E-Notice

2016-CH-14897

CALENDAR: 16

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NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

LEILA MENDEZ vs. CITY OF CHICAGO
2016-CH-14897

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PRELIMINARY INJUNCTION(SET FOR MOTION HEARING)

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ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
CALENDAR: 16
PAGE 1 of 17
CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

LEILA MENDEZ, et al.,	)	
	)	
Plaintiffs,	)	Case No. 2016-CH-14897
	)	
v.	)	Judge David B. Atkins
	)	
CITY OF CHICAGO, et al.,	)	
	)	
Defendants.	)	
	)	

MOTION FOR PRELIMINARY INJUNCTION

NOW COME Plaintiffs Leila Mendez, Sheila Sasso, Alonso Zaragoza, and Michael Lucci, by and through their attorneys, the Liberty Justice Center and the Goldwater Institute, and move for a preliminary injunction barring Defendants, the City of Chicago and the Commissioner of the Chicago Department of Business Affairs and Consumer Protection, from enforcing the provisions of Chicago's Shared Housing Ordinance that provide for warrantless searches of residential property, Chi. Muni. Code §§ 4-6-300(e)(1) and 4-16-230, and warrantless inspections of personal information, *id.* §§ 4-6-300(f)(2), (3) and 4-14-040(b)(8), (9).

Simultaneously with this motion, Plaintiffs are filing a complaint against Defendants to vindicate the constitutional rights of people who wish to offer their private homes to overnight guests but are arbitrarily and irrationally deprived of the right to do so by the City's enforcement of the Ordinance. Plaintiffs challenge the Ordinance as vague, unintelligible, and an unconstitutional intrusion on their rights to privacy, due process of law, equal protection, and other rights, and seek a declaratory judgment that the Ordinance is invalid and a permanent injunction against its further enforcement.

Until this Court resolves this lawsuit, Plaintiffs seek a preliminary injunction on Counts I and II of their Complaint, to stop the imminent and unlawful violation of their privacy rights under the Illinois Constitution.

STATEMENT OF FACTS

Home-sharing is a long-standing American tradition, whereby property owners allow people to stay in their homes, sometimes for money, rather than stay in a hotel. Recent technological innovations have empowered homeowners and travelers to connect better than ever before. Online home-sharing platforms such as Airbnb and Homeaway enable homeowners to rent out their homes, or rooms in their homes, to make money and help pay their mortgages. This gives consumers more choice and lower prices, brings travelers to communities they might not otherwise visit—where they spend money at local businesses—and gives people an incentive to buy dilapidated homes and fix them up.

Plaintiffs Leila Mendez, Sheila Sasso, Alonso Zaragoza, and Michael Lucci have all rented out rooms in their respective homes in Chicago on Airbnb. In addition, Mr. Zaragoza has purchased, and is currently restoring, a dilapidated three-unit residential building in Chicago's Little Village neighborhood, one unit of which he would like to rent out on Airbnb to help pay for his mortgage and property taxes.

However, Chicago Ordinance No. O2016-5111 (the "Ordinance"), signed by Mayor Rahm Emanuel on June 24, 2016, imposes a set of vague, draconian, arbitrary and irrational restrictions on home-sharing. Most disturbingly, the Ordinance forces home-sharers such as Plaintiffs to relinquish their privacy rights, including their right to be free from unreasonable searches of their homes, as a condition of being allowed to rent out their property to guests. Failure to comply with these unconstitutional measures is punishable by stiff penalties.

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 2 of 17

The Ordinance requires any property owner who rents out a room or home through a shared-housing arrangement classified as a "vacation rental"[1] to submit to warrantless inspections by city officials or third parties appointed by those officials. Chi. Muni. Code § 4-6-300(d)(2)(e)(1). The Ordinance also subjects all vacation rentals to an unlimited number of unannounced inspections "*at any time and in any manner*" by either the building commissioner or any third party he or she may designate. *Id.* § 4-6-300(e)(1) (emphasis added). Similarly, the Ordinance subjects a "shared housing unit operated by a shared housing unit operator" to inspections by the building commissioner (or a third party) "at least once every two years." *Id.* § 4-16-230.

The Ordinance does not require the building commissioner to find probable cause or to obtain a warrant before inspecting, or ordering an inspection of, a "vacation rental" or "shared housing unit." Instead, the building commissioner is given authority to conduct, or to commission a third party to conduct, unrestricted searches of homes at *any* time, in *any* manner, and for *any* reason. *Id.* §§ 4-6-300(e)(1), 4-16-230.

In many—perhaps most—cases, the property in question is not a business property, but *the owner's home,* because, except in large apartment buildings, the Ordinance also requires that a "vacation rental" or "shared housing unit" be the owner's primary residence. *Id.* §§ 4-6-300(h)(8), (9); 4-14-060(d), (e).

The Ordinance also requires anyone who rents a room or home through a shared-housing arrangement to allow City officials and third parties to inspect guests' personal information—again, without a warrant. It requires all owners of "vacation rentals" to obtain each of their

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[1] One complication in the Ordinance is that it defines "vacation rental" and "shared housing unit" in vague and unintelligible ways, making it impossible for Plaintiffs or any other person to know whether a property falls into one category or the other. *See* Complaint ¶¶ 18-22. The privacy and search issues addressed herein, however, are the same regardless of which category applies, because both "vacation rentals" and "shared housing units" are subject to the unreasonable intrusions on privacy and warrantless searches.

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 3 of 17

guests' personal identifying information —including their names, addresses, signatures, and dates of accommodation—and to keep that information on file for three years. *Id.* §§ 4-6-300(f)(2), (3). Owners of all "shared housing unit[s] operated by a shared housing unit operator" must obtain and preserve the same information for all of their guests. *Id.* §§ 4-14-040(8), (9). The Ordinance then requires owners of "vacation rentals" and "shared housing unit[s]" to make this personal information available for inspection by "any authorized city official" during "regular business hours or in the case of an emergency." *Id.* §§ 4-6-300(f)(2), (3); 4-14-040(b)(8), (9)).[2] A property owner who fails to provide this information upon demand is subject to fines of between $1,500 and $3,000 *per day*. *Id.* §§ 4-6-300(k), 4-14-090(a).

The Ordinance does not require city officials to find reasonable suspicion or probable cause, or to obtain a warrant, before demanding this personal identifying information. The Ordinance does not provide the owner with any opportunity for a hearing before being compelled to turn this information over to the government. Indeed, the Ordinance does not even require a city official to state any reason for demanding the information. Instead, the Ordinance delegates unlimited and unbounded authority to city officials to seize this private information for any reason and at virtually any time.

STANDARD OF REVIEW

A preliminary injunction is appropriate when the movant shows it: (1) has a protected right; (2) will suffer irreparable harm if injunctive relief is not granted; (3) has no adequate remedy at law; and (4) has a likelihood of success on the merits. *County of Du Page v. Gavrilos*, 359 Ill. App. 3d 629, 634 (2d Dist. 2005). Factors one and four are closely related and often considered in tandem. *Makindu v. Illinois High School Ass'n*, 2015 IL App (2d) 141201 ¶ 38

[2] The Ordinance does not define "emergency."

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 4 of 17

("[O]nce the plaintiff established a fair question that his rights had been violated, he also established a fair question that he would likely prevail on his claim.").

Plaintiffs are not required to prove their entitlement to relief on the merits at this stage, but only that their motion "raises a 'fair question' about the existence of [their] right and that the court should preserve the status quo until the case can be decided on the merits." *Gavrilos*, 359 Ill. App. 3d at 634 (quotations omitted). "Under Illinois law, it is generally proper to issue a preliminary injunction that will preserve the status quo of the parties rather than alter it." *Kalbfleisch ex rel. Kalbfleisch v. Columbia Cmty. Unit Sch. No. 4*, 396 Ill. App. 3d 1105, 1117 (5th Dist. 2009).

ARGUMENT

This Court should grant Plaintiffs' motion for preliminary injunction because they are likely to succeed on Counts I and II of their complaint and, if the Court does not protect them against the warrantless searches and inspections the Ordinance purports to authorize, will suffer irreparable harm for which they have no adequate remedy at law.

I. Plaintiffs are likely to succeed on their claims that the Ordinance violates their constitutional rights to be free from unreasonable searches, seizures, and invasions of privacy.

Plaintiffs are likely to prevail on the merits of Counts I and II of their complaint because the Ordinance violates Plaintiffs' and their guests' constitutional rights to be free from "unreasonable searches, seizures, invasions of privacy, and interceptions of communications" as provided by Article I, Section 6, of the Illinois Constitution.

In general, Illinois courts construe the state Constitution's prohibition on unreasonable searches and seizures in a manner consistent with the U.S. Supreme Court's jurisprudence regarding the Fourth Amendment to the federal Constitution. *See People v. Gonzalez*, 204 Ill. 2d

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 5 of 17

220, 224 (2003). And Fourth Amendment jurisprudence leaves no doubt that the warrantless searches and inspections that the Ordinance putatively authorizes violate citizens' rights. Because the Ordinance falls below the Fourth Amendment minimum, it necessarily violates the Illinois Constitution as well.

The Ordinance's provisions authorizing searches and inspections are unconstitutional because the Ordinance does not require city officials to obtain a warrant before conducting searches, and provides *no* limits or guidelines to cabin the authority of officials when they conduct searches and inspections. The Ordinance also provides no precompliance review procedures to mitigate that harm or to enable property owners to "have a neutral decisionmaker review an officer's demand." *City of Los Angeles v. Patel*, 135 S. Ct. 2443, 2453 (2015).

A. The Ordinance's authorization of warrantless searches of Plaintiffs' homes is unconstitutional.

The Ordinance's provisions authorizing city officials to conduct warrantless searches of "vacation rentals" and "shared housing units" such as those rented out by Plaintiffs violate the right to be free from unreasonable searches. Plaintiffs, like all citizens, have a constitutionally protected right to privacy in their homes and their property under the Fourth Amendment and therefore under the Illinois Constitution. Accordingly, "[a] search of [their] private houses is presumptively unreasonable"—and unconstitutional—"if conducted without a warrant." *See v. City of Seattle*, 387 U.S. 541, 543 (1967); *see also Patel*, 135 S. Ct. at 2452 ("[S]earches conducted outside the judicial process, without prior approval by [a] judge or [a] magistrate [judge], are *per se* unreasonable . . . subject only to a few specifically established and well-delineated exceptions.'" (citation and quotation marks omitted)).

The constitutional guarantees against unreasonable searches do not just protect homeowners. The U.S. Supreme Court has held that a *guest* "in a place other than his own home"

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 6 of 17

can have "a legally sufficient interest" in privacy in that place, such "that the Fourth Amendment protects him from unreasonable governmental intrusion into that place." *Minnesota v. Olson*, 495 U.S. 91, 97–98 (1990). A guest enjoys that protection against unreasonable searches in a vacation rental or shared-housing unit regardless of whether those premises are the personal residence of the owner. Indeed, the Supreme Court has categorically held that Fourth Amendment protections extend to *hotels*. *Hoffa v. United States*, 385 U.S. 293, 301 (1966) ("A hotel room can clearly be the object of Fourth Amendment protection as much as a home or an office. . . . [T]he Fourth Amendment protects . . . the security a man relies upon when he places himself or his property within a constitutionally protected area, be it his home or . . . his hotel room.").

The Constitution does not allow the City to grant officials power to conduct warrantless or suspicionless searches "at any time or in any manner," as the Ordinance purports to do. In *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978), the Court struck down a provision of the Occupational Health and Safety Act that gave inspectors "unbridled discretion" to decide on the stop "when to search and whom to search" for potential violations of the Act. *Id.* at 323. However important it may be for enforcement officers to seek evidence of potential violations, the Fourth Amendment did not allow government officers to exercise unbridled discretion in the field to determine on the spot whether to search a property. "'The businessman, like the occupant of a residence, has a constitutional right to go about his business free from unreasonable official entries upon his private commercial property,'" the Court held. That right would be violated "'if the decision to enter and inspect for violation of regulatory laws can be made and enforced by the inspector in the field without official authority evidenced by a warrant.'" *Id.* at 312 (quoting *See v. City of Seattle*, 387 U.S. 541, 543 (1967)). A warrant or other form of independent pre-

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 7 of 17

approval by an independent magistrate would ensure that inspections were reasonable, statutorily authorized, and within the scope of a specific purpose "beyond which limits the inspector is not expected to proceed." *Id.*; *see also Patel*, 135 S.Ct. at 2452-53 (ordinance authorizing searches of hotel records without a warrant or precompliance review violated Fourth Amendment).

Under these principles, the Chicago Ordinance's provisions allowing the building commissioner (or her designee) to search Plaintiffs' property "*at any time and in any manner,*" Chi. Muni. Code § 4-6-300(e)(1), is plainly unconstitutional. It gives the building commissioner power "to mandate an inspection of any vacation rental, at any time, and in any manner, including third-party reviews, as provided for in rules promulgated by the building commissioner." *Id.* It gives the building commissioner power "to mandate an inspection of any shared housing unit . . . at least once every two years, at a time and in manner [*sic*], including third-party reviews, as provided for in rules and regulations promulgated by the building commissioner." *Id.* § 4-16-230(a). That is all. The Ordinance does not afford Plaintiffs the basic "precompliance review" that commercial premises like hotels or the business at issue in *Marshall* must be provided, let alone the warrant protections that private residences enjoy. The ordinance provides no review, no limits, and no guidelines *at all*. It does not require probable cause or reasonable suspicion. It contains *no* criteria to limit a search. It provides *none* of the assurances or boundaries that would be required for a warrant. It does not even require city officials to state any particular *reason* for conducting a search. While even "broad statutory safeguards are no substitute for individualized review" of a warrant application by a judge, *Camara v. Mun. Court of City & Cty. of San Francisco*, 387 U.S. 523, 533 (1967), this Ordinance fails to provide even that much protection for citizens' rights. In short, this Ordinance

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 8 of 17

"leaves the occupant subject to the discretion of the official in the field," *id.* at 532, which is precisely what the Supreme Court found unconstitutional in *Camara* and *Marshall.*

In fact, the Ordinance is even more constitutionally offensive than the laws struck down in *Marshall* or other cases involving warrantless searches of hotels or other business properties, because this Ordinance authorizes searches of homes that are in many cases the *private residences* of their owners. Residences, of course, receive the greatest constitutional protection against unreasonable searches. *Camara*, 387 U.S. at 529 ("The right of officers to thrust themselves into a home is . . . a grave concern . . . . When the right of privacy must reasonably yield to the right of search is, as a rule, to be decided by a judicial officer, not by a policeman or government enforcement agent." (quotation marks and citation omitted)); *People v. Wear*, 229 Ill.2d 545, 562 (2008) ("The physical entry of the home is the chief evil against which the wording of the fourth amendment is directed.").

True, the Supreme Court has held that there are "certain carefully defined classes of cases" in which an industry is so closely regulated by the government "that no reasonable expectation of privacy" applies; in such cases, there is an "administrative search" exception to the usual Fourth Amendment rules. *Patel*, 135 S.Ct. at 313. But the Court has categorically held that the hotel industry is *not* one of the industries to which that exception applies. *Id.* Moreover, even if the "administrative search" exception did apply, business owners still have a right to be free from inspections made without some equivalent of a warrant. *Marshall*, 436 U.S. at 323-24. *Some* form of prior approval by an independent magistrate is constitutionally required even for regulatory compliance inspections, because they "provide assurances from a neutral officer that the inspection is reasonable under the Constitution, is authorized by statute, and is pursuant to an administrative plan containing specific neutral criteria" and because such procedures "advise the

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 9 of 17

owner of the scope and objects of the search, beyond which limits the inspector is not expected to proceed." *Id.*; *see also Feller v. Twp. of W. Bloomfield*, 767 F. Supp. 2d 769 (E.D. Mich. 2011) (zoning inspectors violated Fourth Amendment by entering homeowner's backyard without warrant to investigate a claimed violation of a stop work order).

Accordingly, Plaintiffs are likely to succeed on the merits of Count I of their complaint, which challenges the Ordinance's provisions authorizing warrantless searches of their homes.

B. The Ordinance's authorization of warrantless inspections of Plaintiffs' guests' personal information is unconstitutional.

Plaintiffs are also likely to succeed on the merits of Count II of their Complaint, which challenges the Ordinance's provisions authorizing warrantless inspections of Plaintiffs' guests' personal information. These provisions violate Article I, Section 6, of the Illinois Constitution, which protects citizens from government "interceptions of communications," as well as the federal Fourth Amendment.

The state Constitution protects more rights than the federal Constitution. *See People v. Caballes*, 221 Ill.2d 282, 317 (2006); *People v. Nesbitt*, 405 Ill. App. 3d 823, 830 (2d Dist. 2010). Yet the federal Constitution bars suspicionless and warrantless demands for hotel guests' private identifying information. *Patel*, 135 S. Ct. at 2453. It logically follows that the Illinois Constitution guarantees property owners and their guests protection against the sort of causeless, warrantless, suspicionless, and limitless demands for disclosure of private information (and premises searches) that the Ordinance purports to authorize. Because the Ordinance violates the Fourth Amendment, which provides *less* protection than the Illinois Constitution, the Ordinance also violates Art. I sec. 6.

The Ordinance allows city officials to demand that property owners divulge guests' personal information for any reason or for *no reason at all*, at *any time*, even on evenings or

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 10 of 17

weekends if the city official determines there is an emergency (a term that is left undefined). Chi. Muni. Code §§ 4-6-300(f)(2), (3); 4-14-040(b)(8), (9).

In *Patel,* the U.S. Supreme Court condemned precisely this type of warrantless inspection, when it struck down a Los Angeles ordinance that forced hotel operators to provide police officers access to their guest registries—registries that contained the same personal identifying information that the Chicago Ordinance requires home-sharers to obtain and keep—without a warrant or any other form of prior judicial approval. 135 S. Ct. at 2447-48. This violated the Fourth Amendment because, "[a]bsent an opportunity for precompliance review, the ordinance create[d] an intolerable risk that searches authorized by it [would] exceed statutory limits, or be used as a pretext to harass hotel operators and their guests." *Id.* at 2452-53. The government must provide for "precompliance review" before an administrative search—even when the city only wishes to inspect records that it requires regulated entities to maintain. *Id.* at 2456. And, again, although government can require certain heavily-regulated businesses to submit records to the government without first obtaining a warrant—a rule the Court found does *not* apply to the hotel industry, *id.* at 2454-56—even then, the statute providing for such inspections must provide adequate notice to the business and place clear limits on the government. The Court noted that, because the Los Angeles ordinance lacked such limits, "[e]ven if a hotel ha[d] been searched 10 times a day, every day, for three months, without any violation being found, the operator [could] only refuse to comply with an officer's demand to turn over the registry at his or her own peril." *Id.* at 2453.

The Chicago Ordinance has precisely the same shortcomings as the Los Angeles ordinance the Court struck down in *Patel.* It requires Plaintiffs to obtain and keep private information from their guests and to turn it over to the government without any process for pre-

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 11 of 17

compliance review—so that the risk of harassment or subjective enforcement is heightened just as in *Patel*. And under the Chicago Ordinance, a home-sharer whose home has been searched ten times a day every day for three months without any evidence being uncovered, would still be forced to allow yet another search—or face punishment. This is unconstitutional. *Cf. id.* In fact, the Chicago Ordinance is *more* constitutionally objectionable than the Los Angeles ordinance in *Patel* because the properties subject to the Chicago Ordinance are often the *private residences* of the owners.

Although from a different jurisdiction, *United Prop. Owners Ass'n of Belmar v. Borough of Belmar*, 777 A.2d 950 (N.J. App. Div. 2001), is instructive here. That case involved an ordinance that, like the one at issue here, required homeowners to disclose to the government renters' personal information, including their names, addresses, telephone numbers, and copies of leases. The court found that this intruded on the rights of property owners "as well as that of their tenants." *Id.* at 980. The court found that the ordinance did not require the government to state any reason for demanding the information, *id.* at 982, and that "addresses, telephone numbers and identification are not necessary" to serve the government's interest in preventing occupation violations. *Id.* at 982-83. In short, the "government interest served" by the ordinance—specifically, preventing nuisances or overcrowding—"[did] not outweigh its repressive effect on privacy and associational rights." *Id.* at 971. The demand therefore violated both federal *and state* constitutional protections of privacy rights. *Id.* at 970.

The Chicago Ordinance violates the Illinois Constitution's protections for privacy rights that go beyond the federal Constitution's protections. In *Nesbitt,* the court noted that while the state Constitution's privacy protections generally mirror the federal Fourth Amendment, there is one respect in which "the privacy clause of our state constitution expands upon the protections

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 12 of 17

offered by the federal constitution": specifically, the protection of privacy rights in "books and records." 405 Ill. App. 3d at 828-29 (citation omitted). The court held that "it is reasonable for an individual to expect that his or her 'private records' will not be exposed to public view or that his or her personal characteristics will not be scrutinized absent a valid reason." *Id.* at 829. It then concluded that this protection applies to bank records, whether paper or electronic. *Id.* at 830.

Similarly, the personal identifying information that the Ordinance requires home-sharers to divulge upon demand to a City official consists of *private records*: identifying information similar to the financial records and copies of cancelled checks at issue in *Nesbitt.* And just as in *Nesbitt,* the Chicago Ordinance authorizes government officials to obtain this information without any form of prior independent approval, which makes it impossible to "consider whether the intrusion was reasonable by balancing the public's interest in the information against the individual's need for private security." *Id.* at 834.

In short, given that the state Constitution protects more rights than the federal Constitution, and that the federal Constitution bars suspicionless and warrantless demands for the private identifying information of hotel guests, it logically follows that the Illinois Constitution guarantees property owners and their guests protection against the sort of causeless, warrantless, suspicionless demands for disclosure of private information (and premises searches, as discussed above) that the Ordinance purports to authorize.

By empowering the City to seize personal information without obtaining a warrant or offering any process for precompliance review, the Ordinance violates even the most lenient standards governing constitutional privacy protections for information. Plaintiffs are therefore likely to succeed on the merits of Count II of their complaint, which challenges the Ordinance's provisions authorizing warrantless inspections of guests' personal information.

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 13 of 17

II. Absent injunctive relief, plaintiffs will suffer irreparable harm that law cannot remedy.

The second and third factors a court considers in determining whether to grant a preliminary injunction – whether plaintiffs will suffer irreparable harm and have no adequate remedy at law – also strongly favor granting Plaintiffs' motion.[3]

Plaintiffs seek an injunction rather than money damages because the Ordinance imposes far more than financial injuries; it violates their intimate privacy rights, for which they cannot be made whole by a monetary award. *See Kalbfleisch*, 396 Ill. App. 3d at 1116 (harm is "irreparable when it is of such nature that the injured party cannot be adequately compensated therefor in damages or when damages cannot be measured by any certain pecuniary standard"). If not enjoined, these provisions will become effective and enforceable against Plaintiffs on November 21, 2016, and thus "they will sustain irreparable harm to their legal rights by waiting for a decision on the merits." *Schwartz v. Coldwell Banker Title Servs. Inc.*, 178 Ill. App. 3d 971, 975 (2d Dist. 1989).

Absent a preliminary injunction, Plaintiffs will suffer irreparable harm because the Ordinance gives city officials and their delegates unrestricted authority to invade their personal homes "at any time and in any manner," Chi. Muni. Code § 4-6-300(e)(1) (vacation rentals), or "at least once every two years," *id.* § 4-16-230 (shared housing units) without a warrant; and it empowers city officials to seize personal information without first finding reasonable suspicion or probable cause, obtaining a warrant, providing for precompliance review, or even giving a reason. *Id.* §§ 4-6-300(f)(2), (3); 4-14-040(b)(8), (9). If Plaintiffs refuse to relinquish their

[3] Factors two and three are closely related and can be considered in tandem when Plaintiffs assert that money damages would be inadequate. *Cf. Kessler v. Continental Cas. Co.*, 132 Ill. App. 3d 540, 545 (1st Dist. 1985) (citations omitted) ("In order to establish irreparable injury, the plaintiff must show that his legal remedy is inadequate in that money damages will not be adequate compensation or the damages escape pecuniary valuation.").

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 14 of 17

constitutional rights, they are subject to punishment by "a fine of not less than $1,500 and not more than $3,000" per day. *Id.* § 4-6-300(k), 4-14-090(a).

Moreover, an injunction will not compromise the City's ability to maintain safe neighborhoods, as police and inspectors could still conduct proper searches under warrant and enforce the remaining provisions of the Ordinance. Indeed, the City has an interest in a speedy adjudication of this claim so that it may begin drafting a constitutionally sound substitute, as "[n]either the government nor the public generally can claim an interest in the enforcement of an unconstitutional law." *Am. Civil Liberties Union v. Ashcroft*, 332 F.3d 240, 2551 n.11 (3d Cir. 2003); *see also Joelner v. Village of Washington Park*, 378 F.3d 613, 620 (7th Cir. 2004) (First Amendment case noting "there can be no irreparable harm to a municipality when it is prevented from enforcing an unconstitutional statute").

CONCLUSION

Compelling home-sharers to open their homes and surrender their guest records (including guests' sensitive personal information) to City officials subjects Plaintiffs to unprecedented, unbounded, warrantless searches in violation of the Illinois Constitution, and it empowers the City to inflict irreparable harms on Plaintiffs. Plaintiffs therefore respectfully request that this Court enter a preliminary injunction barring Defendants and their agents from conducting warrantless searches or otherwise enforcing Chi. Muni. Code §§ 4-6-300(e)(1); 4-16-230; 4-6-300(f)(2), (3); and 4-14-040(b)(8), (9)).

Dated: November 15, 2016

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 15 of 17

Respectfully Submitted,

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ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 16 of 17

CERTIFICATE OF SERVICE

I, Jacob Huebert, an attorney, hereby certify that on November 15, 2016, I served the foregoing Plaintiffs' Motion for Preliminary Injunction on Defendants by personal service at the following at addresses:

City of Chicago
Office of the Mayor
121 N. LaSalle Street, 4th Floor
Chicago, Illinois 60602

Maria Guerra Lapacek, Commissioner
Department of Business Affairs and Consumer Protection
City of Chicago
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Chicago, Illinois 60602

Jacob Huebert

ELECTRONICALLY FILED
11/15/2016 10:13 AM
2016-CH-14897
PAGE 17 of 17

Chancery DIVISION

Litigant List

Printed on 11/15/2016

Case Number: 2016-CH-14897

Plaintiffs

Plaintiffs Name	Plaintiffs Address	State	Zip	Unit #
MENDEZ LEILA			0000	
SASSO SHEILA			0000	
ZARAGOZA ALONSO			0000	
LUCCI MICHAEL			0000	

Total Plaintiffs: **4**

Defendants

Defendant Name	Defendant Address	State	Unit #	Service By
CITY OF CHICAGO		0000		
MARIA GUERRA LAPACEK		0000		

Total Defendants: **2**