

File No. 160423 Committee Item No. 3
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight Date June 2, 2016

Board of Supervisors Meeting Date _____

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Completed by: Erica Major Date May 26, 2016
Completed by: _____ Date _____

1 [Administrative Code - Short-Term Residential Rentals and Hosting Platforms]

2
3 **Ordinance amending the Administrative Code to revise the Residential Unit Conversion**
4 **Ordinance to require Hosting Platforms verify that a Residential Unit is on the City**
5 **Registry prior to listing; require Hosting Platforms respond to notices and requests for**
6 **information; provide for civil, administrative, and criminal penalties against Hosting**
7 **Platforms for violations of the Residential Unit Conversion Ordinance; and affirming**
8 **the Planning Department's determination under the California Environmental Quality**
9 **Act.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. Environmental Findings. The Planning Department has determined that the
19 actions contemplated in this ordinance comply with the California Environmental Quality Act
20 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
21 the Clerk of the Board of Supervisors in File No. 160423 and is incorporated herein by
22 reference. The Board affirms this determination.

23 Section 2. The Administrative Code is hereby amended by revising Sections 41A.4,
24 41A.5, 41A.6, and 41A.7, to read as follows:

25 **SEC. 41A.4. DEFINITIONS.**

1 Whenever used in this Chapter 41A, the following words and phrases shall have the
2 definitions provided in this Section:

3 * * * *

4 **Short-Term Residential Rental Registry or Registry.** A database of information
5 maintained by the Department that includes a unique registration number for each Short-Term
6 Residential Rental and information regarding Permanent Residents who are permitted to offer
7 Residential Units for Short-Term Residential Rental. Only one Permanent Resident per
8 Residential Unit may be included on the Registry at any given time. The Registry shall be
9 available for public review to the extent required by law, except that, to the extent permitted by
10 law, the Department shall redact any Permanent Resident names and street and unit numbers
11 from the records available for public review.

12 * * * *

13 **SEC. 41A.5. UNLAWFUL CONVERSION; REMEDIES.**

14 * * * *

15 **(d) Civil Action.**

16 * * * *

17 **(3) Civil Penalties.** If the City is the prevailing party in any civil action under this
18 subsection (d): an Owner, Hosting Platform, or Business Entity in violation of this Chapter 41A
19 ~~or a Hosting Platform in violation of subsection (g)(4)(A)~~ may be liable for civil penalties of not
20 more than \$1,000 per day for the period of the unlawful activity. Interested Parties other than
21 the City may not seek or obtain civil penalties.

22 * * * *

23 **(e) Criminal Penalties.** Any Owner or Business Entity who rents a Residential Unit for
24 Tourist or Transient Use in violation of this Chapter 41A, or any Hosting Platform that provides a
25 listing for a Residential Unit for Tourist or Transient Use in violation of this Chapter 41A, without

1 correcting or remedying the violation as provided for in subsection 41A.6(c)(6), shall be guilty
2 of a misdemeanor. Any person convicted of a misdemeanor hereunder shall be punishable by
3 a fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more
4 than six months, or by both. Each Residential Unit rented for Tourist or Transient Use shall
5 constitute a separate offense.

6 * * * *

7 **(g) Exception for Short-Term Residential Rental.**

8 * * * *

9 **(4) Requirements for Hosting Platforms.**

10 **(A) Notice to Users of Hosting Platform.** All Hosting Platforms shall
11 provide the following information in a notice to any user listing a Residential Unit located
12 within the City and County of San Francisco through the Hosting Platform's service. The
13 notice shall be provided prior to the user listing the Residential Unit and shall include the
14 following information: that Administrative Code Chapters 37 and 41A regulate Short-Term
15 Rental of Residential Units; the requirements for Permanent Residency and registration of the
16 unit with the Department; and the transient occupancy tax obligations to the City.

17 **(B)** A Hosting Platform shall comply with the requirements of the
18 Business and Tax Regulations Code by, among any other applicable requirements, collecting
19 and remitting all required Transient Occupancy Taxes, and this provision shall not relieve a
20 Hosting Platform of liability related to an occupant's, resident's, Business Entity's, or Owner's
21 failure to comply with the requirements of the Business and Tax Regulations Code. A Hosting
22 Platform shall maintain a record demonstrating that the taxes have been remitted to the Tax
23 Collector and shall make this record available to the Tax Collector upon request.

24 *(C) Prior to listing a Residential Unit within the City to be rented for Tourist or*
25 *Transient Use, a Hosting Platform shall verify with the Office of Short-Term Residential Rental*

1 Administration and Enforcement that the Residential Unit is listed on the Registry and has a valid
2 registration number. Hosting Platforms shall comply with this subsection (g)(4)(C) by:

3 (i) Providing the verified registration number on each listing in the area
4 of the listing dedicated to information verified or compiled by the Hosting Platform about the host, such
5 as host response rate, host ratings time, and date of joining the platform; or

6 (ii) Ensuring that the host has included a Hosting Platform-verified
7 registration number within the listing and that the number is visible to all users of the Hosting
8 Platform; or

9 (iii) Sending the verified registration number, Residential Unit street
10 address (including any unit number), and host name to the Office of Short-Term Residential Rental
11 Administration and Enforcement by electronic mail prior to posting the listing on the platform.

12 ~~(C-D)~~ Any violation of a Hosting Platform's responsibilities under
13 subsections (g)(4)(A), (B), or (C), or 41A.7(b) shall subject the Hosting Platform to the
14 administrative penalties and enforcement provisions of this Chapter 41A, including but not
15 limited to payment of civil penalties of up to \$1,000 per day for the period of the failure to
16 comply, with the exception that any violation related to failure to comply with the requirements
17 of the Business and Tax Regulations Code shall be enforced by the Treasurer/Tax Collector
18 under that Code.

19 (5) The exception set forth in this subsection (g) provides an exception only to
20 the requirements of this Chapter 41A. It does not confer a right to lease, sublease, or
21 otherwise offer a residential unit for Short-Term Residential Use where such use is not
22 otherwise allowed by law, a homeowners association agreement or requirements, any
23 applicable covenant, condition, and restriction, a rental agreement, or any other restriction,
24 requirement, or enforceable agreement. All Owners and residents are required to comply with
25

1 the requirements of Administrative Code Chapter 37, the Residential Rent Stabilization and
2 Arbitration Ordinance, including but not limited to the requirements of Section 37.3(c).

3 (6) **Department Contact Person.** The Department shall designate a contact
4 person for members of the public who wish to file Complaints under this Chapter 41A or who
5 otherwise seek information regarding this Chapter or Short-Term Residential Rentals. This
6 contact person shall also provide information to the public upon request regarding quality of
7 life issues, including, for example, noise violations, vandalism, or illegal dumping, and shall
8 direct the member of the public and/or forward any such Complaints to the appropriate City
9 department.

10 (7) Notwithstanding any other provision of this Chapter 41A, nothing in this
11 Chapter shall relieve an individual, Business Entity, or Hosting Platform of the obligations
12 imposed by any and all applicable provisions of state law and the *San Francisco* Municipal
13 Code including but not limited to those obligations imposed by the Business and Tax
14 Regulations Code. Further, nothing in this Chapter shall be construed to limit any remedies
15 available under any and all applicable provisions of state law and the *San Francisco* Municipal
16 Code including but not limited to the Business and Tax Regulations Code.

17 ~~(8) *Annual Department Reporting Requirement. Within one year of the effective date of*~~
18 ~~*this ordinance and annually thereafter, the Department shall provide a report to the Board of*~~
19 ~~*Supervisors regarding the Department's administration and enforcement of the Short-Term Residential*~~
20 ~~*Rental program. The study shall make recommendations regarding proposed amendments to this*~~
21 ~~*Chapter 41A necessary to reduce any adverse effects of the Short-Term Residential Rental program.*~~

22
23 **SEC. 41A.6. ADMINISTRATIVE ENFORCEMENT PROCEDURES.**

24 * * * *

25 (d) **Administrative Penalties for Violations and Enforcement Costs.**

1 (1) **Administrative Penalties.** Administrative penalties shall be assessed as
2 follows:

3 (A) For the initial violation, not more than four times the standard hourly
4 administrative rate of \$121-~~00~~ for each unlawfully converted unit, or for each identified failure
5 of a Hosting Platform to comply with the requirements of subsections 41A.5(g)(4)(A), (B), (C),
6 or 41A.7(b), per day from the notice of violation until such time as the unlawful activity
7 terminates;

8 (B) For the second violation by the same Owner(s), Business Entity, or
9 Hosting Platform, not more than eight times the standard hourly administrative rate of \$121-~~00~~
10 for each unlawfully converted unit, or for each identified failure of a Hosting Platform to comply
11 with the requirements of subsections 41A.5(g)(4)(A), (B), (C), or 41A.7(b), per day from the day
12 the unlawful activity commenced until such time as the unlawful activity terminates; and

13 (C) For the third and any subsequent violation by the same Owner(s),
14 Business Entity, or Hosting Platform, not more than 12 ~~twelve~~ times the standard hourly
15 administrative rate of \$121-~~00~~ for each unlawfully converted unit or for each identified failure of
16 a Hosting Platform to comply with the requirements of subsections 41A.5(g)(4)(A), (B), (C), or
17 41A.7(b), per day from the day the unlawful activity commenced until such time as the unlawful
18 activity terminates.

19 (2) **Prohibition on Registration and Listing Unit(s) on Any Housing**
20 **Platform.** In the event of multiple violations, the Department shall remove the Residential
21 Unit(s) from the Registry for one year and include the Residential Unit(s) on a list maintained
22 by the Department of Residential Units that may not be listed on any Hosting Platform until
23 compliance. Any Owner, ~~or~~ Business Entity or Hosting Platform who continues to list a
24 Residential Unit in violation of this Section 41A.6 shall be liable for additional administrative
25 penalties and civil penalties of up to \$1,000 per day of unlawful inclusion.

1 (e) **Notice of Violation and Imposition of Penalties.** The Director shall notify the
2 Owner or Hosting Platform by certified mail of the violation and that administrative penalties
3 shall be imposed pursuant to this Chapter 41A. The notice shall state the time of the existence
4 of the violation and the resulting imposition of penalties. Payment of the administrative
5 penalties and enforcement costs shall be made within 30 days of the certified mailed notice to
6 the Owner or Hosting Platform. If the administrative penalties and enforcement costs are not
7 paid, the Director shall refer the matter to the Treasurer/Tax Collector and/or initiate lien
8 procedures to secure the amount of the penalties and costs against the real property that is
9 subject to this Chapter, under Article XX of Chapter 10 of the Administrative Code to make the
10 penalty, plus accrued interest, a lien against the real property regulated under this Chapter.
11 Except for the release of the lien recording fee authorized by Administrative Code Section
12 10.237, all sums collected by the Tax Collector pursuant to this ordinance shall be deposited
13 as set forth in subsection (f) below.

14 (f) **Deposit of Penalties.** Any fees and penalties collected pursuant to this Chapter
15 41A shall be deposited in the Housing Trust Fund for use by the Small Sites Program~~Department~~,
16 which shall reimburse City departments and agencies, including the Department and the City
17 Attorney's Office, for all costs and fees incurred in the enforcement of this Chapter 41A.

18 * * * *

19 **SEC. 41A.7. OFFICE OF SHORT-TERM RESIDENTIAL RENTAL ADMINISTRATION**
20 **AND ENFORCEMENT.**

21 (a) _____ The Mayor shall establish an Office of Short-Term Residential Rental
22 Administration and Enforcement, which shall provide a single location to receive and process
23 applications for the Registry and Complaints regarding violations of this Chapter 41A. This
24 office shall be staffed by the Department and other departments as appropriate, with
25 participation from the Department of Building Inspection, the Treasurer/Tax Collector's Office,

1 and other departments as needed, to process applications for the Registry and enforce the
2 requirements of this Chapter 41A in a timely and efficient manner. It is the intent of this Board
3 of Supervisors in directing the establishment of this office to streamline both the process of
4 administering the Registry and enforcing the requirements of this Chapter 41A to protect
5 residential housing from unlawful conversion to Tourist or Transient Use.

6 (b) Monitor Hosting Platforms. In addition to the administrative enforcement duties
7 outlined in Section 41A.6, the Office of Short-Term Residential Rental Administration and Enforcement
8 shall actively monitor Hosting Platform listings to ensure that Hosting Platforms are only listing
9 Residential Units that are listed on the Registry. Within 15 business days of the Effective Date, the
10 Office of Short-Term Residential Rental Administration and Enforcement shall complete a
11 comprehensive review of active Hosting Platform listings and produce an inventory of non-compliant
12 listings discovered during the review. Subsequent reviews of Hosting Platform listings shall be
13 performed on at least a monthly basis.

14 (1) The Office of Short-Term Residential Rental Administration and Enforcement shall,
15 upon completion of a Hosting Platform review or discovery of a potentially non-compliant listing,
16 immediately provide notice to Hosting Platforms by electronic mail of all listings that do not have valid
17 registration numbers or are otherwise not in compliance with this Chapter 41A. These notices shall be
18 provided to the City Attorney's Office.

19 (2) Hosting Platforms shall respond to each notice sent pursuant to subsection (b)(1) by
20 confirming, for each listing identified in the notice, that the listing has a valid registration number and
21 providing that number and any other requested information relevant to determining whether the listing
22 complies with the provisions of this Chapter 41A (including unit address and host information) to the
23 Office of Short-Term Residential Rental Administration and Enforcement.

24 (3) For each listing that a Hosting Platform fails to provide the requested information
25 within one City business day of the notice being sent by the Office of Short-Term Residential Rental

1 Administration and Enforcement, the Hosting Platform shall be subject to the administrative penalties
2 and enforcement provisions of this Chapter 41A, including but not limited to payment of civil penalties
3 of up to \$1,000 per day until the Hosting Platform complies with subsection (b)(2).

4 (c) Reporting to Board of Supervisors.

5 (1) Annual Reports. The Office of Short-Term Residential Rental Administration and
6 Enforcement shall provide a report to the Board of Supervisors regarding the administration and
7 enforcement of the Short-Term Residential Rental program on an annual basis. The report shall make
8 recommendations regarding proposed amendments to this Chapter 41A necessary to reduce any
9 adverse effects of the Short-Term Residential Rental program.

10 (2) Quarterly Reports. The Office of Short-Term Residential Rental Administration and
11 Enforcement shall provide quarterly reports to the Board of Supervisors summarizing the Host
12 Platform monitoring activities during the preceding quarter. The periods covered by the quarterly
13 reports shall commence on January 1, April 1, July 1, and October 1, respectively. At a minimum, each
14 report shall include the number of notices sent to Hosting Platforms, the total number of listings
15 included in those notices, the number of listings that were confirmed as non-compliant or otherwise
16 removed or modified by the Hosting Platforms in response to the notices, and the number and amount
17 of penalties imposed on Hosting Platforms for failing to respond to notices. Each report shall break
18 down information by zip code, supervisorial district, and any other criteria as may be requested by the
19 Board of Supervisors.

20
21 * * * *

22 Section 3. Effective Date. This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
25 of Supervisors overrides the Mayor's veto of the ordinance.

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Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
ROBB KAPLA
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Short-Term Residential Rentals and Hosting Platforms]

Ordinance amending the Administrative Code to revise the Residential Unit Conversion Ordinance to require Hosting Platforms verify that a Residential Unit is on the City Registry prior to listing; require Hosting Platforms respond to notices and requests for information; provide for civil, administrative, and criminal penalties against Hosting Platforms for violations of the Residential Unit Conversion Ordinance; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Chapter 41A currently includes two requirements for Hosting Platforms: (1) that the platforms provide notice to users of short term rental laws in San Francisco; and (2) that platforms comply with the requirements of the Business and Tax Code. Only violations of the notice requirement subject Hosting Platforms to administrative, civil, and criminal penalty provisions of Chapter 41A. Chapter 41A contains no provisions regarding monitoring of Hosting Platforms by the Office of Short Term Rentals ("Office") or requiring responses by Hosting Platforms to requests for information from the Office.

Amendments to Current Law

This Ordinance would amend Chapter 41A to require Hosting Platforms verify each unit has a valid registration prior to listing a unit. Hosting Platforms will have three options for complying with this requirement: (1) provide the verified registration number in the listing within the area of the web page/listing that currently contains information verified or compiled by the Hosting Platforms (such as host response rate, rating, and membership status); or (2) ensure that the host has included a verified registration number in the listing; or (3) if no registration number appears in the listing, provide the verified registration number and unit information to the Office prior to posting the listing on the platform.

This Ordinance also amends 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. This Ordinance clarifies that civil, administrative, and criminal penalty provisions of Chapter 41A to apply to violations by a Hosting Platform of any of the four Hosting Platform requirements—(1) failure to provide notice to hosts of Chapter 41A rules, (2) failure to collect or pay taxes, (3) failure to verify and display or disclose registration numbers and compliance information, and (4) failure to respond to demands for information—that Hosting Platforms are mandated to perform.

This Ordinance also requires that the Office perform regular monitoring of Hosting Platforms to identify non-compliant or potentially non-compliant listings and provide quarterly reports on the results of the monitoring efforts—including number of units identified, notices sent out, responses received, and penalties imposed—to the Board of Supervisors.

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 90 day cap on unhosted rentals 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 listing 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 listings. Chapter 41A does not mandate that the Hosting Platforms verify compliance with the registration requirements.

This Ordinance would expand Hosting Platforms' responsibilities to include verifying that listings have valid registration numbers and responding to demands from the Office for information regarding a listing's compliance with Chapter 41A. This Ordinance also provides that violations of any of these four responsibilities—notice to users, compliance with taxes, verifying registration, and responding to demands for information—would be subject to the administrative and civil penalties of Chapter 41A.

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CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

May 26, 2016


TO: Government Audit and Oversight Committee
FROM: Budget and Legislative Analyst 
SUBJECT: June 2, 2016 Government Audit and Oversight Committee Meeting

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Item 1 File 16-0487	Department: San Francisco Municipal Transportation Agency (SFMTA)
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EXECUTIVE SUMMARY**Legislative Objective**

- The proposed resolution would approve the Paratransit Broker and Operating Agreement between SFMTA and Transdev Services, Inc., to provide paratransit brokerage and transportation services, in an amount not to exceed \$142,902,104 for a five-year term beginning July 1, 2016 and ending June 30, 2021, with an option to extend five years through June 30, 2026 for a total of 10 years.

Key Points

- SFMTA administers San Francisco Paratransit, which is a van and taxi program for people unable to independently use or access public transit because of a disability or disabling health condition. There are three types of paratransit services in the program: (1) SF Access van service, (2) taxi service, and (3) group van service.
- Transdev currently provides paratransit brokerage and transportation services under an existing agreement with SFMTA from April 1, 2010, which has been extended through June 30, 2016, for a total of \$125,443,773.
- SFMTA issued a Request for Proposals (RFP) in November 2015 in order to award a new agreement for paratransit brokerage and transportation services instead of exercising the five-year option to extend the current agreement. Transdev, the existing contractor, was the only firm to respond to the RFP.
- The Board of Supervisors approved an ordinance in December 2015 requiring SFMTA to include prevailing wage and worker retention provisions in the new agreement.

Fiscal Impact

- The \$142,902,104 agreement is funded by Proposition K sales taxes, BART, Muni operating funds, and other state and federal sources.
- The FY 2016-17 budget under the proposed agreement would be \$25,765,668, which is \$2,041,819 or 8.6 percent higher than the FY 2015-16 budget of \$23,723,849. The primary reason for the cost increase for the proposed new agreement is related to higher salaries associated with the prevailing wage provision included in the new agreement.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

BACKGROUND

SFMTA administers San Francisco Paratransit, which is a van and taxi program for people unable to independently use or access public transit because of a disability or disabling health condition. There are three types of paratransit services in the program: (1) SF Access van service, (2) taxi service, and (3) group van service. SF Access is a shared-ride service that provides pre-scheduled, door-to-door accessible van rides for ambulatory persons and for persons who use wheelchairs.

Existing Paratransit Broker and Operating Agreement

In February 2010, the Board of Supervisors approved a five-year agreement between SFMTA and Veolia Transportation Services, Inc. (Contractor) to provide paratransit brokerage services, based on a competitive solicitation, for a not-to-exceed amount of \$118,599,710 (File No. 09-1439; Resolution No. 32-10). The five-year term of the agreement extended from April 1, 2010 to March 30, 2015, with an option to extend the agreement through March 30, 2020.

To date, the agreement has been amended six times to provide for the City to (a) lease additional accessible vans to the Contractor, (b) expand the Contractor's scope of work to include direct paratransit and vehicle maintenance services previously performed by a subcontractor, MV Transportation, that requested to be released from its obligations under the subcontract, (c) extend the term of the agreement to June 30, 2016, and (d) increase the not-to-exceed amount to \$125,443,773. In August 2014, the Contractor changed its name from Veolia Transportation Services, Inc. to Transdev Services, Inc.

Under the current agreement, the Contractor is responsible for managing transportation service delivery and financial- and customer service-related activities. The current paratransit model, which has been in place since September 2014, involves the Contractor providing brokerage administrative functions, including eligibility and customer service, and transportation services.

New Competitive Solicitation

SFMTA issued a Request for Proposals (RFP) in November 2015 in order to award a new agreement for paratransit brokerage and transportation services to replace the existing agreement with Transdev Services, Inc. that will expire on June 30, 2016. The paratransit broker operates the SF Access program, which provides door-to-door, shared-ride van services for people who are unable to use Muni's accessible buses, trains, and streetcars because of a disability. The Contractor subcontracts for taxi services and some of the group van service.

SFMTA opted not to exercise the five-year option to extend the current agreement with Transdev Services, Inc. due to the contract amendments noted above that expanded the scope of services performed by the prime contractor. SFMTA issued a new RFP to provide an opportunity for all potential contractors to bid on the new service model with expanded scope of work.

The RFP allowed proposers to submit a proposal for a decentralized brokerage model and/or a proposal to provide both brokerage and transportation services (the existing model). Transdev, the existing contractor, was the only firm to respond to the RFP, and submitted both types of the proposals on December 4, 2015. Transdev's proposal for brokerage and transportation services was rated higher than their decentralized brokerage proposal.

Prevailing Wage Provisions for the Next Agreement

The Board of Supervisors approved an ordinance in December 2015 requiring SFMTA to include prevailing wage and worker retention provisions in the next agreement for SF Access brokerage services (File No. 15-1003, Ordinance No. 213-15). The legislation requires the new contractor (1) to pay prevailing wages to workers providing SF Access services; and (2) provide transitional employment and retention to the prior contractor's employees providing SF Access services. As noted above, Transdev – the existing contractor – was the only firm to respond to the RFP for the new agreement for paratransit services.

DETAILS OF PROPOSED LEGISLATION

Based on the competitive RFP process noted above, the proposed resolution would approve a new Paratransit Broker and Operating Agreement between SFMTA and Transdev Services, Inc., to provide paratransit brokerage and transportation services, in an amount not to exceed \$142,902,104 for a five-year term beginning July 1, 2016 and ending June 30, 2021, with an option to extend for five years through June 30, 2026 for a potential total of 10 years.

Work to be performed by Transdev under the proposed contract includes (1) determining clients' eligibility for transportation services, (2) outreach and customer service to paratransit clients, (3) maintaining the customer database, debit card system, website, and other information technology services, (4) manage paratransit vehicles, (5) manage the paratransit program staff and budget, (5) subcontract with group van and taxi providers and manage subcontracted services, and (6) directly manage door-to-door, shared ride, wheelchair accessible, and other transportation services on a 24-hour per day, 7-day per week schedule.

FISCAL IMPACT

The \$142,902,103 budget from July 1, 2016 through June 30, 2021, including funding sources, for the proposed new Paratransit Broker and Operating Agreement over its five-year term are shown in Table 1 below.

Table 1: Paratransit Broker and Operating Agreement Sources and Uses of Funds

	FY 16/17	FY17/18	FY18/19	FY19/20	FY20/21	5 Year Total
Funding Sources						
Prop K ¹	\$10,193,010	\$10,193,010	\$10,193,010	\$10,193,010	\$10,193,010	\$50,965,050
Federal Section 5307	3,800,000	3,914,000	4,031,420	4,152,363	4,276,933	20,174,716
State Transit Assistance	745,322	767,682	790,712	814,433	838,866	3,957,016
Department on Aging - Recovery	723,824	745,539	767,905	790,942	814,670	3,842,880
BART	1,756,465	1,840,993	1,953,789	2,051,133	2,139,364	9,741,744
Muni Operating Funds	8,547,047	9,544,391	10,923,380	12,086,287	13,119,591	54,220,697
Total Funding Sources	\$25,765,668	\$27,005,615	\$28,660,216	\$30,088,168	\$31,382,436	\$142,902,103
Uses of Funds						
Broker Services ²	\$3,809,156	\$3,922,005	\$3,928,957	\$4,017,843	\$4,173,712	\$19,851,673
Transportation Subcontractor ³	7,491,264	7,543,272	7,765,760	7,994,923	8,230,961	39,026,180
Transit Division ⁴	14,465,248	15,201,078	16,243,653	16,942,120	17,412,013	80,264,112
Subtotal	25,765,668	26,666,355	27,938,370	28,954,886	29,816,686	139,141,965
Demand Increase		339,260	721,846	1,133,282	1,565,750	3,760,138
Total	\$25,765,668	\$27,005,615	\$28,660,216	\$30,088,168	\$31,382,436	\$142,902,103

Source: Contract between SFMTA and Transdev

¹ Half-cent local sales tax for transportation

² Transdev staff costs, office and other direct administrative costs, and a management fee equal to 5 percent of broker services

³ Transdev costs for group van, taxi and other subcontractors

⁴ Transdev staff and direct costs for maintaining and operating vehicles and providing transportation services

SFMTA's FY 2015-16 budget for the Paratransit Program under the existing agreement is \$23,723,849. As shown in Table 1 above, the FY 2016-17 budget under the proposed agreement would be \$25,765,668, which is \$2,041,819 or 8.6 percent more than the FY 2015-16 budget. Ms. Williams states that the primary reason for the cost increase for the proposed new agreement is related to higher salaries associated with the prevailing wage provision included in the new agreement.

RECOMMENDATION

Approve the proposed resolution.

<p>Item 3 File 16-0423</p>	<p>Departments: City Administrator (ADM) Office of Short Term Rental Administration and Enforcement</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance would amend the City’s Administrative Code to revise the Residential Unit Conversion Ordinance to (a) require Hosting Platforms to verify that a Residential Unit is on the City Registry prior to listing; (b) require the Office of Short Term Rentals to monitor Hosting Platforms, issue non-compliance notices and for Hosting Platforms to respond expeditiously to such notices; (c) provide for civil, administrative and criminal penalties against Hosting Platforms for violations; (d) require quarterly and annual reports to the Board of Supervisors and (e) affirm the Planning Department’s determination under the California Environmental Quality Act. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • On October 21, 2014, the City’s Codes were amended to allow permanent residents to provide short-term residential rentals by (a) registering the unit with the City, (b) obtaining a business license and paying the City’s Transient Occupancy Taxes, and (d) complying with specified other City rules and regulations. • A new Office of Short Term Rental Administration and Enforcement (Office of Short Term Rentals) was created in 2015 to provide a centralized location for the City’s Registry and to coordinate complaints and enforcement of the City’s short-term rental regulations. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The Office of Short Term Rentals FY 2015-16 budget is currently \$475,000 and includes three FTE staff, as well as three Planning Department staff. The proposed legislation is estimated to result in additional one-time costs of \$119,685 and ongoing annual costs of \$452,345. Together with the existing FY 2015-16 budget, projected annual ongoing costs would be \$927,345, excluding one-time costs of \$119,685. • In FY 2015-16, fee and penalty revenues are projected to total \$253,000, which is used to support this program. The shortfall of \$222,000 is supported by the City’s General Fund. • Total projected revenues to be realized from the proposed ordinance cannot be estimated at this time. <p style="text-align: center;">Policy Consideration</p> <ul style="list-style-type: none"> • It may be easier for the City to monitor compliance and reduce the City’s cost if the proposed ordinance is amended to require Hosting Platforms (1) post the City’s registration number in a standardized location on their website or in a manner that is clearly distinct and consistently identifiable, and (2) provide additional data upfront that will facilitate the creation of the listing of compliant vs non-compliant listings for the City. <p style="text-align: center;">Recommendations</p> <ul style="list-style-type: none"> • The Board of Supervisors may want to consider the potential amendments identified in the Policy Consideration section above. • Approval of the proposed ordinance is a policy decision for the Board of Supervisors. 	

MANDATE STATEMENT

According to Charter Section 2.105, all legislative acts shall be by ordinance and require the affirmative vote of at least a majority of the members of the Board of Supervisors.

BACKGROUND

On October 21, 2014, the Board of Supervisors amended the City's Administrative Code and Planning Codes to allow some residential properties to provide short-term residential rentals (File 14-0381; Ordinance 218-14). A short-term residential rental is defined as a rental of all or a portion of a residential unit for periods of less than 30 nights. Under the existing Chapter 41A Administrative Code provisions, permanent residents who are permitted to offer short-term residential rentals are required to (a) register the unit with the City¹, including submitting documents to prove residency in the unit being registered, (b) obtain a business license and pay the City's Transient Occupancy Taxes², (c) agree to a 90-day limit on unhosted rentals, and (d) comply with specified other City rules and regulations.

Under the existing Code provisions, Hosting Platforms³ are required to (a) provide notice to their short term residential users regarding the rental laws in San Francisco⁴, (b) comply with the requirements of the City's Business and Tax Code, including collecting and remitting all required Transient Occupancy Taxes and (c) maintain records demonstrating that all taxes have been remitted to the City's Tax Collector. Violations of the noticing requirements can subject Hosting Platforms to administrative, civil and criminal penalties.

Chapter 41 of the Administrative Code was subsequently amended in July 2015 to establish a new Office of Short Term Rental Administration and Enforcement (Office of Short Term Rentals) in the City Administrator's Office to provide a centralized location for applicants for the City's registry and to coordinate complaints and enforcement of the City's short-term rental regulations. The Office of Short Term Rentals is currently located at 1650 Mission Street, in the City Planning Department. In FY 2015-16, the Office of Short Term Rentals budget is \$475,000, including three FTE staff. In addition, three Planning Department staff are assigned to the Office of Short Term Rentals.

According to Mr. Kevin Guy, Director of the Office of Short Term Rentals, compliance with these short term rental Code provisions is currently primarily the responsibility of the short term rental hosts. Currently, Hosting Platforms do not generally post specific addresses or owners' names or list City registration numbers in standardized formats on their websites to allow the City to easily determine compliance. Hosting Platforms also have not been fully responsive to

¹ Registration of short-term residential units was originally in the City's Planning Department, and subsequently moved to the new Office of Short Term Rentals.

² Transient Occupancy Taxes are considered Hotel Taxes and are assessed at the current rate of 14%.

³ Hosting Platforms are defined as entities that provide a means through which an owner may offer a residential unit for tourist or transient use, usually through an online website which allows an owner to also advertise the residential unit and arrange payments.

⁴ Administrative Code Chapter 37, the Residential Rent stabilization and Arbitration Ordinance and Chapter 41A, Residential Unit Conversion and Demolition Ordinance, regulate Short-Term Rental of Residential Units.

the City's requests for information regarding potentially non-compliant listings. The proposed ordinance would provide additional compliance requirements for the Hosting Platforms.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend Chapter 41A of the City's Administrative Code to:

- (a) Require Hosting Platforms to verify that a residential unit is on the City's Registry prior to listing the unit to be rented on the Hosting Platform.
- (b) Require the Office of Short Term Rentals to monitor Hosting Platforms and issue non-compliant notices and require Hosting Platforms to respond expeditiously.
- (c) Provide for civil, administrative and criminal penalties against Hosting Platforms for violations of the Residential Unit Conversion Ordinance and deposit any additional fees and penalties in the Housing Trust Fund for use by the Small Sites Program.
- (d) Require the Office of Short Term Rentals to provide quarterly and annual reports to the Board of Supervisors.
- (e) Affirm the Planning Department's determination under the California Environmental Quality Act (CEQA).

Verify Residential Unit is on City Registry

Currently, the Office of Short Term Rentals maintains the City's Short-Term Residential Rental Registry (City's Registry) which includes a unique registration number for each approved short-term residential rental unit. Under the proposed ordinance, Hosting Platforms would have the following three options for verifying that a residential unit is on the City's Registry and has a valid registration number prior to posting a listing to be rented on the Hosting Platform:

- (1) Provide the verified registration number on each web page listing that contains verified information for the specified residential unit, such as host response rates, host ratings and date of joining the platform;
- (2) Ensure that the host posting the listing for a residential unit includes a verified registration number within their listing and the registration number is visible to all users; or
- (3) Provide the verified registration number, residential unit street address, unit number and host name to the Office of Short Term Rentals by electronic mail before posting the listing on the Hosting Platform.

Monitoring Hosting Platforms, Non-Compliant Notices and Required Responses

The proposed ordinance would require the Office of Short Term Rentals to actively monitor Hosting Platform listings to ensure that Hosting Platforms are only listing residential units included on the City's Registry, by conducting an initial comprehensive review of active Hosting Platforms listings, with subsequent reviews conducted at least monthly. Based on these reviews, the Office of Short-Term Rentals would be required to identify and immediately notice the Hosting Platforms and the City Attorney by electronic mail of all non-compliant listings. Hosting Platforms would be required to respond to such notices within one business day or be

subject to specified administrative penalties and enforcement provisions, including civil penalties of up to \$1,000 per day.

Quarterly and Annual Reports to Board of Supervisors

The Office of Short Term Rentals would be required to provide quarterly reports to the Board of Supervisors summarizing the results of the Office's monitoring efforts, including the number of non-compliant units identified, number of notices issued, Hosting Platform responses received and penalties imposed. In addition, the Office of Short Term Rentals (not the Planning Department) would be required to provide annual reports to the Board of Supervisors regarding the administration and enforcement of the Short-Term Residential Rental program.

Provide Civil, Administrative and Criminal Penalties

Under the proposed ordinance, civil, administrative and criminal penalties would also apply to violations by a Hosting Platform for failure to (a) provide notices to hosts regarding Chapter 41A rules, (b) collect or pay taxes, (c) verify, display or disclose registration numbers and compliance information, and (d) respond to requests for information. Currently civil and administrative penalties only apply to Hosting Platforms that fail to (a) provide notices to hosts regarding Chapter 41A rules and (b) collect or pay taxes. In addition, any fees and penalties collected pursuant to Chapter 41A would now be deposited in the Housing Trust Fund for use by the Small Sites Program⁵ after reimbursement for all City costs incurred for the enforcement of Chapter 41A.

California Environmental Quality Act Determination (CEQA)

On May 6, 2016, the Planning Department determined that the actions contemplated in this ordinance would not result in a physical change in the environment and therefore comply with CEQA.

FISCAL IMPACT

Existing and Projected Costs

As noted above, the Office of Short Term Rentals FY 2015-16 budget is currently \$475,000 and includes three FTE staff, with three additional staff provided by the Planning Department. If the proposed legislation is approved, Mr. Guy estimates requiring approximately three additional FTE 5291 Planner 3 staff positions to inspect and monitor the approximately 12,500 listings on various Hosting Platform websites on a monthly ongoing basis, using web scrapes as well as manual inspections of such listings. In addition, assuming this new staff identifies numerous non-compliant listings and these listings are then removed from the Hosting Platforms, a significant number of new applications to register short-term rental units are likely. This surge in applications may require the addition of a temporary 5275 Planner Technician and Department of Technology Programmer Analyst staff to develop an online registration application site.

⁵ The Housing Trust Fund for use by the Small Sites Program is primarily for the acquisition of new sites for affordable housing in the City.

Mr. Guy also notes that if the Office of Short Term Rentals needs to hire additional staff, it may require the Office to move and lease additional office space, as there is insufficient additional space in the Planning Department. An estimated \$19,200 of additional annual rent and an unknown cost to move is included in the projected costs. In addition, depending on the amount of non-compliance determined, costs for City Attorney services may increase, although the amount of such costs is currently unknown.

As shown in the Table below, the total additional one-time costs are estimated at \$119,685 and ongoing costs are estimated at \$452,345. Together with the existing FY 2015-16 budget, projected annual ongoing costs for the Office of Short Term Rentals would increase to \$927,345, excluding one-time additional expenses of \$119,685.

Table: Projected One-Time and Ongoing Costs

	Full-time Equivalent (FTE) Staff	One-Time Costs	Ongoing Costs
5291 Planner 3	3.33		388,145
5275 Planner Technician	0.67	\$61,628	
1062 IS Programmer Analyst	0.25	30,057	
Web scraping			45,000
Workstations (4 new staff)		28,000	
City Attorney			Unknown
Rent			19,200
Moving		Unknown	
Total Estimated New Costs	4.25	\$119,685	\$452,345
Current FY 2015-16 Budget	3.00		475,000
Total Projected Budget			\$927,345

Existing and Projected Revenues

The Office of Short Term Rentals is partially supported by \$50 registration fees and various civil, criminal and administrative penalties. In FY 2015-16, these fee and penalty revenues are estimated to total \$253,000. Such revenues are used to offset City costs to administer and enforce the short term rental program. In FY 2015-16, with annual costs of \$475,000 and annual revenues of \$253,000 (53% coverage), there is a projected shortfall of \$222,000. The shortfall for the Office of Short Term Rentals is supported by the City's General Fund.

If the proposed ordinance is approved, the Office of Short Term Rentals estimates receiving approximately \$75,000 of revenues from application fees. Mr. Guy reports that the amount of revenues to be realized from civil, criminal and administrative penalties will vary significantly depending on the level of compliance by the Hosting Platforms, which cannot be estimated at this time. Under the proposed ordinance, any revenues generated beyond the costs to

administer the short term rental program would be deposited in the Housing Trust Fund for Small Sites Program.

Given the additional functions and costs associated with the proposed legislation, approval of the proposed ordinance is a policy decision for the Board of Supervisors.

POLICY CONSIDERATION

The one-time and ongoing costs of the proposed ordinance shown in the Table above are based on the Office of Short Term Rentals current activities and projections. However, Mr. Guy notes that the actual fiscal impact could vary based on the level of compliance by the Hosting Platforms in response to the new legislation. In addition, Mr. Guy notes that it would be easier for the City to monitor compliance and the City's cost to implement the proposed ordinance could be reduced by an indeterminate amount, if the proposed ordinance was amended to require that the Hosting Platforms:

- (1) Post the City's registration number in a standardized location on their website or in a manner that is clearly distinct and consistently identifiable, and
- (2) Provide additional data upfront that will facilitate the creation of the listing of compliant vs non-compliant listings for the City.

RECOMMENDATIONS

1. The Board of Supervisors may want to consider the potential amendments identified in the Policy Consideration section above.
2. Approval of the proposed ordinance is a policy decision for the Board of Supervisors.

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

May 3, 2016

File No. 160423

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Jones:

On April 26, 2016, Supervisor Campos introduced the following proposed legislation:

File No. 160423

Ordinance amending the Administrative Code to revise the Residential Unit Conversion Ordinance to require Hosting Platforms verify that a Residential Unit is on the City Registry prior to listing; require Hosting Platforms respond to notices and requests for information; provide for civil, administrative, and criminal penalties against Hosting Platforms for violations of the Residential Unit Conversion Ordinance; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

Joy
Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete,
o=Planning, ou=Environmental
Planning,
email=joy.navarrete@sfgov.org,
c=US
Date: 2016.05.06 11:52:19 -07'00'

File #160423

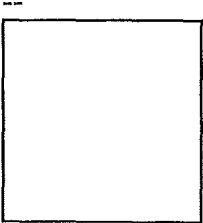
From: Board of Supervisors, (BOS)
To: BOS-Supervisors
Subject: FW: Opposition to short-term rental resolution before the SF DCCC - Internet Association
Attachments: SF DCCC resolution - Internet Assoc oppose - 05.24.16.pdf

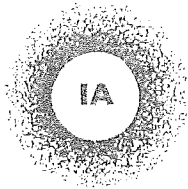
From: Robert Callahan [mailto:callahan@internetassociation.org]
Sent: Tuesday, May 24, 2016 4:54 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: David Owen <david.owen@airbnb.com>; Lauren Kimzey <kimzey@internetassociation.org>
Subject: Opposition to short-term rental resolution before the SF DCCC - Internet Association

Dear Members of the Board,

I wanted to make you aware of the Internet Association's opposition to the proposed short-term rental resolution up for consideration at tomorrow's SF DCCC meeting. Attached is a letter of opposition which explains our concerns. Please let me know if you have any questions, thank you.

-Robert





Internet Association

May 24, 2016

David Campos
SF Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

RE: Internet Association Opposition to Proposed Resolution on Short-Term Rentals to be Considered at the San Francisco DCCC Meeting on May 25, 2016

Dear Supervisor Campos,

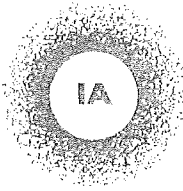
The Internet Association must respectfully inform you of our deep concerns with your proposed Resolution regarding hosting platforms and short-term rentals in San Francisco. As we have stated before the Board of Supervisors on numerous occasions, requiring Internet platforms to act as quasi-enforcement agencies for local governments would establish an enormously concerning precedent for all Internet commerce and conflicts with well-established federal law that protects Internet companies from liability for user-generated content on their platforms.

The Internet Association is a nonprofit trade organization representing the world's leading Internet companies and their global community of users. Our mission is to foster innovation, promote economic growth, and empower people through the free and open Internet.

The Resolutions calls for the immediate imposition of civil penalties against beneficial home sharing platforms for the listing of any rental on their site that is out of compliance with San Francisco's short-term rental ordinance. This proposal is of serious concern for the reasons stated below.

First, ensuring that every host is in full compliance with local government ordinances is infeasible as major home sharing platforms, like Airbnb, VRBO, and Homeaway, have hosts in tens of thousands of cities around the world. Each city and county maintains separate, unique regulations that may impact home sharing and short-term rentals. These regulations may include caps on the number of nights per year that a listing may be rented, host registration requirements, and many other specific rules. It would be an impossible and unfair standard to require home sharing platforms to ensure that every listing on the platform is in 100% compliance with each city and county's local ordinances.

Second, holding Internet companies liable for user-generated content contravenes well-established federal law that has been the linchpin of the vibrant and successful Internet we know today. Recognizing that the Internet and interactive computer services provide a platform "for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity," Congress passed Section 230 of the Communications Decency Act in 1996. This statute addresses the treatment of online service providers and states in relevant part, "no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information



Internet Association

provided by another information content provider.” By clarifying that an Internet service is not a publisher when facilitating the speech of a third party, Section 230 provides the legal foundation for an interactive Internet. Courts have interpreted this provision broadly to bar intermediary liability for user-generated content.

This clear protection has enabled the Internet's explosive growth and provided the necessary legal certainty for scores of Internet services, including blogs, forums, consumer review sites, social networks, search engines, video hosting services, e-commerce marketplaces, and in the immediate instance, travel and accommodation sites, among others. By allowing individuals with a spare room to connect with people in search of a place to stay, home sharing platforms are another prime example of where the free flow of user-generated content has led to empowered individuals and widespread economic growth.

The City of San Francisco should not upend this important legal foundation by establishing a precedent of punitive measures against beneficial Internet platforms. For the reasons stated above and more, the Internet Association must respectfully **OPPOSE** your Resolution and urges the SF DCCC to vote it down. Should you have any questions regarding our position, please feel free to contact me at (916) 498-3316 or callahan@internetassociation.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert Callahan'.

Robert Callahan
Executive Director, State of California

cc: Members, San Francisco Board of Supervisors
Members, San Francisco County Democratic Central Committee

160423

From: Board of Supervisors, (BOS)
Sent: Wednesday, May 25, 2016 2:54 PM
To: BOS-Supervisors; Major, Erica (BOS)
Subject: FW: Internet Coalition concerned with BOS File #160423 Short-Term Rentals and Hosting Platforms
Attachments: IC oppose SF Campos_final.pdf
Importance: High

From: Tammy Cota [mailto:tammy@ksefocus.com]
Sent: Wednesday, May 25, 2016 2:41 PM
To: Campos, David (BOS) <david.campos@sfgov.org>
Cc: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; SFDCCC@sfdemocrats.org
Subject: Internet Coalition concerned with BOS File #160423 Short-Term Rentals and Hosting Platforms
Importance: High

Supervisor Campos:

The Internet Coalition wishes to express concerns with your proposed ordinance regarding hosting platforms and short-term rentals. As explained in more detail in the attached letter, we believe it would infringe upon Section 230 of the federal Communications Decency Act, which is often referred to as the First Amendment of Internet law. It is the foundation on which Internet platforms have built their businesses.

Section 230 says that "**No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider**" (47 U.S.C. § 230). Basically these services are protected against laws that attempt to hold them legally responsible for what others say and do.

Also, attempting to transfer the burden of rental compliance to platforms, which are typically in a poor position to determine the legality of property rentals may not be possible. If so, it certainly would be burdensome, costly, and impracticable. Global platforms and short-term rental companies make properties available in thousands of cities, large and small, across the world. If similar compliance burdens were imposed upon companies from all cities in the world, it would put them out of business since they could not possibly comply, and even if that was possible, the cost would wipeout any profits necessary to build and operate such platforms. That is why we believe that compliance determinations should remain with the city, which is better positioned to enforce such laws.

Again, we ask you to please not push for passage of your proposed ordinance, particularly given the Bay Area's unparalleled leadership in the internet and ecommerce industry. Not only would your proposal drastically hurt such platforms, it would cause the derogation of the Section 230.

Thanks for considering our views. Please let me know if you have questions.

Tammy

cc: San Francisco Board of Supervisors members
San Francisco County Democratic Central Committee members

Tammy Cota, Executive Director
Internet Coalition
26 State Street, Suite 8
Montpelier, VT 05602
tammy@theinternetcoalition.com
www.theinternetcoalition.com
802-279-3534



Tammy Cota, Executive Director
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tammy@theinternetcoalition.com
www.theinternetcoalition.com

May 25, 2016

Honorable David Campos
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Dear Supervisor Campos:

I am the executive director of the Internet Coalition (IC), a national trade association that represents members in state public policy discussions. The IC also serves as an informational resource, striving to protect and foster the Internet economy and the benefits it provides consumers.

The IC wishes to express concerns with your proposed ordinance regarding hosting platforms and short-term rentals. Our main concern is that it likely infringes upon the spirit of Section 230 of the federal Communications Decency Act. Section 230 is often referred to as the First Amendment of Internet law and is the foundation on which Internet platforms have built their businesses. Indeed for many platforms the imposition of intermediary liability would involve such a level of costs, in time and resources, it would render them uneconomic.

It is undoubtedly attractive to municipalities to conscript platforms into a law-compliance role, thus relieving the city of the cost and trouble of enforcing the law. However, this only unfairly transfers the burden of compliance to companies, which are typically in a poor position to determine whether a property may be lawfully rented. Therefore, we believe that compliance determinations should remain with the city, which is better positioned to conclude whether or not a rental is lawful.

Global platforms and short-term rental companies make properties available in thousands of cities, large and small, across the world. If similar law-compliance burdens were to be imposed upon companies from all cities, it would have the very real result of creating an unimaginably complex and enormous undertaking by platforms, which not only would be impossible to implement, it would likely wipeout any profits necessary to build and operate such platforms. So, it would not be an overstatement to say that widespread similar impositions would represent an existential threat.

For these reasons, we ask you to please not push for passage of your ordinance, as there are broad and unintentional implications to consider, particularly given the Bay Area's unparalleled leadership in the internet and ecommerce industry. Not only would your proposal adversely impact platforms, it would also cause the derogation of Section 230. Thank you for considering our views.

Sincerely,

A handwritten signature in black ink that reads "Tammy Cota".

Tammy Cota

cc: San Francisco Board of Supervisors members
San Francisco County Democratic Central Committee members

160423

From: Board of Supervisors, (BOS)
Sent: Wednesday, May 25, 2016 11:03 AM
To: Major, Erica (BOS)
Subject: FW: Short Term Rental proposal - BOS File #160423
Attachments: Travel Tech Letter to Supervisor Campos 052516.pdf

From: Stephen Shur [mailto:sshur@traveltech.org]
Sent: Wednesday, May 25, 2016 10:42 AM
To: Campos, David (BOS) <david.campos@sfgov.org>
Cc: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; info@sfdemocrats.org
Subject: Short Term Rental proposal - BOS File #160423

The Honorable David Campos
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Dear Supervisor Campos,

The Travel Technology Association (Travel Tech) is the trade association for online travel companies, global distribution systems and short-term rental platforms. Our members include well-known short-term rental companies such as Expedia/HomeAway and VRBO, TripAdvisor/FlipKey, and Airbnb. As I'm sure you are aware, short-term rental technology companies have created a vibrant marketplace for travelers and property owners, expanding the travel landscape by offering alternative accommodations and providing economic benefits to many communities around the world. It is with that in mind that Travel Tech writes to voice its strong opposition to your proposed Resolution regarding short-term rentals and short-term rental platforms in San Francisco.

Travel Tech believes that municipal legislation that seeks to deputize Internet platforms for enforcement purposes, by either stating or implying the need for these platforms to police and regulate third party users under the threat of punitive consequences from local government is a flawed and short-sighted approach to enforcement of municipal laws.

Collectively, our members help owners, operators, and hosts connect travelers with hundreds of thousands of properties around the globe. In the United States alone there are nearly forty thousand municipalities, many of whom have existing ordinances or regulations for short-term rentals. To date, we have witnessed regulations that include operator or host registration, individual property registration, insurance requirements, specific caps on the number of nights a short-term rental can be offered, zoning requirements, parking stipulations, and many more. Often the details of these regulations are open to interpretation, and at times, have resulted in differences of opinion between city attorneys, zoning or planning boards, and even the board of supervisors or council within a **single** city. With that in mind, requiring expecting short-term rental platforms to determine the status or legality of a specific property is virtually impossible to achieve with any accuracy, rendering the proposed San Francisco ordinance unfeasible.

But beyond the lack of workability, it is even more important to recognize that holding short-term rental platforms accountable for user-generated content flies in the face of the very underpinnings of the federal law that has governed the liability of platforms and users for nearly two decades. This legal certainty has provided an environment that promotes innovation and has allowed the Internet to thrive.

Congress passed Section 230 of the Communications Decency Act in 1996, addressing the treatment of online service providers and platforms, stating, "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider" (47 U.S.C. § 230). This ensures that an Internet service or platform is not recognized as the publisher when facilitating the speech of a third party. Many courts have upheld a broad interpretation of this law, declaring that intermediaries are not held liable for user-generated content. In short, Section 230 has been enormously important to the growth of the Internet by providing legal certainty to an ever-expanding world of

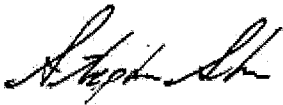
Internet services, including but not limited to social media, blogs, consumer review sites and forums, search engines, audio and video hosting platforms, online marketplaces, and in the case of our members, travel and accommodations intermediaries and platforms.

Current San Francisco law requires those who seek to offer their homes on a short-term rental platform to apply and receive a registration number. The proposed ordinance to amend that code goes much further. It would require these platforms to vet eligibility of listings and confirm the inclusion of a local registration number. The failure to do so would result in fines for the platform. This clearly imposes a level of liability on short-term rental platforms and undermines the preemption contained in Section 230 that "no liability may be imposed under any State or local law," by the passage of laws in direct conflict with it. In a larger context, should state and local governments begin creating a series of laws inconsistent with Section 230, the result would be a legal quagmire that leaves the cities, the platforms, the hosts and travelers in a state of legal and operational uncertainty, thereby benefitting no one.

Ultimately, we recognize that this proposal is an attempt by the city of San Francisco to dealing with some of the challenges that have come along with the growth in popularity of short-term rental accommodations. But in reality, efforts to address enforcement and compliance should not seek to undermine the legal foundation upon which Internet providers and platforms rely on for protection. As such, we respectfully oppose your Resolution and urge the SF DCCC to vote it down.

Should you have any questions with respect to our position, please feel free to contact me at sshur@traveltech.org or (703) 842-3754.

Sincerely,



Steve Shur
President
The Travel Technology Association

cc: Members, San Francisco Board of Supervisors
cc: Members, San Francisco County Democratic Central Committee

Steve Shur
President

The Travel Technology Association
3033 Wilson Blvd, Suite 700
Arlington, VA 22201
P: 703-842-3754
M: 703-597-6450
www.TravelTech.org





May 25, 2016

The Honorable David Campos
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Dear Supervisor Campos,

The Travel Technology Association (Travel Tech) is the trade association for online travel companies, global distribution systems and short-term rental platforms. Our members include well-known short-term rental companies such as Expedia/HomeAway and VRBO, TripAdvisor/FlipKey, and Airbnb. As I'm sure you are aware, short-term rental technology companies have created a vibrant marketplace for travelers and property owners, expanding the travel landscape by offering alternative accommodations and providing economic benefits to many communities around the world. It is with that in mind that Travel Tech writes to voice its strong opposition to your proposed Resolution regarding short-term rentals and short-term rental platforms in San Francisco.

Travel Tech believes that municipal legislation that seeks to deputize Internet platforms for enforcement purposes, by either stating or implying the need for these platforms to police and regulate third party users under the threat of punitive consequences from local government is a flawed and short-sighted approach to enforcement of municipal laws.

Collectively, our members help owners, operators, and hosts connect travelers with hundreds of thousands of properties around the globe. In the United States alone there are nearly forty thousand municipalities, many of whom have existing ordinances or regulations for short-term rentals. To date, we have witnessed regulations that include operator or host registration, individual property registration, insurance requirements, specific caps on the number of nights a short-term rental can be offered, zoning requirements, parking stipulations, and many more. Often the details of these regulations are open to interpretation, and at times, have resulted in differences of opinion between city attorneys, zoning or planning boards, and even the board of supervisors or council within a **single** city. With that in mind, requiring expecting short-term rental platforms to determine the status or legality of a specific property is virtually impossible to achieve with any accuracy, rendering the proposed San Francisco ordinance unfeasible.

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third party. Many courts have upheld a broad interpretation of this law, declaring that intermediaries are not held liable for user-generated content. In short, Section 230 has been enormously important to the growth of the Internet by providing legal certainty to an ever-expanding world of Internet services, including but not limited to social media, blogs, consumer review sites and forums, search engines, audio and video hosting platforms, online marketplaces, and in the case of our members, travel and accommodations intermediaries and platforms.

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Ultimately, we recognize that this proposal is an attempt by the city of San Francisco to dealing with some of the challenges that have come along with the growth in popularity of short-term rental accommodations. But in reality, efforts to address enforcement and compliance should not seek to undermine the legal foundation upon which Internet providers and platforms rely on for protection. As such, we respectfully oppose your Resolution and urge the SF DCCC to vote it down.

Should you have any questions with respect to our position, please feel free to contact me at sshur@traveltech.org or (703) 842-3754.

Sincerely,

Steve Shur
President
The Travel Technology Association

cc: Members, San Francisco Board of Supervisors
cc: Members, San Francisco County Democratic Central Committee

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

May 3, 2016

File No. 160423

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Jones:

On April 26, 2016, Supervisor Campos introduced the following proposed legislation:

File No. 160423

Ordinance amending the Administrative Code to revise the Residential Unit Conversion Ordinance to require Hosting Platforms verify that a Residential Unit is on the City Registry prior to listing; require Hosting Platforms respond to notices and requests for information; provide for civil, administrative, and criminal penalties against Hosting Platforms for violations of the Residential Unit Conversion Ordinance; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
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TDD/TTY No. 554-5227

MEMORANDUM

TO: Kevin Guy, Director, Office of Short-Term Rental Administration and Enforcement
Robert Collins, Acting Executive Director, Rent Board
Olson Lee, Director, Mayor's Office of Housing and Community Development
Tiffany Bohee, Executive Director, Office of Community Investment and Infrastructure

FROM: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

DATE: May 2, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Campos on April 26, 2016.

File No. 160423

Ordinance amending the Administrative Code to revise the Residential Unit Conversion Ordinance to require Hosting Platforms verify that a Residential Unit is on the City Registry prior to listing; require Hosting Platforms respond to notices and requests for information; provide for civil, administrative, and criminal penalties against Hosting Platforms for violations of the Residential Unit Conversion Ordinance; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: andrea.ausberry@sfgov.org

c: Sophie Hayward, Mayor's Office of Housing and Community Development
Eugene Flannery, Mayor's Office of Housing and Community Development
Natasha Jones, Commission on Community Investment and Infrastructure
Claudia Guerra, Commission on Community Investment and Infrastructure

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
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May 2, 2016

File No. 160423

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

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By: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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MEMORANDUM

TO: Kevin Guy, Director, Office of Short-Term Rental Administration and Enforcement
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c: Sophie Hayward, Mayor's Office of Housing and Community Development
Eugene Flannery, Mayor's Office of Housing and Community Development
Natasha Jones, Commission on Community Investment and Infrastructure
Claudia Guerra, Commission on Community Investment and Infrastructure

President, District 5
BOARD of SUPERVISORS



BOS-11, COB, Leg. Dep.
Ln Clerk, GAO
Dep. City atty. clerk
mayors
affair
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7630
Fax No. 554-7634
TDD/TTY No. 544-5227

London Breed

PRESIDENTIAL ACTION

Date: 5/9/16
To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

- Waiving 30-Day Rule (Board Rule No. 3.23)
File No. _____ (Primary Sponsor)
Title. _____
- Transferring (Board Rule No. 3.3)
File No. 160423 Campos (Primary Sponsor)
Title. Administrative Code - Short-Term Residential

From: Land Use & Transportation Committee
To: ~~Budget & Finance Sub~~ GAO Committee

- Assigning Temporary Committee Appointment (Board Rule No. 3.1)
Supervisor _____
Replacing Supervisor _____
For: _____ (Date) _____ (Committee) Meeting

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2016 MAY 10 PM 3:37
BY: [Signature]

London Breed

London Breed, President
Board of Supervisors

Print Form

Received in Board
4/26/16 - BJ

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

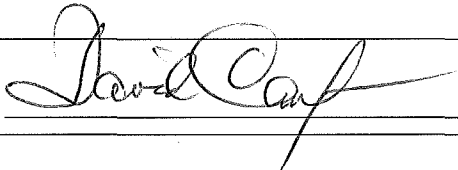
Campos, Peskin, Avalos, Mar

Subject:

Administrative Code- Short Term Residential Rentals

The text is listed below or attached:

Please see attached ordinance.
I kindly request that this be sent to the Land Use Committee.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: