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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

LEILA MENDEZ and ALONSO ZARAGOZA,)
)
Plaintiffs,) Case No. 16 CH 15489
)
v.) Judge Sanjay T. Tailor
)
CITY OF CHICAGO, et al.,)
)
Defendants.)

**PLAINTIFFS' MOTION TO STRIKE THE AFFIDAVIT OF CHARLES LEE OR, IN
THE ALTERNATIVE, TO STAY SUMMARY JUDGMENT BRIEFING**

In their responses to Plaintiffs' interrogatories, Defendants identified persons with knowledge of facts alleged in Plaintiffs' complaint and witnesses they might rely on in defense of this case. Those individuals did *not* include Charles Lee, Supervisor of Business Compliance Investigations for the City of Chicago Department of Business Affairs and Consumer Protection—nor did they include any other individual in that or any similar position. Nonetheless, Defendants rely on an affidavit from Lee in support of their Motion for Summary Judgment and Response to Plaintiffs' Motion for Summary Judgment. Plaintiffs therefore move to strike Lee's affidavit or, in the alternative, to stay summary judgment briefing so Plaintiffs can depose Lee.

BACKGROUND

Procedural history

Plaintiffs' surviving claim before this Court—after the Court partially granted two motions to dismiss—concerns whether the City of Chicago's surcharges and fees on home-sharing violate the Uniformity Clause of the Illinois Constitution. The parties conducted fact discovery related to that claim, which concluded on January 30, 2019. The parties then

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conducted expert discovery—with each side disclosing an expert witness and deposing the opposing party’s expert—which concluded on March 21, 2019. Plaintiffs filed a motion for summary judgment on June 21, 2019, and Defendants filed a cross-motion for summary judgment and response to Plaintiffs’ motion on August 5, 2019. Under this Court’s scheduling order of May 7, 2019, Plaintiffs’ combined reply in support of their motion and response to Defendants’ motion is due on or before September 3, 2019, and Defendants’ reply in support of their motion is due on or before October 1, 2019.

Defendants’ failure to disclose Charles Lee

In discovery, Defendants did not disclose Charles Lee—or anyone else in his position—as an individual with relevant knowledge or as a potential witness. Defendants also did not disclose any person with knowledge of, or any witness who would testify on, the subject matter of Mr. Lee’s affidavit.

Plaintiffs’ Interrogatory No. 1 asked Defendants to identify any individuals with knowledge relevant to Plaintiffs’ claim for relief that survived Defendants’ motions to dismiss:

INTERROGATORY NO. 1

Identify all persons with knowledge of any of the events alleged or referred to in Paragraphs 1 through 21 and 129 through 151 of Plaintiffs’ Amended Complaint, including the nature and substance of each person’s knowledge.

Exhibit A, Defendants’ Responses to Plaintiffs’ First Set of Interrogatories (“First Int. Resps.”)

No. 1. Defendants City of Chicago responded to the Interrogatory as follows:

RESPONSE: The City objects to this Interrogatory as vague, overbroad and unduly burdensome. Subject to and without waiving these objections, the City states that Stefan Schaffer, Deputy Policy Director, Mayor’s Office, has knowledge of the policy reasons behind the imposition of the surcharge at issue, including the analysis that was conducted prior to its imposition. Other persons with knowledge of these subjects include:

- Beth Beatty, Deputy Director, Financial Policy, Finance
- Rosa Escareno, Commissioner, Department of Business Affairs & Consumer Protection
- Maria Guerra, Director of Legislative Counsel & Government Affairs, Mayor's Office
- Samantha Fields, Budget Director, Office of Budget & Management
- Steven Valenziano, Assistant Zoning Administrator, Department of Planning & Development
- Members of the Chicago City Council.

Investigation continues. The City will supplement this Response as appropriate.

Id.

In response to Plaintiffs' Interrogatory No. 2, which asked Defendants to identify all of their potential witnesses, the City identified only one person—not Lee:

INTERROGATORY NO. 2

Identify all witnesses you may rely on in defense of this case, including the nature and substance of each person's knowledge and anticipated testimony.

RESPONSE: The City anticipates that it will rely on Mr. Schaffer as a witness, who can testify about the policy reasons behind the imposition of the surcharge at issue, including the analysis that was conducted prior to its imposition. The City has not yet identified who else it may be calling as witnesses in this case. Once that determination is made, the City will duly supplement its response.

First Int. Resps. No. 2.

Defendants never supplemented these responses to identify Lee—or anyone else holding his job title—as a person with relevant knowledge or as a potential witness. Nor did Defendants identify Lee in any of their responses to any of Plaintiffs' other Interrogatories. *See Exhibit B,*

City of Chicago's Response to Plaintiffs' Second Set of Interrogatories; Exhibit C, Defendants' Supplemental Response to Interrogatory No. 11 of Plaintiffs' First Set of Interrogatories. Further, the City did not identify any of the individuals listed in its responses to Plaintiffs' Interrogatories Nos. 1 and 2 as having knowledge of the subject matter addressed in Mr. Lee's affidavit: namely, complaints to the City related to shared housing units, vacation rentals, hotels, and bed-and-breakfasts. *See* First Int. Resps. Nos. 1 and 2; Exhibit D, Defendants' Motion for Summary Judgment and Response to Plaintiffs' Motion for Summary Judgment ("Defendants' MSJ") Ex. H.¹

Therefore, Plaintiffs had no notice that the City would seek to present testimony from *any* witness on that issue, let alone from testimony from Lee in particular. Nonetheless, the City attached an affidavit from Lee as Exhibit H in support of its motion for summary judgment and relied on his affidavit in support of its motion for summary judgment and response to Plaintiffs' motion for summary judgment. *See* Ex. D., Defendants' MSJ at 14 & Exh H.

Moreover, during discovery, the parties reached an agreement not to pursue further fact discovery—including depositions of City officials that Plaintiffs otherwise would have taken—because they anticipated that the parties' motions for summary judgment would rely on testimony from expert witnesses, not fact witnesses. Exhibit E, Declaration of Jacob Huebert ("Huebert Decl.") ¶¶ 3-5. That agreement is set forth in a letter from Plaintiffs' counsel and an email from Defendants' counsel. *Id.* ¶¶ 6-7 & Exhs. 1-2. But for this agreement, Plaintiffs would have taken depositions of City officials—though not, of course, of Lee because the City gave Plaintiffs no notice that it intended to present testimony from him. *Id.* ¶ 8. If Plaintiffs had

¹ To avoid a voluminous filing, Plaintiffs have not attached any exhibits to Defendants' summary judgment motion other than Exhibit H.

known that Defendants would rely on the affidavit of an undisclosed fact witness in support of their motion for summary judgment, Plaintiffs would not have agreed to terminate fact discovery before deposing that witness. *Id.* ¶ 9.

ARGUMENT

I. **The Court should strike Lee’s affidavit because Defendants did not disclose Lee as an individual with relevant knowledge or as a potential witness.**

The Court should strike Lee’s affidavit because Defendants failed to disclose his identity during discovery as Illinois Supreme Court Rule 213 requires.

Under Rule 213(f)(1), “[u]pon written interrogatory, a party must furnish the identities ... of witnesses who will testify at trial” and, for a lay witness, “must identify the subjects on which the witness will testify.” And under Rule 213(i), “[a] party has a duty to seasonably supplement or amend any prior answer or response whenever new or additional information subsequently becomes known to that party.”

“The Rule 213 disclosure requirements are mandatory and subject to strict compliance by the parties.” *Jackson v. Mt. Pisgah Missionary Baptist Church Deacon Bd.*, 2016 IL App (1st) 143045, ¶ 56 (quoting *Sullivan v. Edward Hosp.*, 209 Ill. 2d 100, 109 (2004)). “The purpose behind Rule 213 is to avoid surprise and to discourage tactical gamesmanship.” *Sullivan*, 209 Ill. 2d at 111. “A party should be allowed to rely on an opposing party’s answer to Rule 213(f) interrogatories and expect that only those witnesses disclosed pursuant to Rule 213(f) will in fact be called to testify at trial.” *Jackson*, 2016 IL App (1st) 143045, ¶ 63 (internal marks omitted).

Therefore, a court may exclude an affidavit of an undisclosed witness that a party submits to support or oppose a motion for summary judgment. *See Smith v. Murphy*, 2013 IL App (1st) 121839 (affirming exclusion of undisclosed witness’s affidavit and summary judgment in opposing party’s favor). To determine whether exclusion of a witness is a proper sanction for

failing to disclose the witness in advance, a court must consider: “(1) the surprise to the adverse party; (2) the prejudicial effect of the witness’s testimony; (3) the nature of the testimony; (4) the diligence of the adverse party; (5) the timeliness of the objection to the witness’s testimony; and (6) the good faith of the party seeking to offer the testimony.” *Id.* ¶ 25.

Here, all six factors favor striking Lee’s affidavit.

The first factor—surprise to the adverse party—favors exclusion. Again, Plaintiffs had no notice that the City intended to present testimony from Lee or from any witness regarding the subject matter of Lee’s affidavit, which addresses complaints the City has received regarding home-sharing rentals, hotels, and bed-and-breakfasts. *Id.* ¶¶ 25–26 (first factor met where plaintiffs were unaware of witness until opposing party attached his affidavit to summary judgment response brief). And the surprise here was especially great because Defendants led Plaintiffs to believe that summary judgment briefing (and any trial testimony) would focus on the issues discussed by the parties’ expert witnesses, which address the relationship between home-sharing and affordable housing and do not address the sort of complaints Mr. Lee has referenced. *See Ex. E, Huebert Decl.* ¶ 5.

The second factor—the prejudicial effect of the testimony—also favors exclusion. To be clear, Plaintiffs do *not* concede that Lee’s testimony would preclude summary judgment in their favor. But the City uses the complaints Lee’s affidavit discusses to attempt to justify the home-sharing surcharge Plaintiffs challenge and to argue for summary judgment in Defendants’ favor. If Plaintiffs had the opportunity to depose Lee, they not only might have undermined his conclusions but also might have obtained other information that could have led them to pursue further relevant fact or expert discovery. To admit Lee’s testimony when Plaintiffs have had no opportunity to depose him—so that his assertions go unchallenged—would therefore greatly

prejudice Plaintiffs. *Cf. Smith*, 2013 IL App (1st) 121839 ¶ 27 (admission of affidavit prejudicial where plaintiff did not have and would not have an opportunity to depose undisclosed witness); *see also Jackson*, 2016 IL App (1st) 143045 ¶ 65 (“Permitting ... witnesses to testify without giving [opposing parties] an opportunity to depose them or otherwise prepare to cross-examine them would [be] prejudicial ... and this factor weighs in favor of barring the witnesses’ testimony.”).

The third factor—the nature of the testimony—likewise favors exclusion. Again, the City uses Lee’s testimony to support a purported justification for the surcharge that Plaintiffs challenge in this case. Although Plaintiffs would dispute the relevance of Lee’s testimony in any event, the City apparently believes Lee’s affidavit to be relevant to, and supportive of, its case—so, again, failing to exclude the evidence would be prejudicial. *Cf. Smith*, 2013 IL App (1st) 121839 ¶ 27.

The fourth factor—diligence of the adverse party—also favors exclusion because Plaintiffs timely requested the identity of all of Defendants’ witnesses in an interrogatory. *See Sullivan*, 209 Ill. 2d at 111 (fourth factor favored exclusion where party “was diligent in sending its Rule 213 interrogatories”); *Jackson*, 2016 IL App (1st) 143045 ¶ 68 (party was diligent where it “timely served plaintiff with its interrogatories, requesting the identities of persons having knowledge of any of the facts alleged in the case”). Further, Plaintiffs attempted to minimize the burdens of discovery on both parties—and moot pending discovery disputes the Court might otherwise have had to resolve—by curtailing fact discovery so the parties could proceed to expert discovery. *See Ex. E, Huebert Decl.* ¶¶ 4-5. *Cf. Smith*, 2013 IL App (1st) 121839 ¶ 28 (fourth factor favored exclusion where opposing parties “were diligent in their discovery obligations to both the plaintiff and the court”).

The fifth factor—timeliness of objection—favors exclusion because Plaintiffs are objecting within their time to respond to Defendants’ motion for summary judgment. *See id.* ¶ 29 (fifth factor favored exclusion where objection was “immediate and without delay”); *see also Sullivan*, 209 Ill. 2d at 111 (fifth factor favored exclusion where party “timely objected to the contested testimony”).

Finally, the sixth factor—the good faith of the party seeking to offer the testimony—favors exclusion. Defendants knew, or should have known, that they had an ongoing obligation to timely supplement their response to Plaintiffs’ Rule 213(f) interrogatory, but they failed to do so. Moreover, Defendants led Plaintiffs to believe that the parties’ summary judgment briefs would rely on expert witnesses, not fact witnesses, but then additionally relied on the testimony of an individual who is not just a fact witness but an *undisclosed* one. Regardless of whether that reflects actual bad faith, it is without excuse and warrants exclusion of Lee’s affidavit. *Cf. Sullivan*, 209 Ill. 2d at 111 (failure to disclose testimony “does not indicate good faith”); *Smith*, 2013 IL App (1st) 121839 ¶ 29 (sixth factor favored exclusion where party could provide no explanation for failure to timely disclose witness).

Because Defendants failed to comply with Rule 213(f)(1) and Rule 213(i), and because all the foregoing factors favor exclusion of Lee’s affidavit, the Court should strike Lee’s affidavit and the portion of Defendants’ summary judgment brief that relies on it—specifically, the first paragraph on page 14 and the block quote that follows it. *See Ex. D*, Defendants’ MSJ at 14 & Ex. H.

II. In the alternative, the Court should stay summary judgment briefing so Plaintiffs can depose Mr. Lee.

In the alternative, if the Court does not strike Lee’s brief, it should at least stay summary judgment briefing so that Plaintiffs may depose Lee, determine whether Lee’s deposition testimony warrants any further fact or expert discovery, and then take any such further discovery. Again, to allow Defendants to rely on Lee’s testimony when Plaintiffs have had no opportunity to depose him would unduly prejudice Plaintiffs. *See Jackson*, 2016 IL App (1st) 143045 ¶ 65; *Smith*, 2013 IL App (1st) 121839 ¶ 27.

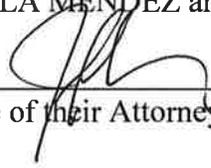
CONCLUSION

To avoid prejudice to Plaintiffs, this Court should strike Exhibit H and the first paragraph and block quote on page 14 of Defendants’ Motion for Summary Judgment and Response to Plaintiffs’ Motion for Summary Judgment. Alternatively, the Court should stay summary judgment briefing so Plaintiffs may depose Charles Lee and take such further reasonable discovery as Lee’s testimony may warrant before filing Plaintiffs’ summary judgment response and reply brief.

Dated: August 27, 2019.

Respectfully submitted,

LEILA MENDEZ and ALONSO ZARAGOZA

By: 
One of their Attorneys

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CERTIFICATE OF SERVICE

I, Jeffrey Schwab, an attorney, hereby certify that on August 27, 2019, I served the foregoing Plaintiffs' Motion to Strike the Affidavit of Charles Lee or, in the Alternative, to Stay Summary Judgment Briefing via electronic service provider FileTime Illinois to Weston Hanscom (Weston.Hanscom@cityofchicago.org), Richard Danaher (Richard.Danaher@cityofchicago.org), and Jason Rubin (Jason.Rubin@cityofchicago.org).

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



Jeffrey M. Schwab

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

LEILA MENDEZ and ALONSO ZARAGOZA,)	
)	
Plaintiffs,	)	Case No. 16 CH 15489
)	
v.	)	Judge Sanjay T. Tailor
)	
CITY OF CHICAGO, et al.,)	
)	
Defendants.)	
)	

**LIST OF EXHIBITS
TO PLAINTIFFS' MOTION TO STRIKE THE AFFIDAVIT OF CHARLES LEE OR, IN
THE ALTERNATIVE, TO STAY SUMMARY JUDGMENT BRIEFING**

- Exhibit A: Defendants' Responses to Plaintiffs' First Set of Interrogatories
- Exhibit B: City of Chicago's Response to Plaintiffs' Second Set of Interrogatories
- Exhibit C: Defendants' Supplemental Response to Interrogatory No. 11 of Plaintiffs' First Set of Interrogatories
- Exhibit D: Defendants' Motion for Summary Judgment and Response to Plaintiffs' Motion for Summary Judgment (with Exhibit H only)
- Exhibit E: Declaration of Jacob Huebert

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

LEILA MENDEZ, et al.,)	
)	
Plaintiffs,	)	Case No. 2016-CH-15489
)	
v.	)	Judge Sanjay T. Tailor
)	
CITY OF CHICAGO, et al.,)	
)	
Defendants.)	
)	

**DEFENDANTS' RESPONSES
TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Defendant City of Chicago ("City") responds to Plaintiffs' First Set of Interrogatories as follows:

INTERROGATORY NO. 1

Identify all persons with knowledge of any of the events alleged or referred to in Paragraphs 1 through 21 and 129 through 151 of Plaintiffs' Amended Complaint, including the nature and substance of each person's knowledge.

RESPONSE: The City objects to this Interrogatory as vague, overbroad and unduly burdensome. Subject to and without waiving these objections, the City states that Stefan Schaffer, Deputy Policy Director, Mayor's Office, has knowledge of the policy reasons behind the imposition of the surcharge at issue, including the analysis that was conducted prior to its imposition. Other persons with knowledge of these subjects include:

- Beth Beatty, Deputy Director, Financial Policy, Finance
- Rosa Escareno, Commissioner, Department of Business Affairs & Consumer Protection
- Maria Guerra, Director of Legislative Counsel & Government Affairs, Mayor's Office
- Samantha Fields, Budget Director, Office of Budget & Management

- Steven Valenziano, Assistant Zoning Administrator, Department of Planning & Development
- Members of the Chicago City Council

Investigation continues. The City will supplement this Response as appropriate.

INTERROGATORY NO. 2

Identify all witnesses you may rely on in defense of this case, including the nature and substance of each person's knowledge and anticipated testimony.

RESPONSE: The City anticipates that it will rely on Mr. Schaffer as a witness, who can testify about the policy reasons behind the imposition of the surcharge at issue, including the analysis that was conducted prior to its imposition. The City has not yet identified who else it may be calling as witnesses in this case. Once that determination is made, the City will duly supplement its response.

INTERROGATORY NO. 3

With respect to each and every person who may be used to present expert evidence regarding this action pursuant to Illinois Supreme Court Rule 213(f), identify:

- a. all opinions to be expressed, with a description sufficiently complete to include all of the information in your possession or control about such opinions;
- b. the specific allegations of the parties' pleadings to which such opinions are relevant, identified by pleading title and paragraph number;
- c. the basis, reasons, underlying data, and other information considered and relied on by the witness in forming the opinions to be expressed;
- d. all publications authored by the witness within the preceding ten years;
- e. all correspondence between the witness and the City;
- f. all drafts of the report produced for this litigation.

RESPONSE: The City has not yet identified who, if anyone, it will be calling as an expert witness in this case. Once that determination is made, the City will duly supplement its response.

INTERROGATORY NO. 4

Identify any and all meetings in which any member or agent of the City participated relating to the drafting and consideration of the Ordinance, specifically including those related to the addition of §§ 3-24-030(B) and 4-5-10(36), (37), and (38) to the Chicago Municipal Code.

RESPONSE: The City objects to this Interrogatory on the grounds that it seeks information that is neither relevant nor likely to lead to the discovery of relevant information. The surcharge and registration fees added by the Ordinance are either valid or invalid as written, and what was said in oral or written communications prior to passage of the Ordinance has no bearing on that issue. See Empress Casino Joliet Corp. v. Giannoulis, 231 Ill. 2d 62, 76 (2008) ("The reasons justifying the classification ... need not appear on the face of the statute, and the classification must be upheld if any state of facts reasonably can be conceived that would sustain it."). The City also objects that this Interrogatory is overbroad and unduly burdensome. The City further objects to the extent that the Interrogatory seeks information that is protected from disclosure by the attorney-client privilege, the work product privilege and/or the legislative privilege.

INTERROGATORY NO. 5

Identify any other meeting of any members of the City Council, a City Council committee, the City's Finance Department, or the City's Department of Business Affairs and Consumer Protection relating to the consideration or imposition of any tax or fee on vacation rentals, shared housing units, or shared housing unit operators from 2015 through the present.

RESPONSE: The City objects to this Interrogatory on the grounds that it seeks information that is neither relevant nor likely to lead to the discovery of relevant information. The surcharge and registration fees added by the Ordinance are either valid or invalid as written, and what was said in oral or written communications prior to passage of the Ordinance has no bearing on that issue. See Empress Casino Joliet Corp. v. Giannoulis, 231 Ill. 2d 62, 76 (2008) ("The reasons justifying the classification ... need not appear on the face of the statute, and the classification must be upheld if any state of facts reasonably can be conceived that would sustain it."). The

City also objects that this Interrogatory is overbroad and unduly burdensome. The City further objects to the extent that the Interrogatory seeks information that is protected from disclosure by the attorney-client privilege, the work product privilege and/or the legislative privilege.

INTERROGATORY NO. 6

Identify each and every short term residential rental intermediary that has paid the license fee imposed by Chi. Muni. Code § 4-5-010(37).

RESPONSE: The City objects to this Interrogatory on the grounds that it seeks information that is neither relevant nor likely to lead to the discovery of relevant information. Subject to and without waiving this objection, the City responds that, as of the date of this Response, the following short term residential intermediaries have paid the license fee: AIRBNB ACTION, LLC d/b/a Airbnb; HOMEAWAY.COM, Inc.

INTERROGATORY NO. 7

Identify the number of shared housing unit operators that have paid the license fee imposed by Chi. Muni. Code § 4-5-010(38).

RESPONSE: The City objects to this Interrogatory on the grounds that it seeks information that is neither relevant nor likely to lead to the discovery of relevant information. Subject to and without waiving this objection, the City responds that, as of the date of this Response, 26 shared housing unit operators have paid the license fee.

INTERROGATORY NO. 8

Identify each and every fact that forms the basis for the City's denial, in its Answer, of Paragraph 133 of the Amended Complaint, which states that "some individuals stay (and pay taxes) only at vacation rentals or shared housing units in Chicago, and some individuals stay (and pay taxes) only at hotels, bed-and-breakfasts, or other 'hotel accommodations' that are not vacation rentals or shared housing units."

RESPONSE: The City objects to this Interrogatory on the grounds that it lacks foundation. Paragraph 133 of the Amended Complaint alleged that "[t]here are individuals who are members of the first class of taxpayers who are not members of the second class of taxpayers ..." While

the City does not deny that there may be some individuals who stay (and pay taxes) only at vacation rentals or shared housing units in Chicago (hereafter collectively "shared housing units"), and some individuals who stay (and pay taxes) only at hotels, bed-and-breakfast establishments ("B&Bs"), or other hotel accommodations that are not shared housing units, the City denies that there is an identifiable "class of taxpayers" who stay only in shared housing units or an identifiable "class of taxpayers" who stay only at hotels or B&Bs.

INTERROGATORY NO. 9

Identify each and every fact supporting the City's position, reflected in its Answer to Paragraph 137 of the Amended Complaint, that the home-sharing surcharge's stated purpose — to "fund supportive services attached to permanent housing for homeless families and to fund supportive services and housing for the chronically homeless," Chi. Muni. Code § 3-24-030 — bears a reasonable relationship to the object of the Ordinance.

RESPONSE: The City objects to this Interrogatory on the grounds that it is vague and lacks foundation. Subject to and without waiving these objections, the City states that the surcharge's stated purpose is the same as the object of the Ordinance and therefore by definition bears a reasonable relationship to it.

INTERROGATORY NO. 10

Identify each and every fact supporting the City's position, reflected in its Answer to Paragraph 138 of the Amended Complaint, that guests of vacation rentals and shared housing units affect homelessness, or that vacation rentals and shared housing units have any greater connection to homelessness than other commercial and non-commercial traveler housing accommodations, such as hotels, bed-and-breakfasts, and the houses of friends or relatives.

RESPONSE: The City objects to this Interrogatory on the grounds that it lacks foundation. Subject to and without waiving this objection, the City states that studies indicate that house sharing has a tendency to reduce the availability of affordable housing, thereby contributing to the problem of homelessness. Each housing unit that is used for short-term house sharing rentals is a unit that is not available for use as permanent housing for residents. Hotels and B&Bs are

generally located in non-residential districts and therefore do not have that effect. There are only about 199 hotels in Chicago, with a total of about 51,600 rooms available for rent, and there are only about 20 B&Bs. By contrast, there are listings for over 6,369 shared housing units available for rent, largely in residential neighborhoods, so they use up much more housing that would otherwise be available for permanent housing. Investigation continues. The City will supplement this Response as appropriate.

INTERROGATORY NO. 11

Identify each and every real or substantial difference between vacation rentals and shared housing units, on the one hand, and other establishments included in the definition of hotel accommodations, on the other, asserted by the City and that the City relied on in denying Paragraph 134 of the Amended Complaint in its Answer.

RESPONSE: There are real and substantial zoning differences among the different types of hotel accommodations. While neither hotels nor B&Bs are permitted in residential single-unit districts (RS1, RS2, RS3), shared housing units are permitted in such districts. Similarly, only shared housing units are permitted in low density multi-unit districts (RT3.5). Consequently, shared housing units limit the market for housing available for long term use while hotels and B&Bs do not. Also, hotels and B&Bs have owners or employees who are present when guests stay at those establishments, while shared housing units generally do not. Furthermore, regulators and public safety officials know where hotels and B&Bs are located, and they know who to contact if needed. By contrast, shared housing units are widely dispersed and often anonymous, with only a limited amount of information provided on web site listings, thereby making enforcement and regulation more difficult, time consuming, and expensive. Investigation continues. The City will supplement this Response as appropriate.

INTERROGATORY NO. 12

Identify each and every object of the home-sharing surcharge.

RESPONSE: The purpose of the surcharge is to fund supportive services attached to permanent housing for homeless families and to fund supportive services and housing for the chronically homeless.

INTERROGATORY NO. 13

Identify any and all public policies that the City alleges support the home-sharing surcharge.

RESPONSE: One public policy consideration supporting the house sharing surcharge is caring for the less fortunate, including the homeless. Homelessness is a significant problem in Chicago and nationwide. Addressing that problem is an important public policy consideration, and addressing the problem requires revenue, which the house sharing surcharge helps provide. Studies indicate that house sharing has a tendency to reduce the availability of affordable housing, thereby contributing to the problem of homelessness. Each housing unit that is used for short-term house sharing rentals is a unit that is not available for use as permanent housing for residents. In addition, it is an important and long-standing public policy consideration to keep residential neighborhoods relatively quiet, peaceful and uncongested. This is one reason that house sharing was not allowed before the ordinance at issue went into effect, and it is a reason why hotels and B&Bs must generally be located in areas that are zoned for non-residential uses. Investigation continues. The City will supplement this Response as appropriate.

INTERROGATORY NO. 14

Identify each and every way that the City asserts that the home-sharing surcharge bears a reasonable relationship to any object of the legislation or to any public policy.

RESPONSE: See Responses to Interrogatory Nos. 10 - 13.

INTERROGATORY NO. 15

Identify the ways in which vacation rentals and shared housing units disrupt the desired physical character of Chicago's residential neighborhoods, and how the City believes the home-sharing surcharge prevents this type of disruption.

RESPONSE: In general, shared housing units are located in residential neighborhoods. Guests of shared housing units are not permanent residents of those neighborhoods and have no particular stake in the well-being of the neighborhood. They are transient guests, generally from out of town, and they often take up parking spaces that would otherwise be available to residents. In some cases, they are there to "party," which can mean noise and other disturbances for neighbors. There is no requirement that an owner, or an employee of the owner, be present to supervise their activities, as there is at a hotel or B&B. The surcharge does not necessarily prevent disruption, but there is no legal requirement that a tax have such an effect – only that it meet the requirements of the Uniformity Clause, which the surcharge does. Investigation continues. The City will supplement this Response as appropriate.

INTERROGATORY NO. 16

Identify the ways in which vacation rentals and shared housing units decrease the number of units of affordable housing, and how the home-sharing surcharge mitigates these effects.

RESPONSE: Studies indicate that house sharing has a tendency to reduce the availability of affordable housing, thereby contributing to the problem of homelessness. Each housing unit that is used for short-term house sharing rentals is a unit that is not available for use as permanent housing for residents. The proceeds of the surcharge are used to fund supportive services attached to permanent housing for homeless families and to fund supportive services and housing for the chronically homeless. The City will produce documents providing additional details about the programs that the surcharge funds. Investigation continues. The City will supplement this Response as appropriate.

INTERROGATORY NO. 17

Identify the ways in which vacation rentals and shared housing units cause or increase guest-created disturbances in the City, and how the home-sharing surcharge mitigates these effects.

RESPONSE: See Response to Interrogatory No. 15.

INTERROGATORY NO. 18

Identify each and every fact on which the City relies to justify its denial of Paragraph 142 of the Amended Complaint, which states that "for the purpose of licensing fees, there is no real and substantial difference between hotels, bed-and-breakfast establishments, vacation rentals, and shared housing units."

RESPONSE: There are only about 199 hotels in Chicago, with a total of about 51,600 rooms available for rent, and there are only about 20 B&Bs. By contrast, there are listings for over 6,369 shared housing units available for rent. Hotels are licensed, are in non-residential zoning districts, and have employees on site. Since there are relatively few of them, it is relatively easy and inexpensive for the City to perform license checks, building inspections and other required activities. The same is generally true of B&Bs. By contrast, licensing and inspecting all of the available shared housing units would be administratively inconvenient and expensive. In fact, when the City first allowed house sharing, by the same ordinance that imposed the surcharge, it had to spend over \$1.1 million to set up a system for registering and regulating shared housing units. Investigation continues. The City will supplement this Response as appropriate.

INTERROGATORY NO. 19

Identify each and every alleged real or substantial difference between hotels, bed-and-breakfast establishments, vacation rentals, and shared housing units that the City believes justifies the imposition of different fees under Chi. Muni. Code § 4-5-010.

RESPONSE: See Response to Interrogatory No. 18.

INTERROGATORY NO. 20

Identify each and every fact that the City alleges supports its Answer to paragraph 148 of the Amended Complaint, which denies that the Code's definitions of vacation rentals and shared housing units are virtually identical.

RESPONSE: The City objects to this Interrogatory on the grounds that it lacks foundation. The City does not deny that the ordinance definitions of vacation rentals and shared housing units are virtually identical. The City denies the allegation, of paragraph 148 of the Amended Complaint, that the different fee systems for vacation rentals and shared housing units are unjustifiable. Pursuant to the pertinent Code provisions, a unit owner may choose which licensing system to use, and this will have an effect on which regulations and procedures will apply.

INTERROGATORY NO. 21

Identify each and every object of Chi. Muni. Code § 4-5-010, which imposes no license fee on the owner or tenant of a single shared-housing unit but does impose license fees on hotels, bed-and-breakfasts, vacation rentals, and shared housing unit operators.

RESPONSE: The owner of a single shared housing unit is generally an individual who is not otherwise in the business of renting out hotel accommodations. By listing their units through intermediaries, the owners of such units allow the City to deal primarily with just a few intermediaries rather than a large number of individual unit owners. The intermediaries help monitor the rentals of such units, and they pay much larger license fees, based in part on the number of units they list. Owners of multiple shared housing units are more likely to be real estate developers or investors who are in the business of renting out hotel accommodations. It is important for the City to be able to have some control over their activities, and requiring them to obtain a license helps provide that control because, among other things, the City can put a hold on - or refuse to renew – the license of an operator that is creating problems. Investigation continues. The City will supplement this Response as appropriate.

INTERROGATORY NO. 22

Identify any and all public policies that the City alleges support its decision to exempt owners and tenants of a single share-housing unit from the license fees that apply to hotels, bed-and-breakfasts, vacation, rentals, and shared housing unit operators under Chi. Muni. Code § 4-5-010.

RESPONSE: The City objects to this Interrogatory on the grounds that it lacks foundation. See Response to Interrogatory No. 21.

INTERROGATORY NO. 23

State the factual basis for the City's denial of Paragraph 149 of the Amended Complaint.

RESPONSE: See Response to Interrogatory No. 21.

INTERROGATORY NO. 24

Identify all documents and other tangible items Defendants may use in defense of this action.

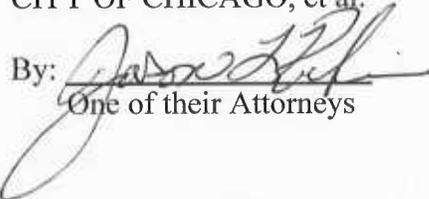
RESPONSE: The City will produce documents responsive to Plaintiffs' First Set of Requests for Documents. The City has not yet identified which documents it will use in defense of this action. The City will duly supplement its response to this Interrogatory.

INTERROGATORY NO. 25

Identify each person who provided information needed to respond to any interrogatory or request herein, including which interrogatory (by number) was addressed by each such person respectively.

RESPONSE: Stefan Schaffer provided information needed to respond to all of the Interrogatories herein. Joy Adelizzi provided information needed to respond to Interrogatory Numbers 6, 7, 10 and 18. Steven Valenziano provided information needed to respond to Interrogatory Numbers 10, 11, 13, 15, 16, 18 and 21.

CITY OF CHICAGO, et al.

By: 
One of their Attorneys

Weston Hanscom
Jason Rubin
City of Chicago Law Department
Revenue Litigation Division
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(312) 744-9077/4174
(312) 744-6798 (fax)
Weston.Hanscom@cityofchicago.org
Jason.Rubin@cityofchicago.org
Attorney No. 90909

CERTIFICATION

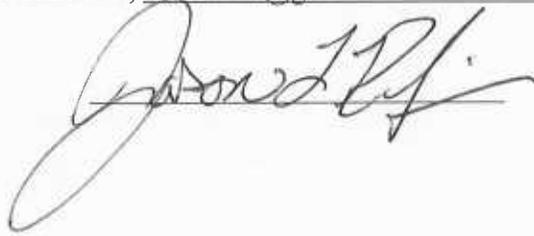
On this day, July 6th, 2018, under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the answers to interrogatories as set forth in this document are true and correct to the best of his knowledge, information and belief.



Stefan Schaffer
Deputy Policy Director for City of Chicago

CERTIFICATE OF SERVICE

I, Jason L. Rubin, an attorney, hereby certify that on July 10, 2018, I served the foregoing **DEFENDANTS' RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES** on Defendants' counsel by electronic mail sent to Jacob Huebert, jhuebert@libertyjusticecenter.org, Jeffrey Schwab, jschwab@libertyjusticecenter.org, Timothy Sandefur, tsandefur@goldwaterinstitute.org, and Christina Sandefur, csandefur@goldwaterinstitute.org.

A handwritten signature in black ink, appearing to read "Jason L. Rubin", is written over a horizontal line.

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

LEILA MENDEZ and ALONSO ZARAGOZA,)

Plaintiffs,)

v.)

CITY OF CHICAGO, a municipal corporation;
And ROSA ESCARENO, in her official
capacity as Commissioner of the City of
Chicago Department of Business Affairs and
Consumer Protection,)

Defendants.)

Case No. 16 CH 15489

Hon. Sanjay T. Tailor

**CITY OF CHICAGO’S RESPONSE TO PLAINTIFFS’ SECOND
SET OF INTERROGATORIES**

Defendant City of Chicago (“City”) responds to Plaintiffs’ Second Set of Interrogatories as follows:

INTERROGATORY NO. 26

Identify each and every fact the City will rely on to show that the stated purpose of the Amendment’s 2% surcharge — "to fund housing and related supportive services for victims of domestic violence," Chi. Muni. Code 3-24-030(C) — bears a reasonable relationship to the object of the Ordinance.

Response: The City objects to this Interrogatory on the grounds that it is vague and lacks foundation. Subject to and without waiving these objections, the City states that the surcharge’s stated purpose is the same as the object of the Ordinance and therefore, by definition, bears a reasonable relationship to it.

INTERROGATORY NO. 27

Identify each and every object of the Amendment’s 2% surcharge.

Response: The purpose of the surcharge is to fund housing and related supportive services for victims of domestic violence.

INTERROGATORY NO. 28

Identify any and all public policies that the City alleges support the Amendment's 2% surcharge.

Response: One public policy consideration supporting the surcharge is caring for victims of domestic violence. Survivors and victims of domestic violence often report that lack of safe and affordable housing is one of the primary barriers they face in choosing to leave an abusive partner. Studies indicate that house sharing has a tendency to reduce the availability of affordable housing, thereby contributing to the problem of domestic abuse victims lacking affordable housing. Each housing unit that is used for short-term house sharing rentals is a unit that it not available for use as permanent or transitional housing for victims of domestic violence. This also negatively impacts the housing available to the City and non-profit organizations seeking to shelter victims of domestic violence.

Another related policy consideration is to reduce the number of homeless people in Chicago. Domestic violence is seen as a predictive factor of homelessness. Studies indicate that domestic violence significantly contributes to homelessness due to lack of available and affordable housing for those seeking to escape a domestic abuse situation. A related policy consideration is to comply with HUD's federal mandate to prioritize domestic violence victims when addressing issues of homelessness. Compliance with that mandate is necessary in order to secure access

to the limited federal resources provided to combat homelessness. Investigation continues. The City will supplement this Response as appropriate.

INTERROGATORY NO. 29

Identify the "related supportive services for victims of domestic violence" the City funds, has funded, plans to fund, or may fund with revenue from the Amendment's 2% surcharge.

Response: The surcharge will enable the City to maintain existing shelter beds, fund additional shelter beds, and build a new shelter for victims of domestic violence. Additionally, the City currently supports approximately 30 different programs through various partner organizations who offer services to survivors of domestic violence. Some of these services include a 24/7 domestic violence hotline, immediate crisis counseling, safety planning, explanation of victim rights under the Illinois Domestic Violence Act, emotional support and guidance, crisis intervention, shelter placement, legal advocacy, linking survivors to medical and health services, child care, job training and housing options. Investigation continues. The City will supplement this Response as appropriate.

INTERROGATORY NO. 30

Identify each person who provided information needed to respond to any interrogatory or request herein, including which interrogatory (by number) was addressed by each such person respectively.

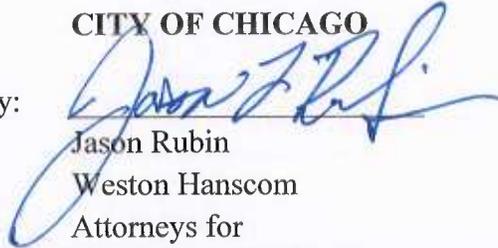
Response: Stefan Schaffer-City of Chicago Chief Resilience Officer, Christopher Wheat-Asst. to the Mayor, Anne Sheahan-Assistant to the Mayor, Robin Ficke-Research Director for World Business Chicago and Maura McCauley-Director of Homeless Prevention, Policy and Planning for the Chicago Department of Family

and Support Services all either provided or confirmed the accuracy of information used in answering Interrogatories Number 28 and 29.

Respectfully submitted,

CITY OF CHICAGO

By:



Jason Rubin
Weston Hanscom
Attorneys for
Defendants

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(312) 744-4174

CERTIFICATION

On this day, November 7, 2018, under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the answers to Interrogatories as set forth in this document are true and correct to the best of his knowledge, information and belief.


Stefan Schaffer
Chief Resilience Officer for City of Chicago

CERTIFICATE OF SERVICE

I, Jason Rubin, an attorney, hereby certify that on November 7, 2018, I caused the foregoing City of Chicago's Response to Plaintiffs' Second Set of Interrogatories to be served on:

Jeffrey Schwab
Liberty Justice Center
Cook County No. 49098
190 S. LaSalle Street, Suite 1500
Chicago, Illinois 60603
jschwab@libertyjusticecenter.org

via messenger delivery and electronic mail; and on

Jacob Huebert
Christina Sandefur
Timothy Sandefur
Goldwater Institute
jhuebert@goldwaterinstitute.org
csandefur@goldwaterinstitute.org
tsandefur@goldwaterinstitute.org

via electronic mail.

A handwritten signature in blue ink, appearing to read "Jason Rubin", is written over a horizontal line.

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

LEILA MENDEZ, et al.,)	
)	
Plaintiffs,	)	Case No. 2016-CH-15489
)	
v.	)	Judge Sanjay T. Tailor
)	
CITY OF CHICAGO, et al.,)	
)	
Defendants.)	

**DEFENDANTS' SUPPLEMENTAL RESPONSE
TO INTERROGATORY NO. 11 OF
PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Defendant City of Chicago ("City") submits this supplemental response to Interrogatory No. 11 of Plaintiffs' First Set of Interrogatories:

INTERROGATORY NO. 11

Identify each and every real or substantial difference between vacation rentals and shared housing units, on the one hand, and other establishments included in the definition of hotel accommodations, on the other, asserted by the City and that the City relied on in denying Paragraph 134 of the Amended Complaint in its Answer.

SUPPLEMENTAL RESPONSE: In our initial response to this interrogatory, we stated as follows:

There are real and substantial zoning differences among the different types of hotel accommodations. While neither hotels nor B&Bs are permitted in residential single-unit districts (RS1, RS2, RS3), shared housing units are permitted in such districts. Similarly, only shared housing units are permitted in low density multi-unit districts (RT3.5). Consequently, shared housing units limit the market for housing available for long term use while hotels and B&Bs do not. Also, hotels and B&Bs have owners or employees who are present when guests stay at those establishments, while shared housing units generally do not. Furthermore, regulators and public safety officials know where hotels and B&Bs are located, and they know who to contact if needed. By contrast, shared housing units are widely dispersed and often anonymous, with only a limited amount of information provided on web site listings, thereby making enforcement and regulation more difficult, time consuming, and expensive. Investigation continues. The City will supplement this Response as appropriate.

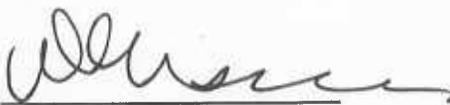
By way of supplement, the City states as follows:

Whereas legal house-sharing in Chicago is a new development, the hotel industry has a long history of operation in Chicago and elsewhere. Additionally, hotels are required, by law:

- to pay State income taxes (of which the City receives a share) at the current corporate rate of 7%, as opposed to the 4.95% rate currently paid by individuals, under 35 ILCS 5/201;
- to pay property taxes (of which the City receives a share) at an assessment level equal to 25% of fair market value, as opposed to the 10% assessment level applicable to residential property, under Sections 74-63 and 74-64 of the Cook County Real Property Assessment Classification Ordinance;
- to pay a number of other taxes that provide revenue to the City, including: tax on the sale of tangible personal property, under 35 ILCS 120 and Chapter 3-40 of the Municipal Code of Chicago ("Code"); tax on the use of non-titled tangible personal property purchased outside of Illinois or Chicago, under 35 ILCS 105 and Code Chapter 3-27; tax on the lease of tangible personal property, under Code Chapter 3-32; and Chicago restaurant tax, under Code Chapter 3-30, if they have a restaurant; and
- to comply with the licensing and regulatory requirements of Code Section 4-6-180.

The B&B industry likewise has a long history of operation in Chicago and elsewhere, and the few B&Bs that operate in Chicago are required to comply with the licensing and regulatory requirements of Code Section 4-6-290.

CITY OF CHICAGO, et al.

By: 
One of their Attorneys

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Jason Rubin
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Jason.Rubin@cityofchicago.org
Attorney No. 90909

CERTIFICATE OF SERVICE

I, Jason L. Rubin, an attorney, hereby certify that on January 17, 2019, I served the foregoing **DEFENDANTS' SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11 OF PLAINTIFFS' FIRST SET OF INTERROGATORIES** on Defendants' counsel by electronic mail sent to Jacob Huebert, jhuebert@goldwaterinstitute.org, Jeffrey Schwab, jschwab@libertyjusticecenter.org, Timothy Sandefur, tsandefur@goldwaterinstitute.org, and Christina Sandefur, csandefur@goldwaterinstitute.org.

A handwritten signature in black ink, appearing to read "Jason L. Rubin", is written over a horizontal line.

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CHANCERY DIVISION**

LEILA MENDEZ and ALONSO ZARAGOZA,)	
)	
Plaintiffs,)	
)	
v.	)	Case No. 16 CH 15489
)	
CITY OF CHICAGO, a municipal corporation;	)	Hon. Sanjay T. Tailor
And ROSA ESCARENO, in her official)	
capacity as Commissioner of the City of)	
Chicago Department of Business Affairs and)	
Consumer Protection,)	
)	
Defendants.)	

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Defendants, City of Chicago (“the City”) and Rosa Escareno, in her official capacity as Commissioner of the City’s Department of Business Affairs, move for summary judgment pursuant to Section 2-1005 of the Illinois Code of Civil Procedure and respond to Plaintiffs’ Motion for Summary Judgment. Summary judgment in favor of the City is appropriate because: (1) Plaintiffs lack standing; (2) Plaintiffs have not made a good-faith uniformity challenge; (3) there is a real and substantial difference between vacation rentals and shared housing units on the one hand and other hotel accommodations on the other; (4) the different tax treatment of vacation rentals and shared housing units is reasonably related to public policy and to the object of the shared housing ordinance; and (5) the license fee charged to those renting out multiple shared housing units versus no fee charged to those renting out a single shared housing unit is justified and reasonably related to public policy.

FILED DATE: 8/27/2019 5:09 PM 2016CH15489

I. STATEMENT OF UNDISPUTED FACTS

Prior to 2011, the business of providing hotel accommodations in the City was limited to hotels and bed and breakfast establishments (“B&Bs”). These businesses were allowed to operate in business and commercial districts. Hotels were prohibited from operating in all residential districts, and B&Bs were prohibited from operating in low density residential districts. (Chicago Municipal Code (“Code”) §§ 17-2-0207 and 17-3-0207).

In May of 2012, the City passed an ordinance which expanded the business of providing hotel accommodations to include vacation rentals. (See City Council Journal 5/9/2012 at 27610-27616-attached hereto as Exhibit A). Vacation rentals, unlike hotels and B&Bs, were allowed to operate in all residential districts as well as in business and commercial districts. (Code §§17-2-0207 and 17-3-0207).

On June 22, 2016, the City passed the Shared Housing Ordinance (“Ordinance”), which further expanded the business of providing hotel accommodations to include shared housing units. (See City Council Journal 6/22/2016 at 27714-70-attached hereto as Exhibit B). Like vacation rentals, shared housing units were permitted to operate in all residential districts as well as in business and commercial districts. (Code §§17-2-0207 and 17-3-0207).

The Chicago Hotel Accommodations Tax Ordinance imposes a tax on the lessees of any hotel accommodation in the City of Chicago at the rate of 4.5% of the gross rental or leasing charge. (Code § 3-24-030(A)). The Ordinance added a subsection (B) to Section 3-24-030, which provides for an additional 4% tax on lessees of vacation rentals or shared housing units. The revenue from this 4% tax is to be used “to fund supportive services attached to permanent housing for homeless families and to fund supportive services and housing for the chronically homeless.” (Code§ 3-24-030(B)). The Ordinance also added a subsection (C) to Section 3-24-

030, which provides for an additional 2% tax on lessees of vacation rentals or shared housing units. The revenue from this 2% tax is to be used “to fund housing and related supportive services for victims of domestic violence.” (Code § 3-24-030(C)). Plaintiffs contend that the additional 4% and 2% taxes violate the Uniformity Clause of the Illinois Constitution. (Am. Complaint, ¶¶131-141.)

The Ordinance also amended Code Section 4-5-010, which provides the fee schedule for various City licenses. The Ordinance added three additional license fees for: (1) short term residential rental intermediaries; (2) short term residential rental advertising platforms; and (3) shared housing unit operators. (See Ex. B at p.27716). Plaintiffs contend that it violates the uniformity clause for there not to be a license fee for those who rent out only a single shared housing unit, while there is a license fee for those who are shared housing unit operators.¹ This license fee is \$250 payable every two years. (See Ex. B at p.27716).

II. CONTROLLING LAW

The Uniformity Clause of the Illinois Constitution (Art. IX, Sec. 2) provides:

In any law classifying the subjects or objects of non-property taxes or fees, the classes shall be reasonable and the subjects and objects within each class shall be taxed uniformly. Exemptions, deductions, credits, refunds and other allowances shall be reasonable.

The Illinois Supreme Court has stated that “[t]o survive scrutiny under the uniformity clause, a nonproperty tax classification must (1) be based on a real and substantial difference between the people taxed and those not taxed, and (2) bear some reasonable relationship to the object of the legislation or to public policy.” Arangold Corp. v. Zehnder, 204 Ill.2d 142, 153

¹ “Shared housing unit operator” means any person who has registered, or who is required to register, as the shared housing host of more than one shared housing unit. (Code § 4-16-100).

(2003). Once the taxing body offers a justification for the classification, “[t]he challenging party then has the burden of persuading the court that the taxing body’s explanation is insufficient as a matter of law or unsupported by the facts.” Id. See Allegro Services, Ltd. v. Metropolitan Pier and Exposition Authority, 192 Ill. 2d 243, 250-51 (1996); Geja’s Café v. Metropolitan Pier and Exposition Authority, 153 Ill.2d 239, 248 (1992).

III. THE CITY’S JUSTIFICATIONS

In response to Plaintiffs’ interrogatories, the City has set forth various justifications for the Tax. In Interrogatory Number 11, Plaintiffs asked the City to “[i]dentify each and every real and substantial difference between vacation rentals and shared housing units, on the one hand, and other establishments included in the definition of hotel accommodations, on the other . . .”

In response, the City stated:

There are real and substantial zoning differences among the different types of hotel accommodations. While neither hotels nor B&Bs are permitted in residential single-unit districts (RS1, RS2, RS3), shared housing units are permitted in such districts. Similarly, only shared housing units are permitted in low density multi-unit districts (RT 3.5). Consequently, shared housing units limit the market for housing available for long term use while hotels and B&Bs do not. Also, hotels and B&Bs have owners or employees who are present when guests stay at those establishments, while shared housing units generally do not. Furthermore, regulators and public safety officials know where hotels and B&Bs are located, and they know who to contact if needed. By contrast, shared housing units are widely dispersed and often anonymous, with only a limited amount of information provided on web site listings, thereby making enforcement and regulation more difficult, time consuming, and expensive.

Whereas legal house-sharing in Chicago is a new development, the hotel industry has a long history of operation in Chicago and elsewhere. Additionally, hotels are required by law:

- to pay State income taxes (of which the City receives a share) at the current corporate rate of 7% as opposed to the 4.95% rate currently paid by individuals, under 35 ILCS 5/201;
- to pay property taxes (of which the City receives a share) at an assessment level equal to 25% of fair market value, as opposed to the 10% assessment level applicable to residential property, under Sections 74-63 and 74-64 of the Cook County Real Property Assessment Classification Ordinance;
- to pay a number of other taxes that provide revenue to the City, including: tax on the sale of tangible personal property, under 35 ILCS 120 and Chapter 3-40 of the Municipal

Code of Chicago (“Code”); tax on the use of non-titled personal property purchased outside of Illinois or Chicago, under 35 ILCS 105 and Code Chapter 3-27; tax on the lease of tangible personal property, under Code Chapter 3-32; and Chicago restaurant tax, under Code Chapter 3-30, if they have a restaurant.

(City’s Interrogatory Responses, attached hereto as Exhibit C at 6 and Supplemental Interrogatory Responses, attached hereto as Exhibit D at 2, respectively).

Plaintiffs also asked the City to provide its justification for imposing fees on shared-housing units, hotels, bed-and-breakfasts and vacation rentals while not imposing a fee on the owner of a single shared housing unit. The City responded:

The owner of a single shared housing unit is generally an individual who is not otherwise in the business of renting out hotel accommodations. By listing their units through intermediaries, the owners of such units allow the City to deal primarily with just a few intermediaries rather than a large number of individual unit owners. The intermediaries help monitor the rentals of such units, and they pay much larger license fees, based in part on the number of units they list. Owners of multiple shared housing units are more likely to be real estate developers or investors who are in the business of renting out hotel accommodations. It is important for the City to be able to have some control over their activities, and requiring them to obtain a license helps provide that control because, among other things, the City can put a hold on – or refuse to renew – the license of an operator that is causing problems.

(Ex. C at 10).

The burden is on the Plaintiffs to demonstrate that these justifications are either insufficient as a matter of law or unsupported by the facts. Arangold, 204 Ill.2d at 153.

IV. EXPERT REPORTS

In an attempt to refute the City’s justification concerning the impact shared housing units have on affordable housing, Plaintiffs submitted the expert report of Adrian Moore. His report is attached hereto as Exhibit E.² In response, the City submitted the expert report of Bryan

² Adrian Moore’s report is also attached to Plaintiffs’ Motion as Exhibit L. For ease of reference, however, we have attached it to our motion as well.

Esenberg, a Deputy Commissioner of the City's Department of Housing. His report and attachments thereto are attached hereto as Exhibit F.

V. SUMMARY JUDGMENT STANDARD

Summary judgment is proper "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005(c).

VI. ARGUMENT

Summary judgment is appropriate in this case for several reasons. First, Plaintiffs lack standing. The undisputed facts demonstrate that, with respect to both the Tax and the fees, the Plaintiffs have not suffered any injury and therefore lack standing to pursue their claim. Additionally, the undisputed facts show that Plaintiffs lack taxpayer standing because no additional funds are expended enforcing a tax rate of 10.5% than are expended enforcing the indisputably constitutional basic hotel tax rate of 4.5%. Nor are any additional funds expended due to there not being a license fee for those who rent out only a single shared housing unit.

Second, Plaintiffs have failed to make a good faith uniformity claim. A uniformity claim requires that there be two distinct classes which are taxed differently. Here, the challenged tax is on guests of home sharing units and vacation rentals versus guests of hotels and B&Bs who do not pay the tax. However, the Plaintiffs have not come forward with any facts showing that there is a distinct class of individuals who only stay at shared housing units and vacation rentals and a class of individuals who only stay at hotels or B&Bs. Without any such facts, there are not two distinct classes. And, without two distinct classes, there is not a uniformity claim.

Third, Plaintiffs are unable to demonstrate the inadequacy of the City's proffered justifications with respect to the Tax. In their Motion, Plaintiffs failed to address two of the

City's three justifications. Specifically, Plaintiffs have not addressed the substance of the zoning justification. Neither have Plaintiffs addressed—or even mentioned—the heavier property and income tax burdens hotels and B&Bs bear as compared to vacation rentals and shared housing. Furthermore, the City explained in its interrogatory responses how these differences are related to various City public policies. Plaintiffs failed to address any of these explanations.

Instead, Plaintiffs have focused exclusively on the City's third justification—that shared housing and vacation rentals reduce the available long-term housing supply. The Tax addresses this problem by generating revenue for the City to fund additional housing for some of the City's financially indigent population—i.e., the homeless and victims of domestic violence. Plaintiffs argue that even though home sharing may have a minimal impact on the availability of affordable housing, it is inappropriate to tax home sharing for such a purpose because there are better ways to address homelessness. This argument, however, is a policy argument which concedes that there is at least some support for the City's justification.

Finally, with respect to the fees, even if Plaintiffs had standing to pursue such claims, they are unable to demonstrate that the fees imposed are arbitrary or otherwise unjustified. The City explained that a license—and therefore a license fee—is required of those who rent out more than a single shared housing unit because such operators are more like a business than someone who rents out a single unit. Plaintiffs have not shown that this justification is unsupported by either law or fact.

Given that Plaintiffs have not met, and cannot meet, their burden of showing the inadequacy of the City's justifications, summary judgment should be granted in the City's favor.

A. Plaintiffs Lack Standing.

The first insurmountable problem Plaintiffs face is that they lack standing. “In order to have standing to challenge the constitutionality of a statute, a party must have sustained, or be in immediate danger of sustaining, a direct injury as a result of the enforcement of the challenged statute.” Carr v. Koch, 2012 IL 113414, at ¶28 (2012). “The claimed injury must be (1) distinct and palpable; (2) fairly traceable to defendant’s actions; and (3) substantially likely to be prevented or redressed by the grant of requested relief.” Id. Plaintiffs fail to establish: (1) that they have suffered an injury; or (2) that they have common law taxpayer standing.

1. Plaintiffs Have Not Suffered An Injury.

Plaintiffs have not come forward with any facts showing that they were damaged in any way by either the Tax or the challenged fees. It is undisputed that neither Plaintiff has had to pay the Tax. It is similarly undisputed that Plaintiffs “have not paid any fee imposed by the Ordinance they challenge.” (Pl. Resp. to Interrogatories-attached hereto as Exhibit G at 2).

These failures to demonstrate any actual injury are fatal to Plaintiffs’ standing to bring a uniformity challenge. See Martin Oil Service, Inc. v. Dept. of Revenue, 49 Ill.2d 260, 266, (1971) (finding no standing because alleged injury did not impact plaintiff).

2. Plaintiffs Lack Common Law Taxpayer Standing.

Plaintiffs also lack common law taxpayer standing. “Taxpayer standing is a narrow doctrine permitting a taxpayer the ability to challenge the misappropriation of public funds.” Illinois Ass’n of Realtors v. Stermer, 2014 IL App. (4th) 130079, at ¶29 (2014). “The key to taxpayer standing is the plaintiff’s liability to replenish public revenues depleted by an allegedly unlawful governmental action.” Id. citing Barber v. City of Springfield, 406 Ill. App.3d 1099, 1102 (2011) (internal citations omitted). “A plaintiff whose claims rest on his or her standing as

a taxpayer must allege [an] equitable ownership of funds depleted by misappropriation and his or her liability to replenish them in the complaint; otherwise, the complaint is fatally defective.” Id.

Plaintiffs contend that “[t]he Code’s discriminatory taxation of guests of vacation rentals and shared housing units also injures Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the treasury for the public funds used to implement and collect the unconstitutional tax.” (Am. Complaint, ¶141.) The undisputed facts, however, undermine this contention. It is undisputed that the base 4.5% hotel tax— which applies equally to hotels, B&Bs, vacation rentals and shared housing units—is constitutional. The challenged 4% and 2% Tax is part of the hotel tax ordinance and simply raises the hotel tax on guests of shared housing units and vacation rentals from the base 4.5% to 10.5% (i.e., 4.5% base + 4% surcharge + 2% surcharge).

The public funds expended to enforce the constitutional hotel tax of 4.5% are in no way increased due to there being an additional 6% tax on guests of vacation rentals and shared housing units. Indeed, there are no facts, alleged or otherwise, which show that any additional costs would be incurred by the City merely by raising the tax from 4.5% to 10.5% on guests of vacation rentals and shared housing units. Without any such allegation or facts, Plaintiffs do not have taxpayer standing and summary judgment should be granted in the City’s favor.

Plaintiffs similarly contend that “[t]he Code’s discriminatory fees for vacation rentals and shared housing units injure Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the treasury for the public funds used to implement and collect the unconstitutional fees.” (Am. Complaint, ¶151.) This contention is also undercut by the facts. Plaintiffs’ uniformity challenge to the license fees is that all types of “hotel accommodations” are required to pay a license fee whereas those who rent out only a single shared housing unit are not required to obtain a license and pay the accompanying fee. To the extent that this violates uniformity at

all, the “violation” would be that those who rent out only a single shared housing unit are unfairly exempt from paying a license fee. Clearly the City did not expend any additional funds in **not** assessing Plaintiffs a license fee. Consequently, Plaintiffs do not have taxpayer standing to bring a claim challenging the license fees.³

B. Plaintiffs Have Failed to Bring A Good Faith Uniformity Challenge

Even if Plaintiffs had standing, they nevertheless fail to state a good-faith uniformity challenge. Plaintiffs allege that “[t]here are individuals who are members of the first class of taxpayers who are not members of the second class of taxpayers: *i.e.*, some individuals stay (and pay taxes) only at vacation rentals or shared housing units in Chicago, and some individuals stay (and pay taxes) only at hotels, bed-and-breakfasts, or other “hotel accommodations” that are not vacation rentals or shared housing units. “ (Am. Complaint, ¶134). However, Plaintiffs have not come forward with any facts to support this allegation. This is fatal to Plaintiffs’ claim.

In Terry v. Metropolitan Pier and Exposition Authority, 271 Ill. App. 3d 446 (1st 1995), Plaintiffs challenged the MPEA Departure Tax as violating uniformity. However, Plaintiffs did not allege that there was a “class of vehicle operators whose only business consists of taking passengers from one of the metropolitan airports. Therefore, the plaintiffs have failed to establish a distinction between classes of operators who are taxed and those who are not.” Id. at 454. Consequently, the plaintiffs failed “to meet their initial burden of coming forward with a

³ If Plaintiffs were correct that this violated uniformity, the remedy would not be to invalidate all other “hotel accommodations” license fees but to start requiring those who rent out only a single shared housing unit to obtain a license and pay a license fee like the other types of “hotel accommodations.” See Davis v. Michigan Dept. of Treasury, 489 U.S. 803, 817-18 (1989)(“We have recognized in cases involving invalid classifications in the distribution of government benefits, that the appropriate remedy is a *mandate* of equal treatment, a result that can be accomplished by withdrawal of benefits from the favored class as well as by extension of benefits to the excluded class.”)(emphasis in original); In re R.C., 195 Ill. 2d 291, 309-10 (2001)(same).

good-faith uniformity challenge.” Id. Likewise, there is no evidence to suggest that there is a distinct class of guests who only stay at shared housing units or vacation rentals. Without any such evidence, Plaintiffs have failed to meet their burden of making a good-faith uniformity challenge and summary judgment should be granted in the City’s favor.

C. The City’s Justifications for the Tax Demonstrate Real and Substantial Differences Between Those Taxed and Those Not Taxed and are Reasonably Related to Public Policy and/or the Purpose of the Ordinance.

The City set forth three justifications supporting the classification between shared housing units and vacation rentals versus other hotel accommodations: (1) the different tax treatment is justified because shared housing and vacation rentals are permitted in residential areas whereas hotels and B&Bs generally are only located in commercial and/or business areas; (2) hotels and B&Bs shoulder a heavier tax burden than shared housing and vacation rentals; and (3) shared housing and vacation rentals remove long-term housing from the market whereas hotels and B&Bs do not. Each of these distinctions is related to public policy concerns. The third distinction is also directly related to the purpose of the Tax.

The City “does not have an evidentiary burden and does not have to produce facts in support of its justification.” Friedman v. White, 2015 IL App (2d) 140942, at ¶31 (2015). “The taxing body need only assert a justification for the classification. It is the plaintiff who then has the evidentiary burden of proving that the asserted justification is unsupported by the facts.” Arangold, 204 Ill.2d at 156. Furthermore, “broad latitude is afforded to legislative classifications for taxing purposes. A plaintiff challenging such a classification has the burden of showing that it is arbitrary or unreasonable; if a state of facts can be reasonably conceived that would sustain it, the classification must be upheld.” Geja’s Café, 153 Ill.2d at 248; Empress Casino Joliet

Corp. v. Giannoulas, 231 Ill.2d 62, 73 (2008); Marks v. Vanderventer, 2015 IL 116226 at ¶19 (2015).

As a matter of law, the City prevails if any one of its three justifications is reasonable. Notably, Plaintiffs have failed to address the first two justifications presented by the City. Their failure to do so means they have not met their burden of showing that these first two justifications were “arbitrary or unreasonable.” The City should prevail on that basis alone. And while Plaintiffs have addressed the City’s third justification, Plaintiffs concede that the justification is supported by some facts. Consequently, summary judgment should be granted in favor of the City.

1. Zoning Differences Justify The Tax.

The City’s first justification is that hotels and B&Bs are zoned differently than shared housing units and vacation rentals. Hotels and B&Bs typically are permitted only in business or commercial districts. By contrast, vacation rentals and shared housing units are the only type of “hotel accommodations” permitted in all residential districts. (See Ex. B at p.27767-68; Code §17-2-0207). The purpose behind residential zoning districts is generally “to create, maintain and promote a variety of housing opportunities for individual *households* and to maintain the desired physical character of the city’s existing neighborhoods.” (Code § 17-2-0101)(emphasis in original). By contrast, commercial and business districts are intended to “accommodate retail, service and commercial uses and to ensure that business and commercial-zoned areas are compatible with the character of existing neighborhoods.” (Code § 17-3-0101).

Vacation rentals and shared housing units bear more similarity to a business than they do to housing for “individual households.” Indeed, Plaintiffs contend that vacation rentals and shared housing units provide the same service to guests as that provided by hotels—lodging on a

transient basis. (Pl. Brf. at 9). Yet, as a result of the Ordinance, the business of providing “hotel accommodations” via vacation rentals and shared housing is permitted in residential districts. The Illinois Supreme Court has held that differences in zoning are a reasonable basis for different tax classifications.

The powers of a legislative body to make classifications, particularly in the field of taxation, are very broad and the classifications must be upheld if any state of facts reasonably can be conceived that would sustain them. Furthermore, there is a presumption in favor of the validity of the classification made by the legislative body and one who assails it has the burden of proving the classification to be arbitrary. Zoning ordinances have long distinguished between residential, business, commercial and industrial uses and such common classifications are not invalid. A reasonable basis exists for the distinction between these classes.

Jacobs v. City of Chicago, 53 Ill.2d 421, 425 (1973). It therefore cannot be disputed that the difference in zoning is a real and substantial difference between shared housing and vacation rentals on the one hand and hotels and B&Bs on the other.

The second part of the inquiry is whether this justification is reasonably related to public policy or the purpose of the ordinance. It clearly is. As the City set forth in its response to Interrogatory Number 13:

[I]t is an important and long-standing public policy consideration to keep residential neighborhoods relatively quiet, peaceful and uncongested. This is one reason that house sharing was not allowed before the ordinance at issue went into effect, and it is a reason why hotels and B&Bs must generally be located in areas that are zoned for non-residential uses.

(Ex. C at 7).

The fact that shared housing and vacation rentals are permitted to operate in residential areas causes an increased burden on City resources to respond to complaints and to maintain the quiet and peaceful nature of residential areas.

Even though the City need not produce any facts to support this justification (see Arangold, 204 Ill.2d at 156, supra.), there is, nevertheless, ample evidence in support. Many of the complaints about shared housing and vacation rentals phoned in to the City's 311 system "relate to nuisances, excessive noise, neighborhood disturbances, rules violations and condition of the property." (Lee Affidavit, ¶4-attached hereto as Exhibit H).

Responding to these complaints poses multiple challenges for BACP. Specifically, because the complaints relate to home sharing and vacation rentals, the offending party is usually an out-of-town guest whose identify is unknown. Often the property host is not on location to help address the complaint. Even identifying the property host is sometimes difficult because host identify is not regularly provided to BACP by the shared-housing platforms (like Airbnb). (Ex. H at ¶5).

By contrast, very few 311 calls are received where the caller is complaining about a hotel or a bed-and breakfast establishment. However, when such complaints are received, it is easy for BACP to respond because hotels and bed-and-breakfast establishments all have on-site managers with whom BACP can address the problem. (Ex. H at ¶6).

Furthermore, it has been held that preservation of the character of a neighborhood is a legitimate basis for a tax. At issue in Ball v. City of Streamwood, 281 Ill. App. 3d 679 (1st 1996) was the real estate transfer tax. The tax imposed on sellers of property a \$3.00 fee per \$1000 of the sold property's purchase price. However, sellers who relocated within the Village of Streamwood were exempt from this tax. Plaintiffs contended that this exemption violated uniformity because it discriminated against those sellers who relocated outside of the Village. The Village's justification for the tax was that it encouraged residents to remain in the Village. In finding that "the Village's bases for the exemption are reasonably related to legitimate goals of government," the Court said that there is "a legitimate interest in local neighborhood preservation, continuity, and stability." Id. at 684 quoting Nordlinger v. Hahn, 112 S.Ct. 2326, 2333 (1992). Here, the City's desire to maintain the character, peacefulness and quiet of Chicago neighborhoods is a legitimate public policy interest which is reasonably related to the

classification between hotels and B&Bs on the one hand and shared housing units and vacation rentals on the other.

Plaintiffs contend that this justification fails because there is allegedly no difference between the *services* provided to home-sharing guests and those provided to hotel guests. (Pl. Brf. at 9). Leaving aside the fact that such an allegation is clearly incorrect (e.g., hotels provide on-site security, room service, valet parking, concierge service, trash removal, etc.), the standard is not whether the services offered are the same. As Plaintiffs themselves acknowledge, the test is whether the classification is “based on a real and substantial difference between *those* who are taxed and *those* who are not taxed”—not whether there is a difference between the *services* offered. (Pl. Brf. at 8 citing Primeco Pers. Commc’ns LP v. Illinois Commerce Comm’n, 196 Ill. 2d 70, 84 (2001)) (emphasis added). “The real and substantial difference must be in the kind, situation, or circumstance of the persons or objects on which the classification rests.” Friedman v. White, 2015 IL App. (2d) 140942, ¶16 (2015).

Indeed, there are a number of cases where the services offered by those taxed were identical, but other differences between those taxed and those not taxed justified the imposition of the tax. A prime example is Empress Casino, supra. At issue was a state act requiring casinos with adjusted gross receipts (“AGR”) over \$200 million to pay 3% of their AGR, on a daily basis, into the Horse Racing Equity Trust Fund. Plaintiffs contended that requiring casinos with an AGR over \$200 million to pay the tax while exempting those casinos with an AGR of less than \$200 million violated the uniformity clause of the Illinois Constitution. Like the Plaintiffs here, the Empress Casino plaintiffs tried to argue that “mere quantitative differences in AGR between otherwise identical businesses should never be enough, alone, to justify an exemption from a fee.” 231 Ill.2d at 79. The Illinois Supreme Court rejected this argument, stating “the

uniformity clause allows subclassifications and exclusions so long as they are reasonable. As such, quantitative differences in AGR may be sufficient to justify a classification.” Id. at 80. See also Peoples Gas Light and Coke Co. v. City of Chicago, 9 Ill.2d 348 (1956)(does not violate uniformity clause to separately classify business of selling gas from business of selling electricity even though both are sales of energy); Midwest Gaming and Entertainment, LLC v. County of Cook, 2015 IL App (1st) 142786 (2015)(does not violate uniformity clause to tax gambling devices differently from video gaming terminals even though both are included with the definition of “Gambling Machines”).

2. Heavier Income and Property Tax Burdens Justify The Tax.

The City’s second justification is that hotels and B&Bs are subject to higher taxes than are vacation rentals and shared housing units. As detailed in Section III above, hotels pay income tax at the commercial rate of 7% while owners of shared housing units or vacation rentals pay the lower residential rate of 4.95%. Similarly, hotels pay property taxes at the higher commercial rate of 25% while owners of shared housing units or vacation rentals only have to pay the residential rate of 10%. Hotels—like many businesses—will also likely need to pay or remit taxes on: (1) sales of tangible personal property; (2) use of non-titled personal property; and (3) lease of tangible personal property. Some hotels also operate a restaurant. In these instances the hotel also would be responsible for payment of restaurant tax. By contrast, vacation rentals and shared housing units are not responsible for any of these taxes.

Due to these heavier financial burdens upon hotels and B&Bs, shared housing and vacation rentals have an unfair financial competitive advantage. Consequently, charging a higher hotel tax for shared housing and vacation rentals is justified as it seeks to bring into balance the burden both must bear.

Plaintiffs have not addressed or even mentioned this justification in their brief. On this basis alone should summary judgment be entered in favor of the City.

3. Different Impact on the Availability of Affordable Housing Justifies the Tax.

The City's third justification—and the only one addressed by Plaintiffs—is that shared housing and vacation rentals have more of a detrimental impact on the availability of affordable housing than do hotels and B&Bs. Plaintiffs contend that this is not a real and substantial difference because allegedly “*every* type of hotel accommodation occupies space that could otherwise be devoted to long-term housing—and therefore any type of hotel accommodation should, under the City's theory, have the same effect.” (Pl. Brf. at 9-10)(emphasis in original). This argument is without merit because it ignores the fundamental difference between hotels and shared housing units.

Hotels are built exclusively for business purposes—specifically, the business of providing transient lodging to visiting guests. By serving the purpose for which they were constructed, hotels are not removing long term housing from the market - much as a school, factory, or other business is not removing long term housing from the market. By contrast, apartment buildings and houses are built exclusively for the purpose of providing long-term housing to residents. When apartment buildings and houses are used for home sharing, they are no longer being used for the purpose for which they were originally intended. Rather, what was intended to house long-term residents is now being used to provide transient lodging to visiting guests. This directly and negatively impacts the availability of long-term housing in a way that hotels do not. Plaintiffs have not demonstrated otherwise. Furthermore, restriction of housing supply plays a role in driving prices up resulting in less affordable housing.

While the City has no evidentiary burden, there is nevertheless ample evidence to support its assertion that home sharing drives up rental prices which has a negative impact on the availability of affordable housing. The Deputy Commissioner of the City's Department of Housing, Bryan Esenberg, deals with affordable housing on a daily basis. He reviewed a number of articles and studies concerning the impact of shared-housing on the housing market. He concluded that "these reports support the proposition that house sharing has a tendency to reduce the availability of affordable housing." (Ex. F at 4). One of the studies explicitly stated that "[t]he largest and best-documented potential cost of Airbnb expansion is the reduced supply of housing as properties shift from serving local residents to serving Airbnb travelers, which hurts local residents by raising housing costs." (Ex. F at 5 quoting "The economic costs and benefits of Airbnb," Josh Bivens, Economic Policy Institute, Jan. 30, 2019). Another study stated that "[t]he growth of the commercial STR [short-term rental] market has serious negative implications for housing affordability and quality of life for D.C. residents." (Ex. F at 5 quoting "Selling the District Short," D.C. Working Families (March 2017)). The other reports cited in Mr. Esenberg's report, which looked at the effects of shared housing in Chicago, Los Angeles, New York, Boston, and other cities, reached similar conclusions. (See attachments to Ex. F).

Even Plaintiffs' expert endorses a report which concedes that "[t]he homeless problem is caused primarily by inadequate supply." (Ex. E at 16, quoting "No Room at the Inn: Housing Policy and the Homeless," Todd Swanstrom, Journal of Urban and Contemporary Law, 1989, Vol.35:81, pp.81-105). That report continued – "people at high risk of homelessness are most in need of this type of minimalist or SRO housing (single room occupancy, long income single room apartments with shared kitchens and bathrooms)." (Ex. E at 17).

The first-hand experience of Mr. Esenberg demonstrates how home-sharing negatively impacts exactly this type of housing. In his report, Mr. Esenberg describes how the SRO at 2001 N. California in Chicago's Logan Square neighborhood was converted into a building which will be reserved for short-term rentals. "When this SRO was converted, the City had to help provide resources and assist with finding replacement housing for many people who had previously lived in those buildings." (Ex. F at 7). It can therefore not be disputed that there are at least some facts that support the distinction drawn by the City.

This difference between hotels and shared housing—reduction of long-term housing supply—is directly related both to public policy and the purpose of the Ordinance. Specifically:

One public policy consideration supporting the house sharing surcharge is caring for the less fortunate, including the homeless. Homelessness is a significant problem in Chicago and nationwide. Addressing that problem is an important public policy consideration, and addressing the problem requires revenue, which the house sharing surcharge helps provide. Studies indicate that house sharing has a tendency to reduce the availability of affordable housing, thereby contributing to the problem of homelessness. Each housing unit that is used for short-term house sharing rentals is a unit that is not available for use as permanent housing for residents.

(Ex. C-at 7).

One public policy consideration supporting the surcharge is caring for victims of domestic violence. Survivors and victims of domestic violence often report that lack of safe and affordable housing is one of the primary barriers they face in choosing to leave an abusive partner. Studies indicate that house sharing has a tendency to reduce the availability of affordable housing, thereby contributing to the problem of domestic abuse victims lacking affordable housing. Each housing unit that is used for short-term house sharing rentals is a unit that it not available for use as permanent or transitional housing for victims of domestic violence. This also negatively impacts the housing available to the City and non-profit organizations seeking to shelter victims of domestic violence.

Another related policy consideration is to reduce the number of homeless people in Chicago. Domestic violence is seen as a predictive factor of homelessness. Studies indicate that domestic violence significantly contributes to homelessness due to lack of available and affordable housing for those seeking to escape a domestic abuse situation. A related policy consideration is to comply with HUD's federal mandate to prioritize domestic violence victims when addressing issues of homelessness. Compliance with

that mandate is necessary in order to secure access to the limited federal resources provided to combat homelessness.

(City's Response To Plaintiffs' Second Set of Interrogatories-attached hereto as Ex. I at 2-3).

Plaintiffs contend that the classification is not reasonably related to the Tax's purpose "because they do not apply to other types of hotel accommodations that keep property out of the long-term housing market." (Pl. Brf. at 12). As demonstrated above, however, this is a false distinction. Every business or commercial enterprise keeps property out of the long-term housing market. But shared-housing converts property, that had been intended for and was actually used for long-term housing, into short-term housing. Furthermore, there is no requirement that a tax must apply to every entity which contributes to the problem sought to be addressed by that tax. A similar argument was made—and rejected—in Arangold.

At issue in Arangold was the Tobacco Products Act of 1995, which imposed a tax on the distribution of cigars and chewing tobacco. Proceeds from this tax were used to fund government programs providing long-term care for people financially unable to meet their medical needs. The defendants argued that because tobacco products cause diseases which can necessitate long-term care for people who cannot afford such care, the tax was reasonably related to the purpose of the Act. Like the Plaintiffs in this matter, the Arangold plaintiffs argued:

[T]hat the tax imposed is 'arbitrarily underinclusive' in relation to the stated legislative objective. According to Arangold, taxpayers who are equally or more related to the Act's stated purpose are excluded from paying the tax. It argues there is medical evidence that alcohol, red meat, and eggs are associated with diseases requiring long-term medical care.

204 Ill.2d at 154. According to the plaintiffs, "the legislature was bound to tax all those who are equally or more related to the objective." Id. at 155. The Illinois Supreme Court rejected this argument. It said, "perfect rationality is not required as to each taxpayer. A minimum standard of reasonableness is all that is required." Arangold, 204 Ill.2d at 155. Consequently, the inquiry

is not “whether the legislature should have taxed everyone who may contribute to diseases that require long-term nursing home care.” Id. Rather, the only concern is “whether there is a reasonable relationship” between the taxation of tobacco distribution and the object of funding long-term health care, which it was found that there was.

Likewise, the Plaintiffs here cannot prevail merely by arguing that there are other factors and businesses which also contribute to a reduction of the affordable housing supply. The fact remains that there is a reasonable connection between the City’s desire to fund more affordable housing—for both homeless people and victims of domestic violence—and the fact that shared housing contributes to the reduction of the long-term housing supply.

Plaintiffs also devote much of their brief arguing that home-sharing does not lead to an increase in homelessness. (Pl. Brf. at 13-20). This argument is wholly irrelevant and does not address the City’s justification. As articulated above, there are two inquiries to be made in evaluating the City’s justification: (1) is there a real and substantial difference between the classification of those taxed and those not taxed; and (2) is that classification reasonably related to public policy or the purpose of the tax. Here, the City explained that the difference between hotels and shared-housing was that shared-housing units remove long-term housing from the market whereas hotels do not. Plaintiffs’ argument concerning home-sharing and homelessness has no bearing on or relevance to this distinction.

The subsequent inquiry is whether that difference—that shared-housing removes long term housing from the market—is reasonably related to public policy or the purpose of the Tax. Here, it is related to both. The purpose of the Tax is to generate revenue with which the City will provide additional housing for the homeless and for victims of domestic violence. This is directly related to the asserted difference between hotels and shared-housing—the reduction of

long-term housing. Additionally, it is undisputed that providing for the homeless or victims of domestic violence is a legitimate public policy concern. Once again, Plaintiffs' argument concerning the link between home-sharing and homelessness is irrelevant.

However, even if that inquiry somehow was relevant, Plaintiffs acknowledge that "the only nationwide study found that home-sharing had a *minimal* effect on rents." (Pl. Brf. at 16)(emphasis in original). Plaintiffs further admit that "[r]estrictions on housing supply do affect homelessness; one study of 40 large U.S. cities found that about 42 percent of the variation in homelessness explained by difference in median home prices." (Pl. Brf. at 20). The City's expert similarly noted that "the pressure that short-term rentals place on rent prices 'pushes units out of the margins of affordability for low- and middle- income residents, an effect that cascades through the city.'" (Ex. F at 6 quoting "How Airbnb Short-Term Rentals Exacerbates Los Angeles's Affordable Housing Crisis). Mr. Esenberg continued:

In other words, if rent prices increase in the neighborhoods where house sharing is most common, some people who cannot afford those rents move into less expensive neighborhoods, which raises the rents there. This in turn spills over to less well-off neighborhoods, where at some point people who could barely afford the rent before have to move out or get evicted. These people become homeless or at least require governmental assistance to secure housing.

(Ex. F at 6).

So even if finding a direct link between home-sharing and homelessness were critical to upholding the City's justification (which is not the appropriate standard), the City's expert has shown some evidence to support it. Plaintiffs also have conceded that there are some facts that do support the City's justification. As the Illinois Supreme Court has said, "if a state of facts can be reasonably conceived that would sustain it, the classification must be upheld." Geja's Café, 153 Ill.2d at 248.

C. The City's Justification for the License Fees Demonstrates Real and Substantial Differences Between Those Who Pay the Fee and Those Who Do Not and is Reasonably Related to Public Policy and/or the Purpose of the Ordinance.

The gist of Plaintiffs' uniformity challenge to the license fees seems to be that while a license, and accompanying fee, is required for someone who wants to rent out more than one shared housing unit (i.e., a shared housing unit operator), there is no license fee charged to those who only rent out a single shared housing unit. As noted above, because Plaintiffs are not alleged to be shared housing unit operators, they do not pay a license fee, and therefore have suffered no damage and have no standing to pursue this claim.

Even if Plaintiffs had standing to pursue this claim, there is nevertheless a real and substantial difference between the two classes: the members of the class subject to the fee rent out multiple units while the members of the class not subject to the fee rent out only a single unit. This difference is reasonably related to public policy. As the City explained in its interrogatory answer:

The owner of a single shared housing unit is generally an individual who is not otherwise in the business of renting out hotel accommodations. By listing their units through intermediaries, the owners of such units allow the City to deal primarily with just a few intermediaries rather than a large number of individual unit owners. The intermediaries help monitor the rentals of such units, and they pay much larger license fees, based in part on the number of units they list. Owners of multiple shared housing units are more likely to be real estate developers or investors who are in the business of renting out hotel accommodations. It is important for the City to be able to have some control over their activities, and requiring them to obtain a license helps provide that control because, among other things, the City can put a hold on – or refuse to renew – the license of an operator that is causing problems.

(Ex. C at 10).

Plaintiffs have the burden of showing that this justification is insufficient as a matter of law or unsupported by the facts. Arangold Corp., 204 Ill.2d at 153. Plaintiffs have done neither. Plaintiffs first contend that the City cannot justify imposing a different fee structure on shared

housing unit operators versus that imposed on operators of vacation rentals. (Pl. Brf. at 21). This argument makes no sense as both shared housing unit operators and operators of vacation rentals are both required to obtain a license at the cost of \$250 payable every two years. (Code § 4-5-010(38)-shared housing unit operators; Code §§ 4-5-010(2) and 4-6-010 (c)(29)-vacation rentals).

Plaintiffs further contend that the City’s justification for why there is a fee charged to shared housing unit operators but not those who rent out single units is inadequate because “it does not explain why owners of more than one shared housing unit have to pay an additional fee, even though they, too, must register with an intermediary, which must pay a registration fee on their behalf.” (Pl. Brf. at 22). What Plaintiffs fail to acknowledge is that the “fee” paid by a shared housing unit operator is a license fee. Every regulated business operator—which a multi-unit renter is as opposed to a single-unit renter—is required to have a license. Administration of licenses costs money, which is why there is a license fee imposed when obtaining a license. The fee per unit, which intermediaries pay, is a registration fee and is separate and apart from the licensing requirements. Indeed, even Plaintiffs admit that the City’s explanation “explains (at most) the separate license requirement.” (Pl. Brf. at 22). However, the license requirement and accompanying fee are the only matters at issue. Because Plaintiffs have conceded that the City’s justification explains the need for the license, summary judgment should be granted in favor of the City.

VII. CONCLUSION

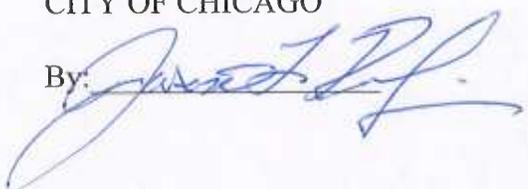
Summary judgment should be entered in the City’s favor because Plaintiffs have failed to demonstrate that they have standing. They have not adduced any facts to show that they suffered any injury. The undisputed facts also show that no additional City funds were spent in

furtherance of what is claimed to be unconstitutional. Plaintiffs also have failed to make a good-faith uniformity challenge. They have not come forward with any facts showing two distinct classes. But even if there were standing and even if Plaintiffs did make a good-faith uniformity challenge, Plaintiffs still have failed to meet their burden. The City put forth three justifications for the Tax—zoning differences, heavier tax burdens, and removal of long-term housing supply. Plaintiffs have not addressed the first two justifications. On these bases alone summary judgment is proper for the City. And while Plaintiffs addressed the housing supply justification, they admitted that there were some facts supporting the City’s justification. This provides yet another basis for summary judgment to be granted in the City’s favor. Plaintiffs similarly conceded that the City’s proffered justification did, at a minimum, explain the need for a license for shared housing unit operators. As such, summary judgment in the City’s favor on the fee claim is also proper.

WHEREFOR the reasons stated above, the City of Chicago Department of Finance respectfully requests that its Motion for Summary Judgment be granted and that the Plaintiffs’ Motion for Summary Judgment be denied and any such other relief as this Court deems appropriate.

Respectfully Submitted,

CITY OF CHICAGO

By: 

DATED: August 5, 2019

Atty. No.: 90909
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CERTIFICATE OF SERVICE

I, Jason Rubin, an attorney, hereby certify that on August 5, 2019, I caused the foregoing
**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

to be served on:

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and

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via electronic mail.

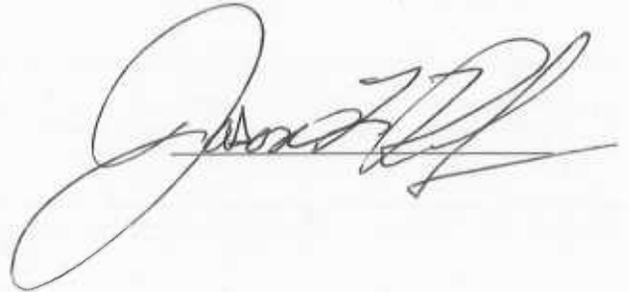
A handwritten signature in black ink, appearing to read "Jason Rubin", is written over a horizontal line. The signature is stylized and cursive.

EXHIBIT H

**IN THE CITY OF CHICAGO, ILLINOIS
DEPARTMENT OF ADMINISTRATIVE HEARINGS
MUNICIPAL DIVISION, TAX SECTION**

Leila Mendez, et. al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. 2016-CH-15489
)	
City of Chicago, et. al.,	)	Judge Sanjay T. Tailor
)	
Defendants.)	

AFFIDAVIT OF CHARLES LEE

The undersigned states that I have personal knowledge of the facts set forth herein, and if called, would testify truthfully and competently thereto:

1. I am employed as the Supervisor of Business Compliance Investigations with the City of Chicago Department of Business Affairs and Consumer Protection (“BACP”). I have held my current position since March 2017.

2. My responsibilities include monitoring and responding to business complaints called in by Chicago residents to the 311 non-emergency telephone number.

3. Attached to this Affidavit is a listing of all 311 complaints related to shared-housing and vacation rentals received from December 27, 2016 until April 5, 2018. These complaints are transcribed from the call and are maintained by BACP in the ordinary course of business.

4. Many of the complaints relate to nuisances, excessive noise, neighborhood disturbances, rules violations and condition of the property.

5. Responding to these complaints poses multiple challenges for BACP. Specifically, because the complaints relate to home sharing and vacation rentals, the offending party is usually an out-of-town guest whose identity is unknown. Often the property host is not on location to help address the complaint. Even identifying the

property host is sometimes difficult because host identity is not regularly provided to BACP by the shared-housing platforms (like Airbnb).

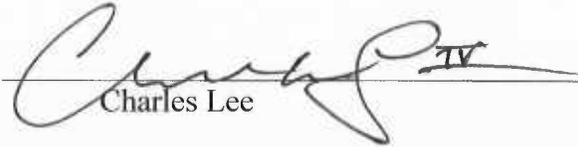
6. By contrast, very few 311 calls are received where the caller is complaining about a hotel or a bed-and-breakfast establishment. However, when such complaints are received, it is easy for BACP to respond because hotels and bed-and-breakfast establishments all have on-site managers with whom BACP can address the problem.

FURTHER AFFIANT SAYETH NAUGHT

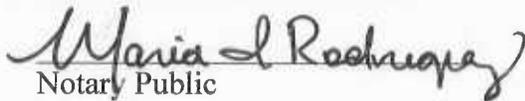
Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I, Charles Lee, certify that the statements set forth in this affidavit are true and correct, except as to matters herein stated to be on information and belief, and as to such matters certify that I verily believe the same to be true.

4/4/19

Date


Charles Lee

Subscribed and sworn before me
On this 4th day of April 2019


Notary Public



Zip Code	Condition of Property	Multiple including conditions of nuisance	Multiple including nuisance	Nuisance	Rules Violation	Rules Violation	Unknown	Unlicensed	Grand Total
Total	22	1	6	21	1	22	11	47	132
60601	1						1	2	2
60602	1		1			3	1	1	4
60605	1						1	2	5
60607	1						1	1	4
60608	1						1	3	4
60610	1		1	9		1	1	3	15
60611	1						1	3	4
60612	1	1	1			3	1	3	4
60614	1			3			1	3	12
60615	1		1				1	3	5
60616	1						1	2	3
60617							1	2	3
60618							1	4	1
60619							1	2	4
60621			1				1	2	2
60622	1			2		1	1	1	2
60625	1			1		7	1	2	12
60626				1			1	1	1
60628	1			1			1	1	3
60629	1			1			1	1	2
60630	1					1	1	1	3
60637	1			1			1	1	1
60638				1			1	1	2
60639				2		1	1	1	4
60640						1	1	3	3
60641						1	1	2	3
60642						1	1	2	3
60643	3						1	1	1
60644	1		1			1	1	3	3
60647	1			1			1	2	4
60649	2						1	3	3
60651	1						1	1	1
60653	1					1	1	1	3
60654	1						1	2	2
60656	1						1	1	1
60657	1		1				1	1	3
60659	1			1		1	1	1	1
60660	1					3	1	1	5
60661	1						1	1	1

		Location	Zip Code	Type	Complaint Category	Description
16-08484284	Dec 27, 2016	2040 W 21ST ST	60608	Shared Housing / Vacation Rental Complaints	Unknown	- Guest Staying in Rental Property - Other - People renting downstairs blocking porch exit with their stuff - Shared Housing (e.g., AIRBNB) - DEC 05, 2016 - Don't Know
17-00084120	Jan 05, 2017	1319 W FILLMORE ST	60607	Shared Housing / Vacation Rental Complaints	Unknown	- Guest Staying in Rental Property - Condition of Property (i.e., dirty, poor condition, etc.), Unlicensed Rental Property, License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Shared Housing (e.g., AIRBNB) - DEC 30, 2016
17-00291096	Jan 16, 2017	175 E DELAWARE PL	60611	Vacation Rental Complaints	Unknown	Concerned Citizen - Other - property is on the prohibited building list - JAN 16, 2017/listing number 11011715 - Shared Housing (e.g., AIRBNB) - Don't Know
17-00362332	Jan 20, 2017	10633 S GREEN BAY AVE	60612	Vacation Rental Complaints	Unknown	- Concerned Citizen - Other - Several families living in a single family home - Not Applicable - JAN 20, 2017
17-00902129	Feb 17, 2017	1333 S WABASH AVE	60605	Shared Housing / Vacation Rental Complaints	Multiple including nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.), Unlicensed Rental Property, License Rules Violations (i.e., prohibited business list, owner does not live on premises) - https://www.vrbo.com/4434210ha - Not Applicable - FEB 17, 2017 - Don't Know
17-00912193	Feb 18, 2017	7650 N SHERIDAN RD	60626	Vacation Rental Complaints	Nuisance	- Guest Staying in Rental Property - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - Shared Housing (e.g., AIRBNB) - DEC 20, 2016 - 773-559-2753
17-01037449	Feb 23, 2017	4758 S DR MARTIN LUTHER KING JR DR	60615	Vacation Rental Complaints	Unlicensed	Concerned Citizen - Unlicensed Rental Property - Not Applicable - in apt # 2 - renting out condo unit - FEB 17, 2017
17-01135417	Feb 28, 2017	4837 N KENNETH AVE	60630	Vacation Rental Complaints	Condition of Property	- Concerned Citizen - Condition of Property (i.e., dirty, poor condition, etc.) - Garage and front yard is littered in trash - Not Applicable - FEB 26, 2017 - Don't Know - 708-253-7017
17-01156529	#####	2509 W FULLERTON AVE	60647	Shared Housing / Vacation Rental Complaints	Rules Violation	Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises), Unlicensed Rental Property - Not Applicable - Don't Know - FEB 27, 2017 - CALLER STATES THE RENTAL IS FOR A FIRST FLOOR COMMERCIAL SPACE, AND THE FIRST FLOOR HAS NO WINDOWS. COMMERCIAL SPACE SHOULD NOT BE USED AS RENTAL.
17-01381417	#####	4624 S INDIANA AVE	60653	Shared Housing / Vacation Rental Complaints	Condition of Property	- Guest Staying in Rental Property - Condition of Property (i.e., dirty, poor condition, etc.), Other - Rodent infestation there is some type of fleas in shower - Shared Housing (e.g., AIRBNB) - FEB 02, 2016
17-01498325	#####	2408 W FARRAGUT AVE	60625	Shared Housing / Vacation Rental Complaints	Rules Violation	Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises), Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - MAR 16, 2017 - OWNER OF CONDO UNIT #2A DAN AND JESSICA DYE ARE RENTING OUT UNIT - Don't Know - PLS KEEP CALLERS INFO CONFIDENTIAL
17-01808471	#####	2408 W FARRAGUT AVE	60625	Shared Housing / Vacation Rental Complaints	Rules Violation	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Unlicensed Airbnb, also in violation of assoc. rules and prohibited buildings list - Not Applicable - MAR 30, 2017 - Don't Know - www.airbnb.com - condominium

		Location	Zip Code	Type	Complaint Category	Description
17-01815253	#####	2408 W FARRAGUT AVE	60625	Vacation Rental Complaints	Rules Violation	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Shared Housing (e.g., AIRBNB) - MAR 25, 2017 - Don't Know - 773-391-7876
17-01816458	#####	2408 W FARRAGUT AVE	60625	Vacation Rental Complaints	Rules Violation	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Shared Housing (e.g., AIRBNB) - MAR 15, 2017 - Don't Know - 847-873-4415
17-02090206	Apr 10, 2017	55 E WASHINGTON ST	60602	Vacation Rental Complaints	Unknown	- Vacation Rentals and Travel - APR 05, 2017 - Credit Card - Receipt - 517-927-7966
17-02114652	Apr 11, 2017	11321 S CHAMPLAIN AVE	60628	Shared Housing/ Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Unlicensed Rental Property - listed Dig Tt bed and breakfast on Facebook, owner Michael McGraw does not have license - Bed and Breakfast - MAR 31, 2017 - 817-598-8570
17-02118215	Apr 11, 2017	53 W BURTON PL	60610	Shared Housing/ Vacation Rental Complaints	Unlicensed	ORIGINAL BACP SR #17-02012174 - RESIDENTIAL - COMMERCIAL BUILDING - THERE ARE MULTIPLE AIRBNB OPERATING OUT OF THIS APARTMENT BUILDING. THEY ARE A GREAT PROBLEM WITH ALL NEIGHBORS DAILY. MONDAY,TUESDAY,WEDNESDAY,THURSDAY,FRIDAY,SATURDAY,SUNDAY - THE TOURISTS ARE THERE ALL THE TIME - 773-281-5252 - Vacation Rentals and Travel
17-02137889	Apr 12, 2017	5040 N MARINE DR	60640	Vacation Rental Complaints	Unlicensed	Concerned Citizen - Unlicensed Rental Property - UNIT-D7 IS IN THE PROHIBITED LIST CONDO LIST PER PROPERTY MANAGER- OWNERS SON IS RENTING THE UNIT AS AIRBNB- Shared Housing (e.g., AIRBNB) - APR 7, 2017
17-02191550	Apr 13, 2017	500 E 51ST ST	60615	Shared Housing/ Vacation Rental Complaints	Condition of Property	- Concerned Citizen - Other - possible bedbug infestation - Not Applicable - APR 11, 2017 - Don't Know
17-02191555	Apr 13, 2017	7415 S COLFAX AVE	60649	Vacation Rental Complaints	Condition of Property	- Guest Staying in Rental Property - Other - bed bug infestation - Not Applicable - APR 10, 2017
17-02357610	Apr 20, 2017	2408 W FARRAGUT AVE	60625	Shared Housing/ Vacation Rental Complaints	Rules Violation	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Illegal, unlicensed Airbnb rental in a prohibited building. This is ongoing since last Spring. - Not Applicable - APR 15, 2017
17-02445863	Apr 23, 2017	5655 N ARTESIAN AVE	60659	Shared Housing/ Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - excessive drinking and drug use - Shared Housing (e.g., AIRBNB) - APR 22, 2017 - Don't Know - 309-838-9032
17-02569540	Apr 27, 2017	1409 W DIVERSEY PKWY	60614	Vacation Rental Complaints	Condition of Property	- Guest Staying in Rental Property - Other - Bed Bugs - Shared Housing (e.g., AIRBNB) - FEB 25, 2017 - 872-888-5927
17-02695836	#####	12420 S NORMAL AVE	60628	Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - He has a dog that begins barking at 7 am continues for the next 30 minutes started Saturday and has continued since like clockwork - Not Applicable - APR 29, 2017
17-02720570	#####	2408 W FARRAGUT AVE	60625	Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - APR 29, 2017

		Location	Zip Code	Type	Complaint Category	Description
17-02972156	#####	2408 W FARRAGUT AVE	60625	Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Unlicensed Rental Property - Not Applicable - MAY 11, 2017 - Don't know
17-03032233	#####	2408 W FARRAGUT AVE	60625	Shared Housing/ Vacation Rental Complaints	Rules Violation	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Not Applicable - MAY 12, 2017 - Don't know - Guest Staying in Rental Property - Condition of Property (i.e., dirty, poor condition, etc.) Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) License Rules Violations (i.e., prohibited business list, owner does not live on premises) - I live in the building next to 2408 W. Farragut Ave apt 2 a. There is an illegal Airbnb being run in that unit. The tenants are loud and the owner of the unit is never there. They leave garbage all over their back porch so they add to our rat problem. The owner is very defiant and angry when these issues are brought to his attention. Please help. This is a condominium, not a hotel. - Shared Housing (e.g., AIRBNB) - MAY 12, 2017 - Don't know
17-03044731	#####	2408 W FARRAGUT AVE	60625	Shared Housing/ Vacation Rental Complaints	Condition of Property	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) Unlicensed Rental Property License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Vacation Rental (e.g., VRBO) - MAY 12, 2017 - Don't know
17-03089990	#####	2408 W FARRAGUT AVE	60625	Shared Housing/ Vacation Rental Complaints	Nuisance	- Concerned Citizen - Condition of Property (i.e., dirty, poor condition, etc.) - Bed Bug Infestation - Not Applicable - MAY 15, 2017
17-03130267	#####	325 N AUSTIN BLVD	60644	Vacation Rental Complaints	Condition of Property	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) Unlicensed Rental Property - Apartment 314 - ORIGINAL BACP SR #17-02870007 - Residential - HOME - 2235 N Clifton Unit# C - Unregistered Air Bnb - (773) 456-2748 - 10 PM - Unregistered Air Bnb. Giant parties are being held, with lots of booze and weed. - Vacation Rentals and Travel: (HAS BEEN REFD TO POLICE FOR PARTIES WITH "BOOZE & WEED", NEW SR #17-03090687)
17-03131557	#####	2235 N CLIFTON AVE	60614	Vacation Rental Complaints	Unknown	- Concerned Citizen - Other - Airbnb in prohibited building - Not Applicable - MAY 12, 2017
17-03310457	#####	2408 W FARRAGUT AVE	60625	Vacation Rental Complaints	Rules Violation	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) Unlicensed Rental Property - Apartment 314 - Not Applicable - APR 28, 2017
17-03568028	#####	1430 N DEARBORN ST	60610	Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) Unlicensed Rental Property - Apartment 314 - Not Applicable - APR 29, 2017
17-03568084	#####	1430 N DEARBORN ST	60610	Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) Unlicensed Rental Property - Apartment 314 - Not Applicable - APR 29, 2017
17-03589252	Jun 01, 2017	1437 N NORTH PARK AVE	60610	Shared Housing/ Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Unlicensed Rental Property License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Owner of the condo unit 3 at this address, Greg Volynsky, is renting his unit out as an air bnb against our condo declarations. I have asked him to stop, but he has indicated he has rentals through august that he will not cancel. He does not have a license as our declarations forbid this activity. - Shared Housing (e.g., AIRBNB) - MAY 26, 2017 - 312-823-2672 - HTTPS://WWW.AIRBNB.COM/ROOMS/184441275=51
17-03645648	Jun 03, 2017	2605 N MERRIMAC AVE	60639	Vacation Rental Complaints	Unlicensed	Concerned Citizen - Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - JUN 2, 2017

		Location	Zip Code	Type	Complaint Category	Description
17-03882155	Jun 12, 2017	1430 N DEARBORN ST	60610	Shared Housing / Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.);Unlicensed Rental Property - Apartment 314 - Not Applicable - APR 30, 2017
17-03893054	Jun 12, 2017	5058 N RAVENSWOOD AVE W	60640	Shared Housing / Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - Only one date can be listed below but it has happened every single weekend, since 5/19/17 - Not Applicable - JUN 09, 2017 - 773-972-8499 - Owners Joanne Carava and Collette Manning purchased and remodeled this home for the sole purpose of vacation renting.
17-03906133	Jun 13, 2017	1250 S INDIANA AVE	60605	Shared Housing / Vacation Rental Complaints	Rules Violation	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Shared Housing (e.g., AIRBNB) - JUN 12, 2017 - Don't Know
17-03913061	Jun 13, 2017	1430 N DEARBORN ST	60610	Shared Housing / Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.);Unlicensed Rental Property - Apartment 314 - Not Applicable - MAY 06, 2017
17-03930203	Jun 14, 2017	5058 N RAVENSWOOD AVE W	60640	Shared Housing / Vacation Rental Complaints	Nuisance	Concerned Citizen - Unlicensed Rental Property, LOUD - PIN NUMBER 14074070160000 - Shared Housing (e.g., AIRBNB) - JUN 14, 2017 - Don't Know
17-03940718	Jun 14, 2017	1430 N DEARBORN ST	60610	Shared Housing / Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.);Unlicensed Rental Property - Apartment 314 - Not Applicable - MAY 07, 2017 - Don't Know
17-03983592	Jun 16, 2017	1430 N DEARBORN ST	60610	Shared Housing / Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.);Unlicensed Rental Property - Apartment 314 - Not Applicable - MAY 08, 2017
17-03983601	Jun 16, 2017	1430 N DEARBORN ST	60610	Shared Housing / Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.);Unlicensed Rental Property - Apartment 314 - Not Applicable - MAY 10, 2017
17-04048270	Jun 19, 2017	1430 N DEARBORN ST	60610	Shared Housing / Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.);Unlicensed Rental Property - Apartment 314 - Not Applicable - MAY 12, 2017
17-04048333	Jun 19, 2017	1430 N DEARBORN ST	60610	Shared Housing / Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.);Unlicensed Rental Property - Apartment 314 - Not Applicable - MAY 13, 2017
17-04116848	Jun 21, 2017	1709 N LARRABEE ST	60614	Shared Housing / Vacation Rental Complaints	Rules Violation	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - The owner of Unit 3N has been repeatedly told that the condo association prohibits short term rentals, yet she continues renting out her unit on Airbnb: http://airbnb.me/EVmg/1VM409N1HD - Shared Housing (e.g., AIRBNB) - JUN 21, 2017
17-04209958	Jun 25, 2017	1709 N LARRABEE ST	60614	Shared Housing / Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Unlicensed Rental Property,License Rules Violations (i.e., prohibited business list, owner does not live on premises) - The condo bylaws prohibit renting, yet Yanping Jiang in Unit 3N keeps renting her place on Airbnb - Shared Housing (e.g., AIRBNB) - JUN 25, 2017 - Don't Know - 312-350-9058

		Location	Zip Code	Type	Complaint Category	Description
17-04219734	Jun 26, 2017	1709 N LARRABEE ST	60614	Shared Housing / Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Unlicensed Rental Property, Other License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Yanping Jiang in Unit 3N keeps renting her place on Airbnb, in violation of the condo bylaws and despite numerous complaints from other unit owners. - Shared Housing (e.g., AIRBNB) - JUN 26, 2017 - Don't Know - 312-350-9058
17-04248457	Jun 27, 2017	1709 N LARRABEE ST	60614	Shared Housing / Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Unlicensed Rental Property, Other License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Yanping Jiang (Unit 3N), who does not live on premises, again rented her place today on Airbnb, in violation of the recorded condo bylaws and despite repeated complaints from the other unit owners - Shared Housing (e.g., AIRBNB) - JUN 27, 2017 - Don't Know - 312-350-9058
17-04389533	Jul 03, 2017	5254 N MASON AVE	60630	Shared Housing / Vacation Rental Complaints	Unknown	ORIGINAL BACP SR #17-04159477 - Residential - HOME - Air BNB - Check listing on Airbnb -->> https://www.airbnb.com/rooms/13776474?location=5254%20N%20Mason%20Ave%2C%20Chicago%2C%20United%20States&s=2mDen&g=Vacation%20Rentals%20and%20Travel
17-04449560	Jul 06, 2017	4854 W HENDERSON ST	60641	Shared Housing / Vacation Rental Complaints	Unlicensed	Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises), Unlicensed Rental Property - APARTMENT IS ON TOP OF GARAGE WITH ONE EXIT IN BACKYARD - Shared Housing (e.g., AIRBNB) - APR 4, 2017
17-04524575	Jul 09, 2017	1305 N DAMEN AVE	60622	Shared Housing / Vacation Rental Complaints	Unlicensed	Concerned Citizen - Unlicensed Rental Property - on list - Shared Housing (e.g., AIRBNB) - JUL 6, 2017 - Concerned Citizen - Unlicensed Rental Property - Vacation Rental (e.g., VRBO) - JUL 07, 2017 - 773-580-5454 - Note neighbors are renting their property using HomeAway property #4033691
17-04549186	Jul 10, 2017	4434 S UNIVERSITY AVE	60653	Shared Housing / Vacation Rental Complaints	Rules Violation	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Ksenia Konkia is owner of unit 3N (PIN # 20-02-309-027-1006) & condo board president of a 6 unit condo building. All condo members learned on July 9th, 2017 that Ms. Ksenia has been advertising/renting her unit online via Airbnb home sharing for the last 2 years. She did NOT prior disclose to or get prior approval from the association to operate a home sharing rental business. She gave out keys to common front door without approval. Please investigate/rescind her license or registration. - Not Applicable - JUL 09, 2017 - 312-804-2164
17-04570368	Jul 11, 2017	6101 N SHERIDAN RD	60660	Vacation Rental Complaints	Rules Violation	Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Not Applicable - JUL 10, 2017
17-04738920	Jul 18, 2017	5241 W PATTERSON AVE	60641	Vacation Rental Complaints	Unlicensed	Concerned Citizen - Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - PERSON HOUSING PEOPLE FOR AIRBNB WITH NO LICENSE. HAPPENING THE LAST 3 YEARS. - JUL 18, 2017
17-04960938	Jul 27, 2017	2529 W CHARLESTON ST	60647	Shared Housing / Vacation Rental Complaints	Condition of Property	Concerned Citizen - Condition of Property (i.e., dirty, poor condition, etc.), Unlicensed Rental Property, Excessive Noise (i.e., loud parties, foot traffic in & out, etc.), License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Shared Housing (e.g., AIRBNB) - JUN 18, 2017 - (714) 747-1300

		Description	Zip Code	Type	Complaint Category	Description
17-05148395	Aug 03, 2017	1928 N DAMIEN AVE	60647	Shared Housing / Vacation Rental Complaints	Nuisance	Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) License Rules Violations (i.e., prohibited business list, owner does not live on premises) - CALLER IS PROPERTY MANAGER AND IS CONCERNED FOR SAFETY OF TENANTS WITH STRANGERS GOING IN AND OUT OF BLDG BECAUSE OF THE OF THE RESIDENTS HAS LISTED APT ON AIRBNB AND HIS LICENSE IS STILL PENDING - CALLER RAN INTO 2 RENTERS THAT WERE PAYING ALSO AD IS STILL POSTED ON AIRBNB - CALLER WANTS TO KNOW IF IT IS ALIST WHERE PROPERTY OWNERS CAN REGISTER AND SAY THEY DONOT WANT PROPERTY TO BE REGISTERED AS A AIRBNB PROPERTY AND CITY COULD CHECK BEFORE LICENSE IS ISSUED - - Shared Housing (e.g., AIRBNB) - JUL 28, 2017 - (773) 858-2523 - CALLER IS PROPERTY MANAGER AND IS CONCERNED FOR SAFETY OF TENANTS WITH STRANGERS GOING IN AND OUT OF BLDG BECAUSE ONE OF THE RESIDENTS HAS LISTED APT ON AIRBNB.
17-05248243	Aug 07, 2017	1726 N SEDGWICK ST	60614	Shared Housing / Vacation Rental Complaints	Nuisance	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - There seem to be a large number of people - maybe 12-14? - in one unit, the 3rd floor apartment that has access to the roof deck where all of the noise and apple-throwing is coming from. - Vacation Rental (e.g., VRBO) - AUG 07, 2017 - 312-543-5732
17-05486353	Aug 16, 2017	1750 S WABASH AVE	60616	Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - AUG 16, 2017
17-05534284	Aug 18, 2017	5542 S NAGLE AVE	60638	Shared Housing / Vacation Rental Complaints	Condition of Property	- Concerned Citizen - Other - Too Many Occupants (diff families) reside in Single Family Residence. Attic, 1st fl, and basement, This is the 2nd time City of Chicago has been notified and nothing happens. Failure to check building occupancy is unethical conduct per city of Chicago yearly ethics guidelines/policy exam for employees. - Shared Housing (e.g., AIRBNB) - MAR 28, 2017 - Concerned citizen - Other - single family residence being occupied by several airbnbs/rental vehicles/writer for tourists, write jetsa volkswagon,black Nissan maxima (registered in orland park) and black chevy cruze. . People live in the attic, 1st floor and basement. Several kids live there as well/hazard issue. City of Chicago has been contacted about this issue before and nothing has been done. Please be advised that the City of Chicago Inspector General Office/William Marback will be notified if no action is taken. - Shared Housing (e.g., AIRBNB) - MAR 01, 2017
17-05534801	Aug 18, 2017	5542 S NAGLE AVE	60638	Shared Housing / Vacation Rental Complaints	Nuisance	UNIT 1 - (773) 425-8903 - Concerned Citizen - Unlicensed Rental Property - RENTING APARTMENT UNIT 1 AS AN AIRBNB - Shared Housing (e.g., AIRBNB) - AUG 18, 2017
17-05550977	Aug 19, 2017	4146 S MICHIGAN AVE	60653	Vacation Rental Complaints	Unlicensed	Housing (e.g., AIRBNB) - AUG 18, 2017
17-05747269	Aug 28, 2017	6018 N WINTHROP AVE	60660	Shared Housing / Vacation Rental	Condition of Property	- Guest Staying in Rental Property - Condition of Property (i.e., dirty, poor condition, etc.) - Bed Bugs non working refrigerator - Not Applicable - JUN 01, 2017 - 312-914-7688
17-05774561	Aug 29, 2017	1036 N SPRINGFIELD AVE	60651	Shared Housing / Vacation Rental Complaints	Condition of Property	exposed wires, bathroom cabinets hanging off walls/hinges, blood on bathroom wall, mold inside refrigerator/inside bathroom ceiling and tub, roach and black bug/not sure infestation, dining chair broken-tenant fell trying to sit, smell of raw sewage throughout 1st floor unit. - Shared Housing (e.g., AIRBNB) - AUG 17, 2017 - AUG 22, 2017 -[caller has pictures of these conditions would like to have dept contact she will send them to rep] - (805) 416-9340
17-05786932	Aug 30, 2017	1001 W MADISON ST	60607	Vacation Rental Complaints	Unlicensed	RBB #615 / POSTED BUT NOT REGISTERED - (312) 217-7010 - Vacation Rentals and Travel - RBB #615 ADVERTISING ON THE WEBSITE BUT NO LIC. OR REGISTRATION - AUG 30, 2017 - Cash - Other - (312) 217-7010

	Location	Zip Code	Type	Complaint Category	Description
17-05884537	4534 W 65TH PL	60629	Vacation Rental Complaints	Condition of Property	- Concerned Citizen - Condition of Property (i.e., dirty, poor condition, etc.); Excessive Noise (i.e., loud parties, foot traffic in & out, etc.); Unlicensed Rental Property - Not Applicable - SEP 04, 2017
17-05885785	4500 W 65TH PL	60629	Shared Housing / Vacation Rental Complaints	Nuisance	- Concerned Citizen - Other - Multiple families living in a single family home. My precinct captain stated there are 8 people with different last names. In addition, there are 6 cars parked in front and on the side of the house. - Not Applicable - SEP 04, 2017
17-05921987	40 E 9TH ST	60605	Shared Housing / Vacation Rental Complaints	Unlicensed	Concerned Citizen - License Rules Violations (i.e., prohibited business list; owner does not live on premises); Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - AUG 8, 2017 - UNIT 711 IS BEING USED AS A VACATION RENTAL - UNIT HAS BEEN ISSUED VIOLATIONS
17-05922154	40 E 9TH ST	60605	Shared Housing / Vacation Rental Complaints	Rules Violation	Concerned Citizen - License Rules Violations (i.e., prohibited business list; owner does not live on premises) - UNIT 1602 IS BEING RENTED AS AIRBNB - UNIT HAS BEEN ISSUED VIOLATIONS AND HAS BEEN FINED BY ASSOCIATION - Shared Housing (e.g., AIRBNB) - AUG 7, 2017
17-05922408	1030 N STATE ST	60610	Shared Housing / Vacation Rental Complaints	Rules Violation	Concerned Citizen - License Rules Violations (i.e., prohibited business list; owner does not live on premises); Unlicensed Rental Property - Newberry Plaza is a 52 story condo - Newberry Plaza is a 52 story condo building in the heart of Gold Coast. Newberry is on the list for properties that do not allow short term rentals. I found Frank's unit on AirBnb - Shared Housing (e.g., AIRBNB) - AUG 16, 2017 - (312) 787-1040 - Newberry Plaza is a 52 story condo building in the heart of Gold Coast. Newberry is on the list for properties that do not allow short term rentals. I found Frank's unit, # 516, on AirBnb.
17-06138818	5415 N SHERIDAN RD	60640	Shared Housing / Vacation Rental Complaints	Rules Violation	Concerned Citizen - License Rules Violations (i.e., prohibited business list; owner does not live on premises); Unlicensed Rental Property - Vacation Rental (e.g., VRBO) - AIRBnb - AUG 17, 2017 - Park Tower Condo is on the Prohibited List. Unit 901 is being rented as an AIRBnb. Owner's name is Gregg Meyers.
17-06166731	933 W BELMONT AVE	60657	Shared Housing / Vacation Rental Complaints	Condition of Property	- Guest Staying in Rental Property - Condition of Property (i.e., dirty, poor condition, etc.); Other - Stayed at Hotel and received BED BUG bites all over body - Not Applicable - SEP 12, 2017 - 941-592-8983
17-06183657	4331 N CENTRAL PARK AVE	60618	Shared Housing / Vacation Rental Complaints	Unlicensed	ORIGINAL BACP SR #17-06110824 - COMMERCIAL - RESIDENTIAL - HOME - HOSTEL / BED AND BREAKFAST - Concerned Citizen - Unlicensed Rental Property - Not Applicable - SEP 13, 2017 - Don't Know
17-06190473	55 E WASHINGTON ST	60602	Shared Housing / Vacation Rental Complaints	Condition of Property	- Guest Staying in Rental Property - Condition of Property (i.e., dirty, poor condition, etc.) - No lift no water; insects, no refund received even when promised; Booking.com declines responsibility. Loop Suites managers do not reply messages. - Vacation Rental (e.g., VRBO) - AUG 25, 2017 - 646-244-5961
17-06263845	733 W MADISON ST	60661	Vacation Rental Complaints	Condition of Property	- Guest Staying in Rental Property - Condition of Property (i.e., dirty, poor condition, etc.) - Live approx. 1" cockroach found and killed in room 624 under couch, dirty desk Crowne Plaza W. Loop - Not Applicable - JUN 14, 2017 - 978-397-8045
	11 W 26TH ST	60616	Vacation Rental Complaints	Condition of Property	- Guest Staying in Rental Property - Other - Bedbugs - room 451 - Not Applicable - SEP 17, 2017 - 202-315-8084

	Location	Zip Code	Type	Complaint Category	Description
17-06318927	920 S CLAREMONT AVE	60612	Shared Housing / Vacation Rental Complaints	Unlicensed	ORIGINAL BACP SR #17-06173938 - RESIDENTIAL - HOME - OWNER IS AN AIRBNB AND CALLER BELIEVES OWNER ISN'T REGISTERED AS AN AIRBNB, DOESN'T HAVE A LICENSE EITHER. (PLS NOTE THAT CW & RESPONDENT ADDRESSES MATCH.) - Concerned Citizen - Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - SEP 15, 2017 - Don't know
17-06403244	5141 W PATTERSON AVE	60641	Vacation Rental Complaints	Unlicensed	running bed and breakfast - Neighbor - thru-out - Concerned Citizen - Unlicensed Rental Property - Bed and Breakfast - SEP 25, 2017
17-06450330	5454 N NORDICA AVE	60656	Shared Housing / Vacation Rental Complaints	Condition of Property	Concerned Citizen - Condition of Property (i.e., dirty, poor condition, etc.); License Rules Violations (i.e., prohibited business list, owner does not live on premises); Other, Unlicensed Rental Property - Other, Unlicensed Rental Property - Single family home converted into multiple units - Not Applicable - Single family home converted into multiple units with one individual living on back porch area and basement converted into separate apartment - SEP 24, 2017 - Single family home converted into multiple units with one individual living on back porch area and basement converted into separate apartment. Requesting building inspectors
17-06590193	55 E WASHINGTON ST	60602	Shared Housing / Vacation Rental Complaints	Unlicensed	- Vacation Rentals and Travel - Credit Card - Advertisement copy - The Fornell Tower has 2 businesses operating without a vacation rental license or hotel license at 55 E Washington. Loop Suites (name of company) advertises on Booking.com, there is another company advertising on airbnb. This is been going on for 2 years but the city is allowing this go on without penalty
17-06725314	1757 N HERMITAGE AVE	60622	Vacation Rental Complaints	Unknown	- Concerned Citizen - Other - Airbnb violated its host guarantee terms and conditions - Shared Housing (e.g., AIRBNB) - AUG 20, 2017 - 559-904-0139
17-06952211	4888 N ROCKWELL ST	60625	Shared Housing / Vacation Rental Complaints	Unknown	- Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - THERE IS AN OLD GAS METER ON THE SIDE OF THE BUILDING THAT BEEPS LOUDLY AND CONSTANTLY. (This was the closest complain category I could find, sorry.) - Not Applicable - OCT 15, 2017 - 346-702-6712
17-06973124	7727 S COLFAX AVE	60649	Vacation Rental Complaints	Unknown	- Guest Staying in Rental Property - Condition of Property (i.e., dirty, poor condition, etc.) - Vacation Rental (e.g., VRBO) - OCT 05, 2017 - 872-303-1531
17-07010082	777 N MICHIGAN AVE	60611	Vacation Rental Complaints Shared Housing / Vacation Rental Complaints	Unlicensed	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - AIRBNB Listing must be removed - Shared Housing (e.g., AIRBNB) - OCT 14, 2017
17-07176238	2745 N HAMPDEN CT	60614	Vacation Rental Complaints	Rules Violation	Concerned Citizen - Unlicensed Rental Property; License Rules Violations (i.e., prohibited business list, owner does not live on premises); Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - Shared Housing (e.g., AIRBNB) - OCT 25, 2017
17-07229656	5100 S CORNELL AVE	60615	Vacation Rental Complaints	Unlicensed	Guest Staying in Rental Property - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - Shared Housing (e.g., AIRBNB) - OCT 6, 2017
17-07299356	2839 W WELLINGTON AVE	60618	Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Unlicensed Rental Property - single family chopped up into multiple units - Not Applicable - OCT 25, 2017 - Don't know

	Location	Zip Code	Type	Complaint Category	Description
17-07381289	Nov 02, 2017 5100 S CORNELL AVE	60615	Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - NOV 02, 2017
17-07411208	Nov 03, 2017 709 E 84TH ST	60619	Shared Housing / Vacation Rental Complaints	Unlicensed	Concerned Citizen - Condition of Property (i.e., dirty, poor condition, etc.)License Rules Violations (i.e., prohibited business list, owner does not live on premises),Other,Unlicensed Rental Property - Health risk including rodents, bedbugs, no insurance (building in co-op) - Shared Housing (e.g., AIRBNB) - SEP 30, 2017 - Don't know
17-07458340	Nov 05, 2017 1111 W WACKER DR	60601	Vacation Rental Complaints	Unlicensed	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Shared Housing (e.g., AIRBNB) - NOV 05, 2017 - 847-432-0411
17-07458381	Nov 05, 2017 1111 W WACKER DR	60601	Vacation Rental Complaints	Unlicensed	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - Shared Housing (e.g., AIRBNB) - NOV 05, 2017 - 847-432-0411
17-07532007	Nov 07, 2017 2745 N HAMPDEN CT	60614	Vacation Rental Complaints	Rules Violation	The owner of this condo is engaged in the business of short term rentals(airbnb) - Concerned Citizen - Other - Shared Housing (e.g., AIRBNB) - OCT 1, 2017
17-07983792	Nov 27, 2017 3943 N RICHMOND ST	60618	Shared Housing / Vacation Rental Complaints	Unlicensed	Concerned Citizen - Shared Housing (e.g., AIRBNB) - Don't know - Unlicensed Rental Property - NOV 25, 2017
17-07987003	Nov 27, 2017 915 S LYTLE ST	60607	Shared Housing / Vacation Rental Complaints	Condition of Property	Vacation Rentals and Travel - THE CALLER STATES THAT HE RENTED THIS PROPERTY FOR 1 WEEK, AND THE LIVING CONDITIONS WERE DEPLORABLE, AND UNSANITARY. THE CALLER WAS UNABLE TO STAY AT THIS RENTAL CONDO, AND HAD TO FIND OTHER SLEEPING ARRANGEMENT AND PAY ADDITIONAL MONEY. THE RENTAL AGENCY REFUSES TO PROVIDE A FULL REFUND FOR THIS PROPERTY..FRUIT FLIES AND INSECTS,AND DIRTY LINEN, AND HORRIBLE SMELL.. NOT TOILET PAPER.. - NOV 24, 2017 - Credit Card - Receipt,Contract
17-08062676	Nov 30, 2017 52 N MENARD AVE	60644	Vacation Rental Complaints	Condition of Property	- Concerned Citizen - Condition of Property (i.e., dirty, poor condition, etc.) - Vacant lot, trash, broken fences hazard to neighbors - Not Applicable - NOV 30, 2017 - Don't know - 773-960-7889
17-08180220	Dec 05, 2017 2025 S INDIANA AVE	60616	Vacation Rental Complaints	Unlicensed	Concerned Citizen - Vacation Rental (e.g., VRBO) - DEC 5, 2017 - Unlicensed Rental Property - unit owner is renting out property as airbnb and that goes against the condo association contract
17-08457833	Dec 18, 2017 11909 S STATE ST	60628	Vacation Rental Complaints	Unknown	- Guest Staying in Rental Property - Other - air quality poor in bedroom, infested with flies, refused refund, and lied on, and kick out, no drinking water - Shared Housing (e.g., AIRBNB) - OCT 17, 2017
17-08495693	Dec 20, 2017 240 E ILLINOIS ST	60611	Shared Housing / Vacation Rental Complaints	Unlicensed	Condo 2 bedroom, 3 bedrooms expansive north views from larger floor plan. Steps to michigan ave and the lake. Lic registration # MGP6423319. I am property owner airbnb is not permitted - Concerned Citizen - airbnb -,Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - DEC 14, 2017
17-08651561	Dec 28, 2017 140 N ASHLAND AVE	60607	Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Condition of Property (i.e., dirty, poor condition, etc.) - Bed Bugs - Not Applicable - OCT 20, 2017 - Don't know

	Location	Zip Code	Type	Complaint Category	Description
18-00014215	Jan 01, 2018 6110 N WINTHROP AVE	60660	Shared Housing/ Vacation Rental Complaints	Rules Vioation	- Concerned Citizen - Unlicensed Rental Property - Becovic Property Management is renting multiple units on Airbnb under multiple accounts to skirt licensing rules. Two units are in my building and they have many more in their other properties. - Not Applicable - DEC 25, 2017 - Don't Know
18-00036097	Jan 03, 2018 6168 N RAVENSWOOD AVE	60660	Shared Housing/ Vacation Rental Complaints	Rules Violation	- Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) - This morning, we woke up to the unit spewing water all down our shared driveway, creating a sheet of ice all the way down to the sewer. - Not Applicable - JAN 03, 2018 - Don't Know - 708-964-3638
18-00037165	Jan 03, 2018 52 N MENARD AVE	60644	Vacation Rental Complaints	Condition of property	- Concerned Citizen - Condition of Property (i.e., dirty, poor condition, etc.) - vacant lot, broken pickets, debris, vacant cars, danger to neighboring connected building, dark, owner not maintaining lot. - Not Applicable - JAN 02, 2018 - Don't Know
18-00058306	Jan 04, 2018 2258 W GRAND AVE	60612	Shared Housing/ Vacation Rental	Unlicensed	- Concerned Citizen - Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - OCT 05, 2017
18-00079423	Jan 05, 2018 507 N OAKLEY BLVD	60612	Shared Housing/ Vacation Rental Complaints	Unlicensed	Original BACP SR #18-00064193 - Residential - HOME - Illegal Airbnb - Tuesday - anytime - 312-659-1033. SEND AFFIDAVIT FOR POSSIBLE ILLEGAL AIRBNB. HERE IS THE AIRBNB LISTING: https://www.airbnb.com/rooms/7070958 - Vacation Rentals and Travel
18-00107555	Jan 07, 2018 1426 N NORTH PARK AVE	60610	Shared Housing/ Vacation Rental Complaints	Multiple including nuisance	Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - CALLER LIVES NEXT DOOR TO THIS AIR B AND B BUSINESS AND THE GUEST ARE THROWING UP BETWEEN HOUSES OWNER IS NOT CLEANING UP AFTER THE MESS - Not Applicable - DEC 23, 2017- CALLER STATES THE OWNER LIVES AT 1532 N LELAND- ON GOING PROBLEM AT THIS ADDRESS
18-00215476	Jan 12, 2018 1426 N NORTH PARK AVE	60610	Shared Housing/ Vacation Rental Complaints	Condition of property	Condition of Property (i.e., dirty, poor condition, etc.) Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - Concerned Citizen - Shared Housing (e.g., AIRBNB) - a lot of traffic in the neighborhood at 2am -4am - JAN 12, 2018 - Don't know - NOV 4, 2017. social media parties
18-00442528	Jan 23, 2018 5409 S DREXEL AVE	60615	Vacation Rental Complaints	Multiple including nuisance	- Guest Staying In Rental Property - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - Shared Housing (e.g., AIRBNB) - JAN 24, 2018
18-00522782	Jan 29, 2018 448 N CARPENTER ST	60642	Vacation Rental Complaints	Unlicensed	Concerned Citizen - Unlicensed Rental Property - Bed and Breakfast - JAN 29, 2018
18-00546259	Jan 31, 2018 10101 S WINSTON AVE	60643	Shared Housing/ Vacation Rental	Unlicensed	- Guest Staying in Rental Property - Other - Shared Housing (e.g., AIRBNB) - JAN 26, 2018 - 872-777-6505 Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises), Unlicensed Rental Property - Resident (unit 2 East) not registered to operate an AIRBNB - Shared Housing (e.g., AIRBNB) - Don't know - (312) 217-1462 - DEC 1, 2017
18-00561447	Feb 02, 2018 2042 N WINCHESTER AVE	60614	Shared Housing/ Vacation Rental Complaints	multiple	

		Location	Zip Code	Type	Complaint Category	Description
18-00708735	Feb 20, 2018	6040 S LA SALLE ST	60621	Shared Housing / Vacation Rental Complaints	Multiple including nuisance	I occupied 6040 S. LaSalle shared Jan 15, 2018 through Jan 24, 2018. (Per identification my owner, Mr. Michael Duckworth in an Airbnb email dated Jan 18, 2018). While there, I observed certain conditions which I believe merit an investigation by the city to ensure that the conditions therein do not pose a threat to the health, safety and welfare of its transient occupants. - Guest Staying in Rental Property - Shared Housing (e.g., AIRBNB) - JAN 24, 2018 - Condition of Property (i.e., dirty, poor condition, etc.) Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) License Rules Violations (i.e., prohibited business list, owner does not live on premises), Other/Unlicensed Rental Property
18-00754766	Feb 24, 2018	7251 S SOUTH SHORE DR	60649	Vacation Rental Complaints	Condition of property	- Guest Staying in Rental Property - Condition of Property (i.e., dirty, poor condition, etc.) - bed bugs - Not Applicable - FEB 05, 2018 - 773-870-9193
18-00762314	Feb 26, 2018	1515 W OAKDALE AVE	60657	Shared Housing / Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Condition of Property (i.e., dirty, poor condition, etc.) Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) - The property is constantly littered with trash in the front. The rear garage door is rarely closed at night, and there is always trash spilling out of the cans. Constantly bags of trash and food and scrap in front of open garage door and inside. There is a very large rat problem and homeless individuals sleep inside the garage at night. - Not Applicable - FEB 26, 2018 - Don't Know
18-00775773	Feb 27, 2018	360 W HUBBARD ST	60654	Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Other - apartment placed on Airbnb - Shared Housing (e.g., AIRBNB) - FEB 26, 2018 - Don't Know
18-0077759	Feb 27, 2018	852 N ELSTON AVE	60642	Shared Housing / Vacation Rental Complaints	Rules Violation	I purchased a 4 unit residential building on Jan, 2018. One of the tenants is renting her unit on AIRBNB which was permitted under the lease of former owner. - Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises), Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - FEB 1, 2018
18-00793007	Feb 28, 2018	40 E 9TH ST	60605	Vacation Rental Complaints	Rules Violation	Illegal Airbnb unit 711. Burnham Plaza is on the prohibited building listing - Concerned Citizen - Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - JAN 1, 2018
18-00845184	#####	1726 N SEDGWICK ST	60614	Shared Housing / Vacation Rental Complaints	Nuisance	with 60-100 people occupying a studio apartment appropriate for 1-3 people and traffic jams happening along Sedgwick at 2am with drive-by revelers, unruly bachelor parties with drunk revelers urinating from the rooftop onto our property, unruly other parties with attendees throwing apples at passers-by and on neighboring properties and rich-kid high school parties, an alternative site for the 7th and dad are out of town so let's have a party? party. I'd be happy to tell you about the sex scene I saw from my home glancing at one of the windows of an apartment at 1726 last winter. It was quite extraordinary? If not vulgar. Who cares that we pay more than \$20,000 in property taxes? we're scheduled to pay \$31,000 by 2020... On Jan 27/28, 2018 police arrived at 1:15 am. Jan 28/29 We hired an off duty police officer from 10pm to 6am to monitor activities of one day renters. On Feb 3/4, 2018 this 6 unit furnished that has modified from short term rental property to one month leases.... On Feb 20, 2017 19th district advised me that Joanne Jones Jeff Jones were not properly licensed. On March 3, 2017 I organized neighbors within 500 feet to write letters to Samanatha Fields. - Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) Unlicensed Rental Property - Vacation Rental (e.g., VRBO) - FEB 20, 2017

	Location	Zip Code	Type	Complaint Category	Description
18-00845667	4928 N LESTER AVE	60630	Shared Housing / Vacation Rental Complaints	Rules Violation	THE UNIT IS BEING USED AS A SHORT TERM RENTAL PROPERTY AND IS CURRENTLY LISTED ON WENSITE AIRBNB. PER THE CONDO ASSOCIATION'S GOVERNING DOCUMENTS, UNITS MAY NOT BE LEASED FOR HOTEL OR TRANSIT USE WHICH IS DEFINED AS AN INITIAL TERM. - Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - FEB 28, 2018
18-00861236	22 W ONTARIO ST	60654	Vacation Rental Complaints	Unlicensed	concern about possible vacation rental within her building - Concerned Citizen - Unlicensed Rental Property - Vacation Rental (e.g., VRBO)
18-00865908	1108 E 82ND PL	60619	Vacation Rental Complaints	Unlicensed	- Concerned Citizen - Other - bed bugs - Not Applicable - FEB 09, 2018
18-00872151	1710 N MAPLEWOOD AVE	60647	Shared Housing / Vacation Rental Complaints	Multiple including nuisance	Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.) License Rules Violations (i.e., prohibited business list, owner does not live on premises), Unlicensed Rental Property - Not Applicable - MAR 2, 2018 - (818) 309-7290 - owner only rents it out when he goes out of town
18-00909997	1515 W OAKDALE AVE	60657	Shared Housing / Vacation Rental Complaints	Multiple including conditions of property	- Concerned Citizen - Condition of Property (i.e., dirty, poor condition, etc.) Other - Trash everywhere out front and in area around garage. Garage door is never closed. Many many rats living around property. Trash cans always overflowing. - Shared Housing (e.g., AIRBNB) - MAR 12, 2018 - Don't know
18-00910312	505 N LAKE SHORE DR	60611	Shared Housing / Vacation Rental Complaints	Unlicensed	ORIGINAL BACP SR #18-00837509 - Residential - HOME - Airbnb rental in a building on the Prohibited Building List: https://abnb.me/Nbaftrnyzk - Monday, Tuesday, Wednesday, Thursday, Friday, Saturday, Sunday - overnight - Vacation Rentals and Travel
18-00946359	55 E WASHINGTON ST	60602	Shared Housing / Vacation Rental Complaints	Unlicensed	- Vacation Rentals and Travel - Downtown Suites is operating without a license, they change the name from Loop Suites to Downtown Suites - MAR 01, 2018 - The building owners, 55 E Development LLC aka Fornelli Tower, is allowing their tenant "downtown suites" formerly know as "loop suites" to operate without a license, they have units on the floors, 13, 14, 15 and 16th
18-00954641	448 N CARPENTER ST	60642	Shared Housing / Vacation Rental Complaints	Unlicensed	Concerned Citizen - License Rules Violations (i.e., prohibited business list, owner does not live on premises) Unlicensed Rental Property - TOWN HOUSE HAS RENTAL ON WEBSITE FOR RENTING OUT - Bed and Breakfast - Don't know - MAR 17, 2018
18-00979663	6250 S PARK SHORE EAST CT	60637	Vacation Rental Complaints	Unlicensed	APARTMENTS ON THAT FLOOR ASAP!!! - Not Applicable - MAR 20, 2018
18-00986106	3753 W GEORGE ST	60618	Shared Housing / Vacation Rental Complaints	Unlicensed	- Other Scams - VRBO - Unauthorized VRBO/vacation renting in this building - 312-395-0293
18-01039512	11 W DIVISION ST	60610	Vacation Rental Complaints	Unlicensed	The building is an apartment building. We don't allow residents to rent their apartments. - Concerned Citizen - Unlicensed Rental Property - Shared Housing (e.g., AIRBNB) - MAR 23, 2018

		Location	Zip Code	Type	Complaint Category	Description
18-01106175	Apr 02, 2018	2527 W HARRISON ST	60612	Shared Housing / Vacation Rental Complaints	Multiple including nuisance	- Guest Staying in Rental Property - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.); Other - In addition to the excessive noise, the host of the property is doing work in the place with excessive noise and dust. The host was doing even wood work inside the place, without ventilation, that has made me cough and headache. I did not take pictures at the time, but I tell my host that I would rather move. She did not accept my complaint and also is even making a party today. - Shared Housing (e.g., AIRBNB) - MAR 22, 2018 - 773-902-8006
18-01135281	Apr 05, 2018	1726 N SEDGWICK ST	60614	Shared Housing / Vacation Rental Complaints	Nuisance	I would like to report the rental unit at 1726 N. Sedgwick are being used as party houses. Cramming in party goers and having police routinely called out in old town, I believe that these Airbnb rentals are greatly contributing to the problem. - Concerned Citizen - Excessive Noise (i.e., loud parties, foot traffic in & out, etc.); License Rules Violations (i.e., prohibited business list, owner does not live on premises); Condition of Property (i.e., dirty, poor condition, etc.); Unlicensed Rental Property - Vacation Rental (e.g., VRBO) - JAN 1, 2018

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

LEILA MENDEZ and ALONSO ZARAGOZA,)	
)	
Plaintiffs,	)	Case No. 16 CH 15489
)	
v.	)	Judge Sanjay T. Tailor
)	
CITY OF CHICAGO, et al.,)	
)	
Defendants.)	
)	

**DECLARATION OF JACOB HUEBERT IN SUPPORT OF
PLAINTIFFS' MOTION TO STRIKE THE AFFIDAVIT OF CHARLES LEE OR,
IN THE ALTERNATIVE, TO STAY SUMMARY JUDGMENT BRIEFING**

I, Jacob Huebert, declare as follows:

1. I am an attorney for the Plaintiffs in the above-captioned matter.
2. During the course of fact discovery in this case, disputes arose as to the sufficiency of the parties' responses to each other's discovery requests.
3. On November 27, 2018, Plaintiffs noticed the deposition of the sole fact witness the City identified in its interrogatory responses, Stefan Shaffer, as well as the deposition of a witness to be designated by the City under Illinois Supreme Court Rule 206(a)(1).
4. In lieu of presenting their discovery disputes to the Court, holding the noticed depositions of fact witnesses, or pursuing further fact discovery, the parties agreed to consider their disputes resolved, cancel the depositions, and proceed to expert discovery.
5. Plaintiffs agreed to this arrangement because both parties agreed in discussing the matter that summary judgment briefing, and any trial, would involve testimony from expert witnesses, not testimony from fact witnesses, rendering further fact discovery unnecessary.

6. Plaintiffs set forth proposed terms of this agreement in a letter of December 13, 2018, a true and accurate copy of which is attached as Exhibit 1.

7. Defendants agreed to the terms set forth in Plaintiffs' letter in an email of December 17, 2018, a true and accurate copy of which is attached as Exhibit 2.

8. But for this agreement, Plaintiffs would have taken depositions of City officials during fact discovery.

9. If Plaintiffs had known that Defendants would rely on the affidavit of an undisclosed fact witness in support of their motion for summary judgment, Plaintiffs would not have agreed to terminate fact discovery before deposing that person.

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct.



Jacob Huebert

August 27, 2019

Date



December 13, 2018

Via Electronic Mail

Weston Hanscom
Jason Rubin
City of Chicago
Department of Law
30 N. LaSalle Street, Room 1020
Chicago, Illinois 60602
Weston.Hanscom@cityofchicago.org
Jason.Rubin@cityofchicago.org

Re: *Mendez v. City of Chicago*, No. 16 CH 15489

Counsel:

This letter is to memorialize the parties' agreement that Plaintiffs and Defendants will conduct no further fact discovery on Plaintiffs' Uniformity Clause claims in the above-captioned matter.

As we discussed in our November 30, 2018 telephone conference and subsequent email correspondence, Plaintiffs and Defendants agree to forgo any further fact discovery related to Plaintiffs' Uniformity Clause claims in this case. That means:

- The parties consider any previous disputes over each other's written discovery responses to be resolved, without waiving any objections the parties have stated regarding the relevance or admissibility of any particular evidence;
- The parties will not seek any further responses to the written discovery requests they have already served on each other; and
- The parties will not depose any non-expert witnesses.

Instead of pursuing further fact discovery, the parties will only produce expert reports and take expert depositions according to the schedule the Court established in its order of December 3, 2018.

The parties agree that this agreement pertains only to fact discovery related to Plaintiffs' causes of action based on the Uniformity Clause of the Illinois Constitution – i.e., it pertains only to the causes of action that survived Defendants' motions to dismiss. This agreement is therefore entirely without prejudice to the parties' ability to conduct discovery on any dismissed claim if a court reverses that

Weston Hanscom
Jason Rubin
Page 2 of 2
December 13, 2018

claim's dismissal. This agreement also is without prejudice to discovery related to additional causes of action any Plaintiff may raise in an amended complaint (with leave of the Court) or in a separate action against Defendants.

Please confirm that this letter correctly describes the agreement on fact discovery between Plaintiffs and Defendants. Or, if Defendants do not believe this fully and accurately reflects the parties' agreement, please advise as to how your understanding of the parties' agreement differs from the understanding set forth above. We will not consider this or any agreement on discovery effective until both parties have manifested their assent to all of its specific terms in writing.

Thank you.

Sincerely,



Jacob Huebert
Senior Attorney
Scharf-Norton Center for Constitutional Litigation
at the Goldwater Institute

cc: Jeffrey Schwab (jschwab@libertyjusticecenter.org)
Timothy Sandefur (tsandefur@goldwaterinstitute.org)
Christina Sandefur (csandefur@goldwaterinstitute.org)

RE: Mendez-201(k) follow-up and proposal

Jason Rubin <Jason.Rubin@cityofchicago.org>

Mon 12/17/2018 3:01 PM

To: Jacob Huebert <JHuebert@goldwaterinstitute.org>; jschwab@libertyjusticecenter.org <jschwab@libertyjusticecenter.org>
Cc: Christina Sandefur <csandefur@goldwaterinstitute.org>; Timothy Sandefur <tsandefur@goldwaterinstitute.org>; Weston Hanscom <Weston.Hanscom@cityofchicago.org>

Jacob—

We agree that your letter of Dec. 13, 2018 accurately describes the agreement on fact discovery between the parties.

From: Jacob Huebert [mailto:JHuebert@goldwaterinstitute.org]

Sent: Thursday, December 13, 2018 11:54 AM

To: Jason Rubin; jschwab@libertyjusticecenter.org

Cc: Christina Sandefur; Timothy Sandefur; Weston Hanscom

Subject: Re: Mendez-201(k) follow-up and proposal

Our letter is attached.

Jacob Huebert

Senior Attorney

Goldwater Institute

(602) 651-1146

www.GoldwaterInstitute.org**[Celebrating 30 Years of Advancing Freedom and Defending Liberty](#)**

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From: Jacob Huebert

Sent: Wednesday, December 12, 2018 1:59:30 PM

To: Jason Rubin; jschwab@libertyjusticecenter.org

Cc: Christina Sandefur; Timothy Sandefur; Weston Hanscom

Subject: Re: Mendez-201(k) follow-up and proposal

Yes, thank you.

Jacob Huebert

Senior Attorney

Goldwater Institute

(602) 651-1146

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From: Jason Rubin <Jason.Rubin@cityofchicago.org>
Sent: Wednesday, December 12, 2018 1:58:28 PM
To: Jacob Huebert; jschwab@libertyjusticecenter.org
Cc: Christina Sandefur; Timothy Sandefur; Weston Hanscom
Subject: RE: Mendez-201(k) follow-up and proposal

Counsel:

We agree that the proposed agreement would not impact or otherwise prejudice further fact discovery on the Plaintiffs' already dismissed claims-to the extent the legal proceedings afford an opportunity for such discovery. Do you want to draft up a formal letter to this effect?

From: Jacob Huebert [mailto:JHuebert@goldwaterinstitute.org]
Sent: Wednesday, December 12, 2018 12:47 PM
To: Jason Rubin; jschwab@libertyjusticecenter.org
Cc: Christina Sandefur; Timothy Sandefur; Weston Hanscom
Subject: Re: Mendez-201(k) follow-up and proposal

Counsel:

We would agree to forgo further non-expert discovery, as you propose, as long as this agreement would be entirely without prejudice to fact discovery on Plaintiffs' claims that have been dismissed if Plaintiffs have the opportunity to pursue those claims later.

In other words, Defendants would have to agree that this agreement pertains only to discovery on Plaintiffs' Uniformity Clause claims and will not affect Plaintiffs' ability to seek discovery related to any other claims they may later pursue against Defendants, either because they ripen (as Plaintiffs' claim related to warrantless searches could) or because the Appellate Court reverses their dismissal.

Please let us know whether that is acceptable to Defendants. If it is, we will memorialize the agreement in a more formal letter.

Thank you.

Jacob Huebert
Senior Attorney
Goldwater Institute
(602) 651-1146
www.GoldwaterInstitute.org

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From: Jason Rubin <Jason.Rubin@cityofchicago.org>
Sent: Friday, December 7, 2018 4:00:17 PM

To: jschwab@libertyjusticecenter.org; Jacob Huebert
Cc: Christina Sandefur; Timothy Sandefur; Weston Hanscom
Subject: Mendez-201(k) follow-up and proposal

Counsel:

Wes and I have discussed the options we all explored via teleconference last week. To that end, we propose proceeding with what you suggested as a possibility. Specifically, the City will agree not to take the depositions of the named plaintiffs. Likewise, the Plaintiffs agree not to take the depositions that they recently noticed up. Also, both parties agree that there are no outstanding issues to resolve with respect to written fact discovery. Instead, the remaining discovery will largely be centered around experts. Per the court's schedule, you will produce your expert's report and we will take his deposition. If we deem it necessary, we will then designate a counter-expert(s) and produce the accompanying report(s). You will then be free to take their depositions. Please let us know whether you are amenable to this proposal. Thank you.

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