



CITY OF OAKLAND

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AGENDA REPORT

TO: Members of the City Council

FROM: Council President Lynette Gibson McElhaney, President Pro Tempore Larry Reid, and Councilmembers Abel Guillén and Rebecca Kaplan

SUBJECT: Emergency Moratorium on Conversion or Demolition of Residential Hotels

DATE: December 1st, 2016

RECOMMENDATION

Council President Lynette Gibson McElhaney, President Pro Tempore Larry Reid, and Councilmembers Guillén and Kaplan recommend that the City Council adopt an interim ordinance, adopted as an urgency measure pursuant to California Government Code Section 65858, establishing a temporary moratorium on the conversion, demolition, reconfiguration, and rehabilitation of residential hotels, to take effect immediately upon adoption.

EXECUTIVE SUMMARY

Oakland's residential hotels represent an increasingly rare form of flexible and easy to access low-income housing essential to sheltering thousands of Oakland residents. The current economic climate of expensive construction costs and record demand for luxury housing and boutique hotels make the conversion of existing low income housing an appealing investment opportunity for real estate speculators. However, the potential loss of Oakland's remaining residential hotels represents a current and immediate threat to the health, safety and welfare of Oakland's residents who will face displacement or homelessness in their absence.

This emergency ordinance proposes to place a temporary moratorium on the loss of residential hotel units by prohibiting the conversion, demolition, reconfiguration or rehabilitation of such units for 45 days. The City Council previously requested that the Oakland Planning Commission bring forward amendments to the City Planning Code to preserve the supply of residential hotels. This moratorium provides the City the ability to deliberate on these amendments without suffering the loss of residential units in the meantime. This moratorium contains exceptions for affordable housing projects and those repairs required by City order or natural disaster.

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City Council
December 13, 2016



BACKGROUND / LEGISLATIVE HISTORY

The Value of Residential Hotels in Oakland

Residential Hotels, also called Single Room Occupancy (SRO) hotels, provide an essential housing option for low and extremely low-income Oaklanders. These rooms are a vital source of housing because they do not require credit checks, proof of income, large security deposits or long-term leases, any of which can disqualify some from accessing other forms of housing. In Oakland, residents of SROs are a diverse population comprised of many groups vulnerable to displacement and homelessness. A 2004 study prepared by the City found that 33% are elderly, 15% are physically disabled, 30% are emotionally or mentally disabled and nearly 20% suffer from substance abuse.¹

Long term residents rely on SROs for housing that is affordable. A 2015 study prepared by the City found that 85% of SRO residents have inhabited their room for one month, 65% for one year, and 26% for five or more years.² The same study found that the average monthly rate for new tenants is \$676, far below the 2014 averages of \$2,169 and \$2,530 paid in downtown Oakland for vacant studios and one bedroom apartments.³

The California State Legislature has also recognized the important role SROs play in supplementing the affordable housing supply. In support of the State law regarding rehabilitation of SROs, the Legislature found that "the need for decent housing among individuals of very low and low income is great" and that SROs are "often the only form of housing affordable to these individuals."⁴ For these reasons, residential hotels are often referred to as 'housing of last resort' for many who would otherwise have to seek affordable housing well outside of the City, or, if they lack sufficient means to do so, would be facing homelessness.

The Increased Threat of Residential Hotel Conversions

The demand for residential units and high cost of new construction incentivizes SRO owners to convert buildings to higher-earning market-rate residential housing. Similarly, record high hotel prices and construction costs are incentivizing owners to convert buildings into boutique hotels.

Although the problem is not limited to Oakland⁵, the current local real estate market incentivizes investors to purchase, upgrade and convert residential hotels rather than construct new

¹ *Residential Hotels in Central Oakland*. Rep. Community and Economic Development Agency: City of Oakland, Jan. 2004. Web.

<<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/dowd021542.pdf>>

² Warwick, Brian. *Downtown Oakland's Residential Hotels*. Rep. The City of Oakland, Housing and Community Development Department, Sept. 2015. Web.

<<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak055799.pdf>>

³ Data provided by the City of Oakland Community and Economic Development Agency

⁴ California Health and Safety Code Section 50519(a).

⁵ "Many [SROs] are being demolished or converted to other uses." (Cal. Health and Safety Code § 50519(a).)



buildings, which makes SROs in the City particularly vulnerable to demolition or conversion. The City's March 24, 2016 Report 'Supplemental NOFA Housing Funding' listed estimates of the total cost per unit of seven recent housing projects as between \$486,857 and \$640,206. An analysis by the City of Oakland Housing and Community Development Department on the 'Cost to Preserve and Replace At-Risk Housing in Oakland' found that the per unit costs of preserving and rehabilitating SRO housing ranges between \$92,273 and \$72,906 per unit.⁶ City staff conversations with several SRO owners identified the cost of purchasing an existing SRO as between \$90,000 and \$150,000 per unit depending on the age and condition of the building. From this analysis, the purchase and renovation of an SRO costs approximately \$200,000 per unit on average which is several hundred thousand dollars per unit less than even the cheapest newly constructed units.

The rapid increase in hotel prices and demand without a significant increase in supply has also increased incentives to convert Oakland's SROs into boutique hotels and other commercial transient uses. A special report, 'Illegal Hotel Conversions Sweep San Francisco', in 2011 documented the pressures to use of SROs as tourist hotels despite regulatory prohibitions.⁷ Oakland faces similar pressures as it boasts the nation's highest rate of hotel price appreciation.⁸ A staff review of online hotel booking services found a similar phenomenon occurring in Oakland with many rooms in one SRO offered for transient use⁹, and some SRO units in Oakland have already been fully converted to market-rate commercial hotel rooms, removing affordable housing stock from the available supply in the City.

A final indicator of increased pressure to convert SRO housing is the number of evictions filed. Owners who are interested in converting SROs towards more profitable uses become less inclined to negotiate with tenants who are behind on rent and may seek to coerce or intimidate tenants to leave using unlawful detainer actions. The Anti-Eviction Mapping Project's report on evictions in Oakland's SROs found 1018 eviction notices served over the last six years in 17 residential hotels.¹⁰ Media reports also allege that owners who have newly acquired residential hotels have begun using increasingly aggressive tactics to try and empty their buildings in advance of a conversion to other uses.¹¹

⁶ These estimates of cost per unit for preservation are based on data from 2012-13. The escalation of construction costs have only driven-up these estimates.

⁷ Shaw, Randy. "Illegal Hotel Conversions Sweep San Francisco." Beyond Chron, 12 Dec. 2011. Web. 02 Dec. 2016. <<http://www.beyondchron.org/beyondchron-special-report-illegal-hotel-conversions-sweep-san-francisco/>>

⁸ Mandelbaum, Robert. "Latest Lodging Forecast Extends Record U.S. Occupancy Through 2017." Latest Lodging Forecast Extends Record U.S. Occupancy Through 2017. CBRE, n.d. Web. 02 Dec. 2016. <<http://www.cbrehotels.com/EN/Research/Pages/Latest-Lodging-Forecast-Extends-Record-US-Occupancy-Through-2017.aspx>>

⁹ A staff review of Airbnb.com found numerous rooms available at the Menlo.

¹⁰ "SINGLE ROOM OCCUPANCY HOTELS IN OAKLAND." Anti-Eviction Mapping Project, n.d. Web. 02 Dec. 2016. <<http://www.antievictionmap.com/oakland-sros/>>

¹¹ For instance, see: BondGraham, Darwin. "Last Days at Downtown Oakland's Hotel Travelers?" East Bay Express, n.d. Web. <http://www.eastbayexpress.com/oakland/last-days-at-downtown-oaklands-hotel-travelers/Content?oid=4799815>. Flores, Jessica. "Oakland Building Residents Feel Pressured To Move Amid Renovation." CBS San Francisco, 15 Aug. 2015. Web. <http://sanfrancisco.cbslocal.com/2016/08/15/oakland-building-residents-feel-pressured-to-move->



Overall, City staff estimate that there are 712 SRO units at risk of being converted to high-income market-rate units or boutique hotels due to market pressures and a lack of regulatory control.

The Threats to the Health and Welfare of Oaklanders from the Potential Loss of SRO Units

In January 2016, the Oakland City Council declared a shelter crisis (Ordinance 13348 C.M.S) due to the large increase in the number of Oaklanders experiencing homelessness. This finding reflected an acknowledgment that the housing affordability crisis and the lack of sufficient resources available in response has left the City unable to provide sufficient services for its approximately 1,400 unsheltered residents. As found in research by the US Census Department, the loss of residential hotels to date has been a contributing factor towards this crisis:

"Loss of the stock of SRO units in U.S. cities from the late 1960s through the present – in hotels, rooming houses, tenements subdivided during the 1930s, and apartment buildings cut up into small single room rentals after World War 2 – has been identified as a major factor in precipitating urban housing crises and upsurges in urban homelessness."¹²

Currently, residential hotels house many of the Oaklanders most at risk of experiencing homelessness but for the housing provided by these hotels. Many residents are elderly, disabled or suffering from untreated mental illness or substance abuse. Any additional loss of residential hotel housing will most likely lead to an increase in Oakland's already large and growing population of unsheltered individuals by residents unable to access other forms of housing.

Oakland's Legislative History of Residential Hotel Preservation Efforts

Oakland has long supported SRO's as a viable housing option for low income residents. Most recently, on October 4th, 2016, the City Council unanimously passed Resolution No. 86408 C.M.S. which requested the City Planning Commission to initiate action to amend Oakland's Planning Code to preserve the supply of residential hotels and to return to Council within six months with proposed amendments. This resolution also called for an immediate increase in relocation payments for residents evicted in the case of a demolition or conversion as well as a report from the City Administrator on programmatic options to preserve residential hotels.

amid-renovation/, BondGraham, Darwin. "Landlord Being Sued for Allegedly Pushing Out SRO Tenants." East Bay Express. 03 Nov. 2016. Web.
<<http://www.eastbayexpress.com/SevenDays/archives/2016/06/17/landlord-being-sued-for-allegedly-pushing-out-sro-tenants>>

¹² Brownrigg, Leslie A. "PEOPLE WHO LIVE IN HOTELS: AN EXPLORATORY OVERVIEW." (2006): Page 29. U.S. Census Bureau Statistical Research Division, 31 May 2006. Web.
<<https://www.census.gov/srd/papers/pdf/ssm2006-03.pdf>>



The City's efforts are consistent with legislation enacted by the California State Legislature, which has recognized the need for retaining residential hotels in support of amendments to the Ellis Act exempting residential hotels in larger cities.¹³

POLICY PROPOSAL

This emergency ordinance places a temporary, 45 day moratorium on any conversion, demolition, reconfiguration or rehabilitation of residential hotels, thereby temporarily halting activities that would result in the loss of residential hotel units. This measure provides exceptions for vested projects, affordable housing projects or projects that must comply with a City order due to substandard conditions or in response to a natural disaster.

This temporary measure expires either at the end of 45 days or when the City Council passes the permanent regulations currently being developed by the Planning and Building Department. After the initial 45 days, the City Council may extend the moratorium for a period of up to 22 months and 15 days. However, ten days prior to the expiration of the interim ordinance or any extension, the legislative body must issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

As discussed above, the loss of residential hotel units creates an immediate threat to the public health, safety, and welfare. The intention of this moratorium is not to permanently restrict the conversion, demolition, reconstruction or rehabilitation of residential hotels. Rather, this temporary moratorium provides the time necessary for the City to return with sensible permanent regulations that protect the public health, safety, and welfare without suffering the loss of any residential hotel units in the meanwhile.

This measure and any subsequent extension requires a four-fifths (4/5) vote of the City Council for approval.

FISCAL IMPACT

There is no fiscal impact to this legislation.

COORDINATION

The legislation was created by the Office of Council President McElhaney in coordination with the City Attorney's Office, the Planning Bureau, and the Housing and Community Development Department.

SUSTAINABLE OPPORTUNITIES

¹³ "Residential hotels are considered a unique and important source of affordable housing in San Francisco and throughout California." (AB 1217 Assembly Bill, Bill Analysis); Cal. Government Code § 7060.)



Economic: This ordinance intends to promote greater economic integration in Oakland by preserving very low income housing in the City Center. Maintaining housing for low and very low income residents improves economic performance by ensuring healthy and nearby housing for workers.

Environmental: Maintaining affordable housing close to transit centers will continue to reduce GHG emissions by minimizing vehicle miles traveled to/from work and essential services for low and very low income residents.

Social Equity: This ordinance intends to promote social equity by protecting Oakland renters from losing access to affordable housing in residential hotels.

ACTION REQUESTED OF THE CITY COUNCIL

Adopt an interim ordinance, adopted as an urgency measure pursuant to California Government Code Section 65858, establishing a temporary moratorium the conversion, demolition, reconfiguration, and rehabilitation of residential hotels, to take effect immediately upon adoption.

For questions regarding this report, please contact Alex Marqusee, Legislative Analyst, at 510-238-7031.

Respectfully submitted,



Council President Lynette Gibson McElhaney

Prepared by:
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