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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF ORANGE**

12 UNITE HERE LOCAL 11,

13 *Petitioner,*

14 v.

15 CITY OF IRVINE,

16 *Respondent.*

Case No. 30-2024-01406371-CU-WM-NJC

VERIFIED PETITION FOR WRIT OF MANDATE

[Gov’t Code § 7920.000 *et seq.*; Civ. Proc. Code § 1085 *et seq.*]

Assigned for All Purposes

Judge Glenn Salter

INTRODUCTION

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18 1. This action arises from the refusal of Respondent City of Irvine (“Respondent”) to release public records relating to applications from hotel owners seeking waivers from the requirements of the Irvine Hotel Worker Protection Ordinance (“Ordinance”), which the City of Irvine adopted in November 2022.

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22 2. The Ordinance has two purposes: first, to protect Irvine hotel workers from violent or threatening conduct such as sexual assault from hotel guests by requiring hotel employers to provide panic buttons to room attendants who work alone in guest rooms or restrooms; and, second, in hotels of forty-five or more guest rooms, to provide fair compensation to hotel workers when room cleaning workloads exceed certain proscribed limits.

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27 3. Included in the Ordinance is a waiver provision which allows the City of Irvine’s

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1 City Manager, after reviewing a hotel employer’s financial condition, to grant a waiver of the
2 Ordinance’s requirements to any hotel employer who demonstrates that compliance would
3 cause “a significant adverse economic impact,” such as bankruptcy or a shutdown of a hotel.

4 4. Petitioner UNITE HERE Local 11 (“Petitioner”), a labor union that represents
5 hotel workers in the City of Irvine, has submitted a CPRA request to Respondent seeking all
6 documents relating to waiver applications Respondent has received from hotel employers
7 attempting to receive an exemption from the Ordinance’s safety and fair compensation
8 requirements.

9 5. To date, nearly one year after receiving Petitioner’s request, Respondent has
10 refused to produce the substance of the waiver applications Respondent has received from
11 major hotel employers such as the Hilton Garden Inn and Embassy Suites, Hyatt Regency and
12 Hampton Inn, Irvine Marriott, and many others—all who have apparently claimed that
13 compliance with the Ordinance will cause a “significant adverse economic impact” to their
14 businesses.

15 6. Respondent is currently withholding these public records from disclosure on the
16 untenable theory that they could potentially constitute protected “trade secrets” or “official
17 information.”

18 7. Petitioner now asks this Court for a preemptory writ of mandate to compel
19 Respondent to comply with its legal obligations and release the requested records, which
20 Respondent is required to make available to Petitioner under California law.

21 **PARTIES**

22 8. Petitioner UNITE HERE Local 11 is a labor union that represents workers
23 employed in hotels, restaurants, airports, sports arenas, and convention centers throughout
24 Southern California and Arizona.

25 9. Respondent City of Irvine is a municipal corporation organized under the laws of
26 the State of California. Respondent is both a local agency and public agency within the scope of
27 the CPRA. *See* Gov. Code §§ 7920.510(b), 7920.525.

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1 **JURISDICTION & VENUE**

2 10. This Court has jurisdiction under Government Code sections 6258 and 6259,
3 Code of Civil Procedure sections 1060 and 1085, and Article VI, Section 10, of the California
4 Constitution.

5 11. Venue is proper in this Court because the records in question, or some portion
6 thereof, are situated in the County of Orange. *See* Gov't Code § 7923.100. In addition, this
7 Court is within the county in which Respondent is situated. *See* Civ. Proc. Code § 394.

8 **BACKGROUND & FACTUAL ALLEGATIONS**

9 **I. The California Public Records Act**

10 12. The California Constitution provides that “[t]he people have the right of access
11 to information concerning the conduct of the people’s business, and, therefore, the meetings of
12 public bodies and the writings of public officials and agencies shall be open to public scrutiny.”
13 Cal. Const. art. I, § 3(b)(1). In enacting the CPRA, the Legislature found that “access to
14 information concerning the conduct of the people’s business is a fundamental and necessary
15 right of every person in this state.” Gov’t Code § 7291.000.

16 13. The CPRA implements this fundamental right of public access by empowering
17 the public to inspect and copy agency records and codifying specific requirements and deadlines
18 that local agencies must observe upon receipt of a public records request. *See* Gov’t Code §
19 7920.000 *et seq.*

20 14. After an agency receives a CPRA request, it has ten days to respond. Within
21 those ten days, the agency must determine whether the request seeks disclosable public records
22 within its possession, notify the requestor of its determination and reasoning, and provide the
23 requestor with an estimate of when the disclosable records will be made available. *Id.* §
24 7922.535(a).

25 15. In “unusual circumstances,” an agency can extend the time for its response by up
26 to fourteen days, but it must notify the requestor of the reasons for the extension in writing and
27 provide a date on which a determination is expected to be made. *Id.* § 7922.535(b).
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1 16. “[A]ny public record” possessed by a local agency that is not subject to the
2 CPRA’s stated statutory exemptions must be made “promptly available” upon request. *See id.*
3 §§ 7922.525(a), 7922.530(a).

4 **II. The Irvine Hotel Worker Protection Ordinance**

5 17. In November 2022, the Irvine City Council adopted City Council Ordinance No.
6 22-13: An Ordinance of the City Council of the City of Irvine, California, Adding Division 6 to
7 Title 3 of the Irvine Municipal Code Regarding Hotel Worker Protection. *See Ex. A.*

8 18. Among the reasons for the adoption of the Ordinance, the City Council noted
9 that: “hotel workers are vital contributors to the Irvine community and the hospitality industry is
10 an essential component of the City’s economy;” and “hotel workers who work by themselves in
11 guest rooms are vulnerable to crimes and other threatening behavior, including sexual assault;”
12 “hotel workers who clean guest rooms are frequently assigned overly burdensome room
13 cleaning quotas[;]” and “ensuring that hotel workers receive fair compensation for their work
14 assignments promotes the public interest[.]” *Id.* at 1.

15 19. “[G]iven that tourism is a large industry in the City and in the entire region,” the
16 City Council continued, “establishing the foregoing safety and security measures, fair
17 compensation, and worker consent to overtime for hotel workers will not only improve worker
18 safety and working conditions, but also benefit the local and regional economy overall, and
19 thereby promote the public health, safety, and welfare.” *Id.* at 2.

20 20. The Ordinance provides several protections for hotel workers, including, in Sec.
21 3-6-102, “Measures to protect hotel workers from violent or threatening conduct,” and in Sec.
22 3-6-103, “Measures to provide fair compensation for workload.” *Id.* at 5, 7.

23 21. The measures to protect hotel workers from violent or threatening conduct
24 include, among other obligations, a requirement that hotel employers provide certain hotel
25 workers “Personal Security Devices” that the worker can activate when they are threatened with
26 sexual assault or other harmful acts. *See id.* at 5-7.

27 22. In addition to these safety-related provisions, the Ordinance includes several
28 provisions meant to protect room attendants from crushing workloads. Among these is a

1 requirement that, for hotels with at least 45 guest rooms, “a hotel employer shall not require a
2 room attendant to perform room cleaning amounting to a total of more than 4,500 square feet of
3 floor space in any eight-hour workday, unless the hotel employer pays the room attendant twice
4 the room attendant’s regular rate of pay for each and every hour worked during the workday.”

5 *Id.* at 7. There is a similar requirement for hotels with 60 or more guest rooms, which are
6 prohibited from requiring room attendants to perform more than 3,500 square feet of floor space
7 in any eight-hour workday unless double the regular rate of pay is provided for every hour
8 worked during the workday. *See id.*

9 23. The Ordinance offers the possibility of a “[l]imited waiver,” however, to “any
10 hotel employer who demonstrates that compliance . . . would cause a significant adverse
11 economic impact (which could include, but not be limited to, bankruptcy, a shutdown of the
12 hotel, reduction of the hotel’s workforce by more than 20 percent, or curtailment of hotel
13 workers’ total hours by more than 30 percent).” *Id.* at 9.

14 24. The City of Irvine City Manager should grant such a waiver “only after
15 reviewing a hotel employer’s financial condition, to be provided at the hotel employer’s
16 expense.” *Id.*

17 25. The City Manager’s determination “to grant or deny a request for waiver” may
18 then be appealed to the City Council. *Id.* (emphasis added).

19 26. Given that a hotel employer who successfully obtained a waiver would have no
20 reason to appeal, the Ordinance contemplates the possibility that a third party might challenge
21 and appeal the City Manager’s grant of a waiver application.

22 27. Finally, the Ordinance specifies that a hotel employer must provide written
23 notice to all its hotel workers prior to submitting a waiver application—and then once again
24 within three days of receiving a waiver determination. *See id.*

25 **III. Petitioner’s CPRA Request**

26 28. On June 19, 2023, Petitioner submitted a CPRA request to Respondent in which
27 Petitioner informed Respondent that Petitioner had been made aware of “applications submitted
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1 by hotel owners for waivers to the City of Irvine’s Ordinance 22-13 pursuant to Sec. 3-6-104(B)
2 of the ordinance.” Ex. B at 1. Petitioner then requested the following:

3 [A]ll documents from the period beginning on November 22, 2022, to present pertinent
4 or relating to waiver applications, including but not limited to: 1) documents including
5 arguments by the applicants and representatives for why they need/want their waiver
6 applications to be approved, 2) documents including financial information used to
7 support any of the waiver applications and any claims made about the financial or
8 economic health of the business(es) represented by the applicants, and 3) any staff
9 communication with waiver applicants, including but not limited to electronic
10 communications, letters, memoranda, notes, agreements, e-mails (including personal e-
11 mail accounts used to conduct official business), inter-office and intra-office
12 communications, and faxes.

13 *Id.*

14 29. Petitioner then specified sixteen hotels in the City of Irvine for which Petitioner
15 requested this information, “in addition to any others that have applied[.]” *Id.*

16 30. On September 15, 2023, after email correspondence back and forth with
17 Petitioner, Respondent produced a “first production of non-exempt records.” *See* Ex. C at 1.

18 31. This first production included—among other responsive records—notices from
19 hotel employers to their employees informing them that the hotel employers had applied for
20 waivers from the Ordinance, and “Hotel Worker Protection Ordinance Waiver Application”
21 forms created by the City of Irvine City Manager’s Officer that had been completed by hotel
22 employers. *See, e.g.*, Ex. D (showing an example of a hotel employer’s notice and completed
23 waiver application form produced by Respondent). Respondent chose not to include, however,
24 the substance of the applications themselves, namely, the required “[l]etter stating how
25 compliance with Ordinance No. 22-13 will cause a significant adverse economic impact (on
26 business letterhead)” and “[a]ny relevant financial statements and documents, as well as all
27 other applicable documents, to support claim of significant adverse economic impact.” *Id.* at 2.

28 32. In Respondent’s cover letter to Petitioner, Respondent also informed Petitioner
that the City Attorney had determined that Petitioner’s request sought “records that are entirely
exempt from disclosure or require redactions,” including “[r]ecords that fall within the public
interest exemption” and “[p]ersonal information where the public interest served by non-
disclosure clearly outweighs disclosure . . .” Ex. C at 1.

1 33. On October 19, 2023, Respondent released a second production of responsive
2 records to Petitioner. *See* Ex. E. This second production included a large number of emails
3 relating to the Ordinance, but once again, Respondent did not include the waiver applications
4 specifically requested by Petitioner.

5 34. On December 1, 2023, Respondent released a third production of responsive
6 records to Petitioner containing another voluminous collection of emails relating to the
7 Ordinance. *See* Ex. F. Again, however, Respondent did not include the waiver applications
8 specifically requested by Petitioner.

9 35. On January 11, 2024, Petitioner sent Respondent a letter in which Petitioner
10 reiterated that it was seeking “the complete application materials submitted by hotels for their
11 financial hardship waiver applications.” Ex. G at 1. Petitioner clarified that it had requested “all
12 application materials included in each hotel’s financial hardship waiver application,” and in
13 particular, the required adverse economic impact letter and supporting financial statements and
14 documents. *See id.* at 1-2.

15 36. On January 12, 2024, Respondent released a fourth production of responsive
16 records to Petitioner containing another voluminous collection of emails and other records
17 relating to the Ordinance. *See* Ex. H. In this fourth production, however, Respondent once again
18 failed to include the requested waiver application materials.

19 37. In the cover letter Respondent included with the fourth production, Respondent
20 maintained that it was still reviewing potentially responsive records. *See id.* at 1.

21 38. On February 9, 2024, Respondent sent an email to Petitioner in which it revealed
22 that the documents still under review included “financial information submitted with waiver
23 applications.” Ex. I at 1. Respondent stated that it was concerned that the financial records in
24 question “constitute trade secrets which are both protected by the trade secrets privilege and the
25 official information privilege, and thus exempt from the Public Records Act.” *Id.*

26 39. In this latest communication, Respondent stated that if a final determination on
27 the trade secrets issue had not been communicated to Petitioner before the beginning of March,
28 Respondent would provide Petitioner with an update on the matter. *See id.*

1 timely produce responsive records. This conduct violates both the CPRA and the California
2 Constitution.

3 **REQUEST FOR RELIEF**

4 Petitioner respectfully requests that this Court:

- 5 1. Issue a preemptory writ of mandate directing Respondent City of Irvine to
6 provide Petitioner with all requested records except those that may lawfully be
7 withheld;
- 8 2. Award Petitioner reasonable attorneys' fees and costs as provided for by
9 Government Code section 7923.115; and
- 10 3. Order such additional relief as this Court deems proper and just.

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12 Dated: June 13, 2024

Respectfully submitted,

13 THE PEOPLE'S LAW PROJECT: LOS ANGELES

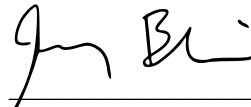
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15 By: /s/ Joshua J. Nuni
16 Joshua J. Nuni
17 Attorney for Petitioner
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VERIFICATION

I, Jeremy J. Blasi, declare as follows:

I am an attorney representing UNITE HERE Local 11, the Petitioner in this matter. I have the authority to act on behalf of UNITE HERE Local 11 and to make this verification for, and on behalf of, UNITE HERE Local 11. I have read the foregoing Verified Petition for Writ of Mandate (“Verified Petition”) and know its contents. The facts alleged in the Verified Petition are within my own personal knowledge, and I know them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed on this 12th day of June, 2024, in Los Angeles, California.



Jeremy J. Blasi

EXHIBIT A

CITY COUNCIL ORDINANCE NO. 22-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
IRVINE, CALIFORNIA, ADDING DIVISION 6 TO TITLE 3 OF
THE IRVINE MUNICIPAL CODE REGARDING HOTEL
WORKER PROTECTION

WHEREAS, the City of Irvine is a charter city organized pursuant to Article XI of the California Constitution and pursuant to the authority so granted, the City has the power to make and enforce within its limits all ordinances and regulations with respect to municipal affairs not in conflict with its own charter. Such powers include, without limitation, the ability to adopt regulations pertaining generally to the protection and promotion of the public health, safety, and welfare; and

WHEREAS, hotel workers are vital contributors to the Irvine community and the hospitality industry is an essential component of the City's economy; and

WHEREAS, hotel workers who work by themselves in guest rooms are vulnerable to crimes and other threatening behavior, including sexual assault; and

WHEREAS, ensuring that hotel workers are equipped with personal security devices and supported in their ability to report criminal and threatening behavior to the proper authorities will promote their personal safety from criminal threat and improve public safety overall; and

WHEREAS, hotel workers who clean guest rooms are frequently assigned overly burdensome room cleaning quotas, and can be disciplined for failing to meet these quotas. Overly burdensome room cleaning quotas undermine the public interest in ensuring that hotel room cleaners can perform their work in a manner that adequately protects public health. Such cleaning requirements also interfere with hotel workers' ability to meet family, community, and personal obligations; and

WHEREAS, ensuring that hotel workers receive fair compensation through a wage premium when their workload assignments exceed defined limits promotes the public interest; and

WHEREAS, ensuring that hotel workers receive fair compensation for their work assignments promotes the public interest and enables hotel workers to receive fair pay for honest work, to perform their work in a manner that adequately protects their personal wellbeing, and to meet personal and family obligations; and

WHEREAS, hotel workers are frequently assigned unexpected and mandatory overtime, which limits hotel workers' ability to meet family and personal commitments and interferes with their ability to schedule in advance for those commitments; and

WHEREAS, prohibiting hotel employers from assigning a hotel worker overtime work when a shift exceeds 10 hours in a day without obtaining the worker's informed consent, except in emergencies, allows hotel workers to schedule and meet family and personal commitments; and

WHEREAS, given that tourism is a large industry in the City and in the entire region, establishing the foregoing safety and security measures, fair compensation, and worker consent to overtime for hotel workers will not only improve worker safety and working conditions, but also benefit the local and regional economy overall, and thereby promote the public health, safety, and welfare.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY ORDAIN as follows:

SECTION 1. The findings and determinations reflected in the above recitals are true and correct and incorporated herein by this reference.

SECTION 2. Division 6 of Title 3 of the Irvine Municipal Code is hereby added to read in its entirety as follows:

Division 6 – Hotel Worker Protection Ordinance

Chapter 1 General Provisions

Sec. 3-6-101. Definitions.

The following words and phrases shall have the meanings set forth below, unless the context requires otherwise.

- A. "Additional bed room" means a guest room with an additional bed or beds other than those regularly within the guest room, such as a cot or rollaway bed.
- B. "Adverse employment action" means an action that detrimentally and materially affects the terms, conditions, or privileges of employment, including but not limited to, any act to discharge, reduce in compensation, reduce work hours, alter established work schedules, increase workload, impose fees or charges, or change duties of a hotel worker.
- C. "Checkout room" means a guest room to be cleaned by a hotel worker due to the departure of the guest assigned to that room.
- D. "City" means the City of Irvine.

- E. "Emergency" means an immediate threat to public safety or of substantial risk of property loss or destruction.
- F. "Guest" means a registered guest of a hotel, a person occupying a guest room with a registered guest, or a visitor invited to a guest room by a registered guest or other person occupying a guest room.
- G. "Guest room" means any room, suite of rooms, dwelling unit, cottage, or bungalow intended to be used by a guest of a hotel for transient sleeping purposes.
- H. "Hotel" an establishment that provides temporary lodging for payment in the form of overnight accommodations in guest rooms to transient patrons for periods of thirty consecutive calendar days or less, and may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. "Hotel" includes hotels, motor lodges, motels, apartment hotels, transient occupancy residential structures, and extended-stay hotels that rent units (including units with kitchens) for fewer than thirty days, private residential clubs, tourist courts, and hostels that contain both dormitory-style accommodations and private guest rooms that may be reserved, meeting the definition set forth above. "Hotel" also includes any contracted, leased, or sublet premises operated in conjunction with a hotel or that is used for the primary purpose of providing services at a hotel. Except as provided above, the term "Hotel" does not include corporate housing, rooming houses, boarding houses, single-room occupancy housing, or licensed bed and breakfast establishments within a single-unit residence. "Hotel" does not include a Short-Term Rental, as defined in Zoning Ordinance Section 3-25-2.E.
- I. "Hotel building" means a structure used as a hotel that contains one or more ground-floor public or guest entrances.
- J. "Hotel employer" means any person who owns, controls, or operates a hotel in the City, and includes any person or contractor who, in a managerial, supervisory, or confidential capacity, employs hotel workers to provide services at a hotel in conjunction with the hotel's purpose.
- K. "Hotel worker" means any person who is employed by a hotel employer to provide services at a hotel. "Hotel worker" does not include a managerial, supervisory, or confidential employee.

- L. "Personal security device" means a portable emergency contact device, including but not limited to a panic button, that signals the hotel worker's location and that provides direct contact between a hotel worker and a hotel security guard or responsible manager or supervisor designated by a hotel employer to respond to violent or threatening conduct. A personal security device does not include a whistle, noise-maker, alarm bell, or similar device that does not provide direct contact between the hotel worker and the designated security officer.
- M. "Room attendant" means a hotel worker whose principal duties are to clean and put in order guest rooms in a hotel.
- N. "Room cleaning" means the performance of services or tasks that are required to prepare or maintain the cleanliness of the physical hotel guest room before, during, or after a guest's stay. Room cleaning does not include time spent maintaining or organizing inventory (e.g., mini-bar, toiletries, towels, linens) or time spent delivering such inventory to a guest room when not accompanied by other room cleaning tasks. Room cleaning does not include turndown service or tasks associated with preparing already-made beds for sleep when not accompanied by other room cleaning tasks. Room cleaning does not include preventative or as needed maintenance activities such as repair, replacement, and general maintenance of appliances, electronics, furniture, doors, windows, carpets, walls, plumbing, and other fixtures.
- O. "Special-attention room" means a checkout room or a guest room for which the occupant declined daily room cleaning on the immediately preceding day.
- P. "Violent or threatening conduct" means: (1) any conduct that involves the use of physical violence or that would reasonably be interpreted as conveying a threat of the use of physical violence, and includes but is not limited to rape, assault (including sexual assault), and battery (including sexual battery), as defined by the California Penal Code, as well as any threat or attempt to commit such an act; or (2) any sexual conduct, or solicitation to engage in sexual conduct, directed by a guest at a hotel worker without the consent of the hotel worker and includes, but is not limited to, indecent exposure as defined by the California Penal Code.
- Q. "Workday" means any consecutive 24-hour period commencing at the same time each calendar day.

Sec. 3-6-102. Measures to protect hotel workers from violent or threatening conduct.

A. Personal Security Devices.

1. A hotel employer shall provide a personal security device to each hotel worker assigned to work in a guest room or restroom facility where other hotel workers are not assigned to be present. The personal security device shall be provided at no cost to the hotel worker and shall be maintained in good working order by the hotel employer.
2. A hotel worker may activate a personal security device whenever a hotel worker reasonably believes that violent or threatening conduct or an emergency is occurring in the hotel worker's presence. Immediately prior to or upon activating the device, the hotel worker may cease work and leave the immediate area of danger to await assistance. No hotel worker shall be subject to an adverse employment action for activating a personal security device or for ceasing work to await assistance absent clear and convincing evidence that the hotel worker knowingly and intentionally made a false claim of emergency.
3. A hotel employer shall at all times have a designated and assigned security guard who can receive alerts from personal security devices and can provide immediate on-scene assistance in the event that a personal security device is activated. Hotels with fewer than 60 guest rooms may utilize a hotel supervisor or manager to fulfill the requirement of this subsection. If a hotel employer designates a manager or supervisory hotel staff member pursuant to this subsection, the hotel employer shall provide no fewer than three (3) hours of training to the manager or supervisory hotel staff member on: (a) the requirements of this chapter; (b) instruction on the proper functioning and maintenance of the hotel's personal security devices; and (c) the protocols for responding to an activated personal security device. Such training shall be conducted at least annually, and the hotel employer shall maintain accurate records demonstrating attendance at such trainings.

- B. **Hotel Workers' Rights.** A hotel worker who brings to the attention of a hotel employer violent or threatening conduct by a hotel guest shall be afforded the following rights:
1. A hotel employer shall immediately allow a hotel worker sufficient paid time to report the violent or threatening conduct to a law enforcement agency and to consult with a counselor or advisor of the hotel worker's choice.
 2. A hotel employer shall not prevent, or attempt to prevent, a hotel worker from reporting violent or threatening conduct to a law enforcement agency.
 3. A hotel employer shall not take or threaten to take any adverse employment action against a hotel worker based on the hotel worker's decision not to report violent or threatening conduct to a law enforcement agency.
 4. Upon request by a hotel worker, a hotel employer shall provide reasonable accommodations to a hotel worker who has been subjected to violent or threatening conduct. Reasonable accommodations may include, but are not limited to, a modified work schedule, reassignment to a vacant position, or other reasonable adjustment to job structure, workplace facility, or work requirements.
- C. **Notice.** A hotel employer shall place on the back of the entrance door to each guest room and restroom facility in a hotel a sign written in a font size of no less than 18 points, that includes the heading "The Law Protects Hotel Workers From Threatening Behavior," provides a citation to this chapter of the Irvine Municipal Code, and notifies guests that the hotel employer provides personal security devices to its employees.
- D. **Training.** A hotel employer shall provide training to its hotel workers regarding how to use and maintain a personal security device, the hotel employer's protocol for responding to activation of a personal security device, and the rights of hotel workers and obligations of the hotel employer as set forth in this section. Such training shall be provided to hotel workers by the later of thirty days after the effective date of this chapter or within one month of the hotel worker's date of hire. For hotels having 60 or more guest rooms, hotel employer shall provide the training in English and each language known by the hotel employer to be spoken by ten percent or more of the hotel workers employed by the hotel employer. The hotel employer shall maintain accurate records demonstrating attendance at such trainings.

- E. Records. A hotel employer shall retain records of incidents where the personal security devices were activated for a period of three years from the incident.

Sec. 3-6-103. Measures to provide fair compensation for workload.

- A. Workload. For hotels with at least 45 guest rooms but fewer than 60 guest rooms, a hotel employer shall not require a room attendant to perform room cleaning amounting to a total of more than 4,500 square feet of floor space in any eight-hour workday, unless the hotel employer pays the room attendant twice the room attendant's regular rate of pay for each and every hour worked during the workday. For hotels with 60 or more guest rooms, a hotel employer shall not require a room attendant to clean rooms amounting to a total of more than 3,500 square feet of floor space in any eight-hour workday, unless the hotel employer pays the room attendant twice the room attendant's regular rate of pay for each and every hour worked during the workday. If a room attendant during a workday is assigned to clean any combination of six or more special-attention rooms or additional-bed rooms, the total workload limitation under this subsection shall be reduced by 500 square feet for each such special-attention room or additional-bed room over five (5). If a room attendant is required to clean floor space in more than one hotel building during a workday, the total workload limitation under this subsection shall be reduced by 500 square feet for each additional hotel building. If a room attendant is required to clean floor space on more than two floors of a hotel building, the total workload limitation under this subsection shall be reduced by 500 square feet for each additional floor. The limitations contained herein apply to any combination of spaces, including guest rooms, meeting rooms, and other rooms within the hotel, and apply regardless of the furniture, equipment, or amenities in such rooms. The hotel employer shall state the actual square footage of each room in any written assignment of rooms that it provides to room attendants (whether on paper or in digital format).
- B. Workload proration. The workload amount set forth in subsection A shall be reduced on a prorated basis if a room attendant works less than eight hours in a workday or is assigned to perform room cleaning for less than eight hours in a workday, shall be increased on a prorated basis for each hour of overtime that a room attendant works in excess of eight hours in a workday, and shall be calculated on a prorated basis by room attendant if a room attendant is assigned to clean rooms jointly with one or more other room attendants.

- C. Voluntary overtime. A hotel employer shall not require or permit a hotel worker to work more than 10 hours in a workday unless the hotel worker consents in writing to do so. A hotel worker's consent shall not be valid unless the hotel employer has advised the hotel worker in writing prior to the hotel worker's consent that the hotel worker may decline to work more than 10 hours in a workday and that the hotel employer will not subject the hotel worker to any adverse employment action for declining to work more than 10 hours in a workday. This subsection shall not apply in the event of an emergency.
- D. Daily room sanitizing and cleaning. A hotel shall not implement any program or policy whereby guest rooms are not sanitized and cleaned after each and every night that they are occupied, including a program under which guests receive a financial incentive to not have their guest room cleaned on a daily basis. This subsection does not prevent a hotel from continuing, modifying, or establishing a sustainable environmental program, such as a "green program," under which guests are encouraged to re-use linens, bath towels, or similar items, nor does it require a hotel to have any guest room cleaned when the occupant has opted-out of such service without solicitation by the hotel or when the occupant informs the hotel that they do not wish to be disturbed.
- E. Preservation of records. Each hotel employer shall maintain for at least three years a record of each room attendant's name; rate of pay; pay received; identification of rooms cleaned, actual square footage of each room cleaned; number of special-attention rooms, number of additional hotel buildings, number of additional bed rooms, and total square footage cleaned for each workday; overtime hours worked for each workday; and any written consents provided pursuant to subsection C above. A hotel employer shall make these records available for inspection and copying to any hotel worker or hotel worker's designated representative, except that the names and other personally identifying information of individual hotel workers shall be redacted except to the extent that the records identify the hotel worker who is making the request. A hotel employer shall maintain an accurate record of the square footage of each room that room attendants are assigned to clean, a copy of which shall be provided to any hotel worker who requests such record.
- F. Notice of Workload Rights. A hotel employer shall provide written notice of the hotel workers' rights set forth in this chapter to each hotel worker at the time of hire or within 30 days of the effective date of this chapter, whichever is later. Such written notice shall be provided in English, Spanish, and any other language known by the hotel employer to be spoken by ten percent or more of the hotel workers employed by the hotel employer.

Sec. 3-6-104. Exemption; Limited waiver for certain hotel employers.

- A. **Exemption.** The requirements of Section 3-6-103 shall not apply to a hotel with fewer than 45 guest rooms.
- B. **Waiver application.** The City Manager or designee shall grant a waiver from the requirements of this chapter to any hotel employer who demonstrates that compliance with this chapter would cause a significant adverse economic impact (which could include, but not be limited to, bankruptcy, a shutdown of the hotel, reduction of the hotel's workforce by more than 20 percent, or curtailment of hotel workers' total hours by more than 30 percent). The City Manager or designee shall grant such a waiver only after reviewing a hotel employer's financial condition, to be provided at the hotel employer's expense. A determination by the City Manager or designee to grant or deny a request for waiver under this section may be appealed to the City Council.
- C. **Notice of waiver application.** Prior to submitting a waiver application pursuant to this section, a hotel employer shall provide written notice of the waiver application to all hotel workers employed by the hotel employer. Within three days of receiving a waiver determination from the City Manager or designee under this section, a hotel employer shall provide written notice of the determination to all hotel workers employed by the hotel employer.

Sec. 3-6-105. Retaliatory action prohibited.

No person shall discharge, reduce in compensation, discriminate, or otherwise take an adverse employment action against a hotel worker for opposing any practice proscribed by this chapter, for participating in proceedings related to this chapter, for seeking to enforce their rights under this chapter by any lawful means, or for otherwise exercising rights protected under this chapter. A hotel employer taking any adverse employment action against any hotel worker who is known to have engaged in any of the foregoing activities within one year preceding the adverse employment action shall provide to the hotel worker at or before the time of the adverse employment action a detailed written statement of the reason or reasons for the discharge or other adverse employment action, including all the facts claimed to substantiate the reason or reasons..

Sec. 3-6-106. Administrative regulations.

The City Manager or designee is authorized to adopt administrative regulations that are consistent with and in furtherance of the provisions of this chapter. Violations of the administrative regulations adopted pursuant to this section shall constitute violations of this chapter and shall subject the violator to the penalties set forth in this chapter.

Sec. 3-6-107. Joint civil liability.

A hotel employer that contracts with another person, including, without limitation, another hotel employer, a temporary staffing agency, employee leasing agency, or professional employer organization, to obtain the services of hotel workers shall share all civil legal responsibility and civil liability for violations of this chapter by that person for hotel workers performing work pursuant to a contract. For the purposes of this section, the term "person" shall not include:

- A. A bona fide nonprofit organization that provides services to workers; or
- B. A bona fide labor organization, as defined in 29 U.S.C. § 152, or an apprenticeship program, training program, or hiring hall operated pursuant to a labor-management agreement.

Sec. 3-6-108. Supersession by a collective bargaining agreement.

The provision of Section 3-6-103, or any part thereof, may be waived pursuant to a bona fide collective bargaining agreement, but only if the waiver is expressly set forth in clear and unambiguous terms. Neither party to a collective bargaining relationship may waive or supersede any provision of this chapter by means of unilaterally imposed terms and conditions of employment.

Sec. 3-6-109. Civil Enforcement and Remedies.

- A. Civil action. The City or any aggrieved person may enforce the provisions of this chapter by means of a civil action.
- B. Injunction. Any person who commits an act, proposes to commit an act, or engages in any pattern or practice that violates this chapter may be enjoined therefrom by a court of competent jurisdiction. An action for injunction under this subsection may be brought by any aggrieved person, by the City Attorney, or by any person or entity who will fairly and adequately represent the interests of an aggrieved person or persons.
- C. Damages and penalties. Any person who violates the provisions of this chapter is liable for any actual damages suffered by any aggrieved person or for statutory damages up to the amount of \$100 per aggrieved person per day, whichever is more, except that statutory damages for failure to maintain records shall not exceed \$1,000 per day in total. For willful violations, the amount of monies and penalties to be paid under this subsection shall be trebled.

- D. Attorneys' fees and costs. In a civil action brought under this section, the court shall award the prevailing party reasonable attorneys' fees and costs, including expert witness fees, except that, notwithstanding Section 998 of the Code of Civil Procedure, a prevailing defendant shall not be awarded fees and costs unless the court finds the action was frivolous, unreasonable, or groundless when brought, or the plaintiff continued to litigate after it clearly became so.
- E. Cumulative remedies. The remedies set forth in this chapter are cumulative. Nothing in this chapter shall be interpreted as restricting, precluding, or otherwise limiting a separate or concurrent criminal prosecution under this Municipal Code or State law.
- F. No criminal penalties. Notwithstanding any provision of this Municipal Code or any other ordinance to the contrary, no criminal penalties shall attach for violation of this chapter.
- G. Coexistence with other available relief for deprivation of protected rights. This chapter shall not be construed to limit an aggrieved person's right to bring legal action for violation of any other federal, state, or local law.

SECTION 3. CEQA Determination. In adopting this Ordinance, the City Council finds that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations Sections 15061(b)(3) and 15378, in that it can be seen with certainty that the Municipal Code amendments propose no activity that may have a significant effect on the environment and will not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

SECTION 4. This Ordinance shall become effective thirty (30) days after adoption; provided, however, that Section 3-6-103 shall not become effective until one hundred eighty (180) days after adoption.

SECTION 5. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

SECTION 6. The City Clerk shall certify to the passage of this Ordinance and this Ordinance shall be published as required by law and shall take effect as provided by law.

PASSED AND ADOPTED by the City Council of the City of Irvine at an adjourned regular meeting held on the 22nd day of November, 2022.


MAYOR OF THE CITY OF IRVINE

ATTEST:


CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing ordinance was introduced for first reading on the 25th day of October, 2022, and duly adopted at an adjourned regular meeting of the City Council of the City of Irvine, held on the 22nd day of November, 2022.

AYES:	3	COUNCILMEMBERS:	Agran, Kim and Khan
NOES:	1	COUNCILMEMBERS:	Kuo
ABSENT:	1	COUNCILMEMBERS:	Carroll
ABSTAIN:	0	COUNCILMEMBERS:	None


CITY CLERK OF THE CITY OF IRVINE

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that on the 22nd day of November, 2022, I caused to have published and posted a foregoing true and correct copy of Ordinance No. 22-13 of the City of Irvine in the following public places in the City:

- 1) Bulletin Board in Walnut Village Shopping Center, Culver and Walnut, Irvine.
- 2) Bulletin Board in University Park Shopping Center, Culver at Michelson, Irvine.
- 3) Bulletin Board in Northwood Shopping Center, Irvine Boulevard at Yale, Irvine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City Council of the City of Irvine, California, the 22nd day of November, 2022.



CITY CLERK OF THE CITY OF IRVINE

EXHIBIT B

To Whom It May Concern:

Pursuant to public information laws, I am writing to request the following documents possessed by the City of Irvine.

We have been made aware of applications submitted by hotel owners for waivers to the City of Irvine's Ordinance 22-13 pursuant to Sec. 3-6-104(B) of the ordinance. We request all documents from the period beginning on November 22, 2022, to present pertinent or relating to waiver applications, including but not limited to: 1) documents including arguments by the applicants and representatives for why they need/want their waiver applications to be approved, 2) documents including financial information used to support any of the waiver applications and any claims made about the financial or economic health of the business(es) represented by the applicants, and 3) any staff communication with waiver applicants, including but not limited to electronic communications, letters, memoranda, notes, agreements, e-mails (including personal e-mail accounts used to conduct official business), inter-office and intra-office communications, and faxes.

We request this information for waiver applications and related materials relevant to the following 16 hotels in the City of Irvine, in addition to any others that have applied:

1. AC Hotel Irvine
2. Courtyard Irvine John Wayne Airport/OC
3. Courtyard Irvine Spectrum
4. DoubleTree Hotel Irvine Spectrum
5. Element Irvine
6. Embassy Suites Irvine - Orange County Airport
7. Hampton Inn & Suites Irvine Orange County Airport
8. Hilton Garden Inn Irvine/OC Airport
9. Hilton Irvine/Orange County Airport
10. Hyatt House Irvine
11. Hyatt Regency
12. Marriott Irvine Spectrum
13. Residence Inn by Marriott, Irvine/Orange County Airport
14. Residence Inn Irvine Spectrum
15. Sonesta Irvine
16. Sonesta Simply Suites Orange County - Spectrum Center

If you choose to deny this request in whole or in part, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely. Also, please provide all segregable portions of otherwise exempt material.

I am authorized to approve up to \$50 in costs associated with this request. Please contact me before any costs are incurred to discuss fees associated with a response to this request and if

there are any questions regarding the information requested. If possible, please provide the requested information via email to pshea@unitehere11.org and provide the documents as they become available. Thank you for your attention to this matter.

Regards,
Parker Shea
UNITE HERE Local 11

EXHIBIT C



CITY CLERK'S OFFICE OF RECORDS AND INFORMATION

One Civic Center Plaza, P.O. Box 19575, Irvine, CA 92623-9575

September 15, 2023

Parker Shea
Unite Here Local 11
464 Lucas Ave # 201
Los Angeles, CA 90017
Pshea@unitehere11.org

Dear Parker Shea:

This letter responds to your June 19, 2023, request under the California Public Records Act (Government Code § 7920.000 et seq.) regarding Hotel Worker Protection Ordinance Waivers in Irvine.

The City Attorney has determined your request seeks records that are exempt entirely from disclosure or require redactions, including:

- Records that fall within the public interest exemption; the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record (Gov. Code, § 7922.000; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.); and
- Personal information where the public interest served by non-disclosure clearly outweighs disclosure (City of Irvine Personal Information Privacy Act, approved by the voters November 4, 2008, Gov. Code, § 7922.000; *City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008.).

Please see the attached first production of non-exempt records. The City expects the next production to be available on or before October 6, 2023.

Sincerely,

DANIEL KIM
Municipal Records Administrator

DK:au

EXHIBIT D

Hilton

The Hilton Irvine is providing you written notice that the Hotel will apply to the City Manager for the City of Irvine for a Waiver of City Ordinance No. 22-13.

If you would like a copy of this notice, please request one in Human Resources.

El Hilton Irvine le proporciona un aviso por escrito de que el hotel solicitará al Administrador Municipal de la ciudad de Irvine una exención de la ordenanza municipal No. 22-13.

Si desea una copia de este aviso, solicítela en Recursos Humanos.



HOTEL WORKER PROTECTION ORDINANCE WAIVER APPLICATION

This request for Waiver Application is for City of Irvine's hotel employers and applicable to the provisions of the Hotel Worker Protection Ordinance, [City Council Ordinance No. 22-13](#), set forth in the Irvine Municipal Code, Title 3, Division 6. For questions regarding the Waiver Application please email economicdevelopment@cityofirvine.org.

HOTEL EMPLOYER INFORMATION

HOTEL/BUSINESS NAME		OPERATING NAME/DBA (If different from Business Name)	
Hilton Irvine / Orange County Airport			
ADDRESS	CITY	STATE	ZIP
18800 MacArthur Blvd	Irvine	CA	92612

EXEMPTION CRITERIA & REQUIRED SUPPORTING DOCUMENTATION

Please attach the following required documentation and supporting information to this Waiver Application. To upload your supporting documents, click on the paper clip icon.

1. Letter stating how compliance with Ordinance No. 22-13 will cause a significant adverse economic impact (on business letterhead)
2. Copy of the written notice sent to all employees informing them of the business' Waiver Application
3. Any relevant financial statements and documents, as well as all other applicable documents, to support claim of significant adverse economic impact

CONTACT INFORMATION & SIGNATURE

APPLICANT NAME	TITLE
Rob Koscelnik	General Manager
PHONE	EMAIL
949-833-9999	rob.koscelnik@hilton.com

By submitting this application, I certify under penalty of perjury under the laws of the State of California that all information on this form and any additional supporting information submitted with this form is true and correct to the best of my knowledge.

eSigned via SeamlessDocs.com

Key: e4f5b57-2ad6-4b9b-b403-3326c199874c

05-20-2023

DATE

The City of Irvine has obligations under the California Public Records Act (Gov. Code section 7920 *et seq.*, "PRA") to produce information in its possession in response to requests from the public, subject to specified exceptions and privileges. The City understands that some information produced in connection with a waiver request under the Hotel Worker Protection Ordinance (Ordinance 22-13) may contain sensitive financial and/or personal data. If the City receives a PRA request for the production of such information, it will endeavor to advise the waiver applicant of the request, so that the applicant can take such action as it deems appropriate to limit or prevent the disclosure. Additionally, the City shall endeavor to withhold production of any information that is otherwise exempt from disclosure under the PRA.

EXHIBIT E



CITY CLERK'S OFFICE OF RECORDS AND INFORMATION

One Civic Center Plaza, P.O. Box 19575, Irvine, CA 92623-9575

October 19, 2023

Parker Shea
Unite Here Local 11
464 Lucas Ave # 201
Los Angeles, CA 90017
Pshea@unitehere11.org

Dear Parker Shea:

This letter responds to your June 19, 2023, request under the California Public Records Act (Government Code § 7920.000 et seq.) regarding Hotel Worker Protection Ordinance Waivers in Irvine.

The City Attorney has determined your request seeks records that are exempt entirely from disclosure or require redactions, including:

- Records that fall within the public interest exemption; the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record (Gov. Code, § 7922.000; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.); and
- Personal information where the public interest served by non-disclosure clearly outweighs disclosure (City of Irvine Personal Information Privacy Act, approved by the voters November 4, 2008, Gov. Code, § 7922.000; *City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008.).

Please click on the link below to access the second production of non-exempt records.

<https://irvineca.sharepoint.com/:f/s/oiexternalSharePoint/EmpeGVfpmEZCkZt5pgK9QyQBUWGFxwiPSqxIAPSMgPqzcA?e=cV17f3>

The City expects the third production to be available on or before December 1, 2023.

Sincerely,

DANIEL KIM
Municipal Records Administrator

DK:au

EXHIBIT F



CITY CLERK'S OFFICE OF RECORDS AND INFORMATION

One Civic Center Plaza, P.O. Box 19575, Irvine, CA 92623-9575

December 1, 2023

Parker Shea
Unite Here Local 11
464 Lucas Ave # 201
Los Angeles, CA 90017
Pshea@unitehere11.org

Dear Parker Shea:

This letter responds to your June 19, 2023, request under the California Public Records Act (Government Code § 7920.000 et seq.) regarding Hotel Worker Protection Ordinance Waivers in Irvine.

The City Attorney has determined your request seeks records that are exempt entirely from disclosure or require redactions, including:

- Records that fall within the public interest exemption; the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record (Gov. Code, § 7922.000; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.); and
- Personal information where the public interest served by non-disclosure clearly outweighs disclosure (City of Irvine Personal Information Privacy Act, approved by the voters November 4, 2008, Gov. Code, § 7922.000; *City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008.).

Please click on the link below to access the third production of non-exempt records. The City expects the next production to be available on or before January 12, 2023.

<https://irvineca.sharepoint.com/:f:/s/coiexternalSharePoint/EmpeGVfpmEZCkZt5pgK9QyQBUWGFxwiPSqxiAPSMgPqzcA?e=OYUqeJ>

Sincerely,

DANIEL KIM
Municipal Records Administrator

DK:au

EXHIBIT G

UNITEHERE! Local 11

464 Lucas Ave., Suite 201 • Los Angeles, California 90017 • (213) 481-8530 • FAX (213) 481-0352

Via email: cm@cityofirvine.org

January 11, 2024

Oliver C. Chi
City Manager
City of Irvine
1 Civic Center Plaza
Irvine, CA 92606

Re: Clarification of Production Issues for UNITE HERE Local 11's June 19, 2023 Public Records Request

Dear Mr. Chi:

I write on behalf of UNITE HERE Local 11 ("Union") to clarify what information we are seeking and expect the City of Irvine ("City," or "Irvine") to produce with respect to the Union's June 19, 2023 public record request under the California Public Records Act (Government Code § 7920.000 et seq.) regarding Hotel Worker Protection Ordinance ("Ordinance") waivers in Irvine.

As you know, in the days leading up to May 11, 2023, 16 or more hotels in Irvine applied for financial hardship waivers to exempt them from the workload compensation provisions of the Ordinance, Irvine Mun. Code § 3-6-103. On June 19, 2023, the Union submitted a public record request seeking the complete application materials submitted by hotels for their financial hardship waiver applications. According to the City, these application materials must include for each hotel:

1. A letter stating how compliance with Ordinance No. 22-13 will cause a significant adverse economic impact (on business letterhead).
2. A copy of the written notice sent to all employees informing them of the business' application for a waiver.
3. Any relevant financial statements and documents, and all other applicable documents, to support the claim of significant adverse economic impact.

To date, the City has provided three responses to the Union's initial June 19 record request,¹ but the vast majority of the material thus far provided has been relating to the Hotel Improvement District ("HID"), the HID Operating Committee, Destination Irvine, and the Irvine Chamber of Commerce. Although interesting, these materials are not responsive to the Union's initial record request. We requested, and hereby renew our

¹ These were produced on September 15, 2023, October 19, 2023, and December 1, 2023.

request, for copies of all application materials included in each hotel's financial hardship waiver application, particularly items (1) and (3) above, which, as noted, include any letters stating how compliance with Ordinance No. 22-13 will cause a significant adverse economic impact on the applicants and all relevant financial statements and documents submitted to support each hotel's waiver application.

Based on verbal communications with the City Manager, the notable absence of these materials in the production to date, and the reliance on statutory exemptions referenced in the first production of records, that the City appears to believe it is not required to produce financial and other firm-specific documents submitted by the hoteliers as part of their waiver applications.

The City's responses reference the public interest exemption, but this exemption permits local agencies to withhold a record *only if* the agency can demonstrate that, on the facts of the particular case, the public interest served by nondisclosure *clearly outweighs* the public interest in disclosure. *CBS, Inc. v. Block*, 42 Cal. 3d 646, 652 (1986). In justifying the application of this exemption, "[t]he burden of proof is on the proponent of nondisclosure, who must demonstrate a clear overbalance on the side of confidentiality." *City of San Jose v. Superior Court*, 74 Cal. App. 4th 1008, 1018 (1999) (internal quotations omitted).

The public interest exemption does not apply to the records we are requesting because the public interest in nondisclosure does *not* clearly outweigh the public interest in disclosure. Indeed, the balancing test tilts strongly in the other direction—the public interest in disclosing the information clearly and substantially outweighs any purported public interest in nondisclosure. The City has not provided an explanation for which public interests it believes support nondisclosure, and it is difficult to speculate which interests it may be referring to. The public interests supporting disclosure, however, are clear.

First, the Ordinance was passed into law for the express purpose of establishing essential protections for hotel workers, including fair compensation for heavy workloads. These protections are critical to the wellbeing of a great number of hotel workers, as well as their families and communities. By applying for a waiver from these provisions, hoteliers are essentially requesting that the government waive these protections for certain workplaces. This has far-reaching implications for hotel workers and their families and communities. Thus, the public interest in accessing information related to these waivers is significant and should not be minimized or ignored.

Second, the public's substantial interest in information relevant to whether large numbers of workers' rights will be waived by the government are not clearly outweighed by any interest the hoteliers may have in keeping the information private. The information at issue does not pertain to trade secrets or similarly designated material whose worth derives from it being kept secret. Moreover, courts are much less likely to recognize a privacy right if information is provided voluntarily in order to acquire a benefit, or if the information is associated with an applicant's qualifications. *See, e.g., Calif. State Univ., Fresno Assn. V. Superior Court*, 90 Cal. App. 4th 810, 816 (2001); *see also San Gabriel Tribune v. Superior Court*, 143 Cal. App. 3d 762 (1983) (holding that financial data relied on by a city in granting a rate increase to a waste disposal company

was not exempt from disclosure). Here, the hoteliers have voluntarily submitted the information we have requested to the government in order to apply for the benefit of being exempt from the Ordinance's workload standards. Therefore, a court is unlikely to recognize any privacy right claimed by the hoteliers.

Finally, inclusion of an appeals process in the Ordinance itself necessitates public access to the hoteliers' waiver application. The Ordinance provides that a "determination by the City Manager to grant or deny a request for waiver . . . may be appealed to the City Council." Irv. Mun. Code § 3-6-104(B). It is only logical that anyone seeking to appeal the grant or denial of a waiver under this provision would need access to information related to the basis of the decision, which necessarily includes all aspects of the applications submitted to the City by the hoteliers. The public has a significant interest in being able to carry out the appeals process provided by the Ordinance, and therefore should be able to access all the records necessary to understand the basis for the government's action and to make, if they choose, an effective, informed appeal of such action.

Given the substantial public interest in disclosing the requested records, we respectfully request that the City reconsider its application of the public interest exemption and provide the above-requested documents as soon as possible.

If you have any questions or would like to discuss this matter further, please contact Parker Shea at pshea@unitehere11.org or 480.766.3304.

Sincerely,

Erin Black
Legal Fellow
UNITE HERE Local 11

cc:

Daniel Kim, dkim@cityofirvine.org
Ashley Uribe, AUribe@cityofirvine.org

EXHIBIT H



CITY CLERK'S OFFICE OF RECORDS AND INFORMATION

One Civic Center Plaza, P.O. Box 19575, Irvine, CA 92623-9575

January 12, 2024

Parker Shea
Unite Here Local 11
464 Lucas Ave # 201
Los Angeles, CA 90017
Pshea@unitehere11.org

Dear Parker Shea:

This letter responds to your June 19, 2023, request under the California Public Records Act (Government Code § 7920.000 et seq.) regarding Hotel Worker Protection Ordinance Waivers in Irvine.

The City Attorney has determined your request seeks records that are exempt entirely from disclosure or require redactions, including:

- Records that fall within the public interest exemption; the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record (Gov. Code, § 7922.000; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.); and
- Personal information where the public interest served by non-disclosure clearly outweighs disclosure (City of Irvine Personal Information Privacy Act, approved by the voters November 4, 2008, Gov. Code, § 7922.000; *City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008.).

Please click on the link below to access the fourth volume of non-exempt records.

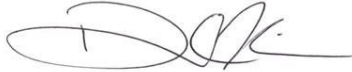
<https://irvineca.sharepoint.com/:f:/s/coiexternalSharePoint/EmpeGVfpmEZCkZt5pgK9QyQBUWGFxwiPSqxIAPSMgPqzCA?e=OYUqeJ>

As of the date of this letter, the City is still reviewing potentially responsive records related to your request, and more may be produced to you when that review is complete, anticipated to be on or around February 9th, 2024. The City is in receipt of your letter dated January 11, 2024. However, because the City's review of potentially responsive documents is not yet complete, the City is not able to assess your claims regarding the scope of records produced. Should you still have objections to the scope of records

Parker Shea
January 12, 2024
Page 2

produced following the completion of processing your request, please inform the City following your review of the completed production.

Sincerely,

A handwritten signature in black ink, appearing to read 'DK', with a stylized flourish at the end.

DANIEL KIM
Municipal Records Administrator

DK:au

EXHIBIT I



Parker Shea <pshea@unitehere11.org>

Your June 19, 2023 Public Records Act Request to the City of Irvine

3 messages

Sanders, Jessica <jsanders@rutan.com>
To: "pshea@unitehere11.org" <pshea@unitehere11.org>

Fri, Feb 9, 2024 at 11:48 AM

Dear Parker Shea,

This office serves in the capacity as City Attorney for the City of Irvine ("City"). I am contacting you regarding your June 19, 2023 Public Records Act Request which seeks records related to Hotel Worker Protection Ordinance Waivers in Irvine. Your January 11, 2024 letter, and the City's January 12, 2024 production letter related to your request are attached hereto for your reference.

The records subject to your January 11, 2024 letter are waiver applications for hotels pursuant to the City's Hotel Worker Protection Ordinance. Specifically, you are seeking the letters, financial statements, and other materials that may comprise these applications. Your letter objects to withholding the letters under the Public Interest Exemption to the Public Records Act (Gov. Code, § 7922.000).

The City's January 12, 2024 letter clarified that some records are still under review. These documents still under review include financial information submitted with waiver applications.

The City strives for transparency regarding matters of City business, but has substantial concerns in this instance that the financial records constitute trade secrets which are both protected by the trade secrets privilege and the official information privilege, and thus exempt from the Public Records Act. (Evid. Code, §§ 1040, 1060; Gov. Code, § 7927.705.)

In light of the liability risk associated with prohibited disclosure of privileged records, and the requirement to understand the businesses of these hotels in order to determine if records are trade secrets, the City continues to engage with City Staff and impacted hoteliers to date.

I am hopeful that a decision on this remaining issue will be reached soon, and am happy to serve as your point of contact moving forward. In the event that we have not communicated a final determination before the beginning of March, I will follow up with you regarding an update on this matter.

If there is any authority in addition to your January 11, 2024 letter you would like the City to consider in making its determination, please don't hesitate to send it our way. I am also available if you have any other questions related to your request.

Thank you


Jess Sanders


18575 Jamboree Road, 9th Floor | Irvine, CA 92612
O. (714) 641-5100 | D. (714) 662-4617

jsanders@rutan.com | www.rutan.com



2 attachments

 **January 11 2024 Letter.pdf**
128K

 **Response 4 - P. Shea.pdf**
184K

Parker Shea <pshea@unitehere11.org>
To: Jeremy Blasi <jblasi@unitehere11.org>
Cc: Erin Black <eblack@unitehere11.org>

Fri, Feb 9, 2024 at 11:56 AM

In solidarity,


Parker Shea


Researcher | **UNITEHERE!** Local 11

pshea@unitehere11.org | 480.766.3304

[Quoted text hidden]

2 attachments

 **January 11 2024 Letter.pdf**
128K

 **Response 4 - P. Shea.pdf**
184K

Sanders, Jessica <jsanders@rutan.com>
To: "pshea@unitehere11.org" <pshea@unitehere11.org>

Fri, Mar 1, 2024 at 7:55 AM

Dear Parker Shea,

This is an update on the status of your request. Discussion on the issue mentioned in my email below persists, but I hope to have a final determination from the City to you around mid-month.

Thank you

Jess Sanders

18575 Jamboree Road, 9th Floor | Irvine, CA 92612
O. (714) 641-5100 | D. (714) 662-4617

jsanders@rutan.com | www.rutan.com



From: Sanders, Jessica
Sent: Friday, February 9, 2024 11:49 AM
To: pshea@unitehere11.org
Subject: Your June 19, 2023 Public Records Act Request to the City of Irvine

Dear Parker Shea,

[Quoted text hidden]