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10
 11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

13 AIRBNB, INC.,

14 Plaintiff,

15 HOMEAWAY.COM, INC.,

16 Plaintiff-Intervenor,

17 vs.

18 CITY AND COUNTY OF SAN
 19 FRANCISCO,

20 Defendant.

Case No. 3:16-cv-03615-JD

**UNOPPOSED ADMINISTRATIVE MOTION
 TO STAY PROCEEDINGS BECAUSE OF
 PROPOSED AMENDMENTS TO THE
 ORDINANCE**

Trial Date: Not set

INTRODUCTION

1
2 Defendant City and County of San Francisco (“the City”) submits this unopposed
3 administrative motion pursuant to Local Rule 7-11 to stay the proceedings for sixty (60) days in light
4 of proposed amendments to the challenged law that have been introduced before the Board of
5 Supervisors. Plaintiffs Airbnb, Inc. (“Airbnb”) and Homeaway.Com, Inc. (“Homeaway”) have
6 informed the City that they do not oppose the relief sought in this Motion, and take no position
7 regarding the proposed amendments. (Steeley Dec. ¶¶ 5-6.)

DISCUSSION

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9 On June 27, 2016, Airbnb filed its Complaint and Motion for a Preliminary Injunction in this
10 action. Dkt. Nos. 1, 3. On July 12, 2016, Homeaway filed a Complaint in Intervention. Dkt. 24.
11 Both complaints challenge Sections 41A.5(e), 41A.5(g)(4)(C), and 41A.7(b)(1)–(3) of the San
12 Francisco Administrative Code (“the Ordinance”). Airbnb’s complaint argues that the Ordinance
13 violates its rights under the Communications Decency Act, 47 U.S.C. § 230 (the “CDA”), the Stored
14 Communications Act, 18 U.S.C. §§ 2701 et seq. (the “SCA”), and the First Amendment. Homeaway’s
15 complaint argues that the Ordinance violates those same laws, as well as the Dormant Commerce
16 Clause and the Fourteenth Amendment.

17 On July 12, 2016, Supervisor David Campos of the San Francisco Board of Supervisors
18 introduced substantive amendments to the Sections of the Administrative Code at issue in this
19 litigation. (Steeley Dec. ¶ 2.) Those proposed amendments would, if adopted, significantly alter
20 Plaintiffs’ obligations under San Francisco law and may moot some, if not all, of the causes of action
21 in Plaintiffs’ complaints. The City currently expects that the Board of Supervisors will decide whether
22 to enact the proposed amendments by the beginning or middle of August 2016. If enacted by the
23 Board, the Mayor has a 10-day period in which to sign the legislation. The amendments would take
24 effect thirty (30) days after approval by the Mayor.

25 Pursuant to the Court’s Order dated July 1, 2016, Homeaway’s motion for a preliminary
26 injunction is due July 14, 2016, the City’s responses to both Plaintiffs’ motions are due July 29, 2016,
27 and replies are due August 5, 2016. A hearing on the Motions for Preliminary Injunction is set for
28 September 7, 2016.

1 In light of the uncertainty in the law, it would be inefficient for the parties to continue to brief –
2 or for the Court to consider – the constitutionality of the Ordinance while substantive amendments are
3 pending. Thus, the City requests an order staying the litigation for sixty (60) days to allow time for the
4 uncertainty in the law to resolve. The City has previously agreed to not enforce the Ordinance against
5 the short term rental hosting platforms (such as Airbnb and Homeaway) pending resolution of the
6 preliminary injunction motions, and also agrees to not enforce the Ordinance during the proposed sixty
7 (60) day stay.

8 **CONCLUSION**

9 For the reasons set forth herein, the City requests that the Court enter the attached order staying
10 the litigation – and all pending deadlines – for sixty (60) days to allow time for the Board of
11 Supervisors to consider and to act on the proposed amendments. The City agrees that it will not
12 enforce the Ordinance during that sixty (60) day period. Airbnb and Homeaway do not oppose the
13 relief sought in this Motion, and take no position regarding the proposed amendments.

14
15 Dated: July 14, 2016

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