



Department of Planning &
Development

April 23, 2020

To: Members of Boards and Commissions staffed by Planning & Development
From: Timothy Burroughs, Director, Department of Planning & Development
Subject: Update on status of board and commission meetings

Several of you, as well as permit applicants and other community members have inquired about when your board or commission will resume meeting.

On March 12, 2020, the City Manager, under her authority as the Director of Emergency Services, directed that meetings of boards and commissions be suspended for 60 days in order to help minimize the spread of COVID-19. Exceptions can be made for certain boards and commissions, such as the Zoning Adjustments Board, Landmark Preservation Commission, Planning Commission, and Design Review Committee, if there is time-sensitive, legally-mandated business to complete, as determined by the Director of Emergency Services.

On April 13, 2020, the City Council Agenda & Rules Committee took an action to support continuation of the policy issued by the Director of Emergency Services and recommended that the policy remain in effect until COVID-19 conditions permit meetings to resume in a manner that maintains the health and safety of the community.

Based on this direction, City departments, including the Department of Planning & Development, are not authorized to schedule board and commission meetings, either virtually or in-person, at this time. While we understand that community members may be eager to move forward with certain land use projects or other policy considerations, we also appreciate community members' understanding that this is an unprecedented public health emergency, made worse by the fact that many people who have COVID-19 have no symptoms or mild symptoms, which means they are not aware they may be transmitting the virus to others. Our most important responsibility is protecting the health and safety of the community. Right now, that means maximizing the number of people that shelter at their place of residence.

In addition, many of the same staff responsible for preparing commission meeting packets and notices are serving as Disaster Service Workers in the City's Emergency Operations Center (EOC). Our response to COVID-19 is the top priority at this time. Staff who are not working in-person at the EOC are working from home, and our offices remain closed.

When board and commission meetings are authorized to move forward, there will be a lead-time that allows agendas to be finalized, applicants and interested parties to be contacted, and public hearing notices posted.

We appreciate your patience and understanding.

In the meantime, the Planning & Development Department has created new ways for community members to pursue building permits and land use applications electronically. [Our recent news release on available Planning and Development services](#) describes how you can apply for new land use permits, new building permits, continue work on previously submitted applications, and obtain many other services while sheltering in place.

For details, please see the specific instructions for pursuing [Land Use services](#) and [Building and Safety services](#), and please feel free to send any questions by email to planning@cityofberkeley.info.

The current Shelter-in-Place Order is in effect through at least May 3. The City of Berkeley will update its [Main News webpage](#) promptly with any new information.

We value your service to the city and we thank you for your support and patience as our community works through these challenging times. Please be safe.

Sincerely,

Timothy Burroughs
Director, Department of Planning & Development

Shawn Drost and Lauren Locke-Paddon
1278 Campus Dr.
Berkeley, CA 94708
May 18, 2020

To Berkeley's Planning Supervisors:

First of all, thank you for your public service, and for taking the time to read a letter from a constituent.

My wife and I are homeowners, motivated to help with Berkeley's housing crisis, and have put real time and money behind our good intentions by working to plan and permit an ADU and JADU. The JADU project is now on indefinite hold, after we were advised by planning staff that JADUs are not permitted in accessory structures or within unconditioned spaces (basements and attics) of a primary residence. I would like to advocate for the reversal of one or both of these conclusions. In this letter, I'll share more information about why this is a practical approach, seen widely across California, and a requirement for a JADU to work in our real-world example.

I'll start with some background on my family and our projects. My wife and I live at 1278 Campus Dr, which we purchased last year just before the birth of our first child. The property is a double lot with two structures, a residence and a detached garage. The residence, where we live now, has an unimproved, full-height basement. The detached garage is built on a hill, and in the understory, there is a legally permitted "playroom", with utilities, a kitchen, and a bathroom. The playroom was clearly used as a rental unit in the past, but is not approved as such. We would like to legalize the playroom as a rental unit, and establish a second rental unit in the basement of our primary residence.

I have briefly summarized the roadblocks we encountered, but I'll share more about our efforts to date and the various details. Both units fit most JADU requirements: sized under <500sf, converted from existing permitted structures, will not be used for short-term rentals. The roadblock is that neither of the two intended units would be allowed as a JADU, according to Berkeley's planning staff reporting on current practice. The permitted playroom is in a separate (accessory) structure, not the primary residence, and so it cannot be a JADU. The basement of the primary residence is not conditioned space, and so it cannot be converted to a JADU. (We cannot expand the primary residence to the basement, because that approach will require an AUP and an unwanted interior staircase, which would make the project financially infeasible. And, there is not space in the main residence for a JADU to sit side-by-side with our family, given the expansion restrictions.) We are open to a JADU garage conversion, or to constructing new structure for a JADU, but these are even larger departures from Berkeley's current practices, so we haven't explored those options too deeply.

I am no planning expert, but from what I can tell from some internet searches and Twitter conversations, some California municipalities are permitting JADUs in both accessory structures and unimproved basements/attics. We sit on a very large property, adjacent to a very large park, and frankly, there is space for as many units as Berkeley would like to permit.

Finally, since this is Berkeley, I want to share some opinions about justice :). Our neighborhood in the Berkeley Hills is one of the least dense in Berkeley, and in my personal opinion, the reasons for the low density are connected directly to Jim Crow-era practices like redlining and racial covenants. (True fact: to this day, our deed states that we cannot sell the property to any non-white person, or permit any non-white person to reside on the property.) I would like to see Berkeley work towards ending that legacy, so maybe if you are on the fence about densification policies like this, consider permitting them in areas that have successfully excluded residents for decades. Speaking more broadly, I'm sure I don't need to share everything I've heard about Berkeley's housing shortage, but I'll mention one that matters especially to me. I see UC Berkeley as a rare gem that can help young Californians accomplish their dreams, and its size is directly limited by the amount of housing we construct. (UC Berkeley is a short walk from our home along beautiful footpaths.)

Thanks again for reading, and please let me know if you have any questions.

-Shawn and Lauren

Lapira, Katrina

From: Pearson, Alene

Sent: Friday, May 29, 2020 1:34 PM

To: Pearson, Alene <apearson@cityofberkeley.info>

Cc: Lapira, Katrina <KLapira@cityofberkeley.info>; Shen, Alisa <AShen@cityofberkeley.info>; Horner, Justin <JHorner@cityofberkeley.info>; Greene, Elizabeth <EGreene@cityofberkeley.info>

Subject: RE: Planning Commission Meetings via Zoom

Dear Commissioners,

In pulling together the agenda for the July 1 meeting, I'm realizing that we are going to need a few extra meetings to catch up. Can you let me know your availability for two additional Planning Commission meetings: one on August 5 and one on August 19? Also, we are also considering an Adeline or ZORP subcommittee meeting on Wednesday, July 15. These meetings will all be virtual – and we'll have training in advance. More about that next week...

Please get back to me by Wednesday, June 3 about your availability on these dates.

Thank you and enjoy the weekend!

Alene

From: Pearson, Alene

Sent: Friday, May 15, 2020 3:17 PM

To: Pearson, Alene <apearson@cityofberkeley.info>

Cc: Lapira, Katrina <KLapira@cityofberkeley.info>

Subject: Planning Commission Meetings via Zoom

Dear Planning Commissioners,

I hope you and yours are doing well and feeling safe while Sheltering in Place.

I am writing to provide an update on the status of Planning Commission meetings. As of May 6, the City Manager and Health Officer have authorized commissions to resume meetings to address time-sensitive items. Meetings will be held in a virtual format. In-person commission meetings are not authorized until further notice. Please see the attached memo that the City Manager provided to the Mayor and City Council.

The Land Use Division's Policy Group has been providing significant support to the COVID-19 Emergency Operations Center (EOC) since early March. Over the next six weeks, staff will be refocusing their efforts on Land Use Planning projects that facilitate housing production, support small businesses and update the Zoning Ordinance to remain in compliance with State laws. **We will not be holding a June 3 Planning Commission meeting, but are planning to hold a July 1 meeting.** We are also looking to convene an Adeline subcommittee meeting and a ZORP subcommittee meeting -- but need to reach out to commissioners to identify feasible dates.

All Planning Commission meetings and subcommittee meetings will be held as Zoom webinars, similar to the format currently being used by City Council. Zoom allows commissioners, staff, and members of the public to participate from their respective shelter-in-place locations and provides controls to the Chair and staff to maintain order during the meeting.

In advance of the first virtual meeting, staff will organize a training on online meeting facilitation and other logistics for the Planning Commission Chair and Vice Chair. We are also planning a practice meeting for the full commission, and will be drafting procedures/guidance documents for commissioners, staff and members of the public. In the meantime, please consider watching a [City Council meeting](#) to familiarize yourself with the technology.

I appreciate everyone's patience as we move forward and adjust to this new meeting platform. I will be in touch with additional information soon. If you have any questions or concerns, please feel free to reach out to me.

Best,
Alene

Alene Pearson
Principal Planner, Land Use Planning Division
Planning and Development Department
City of Berkeley
apearson@cityofberkeley.info

June 12, 2020

Berkeley Planning Commission
Alene Pearson, Secretary
Land Use Planning Division
1947 Center Street
Berkeley, CA 94704
Via email to the commission clerk: apearson@cityofberkeley.info

Dear Berkeley Planning Commission:

As residents of Tyler Street, we are writing to seek your help in enforcing Berkeley's regulations relating to short-term rentals.

A property on our block (at 1500 Tyler Street) has been operating as a short-term rental without the required zoning certification, which they would be unable to receive because there is no permanent resident in the house. This runs contrary to the short-term rental ordinance.

This has become especially noticeable when the house is used – as it has been multiple times in the past six months, including twice already in June – for large and loud parties that often go until midnight or later. The noise and nuisance – and the potential to spread COVID with such large gatherings – however, are not the only problems. Rather, the bigger issue is that there is an unlicensed hotel operating on the corner of our block with an absentee hotel manager/landlord. This is precisely a situation the short-term rental ordinance was designed to prevent when it permitted short-term rentals only in homes that have a primary resident. There is no primary resident at 1500 Tyler.

The neighbor closest to the property, Thania Marin, has been in touch with the owner multiple times since February about the problem, as documented in the screenshots of text messages below. The owner has never come to the property to address the problems directly while they are occurring, nor has she stopped renting the house despite the frequent problems.

Additionally, the Planning Department has been aware of this code violation since at least February, as the attached correspondence between the department and another neighbor, Eli Zigas, shows. While we appreciate the responsiveness of the staff member with whom one of us had this correspondence, nothing has changed. It should not take five months to rectify a clear violation of the code.

Please don't let the short-term rental ordinance be meaningless with only voluntary compliance. The owners have not heeded the warnings of Planning Department staff and five months of continued and clear violation should be more than enough time for the Department to bring the property into compliance.

We would welcome having a long-term neighbor – either a resident or the pre-school that is being proposed. But, the current use of the house for short-term rentals is not something we can continue to accept – and we hope you won't continue to accept it either.

Sincerely,

Angela Gallegos-Castillo & Federico Castillo (1521 Tyler)
Thania Marin (1504 Tyler)
Amy Miller & Josh Rosen (1509 Tyler)
Griselda Oliva (1520 Tyler)
Ana-Belen Redondo-Campillos & Josh Kaufman (1506 Tyler Street)
Cassandra Whitcomb (1516 Tyler)
Eli Zigas & Savanna Ferguson (1517 Tyler)

CC:

Councilmember Cheryl Davila
Timothy Burroughs, Director, Planning Department
James Frank, Associate Planner, Planning Department

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June 10, 2020

To Whom It May Concern:

I am writing to share my experience these past few months living in 1504 Tyler St, directly next door to 1500 Tyler St.

I have been communicating with the property owner, Preiyaa Anand, since January 2020 due to the various noise violations that occur on that property between the hours of 10 PM to 6 AM. I have included screenshots of my conversations with the owner, and her usual response is that she apologizes for the noise and states that the renter did not raise any red flags during the booking process. My bedroom is located right next to the neighbor's back yard, so I am constantly woken up in the middle of the night due to people throwing parties, people arguing, dogs barking, and people banging on the back door of the neighboring property. Despite my complaints, the owner has never come to the property during the night to reprimand renters for having noise violations.

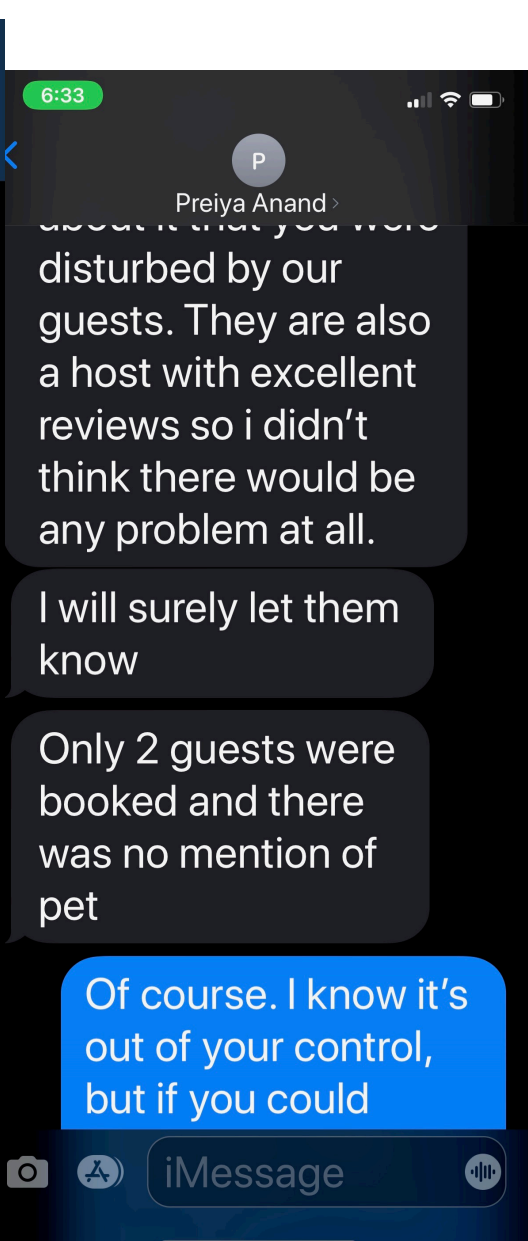
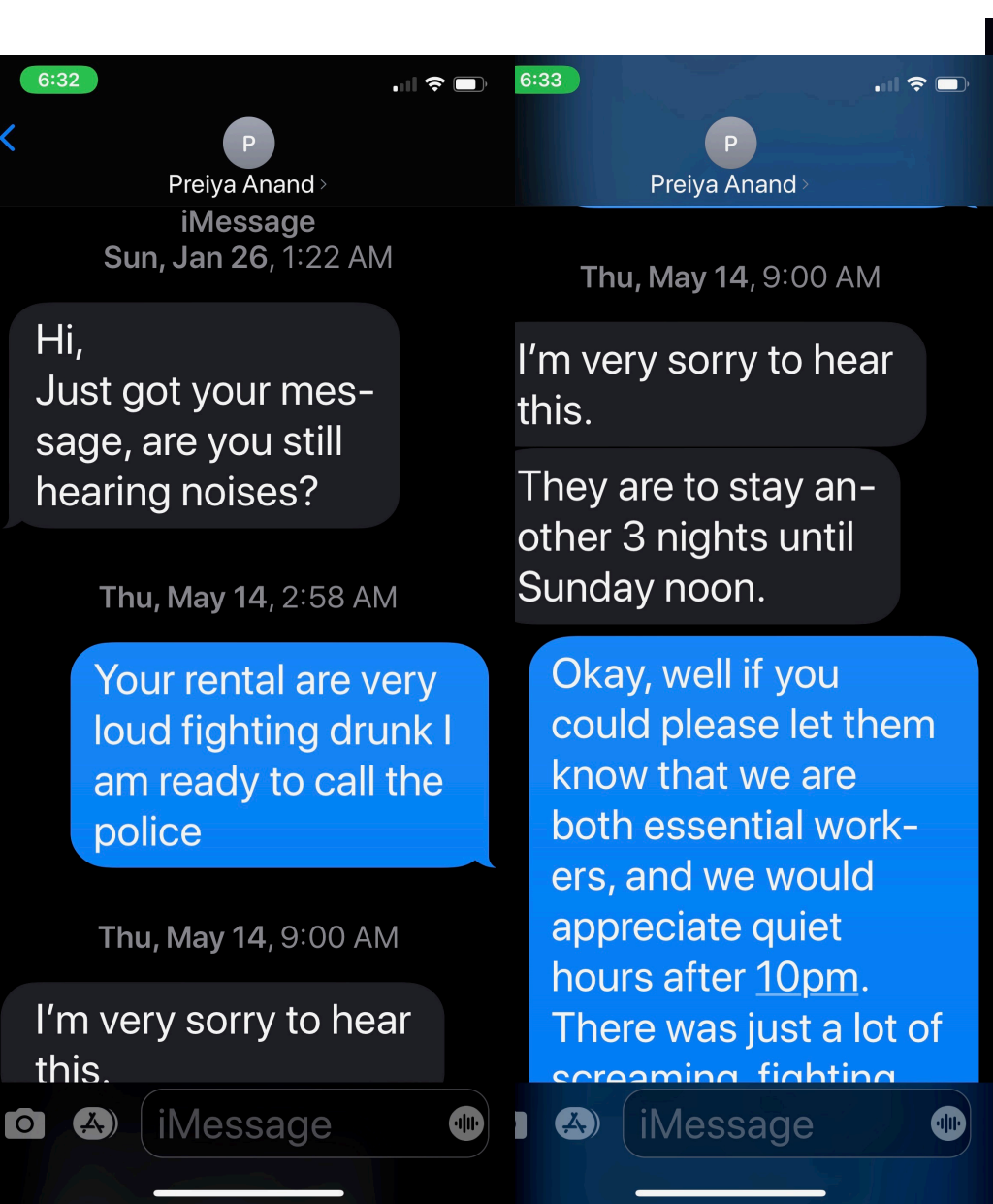
During a rental period in February of this year, it was past midnight and the renters were playing music around 1 AM, so I decided to open the window and ask the renters to turn off the music because it was late. The renter proceeded to call me a "Bitch," and he stated that he rented this property specifically for a party. I have also attached an image of a renter from this past weekend who had four cars illegally parked in the shared easement between my house and Preiya's property. I sent this image to the owner, and she did not even apologize this time, but simply stated, "Our bad luck this time. No red flags at booking time." In addition, I have attempted to call the phone number for non-emergency police matters, but due to COVID-19, the police do not have available officers to visit the neighboring property during these noise violations.

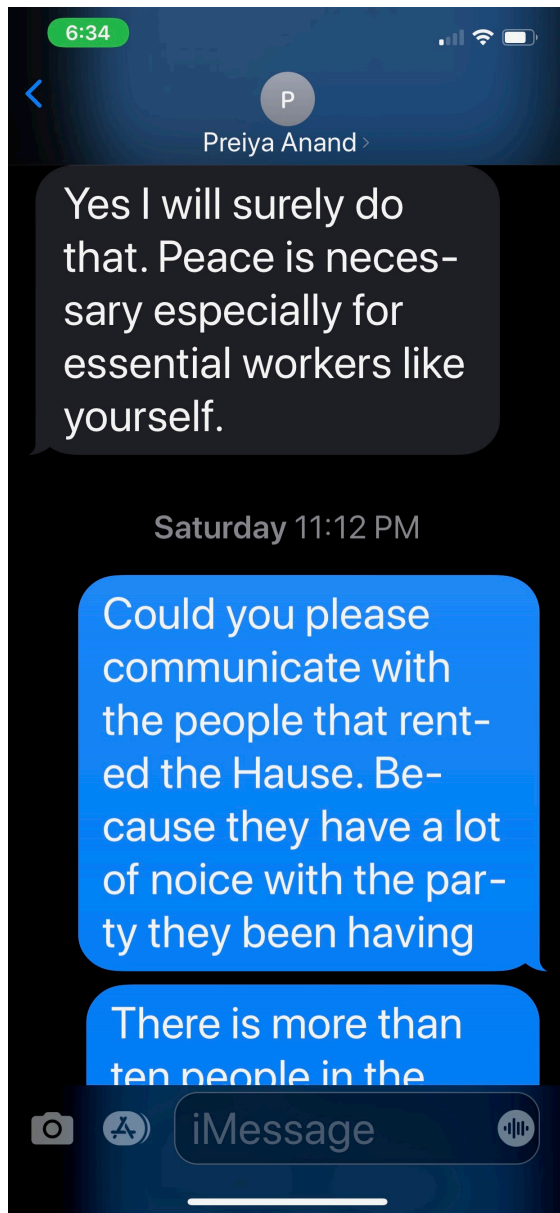


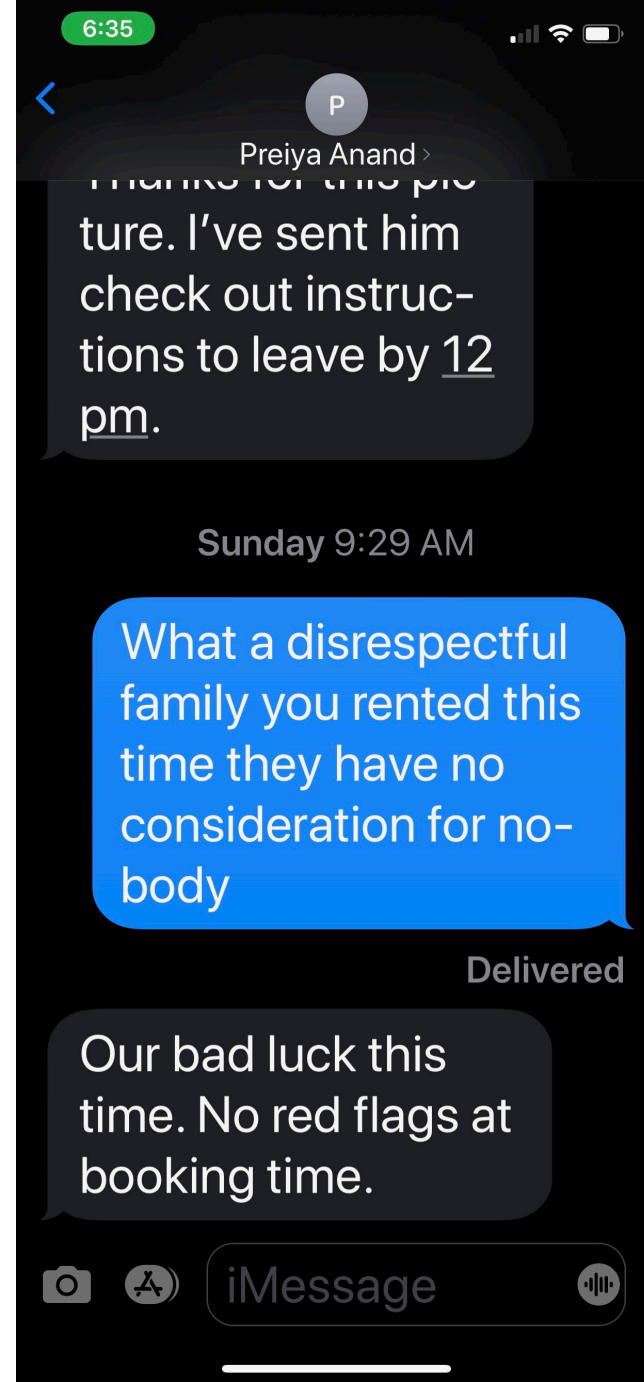
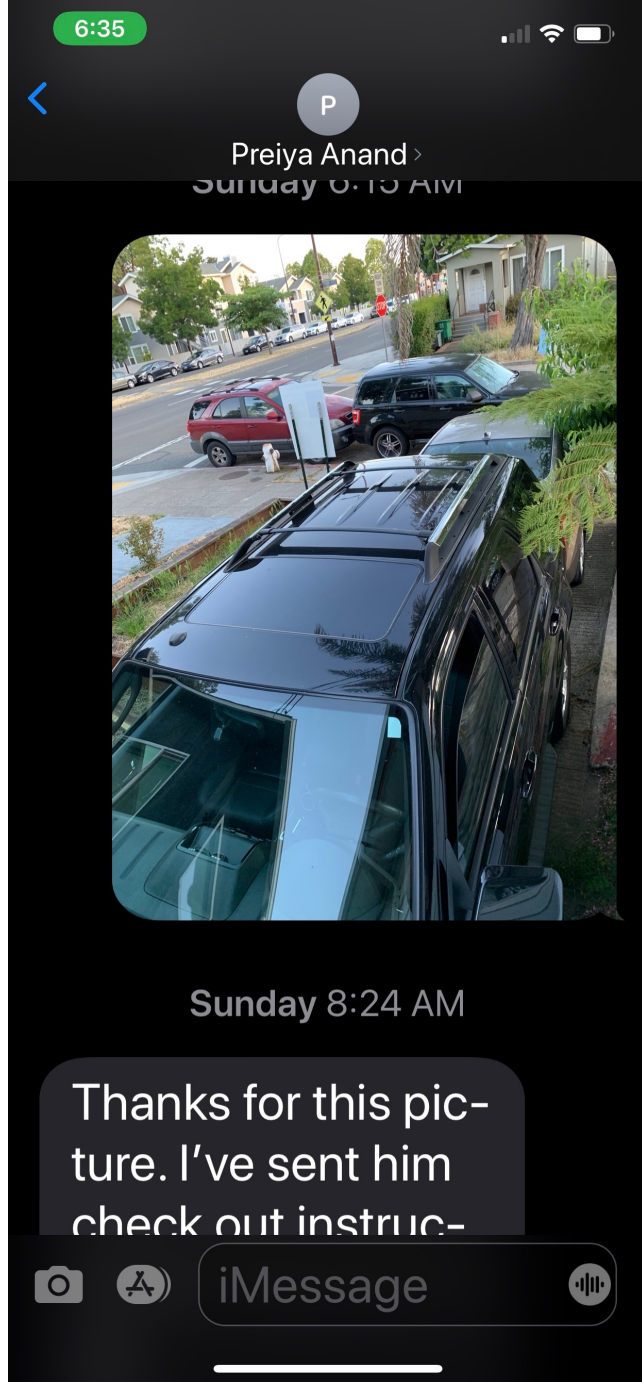
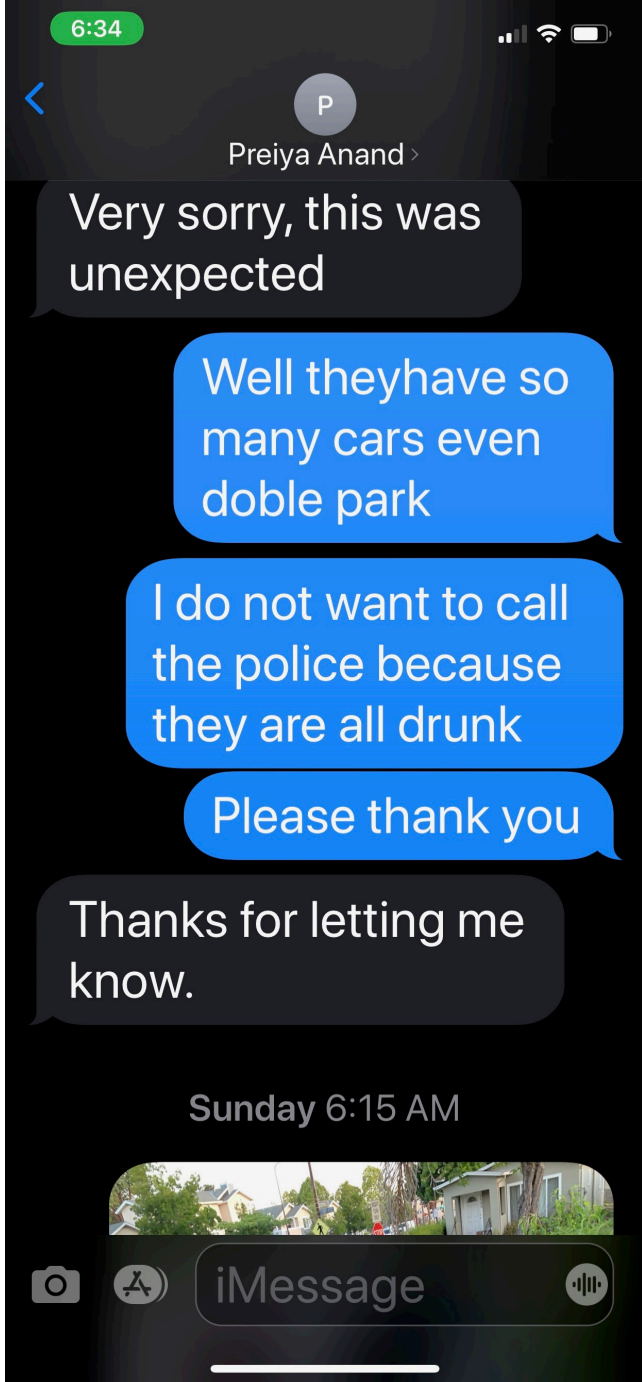
I really hope that our statements will change my situation because I need sleep! Please let me know if you have any questions or need further information.

Sincerely,

Thania Marin  
1504 Tyler Street







Subject: Re: Following-up Re: Potential Violation of Berkeley Short-Term Rental law 1500 Tyler  
From: "Frank, James" <JFrank@cityofberkeley.info>  
Date: 6/1/20, 10:13 AM  
To: Eli Zigas <eli.zigas@gmail.com>

Thanks for bringing this to my attention. You are correct about the reservations. I will follow up with the owner.

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**From:** Eli Zigas <eli.zigas@gmail.com>  
**Sent:** Sunday, May 31, 2020 3:51 PM  
**To:** Frank, James <JFrank@cityofberkeley.info>  
**Subject:** Following-up Re: Potential Violation of Berkeley Short-Term Rental law 1500 Tyler

Dear Mr. Frank:

Last night I noticed that there was a party happening at 1500 Tyler and it made me wonder whether the owner brought this property into compliance in the four months since we last corresponded. Based on [their Airbnb page](#), they appear to have rented quite a few times just in May making me think it's not been converted into a long-term rental.

I looked on the Berkeley zoning permits page and only saw the application for a pre-school, but nothing about a short-term rental permit.

Can you provide an update on where things stand with this property as it relates to short-term rentals?

Sincerely,  
Eli

Eli Zigas wrote on 2/5/20 11:09 AM:

Dear Mr. Frank,

Thank you for this additional information.

Sincerely,  
Eli

Frank, James wrote on 2/5/20 9:16 AM:

The City doesn't request the hosting platforms remove a particular host's site. I work with the host directly to bring them into compliance. There is no set time on when enforcement takes places.

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**From:** Eli Zigas [<mailto:eli.zigas@gmail.com>]  
**Sent:** Tuesday, February 04, 2020 7:41 PM  
**To:** Frank, James <[JFrank@cityofberkeley.info](mailto:JFrank@cityofberkeley.info)>  
**Subject:** Re: Potential Violation of Berkeley Short-Term Rental law 1500 Tyler



Dear Mr. Frank,

Thank you for the quick reply. I'm glad to hear that this home was already on your radar for violating the STR ordinance and that you've been able to engage the property owner. I hope that the owner will soon move the property into compliance. There have been a number of big parties at the property which I don't think someone who is renting it for two weeks or more would be likely to hold.

One question: how long does someone have to move into compliance (including getting a zoning certificate number) before you/the City alerts Airbnb and other platforms that the posting violates local law and should be pulled from the site?

Sincerely,

Eli

Frank, James wrote on 2/4/20 1:25 PM:

Dear Mr. Zigas,

The property in question below has a hosting page for 1500 Tyler. I have sent them violation letters and have been in contact with the owner in order to bring things into compliance. The owner is intending to change the place into a long-term rental so that it will be compliant.

According to the BMC a short term rental is 13 days or less and therefore anything 14 days and over is considered long term. In following short term rentals for the past few months, I've seen many that post their homes for 14+ days on AirBnB.

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**From:** Garcia, Analisa

**Sent:** Tuesday, February 04, 2020 1:03 PM

**To:** Eli Zigas <[eli.zigas@gmail.com](mailto:eli.zigas@gmail.com)>; Frank, James <[JFrank@cityofberkeley.info](mailto:JFrank@cityofberkeley.info)>

**Cc:** Customer Service <[customerservice@cityofberkeley.info](mailto:customerservice@cityofberkeley.info)>

**Subject:** RE: Potential Violation of Berkeley Short-Term Rental law

Hi Eli,

While I answer questions regarding STR registration, Jim Frank handles enforcement. I have copied him on this email.

Best,

**Analisa Garcia**

City of Berkeley, Land Use Planning Division  
1947 Center Street, 2<sup>nd</sup> floor  
Berkeley, CA 94704  
(510) 981-7439

[agarcia@cityofberkeley.info](mailto:agarcia@cityofberkeley.info)

*(Gender pronouns she, her, hers)*

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**From:** Eli Zigas [<mailto:eli.zigas@gmail.com>]

**Sent:** Tuesday, February 4, 2020 12:59 PM

**To:** ShortTermRental <[ShortTermRental@cityofberkeley.info](mailto:ShortTermRental@cityofberkeley.info)>; Garcia, Analisa <[AGarcia@cityofberkeley.info](mailto:AGarcia@cityofberkeley.info)>

**Cc:** Customer Service <[customerservice@cityofberkeley.info](mailto:customerservice@cityofberkeley.info)>

**Subject:** Fwd: Potential Violation of Berkeley Short-Term Rental law

Dear Ms. Garcia:

The Berkeley Customer Service staff have told me that you are the point person for enforcement of Berkeley's Short-Term Rental ordinance and that I should direct my concern about a potential violation of that law to you. At the bottom of this thread is my initial email from about 3 weeks ago detailing my concerns. Yesterday I checked on Airbnb and the home I'm concerned about is still actively listed for rentals.

Please let me know if I can get you any additional information or if there's someone else with whom I should raise this compliance issue. I look forward to any update you can provide after you're able to look into this.

Sincerely,  
Eli Zigas

[eli.zigas@gmail.com](mailto:eli.zigas@gmail.com)



----- Forwarded Message -----

**Subject:**RE: Potential Violation of Berkeley Short-Term Rental law

**Date:**Tue, 4 Feb 2020 19:28:49 +0000

**From:**Customer Service <[customerservice@cityofberkeley.info](mailto:customerservice@cityofberkeley.info)>

**To:**Eli Zigas <[eli.zigas@gmail.com](mailto:eli.zigas@gmail.com)>

Dear Eli Zigas,

Please be advised that the Planning Department Land Use Division governs the Short Term Rental Program. I just called the Planning Division and they stated the temporary contact person for Short Term Rental is Analisa Garcia

and she can be reached at (510) 981-7439.

The Short Term Rental's email address is: [str@cityofberkeley.info](mailto:str@cityofberkeley.info) and

Planning's main phone number is (510) 981-7410.

Sincerely,

Customer Service

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**From:** Eli Zigas [<mailto:eli.zigas@gmail.com>]

**Sent:** Tuesday, February 04, 2020 10:31 AM

**To:** Customer Service <[customerservice@cityofberkeley.info](mailto:customerservice@cityofberkeley.info)>

**Subject:** Re: Potential Violation of Berkeley Short-Term Rental law

Dear Customer Service,

Thank you for confirming receipt and getting back to me. I did contact that line and they are the ones who forwarded my original message to the City. I got a voicemail from someone in Berkeley city government (who didn't leave their name or contact number, so I couldn't follow up directly) who told me to send more detailed information to this email address.

If there's a specific staff person in the City of Berkeley who works on enforcement that I should reach out to, please let me know. Otherwise, I would appreciate if you could pass on the information I sent to whoever is most appropriate because I'm now at a loss as to who I should be reaching out to.

Sincerely,

Eli

Customer Service wrote on 2/4/20 10:12 AM:

Dear Eli Zigas,

Our office has received your inquiry. Please contact the 24 hour STR Compliance Line at (833) 300-0787 to report unpermitted short-term rentals, complaints or nuisance problems.

Sincerely,

Customer Service

----- Forwarded Message -----

**Subject:** Potential Violation of Berkeley Short-Term Rental law

**Date:** Thu, 16 Jan 2020 12:37:14 -0800

**From:** Eli Zigas <[eli.zigas@gmail.com](mailto:eli.zigas@gmail.com)>

**To:** [customerservice@cityofberkeley.info](mailto:customerservice@cityofberkeley.info)



Dear Berkeley Customer Service,

I received a call back from someone in your office yesterday after I had registered a complaint with the STR Host Compliance hotline. I was told to send an email to this email address by the person who left me the voice mail message, with more information about my concern about someone on my block breaking Berkeley's short-term rental (STR) law. I am not interested in starting a personal conflict with the landowner, so, to the extent possible, would appreciate not having my name or identifying information shared with anyone in relation to this complaint. I should also be clear that I have used STR lodging when traveling and support there being STR options in Berkeley, but also believe people should follow the rules because I don't want houses that could provide homes for long-term residents to be instead made into de facto hotels.

With all that said, here are the details of my concern:

A home on my block -- at the address 1500 Tyler Street -- is being used for short-term rentals, and I believe it is not following the rules for at least two reasons:

**1) I do not think the home has a permanent resident.**

As you can see in the attached screen shot from Zillow -- and I believe the MLS real estate listing will also confirm -- the home was recently renovated and put on the market for sale in the fall of 2019. It never sold. A "for-rent" sign went up in the window, but no one ever appeared to move in. Now the [home is being listed on Airbnb](#). The "host" on the listing is the same as the real estate agent who was marketing the home. And, based on some quick internet searching, I believe this same person is also one of the owners of the home, as they and one other person are listed as the officers of the LLC that is listed on the tax record for the house. I walked through the home when there was an open house and the real estate agent who is now the "host" on Airbnb never indicated she would be moving into the home -- and, so far as I can tell just from walking by and living nearby, I'd be very surprised if she, or anyone, lives there long-term.

I have attached documentation from:

- a) [Airbnb listing](#) (which shows recent reviews from when the home was rented in January)
- b) Website for marketing the home when it was for sale ([link here](#))
- c) Zillow screenshot showing property being recently put up for sale, removed from the market, put up for rent, and removed for rent

- c) Property tax assessment listing the LLC that owns the home
- d) A screen shot indicating who the officers of the LLC are

**2) The listing of the home on Airbnb does not have a zoning certificate number listed.**

At a base level - my understanding of Berkeley's law is that a home cannot be listed without providing its zoning certificate number. [The Airbnb listing](#) doesn't have this. I also tried looking through the Planning departments property information map/search tool and didn't see a zoning certificate for that property.

I'd be happy to discuss this further if it would be helpful.

Also, I'd appreciate if you could keep me updated on the status of this complaint and how it is ultimately resolved.

Sincerely,  
Eli Zigas

[eli.zigas@gmail.com](mailto:eli.zigas@gmail.com)