




Office of the City Manager

INFORMATION CALENDAR

December 18, 2007

To:  Honorable Mayor and Members of the City Council

From:  Phil Kamlarz, City Manager

Submitted by: Michael Caplan, Acting Manager, Office of Economic Development

Subject: Status Update - Right-to-Know Ordinance

INTRODUCTION

This report provides an update on the April 25, 2006 Council Referral to the Commission on Labor (Commission) and City Manager regarding development of a Right-to-Know Ordinance that could protect Berkeley visitors from unknowingly booking a room at a hotel where there is a labor dispute.

CURRENT SITUATION AND ITS EFFECTS

The Commission does not have final recommendations at this time. The Commission has had a variety of competing priorities and hasn't yet been able to fully explore this issue.

BACKGROUND

In the wake of the initial Council referral, the Commission placed this matter on its May 17, 2006 Agenda. The item was not discussed and was twice carried over until a Special Commission Meeting held on September 27, 2006 where the Commission formed a Right-to-Know Subcommittee. Two Subcommittee meetings were spent reviewing the draft language and hearing testimony in support of the Ordinance from a representative of UNITE (formerly the Union of Needle trades, Industrial and Textile Employees) and HERE (Hotel Employees and Restaurant Employees International Union), now known as UNITE HERE Local 2850.

The Subcommittee reported back to the Commission on January 17, 2007 and the Commission voted to approve the draft Right-to-Know Ordinance as amended by the Subcommittee: *M/S/C (Smith, Tregub)*. On May 16, 2007, the Commission held a Public Hearing to allow members of the community an opportunity to speak on the proposal. No members of the public were present and the Commission voted *M/S/C (Gilbert/Monk-Hallberg)* to continue the public hearing over to the July 17, 2007 meeting.

The July meeting was cancelled due to lack of a quorum but two members of the hospitality industry were present to speak. These speakers subsequently submitted

comments via e-mail (Attachments 1 and 2) that expressed deep concerns about the impact of the proposed Ordinance.

POSSIBLE FUTURE ACTION

In the wake of future input from the hospitality industry, the Commission will likely review the current Subcommittee recommendation and make a formal recommendation to Council.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

It is difficult to ascertain the fiscal impacts of a Right-to-Know Ordinance but, as industry leaders point out, it could have a negative impact on Transient Occupancy Tax revenues. Such revenues would be reduced if visitors were to decide not to stay in Berkeley for fear of reduced services in the hotels or motels.

CONTACT PERSON

Delfina Geiken, Secretary, Commission on Labor, 981-7551

Attachments:

- 1: Rose Garden Inn letter
- 2: Doubletree Hotel letter

As a hotel operator in Berkeley, and someone who serves on the Board of Directors of both the Convention and Visitor's Bureau and the Chamber of Commerce - I strongly object to the "Right-to-know Ordinance.

This ordinance operates under the assumption that hotel owners will try to deceive our guests about happenings at our facilities. However, the nature of hotel business is just the opposite - we try everything possible to accommodate our guests.

Having worked in hotels that have undergone renovations - often renovations can be completed without the guests even knowing they are happening. If the renovations are disruptive - most hotels have policies in place already to forewarn their guests. Since hotels survive on return business - hotel operators do not want unhappy clients.

Another faulty assumption of the ordinance is that, a dissatisfied guest, will not return to Berkeley. Any one who works in the hospitality industry knows that is not the case. The guest will simply choose another property that better suits their needs. People who stay in Berkeley - do so because of Berkeley's unique atmosphere. They would not be that easily dissuaded.

Since only one of Berkeley's hotels is union, the work stoppage section is simply not needed. I do realize - that in a city like San Francisco - that has many union properties - work stoppages could be a larger issue. This seems an effort to copy a San Francisco ordinance that is not necessary in our city.

And finally - the liability section. How could we, as hotel operators, support a law that opens up the possibility for our hotels to be sued? If our guests are unhappy, they already have remedies. They can deny the credit card payment or pursue resolution with the hotel management.

I hope that you will take my comments into consideration when debating this issue. As a resident of Berkeley - and a hotel operator within the City - I could not more strongly disagree with passage of this ordinance.

Sincerely,

Kevin Allen  
Innkeeper  
Rose Garden Inn



The proposed ordinance notwithstanding if enacted will have a definite impact on our business, and would potentially impact our current and future revenues, which in turn will impact the City revenues if the Hotel is forced to yield to this ordinance. Rather than deal with the hassle the customers will simply move their business and dollars to Emeryville.

We recently negotiated our contract, a process that took 5-6 months of negotiations before we reached an agreement. While negotiating the terms of the contract the Union staged several rallies that we were not privileged to, the protest took place in front of our Hotel at 6:00 am in the morning with horns, and an assortment of noise makers, and lasted 45 minutes disturbing many of our guests. All along we were negotiating in good faith there were no major issues or obstacles that were impeding the negotiations, but to prove the point to their members the Union staged a protest. So how do we prevent this from occurring when we were not made aware in advance of any scheduled demonstrations? Under the new ordinance would we receive a fine?

Even today after the contract has been ratified they still have the right to protest to make a point, how do we control this situation, and again under the new ordinance would we receive another fine for not informing our guest or groups?

As far as notifying the customer in advance of any disruptions or disputes how would we know?

As for posting items on our website, our websites are designed to drive business not to add a bunch of disclaimers that would prevent guests, groups, association etc. from visiting the City of Berkeley. We do keep our guests informed; if we planning a renovation, a disruption in some of our service, but why would we tell them our prospective guest that we are currently in the process of negotiating a contract that could last for four to six month or however long it may take to ratify the contract, why would we inform our potential guests or groups etc. or list it on our website of a potential labor dispute, I can tell you they would simply not book our Hotels to avoid the hassle.

As far as contacting the guest via e-mail, telephone or in letter form; most Hotels do not have the manpower to perform this task. Most Hotel reservations are no longer booked at the Hotel by the reservation department; the majority of the reservations today are booked through a Central Reservation Service, travel agents, Opaque channels, second and

third party channels. To contact them would be impossible and very time consuming. In my vast Hotel experience, I worked two strikes, and I can tell you that the customers were never inconvenienced; we have a plan in place to address work slowdowns or strikes.

This ordinance would not benefit the Hotels, or the community, and would negatively impact our revenues, which in turn would result in less taxes to the city coffers.

As Hoteliers we should be given more credit on how we operate our business after all our specialty is hospitality, rather than the allegation made in the ordinance that we are deceptive.

Thank you for the time and consideration.

Neil R Poisson

General Manager

Doubletree Hotel & Executive Meeting Center Berkeley Marina

200 Marina Blvd.

Berkeley, CA 94710

Direct Line: (510) 665-7126

Fax: (510) 665-7127

[neil\\_poisson@hilton.com](mailto:neil_poisson@hilton.com)