



THE CITY OF SAN DIEGO

DATE: July 10, 2019

TO: Kris Michell, Chief Operating Officer

FROM: Kyle Elser, Interim City Auditor
Office of the City Auditor

SUBJECT: Hotline Report of Improper Free Trash Collection at Short-Term
Residential Occupancy Units

Our Office received a Fraud Hotline report regarding the City's Environmental Services Department (ESD) improperly providing free "nonresidential" trash collection services at short-term residential occupancy (STRO) properties that are occupied for less than a month at a time. According to the San Diego Municipal Code (SDMC), the City Attorney's Office, and ESD's Regulation, STRO rental properties do not qualify for free trash collection service. Our investigation determined that up to 16,000 STRO units receive free trash collection service from the City.

We made one recommendation with three proposed solutions to the ongoing "very likely" prohibited collection of trash from STROs and requested a response from management indicating whether they agreed or disagreed with our recommendation. Management responded that they "partially" agreed with the recommendation and committed to evaluate financial and operational impacts, but did not agree to take any of the actions we recommended. We will bring this report to the attention of the Audit Committee of the City Council and ask that the report be forwarded to the full City Council for further discussion of our proposed recommendation.

The City Provides Free Residential Trash Collection

Since 1919, the City has provided residential trash collection and solid waste management services. The services have been offered at no cost to eligible residences since the 1980s. At that time, amendments to SDMC § 66.0127, known as the People's Ordinance, refined the eligibility criteria for free trash collection. Under the amendments, free trash collection was generally limited to single-family homes within City limits. The City also provides residential recycling and greenery collection services at no cost to residents.

According to the ESD's budget data for Fiscal Year 2018, approximately 108 City employees were involved with the collection of approximately 388 tons of trash at an annual cost of around \$34 million from the General Fund. The ESD website estimates that there are approximately 289,000 residences serviced on a weekly basis. The City of San Diego is one of the only cities in California that offers free trash collection service to its residents.

Short-Term Residential Occupancy in Residential Zones is Apparently Prohibited

A short-term residential occupancy (STRO) typically involves the rental of real property for less than a month at a time. The City has attempted to regulate STROs several times, most recently on August 2, 2018, the City Council adopted ordinances relating to code enforcement and STROs.¹ Negative residential impacts associated with the STROs operating throughout the City, such as improper trash disposal, were cited as part of the rationale for regulating STROs. Although trash collection was identified as an issue related to STROs, the proposed ordinances did not address or regulate the free residential trash collection that the City has been

¹ Specifically, Ordinance Number O-20977 related to the enforcement of STROs and Ordinance Number O-20978 established an STRO License, Affordable Housing Impact Fee, and other requirements. The latter ordinance also proposed to define a STRO as occupancy of less than a month, consistent with the definition of "transient" in the City's existing Transient Occupancy Tax Code under SDMC § 35.0102.

Hotline Report of Improper Free Trash Collection at Short-Term Residential Occupancy Units

providing to STROs. There are approximately 16,000 STROs operating throughout the City, according to a City-retained consultant's estimate as of March 2018.

In a March 2017 Memorandum of Law, the City Attorney determined that STROs in residential zones appear to be prohibited. As such, changes to the SDMC are necessary to address the regulation of STROs. On October 22, 2018, the Council repealed the two new ordinances that would have established license requirements and other regulations related to whole-home STROs. The repeal was the result of a referendary petition opposing the new ordinances. However, all STRO activity is still subject to existing laws. For example, hosts are required to pay Transient Occupancy Tax for rental periods of less than one month. The future regulation of STROs is uncertain as of this report.

Free Trash Collection Service for Short-Term Residential Occupancy Units is Very Likely Prohibited

A June 9, 2017 memorandum from the City Attorney's Office (Attachment A) determined that free trash collection for STROs was "very likely" prohibited by the People's Ordinance. According to the law, free trash collection service is provided for "residential refuse" that is generated from a single family or multi-family residential structure that is owned, leased, or rented for a period one month or more. Therefore, most residences that are occupied for less than one month at a time do not appear to be eligible for free trash collection service. Currently, ESD staff do not evaluate STROs for trash collection service eligibility. However, the proposal of any new STRO regulations may provide the opportunity to address the apparent improper free trash collection for STROs. According to the City Attorney's Office, the City Council could submit an initiative proposing the amendment or repeal of the People's Ordinance to address the restrictions prohibiting trash collection service to STROs.

Conclusion

Although the City Attorney's Office determined that free trash collection for STROs is "very likely" prohibited by the People's Ordinance and the operation of STROs in residential areas is apparently unlawful, the City continues to provide trash collection service to STROs at no charge. We identify possible solutions in our recommendation.

Recommendation and Management's Response

**(See Attachment B for Definitions of Fraud Hotline Recommendation
Priorities, and Attachment C for the original Management Response Memo)**

Recommendation 1

Because the City Attorney's Office determined that free trash collection for short term residential occupancy (STROs) is "very likely" prohibited by the People's Ordinance, and the City continues to provide trash service to STROs at no cost, we recommend that the Chief Operating Officer implement one or more of the following solutions (Priority 1):

- a) identify and remove free trash service for City households generating "nonresidential refuse;"**
- b) recommend that the Council submit an initiative proposing a repeal of the People's Ordinance; and/or**
- c) recommend that the Council submit an initiative proposing to amend the People's Ordinance to allow "nonresidential refuse" collection from STROs, which could include cost recovery.**

Hotline Report of Improper Free Trash Collection at Short-Term Residential Occupancy Units

Management Response: Management partially agrees with the recommendation.

Management is planning to initiate the following review of this issue.

- I. Evaluate the impacts from an operational and financial standpoint of providing free solid waste and recycling collection services for single and multi-family residents.
- II. Identify and verify the number of Short-Term Residential Occupants who currently have active Transient Occupancy Registration Certificates and the impact on the city providing solid waste and recycling collection services to this customer base including STRO's that do not have registration certificates.
- III. Evaluate the financial and operational impacts of cost recovery for solid waste and recycling collection services provided to Short-Term Residential Occupants.
- IV. Monitor any state legislation regarding Short-Term Residential Occupants and evaluate impacts in providing solid waste and recycling collection services.

Target Implementation Date: December 2020

Hotline Report of Improper Free Trash Collection at Short-Term Residential
Occupancy Units

This report was written by Fraud Investigator Andy Horita, and the investigation was conducted under the authority of California Government Code Section 53087.6 which states:

(e) (2) Any investigative audit conducted pursuant to this subdivision shall be kept confidential, except to issue any report of an investigation that has been substantiated, or to release any findings resulting from a completed investigation that are deemed necessary to serve the interests of the public. In any event, the identity of the individual or individuals reporting the improper government activity, and the subject employee or employees shall be kept confidential.

(3) Notwithstanding paragraph (2), the auditor or controller may provide a copy of a substantiated audit report that includes the identities of the subject employee or employees and other pertinent information concerning the investigation to the appropriate appointing authority for disciplinary purposes. The substantiated audit report, any subsequent investigatory materials or information, and the disposition of any resulting disciplinary proceedings are subject to the confidentiality provisions of applicable local, state, and federal statutes, rules, and regulations.

Thank you for taking action on this issue.

Respectfully submitted,

A handwritten signature in black ink that reads "Kyle Elser". The signature is written in a cursive, flowing style.

Kyle Elser
Interim City Auditor

Hotline Report of Improper Free Trash Collection at Short-Term Residential
Occupancy Units

Attachment A – City Attorney Memorandum

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 533-5800

DATE: June 9, 2017

TO: Honorable Mayor and City Council

FROM: City Attorney

SUBJECT: Fiscal Year 2018 Budget and Twice Weekly Refuse Collection to Mission Beach
Residences During the Summer Months

INTRODUCTION

At the May 4, 2017, Budget Committee hearing for the Environmental Services Department (ESD), the Committee received public comments requesting that the City of San Diego (City) provide a second weekly refuse collection in Mission Beach during the summer months under the People's Ordinance. Last year, the Mayor's revised Fiscal Year (FY) 2017 Budget included funding for that service, however it was a one-time expenditure to be re-evaluated in future fiscal years.¹ The Mayor's proposed and revised FY 2018 Budget did not allocate funding for this additional service.^{2,3}

On June 3, 2016, this Office issued a memorandum analyzing whether the City could collect "residential refuse," as defined under the People's Ordinance, twice weekly in Mission Beach during the summer months. *See* City Att'y MS-2016-17 (June 3, 2016). More recently, on May 10, 2017, this Office issued a summary of information on this subject to Councilmember Zapf. *See* Attachment A. We have also verbally provided related information during several past Budget Committee hearings for ESD, including for FY 16 and FY 15. As the public has again requested the second collection during FY 2018, we now provide this opinion to reiterate and consolidate our advice related to the City providing that service under the People's Ordinance

¹ *See* Independent Budget Analyst Report No. 16-11, at 10-11 (June 8, 2016).

² Of note, the proposed FY 2018 Budget reflects General Fund expenditures outpacing revenue growth and includes budget reduction proposals from each City Department in order to present a balanced budget. *See* FY 2018 Proposed Budget, Executive Summary (May, 3, 2017).

³ On June 5, 2017, the City Council amended the Mayor's revised FY 18 Budget and included \$70,000 for a second collection in Mission Beach during the summer. The Mayor has indicated that he may exercise veto authority over the amended Budget, which could include vetoing the City Council's addition of funding for the second collection. In that event, the City Council can undertake a veto override action within five business days of the Mayor's veto action. *See* San Diego Charter § 69.

Hotline Report of Improper Free Trash Collection at Short-Term Residential Occupancy Units

Honorable Mayor and City Council
June 9, 2017
Page 2

QUESTION PRESENTED

Does a second weekly refuse collection to all Mission Beach residences during the summer months violate the People's Ordinance?

SHORT ANSWER

Very likely yes. The People's Ordinance prohibits the City from collecting "nonresidential refuse," as defined, which includes refuse from single and multi-family residences that are occupied through ownership, lease or rental for less than one month (transient occupancy). The public reports that a large number of short-term, summer residential rentals in Mission Beach cause the summer fly population and the need for additional refuse collection. The People's Ordinance prohibits the City from collecting refuse from residences with transient occupancy, including those in Mission Beach. The City may collect "residential refuse," as defined under the People's Ordinance, twice weekly in Mission Beach during the summer if a rational basis exists for the preferential treatment. *See* City Att'y MS-2016-17.

BACKGROUND

The People's Ordinance, codified at San Diego Municipal Code section 66.0127, governs the collection, transportation, and disposal of refuse in the City of San Diego. The People's Ordinance was first adopted in 1919 as a voter initiative and subsequently amended by the voters through City-sponsored initiatives in 1981 and 1986. It was a response to City residents' continued dissatisfaction with the private refuse haulers licensed by the City to collect City refuse. Citizens complained the private service was too costly, unreliable, and encouraged illegal dumping.⁴ In addition, citizens were frustrated that the private collector not only charged citizens to collect refuse, but also made money from selling the refuse to hog farmers for feed.⁵

The 1919 version of the People's Ordinance required the Council to levy a sufficient tax to pay for collection and disposal. However, the 1986 amendment to the People's Ordinance eliminated the City's ability to impose a tax to fund these services and required the City to continue providing the services to eligible residences. The 1986 amendment also limited the residences eligible for the service. Eligible residences are primarily single family homes and ineligible residences are primarily condominiums, apartments, and mobile homes. There is no limit to the amount of refuse the City must collect from each eligible residence, and dispose of, for free. San Diego is the only major California city that does not recover at least a portion of its refuse collection expenses from those that are provided collection services.⁶

The primary source of funding for refuse (black bin) collection services is the City's General Fund. Currently, the General Fund provides \$34 million annually to ESD to provide refuse

⁴ City Manager's Report No. 86-293 at 1.

⁵ City Manager's Report No. 94-223 at 2; City Manager's Report No. 93-197 at 2.

⁶ Fees for refuse collection services are charged in all but three California cities with populations over 7,000. Only the City of San Diego, Newport Beach, and El Monte do not charge for collection services. 2010 City Att'y MOL 349 at 352 (2010-16; July 16, 2010).

Hotline Report of Improper Free Trash Collection at Short-Term Residential Occupancy Units

Honorable Mayor and City Council
June 9, 2017
Page 3

collection to eligible residences.⁷ See IBA Report No. 17-16 at 91 (April 28, 2017). Further, ESD's Recycling Fund expends over \$18 million annually to collect recyclable materials, including greenery, from those residences.⁸ *Id.* at 85.

ANALYSIS

I. THE PEOPLE'S ORDINANCE PROHIBITS THE CITY FROM COLLECTING "NONRESIDENTIAL REFUSE"

Under the People's Ordinance, the City must collect, transport, and dispose of "residential refuse" at least once per week at no cost to the residence. SDMC § 66.0127(c)(1). "Residential refuse" is the refuse normally generated from a "residential facility" that is placed at the curb line of public streets at designated times in approved containers.⁹ ESD currently provides once weekly refuse collection services, at no cost, to all City residences that receive the service.

The People's Ordinance, state law, and case law do not require the City to provide refuse collection services beyond once a week. State law obligates the property owner or tenant to remove refuse from their property at least once per week. Cal. Code Regs., title 14, § 17331. And, "[i]t is the householders' duty to dispose of household waste in a manner not violative of laws and ordinances prohibiting the maintenance of nuisances and safeguarding public health." *Silver v. City of Los Angeles*, 217 Cal. App. 2d 134, 139 (1963). So, although the People's Ordinance requires the City to collect "residential refuse" once weekly, the City is not obligated to provide a higher level of service.

Under the People's Ordinance "the City *shall not* collect Nonresidential Refuse..." SDMC § 66.0127(c)(2) (emphasis added). The use of the term "shall" in the statutory context is generally regarded as mandatory and not permissive in nature, particularly where a general code provision dictates it is mandatory and nothing else indicates it should apply differently to the code section at issue. See *Kingdomware Technologies, Inc. v. U.S.*, 136 S. Ct. 1969, 1977 (2016); see also *Governing Board v. Felt*, 55 Cal. App. 3d 156, 162 (1976); see also SDMC § 11.0209(b) (providing that, for purposes of the Municipal Code, "[s]hall" is mandatory; "may" is permissive). Further, this Office and ESD have consistently interpreted the People's Ordinance as prohibiting City collection of "nonresidential refuse." See 2006 City Att'y MOL 317 at 318 (2006-13; July 19, 2006); see also City Att'y MS-2016-17, fn 3 (June 3, 2016); see also Waste Management Regulation R-009-10 at 4 (July 26, 2010) (providing the City "will not provide Non-Residential Refuse Collection Services"). The People's Ordinance is clear in its prohibition on the City's collection of "nonresidential refuse."

⁷ Of note, there is no separate property tax that funds City refuse collection services. Like other cities, San Diego shares property taxes with the state, county, schools and other public agencies.

⁸ This funding, if not spent on recycling collection services, could serve as a significant funding source for implementation the City's adopted Zero Waste Plan. See Report to City Council No.15-063 at 6 (June 17, 2015).

⁹ "Residential Facility" is a single family or multi-family residential structure that is used and occupied through ownership, lease or rental for periods of one month or more ("nontransient occupancy"). SDMC § 66.0127(a)(4); SDMC § 66.0127(a)(5).

Hotline Report of Improper Free Trash Collection at Short-Term Residential Occupancy Units

Honorable Mayor and City Council
June 9, 2017
Page 4

“Nonresidential refuse” means all privately generated refuse that is not “residential refuse.”¹⁰ SDMC § 66.0127(a)(3). As described above, “residential refuse” is the refuse normally generated from a single or multi-family residence that is used and occupied for “nontransient occupancy” (occupancy through ownership, lease or rental for periods of one month or more). SDMC § 66.0127(a)(2). Therefore, the People’s Ordinance prohibits the City from collecting refuse from single and multi-family residences that are used or occupied for less than one month, because they generate “nonresidential refuse.” See SDMC §§ 66.0127(a)(3)-(5). The public views short-term residential summer rentals in the Mission Beach area as causing an increase in the summer fly population that requires additional refuse collection.¹¹ The People’s Ordinance prohibits the City from collecting refuse from those Mission Beach residences that are occupied through ownership, lease or rental for less than one month.¹²

II. THE MISSION BEACH COMMUNITY MAY PURSUE OTHER MEANS OF OBTAINING ADDITIONAL REFUSE COLLECTION SERVICES

This Office has advised that the Mission Beach community may seek other alternatives to obtain additional refuse collection services, such as through the formation of a Maintenance Assessment District (MAD) or by contracting with one of the City’s franchised haulers. For example, in FY 2014, the nonprofit Beautiful Mission Beach contracted with franchisee Dependable Disposal for additional refuse collection services during the summer months. This Office can assist with the pursuit of that option by again facilitating the execution of a memorandum of agreement between the City and the community’s choice of franchised hauler.¹³ Overall, these alternatives do not raise concerns related to the People’s Ordinance because they do not entail the City providing the additional refuse collection services.

¹⁰ The sole exception is once-weekly collection of certain refuse generated by small business enterprises, if authorized by the City Council. SDMC § 66.0127(a)(1)-(3); SDMC § 66.0127(c)(2). City Council eliminated all refuse collection services for all small business enterprises beginning in FY 2012. And, providing additional refuse collection to any Mission Beach residences as small business enterprises could violate the intent of the exception. See 2006 City Att’y MOL 317 (2006-13; July 19, 2006).

¹¹ See generally, public comments submitted at Budget Committee hearings for ESD.

¹² The City may collect “residential refuse” more than once weekly, such as in Mission Beach during the summer months, as a policy decision. But, the preferential treatment must comply with equal protection requirements. Equal protection under the federal and state constitutions requires that governmental decision makers treat parties equally under the law if those parties are, in all relevant respects, alike. U.S. Const. amend. XIV, § 1; Cal. Const. art. I, § 7; *Las Lomas Land Co., LLC v. City of Los Angeles*, 177 Cal. App. 4th 837, 857 (2009). To withstand a legal challenge, a rational basis must exist for the preferential treatment. In other words, the preferential treatment must bear a rational relationship to a legitimate state interest. *Warden v. State Bar*, 21 Cal. 4th 628, 650 (1999). Here, a rational basis may exist due to the severe fly problem that has been reported to exist in Mission Beach during the summer months, which may be addressed by a second collection. Courts have upheld governmental actions that target nuisances and public health and safety concerns as exercises of legitimate state interests. See *County of Tulare v. Nunes*, 215 Cal. App. 4th 1188 (2013); see also *Griffith v. City of Santa Cruz*, 207 Cal. App. 4th 982 (2012). Although the City Council is not required to articulate its reasoning at the time of decision making, the record should contain sufficient information to support a rational basis. That could include the type of information that Mission Beach residents have presented at prior ESD budget hearings.

¹³ The memorandum of agreement is necessary to allow the franchisee’s use of City-provided collection containers.

Hotline Report of Improper Free Trash Collection at Short-Term Residential
Occupancy Units

Honorable Mayor and City Council
June 9, 2017
Page 5

Additional options exist in repealing or amending the People's Ordinance given that the prohibition on City collection of "nonresidential refuse" is due to specific language in the ordinance. The 1919 People's Ordinance and its subsequent amendments were adopted by the voters and may only be amended, or repealed, by a majority vote of the electorate. 2005 City Att'y Report 435 at 236 (2005-13; June 13, 2005). The City Council has the authority to submit an initiative proposing an amendment or repeal of an existing legislative act to the electorate for a vote. *Id.*; SDMC § 27.1001. City residents may also undertake a voter initiative through a successful initiative or referendum petition and signature gathering campaign. SDMC § 27.1001. Thus, the Council, or City residents, may exercise their initiative powers and place a measure on the ballot to amend the People's Ordinance. This Office has previously analyzed a potential amendment that would permit the City to collect a cost-recovery fee for the collection services provided. *See* 2005 City Att'y Report 435 (2005-13; June 12, 2005). If the Council desires to pursue amending or repealing the People's Ordinance, this Office is available to assist with that effort.

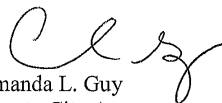
CONCLUSION

The People's Ordinance prohibits the City from collecting "nonresidential refuse," as defined, which includes refuse from single and multi-family residences with occupancy of less than one month. A second collection in Mission Beach during the summer months presents a significant risk of violating the People's Ordinance because the public reports that a large number of short-term, summer residential rentals in Mission Beach cause the summer fly population and the need for additional refuse collection. The City may collect "residential refuse," as defined under the People's Ordinance, twice weekly in Mission Beach during the summer months if a rational basis exists for the preferential treatment.

The People's Ordinance does not prohibit the Mission Beach community's pursuit of additional refuse collection services by contracting with one of the City's private franchised haulers or through formation of a Maintenance Assessment District (MAD) that includes the additional service. Additionally, the People's Ordinance may be amended or repealed through a voter initiative to address its current restrictions.

MARA W. ELLIOTT, CITY ATTORNEY

By


Amanda L. Guy
Deputy City Attorney

ALG:js

cc: Mario X. Sierra, Director, Environmental Services Department
Darren Greenhalgh, Assistant Director, Environmental Services Department
Johnnie Perkins, Deputy Director, Environmental Services Department

Hotline Report of Improper Free Trash Collection at Short-Term Residential
Occupancy Units

City Attorney Memorandum's Attachment A

**Office of
The City Attorney
City of San Diego**

(619) 533-5800

DATE: May 10, 2017
TO: Councilmember Lorie Zapf
FROM: City Attorney
SUBJECT: Summary of Information Related to the People's Ordinance and a Second Refuse Collection in the Mission Beach Area

The following summarizes information related to the People's Ordinance (San Diego Municipal Code section 66.0127) and a second refuse collection in the Mission Beach area. Our Office has provided the following information publicly during several past Budget Committee hearings for the Environmental Services Department (ESD) and in MS-2016-17, dated June 3, 2016.

- The People's Ordinance governs the collection, transportation, and disposal of refuse in the City of San Diego (City).
- The People's Ordinance provides that the City shall collect "residential refuse" at least once per week at no cost to the resident. *See* SDMC § 66.0127(c)(1). "Residential Refuse" is the refuse normally generated from a "residential facility"¹ that is placed at the curb line of public streets at designated times in approved containers. *See* SDMC § 66.0127(a)(2).
- The City may collect "residential refuse" twice weekly in the Mission Beach area if a rational basis exists for the preferential treatment. *See* MS-2016-17. Rational basis means that the additional refuse collection must bear a rational relationship to a legitimate public interest.
- The People's Ordinance prohibits the City from collecting "nonresidential refuse."² *See* SDMC § 66.0127(c)(2). "Nonresidential refuse" includes refuse from a "residential facility" that does not have occupancy through ownership, lease or rental for periods of one month or more ("nontransient occupancy"). *See* SDMC § 66.0127(a)(3)-(5).

¹ "Residential facility" means a single family or multi-family residential structure used and occupied for Nontransient Occupancy. SDMC § 66.0127(a)(4).

² The only exception for "nonresidential refuse" is for a Council-approved, once-weekly, collection from a "small business enterprise." "Small business enterprise" means a commercial establishment providing sales and services to the public and licensed or taxed the City. SDMC § 66.0127(a)(5).

Hotline Report of Improper Free Trash Collection at Short-Term Residential
Occupancy Units

May 10, 2017
Page 2

- The public views residential summer vacation rentals in the Mission Beach area as causing an increase in the summer fly population that requires additional refuse collection.³ The People's Ordinance prohibits the City from collecting refuse from residences that are occupied through ownership, lease or rental for less than one month.
- The People's Ordinance does not prohibit the Mission Beach community's pursuit of additional refuse collection services from a City franchised hauler or through a maintenance assessment district (MAD).

MARA W. ELLIOTT, City Attorney

By


Amanda L. Guy
Deputy City Attorney

ALG:js

cc: Mario X. Sierra, Director, Environmental Services Department
Darren Greenhalgh, Assistant Director, Environmental Services Department
Bruce Williams, City Council Representative, District 2

³ See generally, public comments provided at ESD Budget Committee hearings.

Attachment B – Definition of Fraud Hotline Recommendation Priorities

DEFINITIONS OF PRIORITY 1, 2, AND 3

FRAUD HOTLINE RECOMMENDATIONS

The Office of the City Auditor maintains a priority classification scheme for Fraud Hotline recommendations based on the importance of each recommendation to the City, as described in the table below. While the City Auditor is responsible for providing a priority classification for recommendations, it is the City Administration's responsibility to establish a target date to implement each recommendation taking into considerations its priority. The City Auditor requests that target dates be included in the Administration's official response to the findings and recommendations.

Priority Class ²	Description
1	<p>Fraud or serious violations are being committed.</p> <p>Significant fiscal and/or equivalent non-fiscal losses are occurring.</p> <p>Costly and/or detrimental operational inefficiencies are taking place.</p> <p>A significant internal control weakness has been identified.</p>
2	<p>The potential for incurring significant fiscal and/or equivalent non-fiscal losses exists.</p> <p>The potential for costly and/or detrimental operational inefficiencies exists.</p> <p>The potential for strengthening or improving internal controls exists.</p>
3	<p>Operation or administrative process will be improved.</p>

² The City Auditor is responsible for assigning Fraud Hotline recommendation priority class numbers. A recommendation which clearly fits the description for more than one priority class shall be assigned the higher number.

Hotline Report of Improper Free Trash Collection at Short-Term Residential
Occupancy Units

Attachment C – Management’s Response Memo



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: July 9, 2019

TO: Kyle Elser, Interim City Auditor, Office of the City Auditor

FROM: Johnnie Perkins, Deputy Chief Operating Officer, Infrastructure/Public Works
via Ronald H. Villa, Assistant Chief Operating Officer

SUBJECT: Management’s Response to the Hotline Report of Improper Free Trash
Collection at Short-Term Residential Occupancy Units

The purpose of this communication is to provide Management’s response to the recommendations in the Office of the City Auditor’s memorandum regarding the hotline report of improper free trash collection at Short-Term Residential Occupancy Units.

RECOMMENDATION 1:

Because the City Attorney’s Office determined that free trash collection for short term residential occupancy (STROs) is “very likely” prohibited by the People’s Ordinance, and the City continues to provide trash service to STROs at no cost, we recommend that the Chief Operating Officer implement one or more of the following solutions (Priority 1):

- a) identify and remove free trash service for City households generating “nonresidential refuse;”
- b) recommend that the Council submit an initiative proposing a repeal of the People’s Ordinance; and/or
- c) recommend that the Council submit an initiative proposing to amend the People’s Ordinance to allow “nonresidential refuse” collection from STROs, which could include cost recovery

MANAGEMENT RESPONSE: Management partially agrees with the recommendation.

Management is planning to initiate the following review of this issue.

- I. Evaluate the impacts from an operational and financial standpoint of providing free solid waste and recycling collection services for single and multi-family residents.

Hotline Report of Improper Free Trash Collection at Short-Term Residential
Occupancy Units

Page 2

Kyle Elser, Interim City Auditor, Office of the City Auditor

July 9, 2019

- II. Identify and verify the number of Short-Term Residential Occupants who currently have active Transient Occupancy Registration Certificates and the impact on the city providing solid waste and recycling collection services to this customer base including STRO's that do not have registration certificates.
- III. Evaluate the financial and operational impacts of cost recovery for solid waste and recycling collection services provided to Short-Term Residential Occupants.
- IV. Monitor any state legislation regarding Short-Term Residential Occupants and evaluate impacts in providing solid waste and recycling collection services.

Target Implementation Date: December 2020.

cc: Aimee Faucett, Chief of Staff, Office of the Mayor
Kris Michell, Chief Operating Officer
Stacey LoMedico, Assistant Chief Operating Officer
Rolando Charvel, Chief Financial Officer
Jessica Lawrence, Director of Finance Policy and Council Affairs, Office of the Mayor
Lee Friedman, Infrastructure Policy Manager, Office of the Mayor
Mario Sierra, Director, Environmental Services Department