



## REVISED REPORT - As of 1/10/17

**DATE ISSUED:** January 5, 2017

**REPORT NO:** HCR17-005

**ATTENTION:** Chair and Members of the San Diego Housing Commission  
For the Agenda of January 13, 2017

**SUBJECT:** Request for Single Room Occupancy Hotel (SRO) Determination– 701 East San Ysidro Boulevard

**COUNCIL DISTRICT:** 8

### **REQUESTED ACTION:**

Approval of determination that 701 East San Ysidro Boulevard is not a Single Room Occupancy Hotel (SRO) and is not subject to San Diego Municipal Code Chapter 14, Article 3, Division 5, as detailed in this report, and approving provision of SRO relocation benefits to tenants residing at the property by the San Diego Housing Commission, in this unique and special circumstance, only.

### **STAFF RECOMMENDATION**

That the San Diego Housing Commission (Housing Commission) take the following actions, subject to the ability of the Housing Authority of the City of San Diego [Housing Authority] to review the matter, if any one (1) Housing Authority Commissioner gives notice to the President & Chief Executive Officer of the Housing Commission within seven days of the action by the Housing Commission Board:

1. Approve the determination by the Housing Commission that 701 East San Ysidro Boulevard (Property) is not a Single Room Occupancy (SRO) Hotel and is not subject to San Diego Municipal Code Chapter 14, Article 3, Division 5 (SRO Hotel Regulations); and
2. In view of the special and unique circumstances of the matter of the Gateway Inn that are unique to this property, authorize the payment of relocation benefits to each of the low-income tenants of the Gateway Inn, in an amount to which they would have been entitled if the Gateway Inn had been determined to be an SRO Hotel, even though the Housing Commission has no legal obligation to make such payments. These payments are being recommended in accordance with the provisions of Health and Safety Code Sections 34310, 34320.5, 34314, 34311 and 34312, among others, because of the hardship caused to the tenants of the Gateway Inn by the displacement of the low-income tenants, as a result of the condition of the property, code violations and because the property does not constitute safe, decent and sanitary housing for those tenants, together with such other unique factors as may be presented at the time of the hearing, both in the staff report and through public testimony.

### **SUMMARY**

The Housing Commission is responsible for administering SRO Hotel Regulations for the City of San Diego (City), pursuant to Chapter 14, Article 3, Division 5 of San Diego Municipal Code (SDMC). The purpose of the SRO Hotel Regulations is to ensure the retention of the existing number of SRO hotel rooms and to provide assistance to tenants of SRO hotel rooms that will be displaced by the demolition, conversion, or rehabilitation of existing SRO hotel rooms.

The SRO Hotel Regulations require replacement of SRO hotel units that are being converted or demolished. These regulations also provide limited tenant relocation assistance to tenants residing in the SRO hotel that will be displaced by the property's conversion/demolition. It is estimated that between 16 and 18 units are still occupied by tenants. If this matter is approved by the Housing Commission Board, and subject to verification that they are low -income tenants, each unit will receive two month's rent plus up to \$210 in additional payment based upon the formula contained within the San Diego Municipal Code Section 143.0570(b), that would have applied had the property actually been an SRO Hotel. The Housing Commission will pay these relocation benefits. The benefits are estimated to be approximately \$2,000 per unit or less.

### The Property

The Property has 34 units ranging in size from 215 square-feet to 265 square-feet. The units do not have kitchen facilities, and there are no shared kitchen facilities on the site. There is a manager's apartment located on the second floor, and it is the only unit that contains a kitchen. The Property was originally constructed in 1956 as a Travelodge Motel. Until just recently, the property has been utilized as a hotel/motel because that was and is the permitted use under the zoning.

### Property History

On September 17, 2012, the Property was purchased by Tri-Lin LB, LLC ("Owner").

On June 2, 2014, the City issued a Notice of Violation to Tri-Lin LB, LLC, in part due to "hotel rooms are being used as individual long term rental units and business office. The office and manager's apartment above the hotel office is rented as a single-family dwelling." This use of the property is not permitted under the applicable zoning. It constitutes a zoning violation as referenced within the June 2, 2016 Notice of Violation. Page 2 of the Notice of Violation concludes that the operation of the property as an SRO Hotel use is not a permitted use under the provisions of the CSF, CSR and CT zones, referenced within the Notice of Violation. The Housing Commission agrees that the SRO Hotel use is not a permitted use for this property.

On December 30, 2015, the owner applied to the City for a Demolition Permit. The Owner intends to demolish the building and build a parking lot.

On August 24, 2016, Housing Commission staff received information from the City that residents at the Property were being displaced and that the property was potentially an SRO Hotel. Because the Property is listed as an SRO on the City's current list of SRO Hotel Rooms, Housing Commission staff contacted the Owner representative, Mr. Frank Lin, and requested that he submit an SRO application so that the Housing Commission could further research the Property to determine whether the Property was in fact an SRO Hotel and subject to the SRO Replacement and Relocation Regulations.

On October 21, 2016, Mr. Lin submitted the requested SRO application and backup documentation. On November 9, 2016, the City's Code Enforcement Division issued a Notice and Order to Vacate and Repair or Demolish Substandard Building because City Code Enforcement Inspectors determined that the Property was substandard and a public nuisance and that **"all rooms must be vacated immediately."**

## SRO Analysis

As part of the Housing Commission's due diligence, staff and Housing Commission General Counsel reviewed the application, architectural floor plans, Historical Resources Board (HRB) report No. HRB-16-060, the State of California Department of Parks and Recreation (State) records, building permits, and zoning ordinance history. The review of the zoning ordinance in effect at all times since the permit was originally issued DOES NOT AND WOULD NOT ALLOW an SRO or SRO Hotel use, as a permitted use. This conclusion is supported by the Notice of Violation issued by the City as well as the Order to Vacate. So, even though the current owner had been renting some of the units out on a long-term basis, the long-term rental was not allowed under the zoning ordinance. Further, renting of the units on a long-term basis, in violation of the law, does not make the property an SRO Hotel. Apartments are rented on a long-term basis as well. Accordingly, the current long term use would not constitute a pre-existing non-conforming use (i.e. at the time of original construction an SRO use was not permitted.). One of the requirements of a pre-existing non-conforming use, is that the use at the inception be a legal permitted use. The use of the property was as a motel in 1956, when it was permitted and it was utilized as a motel, as referenced below. In addition, the Housing Commission has confirmed with Development Services Department of the City of San Diego that the property was never legally allowed to operate as an SRO, as referenced within the Notice of Violation. Further, the state law and the San Diego Municipal Code contains a provision that deals with the replacement housing requirements for SRO Hotels.

The ordinance provides, in part:

§143.0540 Demolition or Conversion Permit Requirement for SRO Hotel Rooms

**Before a permit to convert or demolish all or part of an SRO hotel or SRO hotel room is issued, the applicant shall execute a Housing Replacement Agreement with the San Diego Housing Commission in accordance with Section 143.0550. A Housing Replacement Agreement is not required unless the SRO hotel had an occupancy permit issued prior to January 1, 1990, and the owner or operator did not deliver a notice of intent to withdraw accommodations from rent to the City before January 1, 2004.**

The Gateway Inn never had an occupancy permit issued for its use as a SRO Hotel, let alone before January 1, 1990. This fact is documented in the Notice of Violation and the Order to Vacate referenced within this report. The property operated as a motel from 1956 and through 1996 when it was owned by Travelodge. Since it didn't operate as an SRO before January 1, 1990, it was not an SRO Hotel before that date and under both state and local law, the Housing Replacement Regulations do NOT apply to this property.

Accordingly, when the property was placed on the SRO list originally, it was placed there in error. Over the years there have several other properties that were placed on the SRO list in error and that have been removed after further review of the facts and after approval by the Housing Commission.

The HRB report revealed that the Property was initially constructed as a Travelodge Motel by Travelodge Construction Corporation in 1956 for use as a motel. According to City records, the Property was unzoned at the time of construction, and became zoned C (Commercial) in September 1957, after construction of the motel. City records indicate ownership by Travelodge between the years of 1956 through 1996. The building permit records provided evidence that the Property was not

permitted for anything other than use as a motel during this time, and San Diego City phone directories shows the site listed as Gateway Motel in 1993.

The State's Primary Record for the Property documented that in 1996, the Travelodge franchise system was sold to HFS Inc., owner of Days Inn and Ramada Inn. This entity also operated motels and hotels.

Importantly, under the current City Zone SYIO-CSR-3, the San Ysidro Implementing Ordinance expressly prohibits SRO hotels. Further review of City zoning and permit records indicate that there is no record that zoning ever permitted use as an SRO for this property, as referenced above, and confirmed by the Notice of Violation, signed by a Land Development Investigator, Alina Cadena. Subsequent to the issuance of the Notice of Violation and the Order to Vacate, Executive Vice President Deborah N. Ruane and General Counsel met with Mr. Vacchi, Mr. Charles Richmond, from Code Enforcement with the City, and three members of the City Attorney's Office, who were involved in the prosecution of the code violations. This meeting served to confirm the Housing Commission's determination, that the placement of the Gateway Inn on the SRO Hotel list was an error.

In addition to permit and zoning review, staff also reviewed the existing site plan and floor plans. There are 34 units at the Property ranging in size from 215 square-feet to 265 square-feet, in addition to a manager's unit and an office. The units do not have kitchen facilities, and there are no shared kitchen facilities on the site. The manager's unit is the only unit that contains a kitchen.

An SRO hotel unit is a guest room or efficiency unit intended or designed to be used, or which is used, rented, or hired out to be occupied, or which is occupied as a primary residence by guests. However, as referenced above, the illegal use of a property as an SRO doesn't change the zoning and does not constitute a Conditional Use Permit that would allow this use as an SRO. According, since the property has never been an SRO, neither the housing replacement requirements nor the tenant relocation requirements of the SRO Ordinance apply to this property.

Based upon the preceding facts, Housing Commission staff, in consultation with General Counsel, are recommending that the Housing Commission Board confirm staff's determination that the Property located at 701 East San Ysidro Boulevard is not an SRO, is not and never has been zoned or permitted as an SRO, nor was it ever built or designed to be an SRO. Staff recommends that the Housing Commission Board direct that the property located at 701 East San Ysidro Boulevard be removed from the City's SRO Inventory List and determine that the property is not subject to the provisions of the SRO ordinance, including both the housing replacement and relocation requirements, for all of the reasons set forth within this report.

In addition, since the tenants residing at the Gateway Inn are losing their homes, the Housing Commission staff recommends that the tenants residing at the Gateway Inn be provided the relocation assistance that they would have received had the property been determined to be an SRO Hotel. The Housing Commission proposes to provide the relocation assistance as is permitted of Housing Authority's under the provisions of Health and Safety Code Section 34320.5, even though the tenants are not legally entitled to the benefits from the owner of the property. This is being recommended in this case because of the special and unique circumstances of this matter, where the property had been erroneously placed on the SRO list and tenants had been allowed, recently, after January 1, 1990, to occupy the property on an extended basis. In this unique situation, the City Code Compliance division has issued an order to vacate a substandard building that the City has determined is a public nuisance.

These factors are unique to this property and will not establish a precedent for any other property in the future.

**AFFORDABLE HOUSING IMPACT**

The Property is not subject to Chapter 14, Article 3, Division 5 of San Diego Municipal Code and therefore existing residents are not eligible for tenant relocation provisions of said code. However, to mitigate the adverse impact to the tenants, in this unique case, the Housing Commission is proposing that relocation benefits be provided to all low-income tenants that reside at the property, to ameliorate the inconvenience to the tenants caused by their displacement.

**FISCAL CONSIDERATIONS**

It is estimated that approximately \$2,000.00 in relocation assistance will be paid to unit affected at the property. The Financial Services Department has verified that the budget contains funds to allow for these payments by the Housing Commission.

**KEY STAKEHOLDERS and PROJECTED IMPACTS**

Key stakeholders include Frank Lin of Tri-Lin LB, LLC and the residents of the Property.

**ENVIRONMENTAL REVIEW**

The request for Single Room Occupancy Hotel determination is categorically exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301 because 701 East San Ysidro Boulevard is an existing facility and the proposed actions involve negligible or no expansion of the existing use. Furthermore, the project meets the criteria set forth in CEQA Section 15301, which allows for the demolition and removal of up to three commercial buildings on sites zoned for such use in urbanized areas and where the exceptions listed in CEQA Section 15300.2 would not apply. Processing under the National Environmental Policy Act is not required since no federal funds are involved in this action.

Respectfully submitted,



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Approved by,



Deborah N. Ruane  
Executive Vice President & Chief Strategy Officer  
San Diego Housing Commission

Hard copies are available for review during business hours at the security information desk in the main lobby and at the fifth-floor reception desk of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101 and at the Office of the San Diego City Clerk, 202 C Street, San Diego, CA 92101. You may also review complete docket materials in the “Public Meetings” section of the San Diego Housing Commission website at [www.sdhc.org](http://www.sdhc.org)