



November 30, 2021

Michael Feuer
Los Angeles City Attorney
Office of the City Attorney
200 N. Main Street, Room 800
Los Angeles, CA 90012

Dear Mr. Feuer,

This letter addresses any mistaken understanding the City Attorney’s Office may have that it lacks the authority to enforce the Los Angeles Home Sharing Ordinance (“HSO” or “Ordinance”), Los Angeles Municipal Code (“LAMC”), Section 12.22 A.32. As set forth below, the Ordinance expressly provides that your office may pursue – without limitation - civil and criminal actions against non-compliant host and platforms. Indeed, your office has the authority to seek injunctions against those platforms which are coordinating illegal short-term rentals in the City of Los Angeles.

The Ordinance provides for a range of enforcement options and remedies, which include avenues for enforcement by the City Attorney’s Office. In addition to issuance of citations and imposition of fines pursuant to the Ordinance, including through the Administrative Enforcement Citation (ACE) program, remedies pursuant to Los Angeles Municipal Code section 11.00 and “any criminal, civil or other legal remedy established by law that may be pursued to address violations” are also available. See LAMC, Section 12.22 A.32(g); see also Administrative Guidelines, Section VIII. As the City Attorney’s Office is actively involved in overseeing enforcement of the HSO through the ACE program, it already possesses the data and familiarity with the HSO to move forward with enforcement actions that will have widespread impact on communities and neighborhoods in the City of Los Angeles. As an organization committed to protecting housing, hotel jobs and neighborhoods impacted by the short-term rental industry, Better Neighbors LA is ready and prepared to support any enforcement measures contemplated by the City Attorney’s office.

Remedies for “Enforcement of Violations” under the Ordinance include the issuance of administrative citations and the imposition of fines. LAMC, Section 12.22 A 32(g)(3) & (g)(4). In addition, the Ordinance provides that any violator may also be subject to the provisions of Section 11.00 of the L.A. Municipal Code. LAMC, Section 12.22 A 32(g)(2). Section 11.00 identifies the following remedies: a maximum \$2500 civil penalty for each and every offense; declaration of the violation a public nuisance that may be abated by the City or City Attorney; posting of a performance bond; criminal punishment (misdemeanor or infraction); and

administrative fines. LAMC, Section 11.00(1)-(o). The specified remedies are expressly “in addition to any criminal, civil or other legal remedy established by law that may be pursued to address the violations of [] Subdivision [32].” LAMC, Section 12.22 A 32(g)(1).

As reflected in the recent September 22, 2021, City Attorney Administrative Enforcement Citation (ACE) Program Status Report, the Los Angeles Housing Department (LAHD) and Los Angeles Department of Building and Safety (LADBS) have used the ACE Program in connection with enforcement of the HSO since at least July 1, 2020. City Attorney Report No. R21-0279, pp. 2, 4-5. According to the report, the City Attorney’s Office is responsible for and reviews “every citation issued and submitted for processing.” City Attorney Report No. R21-0279, p. 2. The data in the September 22, 2021, status report makes clear that the issuance of citations and imposition of fines is insufficient to deter violations of the Ordinance as almost \$100,000 in fines for the time period from July 1, 2020, through June 30, 2021, remains unpaid by violators of the HSO who continue to profit through their unlawful short-term rental operations at the expense of the community and neighborhoods and hosts who are lawfully operating short-term rentals.

Based on the plain language of the Ordinance, the issuance of citations and the imposition of fines are not exclusive remedies for violations of the Ordinance. LAMC, Section 12.22 A 32(g). The City Attorney has the authority to seek “any criminal, civil or other legal remedy established by law that may be pursued” to deter or stop violators from profiting off of their illegal short-term rental operations as well as the host platforms who allow it. LAMC, Section 12.22 A 32(g)(1). Here, an appropriate means of enforcement would be to seek injunctive relief for violations of the HSO under the Unfair Competition Law (“UCL”), California Business and Professions Code section 17200 *et seq.*, which the City Attorney’s Office has express authority to do pursuant Section 17204. The City Attorney may pursue an action for violation of the UCL even if the Ordinance authorizes a particular agency to enforce it. *Blue Cross of California, Inc. v. Superior Ct.*, 180 Cal. App. 4th 1237, 1250 (2009), as modified on denial of reh'g (Jan. 12, 2010)(“[E]ven if the underlying statute that renders the conduct unlawful expressly authorizes a particular agency to enforce the statute but does not include a parallel authorization for suits by local law enforcement officials, those officials can still sue under the UCL for violation of the statute.”).

Pursuant to the Ordinance, the City Attorney may also prosecute violations of the Ordinance as criminal misdemeanors and public nuisance pursuant to Los Angeles Municipal Code, Section 11.00(1)-(o). LAMC 12.22.A 32(g)(2). Indeed, the City Attorneys’ Office regularly prosecutes housing-related violations of the Los Angeles Municipal Code as misdemeanors. *See, e.g., People of the State of California v. LSJB Investments, Alsmann*, Los Angeles County Superior Court, Case No. 6CJ01778 (complaint charging defendants with violations of various ordinances including Zoning and Rent Stabilization (“RSO”)); *People of the State of California v. Bryce Hall and Blake Gray*, CCMS Case No. 0CJ06450 (misdemeanor and public nuisance complaint charging defendants with violations of Los Angeles Municipal Code section 41.58.1 which prohibits loud or unruly gatherings at residences).

Further, Section 11.00 of the Los Angeles Municipal Code explicitly provides for the “declaration of the violation a public nuisance that may be abated by the City or City Attorney” and that the City Attorney may seek a restraining order or injunctive relief to compel compliance

with the Code. LAMC Section 11.00(1). The authority for the City Attorney to bring a civil action to abate a public nuisance is set forth in Code of Civil Procedure section 731. *See also People ex rel. Clancy v. Superior Court*, 39 Cal. 3d 740, 749 (1985)(citing Civ. Proc. Code § 731.). Here, the City Attorney should bring such an action against HSO violators, including Host Platforms, who engage in conduct that rises to the level of a public nuisance as it has previously done for other housing related violations of the Municipal Code. *See, e.g., City of Los Angeles v. Lance Jay Robbins Paloma Partnership, LP, Robbins*, Los Angeles County Superior Court, Case No. 20STCV11588 (public nuisance claims filed by Los Angeles City Attorney to enjoin violations of Los Angeles' zoning ordinances which include the HSO); *People ex rel. Feuer v. Superior Court (Cahuenga's the Spot)*, 234 Cal. App. 4th 1360 (2015)(public nuisance and UCL claims filed by Los Angeles City Attorney for violation of the LAMC zoning provisions).

These are just some examples of enforcement measures the City Attorney's Office can take to address violations of the Ordinance. Based on our research, the following are areas where enforcement is greatly needed and would be most effective: Host Platforms' failure to provide mandatory disclosures and list required registration numbers (LAMC 12.22 A.32(f)(1), (f)(4)); the prohibition of the use of and advertising for rent-controlled property as short-term rentals (LAMC 12.22.A 32(c)(2)(ii)(b), 32(d)(1)); the prohibition of sound amplifying equipment after 10 p.m. and outdoor congregations of more than eight people (LAMC 12.22.A 32(d)(12)); and the limitation of home sharing to the host's single primary residence (LAMC 12.22.A 32(c)(2)(ii); 12.22.A 32(b)(9).

We would be happy to share with the City Attorney's Office the research and data we have compiled to assist in broader and more impactful enforcement of the Ordinance. Please do not hesitate to contact us.

Respectfully,

/s/ Randy Renick