

# CITY OF OJAI

## RESOLUTION NO. 16-15

### **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 HOMEAWAY AND VRBO**

**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 HomeAway and VRBO 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 HomeAway and VRBO 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 both HomeAway and VRBO 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 HomeAway, 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 HomeAway or VRBO 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 12<sup>th</sup> 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"

In re: HomeAway )  
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LEGISLATIVE SUBPOENA  
(Government Code §37104.)

Date: April 12, 2016  
Time: 7:00 P.M.  
Place: Council Chambers  
401 S. Ventura Street  
Ojai, CA 93023

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TO: HomeAway, Inc.  
Attn: Melissa Pearson Fruge, Vice President and General Counsel  
1011 W. 5th Street, Suite 300  
Austin, TX 78703

1. On January 12, 2016, the City Council of the City of Ojai, California adopted Resolution No. 16-15 (incorporated by reference into this subpoena). Accordingly, you are hereby ordered to produce certified copies of the Records identified in Section 3 below as follows:

(A) You are ordered to appear in person and to produce true and correct copies of the records which you have in your possession described in Section 3 (“Records”) at the City of Ojai, City Council meeting on April 12, 2016 at 7:00 P.M. (or as soon thereafter as the matter may be heard), to be held at Council Chambers at City Hall, 401 S. Ventura Street Ojai, CA 93023.

(B) Your personal attendance and the production of documents are required by this subpoena, unless alternative compliance occurs as set forth in Section 2.

2. You are not required to appear at the City Council meeting on the date and time set forth above if, prior to April 12, 2016, you produce true and correct copies of the Records to Robert Clark, City Manager, City of Ojai, 401 S. Ventura Street Ojai, CA 93023. All copies of documents shall be accompanied by a declaration or affidavit warranting to their accuracy and completeness. A declaration or affidavit meeting the requirements of Code of Civil Procedure section 2020.430 shall be sufficient. The City of Ojai will pay all reasonable fees associated with copying the Records, if approved in writing in advance by the City Manager.

3. The Records to be produced are as follows. These Records pertain to the transient or short term rentals for less than 30 days of properties located within the City of Ojai for the time period from January 2015 to December 2015, inclusive:


- (a) A complete listing of all properties listed for rental on the HomeAway or VRBO 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, including the owner’s name; and

- (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