

CITY OF OJAI

RESOLUTION NO. 16-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OJAI ISSUING A SUBPOENA FOR CERTAIN RECORDS RELATED TO THE RENTAL OF ROOMS THROUGH THE ONLINE RENTAL BOOKING SERVICES TRIP ADVISOR AND FLIPKEY

WHEREAS, Government Code Section 37104 et seq. authorizes the City Council to issue a legislative subpoena “requiring attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding before it”; and

WHEREAS, the City of Ojai Municipal Code Section 10-2.402, Table 2.2, and Section 10-2.503, Table 2-4 prohibit transient, short term rental uses in the City, unless permitted via a conditional use permit and a determination of similar use under Ojai Municipal Code section 10-2.303; and

WHEREAS, City staff have reviewed the Trip Advisor and Flipkey websites, and noted multiple listings advertising short term rentals of properties within the City which appear to be operating without any legal authorization from the City; and

WHEREAS, the City Council finds that it is reasonably likely that Trip Advisor and Flipkey have records of short term rental transactions in the City which will assist the City in enforcing its Code; and

WHEREAS, the City Council hereby determines that probable cause exists to issue a legislative subpoena for any and all records in the possession of Trip Advisor and Flipkey relating to short term rentals in the City; and

WHEREAS, this legislative subpoena serves a lawful legislative purpose as the receipt of the information sought herein will help the City Council to enforce the City of Ojai Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ojai that:

SECTION 1. The City Council determines that the foregoing recitals are true and correct and adopts the recitals as findings in support of this resolution.

SECTION 2. The City Council hereby issues a legislative subpoena commanding Trip Advisor and Flipkey to appear and/or produce certified copies of the following records covering the time period from January 2015 to December 2015, inclusive, on or before April 12, 2016, at the address indicated in the subpoena:

- a. A complete listing of all properties listed for short term rental on the Trip Advisor and Flipkey websites located within the City of Ojai;

- b. The username associated with each physical address, and that username's email address, and other contact information; and
- c. The dates and duration of stay for each time the structure or property associated with that username was rented.

SECTION 3. The legislative subpoena issued by this Resolution shall be in a form drafted by the City Attorney. A draft subpoena form is attached to this Resolution as Exhibit A. The legislative subpoena shall be signed by the Mayor and certified by the City Clerk. A copy of this resolution shall be attached to such subpoena and shall be incorporated by reference into the subpoena. The subpoena shall be served upon the Operator in the same manner as a subpoena in a civil action.

SECTION 4. Failure to comply with the subpoena shall be subject to the remedies set forth in Government Code Section 37104 et seq. or otherwise provided by law.

SECTION 5. The Mayor, City Clerk and the City Attorney are authorized to take all actions necessary to issue, serve and enforce the subpoena.

SECTION 6. Effective Date.

This Resolution shall be in full force and effect as of the date of its adoption.

PASSED, APPROVED and ADOPTED this 12th day of January, 2016 by the following vote:

AYES: Blatz, Clapp, Haney, Lara, Weirick
NOES: None
ABSENT: None
ABSTAIN: None

CITY OF OJAI, CALIFORNIA



Paul Blatz, Mayor

ATTEST:



Rhonda K. Basore, City Clerk

APPROVED AS TO FORM:



Matthew Summers, City Attorney


EXHIBIT "A"

- (c) The dates and duration of stay for each time the structure or property associated with that username was rented.


4. This legislative subpoena relates to the City's enforcement of its Code, and collection of transient occupancy tax. This legislative subpoena is authorized by Government Code section 37104 *et seq.* Failure to comply with this subpoena is subject to the penalties and procedures set forth in Government Code section 37104 *et seq.* and otherwise provided by law.



CITY COUNCIL OF THE
CITY OF OJAI

By: 
Paul Blatz
Mayor

ATTEST:


Rhonda K. Basore, City Clerk