

LEGISLATIVE DIGEST

[Administrative Code - Short-Term Residential Rentals]

Ordinance amending the Administrative Code to revise the Residential Unit Conversion Ordinance to require Hosting Platforms to verify that a Residential Unit is on the City Registry prior to accepting a fee for booking a short-term rental transaction, and to provide an affidavit of compliance to the City and retain certain records; authorize the Office of Short Term Rentals to issue an administrative subpoena to obtain records; provide for civil, administrative, and criminal penalties against Hosting Platforms for violations of their obligations under the Residential Unit Conversion Ordinance; and affirming the Planning Department’s determination under the California Environmental Quality Act.

Existing Law

Chapter 41A, as amended by Ordinance No. 104-16, requires that Hosting Platforms verify each unit has a valid registration prior to providing booking services for a unit. Hosting Platforms have two options for complying with this requirement, either by providing the verified registration in the listing, or by providing the verified registration number and unit information to the Office of Short-Term Rental (“Office”).

Ordinance No. 104-16 also amended Chapter 41A to mandate that Hosting Platforms respond within one business day to demands from the Office for information regarding the compliance of any listing, and mandates that the Office perform regular monitoring of Hosting Platforms to identify non-compliant or potentially non-compliant listings.

Amendments to Current Law

This Ordinance would amend Chapter 41A to clarify that Hosting Platforms may provide, and collect a fee for, Booking Services in connection with short-term rentals for Residential Units located in the City and County of San Francisco only when those Residential Units are lawfully registered on the Short Term Residential Rental Registry (“Registry”) at the time the Residential Unit is rented for short term rental. A Hosting Platform that provides Booking Services for an unregistered unit will be in violation of Chapter 41A and subject to the enforcement proceedings as provided in Chapter 41A. The Ordinance would require the Hosting Platforms to submit to the Office a monthly affidavit that the Hosting Platforms must sign, verifying that the platforms complied with their obligations under Chapter 41A. The Ordinance would require a Hosting Platform to retain certain records related to their Booking Services for 3 years.

This Ordinance provides the Office with administrative subpoena power to allow the Office to obtain information from Hosting Platforms as necessary to investigate and enforce against potential violations of Chapter 41A. The administrative subpoena power would replace the existing disclosure requirements for Hosting Platforms

Background Information

Chapter 41A of the Administrative Code prohibits short term rentals (rentals of less than 30 days) of residential units within the City. In February of 2015, the City amended Chapter 41A to allow short term rentals if the permanent resident registers the unit with the City and agrees to adhere to various rules and restrictions, including a requirement that permanent residents occupy their residential unit for no less than 275 days out of the year in which the residential unit is rented as a Short-Term Residential Rental, and payment of Transit Occupancy Taxes.

Enforcement of Chapter 41A is difficult because Hosting Platforms generally do not post addresses, contact information, or registration numbers for listings. The Office lacks a direct method for determining if a host has a valid registration number, or if a complaint's allegations of short term rental violations at a specific address correspond to listings on a platform. Hosting Platforms have not been responsive to voluntary requests from the Office for information about the status of potentially non-compliant units or listings. Ordinance No. 104-16 mandated that Hosting Platforms only provide Booking Services for units with valid short-term rental registration numbers, provide evidence of compliance, and respond to requests for information from the Office.

The proposed Ordinance would clarify that Hosting Platforms' responsibilities are triggered by their provision of, and compensation for, Booking Services. Hosting Platforms that provide Booking Services for units that are not listed on the Registry when they accept a fee for their Booking Services will be in violation of Chapter 41A. Further, this Ordinance strengthens the ability of the Office to investigate and enforce Chapter 41A by providing the Office with administrative subpoena power.

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