

Hotel industry groups sue San Francisco over emergency hotel cleaning law

Jul 20, 2020, 12:37pm PDT Updated: Jul 20, 2020, 1:01pm PDT

Hotel industry associations representing local, state and national hospitality interests are suing the City of San Francisco over an emergency ordinance that would require stricter cleaning standards for hotel rooms.

The industry groups claim the rules would make employees less safe and cripple the already-lagging local hospitality industry.

San Francisco Mayor London Breed quietly signed the Healthy Buildings Ordinance into law on Friday putting it into immediate effect after it was unanimously approved by the Board of Supervisors earlier this month. Like all emergency ordinances, the law can be renewed after its 60-day period of effect expires.

The ordinance outlines mandatory cleaning procedures for hotels and large office buildings and enforcement protections for employees, and violators receive an undisclosed fine. Among the ordinance's requirements are routine sanitization of surfaces including walls, windows and drapes and additional training, testing, and whistleblowing protections for staff.

The lawsuit, filed Monday morning in San Francisco Superior Court, names the Hotel Council of San Francisco, the California Hotel and Lodging Association and the American Hotel & Lodging Association as plaintiffs. The lawsuit is seeking a declaration of the ordinance as void and an injunction against enforcement, arguing that the ordinance is a violation of due process because it allegedly puts employees at a greater risk of Covid-19 exposure and effectively prevents hotels from operating due to prohibitive costs.

"This harmful ordinance left us no option but to defend the safety and well-being of our 25,000 San Francisco employees and our valued hotel guests," said Hotel Council of San Francisco CEO and President Kevin Carroll at a press conference Monday morning with the leaders of the other two hotel organizations.

"This dangerous ordinance contradicts the advice of public health experts and would cause enormous economic hardship to our already struggling hotels trying to keep employees on the payroll."

A crucial point of contention between hotel groups and the local union representing hotel workers, Unite Here Local 2, is that the ordinance requires rooms to be cleaned daily unless explicitly declined by a guest, and bars hotels from incentivizing guests to decline daily cleaning through rewards programs.

"From our perspective it's shocking that the hotel industry wants to do less cleaning rather than more cleaning in the middle of a pandemic, and that they're willing to go to court to fight an ordinance that would lead the nation in cleaning and safety standards," said Ted Waechter, spokesperson for Unite Here Local 2.

Waechter added that the safety of daily hotel room cleaning is supported by the World Health Organization and by a contingent of medical professors at UC San Francisco and the University of Illinois at Chicago in a signed letter sent to the Board of Supervisors on Friday.

Jon Cote, spokesperson for the San Francisco city attorney said, "We'll review the lawsuit once we've actually been served with it, and we'll address it in court."



TODD JOHNSON

The 401-room W Hotel San Francisco from Marriott is one of dozens of hotels to temporarily close due to lack of demand during the Covid-19 crisis.

Shanin Specter, a law professor at UC Hastings, said the lawsuit is "totally without merit."

"The regulatory powers of the city of San Francisco are very extensive, particularly as it relates to health and safety, and the courts are not going to second guess those judgements," Specter said, adding that the lawsuit might be more of "political statement" to bring attention to their side of the issue.

"That would not be a good calculation in my view," Specter said. "While the hoteliers are well heeled, the city of San Francisco is better-heeled. I don't think you'll force the city to do something because you sued them unless the lawsuit has merit."

A better way to make this point, Specter said, could be to add a surcharge for hotel guests related to the additional cleaning costs, similar to the "S.F. Mandate" charge restaurateurs added to bills in response to legislation requiring them to shoulder additional employee benefits costs. Ultimately it didn't change the city's mind, Specter said, but it was a way of telling customers where to direct their complaints.

Supervisor [Aaron Peskin](#), who sponsored the legislation, were not immediately available for comment. I will update this story if I hear back.

Unlike much of the state, which allowed hotels to open to leisure guests in early June, San Francisco hotels have been limited to hosting guests on essential travel, those who are seeking to quarantine from living situations, or who are participating in the city's program to use hotels to house vulnerable populations, such as homeless individuals or first responders. The city's timeline to open hotels to leisure guests in mid-August is in limbo given the recent surge of coronavirus cases and Mayor Breed's announcement that reopening is on "[indefinite pause](#)."

Carroll added that the additional costs and requirements of this ordinance would likely delay some hotels from opening for leisure guests once local public health orders lift, meaning they would bring back fewer employees.

An independent study commissioned by the CHLA concluded that compliance would cost the city's more than 200 hotels about \$47.3 million annually in labor costs, cleaning materials and extra laundering above the costs for meeting state and federal operating guidelines. That works out to about \$220,000 annually for the average 250-room hotel, assuming a 63% occupancy, or about \$3.81 per room per night.

The baseline cost of compliance with national and federal guidelines, according to the study, is about \$498,000 annually, working out to about \$8.64 per room per night.

Alex Barreira
Staff Reporter
San Francisco Business Times

