

**CITY COUNCIL OF MONTEREY PARK
THE CITY COUNCIL ACTING ON BEHALF OF THE SUCCESSOR AGENCY OF THE
FORMER REDEVELOPMENT AGENCY, THE HOUSING AUTHORITY, THE MONTEREY
PARK FINANCING AUTHORITY AND THE MONTEREY PARK GEOLOGIC HAZARD
ABATEMENT DISTRICT AGENDA**

**SPECIAL MEETING
Monterey Park City Hall, Room 266
320 W. Newmark Avenue, Monterey Park, CA 91754**

**Wednesday
May 1, 2024
5:30 p.m.**

MISSION STATEMENT

The mission of the City of Monterey Park is to provide excellent services
to enhance the quality of life for our entire community.

LAND ACKNOWLEDGEMENT

We would like to acknowledge that the land we inhabit today was once known as
Tovangaar, the home of the Gabrieleño-Tongva people. We show our respect to the
Gabrieleño-Tongva people, as well as all Indigenous people, past, present, and future,
and honor their labor as original caretakers of this land. We commit to uplifting the
Gabrieleño-Tongva people, invite you to acknowledge the history, and join us in caring
for this land.

GENERAL INFORMATION

Documents related to an Agenda item are available to the public in the City Clerk's Office located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at www.montereypark.ca.gov/AgendaCenter/City-Council-17.

The Special Meeting will not be televised on the city's cable channel MPKTV (AT&T U-verse, channel 99 or Charter Communications, channel 182) or on the city's website at <http://www.montereypark.ca.gov/133/City-Council-Meeting-Videos>.

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call City Hall at (626) 307-1359 for reasonable accommodation at least 4 hours before a meeting. Council Chambers are wheelchair accessible.

PUBLIC PARTICIPATION

You may speak up to 5 minutes on Agenda item. You may combine up to 2 minutes of time with another person's speaking. No person may speak more than a total of 10 minutes. The Mayor and City Council may change the amount of time allowed for speakers. Written Communication will be accepted up to 2 hours before the meeting via email to mpclerk@montereypark.ca.gov.

Pursuant to Government Code Section 54954.3(a), the public may address the City Council only on matters listed on this Agenda. No other public comment will be accepted.

Monterey Park City Council Special Meeting Agenda, May 1, 2024 - Page 2

The City Council will recess to Closed Session following public comment and the Open Session items if any. Public participation is not allowed during Closed Session.

CALL TO ORDER Mayor

ROLL CALL Henry Lo, Vinh Ngo, Jose Sanchez, Thomas Wong, Yvonne Yiu

PUBLIC COMMUNICATIONS

[1.] OPEN SESSION

1-A. LEGISLATIVE SUBPOENAS; AUTHORIZATION TO ISSUE LEGISLATIVE SUBPOENAS TO OBTAIN MORE INFORMATION REGARDING THE CONTINUED VIOLATIONS OF THE MONTEREY PARK MUNICIPAL CODE AND VARIOUS OTHER CODES AT 122 N. LINCOLN, MONTEREY PARK

It is recommended that the City Council consider:

- (1) Adopting a Resolution authorizing the Mayor and City Clerk to issue legislative subpoenas for testimony and records related to a multi-family rental property located at 122 N. Lincoln Ave. for investigation regarding suspected illicit use of the property as a hotel and collection of unpaid transient occupancy taxes;
- (2) Taking such additional, related, action that may be desirable.

[2.] CLOSED SESSION

2-A. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2): one. Facts and Circumstances: No disclosure required per Government Code section 54956.9(e)(1) (not yet known to a potential plaintiff or plaintiffs).

2-B. CONFERENCE WITH LABOR NEGOTIATORS, PURSUANT TO CALIFORNIA GOVERNMENT CODE § 54957.6

City Negotiators: Steve Berliner and Christine Tomikawa

Employee Organizations: Confidential Employees' Association, Firefighters' Association, Mid-Management Association, Police Captains' Association, Police Officers' Association, Police Officers' Mid-Management Association, Professional Chief Officers' Association, and Service Employees International Union, Local 721

Upon conclusion of Closed Session, the Mayor and/or City Attorney will announce any reportable actions in accordance with the Brown Act.

ADJOURNED



City Council Staff Report

DATE: May 1, 2024

AGENDA ITEM NO: 1A

TO: The Honorable Mayor and City Council
FROM: Solange Fortenbach, Deputy City Attorney
SUBJECT: Legislative Subpoenas; Authorization to issue Legislative Subpoenas to obtain more information regarding the continued violations of the Monterey Park Municipal Code and various other Codes at 122 N. Lincoln, Monterey Park.

RECOMMENDATION

It is recommended that the City Council consider:

1. Adopting a Resolution authorizing the Mayor and City Clerk to issue legislative subpoenas for testimony and records related to a multi-family rental property located at 122 N. Lincoln Ave. for investigation regarding suspected illicit use of the property as a hotel and collection of unpaid transient occupancy taxes;
2. Taking such additional, related, action that may be desirable.

BACKGROUND

122 N. Lincoln Avenue., Monterey Park, CA 91754 ("Property") (APN: 5255-017-018) is a two-story apartment complex with 26 individual rental units facing an interior courtyard. The registered owner is "Newmark 809, LLC," with Curt Wang as the Managing Member.

On May 24, 2023, the City's Code Compliance Division received a complaint from a resident of the Property that it was being used as a "boarding hotel," and provided photographs from several units showing 6-9 makeshift beds in the living room areas. These, among other violations of the Monterey Park Municipal Code ("MPMC"), blocked access to the front doors.

Subsequently, a Monterey Park Fire Captain reported to Code Compliance that he observed the same conditions when responding to a medical call at the Property. He further noted that the missing fire extinguishers, overcrowding, and blocked egress in apartment units presented a tremendous hazard to occupants should a fire occur.

Code Compliance Officers and the Fire Marshall then inspected the common areas of the Property and were able to see inside several apartment units to confirm the overcrowding conditions and other conditions reported by the Fire Captain. Several residents later disclosed that occupants pay \$15 per night for one of up to 12 beds in the one-bedroom units.

On August 8, 2022, Code Compliance executed a warrant at the Property where all 26 units and every other area of the Property were inspected. Twenty-four of the 26 units had overcrowding conditions with 232 beds counted among them; an average of 9.6 beds per unit. At least one unit had 15 beds. Other violations of the MPMC included beds directly blocking the front doors, non-functioning smoke detectors, overloaded electrical receptacles, and apparent black mold in bathrooms. The second story walkways were completely blocked limiting each unit to only one staircase for emergency egress. The overcrowding was so profound that a hole in the dirt on the side of the building was being used as toilet (see, Exh. A, Return of Inspection Warrant).

One of the units had the front door barricaded with plywood screwed into the door frame and a padlock on the adjacent sliding glass door. Using the contracted locksmith for entry, Code Compliance discovered four men inside who were unable to leave unless let out by another person who appeared to be in control of that unit.

Further investigation indicates that units are leased to individuals who receive income renting beds out for \$15 per night. A portion of those rents are submitted to the on-site property manager daily by placing envelopes with cash in a locked mailbox next to the front door of her unit. An investigative local newspaper article from 2020 reported that the property owner was aware 122 N. Lincoln Ave. was being used as a de facto hotel and set rents at higher than market rates. It remains unknown to what extent the owner is receiving any of the nightly fees collected by the property manager.

On August 31st, 2023, the City of Monterey Park sent a preliminary Notice of Public Nuisance to the property owner that required certain immediate abatement actions be taken to protect life and safety (see, Exh. B, Notice of Public Nuisance.) The notice demanded Newmark 809, LLC make corrective actions for the entire Property. This included clearing access of all egress, installing smoke and carbon monoxide alarms, discontinuing the overload of electrical outlets and use of outdoor cooking appliances inside.

On September 18, 2023, the City Attorney's Office issued to the property owner a full Notice of Public Nuisance. Among the listed corrective actions was to immediately cease and desist with allowing the Property to be used as a de facto hotel, limit occupancy to no more than four individuals per unit and address all other conditions threatening the safety of occupants. That Notice further informed the property owner that operating as a de facto hotel has resulted in unpaid transient occupancy tax ("TOT") to the City along with associated interest and penalties – despite the hotel operation being illegal (see, Exh. C, Notice of Public Nuisance).

On January 24, 2024, the City Attorney's Office served a written notice on the property owner to demand payment of the unpaid transient occupancy taxes for the past three years, totaling \$1,341,208.80. This sum assumed an average of 200 rented beds per night at \$15 per night, in addition to penalties for late payment and fraud, and compounding interest on the same. That notice offered the property owner the

opportunity to resolve all unpaid TOT with remittance of approximately \$280,00. (see, Exh. D, Notice of Unpaid Transient Occupancy Tax). The City has yet to receive any TOT remittance from the Property.

It appears that violations relating to the physical aspects of the Property are abated. However, nightly bed rentals continue. In December 2023, City staff confirmed a flyer advertising \$15 per night rentals was currently being offered at the Property. The beds in living rooms have been replaced with futons and other furniture easily converted for sleeping. Large groups of people still congregate at and around the Property.

Since February 2024, the City Attorney's Office has engaged with an attorney for the Property regarding its use as a de facto hotel and unpaid TOT, urging the property owner to, at a minimum, use a professional property management company. While those at the Property have become more sophisticated at masking the unlawful short-term rentals, these violations continue.

The Property is not zoned, licensed, or approved for short-term rentals or hotel use, and such use violates MPMC § 21.09.030 (unlicensed short-term rental of 30 days or less). Because the Property is being operated without a license for short-term rental of 30 days or less, the City Attorney believes other requirements for hotel and hotel operations are also being evaded. One such requirement is the payment of the Transient Occupancy Tax ("TOT") pursuant Chapter 4.72 – Transient Occupancy Tax of the Los Angeles County Code.

California law authorizes the City to issue legislative subpoenas to investigate matters being considered by the City Council. The City Council for Monterey Park has already adopted procedures for issuing such legislative subpoenas in the City of Monterey Park (see, Resolution No. 2022-R-28). These procedures provide that the City Council may adopt resolutions authorizing the Mayor and City Clerk to issue legislative subpoenas to various persons and corporations.

To better understand the potential for collecting past due TOTs, the City Attorney recommends that the City Council adopt a Resolution authorizing the Mayor and City Clerk to issue legislative subpoenas to various persons and corporations responsible for the operation of the Property. Furthermore, the City Attorney believes this resolution should provide authority to obtain copies of all leases and any such record documenting the number of tenants throughout the last three years. Finally, having legislative subpoenas available to depose persons informed on the use of the Property as a de facto hotel, such as the property manager, would be informative in determining unpaid TOTs. Evidence gathered from such an investigation will be presented to the City Council for consideration and potential action.

DISCUSSION

As of April 17, 2024, all required repairs and other physical issues with the Property itself are addressed. However, Code Compliance and the City Attorney's Office have uncovered evidence indicating the Property is still overcrowded and being used as a de facto hotel. Legislative subpoenas are a valuable and necessary tool to substantiate the extent to which the Property is currently being used in this manner, how long this has continued, logistics of this arrangement between all involved parties, as well as the payment arrangements between night renters, those with control of individual units, the property manager and the property owner.

The MPMC provides the City with authority to collect unpaid transient taxes. MPMC § 3.26.110 requires that:

“Any tax required to be paid by any transient pursuant to the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city pursuant to the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount.”

Note that the obligation to remit TOT to the City for rentals of less than 30 days remains regardless of the legality of the rental itself. The City estimates the amount of unpaid TOT over the last year by assuming 200 beds rented out at a rate of \$15 per night. Legislative subpoenas enable a more precise determination of the amount the City is owed.

Here, that means anything related to the Property's use as a de facto hotel, including Newmark 809, LLC's role in perpetuating the illegal use. This includes, without limitation, leases with all tenants; financial records relating to income generated from the Property; how the Property is managed; maintenance history of the Property; marketing vacant spaces; and related evidence. Legislative subpoenas should include the ability to obtain testimony from certain individuals, such as, the property owner's agents and representatives, the property manager, long-term renters, nightly renters and anyone else with knowledge of the operation of the Property.

The following individuals, without limitation, should be served with legislative subpoenas:

- **Curt Wang.** Curt Wang is Managing Member of Newmark 809, LLC., the owner of the Property. He is expected to have information on the operation, maintenance and management of the Property relevant to its use as a de facto hotel and unpaid TOT.

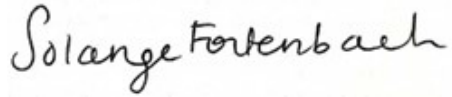
- **Newmark 809, LLC., along with its officers, directors, and any other persons, most knowledgeable on the operation of the Property, as determined by the City Attorney.** Such individuals are expected to have information on the operation, maintenance and management of the Property relevant to its use as a de facto hotel and unpaid TOT.
- **Property Manager.** The Property Manager is expected to have first-hand knowledge about the operation of the Property as a de facto hotel and collection of rents from tenants.
- **Other persons who would be informed on the operation of the Property as a de facto hotel as determined by the City Attorney.** This category would include current and past tenants at the Property, including both those with a lease agreement and those renting on a nightly basis. This could further include third parties who have investigated use of the Property as a de facto hotel.
- **Copies of all leases signed or in effect at the Property during the period from January 1, 2021, to May 1, 2024.**
- **All records documenting names and contact information for tenants, sub-tenants, and residents at the Property.** This will help the City Attorney's office better calculate unpaid TOTs owed to the City.
- **Copies of financial records of Newmark 809, LLC relating to the Property, including, without limitation, all rents or other income received from tenants, sub-tenants, and residents as well as any other related transactions.** Such records should inform the City Attorney of the extent of Newmark 809, LLC.'s direct involvement with the illicit use of the Property and amount of unpaid TOT.

If adopted, this resolution would authorize the Mayor to issue legislative subpoenas to the entities and persons identified by the City Attorney in connection with 122 N. Lincoln of Monterey Park. Once issued, the City Attorney's office would enforce the legislative subpoenas as needed to gather information to fully inform the City Council regarding potential enforcement options available for ensuring the Property is not a threat to public safety, is in full compliance with the MPMC, and that unpaid TOT is remitted to the City.

FISCAL IMPACT

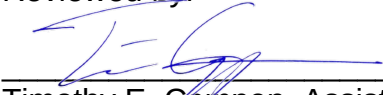
Adopting the Resolution itself will have a fiscal impact insofar as it will require Code Compliance and the Assistant City Attorney or a Deputy City Attorney to collect information from persons of interest. The City is expected to receive offsetting revenue from unpaid TOT collected from the property owner. It is difficult to predict exactly how much the City will receive in unpaid TOT or the extent to which such funds will cover the costs of collecting information pursuant to legislative subpoenas.

Respectfully submitted and prepared by:



Solange Fortenbach, Deputy City Attorney

Reviewed by:



Timothy E. Campen, Assistant City Attorney

ATTACHMENTS:

1. Resolution
2. Exh. A, Return of Inspection Warrant
3. Exh. B, Notice of Public Nuisance; Intent to Abate with City Personnel
4. Exh. C, Notice of Public Nuisance
5. Exh. D, Notice of Unpaid Transient Occupancy Tax

ATTACHMENT 1

Resolution

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE CITY CLERK TO ISSUE SUBPOENAS FOR LEGISLATIVE FACT-FINDING RELATED TO UNPAID TRANSIENT OCCUPANCY TAX.

BE IT RESOLVED by the City Council of the City of Monterey Park as follows:

SECTION 1: The City Council finds and declares as follows:

- A. On May 4, 2022, the City Council adopted Ordinance No. 2022-R28 which implements procedures for issuing legislative subpoenas in accordance with Government Code §§ 37104-37109.
- B. 122 N. Lincoln Avenue., Monterey Park, CA 91754 ("Property") (APN: 5255-017-018) is currently being used as an unlicensed and unpermitted de facto hotel for short-term rentals by fitting high numbers of makeshift beds into one-bedroom apartment units and charging a fee of \$15 per night per person. The registered owner is "Newmark 809, LLC" (Curt Wang, Managing Member), as recorded with the Office of the Secretary of State.
- C. The Property has a history of overcrowding as a result of its use as a de facto hotel, which continues to this day. Such use and associated overcrowding conditions presents an imminent threat to life and safety of those occupying the Property. Enforcement efforts to date by the Code Compliance Division and City Attorney's Office have had limited effect on preventing its continuing use as a de facto hotel.
- D. The subject multi-family residential property is in a High-Density Residential (R-3) Zone. It is not zoned, licensed, or approved for use as a hotel or for short-term rentals, and such use is a violation of Monterey Park Municipal Code ("MPMC") § 21.09.030.
- E. It is in the public interest for the City Council to understand: how the Property is being operated as a de facto hotel; the financial relationships between nightly renters, unit leaseholders, property management and property ownership; all other pertinent facts to understand how this and similar properties operate in the City. Information collection is the best means of bringing such properties into compliance with the MPMC and in furtherance of public safety.
- F. Despite the de facto hotel not being permitted, MPMC Chapter 3.26 still establishes the obligation to remit to the City transient occupancy taxes for stays of less than 30 days. The City Council believes that it is in the public interest to collect unpaid Transient Occupancy Taxes owed by Newmark 809, LLC. To fully inform the City Council regarding how much is owed to the City in unpaid Transient Occupancy Tax, it is in the public interest to obtain testimonial and documentary evidence regarding this matter.

- G. This Resolution is adopted in accordance with the requirements set forth in the Subpoena Resolution adopted on May 4th, 2022, for the purpose of obtaining information regarding potential collection of unpaid TOTs.

SECTION 2: Authorization. The City Clerk is authorized to issue subpoenas requiring the attendance of witnesses and production of documents, as required by the City Attorney, to inform the City Council regarding recommendations for pursuing the Transient Occupancy Taxes evaded by owner Newmark 809, LLC. Persons, documents, or other tangible items must be identified in a subpoena signed by the Mayor and approved as to form by the City Attorney. This authorization expires January 1, 2026, but may be renewed upon request by the City Attorney via City Council minute order, i.e., no subsequent resolution is required.

SECTION 3: Subject-Matter of the Subpoenas. The City Attorney is authorized to inform the City Clerk regarding which witnesses and what evidence is required to fully inform the City Council. This authority may be expanded upon request by the City Attorney via City Council minute order, i.e., no subsequent resolution is required. As a preliminary matter, however, the City Council authorizes subpoenas for testimony from the following persons and documents:

- A. Newmark 809, LLC., along with its officers, directors and any other persons most knowledgeable, as determined by the City Attorney. Specific individuals who should be subpoenaed include Mr. Curt Wang;
- B. Copies of financial records of Newmark 809, LLC., including bookkeeping documenting all rent paid between tenants, landlords, sub-tenants, and residents, as well as any other transactions related to rent;
- C. Persons involved in bookkeeping at the Property, including the Property Manager;
- D. Any and all leases for the rental of individual units at the Property;
- E. Any and all records documenting names and contact information for tenants, sub-tenants, and any other residents at the Property;
- F. Any leaseholders or tenants, regardless of length of stay at Property, who are currently living, or have previously lived, at the Property; and
- G. Other persons who would be informed on the operation of the Property as a de facto hotel as determined by the City Attorney.

SECTION 4: Service. Subpoenas will be served in accordance with the provisions of Code of Civil Procedure §§ 1987 and 1988, and any successor statute or regulation.

SECTION 5: Witness fees and mileage. If requested by the witness, all witnesses appearing pursuant to subpoena will receive fees and mileage, in the same amount and under the same circumstances as prescribed by California law for the deposition of witnesses in civil actions in a superior court.

SECTION 6: *Enforcement.* Subpoenas issued in accordance with this Resolution may be enforced pursuant to applicable law including Government Code §§ 37105 through 37109.

SECTION 7: *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 8: *Recordation.* The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or her duly appointed deputy, may attest thereto.

SECTION 9: *Effective Date.* This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

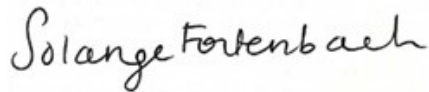
PASSED AND ADOPTED this 1st day of May, 2024.

Thomas Wong, Mayor

ATTEST:

Maychelle Yee, City Clerk

APPROVED AS TO FORM:
KARL H. BERGER, CITY ATTORNEY



Solange Fortenbach, Deputy City Attorney

Staff Report
May 1, 2024

ATTACHMENT 2

Return of Inspection Warrant

AUG 22 2023

David W. Slayton, Executive Officer/Clerk of Court
By: A. Maciel, Deputy

KARL H. BERGER, State Bar No. 178458

City Attorney, City of Bellflower

TIMOTHY E. CAMPEN, State Bar No. 197941

~~HENSLEY LAW GROUP~~

~~2600 W. Olive Avenue, Ste. 500~~

~~Burbank, CA 91505~~

~~Telephone: (818) 333-5120~~

~~Facsimile: (818) 333-5121~~

Attorneys for Plaintiff,

~~CITY OF BELLFLOWER~~ Monterey Park

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Warrant No.: AM23800002

IN RE PROPERTY AT: 122 N. LINCOLN
AVENUE, MONTEREY PARK, CA 91754
(APN 5255-017-018)

**RETURN OF INSPECTION
WARRANT**

Property Owner: NEWMARK 809, LLC
(CURT WANG, MANAGING MEMBER)

*Hon. Jared D. Moses, Judge
Dept. T*

I, Stephanie Estevez, Fire Safety Specialist for the City of Monterey Park ("City"), certify that I, along with City Code Enforcement Officers, personally executed the inspection warrant ("Warrant") signed by the Honorable Judge Jared D. Moses on August 7, 2022, attached as Exhibit 1 and fully incorporated herein by this reference.

Pursuant to the authority afforded under the inspection warrant, on August 8, 2022, at approximately 8:00 a.m., I arrived at 122 N. Lincoln Avenue., Monterey Park, CA 91754, APN 5255-017-018, (the "Property") to execute the Warrant. The Property is a two-story apartment complex with 26 individual rental units facing an interior courtyard.

Present with me included: Code Enforcement Officer Reymundo Lozano, Fire Marshal Jessica Estrella and other Monterey Park Code Enforcement Officers; sworn peace officers from the Monterey Park Police Department; Building Division Inspector Charles Moten, a licensed locksmith contracted by the City, and other support personnel.

1 Upon arriving at the property, we called by telephone the managing partner of
2 Newmark 809, LLC, Curtis Wang (“Owner” or “Mr. Wang”), and informed him of the warrant
3 and imminent execution of it. Mr. Wang responded in person at the Property 30-40 minutes
4 later, at which time he was provided a copy of the inspection warrant. Mr. Wang was
5 cooperative and facilitated access to all portions of the Property.

6 We distributed over 100 copies of an informational flyer to occupants of the Property
7 upon arrival. The flyer was in both English and Mandarin, and explained the purpose of the
8 inspection for violations of the MPMC. It further provided contact information to housing
9 resources, along with the advisal that the overcrowded conditions at the Property were a
10 violation of law and would be ending soon. A Mandarin interpreter was also present to help
11 with communication between occupants and City staff.

12 Inspection of all the units proceeded systematically, with Monterey Park police officers
13 conducting a sweep of each unit to ensure they were empty and safe before Fire and Code
14 Enforcement teams entered to inspect and document conditions. Occupants were cooperative
15 and entry into the units was generally unobstructed.

16 Of the 26 rental units, 24 were found each to have multiple violations of the Monterey
17 Park Municipal Code (“MPMC”) through its adoption of California building and fire codes.
18 This included: grossly overcrowded conditions of up to 15 individuals residing in single units;
19 beds directly blocking the front doors; non-functioning smoke detectors; overloaded electrical
20 receptacles; apparent black mold in bathrooms; blocked access to emergency egress; and other
21 violations. Code Enforcement staff counted a total of 232 beds among the 24 units where
22 violations were observed, each of which appeared to be currently in use. Such beds were found
23 in the common living room area, bedroom, and sometimes the kitchen. These conditions not
24 only were direct violations of various building and fire codes, but also amounted to a profound
25 hazard to the occupants should a fire or natural disaster require emergency evacuation from
26 the premises.

27 One of the units had the front door barricaded with plywood screwed into the door
28 frame and a padlock on the adjacent sliding door. Using the contracted locksmith entry, we

1 discovered four men were confined inside and unable to leave the unit unless let out by another
2 person who appeared to be in control of that unit.

3 Of the two units that did not contain any violations, one was vacant and the other had
4 an elderly couple who have resided at that unit for several years.

5 The second floor units open to a common balcony/walkway accessed at several points
6 by stairs. Because of the extreme overcrowding conditions on the interior of the units,
7 individuals' belongings, tables and chairs for congregating, and other items were commonly
8 stored on the upstairs walkway, blocking the ability to walk freely to alternate stairs for exit.
9 This presented yet another profound threat to the safety of occupants. Downstairs had similar
10 collections of items stored just outside the units, sometimes adversely affecting emergency
11 egress.

12 Inspection of storage units on the Property revealed an expired extinguisher, one of
13 many on the Property. The exhaust tubing from a dryer in the common laundry room was
14 disconnected, blowing lint and debris through the back of the appliance. These are also
15 violations of the California Fire Code.

16 Throughout the external portion of the Property, we observed several electrical outlets,
17 lights and connections with exposed wiring, in violation of building codes. The parking lot on
18 the rear of the Property contained a random collection of discarded items, such as a shopping
19 cart, washing machine, portable heaters, and various trash and debris. Car port structures were
20 plagued with rotten and warping wood in need of replacement.

21 On the South side of the Property between the building and property-line fence, we
22 located a hole reported to us by occupants of the Property that is used as an outdoor toilet due
23 to the overcrowded conditions of units. The hole smelled of feces.

24 The inspection warrant has been fully executed and the City hereby returns it to the
25 Court (in accordance with the provisions of Code of Civil Procedure § 1822.55).

26 ///

27 ///

28 ///

1
2 I declare under penalty of perjury under the laws of the State of California that the
3 foregoing is true and correct.
4

5 EXECUTED on this 22nd Day of August, 2022, at Monterey Park, California.
6

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8 Stephanie Estevez

9
10 SWORN AND SUBSCRIBED TO ME THIS
11 22nd day AUGUST, 2023.
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JUDGE MICHAEL VILLALOBOS

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Exhibit 1

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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF LOS ANGELES**
9

10 WARRANT No.:

11 IN RE PROPERTY AT: 122 N. LINCOLN
12 AVENUE, MONTEREY PARK, CA 91754
13 (APN 5255-017-018)

**[PROPOSED] INSPECTION
WARRANT**

*[Application for ex parte Inspection
Warrant Filed Concurrently Herewith]*

14 Property Owner: NEWMARK 809 LLC (CURT
15 WANG, MANAGING MEMBER)

16
17 **TO THE PEOPLE OF THE STATE OF CALIFORNIA, TO ANY CITY FIRE**
18 **OFFICIAL, CITY CODE ENFORCEMENT OFFICER, CITY BUILDING OFFICIAL,**
19 **POLICE OFFICER, LOS ANGELES COUNTY DEPARTMENT OF MENTAL**
20 **HEALTH OFFICER, CITY MENTAL HEALTH EVALUATION TEAM MEMBER,**
21 **OR AGENTS OR OFFICERS ON BEHALF OF THE CITY OF MONTEREY PARK,**
22 **STATE OF CALIFORNIA:**

23 Proof by Declaration having been made this day before me by Reymundo Lozano, and
24 it appearing therefrom that there is good cause for an Inspection Warrant for the parcel located
25 at 122 N Lincoln Avenue in the City of Monterey Park (APN: 5255-017-018) ("Property"),
26 the Court hereby grants the following Order:

27 The City of Monterey Park ("City") and its officers, agents, employees, or authorized
28 representatives including, without limitation, City Code Enforcement Officers, members of

1 the Monterey Park Fire Department, Monterey Park Code Enforcement Division, members of
2 the Monterey Park Police Department, member of the Monterey Park Public Works
3 Department, members of the Monterey Park Building and Safety Division, and members of
4 the Chinatown Service Center, and their respective agents, are hereby ordered to enter onto all
5 interior and exterior areas of the Property, as well as the interior of any sheds, storage areas,
6 closets, or any other area of the Property, between the hours of 8:00 a.m. and 6:00 p.m.,
7 Monday through Friday, to inspect or identify the presence of violations of the City's Health,
8 Fire, Nuisance and Zoning Ordinances therein.

9 This inspection will be undertaken to ensure that the Property is in compliance with all
10 applicable laws, including, without limitation, the Monterey Park Municipal Code, the
11 California Fire Code, California Residential Code, Uniform Building Code, and Uniform
12 Housing Code, as adopted by the Monterey Park Municipal Code.

13 Conditional forcible entry may be used to enter the Property, including all individual
14 rental units, storage rooms, offices, sheds, and anywhere else that may be used to house
15 humans or otherwise potential contain violations of the relevant Codes as stated herein, should
16 any request for entry pursuant to this Warrant be refused.

17 This Warrant shall be effective for a period of not more than 14 days, unless extended
18 or renewed.

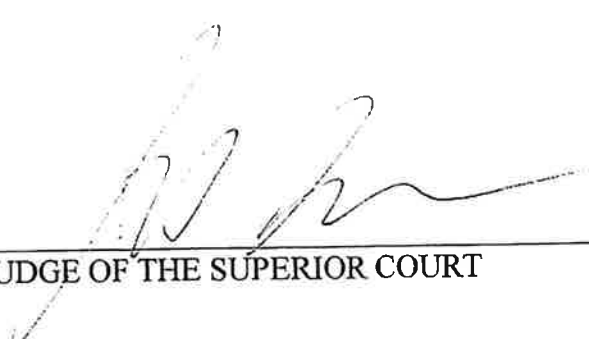
19 The Court finds there is good cause to waive any requirements to provide notice prior
20 to inspection and execution of this Warrant, because the nature of overcrowding and potential
21 human trafficking of the individual apartment units could be abated for purposes of the
22 inspection only, and then immediately revert following the inspection. Inspection without prior
23 notice will provide the best opportunity to gauge the full extent of the violations at the Property
24 and be able to formulate the most appropriate response towards the protection of public safety.

25 The inspection activities authorized by this Warrant may be undertaken in the absence
26 of the owner or any occupant of the Property.

27 A return to this Court shall be made in accordance with the provisions of Section
28 1822.55 of the Code of Civil Procedure.

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DATED: August 7, 2023


JUDGE OF THE SUPERIOR COURT



JUDGE JARED D. MOSES

Staff Report
May 1, 2024

ATTACHMENT 3
Notice of Public Nuisance; Intent to Abate with
City Personnel

CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896
www.montereypark.ca.gov



City Council
Henry Lo
Vinh Ngo
Jose Sanchez
Thomas Wong
Yvonne Yiu

City Clerk
Maychelle Yee

City Treasurer
Amy Lee

August 31st, 2023

BY CERTIFIED, USPS MAIL, ELECTRONIC MAIL AND POSTING

Newmark 809 LLC
802 E Mission Rd
San Gabriel, CA 91776

Curt Wang (Managing Member)
802 E Mission Rd
San Gabriel, CA 91776
Email: wangcurt@yahoo.com

***Re: Notice of Public Nuisance; Intent to Abate with City Personnel; re: 122 N
Lincoln Ave. APN 5255-017-018***

Dear Newmark 809 LLC and Managing Member(s),

This notice is being provided to you concerning the subject property at 122 N Lincoln Ave, Monterey Park, CA, 91754 ("Property"). Recently, an inspection warrant was executed at the subject property where State Fire Code and Municipal Code violations were identified and confirmed by City staff.

Immediately, you shall, by order of the Fire Marshal, adhere to the following corrective actions for the entire property, including, without limitation, in all apartment units:

1. Remove all items obstructing egress access, including, without limitation, all doorways, walkways, and balconies (California Fire Code 1018.1).
2. Immediately install and maintain functioning smoke alarms and carbon monoxide alarms in every apartment unit, in accordance with California Fire Code 907.2.10.1 and California Fire Code 915.
3. Discontinue the overloading of electrical outlets, including, without limitation, the improper use of extension cords and power strips in all apartment units (California Fire Code 603.2).
4. Discontinue the use of cooking appliances that are manufactured for outdoor use only in all apartment units. (California Fire Code 308.1.4).

Please be advised that the forthcoming notice will prohibit overoccupancy in each apartment unit. The City will follow the California Department of Fair Employment and Housing standard, which permits two (2) people to occupy each bedroom, with one (1) additional person in the living spaces.

You may contact me by email at jestrella@montereypark.ca.gov with any inquiry you may have.

Sincerely,
Jessica Estrella
Fire Marshal

Staff Report
May 1, 2024

ATTACHMENT 4

Notice of Public Nuisance

CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896
www.montereypark.ca.gov



City Council
Jose Sanchez
Thomas Wong
Yvonne Yiu
Vinh T. Ngo
Henry Lo

City Clerk
Maychelle Yee

City Treasurer
Amy Lee

September 18, 2023

BY CERTIFIED, USPS MAIL, ELECTRONIC MAIL AND POSTING

Newmark 809 LLC
802 E. Mission Rd
San Gabriel, CA 91776

Curt Wang (Managing Member)
802 E. Mission Rd
San Gabriel, CA 91776
Email: wangcurt@yahoo.com

**Re: Notice of Public Nuisance re: 122 N. Lincoln Ave.
APN 5255-017-018**

Dear Mr. Wang:

This notice is being provided to you from the Office of the City Attorney for the City of Monterey Park ("City"). I serve as the Assistant City Attorney and have been specifically tasked with bringing this Notice of Public Nuisance to you concerning the subject property located at 122 N. Lincoln Avenue, Monterey Park, CA 91754 ("Property").

On August 8, 2023, a court-issued inspection warrant was executed at the Property by City Code Enforcement Officers with the assistance of Monterey Park Police. In the course of that inspection, conditions were observed that are violations of the Monterey Park Municipal Code ("MPMC"),¹ many of which presented an immediate threat to the safety of those occupying the Property. Only 2 of the 26 units of the Property were not deemed to be in violation of the MPMC – Units E and W.

Among the most egregious of the violations included gross overcrowding of the apartment units, inaccessible points of emergency egress, non-functioning fire alarms, overuse of electrical connections and related conditions that make the Property profoundly dangerous to its occupants. There were 234 individual beds found in just 24 units.

¹ The entire Monterey Park Municipal Code, including all citations herein, can be accessed online at: https://library.qcode.us/lib/monterey_park_ca/pub/municipal_code. The California Building Code ("CBC") is accessible at <https://codes.iccsafe.org/content/CABC2022P1>, and California Fire Code ("CFC") at <https://up.codes/viewer/california/ca-fire-code-2022>.

Other violations included repurposing sliding glass doors as main doors, non-functioning kitchen cooking appliances, exposed wiring, lack of GFCI outlets in kitchens and bathrooms, expired fire extinguishers, unpermitted construction, visible black mold, improper latches and locks (including on the pool gate), storage of motor oil and other prohibited substances, and even a pit on the side of the building used as an outdoor latrine.

The City is further aware that those who were staying in those overcrowded units were paying \$15 per night in cash on a day-to-day basis to your on-site manager on your behalf. Not only are you unlawfully engaging in a de facto motel business, but you have failed to pay any required transient occupancy tax to the City.

Please be advised that these conditions are in violation of the Monterey Park Municipal Code (“MPMC”) and State building regulations and construction requirements, amounting to a public nuisance under the MPMC. This further subjects your Property to commencement of legal and enforcement proceedings as may be required to achieve compliance. You are accordingly on notice as follows:

NOTICE OF PUBLIC NUISANCE

The state of your Property amounts to a Public Nuisance pursuant to the following violation(s):

1. MPMC § 16.01.040, per CFC Section 1031.3, *et seq.* – blocked egress from interior of units;
2. MPMC § 16.01.040, per CFC Section 1018.1, *et seq.* – blocked aisle access;
3. MPMC § 16.01.040, per CFC Section 1021.1, *et seq.* – blocked egress on balconies;
4. MPMC § 16.01.040, per CBC Section 603.6 – improper use of extension cords;
5. MPMC § 16.01.040, per CBC Section 603.2 – improper electrical covers;
6. MPMC § 16.01.040, per CEC Section 210.8(A) – lack of required GFCI receptacles;
7. MPMC § 16.01.040, per CBC Section 907.2.11 – lack of functional smoke alarms
8. MPMC § 16.01.040, per CBC Section 915 – lack of carbon monoxide alarms
9. MPMC § 16.01.040, per CFC Section 906.2 – expired fire extinguishers;
10. MPMC § 16.01.040, per CFC Section 603.2 – exposed wiring;
11. MPMC § 16.01.040, per CBC Section 308.1.4 – unpermitted propane cooking equipment;
12. MPMC § 16.01.040, per Health & Safety Section 17920.3(a) (11) – dampness/visible mold;
13. MPMC § 4.30.050(l) – outside storage of junk and debris;
14. MPMC § 4.30.050(l) – outside storage of feces;
15. MPMC § 4.30.050(s) – outside storage of motor oil;
16. MPMC § 4.30.050(e) – warping and rotting fascia boards and other exterior wood;
17. MPMC § 4.30.050(k) – cracked and defective rain gutters;
18. MPMC § 16.01.040, per CBC Section 105, *et seq.* – unpermitted construction (without limitation, door installation; common area gate locks and latches.
19. MPMC § 21.08.030 – unpermitted motel in residential zone; and
20. MPMC Chapter 3.26 – failure to pay transient occupancy tax.

PLEASE BE ADVISED THAT this list does not necessarily represent an exhaustive list of violations on the Property. The violations observed were too extensive and pervasive to pinpoint the location of each instance here. You are responsible for maintaining your Property in accordance with all City, State and Federal laws and regulations.

NOTICE OF CORRECTIVE ACTIONS

Immediately:

1. Remove all items obstructing egress access, including, without limitation, all doorways, walkways, and balconies (California Fire Code 1018-31, *et seq.*);
2. Immediately install and maintain functioning smoke alarms and carbon monoxide alarms in every apartment unit, in accordance with California Fire Code 907.2.11 and 915;;
3. Have functioning and non-expired fire extinguishers in all required locations, in accordance with California Fire Code 906.2.;
4. Discontinue the overloading of electrical outlets, including, without limitation, the improper use of extension cords and power strips in all apartment units (California Fire Code 603.2);
5. Discontinue the use of cooking appliances that are manufactured for outdoor use only in all apartment units. (California Fire Code 308.1.4); and
6. Ensure outdoor all gates on the Property comply with required emergency egress and accessibility requirements. (California Fire Code 1031.1)

By October 5, 2025:

1. Limit occupancy of each unit to no more than four (4) persons, except as otherwise permitted by State law;
2. Refrain from renting, or allowing to be rented to any person, stays of less than 30 days;
3. Conduct mold inspection of all 26 units by established, licensed professional and provide mold inspection report from licensed profession to City. (City will provide further directives on mold remediation after review of mold inspection report.);
4. Install required GFCI electrical receptacles in all kitchens and bathrooms, correct all exposed wiring and improper electrical covers, and ensure functioning lights in all common areas - to be performed by a licensed electrician with written documentation provided to City;
5. Remove all unpermitted outside storage of junk, debris, motor oil, appliances and parts, etc.;
6. Remove all human waste from side of Property and fill hole;
7. Repair all cracked and warped fascia boards; and
8. Repair and ensure all rain gutters are in proper working condition.

By October 19, 2023:

1. Provide to City copies of rental agreements for each unit and each person residing at Property.
2. Remit to City all outstanding transient occupancy taxes, including all applicable fines and penalties. NOTE: said transient occupancy taxes and associated penalties will be assessed

based on the assumption of 200 guests per night at a rate of \$15 per night and for a period of one year. (MPMC § 3.26.060). A specific accounting will be provided no later than September 18, 2023. City reserves the right to revise these estimates and terms for purposes of tax collection.

BE ADVISED that this Notice does not necessary represent an exhaustive of list all violations on your Property. A “Preliminary Notice” served on you from the City Fire Marshal dated on or about August 219, 2023, is fully incorporated by reference into this Notice. It is your responsibility to ensure the Property is fully compliant with all Federal, State and City laws and regulations. As the owner of the Property, this applies to you regardless of the actions of your management, contractors, or tenants.

BE FURTHER ADVISED THAT the City reserves all available rights to enforce compliance in furtherance of abatement of public nuisances on the Property, including, without limitation, initiating civil legal proceedings, abating the Property with City resources through an abatement warrant, administrative citations.

BE FURTHER ADVISED THAT the City will need to verify compliance by personal inspection with the Corrective Actions and associated deadlines states herein. This may require complete inspection of individual units on the Property. It is YOUR responsibility to provide a least 24-hours’ notice to your tenants in advance of any such inspections scheduled by City Code Enforcement staff.

BE FURTHER ADVISED that every day a violation of the MPMC exists is a new violation. As such, the City reserved the right issue daily administrative citations for each individual violation until the violations are abated. This is separate and apart from any abatement-related costs the City is entitled to recover. Per MPMC § 4.20.060, a violation of building and safety codes is punishable by: a fine not exceeding one hundred thirty dollars for the first violation; a fine not exceeding seven hundred dollars for a second violation of the same regulation within one year from the date of the first violation; and a fine not exceeding one thousand three hundred dollars for each additional violation of the same regulations within one year from the date of the first violation.

BE FURTHER ADVISED that the City is entitled to recoup all of its abatement-related costs, including attorney fees, in this enforcement matter. If not paid, the City may seek a lien or special tax assessment on your Property, court judgment, and other remedies available at law, which may result in foreclosing on the Property and recouping its cost from the sale proceeds.

BE FURTHER ADVISED that pursuant to MPMC § 3.26.020, the City is entitled collect a transient occupancy tax of 12% of gross rents collected for stays under 30 consecutive days or paid on a day-to-day basis, even if such short term rentals were conducted in violations of the MPMC. Additionally, pursuant to MPMC § 3.26.060, the failure to have timely paid said transient occupancy taxes subjects you to penalties of up to 20% of the applicable rents going back three years. Non-payment due to fraud, which the City contends applies here, subjects you to an additional 25% penalty on applicable gross rental income. This is all in addition to payment of the outstanding taxes themselves and accrued interest thereto at a rate of one-half of one percent per month beginning 30 days after non-payment. (See MPMC § 3.26.060.) Be

September 18, 2023
Notice of Public Nuisance
122 N. Lincoln Ave.
Page 5

advised the City is at this time seeking only the past year of unpaid transient occupancy tax. The City reserves the right to seek up to three years' or more of such unpaid taxes and associated penalties should you fail to pay the lesser amount as stated herein or otherwise fail to comply with any of the terms of this Notice.

We appreciate you may have questions regarding this Notice. You may contact Code Enforcement Officer Reymundo Lozano by email at rlozano@montereypark.ca.gov with any inquiry you may have. If you chose to have legal counsel engage with this City on your behalf, please have that individual contact me directly by email at tcampen@bwslaw.com or by telephone at 619-814-5810.

Sincerely,

Karl H. Berger, City Attorney


by: Timothy E. Campen
Assistant City Attorney

cc: Rey Lozano, Code Compliance Officer
Jessica Estrella, Fire Marshal
Dennis Tarango, Building Official
Jessica Serrano, Director of Community Development
Matthew Hallock, Fire Chief
Inez Alvarez, Interim City Manager
Karl Berger, City Attorney

Staff Report
May 1, 2024

ATTACHMENT 5
Notice of Unpaid Transient Occupancy Tax

CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896
www.montereypark.ca.gov



City Council
Jose Sanchez
Thomas Wong
Yvonne Yiu
Vinh T. Ngo
Henry Lo

City Clerk
Maychelle Yee

City Treasurer
Amy Lee

January 24, 2024

BY CERTIFIED, USPS MAIL, ELECTRONIC MAIL AND POSTING

Newmark 809 LLC
802 E. Mission Rd
San Gabriel, CA 91776

Curt Wang (Managing Member)
802 E. Mission Rd
San Gabriel, CA 91776
Email: wangcurt@yahoo.com

Re: Notice of Unpaid Transient Occupancy Tax (MPMC § 3.26.070)
Re: 122 N. Lincoln Ave., APN 5255-017-018

Dear Mr. Wang:

This notice is being provided to you from the Office of the City Attorney for the City of Monterey Park ("City") concerning property located at 122 N. Lincoln Avenue, Monterey Park, CA 91754 ("Property"). As you know, this Property is currently the subject of code enforcement efforts by the City relating to various violations of the Monterey Park Municipal Code ("MPMC").

On August 8, 2023, a court-issued inspection warrant was executed at the Property by City Code Enforcement Officers with the assistance of Monterey Park Police. Among the various MPMC violations observed was gross overcrowding in 24 of the 26 apartment units at the Property, with between 8-12 individuals per unit. These units had front doors sealed, blocked emergency egress, overloaded electrical receptacles, inoperable smoke detectors and other extremely hazardous conditions. The City has learned in the course of this investigation that those who were staying in the overcrowded units were short term renters paying \$15 per night in cash, paid daily, and that this racket of preying on the most vulnerable to live in such dangerous conditions has been going on for years.

Within the last 45 days, City staff has found public postings for rooms to rent as described above. An unidentified person at a phone number on one of the postings confirmed it was for *your* Property. This indicates the unlawful short term rental practice is continuing even after the inspection warrant and public nuisance notices from the City directing you to cease engaging in this activity.

Pursuant to MPMC Chapter 3.26, a transient occupancy tax ("TOT") is imposed on any rental of any portion of a structure for habitation for any entitlement of occupancy of less than 30 consecutive days. Your Property was, and apparently still is, being operated as a de facto hotel, and the City is

entitled to this tax revenue – regardless of whether your Property was lawfully operating as a hotel. The Notice of Public Nuisance and Corrective Actions sent to you on September 11, 2023, specifically advised you of this TOT violation and that an accounting and demand would be forthcoming.

MPMC § 3.26.020 imposes a 12% TOT on short term rental fees paid, whether that TOT is collected from the renter or not. TOT must be remitted to the City “on or before the last day of the month following the close of each calendar quarter.” (MPMC § 3.26.050.) Late payment incurs an immediate 10% initial penalty and additional 10% if 30 days late thereafter. (MPMC § 3.26.060(a) and (b).) Interest on any unpaid taxes accrues at a rate of 0.5% per month. (MPMC § 3.26.060(d).) A 25% penalty is applied where, as is the case here, nonpayment is due to fraud. (MPMC § 3.26.0560(c).) Finally, all applicable penalties and interest become part of the tax due itself.

NOTICE OF UNPAID TAXES AND OPPORTUNITY TO CURE

Based on a conservative estimate of 200 beds per night at a rate of \$15 per bed, the City has calculated that from October 2020 through September 2023, your Property took in an estimated \$3,285,000 in short term rental fees, against which \$394,200 in TOT is owed. Adding all applicable penalties and interest, the total for that three-year period comes to **\$1,341,208.80** due and immediately payable to the City. A spreadsheet detailing these calculations is attached to this Notice as Exhibit A.

In lieu of seeking the entire due amount of **\$1,341,208.80**, the City is willing to offer you a one-time opportunity to satisfy this debt in full by paying only the most recent year of past due taxes, plus associated penalties and interest, for a total payment of \$281,505.60.

PLEASE BE ADVISED THAT payment of \$281,505.60 must be remitted to the City of Monterey Park no later than February 22, 2024, or the City will pursue three years of unpaid TOT, plus all associated penalties and interest and attorney fees, by any and all lawful means available.

BE FURTHER ADVISED THAT the City is informed and believes you were and are fully aware of the longstanding short term rental practices and resulting overcrowding at the Property, regardless of the extent to which you personally collected or received short term rental fees. As the owner and operator of the Property, you are responsible for maintaining your Property in compliance with all Federal, State and local laws, including TOT remittance.

PLEASE BE FURTHER ADVISED THAT pursuant to MPMC 3.26.110:

Any tax required to be paid by any transient pursuant to the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city pursuant to the provisions of this chapter shall

be liable to an action brought in the name of the city for the recovery of such amount.

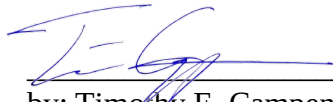
BE FURTHER ADVISED THAT pursuant to MPMC 3.26.120:

Any operator or other person who fails or refuses to register as required, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the license officer, or who renders a false or fraudulent return or claim shall be guilty of a misdemeanor and punishable as set forth in Chapter 4.10 of this code.

You now have approximately four weeks to remit a reduced payment to the City, or risk payment of three years of unpaid TOT and associated penalties and interest. You have been on notice for over four months that this demand would be forthcoming, and are presumably prepared to remit at least the reduced payment by the deadline provided. You or your attorney may contact me with any questions you may have at tcampen@bwslaw.com or by telephone at 619-814-5810.

Sincerely,

Karl H. Berger, City Attorney



by: Timothy E. Campen
Assistant City Attorney

TEC:meh
Enclosure

cc: Rey Lozano, Code Compliance Officer
Martha Garcia, Director of Finance
Matt Hallock, Fire Chief
Inez Alvarez, City Manager
Karl Berger, City Attorney

EXHIBIT A

TOT COMPUTATION

GIVEN ASSUMPTIONS:

- 200 beds rented at \$15/night
- TOT tax is 12%
- Interest and penalty charge are computed based on HDL form
- One computation is for 2023
- One computation is from Oct 2020- Sept 2023
- per HDL representative, Astra, they would base the computations on the form they have online. But if we want to put a fraud penalty, it will be on case to case basis

COMPUTATION for YEAR 2023	YEAR 2023												
	Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	TOTAL
1. Gross Rent Paid for Lodging	93,000.00	84,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	1,095,000.00
2. Allowable Deductions Excluded Rent - Term (>30 days)													
3. Net Taxable Rent: Line 1 minus Line 2	93,000.00	84,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	1,095,000.00
4. Tax (12% or 0.12 x Line 3)	11,160.00	10,080.00	11,160.00	10,800.00	11,160.00	10,800.00	11,160.00	11,160.00	10,800.00	11,160.00	10,800.00	11,160.00	131,400.00
5. Penalty (Line 4 x 10% or 0.10 for each month past due)	12,276.00	10,080.00	10,044.00	8,640.00	7,812.00	6,480.00	5,580.00	4,464.00	3,240.00	2,232.00	1,080.00	-	71,928.00
6. Interest (Line 4 x 0.5% or 0.005, for each month or fraction thereof)	613.80	504.00	502.20	432.00	390.60	324.00	279.00	223.20	162.00	111.60	54.00	-	3,596.40
7. Fraud Penalty (Line 4 x 25%)**	2,790.00	2,520.00	2,790.00	2,700.00	2,790.00	2,700.00	2,790.00	2,790.00	2,700.00	2,790.00	2,700.00	2,790.00	32,850.00
8. Special tax credits (attach copies of credit letters)													
TOTAL AMOUNT DUE (Add Line 4,5,6 and subtract Line 8)	26,839.80	23,184.00	24,496.20	22,572.00	22,152.60	20,304.00	19,809.00	18,637.20	16,902.00	16,293.60	14,634.00	13,950.00	239,774.40

**not in the TOT form but is computed once license officer determines that the nonpayment of remittance is due to fraud

COMPUTATION FOR OCT 2020- SEP 2023	Year 2020	Year 2021	Year 2022	Year 2023	Total
1. Gross Rent Paid for Lodging	276,000.00	1,095,000.00	1,095,000.00	819,000.00	3,285,000.00
2. Allowable Deductions Excluded Rent - Term (>30 days)					
3. Net Taxable Rent: Line 1 minus Line 2	276,000.00	1,095,000.00	1,095,000.00	819,000.00	3,285,000.00
4. Tax (12% or 0.12 x Line 3)	33,120.00	131,400.00	131,400.00	98,280.00	394,200.00
5. Penalty (Line 4 x 10% or 0.10 for each month past due)	122,544.00	387,288.00	229,608.00	68,616.00	808,056.00
6. Interest (Line 4 x 0.5% or 0.005, for each month or fraction thereof)	6,127.20	19,364.40	11,480.40	3,430.80	40,402.80
7. Fraud Penalty (Line 4 x 25%)**	8,280.00	32,850.00	32,850.00	24,570.00	98,550.00
8. Special tax credits (attach copies of credit letters)					
TOTAL AMOUNT DUE (Add Line 4,5,6 and subtract Line 8)	170,071.20	570,902.40	405,338.40	194,896.80	1,341,208.80

**not in the TOT form but is computed once license officer determines that the nonpayment of remittance is due to fraud

MONTHLY BREAKDOWN-OCT 2020 TO SEP 2023	YEAR 2020				YEAR 2021								
	Oct-20	Nov-20	Dec-20	Total	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21
1. Gross Rent Paid for Lodging	93,000.00	90,000.00	93,000.00	276,000.00	93,000.00	84,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	93,000.00	90,000.00
2. Allowable Deductions Excluded Rent - Term (>30 days)	-												
3. Net Taxable Rent: Line 1 minus Line 2	93,000.00	90,000.00	93,000.00	276,000.00	93,000.00	84,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	93,000.00	90,000.00
4. Tax (12% or 0.12 x Line 3)	11,160.00	10,800.00	11,160.00	33,120.00	11,160.00	10,080.00	11,160.00	10,800.00	11,160.00	10,800.00	11,160.00	11,160.00	10,800.00
5. Penalty (Line 4 x 10% or 0.10 for each month past due)	42,408.00	39,960.00	40,176.00	122,544.00	39,060.00	34,272.00	36,828.00	34,560.00	34,596.00	32,400.00	32,364.00	31,248.00	29,160.00
6. Interest (Line 4 x 0.5% or 0.005, for each month or fraction thereof)	2,120.40	1,998.00	2,008.80	6,127.20	1,953.00	1,713.60	1,841.40	1,728.00	1,729.80	1,620.00	1,618.20	1,562.40	1,458.00
7. Fraud Penalty (Line 4 x 25%)**	2,790.00	2,700.00	2,790.00	8,280.00	2,790.00	2,520.00	2,790.00	2,700.00	2,790.00	2,700.00	2,790.00	2,790.00	2,700.00
8. Special tax credits (attach copies of credit letters)													
TOTAL AMOUNT DUE (Add Line 4,5,6 and subtract Line 87)	58,478.40	55,458.00	56,134.80	170,071.20	54,963.00	48,585.60	52,619.40	49,788.00	50,275.80	47,520.00	47,932.20	46,760.40	44,118.00

**not in the TOT form but is computed once license officer determines that the nonpayment of remittance is due to fraud

Total Due Oct. 2022 - Sept. 2023: 281,505.60

				YEAR 2022												
Oct-21	Nov-21	Dec-21	TOTAL	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	TOTAL
93,000.00	90,000.00	93,000.00	1,095,000.00	93,000.00	84,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	1,095,000.00
93,000.00	90,000.00	93,000.00	1,095,000.00	93,000.00	84,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	1,095,000.00
11,160.00	10,800.00	11,160.00	131,400.00	11,160.00	10,080.00	11,160.00	10,800.00	11,160.00	10,800.00	11,160.00	11,160.00	10,800.00	11,160.00	10,800.00	11,160.00	131,400.00
29,016.00	27,000.00	26,784.00	387,288.00	25,668.00	22,176.00	23,436.00	21,600.00	21,204.00	19,440.00	18,972.00	17,856.00	16,200.00	15,624.00	14,040.00	13,392.00	229,608.00
1,450.80	1,350.00	1,339.20	19,364.40	1,283.40	1,108.80	1,171.80	1,080.00	1,060.20	972.00	948.60	892.80	810.00	781.20	702.00	669.60	11,480.40
2,790.00	2,700.00	2,790.00	32,850.00	2,790.00	2,520.00	2,790.00	2,700.00	2,790.00	2,700.00	2,790.00	2,790.00	2,700.00	2,790.00	2,700.00	2,790.00	32,850.00
44,416.80	41,850.00	42,073.20	570,902.40	40,901.40	35,884.80	38,557.80	36,180.00	36,214.20	33,912.00	33,870.60	32,698.80	30,510.00	30,355.20	28,242.00	28,011.60	405,338.40

YEAR 2023										TOTAL
Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	TOTAL	
93,000.00	84,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	93,000.00	90,000.00	819,000.00	3,285,000.00
93,000.00	84,000.00	93,000.00	90,000.00	93,000.00	90,000.00	93,000.00	93,000.00	90,000.00	819,000.00	3,285,000.00
11,160.00	10,080.00	11,160.00	10,800.00	11,160.00	10,800.00	11,160.00	11,160.00	10,800.00	98,280.00	394,200.00
12,276.00	10,080.00	10,044.00	8,640.00	7,812.00	6,480.00	5,580.00	4,464.00	3,240.00	68,616.00	808,056.00
613.80	504.00	502.20	432.00	390.60	324.00	279.00	223.20	162.00	3,430.80	40,402.80
2,790.00	2,520.00	2,790.00	2,700.00	2,790.00	2,700.00	2,790.00	2,790.00	2,700.00	24,570.00	98,550.00
26,839.80	23,184.00	24,496.20	22,572.00	22,152.60	20,304.00	19,809.00	18,637.20	16,902.00	194,896.80	1,341,208.80