and fee recommendations on August 5, 2020 (Attachment 2). Their approach included an analysis of current rental listings and nightly bookings, annual cost of service, and cost recovery, as well as a comparative survey of similar home-sharing programs. Overall, the goal was to develop findings and recommendations on the establishment of a fee-for-service program that recovers up to, but not more than, the City's total estimated costs of providing these regulatory services. A summary of their analysis is described below.

Analysis of Listings and Nightly Bookings

In order to calculate the final fee amount, certain assumptions were made to complete the analysis on rental listings and nightly bookings. City Planning's contractor, Host Compliance, provided a data scrape of all major Hosting Platforms operating within the City with a total of 37,195 listings and 1,709,715 nightly bookings based on Host Compliance's modeled result for nightly bookings. NBS narrowed this number to exclude inactive and duplicate listings. Based on eligibility criteria, NBS further narrowed these figures by excluding non-primary residences and Multi-Family Rent Stabilization Ordinance units for a final figure of 14,012 total eligible listings and 865,315 nightly bookings.

Between the start of registration on July 1, 2019 and January 31, 2020, approximately 5,963 hosts registered. During the same period, 137 hosts registered for Extended Home-Sharing. Based on the monthly registration data provided, NBS estimates that 7,426 hosts, or 53% of the total estimated eligible listings, would register with the City. Based on the data provided, NBS also estimated that approximately 86% of all eligible nightly bookings would occur in a single year, or 743,666 nightly bookings. Because the HSO is a new regulatory program, NBS did not attempt to project any type of growth pattern, and proposes that the maximum adoptable fee amount be based on the initial start of the program and its activity in year 1.

Cost of Service Analysis

Both direct and indirect costs required to administer and enforce the HSO were included in the cost of service analysis for City Planning, Department of Building and Safety (DBS), Housing and Community Investment Department (HCID).

City Planning is responsible for implementing and administering the HSO. The FY 2019-20 Adopted Budget authorized seven new positions to administer the program, four positions to provide oversight for Extended Home-Sharing, and expense funding to support the program, including funding for a contractor to provide a system associated with registration, permitting, compliance monitoring, and enforcement. Funding for these positions and associated expenses are continued in the FY 2020-21 Proposed Budget.

DBS and HCID are responsible for the monitoring and enforcement of the HSO with DBS handling those in single-family units and HCID handling multi-family units. It should be noted that the potential volume of monitoring and code enforcement cases are significantly reduced from what was originally anticipated as a result of the major hosting platforms signing an agreement to remove all listings from their sites without a valid registration number. Nonetheless, DBS anticipates needing one Systems Analyst position and HCID anticipates needing one Assistant Inspector III position for these activities. DBS and HCID submitted budget requests for these two

positions in the 2020-21 budget but were not included in the Proposed Budget due to the timing of this fee study.

NBS categorized the direct and indirect costs for each department into four service categories as shown below. This table shows that the estimated total annual cost of service is approximately \$3.6 million annually, which includes \$1.5 million associated with the registration and annual renewals and \$1.4 million for ongoing monitoring of active listings and general enforcement of the HSO. This does not include the cost of the discretionary case processing for Extended Home-Sharing applications.

Annual Cost of Providing HSO Program Services

| Service Category | City Planning | HCID | DBS | Total |
|---------------------------------|--------------------|------------------|------------------|--------------------|
| Administration | \$768,588 | - | | \$768,588 |
| Registration & Renewal | \$1,465,365 | - | | \$1,465,365 |
| Monitoring and Code Enforcement | \$1,077,923 | \$156,812 | \$173,874 | \$1,408,609 |
| Total: | \$3,311,876 | \$156,812 | \$173,874 | \$3,642,562 |

Cost Recovery Evaluation of Existing Application Fees

As part of their work, NBS also evaluated the existing registration and renewal fees for cost recovery. This analysis included a review of the full costs of service for registration and renewals as shown above (\$1,465,365) and the number of hours (8,009) needed to perform those services. These figures were then expressed in a calculation as a fully burdened hourly rate which came out to be about \$183 per hour for registration and renewals. When these fees were originally developed, it was set at a rate lower than the full cost of service to encourage registration and compliance with the intent that a per night fee would be added to ensure full cost recovery.

Time estimates were applied to each of the activities and multiplied by the hourly rate to determine the full cost of service for each activity. The table below summarizes those calculations and shows that the cost recovery for each of these fees is less than 100%.

Current Cost Recovery of Registration & Renewal Activities

| Permit Type | Estimated Average Labor Time per Activity (hours) | Hourly Rate | Total Cost Per Activity | Current Fee | % Cost Recovery |
|---|---|-------------|-------------------------|-------------|-----------------|
| Home-Sharing Registration | 0.93 | \$183 | \$171 | \$89 | 52% |
| Extended Home-Sharing Registration | 5.00 | \$183 | \$915 | \$850 | 93% |
| Extended Home-Sharing with Discretionary Review | 73.64 | \$183 | \$13,474 | \$5,660 | 42% |

Based on the estimates for permit activity, NBS estimates that the existing registration and renewal fees will recover approximately \$971,000, or 66% of the total annual cost of \$1,465,365 of providing registration and renewal services. This leaves a Fee deficit amount of \$494,670 for registration and renewal activities.

Implementation of Per-Night Fee

As discussed earlier in this report, the original intent of the City Council was to establish a Per-Night Fee that ensures all three service categories as shown in the table below are full cost recovery.

Annual Cost of Providing HSO Program Services

| Service Category | Total Costs | Current Fee Revenue | Current Cost Recovery % | Proposed Cost Recovery % | Proposed Fee Revenue |
|---------------------------------|--------------------|---------------------|-------------------------|--------------------------|----------------------|
| Administration | \$768,588 | \$0 | 0% | 100% | \$768,588 |
| Registration & Renewal | \$1,465,365 | \$970,695 | 66% | 66% | \$970,695 |
| Monitoring and Code Enforcement | \$1,408,609 | \$0 | 0% | 100% | \$1,408,609 |
| Total: | \$3,642,562 | \$970,695 | 27% | 86% | \$3,147,892 |

The underlying assumption in imposing a per-night fee is that a reasonable relationship exists between the proposed fee and the services provided. In this particular case, a determination would need to be made that a higher number of nights being rented out, i.e. higher fee costs to the user, requires a proportionally higher level of service from the City.

NBS' analysis confirms that the current Home-Sharing and Extended Home-Sharing application and renewal fees are not sufficient to recover costs associated with those activities. However, after a detailed review of the activities associated with Registration & Renewal, City Planning, with assistance from the City Attorney, determined that there was not a sufficient nexus between the number of nights rented out and the services provided by the Department in reviewing Home-Sharing & Extended Home-Sharing applications. Therefore, a per-night fee is not recommended to cover Registration & Renewal activities. Although it will result in less than full cost recovery for these services, City Planning recommends maintaining the registration and renewal fees at their existing level to continue to encourage compliance.

For administration and monitoring and code enforcement costs, City Planning is recommending that program costs be recovered through the establishment of a full-cost recovery per-night fee. The per-night fee would fall under the California Constitution Article XIII C, Section 1 (e)(3) which states that a fee is not a tax if it is imposed for the reasonable regulatory costs of the local government. In the HSO, general administration, monitoring and code enforcement activities require regulatory efforts from the City. All active and prospective short-term rental listings in the City directly and indirectly benefit from the monitoring and compliance activities of the HSO. These services bring a higher degree of compliance with local regulations over time and limit the number of non-compliant competitors for those listings that are actively maintaining HSO compliance.

Therefore, a reasonable relationship exists between the benefit that hosts renting for additional rental nights receive and the costs associated with monitoring, administration, and enforcement of the HSO.

The cost of these service areas are \$768,588 for administration and \$1,408,609 for Monitoring and Code Enforcement. NBS estimated the annual number of nightly bookings at 743,666. The cost of these service categories was then divided by the number of nightly bookings. The result is a proposed per-night fee totaling \$2.93 per night.

Per-Night Fee Calculation

| Activity | Total Cost Summary | | | |
|--|--------------------|------------------|------------------|--------------------|
| | DCP | HCID | DBS | Total |
| HSO Program Administration | \$768,588 | - | - | \$768,588 |
| Monitoring and Code Enforcement | \$1,077,923 | \$156,812 | \$173,874 | \$1,408,609 |
| Total: | \$1,846,511 | \$156,812 | \$173,874 | \$2,177,197 |
| Year 1 Estimated No. of Nightly Bookings | | | | 743,666 |
| Per-Night Fee | | | | \$2.93 |

The revenue from the implementation of this fee would be deposited into the Short-Term Rental Enforcement Trust Fund (Fund 62N) as stipulated in Section 5.576(b) of the Los Angeles Administrative Code and in Ordinance Number 186,197.

Cost-Benefit Feasibility Analysis & Options

NBS evaluated various options to charge a regulatory fee and ensure full cost recovery. As an alternative, NBS proposed a per-application regulatory fee on initial registrations and annual renewal permits. By dividing the total costs associated with the HSO by the number of annual permit transactions, the per-application fee would be approximately \$360 to be added to the existing \$89 and \$850 registration and Extended Home-Sharing registration fees. This would assume that upon initial registration, all listings, regardless of nightly booking activity, receive the same basic services from the regulatory program on average per year. This provides some benefit to the City in that it requires no additional data to administer and all registrants pay a reasonable and equal share of annual regulatory costs. However, this would result in a higher cost for listings with less rental activity.

NBS conducted a comparative fee survey to better understand the different home-sharing fee types used by other jurisdictions while also getting a frame of reference for pricing. The Cities of Nashville, San Francisco, and Chicago were the primary focus of the survey, but a basic survey of other Southern California agencies in Los Angeles County was also completed. It was determined that the City of Los Angeles' fee for regular registration was lower than all other cities surveyed. The most common method of collecting fees for Home-Sharing was through the TOT, though the City of Chicago included a separate surcharge on top of the standard TOT for all

Home-Sharing participants. The City of Nashville was the only other City to establish a per-night fee, but it should be noted that there is also a limited number of jurisdictions for comparison. In some cases, others either did not allow short-term rentals or their programs varied from the City of Los Angeles.

The best practice for review of fees is generally every five years. However, the implementation of the HSO is still in the early stages, and it will be important to review and analyze data on registration, nightly bookings, processes and staffing needs once the program has had some time to develop. NBS recommends adopting a fee and tracking data for up to two years to support revision of the fee model and any recommendations for fee updates.

Considering the length of time needed to conduct a thorough analysis and review of the fee, and to properly adjust for inflation, the proposed resolution includes an annual inflation adjustment that will be assessed on an annual basis, similar to the provisions described in the recently adopted Affordable Housing Linkage Fee. Therefore, the proposed per-night fee would be adjusted annually for inflation in accordance with the latest change in year-over-year Consumer Price Index for Urban Consumers.

If you have any questions, please feel free to contact Raoul Mendoza, Chief Management Analyst, at (213) 269-4120 or by email at Raoul.Mendoza@lacity.org.

Sincerely,



VINCENT P. BERTONI, AICP
Director of Planning

VPB:RM:fm

c: William Chun, Deputy Mayor, Mayor's Office of Economic Development (MOED)
Nicholas Maricich, Director of Planning Policy and Development, MOED
Aurora Abracia, Chief Administrative Analyst, Office of the CAO
Nicholas Campbell, Senior Administrative Analyst, Office of the CAO
Adrienne Khorasanee, Deputy City Attorney, Office of the City Attorney

Attachments:

- 1 – Home-Sharing Ordinance No. 185,931
- 2 – Home-Sharing Program Administrative Fee Study prepared by NBS dated August 5, 2020
- 3 – Draft Resolution to Set the Rate for the Per-Night Fee
- 4 - Short-Term Rental Enforcement Trust Fund Ordinance No. 186,197