



Office of the City Manager

January 27, 2021

To: Honorable Mayor and Members of the City Council

From:  Dee Williams-Ridley, City Manager

Re: Referral Response: Short-Term Rentals Update and Outreach

City staff continue to improve upon a short-term rental program that, based on Council direction, allows residents to register and rent appropriate units and prevents properties from being rented improperly. This memorandum updates the City Council on the status of the short-term rentals (STR) program, and responds to a referral adopted by City Council on July 28, 2020.¹ Staff last updated the Council about this program at a work session on October 22, 2019.²

Registration

Any Berkeley resident who rents accommodations to guests for 13 or fewer nights in their home or accessory building is required to register their STR with the City. Since September 2017, the City has accepted 590 STR applications. Of those, 448 were approved, 88 were denied, 4 were disqualified due to a previous no-fault eviction, and 50 were closed for lack of response for more information and referred for code enforcement follow up. Not all of those that have been approved are still actively listing.

The City sent initial welcome letters to all active hosts in 2017, informing them of the rules of the STR program. The City continues to send new welcome letters on a regular basis as new hosts are identified, encouraging them to register their STR and informing them of the program rules.

In order to operate, an STR host must register with the City and be granted a Zoning Certificate (ZC-STR). The City created a dedicated online portal for STR hosts to register their units. Every ZC-STR application is reviewed by staff from Land Use Planning and the Rent Stabilization Board (RSB). Land Use Planning staff reviews for requirements such as landlord approval, whether the unit is a qualifying ADU or

¹ https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-28_Supp_2_Item_42_Rev_Harrison.aspx

² https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/10-22_Special_Annotated_Agenda_pdf.aspx

restricted BMR unit, location to ensure it is in a qualifying zoning district, and evidence of proper neighbor notification. If there is more than one unit on the parcel, staff checks for owner/tenant occupancy. RSB staff review the application for no-fault eviction status and owner/tenant occupancy

Enforcement

The City's STR enforcement strategy is to issue communications to educate the host about local regulations and encourage compliance, and then to issue citations if the host does not come into compliance in a reasonable amount of time. Staff in the Planning Department and Finance Department have coordinated efforts since the initial program roll-out in late 2017, including the establishment of simple website pages for registering and paying taxes.

Since the last report in September 2019, the Planning Department has continued to utilize a third-party service called Host Compliance to identify non-compliant hosts that are advertising STR listings in Berkeley. Once a non-compliant host is identified, staff contacts them through a series of letters and phone calls. To date staff have issued 819 requests to register, 247 administrative citation warnings, and 104 administrative citations. Initial enforcement activities were focused on apartment buildings with multiple listings. Based on available data, all known listings have received compliance letters. Staff also investigate and address complaints about hosts with noisy guests and other nuisances through direct contact and warnings, as well as citations when warranted.

At the end of September 2020 there were 1,482 advertised listings for short-term rentals in Berkeley. Of those, 759 hosts (51%) were taking reservations while 723 (49%) were not actively taking reservations for the past 12 months. Of the 759 active listings, 514 hosts (68%) meet the current STR definition in Berkeley (13 nights or fewer). The other 245 listings (32%) accept reservations for more than 13 days, and therefore fall outside the current STR definition and do not require a City-issued Zoning Certificate.

Of the 514 active listings which meet the City's STR definition, 277 (54%) have an approved Zoning Certificate, while 237 (46%) operate illegally without a Zoning Certificate. The short-term rental marketplace has a pattern of fluidity, which in turn requires continuous monitoring. Enforcement letters are sent out to hosts regularly according to the available data, and staff issues escalating fines to hosts that do not either remove the listing or obtain a permit.

A recent enforcement letter was mistakenly sent to hosts who had already registered and been approved by the City, due to zoning certificate numbers not having been listed on each hosting page. After the letters were mailed, staff discovered that Airbnb blocks hosts from posting their zoning certificate number. On October 3, 2020 staff mailed a new letter apologizing for the mistake and stopping all enforcement against the

incorrectly identified hosts. Going forward, additional testing will be conducted on the screening criteria to verify non-compliance before conducting a broad enforcement action.

Outreach and Education Activities

Information for the general public is located on the City website including a summary page, a frequently asked questions page, and a registration page.³ Planning Department staff primarily receives and responds to inquiries about the STR program via a dedicated email address, STR@cityofberkeley.info, through the 3-1-1 customer service line, and through the third-party vendor.

On July 28, 2020, City Council referred to the City Manager the development of an outreach program to clarify existing short term rental regulations in areas that have proven confusing to hosts, guests, and tenants. Planning Department staff will work with the Public Information Officer in 2021 to further publicize STR regulations, explain the rules of the STR program, show hosts how to register, and emphasize how regulating the STR market is supportive of neighborhoods. Staff will also meet with community groups such as the Berkeley Property Owner's Association.

Revenue

The table below provides a summary of STR revenues in the first two fiscal years of operation.

Short-Term Rental Revenues Summary

Description	FY 2019	FY 2020	Difference	% change
Transient Occupancy Tax	\$1,806,679	\$1,175,706	\$(630,973)	-35%
Code Enforcement Fees	\$24,317	\$102,684	\$78,367	322%
Total Revenue	\$1,830,996	\$1,278,390	\$(552,606)	-30%

The STR-Transient Occupancy Tax (TOT) revenues for FY 2020 declined by approximately 35%. The decrease in the FY2020 tax revenue is attributable to a substantial decline in STR bookings due to the Governor's shelter in place order in March of 2020. The first quarter results of FY2021 for the STR revenues showed a steeper decline of over 80% when compared to the first quarter of FY 2020. Staff will be reviewing and analyzing the revenues from this tax in the next few weeks after the

³ <https://www.cityofberkeley.info/str/> ; https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Short_Term_Rentals_-_Frequently_Asked_Questions.aspx

Page 4

January 27, 2021

Re: Referral Response: Short Term Rentals Update and Outreach

December month-end close. The close of December will indicate the actual receipts for the first six months of the current fiscal year and will help to determine if there is any discernable trend that can be used for future projections.

cc: Paul Buddenhagen, Deputy City Manager
David White, Deputy City Manager
Jenny Wong, City Auditor
Mark Numainville, City Clerk
Matthai Chakko, Assistant to the City Manager
Jordan Klein, Interim Director, Planning and Development Department
Henry Oyekanmi, Director, Department of Finance
Savita Chaudhary, Director, Department of Information Technology