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July 30, 2015

VIA EMAIL

Ballot Simplification Committee Members
c/o San Francisco Department of Elections
City Hall, Room 48
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102-4635

Re: *Request for Reconsideration of Digest for Short-Term Residential Rentals Measure*

Dear Committee Members Packard, Fasick,
Fraps, Jorgensen, and Unruh:

On behalf of SF for Everyone, the ballot measure committee primarily formed to oppose the short-term residential rental measure and sponsored by Airbnb, we would like to thank the Committee for the time and effort it devoted to the digest for the Short-term Residential Rentals measure. Although the Committee addressed many of the concerns we raised, we respectfully request that the Committee reconsider three portions of the digest. Pursuant to San Francisco Municipal Elections Code section 610, we include the language we believe should be added and the reasons why.

First, we request that the reference to the City's "Office of Short-Term Residential Rentals" reflect the official name of that office – "Office of Short-Term Residential Rentals Administration and Enforcement." Inclusion of the office's full name is not only accurate but will also assist the voters in understanding the office's purpose – to administer and enforce the City's short-term residential rental law.

Second, we request that the Committee include a reference to a key aspect of the measure. Pursuant to existing law, home sharers are required to maintain records of their occupancy to make such records available to the City upon request. Under the measure,

however, home sharers will be required for the first time to file quarterly reports affirmatively stating how many nights they have stayed in their home for every three-month period. (See Proposed Measure at p. 7 [§ 41A.5(b)].) That information is very personal and the new reporting obligation could chill an individual from participating in home sharing. An obligation to retain records is entirely different than requiring an individual to affirmatively report the information to the City every three months. Therefore, we suggest the following be added to the digest:

Proposition __ would require the City to collect on an ongoing basis personal housing information from permanent residents, including the number of days he or she has lived in the unit for the previous three months.

Third, the digest does not adequately describe the significant expansion to the private right of action in the proposal. Currently, private citizens and nonprofits can only sue a permanent resident in limited circumstances and *cannot* recover any monetary fines. (See Current Ordinance, § 41A.5(d)(3) [“Interested Parties other than the City may not seek or obtain civil penalties.”].) In other words, any damages are limited to compensation for the actual injury suffered by the particular interested party, which in almost all cases is likely to be nothing (i.e. how is someone harmed by a neighbor having an overnight guest?). Under the proposal, however, private citizens can now sue even if the City has determined there has been no violation *and shall be entitled to recover* monetary fines up to \$1,000 per violation per day (the fees go to the private citizen, not the City). Such potential liability, which is untethered to any actual injury an unlawful rental may have caused the interested party, will almost certainly chill residents from offering short-term rentals and will encourage litigation. As a result, the voters should be aware that the proposal creates significant new penalties. We therefore suggest the following change to the last bullet on the first page of the digest:

- Allow interested parties to sue *permanent residents* and hosting platforms *for fines up to \$1,000 per violation per day*.

On behalf of SF for Everyone, thank you for considering this request for reconsideration.

Sincerely,



Thomas A. Willis

TAW:NL

cc: Barbara Carr, Department of Elections (via email)
Joshua White, Deputy City Attorney (via email)