

City of Carpinteria
City Council Regular Meeting Agenda
Monday, August 10, 2015
Council Chamber, 5775 Carpinteria Avenue

4:30 Closed Session - 5:30 p.m. Regular Session

****Revised***

INFORMATION ABOUT CITY COUNCIL MEETINGS:

- The time at which an item on the agenda is scheduled to be heard is an estimate only. The City Council may consider and act on an agenda item in any order it deems appropriate. In addition, an item may be considered earlier or later than the Estimated Time, depending on the length of time which is devoted to other agenda items. All persons interested in an item listed on the agenda are advised to be present throughout the meeting to ensure that they are present when the item is called.
- The regular meeting will be broadcast live over Government Access Television Channel 21. The City Council meetings will be rebroadcast on Wednesdays at 8:00 p.m. and Saturdays at 5:00 p.m.
- Materials related to an Agenda item submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 5775 Carpinteria Avenue, Carpinteria, during normal business hours. Such documents are also available on the City of Carpinteria website at www.carpinteria.ca.us subject to staff's ability to post the documents before the meeting.
- Any written or printed material and/or exhibits presented at a City Council meeting or work session become the property of the City.
- Any information presented to the City Council by the public on any agenda item and during Public Comment using electronic media to be displayed on the overhead projector must be arranged with staff for review of materials in advance of the meeting and no later than close of business Wednesday prior to the Council meeting.
- As a courtesy to others and to avoid interference with the public address system, please refrain from using cell phones in the Council Chambers and please turn off all audible pagers and rings.
- If you wish to speak on a matter scheduled for consideration in a closed session, you will have an opportunity to address the City Council before the Council retires to its closed session deliberations.

**ESTIMATED
TIME:**

4:30 p.m. **CALL TO ORDER**

4:30 p.m. **ROLL CALL**

4:30 p.m. **PUBLIC COMMENT ON CLOSED SESSION MATTER**

4:31 p.m. **CLOSED SESSION**

1. Conference with Real Property Negotiator(s) – Government Code Section 54956.8

Property: A parcel approximately two miles in length and fifty feet in width, bisecting the area of the City's tidelands jurisdiction.

Negotiating Party/Property Owner: Venoco, Inc. and Ellwood Pipeline, Inc.

Agency Negotiators: Dave Durflinger, City Manager; Peter Brown and ***Dylan Johnson**** on Behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria; Matt Roberts, Director of Parks and Recreation; and Jacquie Campbell, Director of Community Development.

Under Negotiation: price and/or terms of payment.

2. Public Employees Performance Evaluation Government Code Section 54957

Title: City Manager, Dave Durflinger

4:31 p.m. **TEMPORARY ADJOURNMENT TO CLOSED SESSION**

5:30 p.m. **CALL BACK TO ORDER**

5:30 p.m. **ROLL CALL**

5:31 p.m. **CLOSED SESSION REPORT**

5:31 p.m. **PLEDGE OF ALLEGIANCE**

5:32 p.m. **INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS**

3. Presentation of a Certificate of Commendation to Lt. Brad McVay on his retirement as Chief of Police Services for the City of Carpinteria
4. Drought Update Presentation by Charles Hamilton, Carpinteria Water District Director

5:40 p.m. **PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS**

5:42 p.m. **CITY MANAGER'S REPORT**

The City Manager will report to the City Council regarding various City and/or community events and/or matters of interest. There will be no City Council discussion except to ask questions or refer matters to staff; and no action will be taken unless listed on a subsequent agenda.

5:45 p.m. **PRESENTATIONS BY CITIZENS / PUBLIC COMMENT**

This is a time for public comments on matters not otherwise on the agenda but within the subject matter jurisdiction of the City Council. The Public Comment period is limited to 15 minutes and divided among those persons desiring to speak. No person shall speak longer than three minutes; however, the Mayor may establish shorter periods based on the time available and/or the number of persons waiting to speak. Persons wishing to speak on a specific item will be recognized at the time the agenda item is considered.

Please be aware that items on the consent calendar are considered to be routine and are normally enacted by one unanimous vote of the Council. If you wish to speak on a consent calendar item, or on a matter scheduled for consideration in a closed session at the end of the agenda, please do so during the Presentations by Citizens/Public Comment portion of the meeting.

The City and the City Council are not responsible for the content of statements made during the public comment period, or the factual accuracy of any such statements.

5:55 p.m. **AGENDA MODIFICATIONS:** The City Council may modify the regular agenda by tabling items, adding urgency items to the agenda, or changing the order in which items are considered. Changes to the Consent Calendar are considered at the time the Consent Calendar is considered.

5:55 p.m. **CONSENT CALENDAR (to be approved by roll call vote on one motion with all resolutions and ordinances as read by title only).**

Individual items may be removed and considered separately at the request of a Councilmember. Any item, which is removed from the Consent Calendar, will be added to the end of the agenda under Other Business.

5. Minutes of the regular meeting held July 27, 2015.
6. Cancellation of the Regular City Council meeting of August 24, 2015.

5:56 p.m. **ADMINISTRATIVE MATTERS: None**

PUBLIC HEARINGS:

- 5:56 p.m. 7 Annual Review of Fire Protection Mitigation Fee Program and Fee Adjustment

Recommendation: Approve and adopt Resolution No. 5569 updating the Fire Protection Mitigation Fee Schedule for Development, and approving and accepting the Carpinteria-Summerland Fire Protection District's Annual Report.

Staff Presenter: Charlie Ebeling, Public Works Director

Staff Report
Public Comment
City Council Determination

- 6:15 p.m. 8. Annual Review of the City's Development Impact Fee Program and Capital Improvement Plan

Recommendation: Adopt Resolution No. 5570, updating the City's Capital Improvement Plan and approving and accepting the Annual Report of the City's Development Impact Fee Program

Staff Presenter:

Staff Report
Public Comment
City Council Determination

OTHER BUSINESS:

- 6:30 p.m. 9. Initiation of Changes to City Regulations Concerning Short-term Residential Rental Use

Recommendation: Initiate amendment to the Carpinteria Municipal Code pertaining to short-term residential rental use.

Staff Presenter: Dave Durflinger, City Manager

Staff Report
Public Comment
City Council Determination

- 7:40 p.m. 10. Pavement Maintenance Project Street Selection Methodology and Authorization to Advertise Project No. 15078, Citywide Pavement Maintenance Project

Recommendation: Authorize Project No. 15068 – Citywide Pavement Maintenance Project with streets selected based on the refined approach (Approach 2) using the StreetSaver Pavement Management Program database and a newly completed field review by Pavement Engineering Incorporated.

Staff Presenter: Charles W. Ebeling, Director of Public Works

Staff Report
Public Comment
City Council Determination

- 7:50 p.m. 11. An Update by the 50th Anniversary Committee on Community Events and Activities being Planned and Carried Out to Recognize and Celebrate the 50th Anniversary of City Incorporation

Recommendation: Receive a report on events and activities to date and those being planned to commemorate the City's 50th Anniversary of incorporation.

Staff Presenter: Dave Durflinger, City Manager

Staff Report
Public Comment
City Council Determination

8:00 p.m. **COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS
PRESENTED BY COUNCILMEMBERS**

Informational reports from Councilmember representatives on the committees, commissions and organizations listed below. This is also an

opportunity for Councilmembers to request information from staff or seek support from fellow Councilmembers for future agenda items.

1. Representatives to Regional Agencies and Committees

- a. Beach Erosion Authority for Clean Oceans and Nourishment (BEACON) (Shaw/Alt. Carty)
- b. California Joint Powers Insurance Authority (CJPIA) (Clark/Alt. Shaw)
- c. Channel Counties Division, League of California Cities (Nomura/Alt. Shaw)
- d. Santa Barbara County Association of Governments (SBCAG)(Clark/Alt. Nomura)
- e. Santa Barbara County Air Pollution Control District (APCD)(Clark/Alt. Nomura)
- f. Santa Barbara Joint Housing Task Group (Carty &Shaw)
- g. Central Coast Collaborative on Homelessness (C3H) (Clark)
- h. South Coast Task Force on Youth Gangs Leadership and Executive Council (Carty & Clark)

2. Joint and Standing Committees

- a. City Council/Chamber of Commerce Board of Directors Committee (Carty & Nomura)
- b. City Council/Public Safety Committee (Clark & Shaw)
- c. City Council/School Board Committee (Stein & Carty)
- d. City Council/Utilities Committee (Stein & Nomura)
- e. City Council/First District Supervisor Committee (Stein & Carty)
- f. City Council Finance/Budget Committee (Stein & Clark)
- g. 50th Anniversary Committee (Carty & Nomura)

3. Ad Hoc Committees

- a. Public Facility Site Acquisition/Development Committee (Carty & Nomura)
- b. Transportation Committee (Stein & Shaw)
- c. Labor Relations Committee (Nomura & Shaw)

4. City Representatives on other Committees

- a. Community Media Access Center (Gary Dobbins)
- b. Santa Barbara Coastal Vector Control District (Ronald Hurd)
- c. Santa Barbara Metropolitan Transit District (Chuck McQuary)

8:01 p.m. **ATTENDANCE OF COUNCILMEMBERS FOR FUTURE MEETINGS**

8:01 p.m. **ADJOURNMENT**

The next regular meeting to be held on **Monday, September 14, 2015** at **5:30 P.M.**, in the Council Chamber, City Hall, 5775 Carpinteria Avenue, Carpinteria, California.

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the City Clerk's Office at 684-5405, extension 403 or the California Relay Service at (866) 735-2929. Notification two business days prior to the meeting will enable the City to make reasonable arrangements for accessibility to this meeting.

This agenda was posted on Wednesday, August 5, 2015, in the City Clerk's Office, on the City Hall Public Notices Board, and on the Internet.

Certificate of Commendation

*Awarded to Lt. Brad McVay in recognition of his service
to the Citizens of Carpinteria as the
Carpinteria Station Lieutenant from 2013 to 2015.*

The City of Carpinteria commends and congratulates Lt. Brad McVay for his outstanding 30-year law enforcement career and service to the citizens of Carpinteria and greater Santa Barbara County. Lt. McVay is retiring as the Chief of Police Services for the City of Carpinteria and has previously served the City of Carpinteria as a patrol deputy, canine handler and patrol supervisor. Along with his duties in Carpinteria, Lt. McVay has served as the manager for the Department's Search and Rescue Team, Volunteer Programs and Project Lifesaver program. During Lt. McVay's tenure, he also worked at the Central Stations Bureau where he managed the Santa Ynez and Lompoc Valley operations along with the contract cities of Buellton and Solvang. Other assignments have included adjutant to the Sheriff, Supervisor in Community Services, Patrol Supervisor, Crime Scene Investigator, Field Training Officer, Canine Unit Supervisor, Reserve Coordinator and Mobile Field Force Team Leader.

This special recognition has been issued to Lt. McVay for his exemplary work and leadership serving the citizens of Carpinteria including his emphasis on community outreach work and for his strong commitment to community policing.

Gregg A. Carty, Mayor

Fred Shaw, Vice-Mayor

Wade Nomura, Councilmember

Al Clark, Councilmember

J. Bradley Stein, Councilmember

**City of Carpinteria
City Council Minutes
Regular Meeting
Monday, July 27, 2015**

INFORMATION ABOUT CITY COUNCIL MEETINGS:

Mayor Carty called the meeting to order at 4:37 p.m.

ROLL CALL

Councilmember Nomura, Councilmember J. Bradley Stein, Vice Mayor Fred Shaw, and Mayor Gregg Carty were present. Human Resource Manager Arlene Balmadrid was also present.

Councilmember Clark was absent.

PUBLIC COMMENT ON CLOSED SESSION MATTER: None.

CLOSED SESSION

1. Public Employees Performance Evaluation Government Code Section 54957

Title: City Manager, Dave Durflinger

TEMPORARY ADJOURNMENT TO CLOSED SESSION

The City Council recessed to Closed Session at 4:38 p.m.

CALL BACK TO ORDER

The meeting was called to order by Mayor Carty at 5:38 p.m.

ROLL CALL

Councilmembers present:

Councilmember Wade Nomura
Councilmember J. Bradley Stein
Vice Mayor Fred Shaw
Mayor Gregg Carty

Councilmember Al Clark was absent.

Staff members present:

Dave Durflinger, City Manager
Peter Brown, on behalf of Brownstein Hyatt Farber Schreck, LLP, acting as City Attorney of the City of Carpinteria (arrived at 6:02 p.m.)
Fidela Garcia, City Clerk
Jackie Campbell, Community Development Director
Arlene Balmadrid, Human Resources/Risk Manager
Lt. Brad McVay, Sheriff's Department

PLEDGE OF ALLEGIANCE

All present were led in the salute to the flag by Mayor Carty.

INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS

2. Presentation of Community Partner Award.

Mayor Carty read the City's summer 2015 Outstanding Community Partner Award presented to Catholic Charities. Mr. Brian Clark, Client Services Regional Coordinator for Catholic Charities, expressed appreciation for the acknowledgement. He said services provided are a community effort with a feeling like that of neighbors helping neighbors and he thanked the City for its recognition.

3. Presentation of Employee Service Awards.

Mayor Carty, Mr. Durflinger, and Arlene Balmadrid recognized and presented Service Awards to employees.

PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS

Mayor Carty noted he attended a celebration of life for Richard Partida who was in attendance along with many long time Carpinterians. He said it was an amazing celebration of Richard's life and that his sentiments and prayers are with him and his family.

Councilmember Shaw mentioned that September is World Suicide Prevention month and that HopeNet is sponsoring a Candlelight Vigil on September 10 from 7-8 pm and offering a free Mental Health Training for Carpinteria residents on September 26 from 9-5:30 pm at the Carpinteria Women's Club, reservations are required; and that Santa Barbara County Mental Health, Alcohol, Drug and Mental Health Services will hold a free mental health screening by the seal fountain downtown on September 17 from 4-7 pm.

Mayor Carty announced he would be adjourning the meeting in memory of Jayne Callaway, Bob Henry, and Steve Soden.

CITY MANAGER'S REPORT

- Italian Stone Pine tree failure occurred on Seventh Street. The remainder of the tree is unstable and will have to be removed and replaced. An arborist will inspect every Italian Stone Pine tree on Seventh Street and on Carpinteria Avenue to insure they are safe and healthy.
- One of the two remaining historic palms (Landmark No. 4, 1977) in front of The Palms Restaurant died and will be replaced with a palm variety similar to those on the rest of that block and that the City will be considering how to properly recognize these landmarks permanently.
- The Short Term Residential Rentals matter will be discussed at the City Council meeting of August 10.

Ms. Campbell presented an update on pet adoption opportunities.

PRESENTATIONS BY CITIZENS / PUBLIC COMMENT

Joyce Donaldson, Carpinteria Valley Chamber of Commerce CEO, announced upcoming chamber activities.

AGENDA MODIFICATIONS: None.

CLOSED SESSION REPORT

Mr. Brown noted that the City Council met in Closed Session to discuss:

Public Employees Performance Evaluation Government Code Section 54957 and title of employee reviewed was the City Manager, Dave Durflinger.

Mr. Brown announced there was no reportable action from the Closed Session item.

CONSENT CALENDAR

4. Expenditures for the period beginning July 7, 2015 and ending July 22, 2015.
5. Minutes of the regular meeting held June 22 and July 13, 2015.
6. Quarterly Review of Investment Results and Certifications Concerning Compliance with Investment Policy and Cash Flow Needs for the next six months.

7. Adopt Resolution No. 5568, approving revisions to the Compensation Schedule for hourly rated employees and repealing Resolution No. 5614.
8. Adopt Ordinance No. 702, adding Chapter 15.29 to the Carpinteria Municipal Code relating to Solar Energy Permitting.
9. Designation of a Voting Delegate for the League of California Cities Annual Conference and Approve Councilmember Shaw's travel to the conference.

Motion by Councilmember Stein, seconded by Councilmember Nomura, to approve the Consent Calendar including adoption of Resolution No. 5568 and Ordinance No. 702 (second reading), as read by titles only.

Upon voice vote, Councilmember Nomura, Councilmember Stein, Vice Mayor Shaw, and Mayor Carty were in favor. Motion carried 4-0 (Councilmember Clark absent).

ADMINISTRATIVE MATTERS: None

PUBLIC HEARINGS:

10. Ordinance No. 703, Amending Title 14 (Zoning) of the Carpinteria Municipal Code and Local Coastal Program Creating a Transportation Corridor Wetland Overlay District and a Whitney Site Agricultural Overlay District and Removing Zoning from a Portion of APN 001-070-012

An Ordinance to implement amendments to the Local Coastal Program to accommodate development of three inter-related transportation improvements projects including the Linden Avenue and Casitas Pass Road Interchanges and Via Real Extension, the South Coat 101 High Occupancy Vehicle (HOV) Lanes, and the Santa Claus Lane Bike Path.

Recommendation: 1. Approve Ordinance No. 703, as read by title only (first reading), to function as the implementation mechanism for Council Resolution 5623 (approved 6-22-2015); and 2. Submit Ordinance 703, as part of the Local Coastal Program Amendments, to the California Coastal Commission for review and approval.

Councilmember Nomura recused himself from item 10 due to a conflict of interest. He stepped down from the dais and exited the Council Chamber at 6:02 p.m.

Jackie Campbell, Community Development Director, presented the staff report.

Ms. Campbell mentioned that the resolution adopted by the City Council on June 22, on the Linden Avenue and Casitas Pass Road Interchanges and Via Real Extension matter, approving Local Coastal Program Amendments has been sent to the California Coastal Commission for consideration; however, because the acts removing the zoning

from the southern portion of the Whitney property and the changes to the zoning code require an ordinance, the matter has been brought back for that purpose. She noted that Ordinance No. 703 incorporated in item B, on page four of the ordinance, based on direction from the City Council related to the construction of the Community Garden on the Whitney site states the following: construction of a solid, grout filled masonry wall or an alternative wall of same or better noise attenuating value approximately six to eight feet in height, on the northern boundary of the remainder Whitney site (abutting APNs 001-252-001 through – 010 and APN 001-253-006) shall be completed prior to opening a community garden on the property.

She stated that at a meeting held last week between the City, Caltrans, and Santa Barbara County Association of Governments (SBCAG) staff discussed how to approach reevaluating the noise issues raised by the residents of the Cameo Road and Pacific Village neighborhoods and indicated that staff would continue to work with the residents of Cameo Road and Pacific Village neighborhoods related to the noise concerns raised by them at the previous City Council meeting.

Mayor Carty opened the Public Hearing at 6:08 p.m.

No public comment was heard.

Mayor Carty Closed the Public Hearing at 6:08 p.m.

Motion by Councilmember Stein, seconded by Vice Mayor Shaw, to approve the first reading of Ordinance No. 703, and that it be submitted as part of the Local Coastal Program Amendments, as read by title only.

Upon voice vote, Councilmember Stein, Vice Mayor Shaw, and Mayor Carty were in favor. Motion carried 3-0 (Councilmember Clark and Nomura absent).

OTHER BUSINESS:

11. Annual Report on Law Enforcement Services

Recommendation: Receive and file.

Councilmember Nomura returned to the Council Chamber at 6:13 p.m. and took his seat at the dais.

Lt. McVay announced that he would be retiring after 33 years of service with the County of Santa Barbara Sheriff's Department and proceeded to introduce Lt. Mike Perkins the City's new Chief of Police. Lt. Perkins said a few words about his experience and that he looked forward to working for the City as the new Police Chief.

Lt. Brad McVay presented the staff report and PowerPoint presentation.

Report received and filed.

COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS PRESENTED BY COUNCILMEMBERS

Councilmember Nomura reported that the next meeting of the City's 50th Anniversary Committee will be August 4 at 5:30 p.m. at City Hall.

Councilmember Shaw reported having attended a recent BEACON meeting. He mentioned that the Nature Conservancy had contracted a study regarding sea level rise and climate change, and that it would be made available through BEACON; and that a discussion was heard on the idea of considering whether a law suit against should be filed against Plains All American Pipeline for environmental impacts due to the loss of regenerated sand further south down the coast from the removal of sand at Refugio. The sand is being removed, cleaned and disposed of elsewhere. He reported that at a recent Bicycle Tourism Group meeting a discussion was heard regarding marketing and branding for Ventura and Santa Barbara County connecting bike paths. Lastly, he reported attending along with the Mayor and city staff a Joint Affordable Housing Task Group meeting where an update on rental housing units was presented by Rob Pierson, Santa Barbara City Housing Authority representative.

ATTENDANCE OF COUNCILMEMBERS FOR FUTURE MEETINGS

All Councilmembers are expected to attend.

ADJOURNMENT

The meeting was adjourned at 6:25 p.m. by Mayor Carty.

Gregg A. Carty, Mayor

ATTEST:

Fidela Garcia, CMC, City Clerk



City of Carpinteria

COUNCIL AGENDA STAFF REPORT August 10, 2015

ITEM FOR COUNCIL CONSIDERATION

Cancellation of the Regular City Council meeting of August 24, 2015

STAFF RECOMMENDATION

Action Item X ; Non-Action Item

That the City Council authorize the cancellation of the August 24, 2015 Council Meeting.

Motion: I move to move to approve canceling the City Council meeting of August 24, 2015.

BACKGROUND

The City Council holds its regular meeting on the second and fourth Mondays of every month. The City Council has the authority to establish meeting dates and times and to reschedule or cancel such meetings with proper and timely public notice. Traditionally, the City Council has cancelled the second meeting in August due to a light agenda and/or vacation schedules.

The purpose of this agenda matter is to allow the City Council an opportunity to discuss and act on the cancellation of its meeting of August 24, 2015.

DISCUSSION

Canceling the meeting date will require posting and noticing. Such a change is not significant as long as the decision to cancel is done well in advance. This will allow proper noticing.

Staff has considered the upcoming schedule of items for the agenda and at this time there are no issues that would be negatively impacted by the cancellation of the

meeting. As always, should an immediate need arise for the Council to consider and/or take action on a matter, a special meeting could be scheduled.

LEGAL

Should the City Council cancel the scheduled meeting, staff will ensure that the required posting and proper noticing are met.

OPTIONS

The City Council may select not to cancel the meeting or select an alternative meeting date.

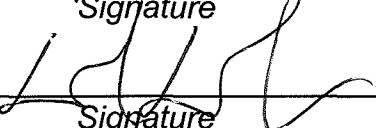
ATTACHMENTS

Staff contact: Fidela Garcia, City Clerk
(805) 684-5405, ext. 403
Fidelag97@gmail.com

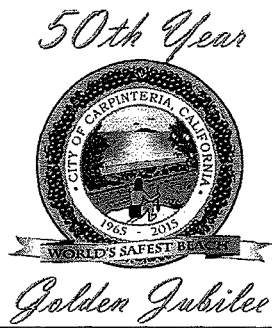
Reviewed by: Dave Durflinger, City Manager



Signature



Signature



City of Carpinteria

COUNCIL AGENDA STAFF REPORT August 10, 2015

ITEM FOR COUNCIL CONSIDERATION

Annual Review of Fire Protection Mitigation Fee Program and Fee Adjustment

STAFF RECOMMENDATION

Action Item X ; Non-Action Item

Approve and adopt Resolution No. 5569, Updating the Fire Protection Mitigation Fee Schedule for Development, and Approving and Accepting the Carpinteria-Summerland Fire Protection District's Annual Report.

Motion: I move to adopt Resolution No. 5569, as read by title only, approving the updated Fire Protection Mitigation Fee Schedule for Development, approving and accepting the Carpinteria-Summerland Fire Protection District's Annual Report, and updating the District's Master Facilities Plan.

BACKGROUND

In 1990 the State Legislature passed into law the Mitigation Fee Act (AB 1600) that established California Government Code Section 66000 et. seq. The City of Carpinteria and the County of Santa Barbara adopted ordinances imposing Fire Protection Fees on any new development within the City and County respectively. The mitigation fees are collected by the City and County for the benefit of the Carpinteria-Summerland Fire Protection District (District). The City ordinance is codified in Chapter 8.26 of the Carpinteria Municipal Code. The County ordinance is codified in Chapter 15, Article IIIA of County Code. Each year the City and County are required to receive and review an Annual Report provided by the District. The Annual Review includes a District Development Impact Fee (DIF) fund description, DIF Fee Schedule, a Master Facilities Plan and the current fee ledger. As long as the fee program is in place, both the City and County are required to pass resolutions to update the fees and accept an annual report. The fee schedule update includes the application of an inflationary index to the fee schedule, and any District request to adjust fees based on updated information such as a revised Master Facilities Plan.

Development of land within the district continues to occur and creates an inherent demand for fire protection service from the District. On July 21, 2015, the City of Carpinteria received a

request from the District to approve the attached annual report, updated Master Facilities Plan and DIF schedule.

DISCUSSION

Development Impact Fees or Mitigation Fees are intended to assist local fire agencies in responding to increased service demands caused by continued land development. The District secured the services of Revenue and Cost Specialists, LLC to assist in the production of a report entitled, "Development Impact Fee Calculation and Nexus Report for the Carpinteria-Summerland Fire Protection District, Update – October 2008." The report serves as an updated Master Facilities Plan, nexus study, and proposed fee schedule.

Table 1 below shows the current Fee Schedule adopted by the City Council on August 25, 2014. Table 2 shows the proposed Fee Schedule increases based on the 2015 Engineering News Record Construction Cost Index.

Table 1 Fire Protection Development Impact Fee Schedule (Current)	
Type of Development	2013-2014 Fees
Estate Single Family Residential	\$1,695.00 First 2,700 Sq. Ft. (1)
Single Family Residential	\$1,695.00 First 2,700 Sq. Ft. (1)
Multiple Family Residential	\$1,428.00 per Unit
Mobile Homes	\$1,882.00 per Unit
Commercial Lodging	\$1,013.00 per Unit
Commercial/Office Uses	\$2.44 per Sq. Ft.
Industrial Uses	\$0.22 per Sq. Ft.
Notes: (1) Plus \$0.382/Square Foot beyond 2,700 Square Feet *** Increases based on 2014 Engineering News Record Construction Cost Index***	

Table 2 Fire Protection Development Impact Fee Schedule (Proposed)	
Type of Development	2013-2014 Fees
Estate Single Family Residential	\$1,731.00 First 2,700 Sq. Ft. (1)
Single Family Residential	\$1,731.00 First 2,700 Sq. Ft. (1)
Multiple Family Residential	\$1,458.00 per Unit
Mobile Homes	\$1,922.00 per Unit
Commercial Lodging	\$1,034.00 per Unit
Commercial/Office Uses	\$2.49 per Sq. Ft.
Industrial Uses	\$0.22 per Sq. Ft.
Notes: (1) Plus \$0.382/Square Foot beyond 2,700 Square Feet *** Increases based on 2015 Engineering News Record Construction Cost Index***	

POLICY CONSISTENCY

This item is consistent with AB 1600 (Mitigation Fee Act), codified as Government Code Sections 66000 – 66025 and the City's Municipal Code, in particular, Chapter 8.26.

FINANCIAL CONSIDERATIONS

Collection of Development Impact Fees provide a portion of the revenue necessary for the Carpinteria-Summerland Fire Protection District to fund equipment acquisitions and construct facilities as outlined in the District's Facilities Master Plan. DIFs are adjusted automatically on an annual basis on July 1 of each year in accordance with Carpinteria Municipal Code Section 8.26.040 using the Construction Cost Index percentage by the "Engineer News Record." Table 3 below shows three examples of estimated mitigation fee payments.

Table 3			
Fire Protection Development Impact Fee Comparison			
Proposed Development	Units/Size	2014-2015 Fee (Current)	2015-2016 Proposed Fee
Example Residential Project			
Residential	1 Unit	\$1,695.00	\$1,731.00
The Bega Project			
Residential	3 Units	\$5,085.00	\$5,193.00
Commercial	7,000 Sq. Ft.	\$17,080.00	\$17,430.00
Industrial	33,000 Sq. Ft.	\$7,260.00	\$7,260.00
Lagunitas Project			
Commercial	85,000 Sq. Ft.	\$207,400.00	\$211,650.00

LEGAL

The City Attorney has reviewed this report and the attached Resolution No. 5569. Notice of this Public Hearing appeared in The Coastal View Newspaper on July 30 and August 6, 2015. On February 10, 2004, the City of Carpinteria and the Carpinteria-Summerland Fire Protection District executed an indemnification and hold harmless agreement. The purpose of the agreement was for the District to indemnify and hold harmless the City and City agents, officers and employees from claims related to the imposition, administration and collection of the District's DIFs. This agreement continues to be in effect.

OPTIONS

1. Adopt Resolution No. 5569, thereby approving the updated Fire Protection Mitigation Fee Schedule for Development, approving and accepting the Carpinteria-Summerland Fire Protection District's Annual Report, and updating the District's Master Facilities Plan.
2. Direct staff to amend the Resolution as determined appropriate and adopt the Resolution as amended.

3. Decline to adopt Resolution No. 5569, keeping the current Fire DIF fee structure in place.

PRINCIPAL PARTIES EXPECTED AT MEETING

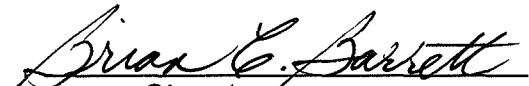
Jim Rampton, Carpinteria-Summerland Fire Protection District Interim Fire Chief

ATTACHMENTS

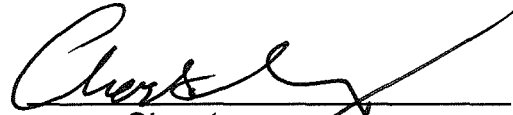
Attachment A: Carpinteria-Summerland Fire Protection District Annual Report
Attachment B: Resolution No. 5569

Staff contact:

Brian C. Barrett, Management Analyst
(805) 684-5405, ext. 446
brianb@ci.carpinteria.ca.us


Signature

Reviewed by:
Charles W. Ebeling, P.E., Public Works Director


Signature

Reviewed by: Dave Durflinger, City Manager


Signature

ATTACHMENT A

Carpinteria-Summerland Fire Protection District Annual Report



CARPINTERIA - SUMMERLAND

FIRE PROTECTION DISTRICT

STAFF REPORT 2015

ANNUAL REVIEW OF FIRE PROTECTION MITIGATION FEES

DATE : July 21, 2015

BACKGROUND

AB 1600, passed into law in 1989, allows for government agencies to impose Development Impact Fees (DIF). The law was codified in Government Code section 66000 et seq., also referred to as the Mitigation Fee Act. In 2003, the City of Carpinteria and the County of Santa Barbara adopted ordinances imposing Fire Protection Mitigation Fees on any new development within the Carpinteria – Summerland Fire Protection District. The mitigation fees are imposed by the City and County for the benefit of the District. *(It is important to note that these impact fees are levied by one of the two land use agencies within the Fire District; the City of Carpinteria and the County of Santa Barbara)* The City ordinance is codified in Chapter 8.26 of the Carpinteria Municipal Code. The County ordinance is codified in Chapter 15, Article IIIA, of the County Code.

AB 1600 requires that projects to be financed with DIF be identified in a Master Facilities Plan. **Periodic review and adjustment to the DIF is appropriate and warranted in order to insure that the District collects sufficient funds to construct and purchase additional facilities and equipment to serve new residential and commercial development.** In 2008, the District hired Revenue and Cost Specialist LLC to prepare an updated Development Impact Fee Nexus Calculation Report. This was the first update of the original 2003 study. The cost associated with construction and apparatus was recalculated to reflect today's construction market prices. **The law also requires that a portion of the Nexus report be developed which identifies the proportion of the improvement cost related to the new development and the existing community known as a proportional analysis. *(For example, proportional analysis means that a new fire station that serves an existing population could not be attributed totally to new development.)*** The report also takes into account the total available land for development, what demand for service would be at total build out, and factors those numbers into the cost of each project. Because of these and other requirements, the adoption of this new report was necessary. More importantly, however, was that the Master Facilities Plan was reviewed, amended and adopted on February 17, 2009 by the District Board of Directors to reflect a new direction being taken by the Fire District. The impact fees identified in the 2008 report should serve the District for many years with periodic economic indicator adjustments.

Government Code Section 66002 requires that an annual report be prepared that reviews the District's Master Facilities Plan and the estimated costs for constructing the public facilities that are contained therein. The estimated costs for constructing these facilities are adjusted each year by the Engineering News Record Construction Cost Index which was 2.1% for this reported year. In accordance with Carpinteria Municipal Code 8.26.040 and Santa Barbara County Code 15-67 the fees are automatically adjusted as well. The specific reporting requirements are contained below:

A brief description of the type of fee in the account or fund.

Development Impact Fees or Mitigation Fees are intended to assist local fire agencies in delivering the increasing service demand caused by additional development. In the 2014-15 Fiscal Year, the fund revenue was \$101,634.20 contributed 50% to 4880 Via Real (Casa De Las Flores) and 50% to various new estate development and ocean front remodels. The expenditures during this period were dedicated entirely to Professional Services for the conceptual design of FD Project # FD-01 Northerly Fire Station Relocation. The fund balance increased by \$90,869.09.

The amount of the fee. (See Exhibit A)

The beginning and ending balance of the account or fund as well as the amount of the fees collected and the interest earned. (See Exhibit B)

Identifies each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees. (See Exhibit C)

Identifies an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

As outlined in the Nexus Calculation Report, the Fire District approved Master Facility Plan presents a 20-year vision. Since the plan is dependent on development fees, it is extremely difficult to forecast completion dates for the listed projects. However, the Fire District expects to complete all of the projects within the 20-year span of the plan or by 2029. (See Exhibit C)

Gives a description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fee will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

No inter fund loans were made from or to the Development Impact fund during this reporting period.

The amount of refunds made pursuant to subdivision (e) of Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds or allocations have been made.

Recommendations

Approve the 2015 Annual Review of the Fire Protection Mitigation Fees and direct the Fire Chief to forward the report to both land use agencies for adoption.

Direct the Fire Chief to move forward on securing a contract with Revenue and Cost Specialist LLC. to produce a new Mitigation Fee Nexus Study by the end of 2015. As part of the project the Board will be required to adopt a new Master Facility Plan. (See Exhibit C)

Financial Impact

\$12,000

Staff Assigned

Jim Rampton, Interim Fire Chief
Ed Foster, Fire Marshal

EXHIBIT A

2015-16 Adopted Fire Protection Development Impact Fee Schedule	
Type of Development	Fee
Estate Single Family Residential	\$1,731.00 First 2,700 Sq. Ft. (1)
Single Family Residential	\$1,731.00 First 2,700 Sq. Ft. (1)
Multiple Family Residential	\$1,458.00 per Unit
Mobile Homes	\$1,922.00 per Unit
Commercial Lodging	\$1034.00 per Unit
Commercial/Office Uses	\$2.49 per Sq. Ft.
Industrial Uses	\$0.22 per Sq. Ft.
Notes: (1) Plus \$0.382/Square Foot beyond 2,700 Square Feet	
Source: Carpinteria-Summerland Fire Protection District – Development Impact Fees Nexus Calculation Report and Revised Master Facilities Plan, February 17, 2008	
Engineering News Record Construction Cost Index 2015 2.1%	

EXHIBIT B

Carpinteria Summerland FPD Fund 3633

Fire Protection District Development Impact Fees - Ledger FY 2014/2015*

	Ledger @				Ledger @
	July 1, 2014	Credits	Interest	Debits	June 30, 2015
Fund 3633 Fire Protection Capital Improvements	111,653.22	101,634.20	444.86	11,209.97	202,522.31

* Totals of Exhibit "B" are unaudited

EXHIBIT C

Carpinteria-Summerland Fire Protection District Master Suppression Facilities Plan Fire Suppression Facilities, Vehicles and Equipment		2003-2013	2014-2015	% from Fee	Total Dollar Cost from Fee	\$ from other Resources	Project Build- Out (+2.1%)
FD-01	Relocate Northerly Station #2	\$230,426	\$11,210	25	\$1,180,251	\$3,540,754	\$4,721,005
FD-02	Expand Southerly Station #1	\$80,719		100	\$1,845,676		\$1,845,676
FD-03	Relocate the Administration Office	0		25	\$1,325,854	\$3,977,563	\$5,303,417
FD-04	Construct an Emergency Operations Center (EOC)	0		25	\$273,912	\$821,738	\$1,095,650
FD-05	Construct Training Tower/Drafting Pit	0		25	\$422,861	\$1,268,583	\$1,691,444
FD-06	Acquire a Type 1 Engine w/Aerial Attack Capability (Telesquirt)	0		75	\$581,165	\$193,722	\$774,887
FD-07	Acquire a Type III Fire Engine (Completed 2014)	\$355,388		100	\$354,176		\$354,176
FD-08	Acquire a Multi-Use Incident Support Vehicle	0		25	\$64,574	\$193,722	\$258,296
FD-09	Improve the Wildland Patrol/Brush Insp. Vehicle	0		25	\$5,740	\$17,219	\$22,959

TOTALS

\$16,067,510

ATTACHMENT B

Resolution No. 5569

RESOLUTION NO. 5569

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA UPDATING THE FIRE PROTECTION MITIGATION FEE SCHEDULE FOR DEVELOPMENT AND APPROVING AND ACCEPTING THE CARPINTERIA-SUMMERLAND FIRE PROTECTION DISTRICT'S ANNUAL REPORT

WHEREAS, on March 22, 2004, the City Council of the City of Carpinteria, California ("City") adopted Ordinance 599, creating and establishing the authority for imposing and charging a fire protection mitigation fee, as codified in Carpinteria Municipal Code Chapter 8.26, and Resolution No. 4857 which established the level of Fire Protection Mitigation Fees; and

WHEREAS, The District has prepared an analysis of the need for new facilities and improvements required, in the form of a revised 2008 Master Facilities Plan, which sets forth the relationship between new development, the needed facilities, and their cost estimates; and

WHEREAS, on May 26, 2009, the City Council of the City of Carpinteria, California adopted a report by Revenue and Cost Specialists, LLC, dated October 27, 2008, entitled "Development Impact Fee Calculation and Nexus Report for the Carpinteria-Summerland Fire Protection District" (Report) which analyzes the impacts of future development on the Carpinteria-Summerland Fire Protection District (District) fire protection facilities and improvements; and

WHEREAS, by Resolution No. 5545, adopted August 25, 2014, the City Council last approved the District's Annual Report and adjusted Fire Protection Mitigation Fee Schedule for Development; and

WHEREAS, Carpinteria Municipal Code Section 8.26.050 allows the Fire Protection Mitigation Fee to be set and revised periodically by resolution of the City Council, with Ordinance 599 being considered as enabling and directive in this regard; and

WHEREAS, the District has prepared an Annual Report including DIF Fund Description, DIF Fee Schedule, Master Facilities Plan, and Current Fee, which are available for public review as required by law;

NOW THEREFORE, it is hereby resolved by the City Council of the City of Carpinteria, California as follows:

1. The City Council finds that new development in the City will generate additional demands on fire protection facilities serving the City and will contribute to the impact upon such facilities.
2. The City Council finds the cost estimates set forth in the District's Master Facilities Plan are reasonable cost estimates for the public facilities contained in said Plan and determines that there is a continued need for these improvements and that the improvements are consistent with objectives and policies described in the City's General/Local Coastal Land Use Plan and Environmental Impact Report, Fire Hazard, Objective S-5.

3. The City Council finds that the fees expected to be generated by new development will not exceed the costs for construction of fire protection facilities and improvements set forth in the Master Facilities Plan.
4. The City Council finds that there is a reasonable relationship between the fees use and the type of development for which the fees are charged:
 5. The City Council finds that there is a reasonable relationship between the need for the public facilities for which fees are collected and the type of development project on which the fee is imposed, as more particularly described in EXHIBIT's 1, 2, 3 and 4.
 6. The City Council finds that there is a reasonable relationship between the amount of the fees and the cost of the public facilities attributable to the development on which the fee is imposed, as more particularly described EXHIBIT's 1, 2, 3, and 4.
5. The City Council approves the District's adopted Master Facilities Plan as shown in EXHIBIT 3.
6. The City Council approves the District's Development Impact Fee adjustment schedule as shown in Exhibit 2.
7. As to funds on deposit in the Fire Mitigation Fees Fund, the City council finds as follows:
 - a. The purpose of the Fire Mitigation Fees is to finance necessary District infrastructure as detailed further in Exhibit 3.
 - b. A reasonable relationship between the Mitigation Fee and its purpose exists, in that the District nexus calculation report demonstrates that the fee assessed to new development is in proportion to such development's impacts on necessary District infrastructure.
 - c. The sources and amounts of funding anticipated to complete financing for the Master Facilities identified in the District's Master Facilities Plan are identified as shown in Exhibit 3.
 - d. All projects on the District's Master Facilities Plan are expected to be completed with development fees, when sufficient funds are collected within the 20-year span of the plan.

PASSED, APPROVED AND ADOPTED this 10th day of August 2015, by the following called vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

MAYOR, CITY OF CARPINTERIA

ATTEST:

CITY CLERK, CITY OF CARPINTERIA

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 10th day of August 2015.

CITY CLERK

APPROVED AS TO FORM:

Peter N. Brown, on behalf of
Brownstein Hyatt Farber Schreck, LLP
Acting as City Attorney of the City of Carpinteria

EXHIBIT 1 TO RESOLUTION NO. 5569

FUND DESCRIPTION

Master Facilities Plan : Fees collected for the actual and estimated costs to acquire certain fire protection capital improvements, including structures, fire apparatus and fire equipment.

EXHIBIT 2 TO RESOLUTION NO. 5569

FEE SCHEDULE

2015-16 Adopted Fire Protection Development Impact Fee Schedule	
Type of Development	Fee
Estate Single Family Residential	\$1,731.00 First 2,700 Sq. Ft. (1)
Single Family Residential	\$1,731.00 First 2,700 Sq. Ft. (1)
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Commercial Lodging	\$1,034.00 per Unit
Commercial/Office Uses	\$2.49 per Sq. Ft.
Industrial Uses	\$0.22 per Sq. Ft.
Notes: (1) Plus \$0.382/Square Foot beyond 2,700 Square Feet	
Source: Carpinteria-Summerland Fire Protection District – Development Impact Fees	
Nexus Calculation Report and Revised Master Facilities Plan, February 17, 2008	
Engineering News Record Construction Cost Index 2015 2.1%	

EXHIBIT 3 TO RESOLUTION NO. 5569

FACILITIES MASTER PLAN

Carpinteria-Summerland Fire Protection District Master Suppression Facilities Plan Fire Suppression Facilities, Vehicles and Equipment		2003-2013	2014-2015	% from Fee	Total Dollar Cost from Fee	\$ from other Resources	Project Build-Out (+2.1%)
FD-01	Relocate Northerly Station #2	\$230,426	\$11,210	25	\$1,180,251	\$3,540,754	\$4,721,005
FD-02	Expand Southerly Station #1	\$80,719		100	\$1,845,676		\$1,845,676
FD-03	Relocate the Administration Office	0		25	\$1,325,854	\$3,977,563	\$5,303,417
FD-04	Construct an Emergency Operations Center (EOC)	0		25	\$273,912	\$821,738	\$1,095,650
FD-05	Construct Training Tower/Drafting Pit	0		25	\$422,861	\$1,268,583	\$1,691,444
FD-06	Acquire a Type 1 Engine w/Aerial Attack Capability (Telesquirt)	0		75	\$581,165	\$193,722	\$774,887
FD-07	Acquire a Type III Fire Engine (Completed 2014)	\$355,388		100	\$354,176		\$354,176
FD-08	Acquire a Multi-Use Incident Support Vehicle	0		25	\$64,574	\$193,722	\$258,296
FD-09	Improve the Wildland Patrol/Brush Insp. Vehicle	0		25	\$5,740	\$17,219	\$22,959
TOTALS							\$16,067,510

EXHIBIT 4 TO RESOLUTION NO. 5569

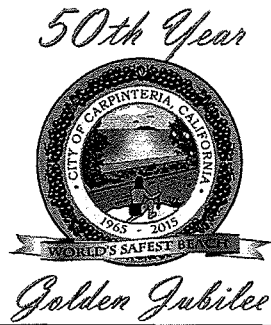
FEE ACCOUNTING

Carpinteria Summerland FPD Fund 3633

Fire Protection District Development Impact Fees - Ledger FY 2014/2015*

	Ledger @				Ledger @
	July 1, 2014	Credits	Interest	Debits	June 30, 2015
Fund 3633 Fire Protection Capital Improvements	111,653.22	101,634.20	444.86	11,209.97	202,522.31

* Totals of Exhibit "B" are unaudited



City of Carpinteria

COUNCIL AGENDA STAFF REPORT August 10, 2015

ITEM FOR COUNCIL CONSIDERATION

Annual Review of the City's Development Impact Fee Program and Capital Improvement Plan

STAFF RECOMMENDATION

Action Item X ; Non-Action Item

Adopt Resolution No. 5570, Updating the City's Capital Improvement Plan and Approving and Accepting the Annual Report on the City's Development Impact Fee Program.

Motion: I move to adopt Resolution No. 5570, as read by title only, approving and adopting the Development Impact Fee Annual Report and updating the City's Capital Improvement Plan.

BACKGROUND

To offset the demands on public facilities generated by new development, the City of Carpinteria collects eleven categories of Development Impact Fees (DIFs). Public improvement projects, known as Capital Projects, that have been determined to be necessary to respond to the demands placed on public facilities by development are included in the City's Capital Improvement Plan. The amount of each Development Impact Fee is based on a determination made in a study¹ of the portion of Capital Improvement Plan costs, i.e., the "fair share", attributable to new development projects. The fees are collected under the authority of the California Mitigation Fee Act, Government Code Section 66000. The Mitigation Fee Act requires implementing agencies follow certain reporting and accounting requirements. The City's DIF program is established in the City's Municipal Code (Sections 15.80.110 and 15.80.160).

Each year the City is required to prepare an annual report. The City is also required to prepare certain findings every five years. Since many of the DIF categories had

¹ 2003 Development Impact Fee Report, City of Carpinteria dated December 8, 2003

different start years, the five year findings for all categories of DIFs are presented every year with the Annual Report. As required by the Mitigation Fee Act, the Annual Report with the appropriate findings and the Capital Improvement Plan must be presented at a public hearing for the Council's consideration regarding adequacy and compliance with State and Local regulations.

The City also collects fees for park acquisition known as Quimby fees, as a condition of approval of residential subdivisions in accordance with Government Code Section 66477. Collection of Quimby fees also requires certain reporting and accounting. For the purposes of this report, the eleven DIFs discussed above and the Quimby fees will collectively be referred to as DIFs.

Resolution No. 5570, with all its exhibits, serves as the Annual Report required under the Mitigation Fee Act, makes the five-year findings, and constitutes the Capital Improvement Plan. The complete list of DIFs with descriptions is attached as Exhibit 1 of the proposed Resolution No. 5570.

DISCUSSION

The City's Development Impact Fee program was first established in 1994. The 2014 Annual Report was received and accepted on July 28, 2014 and adopted by Resolution No. 5541. The Carpinteria Municipal Code also requires that DIFs be adjusted annually by application of an annual inflationary index. A description of the annual report requirements for the DIFs including Quimby fees and the Capital Improvement Plan is provided below:

Development Impact Fee Annual Reporting

For DIFs collected pursuant to the Mitigation Fee Act, Government Code Section 66006 (b) requires that specific information be included in the annual report. The following is a list of those requirements and a corresponding reference to where that information can be found in this report.

- A. A brief description of the type of fee in the account or fund (see Exhibit 1 of the attached Resolution).
- B. The amount of the fees (see Exhibit 2 and 3 of the attached Resolution).
- C. The beginning and ending balance of the account or fund (see Exhibit 5 of the attached Resolution).
- D. The amount of the fees collected and the interest earned (see Exhibit 5 of the attached Resolution).

- E. An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement funded with fees, including the total % of the cost of the public improvement that has been funded with the fees (see Table1 below).
- F. An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete (see Exhibit 4 of the attached Resolution).
- G. A description of each inter-fund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an inter-fund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan. (No inter-fund transfers have been made.)
- H. The amounts of refunds made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001. (See Table 2 below).

Government Code Section 66001 (d) requires that for the fifth year following the first deposit into a DIF account or fund, and every five years thereafter, the local agency shall make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

1. Identify the purpose for which the fee is to be expended.
2. Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.
3. Identify all sources and amounts of funding anticipated to complete financing for incomplete improvements.
4. Designate the approximate dates on which the funding referred to in item 3 above is expected to be deposited into the appropriate account or fund.

As noted above, the five-year findings are included in the attached Resolution. DIF funds expended during Fiscal Year 2014-2015 are shown in Table 1.

Quimby Act Fees

For Quimby Fees collected pursuant to the Quimby Act, Section 66477 et seq, requires the City to:

1. Develop a schedule specifying how, when, and where it will use the land or fees or both to develop park and recreational facilities to serve residents of the

subdivision.

2. Commit any fees to approved projects within five years of the date they were collected.

Exhibit 4 of the attached Resolution sets forth the Parks & Recreation Property Acquisitions to which Quimby funds will be allocated. All future Quimby fees collected are committed to the property acquisition projects on the list.

Table 1, below, identifies the capital improvement projects and the amount of development impact fund money spent on those capital improvement projects during fiscal year 2014-2015.

TABLE 1

Project Number	Project Name	DIF Category	DIF Funds Expended in FY 2014/2015	% of Total Cost Expended To Date
HI-03/HI-04	HWY 101 Linden Ave Interchange/Hwy 101 Casitas Pass Rd Interchange	Highway Interchanges & Bridges	\$4,492.97	1.75%
HI-07	Carpinteria Avenue Bridge over Carpinteria Creek	Highway Interchanges & Bridges	\$57,547.37	5.50%

Table 2, below, identifies the amount of refunds of development impact money made during fiscal year 2014-2015.

TABLE 2

DIF Category	Development Project Number	Developer	Overpaid Amount	Interest Earned	Refund Total
Highway Interchanges & Bridges	1735	IDB Media Group, LLC	\$7,877.34	\$28.58	\$7,905.92
Highway Interchanges & Bridges	1656	Dako North America, Inc.	\$13,056.00	\$233.32	\$13,289.32

*The City refunded the above development projects due to the City inadvertently charging the developers at the regular Highway Interchanges & Bridges DIF instead of at the temporary reduced rate of the Highway Interchanges & Bridges DIF in effect at the time.

Capital Improvement Program

Municipal Code Section 15.80.160 requires that the Annual DIF Report include adjustments of the project cost estimates of the Capital Improvement Program by a specific price index to ensure that estimated construction costs for planned capital improvements in the City keep up with inflation. The provisions of the Code require staff to use the Selected Highway Construction Price Index published by the California Department of Transportation (Caltrans) for the twelve-month time period ending March 31st prior to the July 1st adjustment date. Generally, the updated DIF fees go into effect on July 1st of the current fiscal year. As of the presentation of this report, Caltrans has not released the current index. Given that the index is not available, the 2014-2015 fees will remain in effect until the updated index is released at which time, the fees to which the index is applied will be automatically updated as directed by the Carpinteria Municipal Code. Staff will return to the City Council at that time to give an update on the fees.

Exhibit 4 attached is the adopted Capital Improvement Plan Project list with cost estimates. Each cost estimate in Exhibit 4 has been based on an improvement specific analysis to determine the current cost estimate for construction.

Since the General Plan/Local Coastal Land Use Plan designations and growth projections have not changed in the last year, the improvement projects identified on Exhibit 4 still meet the needs for future development in the City. The relationship between the need for public improvements, the amount of fees necessary to fund development of such improvements, and the impacts of development for which the fees are charged, has remained unchanged since implementing the City's DIF program in December 2003.

POLICY CONSISTENCY

This item is consistent with AB 1600 (Mitigation Fee Act), codified as Government Code Sections 66000 – 66025 and the City's Municipal Code, in particular, Chapter 15.80.

FINANCIAL CONSIDERATIONS

Collection of Development Impact Fees and other Fees provide the revenue necessary for the City to ultimately fund the construction of the public improvements contained in the City's adopted Capital Improvement Plan.

Cost estimates for DIFs are adjusted automatically on an annual basis on July 1 of each year in accordance with the Carpinteria Municipal Code Section 15.80.050, using the Selected Highway Construction Price Index published by Caltrans. Generally, the updated DIF fees go into effect on July 1st of the current fiscal year. As of the presentation of this report, Caltrans has not released the current index; therefore, the 2014-2015 fees will remain in effect until the updated index becomes available. Also,

effective with the adoption of Ordinance 633, DIFs collected pursuant to the Quimby Act are adjusted by the same index consistent with Carpinteria Municipal Code Section 16.24.080 (C). Exhibit 3 shows the adjusted Land Acquisition for Parks and Recreational Facilities Fee and the Open Space Land Acquisition Fee. These fees were adjusted using the sales report data provided by the Santa Barbara County Assessor's Office in accordance with Municipal Code Section 15.80.050 (A).

As of June 30, 2015, the 14/15 Fiscal Year end balances (un-audited) are as follows, and are also shown on Exhibit 5 of Resolution No. 5570.

GENERAL FACILITIES DIF	\$135,516.13
HIGHWAY INTERCHANGES & BRIDGES DIF	\$745,456.23
STORM DRAIN DIF	\$262,919.44
TRAFFIC CONTROL DIF	\$282,693.17
STREETS & THOROUGHFARES DIF	\$133,524.19
PARKING DIF	\$71,772.72
PARK LAND ACQUISITION DIF	\$111,044.09
PARK IMPROVEMENTS DIF	\$327,508.51
PARK AQUATICS DIF	\$45,029.85
PARK OPEN SPACE DIF	\$4,091.24
PARK/QUIMBY FEES	\$20,008.03
TOTAL	\$2,139,563.60

LEGAL

The City Attorney has reviewed this report and the attached Resolution. Notice of this Public Hearing appeared in the Coastal View Newspaper on July 30 and August 6, 2015.

OPTIONS

1. Adopt Resolution No. 5570, thereby approving and adopting the Development Impact Fee Annual Report and updating the City's Capital Improvement Plan.
2. Direct staff to amend the Resolution as determined appropriate and adopt the Resolution as amended.
3. Decline to adopt Resolution No. 5570, keeping the current DIF fee structure in place.

PRINCIPAL PARTIES EXPECTED AT MEETING

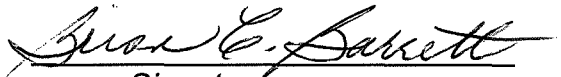
There are no principal parties expected at the meeting.

ATTACHMENTS

Attachment A: Resolution No. 5570

Staff contact:

Brian C. Barrett, Management Analyst
(805) 684-5405, ext. 446
brianb@ci.carpinteria.ca.us


Signature

Reviewed by:

Charles W. Ebeling, P.E., Public Works Director


Signature

Reviewed by: Dave Durflinger, City Manager


Signature

ATTACHMENT A
Resolution No. 5570

RESOLUTION NO. 5570
A RESOLUTION OF THE CITY OF CARPINTERIA CITY COUNCIL
UPDATING THE CITY'S CAPITAL IMPROVEMENT PLAN
AND APPROVING AND ACCEPTING THE ANNUAL REPORT ON THE CITY'S
DEVELOPMENT IMPACT FEE PROGRAM

WHEREAS, on January 24, 1994, the City Council adopted Ordinance No. 501, which implemented the City's Development Impact Fee program, and Resolution No. 4081, which established the level of Development Impact Fees; and

WHEREAS, by Resolution No. 4076, the City Council had previously approved a Capital Improvement Plan for the construction of public facilities in the City; and

WHEREAS, by Resolution No. 4075 adopted January 10, 1994, the City Council approved the collection of fees pursuant to Section 66477 of the Government Code; and

WHEREAS, by Resolution No. 4628 adopted October 25, 1999, the City Council approved the collection of fees pursuant to Section 66477 of the Government Code; and

WHEREAS, by Resolution No. 5541 adopted July 28, 2014 the City Council last approved the Capital Improvement Plan Project List and a revision to the level of the City's Development Impact Fees; and

WHEREAS, by Resolution No. 5592, adopted April 27, 2015, the City Council updated the City's Capital Improvement Plan and Highway Interchanges & Bridges Development Impact Fee and ended the temporary reduction of the City's Highway Interchanges & Bridges Development Impact Fee.

WHEREAS, Carpinteria Municipal Code Section 15.80 provides for an annual review of the Capital Improvement Plan, and Section 15.80.160 provides for an annual review of both the City's Development Impact Fee Program and the balance of funds currently maintained in the City's various Development Impact Fee accounts; and

WHEREAS, the documents that collectively reflect the balance in each Development Impact Fee, Development Fee and Affordable Housing Fee account, the fee balance, interest, income, and the amount of expenditure by public facility and the amount of refunds made for the fiscal year ("the Document"), have been available for public review as required by law.

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Carpinteria, California, as follows:

1. The City Council finds that new development in the City will generate additional demands on public facilities throughout the City, and will contribute to the impact upon public facilities.
2. The City Council finds that the use to which the fees will be put is construction of public improvements at estimated costs therefore described in the Capital Improvement Plan, and determines that there is a continued need for these improvements and that there is a reasonable relationship between such need and the type of development projects on which the fee is imposed, as such reasonable relationship is described in more detail in the City's Development Impact Fee Program and the Capital Improvement Plan.

3. The City Council finds that the fees expected to be generated by new development will not exceed the costs for construction of public facilities set forth in the Capital Improvement Plan.
4. The City Council finds that there is a reasonable relationship between the fees' use and the type of development for which the fees are charged, as these reasonable relationships are described in more detail in the City's Development Impact Fees Program and Capital Improvement Plan.
5. The City Council finds the cost estimates set forth in the Capital Improvement Plan are reasonable cost estimates for the public facilities contained in the Capital Improvement Plan, and that the fees expected to be generated by new development will not exceed the costs for construction of the public facilities set forth in the Capital Improvements Plan.
6. The City Council approves the City's adopted Capital Improvement Plan including the priorities for financing improvements as stated therein as shown in Exhibit 4 dated August 2015 without change.
7. The City Council approves the annual financial report for Development Impact Fees and Quimby Fee for Fiscal Year 2015-2016.
8. As to funds on deposit in the General Facilities Fund, the City Council finds as follows:
 - a) The purpose of the General Facilities Fund is to Finance the Construction of General Facilities as detailed further in Exhibit 4.
 - b) A reasonable relationship between the General Facilities Development Impact Fee and its purpose exists, in that the City's DIF Report, as updated, demonstrates that the General Facilities DIF is assessed to new development in proportion to such development's impacts on necessary General Facilities.
 - c) The sources and amounts of funding for General Facilities, identified in the City's Capital Improvement Plan, are identified as shown in Exhibit 4.
 - d) The approximate dates on which the funding to construct the General Facilities, identified in the City's Capital Improvement Plan, are expected to be deposited into the General Facilities Fund are shown in Exhibit 4.
9. As to funds on deposit in the Highway Interchanges and Bridges Fund, the City Council finds as follows:
 - a) The purpose of the Highway Interchanges and Bridges Fund is to finance the construction of highway interchanges and bridges as detailed further in Exhibit 4.
 - b) A reasonable relationship between the Highway Interchanges and Bridges Development Fee and its purpose exists, in that the City's DIF Report, as updated, demonstrates that the Highway Interchanges and Bridges DIF is assessed to new development in proportion to such development's impacts on necessary highway interchanges and bridges.

- c) The sources and amounts of funding for Highway Interchanges and Bridges Facilities, identified in the City's Capital Improvement Plan, are identified as shown in Exhibit 4.
- d) The approximate dates on which the funding to construct the Highway Interchanges and Bridges Facilities, identified in the City's Capital Improvement Plan, are expected to be deposited into the Highway Interchanges and Bridges Fund are shown in Exhibit 4.

10. As to funds on deposit in the Storm Drain Fund, the City Council finds as follows:

- a) The purpose of the Storm Drain Fund is to finance the construction of storm drains as detailed further in Exhibit 4.
- b) A reasonable relationship between the Storm Drain Fund Development Impact Fee and its purpose exists, in that the City's DIF Report, as updated, demonstrates that the Storm Drain DIF is assessed to new development in proportion to such development's impacts on essential storm drains.
- c) The sources and amounts of funding for Storm Drain facilities, identified in the City's Capital Improvement Plan, are identified as shown in Exhibit 4.
- d) The approximate date on which the funding to construct the Storm Drain facilities, identified in the City's Capital Improvement Plan, is expected to be deposited into the Storm Drain Fund is shown in Exhibit 4.

11. As to funds on deposit in the Streets & Thoroughfares Fund, the City Council finds as follows:

- a) The purpose of the Streets & Thoroughfares Fund is to finance the construction of Streets & Thoroughfares as detailed further in Exhibit 4.
- b) A reasonable relationship between the Streets & Thoroughfares Development Impact Fee and its purpose exists, in that the City's DIF Report, as updated, demonstrates that the Streets & Thoroughfares DIF is assessed to new development in proportion to such development's impacts on necessary Streets & Thoroughfares.
- c) The sources and amounts of funding for Streets & Thoroughfares, identified in the City's Capital Improvement Plan, are identified as shown in Exhibit 4.
- d) The approximate dates on which the funding to construct the Streets & Thoroughfares, identified in the City's Capital Improvement Plan, are expected to be deposited into the Streets & Thoroughfares Fund as shown in Exhibit 4.

12. As to funds on deposit in the Park Open Space Fund, the City Council finds as follows:

- a) The purpose of the Park Open Space Fund is to finance the acquisition of Park Open Space acreage as detailed further in Exhibit 4.
- b) A reasonable relationship between the Park Open Space Development Impact Fee and its purpose exists, in that the City's DIF Report, as updated, demonstrates that the Park Open Space DIF is assessed to new development in proportion to such development's

impacts on necessary Park Open Spaces.

- c) The sources and amounts of funding for Park Open Space, identified in the City's Capital Improvement Plan, are identified as shown in Exhibit 4.
- d) The approximate dates on which the funding to acquire Park Open Space, identified in the City's Capital Improvement Plan, are expected to be deposited into the Park Open Space Fund are as shown in Exhibit 4.

13. As to funds on deposit in the Parking Fund, the City Council finds as follows:

- a) The purpose of the Parking Fund is to finance the construction of Parking facilities as detailed further in Exhibit 4.
- b) A reasonable relationship between the Parking Development Impact Fee and its purpose exists, in that the City's DIF Report, as updated, demonstrates that the Parking DIF is assessed to new development in proportion to such development's impacts on necessary Parking facilities.
- c) The sources and amounts of funding for Parking facilities, identified in the City's Capital Improvement Plan, are identified as shown in Exhibit 4.
- d) The approximate dates on which the funding to construct the Parking facilities, identified in the City's Capital Improvement Plan, are expected to be deposited into the Parking Fund are as shown in Exhibit 4.

14. As to funds on deposit in the Traffic Control Fund, the City Council finds as follows:

- a) The purpose of the Traffic Control Fund is to finance the construction of Traffic Control equipment as detailed further in Exhibit 4.
- b) A reasonable relationship between the Traffic Control Development Impact Fee and its purpose exists, in that the City's DIF Report, as updated, demonstrates that the Traffic Control Fund DIF is assessed to new development in proportion to such development's impacts on necessary Traffic Control equipment.
- c) The sources and amounts of funding for Traffic Control equipment, identified in the City's Capital Improvement Plan, are identified as shown in Exhibit 4.
- d) The approximate dates on which the funding to construct the Traffic Control equipment, identified in the City's Capital Improvement Plan, are expected to be deposited into the Traffic Control Fund are as shown in Exhibit 4.

15. As to funds on deposit in the Park Land Acquisition Fund, the City Council finds as follows:

- a) The purpose of the Park Land Acquisition Fund is to finance the acquisition of land for parks as detailed further in Exhibit 4.
- b) A reasonable relationship between the Park Land Acquisition Fee and its purpose exists, in the City's DIF Report, as updated, demonstrates that the Park Land Acquisition Fund DIF is assessed to new development in proportion to such development's impacts

on necessary Park facilities.

- c) The sources and amounts of funding for Parks, identified in the City's Capital Improvement Plan, are identified as shown in Exhibit 4.
- d) The approximate dates on which the funding to construct the acquisition of Parks, identified in the City's Capital Improvement Plan, are expected to be deposited into the Park Land Acquisition Fund as shown in Exhibit 4.

16. As to funds on deposit in the Park Aquatics Fund, the City Council finds as follows:

- a) The purpose of the Park Aquatics Fund is to finance the construction of Park Aquatics facilities as detailed further in Exhibit 4.
- b) A reasonable relationship between the Park Aquatics Development Impact Fee and its purpose exists, in that the City's DIF Report, as updated, demonstrates that the Park Aquatics Fund DIF is assessed to new development in proportion to such development's impacts on necessary Park Aquatics facilities.
- c) The sources and amounts of funding for Park Aquatics facilities, identified in the City's Capital Improvement Plan, are identified as shown in Exhibit 4.
- d) The approximate dates on which the funding to construct the Park Aquatics facilities, identified in the City's Capital Improvement Plan, are expected to be deposited into the Park Aquatics Fund as shown in Exhibit 4.

17. As to funds on deposit in the Park Improvement Fund, the City Council finds as follows:

- a) The purpose of the Park Improvement Fund is to finance the design and construction for parks as detailed further in Exhibit 4.
- b) A reasonable relationship between the Park Improvement Development Impact Fee and its purpose exists, in that the City's DIF Report, as updated, demonstrates that the Park Improvement Fund DIF is assessed to new development in proportion to such development's impacts on necessary Park Improvements.
- c) The sources and amounts of funding for Park Improvements, identified in the City's Capital Improvement Plan, are identified as shown in Exhibit 4.
- d) The approximate dates on which the funding to construct the Park Improvements, identified in the City's Capital Improvement Plan, are expected to be deposited into the Park Improvement Fund as shown in Exhibit 4.

18. As to funds on deposit in the Quimby Fund, the City Council finds as follows:

- a) All the requirements of Government Code section 66477 continue to be satisfied for the City's Park and Recreation Facilities Dedication and Fees Program, codified in Carpinteria Municipal Code Chapter 16.24.

PASSED, APPROVED AND ADOPTED this 10th day of August, 2015, by the following called vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

MAYOR, CITY OF CARPINTERIA

ATTEST:

CITY CLERK, CITY OF CARPINTERIA

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 10th day of August, 2015.

CITY CLERK

APPROVED AS TO FORM:

Peter N. Brown, on behalf of
Brownstein Hyatt Farber Schreck, LLP
Acting as City Attorney of the City of Carpinteria

EXHIBIT 1 TO RESOLUTION NO. 5570

City of Carpinteria Development Impact Fee Fund Descriptions

Streets & Thoroughfares Fund: Fees collected for the actual and estimated costs to acquire additional right of ways for new public street improvements and to improve the existing street network to accommodate the increase traffic demands associated with future development.

Highway Interchanges and Bridges Fund: Fees collected for the actual and estimated costs to acquire additional right of ways and construct new and/or improved Highway interchanges and bridges to accommodate the increase traffic demands associated with future development.

Traffic Control Facilities Fund: Fees collected for the actual and estimated costs for acquiring and installing new traffic control systems and to improve the existing traffic control systems to accommodate the increase traffic demands associated with future development.

General Facilities and Equipment Fund: Fees collected for payment of the costs of acquiring and constructing additional public facilities and equipment, and improving existing public facilities to meet demand of future development.

Storm Drain Fund: Fees collected for the actual and estimated costs of constructing new drainage facilities and to improve the existing drainage facilities to mitigate the drainage impacts associated with future development.

Park Land Acquisition Fund: Fees collected for the payment of the actual or estimated costs of acquiring land for park and recreational purposes. This fee is collect from residential projects that are not associated with a subdivision.

Park Improvement Fund: Fees collected for the payment of the actual or estimated costs of designing and constructing parks and recreational facilities on land acquired for park and recreational purposes. This fee is charged to residential projects that are not associated with a subdivision.

Park Open Space Acquisition Fund: Fees collected for the payment of the actual or estimated costs of acquiring additional acreage to be reserved as open space or with minimal park improvements designed to protect the greater number of acres. This fee is collected from commercial or industrial projects.

Aquatic Facilities Fund: Fees collected for the payment of the actual or estimated costs of designing and constructing aquatics facilities. This fee is not collected from commercial or industrial projects.

Parking Facilities Fund: Fees collected to finance parking improvements within the Downtown area that will accommodate new development within the Downtown "T".

Quimby Fund: Fees collected pursuant to Government Code 66477 (Quimby Act) for the acquisition of parklands. These fees are collected on non-commercial residential projects that are associated with subdivisions.

EXHIBIT 3 TO RESOLUTION NO. 5570
CITY OF CARPINTERIA
DEVELOPMENT IMPACT MITIGATION FEE SCHEDULE (1)
2014-2015
(Parks and Recreation Fees)

Last Updated 07/01/14

Land Use	Land Acquisition for Parks and Recreational Facilities Fee (Quimby + Non-Quimby)**	Parks and Recreational Facilities Development Fee*	Aquatics Facilities Fee*	Open Space Land Acquisition Fee**
<u>Residential</u> ⁴				
	\$ / unit			
Single Family	12,130.79	5,939.60	532.77	-
Multiple Family	9,172.97	4,491.36	402.88	-
Congregate Care	-	-	-	-
<u>Commercial/Industrial</u>				
	\$ / gross sq. ft.			
Commercial	-	0.00	-	2.48
Industrial	-	0.00	-	1.80
<u>Resort/Hotel</u>				
	\$ / room			
	-	0.00	-	248.09
(1) Resolution No. 4840, establishing a Development Impact Mitigation Fee schedule for development within the City of Carpinteria, adopted and approved by the City Council on January 26, 2004.				
(2) Resolution No. 4839, establishing a Park and Recreation Land Acquisition Fee Schedule for all new subdivisions within the City of Carpinteria, adopted and approved by the City Council on January 26, 2004.				
(3) Update to the Fee Schedule for all fees was established by *Ordinance No. 627 by the City Council on January 28, 2008 going into effect on March 13, 2008 and **Ordinance No. 640 on October 12, 2009. Refer to Municipal Code 15.80.050.				
(4) Resolution No. 5238 approved April 12, 2010 allows for a 50% reduction in Development Impact Fees for 100% Affordable Projects. See Resolution for details.				

EXHIBIT 4 TO RESOLUTION NO. 5570
August 2015 Capital Improvement Plan

STREETS AND THOROUGHFARES (1)

Project Number	Project Name	Estimated Cost	Project Description	Priority	Funding Sources	Commencement Date
ST-02	El Carro Lane Sidewalk Improvements	\$92,685	Installation of Sidewalk along El Carro Lane from the 5200 to 5300 Block	N/A	DIF,MA	Completed
ST-05	Seventh Street sidewalk improvements	\$65,425	Installation of Sidewalk on 7th Street from Walnut Avenue to Cactus Avenue	Low	DIF	2017
ST-06	Walnut Avenue sidewalk improvements	\$95,957	Installation of Sidewalk along Walnut Avenue from 7th St. to 8th St.	Low	DIF	2017
ST-08	Annual Street Rehabilitation Program	\$6,542,519	Annual street rehabilitation program consisting of asphalt overlays, slurry seals, and associated miscellaneous improvements for a seven year program.	Medium	DIF, MA, RSTP	On-going
ST-09	Annual Miscellaneous Concrete Repair Program	\$1,189,646	Annual concrete repair program consisting of the removal and restoration of damage concrete sidewalks, curbs, and gutters for a 5 to 10 year program.	Medium	DIF, MA, RSTP, GT	On-going
ST-13	Widening of Via Real at Reef Motel	\$130,851	Widening of sections of Via Real at the Reef Motel to provide for continuous class II bike lanes	Medium	DIF, RSTP	2018
ST-14	Sawyer Avenue Street Improvements	\$218,084	Construction of concrete sidewalk, curb and gutter along the south side of Sawyer Avenue from Linden Avenue to Holly Avenue.	Medium	DIF	2018
ST-16	Beach Area Neighborhood Emergency at grade crossing	\$286,781	Construction of an emergency at grade railroad crossing at Holly Avenue.	Medium	DIF	2020
ST-17	Widening of Via Real at Camper Park	\$174,467	Widening of sections of Via Real at the Camper Park to provide for continuous class II bike lanes including storm drain improvements.	High	DIF	On-going
ST-18	Casitas Pass Road Traffic Calming	\$398,003	Installation of landscaped medians and/or curb planters to encourage slower vehicular speeds	Medium	DIF, MA, RSTP, GT	2019
ST-19	Linden Avenue/Foothill Rd. Intersection Improvements	\$741,486	Construction of intersection improvements to accommodate pedestrians, bicyclists and truck turning movements.	Medium	DIF, MA, GT SR2S	2018

STREETS AND THOROUGHFARES (1)

Continued

Project Number	Project Name	Estimated Cost	Project Description	Priority	Funding Sources	Commencement Date
ST-20	Foothill Road Sidewalk Improvement	\$104,680	Installation of approximately 400' sidewalk along the south side of Foothill Road East of Linden	Medium	DIF, MA, RSTP	2018
ST-21	Linden Avenue sidewalk improvement	\$128,034	Construction of concrete curb, gutter and sidewalk along the east side of Linden Avenue from Carpinteria Avenue to 100' north of Sawyer Avenue	Medium	DIF, MA, RSTP	2018
ST-22	Via Real Sidewalk Project	\$269,334	Construct concrete, curb, gutter and sidewalk along the north side of Via Real from Poplar Street to Rancho Granada Mobile Home Park.	N/A	DIF, MA, RSTP	Completed
AT-02	UPRR Pedestrian Under-crossing at Calle Ocho	\$552,842	Modifications to an existing Railroad under-crossing to accommodate provide for bicycles and pedestrians.	Medium	DIF	2020
AT-03	UPRR Multi-Use Trail Under-crossing at the Carpinteria Bluffs	\$3,091,340	Construction of a new Railroad under-crossing at the southwest corner of the Carpinteria Bluffs to accommodate bicyclists and pedestrians	Low	DIF	2020
AT-04	Carpinteria Bluffs Bike Path	\$436,168	Construction of a class I bike path along the south side of Carpinteria Avenue from City Hall to Bailard Avenue	N/A	DIF, STIP	Completed
AT-05	Franklin Channel Bike Path	\$218,084	Construction of a Class I bike path along the east side of Franklin Channel from Carpinteria Avenue to 7th Street.	Medium	DIF	2018
AT-07	Bailard Avenue Park and Ride Facility	\$760,023	Construction of a park & ride lot adjacent to the HWY 101 off ramp at Bailard Avenue.	Medium	DIF	2022
AT-08	Santa Monica Channel Bike Path Extension	\$286,781	Extension of the existing class I bike path located on the east side of the Santa Monica Channel from El Carro Lane north to HWY 192	Low	DIF	2019
AT-09	Via Real Pedestrian Bridge	\$163,563	Construction of a pedestrian bridge over the Santa Monica flood control channel on the south side of Via Real	Medium	DIF, RSTP	2019
Subtotal		\$15,946,753				

HIGHWAY INTERCHANGES AND BRIDGES (2)

Project Number	Project Name	Estimated Cost	Project Description	Priority	Funding Sources	Commencement Date
HI-02	Highway 101 Bailard Avenue Interchange	\$5,844,651	Reconstruction of the Bailard Avenue interchange to accommodate increasing traffic volumes. May include roundabouts at Carpinteria Avenue and Via Real.	Medium	DIF, STIP	2022
HI-03	Highway 101 Linden Avenue Interchange	\$2,000,000	Reconstruction of the Linden Avenue interchange. Includes new southbound on ramp and northbound off ramp, and the extension of Via Real from Casitas Pass Road to Linden Avenue.	High	DIF, STIP	On-going
HI-04	Highway 101 Casitas Pass Road Interchange	\$2,500,000	Reconstruction of the Casitas Pass Rd. interchange. Includes new northbound hook on and off ramps and the extension of Via Real from San Roque MHP to Casitas Pass Road.	High	DIF, STIP	On-going
HI-05	Highway 101/Highway 150 Interchange	\$4,000,750	Reconstruction of the northern portion of the interchange to provide a direct connection to Via Real.	Low	DIF	2022
HI-07	Carpinteria Avenue Bridge over Carpinteria Creek	\$2,462,168	Reconstruction of the Carpinteria Avenue bridge over Carpinteria creek.	High	DIF	On-going
HI-08	Eighth Street Pedestrian Bridge	\$1,526,588	Construction of a new footbridge over Carpinteria Creek at 8th Street to accommodate bicyclists and pedestrians.	High	DIF	Completed
Subtotal		\$18,334,157				

PARKING FACILITIES (3)

Project Number	Project Name	Estimated Cost	Project Description	Priority	Funding Sources	Commencement Date
P-01	Parking Improvements	\$882,150	Construction of new parking facilities/new surface parking lot improvements within the Downtown "T".	Medium	DIF	2018
Subtotal		\$882,150				

TRAFFIC CONTROL FACILITIES (4)

Project Number	Project Name	Estimated Cost	Project Description	Priority	Funding Sources	Commencement Date
TC-01	Carpinteria Avenue/Palm Avenue Intersection Improvements	\$348,934	New Traffic Signal at the Intersection of Carpinteria Avenue and Palm Avenue	Medium	DIF	2018
TC-02	Santa Ynez Avenue/Via Real Intersection Improvements	\$338,030	New Traffic Signal at the Intersection of Santa Ynez Avenue and Via Real	Medium	DIF	2018
TC-03	Santa Monica/Via Real Intersection Modification	\$763,293	Address operational deficiencies at the intersection of Santa Monica and Via Real	Medium	DIF	2019

Subtotal \$1,450,257

GENERAL FACILITIES AND EQUIPMENT (5)

Project Number	Project Name	Estimated Cost	Project Description	Priority	Funding Sources	Commencement Date
GF-03	Construction/Acquisition of City Community Center	\$10,904,198	Construction of a 15,000-20,000 square foot community center in the Downtown area.	Low	DIF, GF, GT	2020
GF-07	Public Works Yard Cover Structure	\$218,084	Construction a carport style cover structure in the Public Works Yard for equipment and materials storage.	Medium	DIF, GF	2017
GF-08	Vehicle wash rack and water recycling facility	\$272,605	Construction of a wash rack and water recycling facility for City vehicles and equipment.	Low	DIF	2017
GF-10	Transit Stop Improvements	\$163,563	Improvements to existing transit stops throughout the City including landscaping, handicap access, benches, shelters and bike locks.	Medium	DIF	2017

Subtotal \$11,558,450

STORM DRAIN FACILITIES (6)

Project Number	Project Name	Estimated Cost	Project Description	Priority	Funding Sources	Commence-ment Date
SD-01	Casitas Pass Storm Drain	\$556,114	Construction of a storm drain line on Casitas Pass from El Carro Lane to Highway 101 then east to Carpinteria Creek.	Low	DIF	2020
SD-02	East Via Real Storm Drain	\$398,003	Construction of a storm drain line along the north side of Via Real from 200 feet east of Via Linda to Carpinteria Creek.	Medium	DIF	2018
SD-03	Calle Arena Storm Drain	\$109,042	Construction of a storm drain from Calle Arena to Carpinteria Creek.	Low	DIF	2018
SD-04	Upper Palm Avenue Storm Drain	\$279,147	Construction of a storm drain line along Carpinteria and Palm Avenue from Vallecito to 8th St.	Low	DIF	2018
SD-05	Walnut Avenue Storm Drain	\$476,514	Construction of a storm drain line along the north side of the UPRR from the terminus of Walnut Avenue to Carpinteria Creek.	Low	DIF	2020
SD-06	Beach Area Drainage Improvement	\$872,336	Construction of street improvements in the beach area neighborhood north of 3rd St. to improve drainage. Include full or partial street reconstruction, concrete swales and roll curbs.	Medium	DIF, MD	2017
SD-07	Star Pine Road Storm Drain	\$163,563	Construction of a storm drain line from Star Pine Rd. at Valecito Rd. westward to the Linden Avenue on ramp.	Medium	DIF	2018
SD-10	Estero Way Box Culvert Extension	\$624,810	Construction of a double box culvert under Highway 101 Near Estero Way.	Low	DIF	2018
SD-12	Storm Drain System Retrofit Program	\$770,927	Installation of storm drain improvements to reduce storm water pollution from non point sources. Includes installation of on line storm water separators and catch basin filter devices throughout the City.	Medium	DIF, GT	2017
SD-13	Ash Avenue Storm Water Lift Station	\$556,114	Construction of an underground storm water lift station near the intersection of Ash Avenue and 3rd St. to drain the area during high tide flooding events.	Low	DIF, GT	2020
SD-14	Storm Drain Master Plan	\$111,223	Provide comprehensive analysis of existing City storm drain system.	N/A	DIF, MD, GT	Completed
SD-15	El Carro Lane Storm Drain Extension	\$439,439	Provide comprehensive analysis of existing City storm drain system.	Medium	DIF	2018
Subtotal		\$5,357,233				

PARKS AND RECREATION FACILITIES (7)

Project Number	Project Name	Estimated Cost	Project Description	Priority	Funding Sources	Commence-ment Date
PR-02	Public Restrooms at Memorial Park	\$80,691	Construction of public restroom accommodations at Memorial Park including ADA Improvements.	Medium	DIF	2017
PR-04	Public Restrooms at Monte Vista Park	\$80,691	Construction of public restroom accommodations at Monte Vista Park including ADA Improvements.	N/A	DIF	Completed
PR-05	Replacement of Playground Structures at various City Parks	\$222,446	Replacement of playground structures at various city parks.	Medium	DIF, GF	On-going
PR-06	Replacement of Lifeguard Towers	\$20,718	Replacement of the Lifeguard at Holly Avenue	High	DIF, TTF	2014
PR-09	Linden Avenue Beach End Beautification	\$269,334	Improvements to the Carpinteria beach end of Linden Avenue in order to provide a more and aesthetically pleasing urban park environment and transition to the beach park	Low	DIF, MD,TTF, GT, GF	2017
PR-13	Acquisition of the UPRR Property at Fifth Street	\$1,388,104	Acquisition of UPRR property south and west of parking lot #3	Medium	DIF, GF	Completed
PR-14	Coastal Access Stairway	\$218,084	Construction of a coastal access stairway at Tar Pits Park east of the Venoco pier	Medium	DIF, TTF,	2018
PR-20	Carpinteria State Beach Dune Restoration	\$1,269,248	Restoration of Dune habitat on State Park property.	Medium	DIF, GT	2018
PR-21	Public Tennis Court Facility	\$239,892	Construction of lighted public tennis court facilities for adult and youth programming.	N/A	DIF, GT	Completed
PR-23	Community Wading Pool	\$109,042	Construction of a 22 foot diameter children's wading pool at the Community Pool.	Medium	DIF	2018
PR-25	Beach Town Trail	\$510,317	Construct trail between Linden Avenue and Palm Avenue south of the Union Pacific Railroad Tracks.	N/A	DIF, TTF,GT	Completed
Subtotal		\$4,408,567				

Footnote 1

“Streets and Thoroughfares” Subcategory is consistent with the following objectives and policies including referenced page numbers described in the City of Carpinteria General Plan/Local Coastal Land Use Plan and Environmental Impact Report dated April 2003:

Objective C-1: To improve the community’s ability to access U.S. 101 and areas North of the freeway through the improvements of interchanges. (page 72)

Policies:

C-1a. Continue coordination and collaboration with the County of Santa Barbara and Caltrans through SBCAG to improve freeway accessibility and to resolve circulation problems in inland areas.

C-1b. The City shall strive to improve vehicular and pedestrian over crossings of the freeway and the various creeks while respecting their habitat value and sensitivity.

C-1c. The City will endeavor to work with Caltrans to resolve freeway access, interchange development and noise attenuation problems as they affect the community.

C-1d. The City shall work closely with Caltrans to assure improvements to freeway interchanges and overpasses compliment the small town quality and charm of the city. Conventional methods for improving level of service such as widening of overpasses for independent turning lanes and signalization of intersections should be avoided if possible in favor of improvements consistent with the existing small town character and charm. Improvements required as a result of a development project shall also be consistent with this policy.

Objective C-3: Provide a balanced transportation network with consistent designations and standards for roadways that will provide for the safe and efficient movement of goods and people through the community. (page 76)

Policies:

C-3a. Consider all possible means of funding capital improvements needed to meet traffic and transportation needs generated by build-out of the General Plan.

C-3c. Review new development proposals to improve neighborhood circulation patterns and enhance the inter-neighborhood routing characteristics of the city’s master plan.

C-3f. Improve travel characteristics of the city’s circulation plan by:

- Planning and developing a continuous and direct east/west surface street route north of and parallel to Highway 101 to improve the efficiency of local traffic circulation [5-15 years]
- Considering the westerly extension of Via Real to Casitas Pass Road and from Vallecito to Linden:
- Prioritizing maximum protection for coastal waters, ESHA and agricultural resources in considering potential road extensions.

C-3h. Require all new projects to demonstrate safe traffic flow integration with the Master Plan of Streets as well as street/drainage improvements function. This shall include construction traffic and the designation of construction routes.

C-3j. Develop a prioritized Capital Improvement Program directed at roadway improvements. [2 – year]

C-3k. Segregate by design, enforcement and traffic pattern, routes of significant industrial areas to minimize interference with efficient traffic circulation.

Footnote 2

“Highway Interchanges and Bridges” Subcategory is consistent with the following objectives and policies including referenced page numbers described in the City of Carpinteria General Plan/Local Coastal Land Use Plan and Environmental Impact Report dated November 2002:

Objective C-1: To improve the community’s ability to access U.S. 101 and areas North of the freeway through the improvements of interchanges. (page 72)

Policies:

C-1a. Continue coordination and collaboration with the County of Santa Barbara and Caltrans through SBCAG to improve freeway accessibility and to resolve circulation problems in inland areas.

C-1b. The City shall strive to improve vehicular and pedestrian over crossings of the freeway and the various creeks while respecting their habitat value and sensitivity.

C-1c. The City will endeavor to work with Caltrans to resolve freeway access, interchange development and noise attenuation problems as they affect the community.

C-1d. The City shall work closely with Caltrans to assure improvements to freeway interchanges and overpasses compliment the small town quality and charm of the city. Conventional methods for improving level of service such as widening of overpasses for independent turning lanes and signalization of intersections should be avoided if possible in favor of improvements consistent with the existing small town character and charm. Improvements required as a result of a development project shall also be consistent with this policy.

Objective C-3: Provide a balanced transportation network with consistent designations and standards for roadways that will provide for the safe and efficient movement of goods and people through the community. (page 76)

Policies:

C-3a. Consider all possible means of funding capital improvements needed to meet traffic and transportation needs generated by build-out of the General Plan.

C-3c. Review new development proposals to improve neighborhood circulation patterns and enhance the inter-neighborhood routing characteristics of the city’s master plan.

C-3f. Improve travel characteristics of the city’s circulation plan by:

- Planning and developing a continuous and direct east/west surface street route north of and parallel to Highway 101 to improve the efficiency of local traffic circulation [5-15 years]
- Considering the westerly extension of Via Real to Casitas Pass Road and from Vallecito to Linden:
- Prioritizing maximum protection for coastal waters, ESHA and agricultural resources in considering potential road extensions.

C-3h. Require all new projects to demonstrate safe traffic flow integration with the Master Plan of Streets as well as street/drainage improvements function. This shall include construction traffic and the designation of construction routes.

C-3j. Develop a prioritized Capital Improvement Program directed at roadway improvements. [2 – year]

C-3k. Segregate by design, enforcement and traffic pattern, routes of significant industrial areas to minimize interference with efficient traffic circulation.

Footnote 3

“Parking Facilities” Subcategory is consistent with the following objectives and policies including referenced page numbers described in the City of Carpinteria General Plan/Local Coastal Land Use Plan and Environmental Impact Report dated November 2002:

Objective CDS2A-3: Preserve and enhance the downtown’s historic status as the center of civic life of the city by encouraging the construction and expansion of cultural and governmental facilities in the downtown. (Page 48)

Implementation Policy 29. – On-street parking and **public parking** requirement for coastal access shall be considered in deciding the required amount of off-street parking. Parking lots are discouraged on street frontages and are strongly discouraged on corner lots.

Footnote 4

“Traffic Control” Subcategory is consistent with the following objectives and policies including referenced page numbers described in the City of Carpinteria General Plan/Local Coastal Land Use Plan and Environmental Impact Report dated November 2002:

Objective C-3: Provide a balanced transportation network with consistent designations and standards for roadways that will provide for the safe and efficient movement of goods and people through the community. (page 76)

Policies:

C-3a. Consider all possible means of funding capital improvements needed to meet traffic and transportation needs generated by build-out of the General Plan.

C-3h. Require all new projects to demonstrate safe traffic flow integration with the Master Plan of Streets as well as street/drainage improvements function. This shall include construction traffic and the designation of construction routes.

Objective C-4: Improve the Carpinteria Avenue corridor to ensure adequate traffic flow, safe bicycle use and improved aesthetic qualities. (page 79)

Policies:

C-4a. Regulations should be established which minimize traffic movement friction on Carpinteria Avenue. Such standards should include but not be limited to:

- Elimination of problematic existing and proposed left hand turn movements.
- Eliminating where appropriate existing curb cuts, and
- Creating standards for when new driveways are allowed, spacing, and alignment. [5-year]

Footnote 5

“General Facilities and Equipment” Subcategory is consistent with the following objectives and policies including referenced page numbers described in the City of Carpinteria General Plan/Local Coastal Land Use Plan and Environmental Impact Report dated November 2002:

Objective PF-5: To provide a high quality and broad range of public services, facilities and utilities to meet the needs of all present and future residents of the Carpinteria Planning Area.

Policies:

PF-5b. The City will require proposed new development to pay a fair share of the cost of needed public facilities and services. Further, in areas of the City designated for non-residential use but where residential use may be permitted, the City shall monitor total residential development and report annually to the School, Fire, Water and Sanitary districts to permit proper facilities planning by these special districts.

Footnote 6

“Storm Drain Facilities” Subcategory is consistent with the following objectives and policies including referenced page numbers described in the City of Carpinteria General Plan/Local Coastal Land Use Plan and Environmental Impact Report dated November 2002:

Objective C-3: Provide a balanced transportation network with consistent designations and standards for roadways that will provide for the safe and efficient movement of goods and people through the community. (page 76)

Policies:

C-3a. Consider all possible means of funding capital improvements needed to meet traffic and transportation needs generated by build-out of the General Plan.

C-3c. Review new development proposals to improve neighborhood circulation patterns and enhance the inter-neighborhood routing characteristics of the city’s master plan.

C-3f. Improve travel characteristics of the city’s circulation plan by:

- Planning and developing a continuous and direct east/west surface street route north of and parallel to Highway 101 to improve the efficiency of local traffic circulation [5-15 years]
- Considering the westerly extension of Via Real to Casitas Pass Road and from Vallecito to Linden:
- Prioritizing maximum protection for coastal waters, ESHA and agricultural resources in considering potential road extensions.

C-3h. Require all new projects to demonstrate safe traffic flow integration with the Master Plan of Streets as well as street/drainage improvements function. This shall include construction traffic and the designation of construction routes.

C-3j. Develop a prioritized Capital Improvement Program directed at roadway improvements. [2 – year]

C-3k. Segregate by design, enforcement and traffic pattern, routes of significant industrial areas to minimize interference with efficient traffic circulation.

Footnote 7

“Parks and Recreation Facilities” ” Subcategory is consistent with the following objectives and policies including referenced page numbers described in the City of Carpinteria General Plan/Local Coastal Land Use Plan and Environmental Impact Report dated November 2002:

Objective C-14: Provide for adequate park and recreation facilities to meet the needs of the community and visitors. (page 135)

Implementation Policy 61 – Support development of new or expanded park and recreation facilities as demand/need dictates.

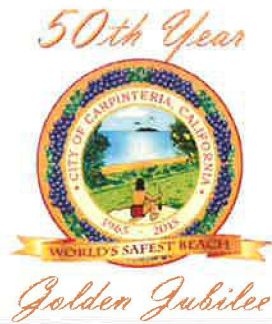
Objective C-15: Maintain the existing trail system and provide additional recreation and access opportunities by expanding the trail system. (page 140)

Pursue development of a trail system and/or boardwalk system along the coastline

EXHIBIT 5 TO RESOLUTION NO. 5570
CITY OF CARPINTERIA
DEVELOPMENT IMPACT FEES ACCOUNTING (UN-AUDITED)

CITY OF CARPINTERIA

DEVELOPMENT IMPACT FEES		LEDGER	CREDITS	INTEREST	DEBITS	LEDGER
		At June 30, 2014				At June 30, 2015
ACCOUNT	PURPOSE					
231-000	GENERAL FACILITIES DIF	\$193,329.11	\$8,230.28	\$773.72	(\$66,816.98)	\$135,516.13
232-000	HIGHWAY INTERCHANGE DIF	\$778,627.71	\$49,242.20	\$3,753.91	(\$86,167.59)	\$745,456.23
234-000	STORM DRAIN DIF	\$257,497.22	\$5,130.39	\$1,316.22	(\$1,024.39)	\$262,919.44
235-000	TRAFFIC CONTROL DIF	\$277,310.94	\$5,064.52	\$1,418.31	(\$1,100.60)	\$282,693.17
236-000	STREETS & THOROUGHFARES DIF	\$130,204.53	\$3,171.22	\$666.77	(\$518.33)	\$133,524.19
237-000	PARKING DIF	\$63,299.62	\$8,421.66	\$333.45	(\$282.01)	\$71,772.72
241-000	PARK LAND ACQUISITION DIF	\$53,045.87	\$57,989.06	\$301.81	(\$292.65)	\$111,044.09
242-000	PARK IMPROVEMENTS DIF	\$392,529.84	\$31,749.76	\$1,552.65	(\$98,323.74)	\$327,508.51
243-000	PARK AQUATICS DIF	\$50,438.93	\$2,533.96	\$217.73	(\$8,160.77)	\$45,029.85
244-000	PARK OPEN SPACE DIF	\$2,347.80	\$1,743.03	\$16.48	(\$16.07)	\$4,091.24
277-000	PARK/QUIMBY FEES	\$19,984.78	\$0.00	\$101.85	(\$78.60)	\$20,008.03
	TOTAL	\$2,218,616.35	\$173,276.08	\$10,452.90	(\$262,781.73)	\$2,139,563.60



City of Carpinteria

COUNCIL AGENDA STAFF REPORT August 10, 2015

ITEM FOR COUNCIL CONSIDERATION

Initiation of changes to City regulations concerning short-term residential rental use.

STAFF RECOMMENDATION

Action Item X ; Non-Action Item

Initiate amendment to the Carpinteria Municipal Code pertaining to short-term residential rental use.

Motion: I move to direct staff to prepare a draft ordinance amending the Carpinteria Municipal Code, as discussed, pertaining to short-term residential rental use.

DEFINITIONS

Home Stays: A type of STR where the permanent resident remains onsite during the rental period. Does not include bed and breakfast inns or hosting of guests.

Short-Term Rental (STR): Generic term for residential units rented for 30 consecutive days or less and which can therefore be subject to applicable city or county land use regulations, permit/licensing requirements, fees and/or taxes. STRs include both Vacation Rentals and Home Stays.

Tourism Business Improvement District (TBID): Special assessment or taxing district that applies to visitor serving uses.

Transient Occupancy Tax (TOT): Local tax that applies to all rentals of 30 days or less under California law. Also known as a hotel bed tax.

Vacation Rentals: A type of STR where the permanent resident does not remain onsite during the rental period. Does not include time shares or house swapping.

BACKGROUND

Many communities across the state and country are experiencing a growth in the number of residential units being converted for short-term rental use.¹ In Carpinteria this is also the case, where it is estimated that 271 short-term rentals now exist.

Short-term rental (STR) is a generic term for residential units rented for 30 consecutive days or less and which can therefore be subject to applicable city or county land use regulations, permit/licensing requirements, fees and/or taxes. STRs include both Vacation Rentals and Home Stays. Home Stays involve the permanent resident remaining onsite during the rental period. With Vacation Rentals, the permanent resident does not remain onsite during the rental period.²

STRs do not include lodging accommodations such as hotels (including bed & breakfast inns), hostels and time-shares. STRs are also distinct from other non-rental shared use of residences such as house swapping or hosting of guests, none of which appears to be included in the current discussions that cities are having concerning STRs as there is typically no monetary payment for such stays.

Home Stays and Vacation Rentals have been around for decades, historically advertised in magazines, newspapers or by word of mouth. In seasonal resort areas, property management companies often specialize in the marketing and maintenance of vacation rental properties. In recent years, a number of web-based, sharing economy businesses have been created that provide short-term services in a manner that takes advantage of the attributes of the internet (e.g., Uber, Airbnb, etc.).

The online STR industry provides access to a wider audience, making it easier to comparison shop, and generally making the process of entering into a rental agreement more efficient. For property owners, STRs can provide supplemental income and even business opportunities. For visitors, STRs are often less expensive, provide amenities not typically available in a standard hotel or motel room, and are generally located outside of commercial centers more appropriate for traditional short-term lodging.

STRs can also be an important resource for resort communities, providing an expandable lodging inventory available virtually on-demand and leading to increased revenue from tourism for local businesses. For local governments, STRs have created the potential for growth in visitorship and associated revenues such as transient occupancy tax.

¹ "7 Hot Trends in the Real Estate Market: Hotel, Condo and Vacation Rental Boom and More," Jeff Collins, Orange County Register, July 3, 2015, "Inside Airbnb.com reports it had nearly 27,500 listings in New York this past spring, 14,520 in Los Angeles and 5,426 in San Francisco. There are at least 800 in Orange County, according to an Airbnb search."

² "San Diego Is Still a House Divided on Vacation Rentals," Zoe Schaver, Voice of San Diego, July 14, 2015

Growth in STRs, however, has also brought a variety of issues that communities across the country and even internationally are grappling with. An October 2014 report from the New York State Office of the Attorney General summarized the situation this way:³

Where supporters of Airbnb and other rental sites see a catalyst for entrepreneurship, critics see a threat to the safety, affordability, and residential character of local communities. Are the new platforms fueling a black market for unsafe hotels? By bidding up the price of apartments in popular areas, do short-term rentals make metropolitan areas like New York City less affordable? Is the influx of out-of-town visitors upsetting the quiet of longstanding residential neighborhoods?

In California, the issue is getting enough attention that the League of California Cities is providing links to reference material, including sample ordinances, studies and news articles, in an attempt to help local cities address these concerns.⁴

Common issues being identified by cities include challenges in ensuring compliance with licensing, permitting and payment of fees and taxes, compliance with land use and zoning policies and regulations, compliance with housing, building and fire codes, increased housing cost and decreased availability of rental units, property owner rights, scams targeting people seeking Vacation Rentals, and an increase in litigation between cities and online vacation rental services and between cities and residents/property owners.

Private vs. Public Interest. A fundamental issue that cities address when evaluating current and/or proposed local regulation of STRs is the appropriate balance between private property interests and the broader public interest. It is apparent that the establishment by cities of land use policies and zoning regulations specific to STRs aim to balance property owner expectations concerning use of their homes with broader public interests such as available and affordable workforce housing, a sustainable local economy, community and neighborhood character, quality of life and property values.

Licensing, Permitting and Payment of Fees/Taxes. Operating an STR in most cities is considered a commercial activity and, if allowed, requires a business license. Most cities have a transient occupancy tax (TOT), also known as a hotel bed tax, which, under California law, applies to all rentals of 30 days or less. Some areas also have a tourism business improvement district (TBID) or similar special assessment or taxing district that applies to visitor-serving uses. Cities that permit STRs often also require an application for a permit to be filed with an associated fee.

Cities are finding that operators of STR properties often are not in compliance with one or more local license, permit, fee and/or tax requirements, that STRs can be disruptive to neighborhoods and cause public nuisances, and that enforcement can be

³ "Airbnb in the City," New York State Office of the Attorney General, Eric T. Schneiderman, October 2014

⁴ The referenced material can be found at <https://www.cacities.org/Policy-Advocacy/Hot-Issues/Vacation-Rentals>.

difficult and expensive. Senate Bill 593 (McGuire) would require online reservation services, such as Airbnb.com, to provide data, including location, to cities about STRs using the service. The bill is currently pending before the Senate Governance and Finance Committee.

Land Use and Zoning Consistency. Many cities are also finding that their regulations, processes and procedures associated with STRs are out of step with current practices and no longer adequate to address trends in the conduct of STR use. Cities have found the need to better define STR types in order to appropriately develop and apply local regulations. In particular, differentiating Home Stays from other STRs is a common change made by cities wishing to distinguish the way the use is regulated.

In many communities, STR use has greatly expanded and intensified, with a greater number and frequency of STRs occurring in non-traditional areas such as single-family neighborhoods. This trend has resulted in many cities updating zoning regulations in order to clarify or establish appropriate limits on STR use.

Neighborhood Compatibility and Service Demands. As STR use has expanded and intensified in residential neighborhoods, cities have experienced myriad complaints in neighborhoods where such complaints are rare or non-existent. Complaints include: overcrowded units; numerous vehicles overwhelming available onsite parking and impacting availability of neighborhood on-street parking; short-term tenants being inconsiderate of neighbors, e.g., blocking driveways with cars, leaving trash on street and yard areas, and having loud parties late into the night. These trends in complaints to city government officials impact both law enforcement services, which typically respond to acute complaints about noise, etc., and also zoning enforcement services, which typically respond to complaints about cumulative impacts and chronic nuisances.

Effects on Rental and Ownership Housing Markets Affordability and Availability. The growth in the STR market is occurring in many places where housing availability and affordability is already low. This drives up the cost of housing, making it challenging for first time homebuyers to enter into the market, for renters to find housing, and for business owners to meet the housing needs of their employees. Many cities have identified the commercialization of residential units for STR use as a factor exacerbating housing availability and affordability⁵.

Compliance with applicable non-discrimination, Uniform Housing, Building and Fire Code Standards and Insurance. Operators of traditional lodging facilities must comply with the Federal Housing Act (FHA) and the American's with Disabilities Act (ADA). Special construction, exiting and fire safety standards also apply to lodging facilities. As STRs have become a popular alternative lodging choice, many cities are

⁵ The impact of STRs on the Santa Barbara region housing market was the topic of discussion at the July 2015 meeting of the Santa Barbara Joint Cities/County Housing Task Group and at a May 2015 meeting of the City of Santa Barbara Housing Authority Commission. A letter summary of the Commission meeting, dated May 21, 2015, is attached to this report.

concerned that adequate protections for the public using these facilities are not being provided. Questions are being raised about adequacy of homeowner's insurance policy coverage to protect guests injured due to homeowner negligence, and compliance with state and federal laws that require public accommodations to be accessible to persons with physical disabilities.

In some communities the owners/operators of traditional lodging facilities, e.g., hoteliers, have asked cities to ensure that STR operators comply with the same standards that hotels are expected to meet with regard to permitting, licensing and taxes, and compliance with accessibility standards and other building and fire code requirements in order to ensure a level playing field.

Law Enforcement. The lack of adequate oversight of internet based rental services has allowed scams to proliferate where the public is victimized. A typical scam involves consumers putting down deposits for rental properties that don't exist. The Santa Barbara County Sheriff's Department reports that this activity has been occurring in Santa Barbara County and at least one incident has been reported in Carpinteria to date.

Litigation. Cities have been involved in litigation concerning STRs. Examples include where property owners violate zoning or other regulations associated with the establishment and/or operation of an STR property, where online rental services have refused to cooperate in providing information about STR properties to cities for enforcement purposes, and where a disabled person claimed cities that regulate STRs have an obligation to ensure compliance with accessibility standards.

The purpose of this agenda matter is to review STR trends and issues, including local, state and national trends, to review regulatory examples from other cities, to receive public input on the matter, and to provide the City Council the opportunity to initiate any changes to existing City regulations that are determined appropriate for its consideration.

In preparation for this agenda matter, notice was provided via press release and news articles in the Coastal View News, other news outlets, the City Newsletter and direct emailing to local realtors and TOT remitters registered with the City.

DISCUSSION

As discussed in the Background section of this Staff Report, cities all over the country are studying STRs and many have decided to establish or update local regulations. Some have also temporarily prohibited establishment of STRs by adopting moratoriums in order to provide time to study the issues and develop an appropriate response. In preparing this Staff Report, reports and regulations from the Cities of San Diego, Santa Monica, Laguna Beach, San Luis Obispo, Goleta and Santa Barbara were reviewed. (Attached is a table comparison of regulations established by some cities in

the region). A number of studies on STRs were also reviewed.⁶ A compendium of these reports, regulations, studies and news article samples has been provided to the City Council and is available for review at the City Clerk's office.

Regulatory Approaches in Other Cities. In researching regulations established by other cities throughout the region and state, staff has determined that there are three common approaches: (1) establishing geographic restrictions, i.e., prohibiting or allowing STRs in certain areas of a city, usually based on zoning; (2) establishing quantitative restrictions, i.e., limiting the number or density of STRs; (3) establishing operating restrictions, i.e., licensing, permitting and standards.

In the cities surveyed, all are defining Vacation Rentals and Home Stays as distinct and different uses, and are applying different restrictions to them. The issues associated with Vacation Rentals are not being associated with Home Stays. Cities that have distinguished Home Stay from Vacation Rental often also require permits for Home Stay use and compliance with certain operating standards such as requiring the owner to be onsite and limiting guest occupancy to a single room.

These approaches are not mutually exclusive, and some agencies have included all three approaches in their response to STR growth. For example, a city may expressly prohibit Vacation Rental use in certain zone districts, limit the overall number allowed in the city, exclude Home Sharing from that prohibition, and establish permit requirements and regulations for all STRs. The following paragraphs provide additional details of how each of the three approaches has been put into practice in other jurisdictions.

Geographic Restrictions. Some cities have elected to not allow Vacation Rentals in residential zone districts but to permit Home Stays. Cities have banned Vacation Rentals use in residential zone districts by either concluding that Vacation Rentals are commercial uses and therefore not allowed in residential zone districts, or by acting to establish explicit prohibitions within zoning district regulations. The City of Santa Monica is an example of a city that has prohibited Vacation Rental use in residential zone districts.

Quantitative Restrictions. There are two types of quantitative restrictions that have been identified: ratio or cap restrictions and density restrictions. Staff has identified examples of cities having quantitative restrictions applying to Vacation Rentals but, where defined separately, not Home Stays. Some cities that have identified the growth of Vacation Rentals as an issue for local housing availability and affordability have established minimum ratios between long-term rentals and

⁶ Studies reviewed include: "Overview of Sharing Economy and Short-Term Rentals," State of California, Legislative Analyst's Office, March 18, 2015, "Airbnb, Rising Rent, and the Housing Crisis in Los Angeles," Samaan, Roy, Laane, March 2015, "Airbnb in the City", Schneiderman, Eric T., New York State Office of the Attorney General, October 2014, "Vacation Home Rentals: Issues, Emerging Trends and Best Practices," Colorado Association of Ski Towns, June 2015

Vacation Rentals or caps on the total number of Vacation Rentals permitted, in order to protect their stocks of rental housing⁷. Some cities that have associated issues of degradation of neighborhood character and quality of life with the growth in Vacation Rental use, have established minimum separation standards in order to avoid clustering of Vacation Rentals in any particular area.⁸

Operating Restrictions. Many cities in resort areas have had Vacation Rental programs in place for a long time and permit Vacation Rentals in residential zone districts. In light of the growth in this use type and related issues, some cities, such as Laguna Beach, have initiated changes to the regulation and permitting of this use. These cities have typically identified that Vacation Rental uses generate issues unique or different than long-term residential rental use and therefore require special operating standards.

The City of Goleta has recently adopted regulations that establish a permit process and operating standards for Vacation Rentals in residential zone districts. Regulations reviewed include standards which discourage neighborhood nuisances, establish tools for effectively dealing with non-compliance, and provide procedures for permit revocation when necessary. The type of permit requirements and operating standards found in staff's research include the following:

Permit and/or license requirements. Requiring a permit and/or license for uses and activities affords cities a regulatory path to establish and enforce operating standards. Written permit conditions are established and contact information for the owner/operator is available for noticing should issues arise over the course of operating the use. Modifications to operating standards can be made if unique problems arise, or permits may be revoked if violations persist. Cities establish and collect fees as determined necessary to offset costs associated with the permitting process.

Owner Occupancy requirements. Fundamental to Home Stays, some cities have determined that the owner's presence onsite during rentals is a prerequisite to the operation of an STR in certain areas, e.g., single-family residential zone districts. Where applied, such a requirement would prohibit Vacation Rentals, i.e., whole house rentals, and subletting by tenants.

Payment of taxes and assessments. Cities allowing STRs require payment of applicable taxes and/or assessments. TOT is most common and applicable tax to short-term stays of 30 consecutive days or less. Many cities also apply tourism and/or parking business improvement district assessments to this use type.

⁷ Mendocino County, CA

⁸ City of San Luis Obispo, CA

Minimum insurance requirements. This requirement is established in order to ensure that guests are adequately protected from homeowner negligence in case of injury or death. The type and coverage amounts may vary from a typical homeowner's policy.

Inspection requirements for Uniform Housing, Building and Fire Code compliance. This requirement is aimed at ensuring that units rented comply with minimum standards of occupancy safety, e.g., having smoke and carbon monoxide detectors. The City of Carpinteria currently operates a single-family rental inspection program that addresses similar interests related to long-term rental properties in single-family zone districts. Inspections are conducted every three years.

Surety Bonds or Similar Guarantee for Payment of Fines. Effectively a type of security deposit required to be made by the property owner and held by the city, a surety bond is another tool to motivate owner responsibility and allow for effective and efficient enforcement by a city when necessary.

Requirement for a City-issued Registration Number with Online Listing. This is an enforcement tool that allows cities to more easily identify online property listings that are registered and allows for efficiency in ensuring compliance. This requirement can also help consumers to avoid scams by providing a reference that can be checked.

Unit Occupancy Rules. Cities that establish general program requirements, as listed above, will typically also establish rules for the onsite conduct of the STR activity. These rules can include:

- Minimum length of stays and maximum number of annual stays per dwelling unit
- Limit on number of occupants
- Trash/recycling collection and receptacle requirements
- Noise standards, e.g., no loud music after 9:00 p.m.
- Parking standards, e.g., maximum number of vehicles allowed and restrictions on where they can be parked
- Sign standards, e.g., prohibition on advertising signs and requirements for management contact information
- Nuisance/Complaint response plan filed with the city that describes house rules, how the owner communicates house rules to tenants, and how the owner responds to issues and complaints concerning the rental use of the property
- Designated local/nearby emergency contact, 24 hours/7 days per week
- Posting of permit and conditions in unit to ensure that house rules and regulations are communicated effectively to tenants

Code Compliance. As the number and frequency of use of STRs has increased, cities are receiving more complaints from neighbors. Not surprisingly, in response, cities are engaging in more proactive enforcement of regulations concerning STRs. As discussed previously, this has proven challenging given that property listing and other activities associated with the STR are typically conducted through internet-based companies. Property location and property owner information is generally not made available through websites such as Airbnb and Homestay, and these companies have generally not been cooperative in providing such information to cities. Some website Terms of Use agreements prohibit activities necessary for cities to conduct enforcement, such as gathering information about unit rental histories. Some cities have experienced employees being barred from access to websites for this reason.

In this context, some cities have established minimal regulations-- e.g., requiring a business license and payment of taxes -- due to concerns that the regulation of STRs, as discussed above, could have the unintended consequence of driving these uses underground, where the use and impacts would continue without any oversight or tax revenue. This is already being experienced in some cities where property owners and/or investors in residential property have been found to be willfully violating local STR restrictions.

Cities are approaching code enforcement penalty provisions in two ways: applying generally applicable enforcement provisions and establishing enforcement provisions unique to STRs. General provisions are those already in place in most cities to address code enforcement matters and have procedures and penalty amounts established for violations. Where cities have established special penalty provisions for STRs, the penalty amounts are typically greater than those established in the general provisions.

Short-Term Rentals in Carpinteria. Carpinteria has been a visitor destination for over 100 years. The Beach Neighborhood, in particular, was the location of camping and seasonal bungalows dating back to the early 20th century. At the time of the City's incorporation in 1965, Vacation Rental use was well established with residential units in the Beach Neighborhood being rented out to visitors for short-term stays⁹.

By the late 1970s the City's rental housing market had become extremely tight¹⁰ and the City had identified a number of conditions that threatened to exacerbate the affordability and availability of rental units locally. These conditions included the conversion of rental housing to condominium ownership and the demolition of rental housing in favor of owner-occupied units. The City's 1981 General Plan states, in part, that "[c]onversions of existing rental units to condominiums or community apartments,

⁹ Prior to 1981, the City's multi-family zone district permitted "lodging houses." It is not clear whether residential properties used for short-term rental were considered by the City to be lodging houses and therefore expressly permitted in multi-family zones, or simply represented a type of use/activity not regulated and potentially also conducted in other residential districts.

¹⁰ An April 1980 residential vacancy rate of less than 1% is cited in the City's 1981 Housing Element as being indicative of the broader housing affordability and supply problem in Carpinteria.

while providing a potential for homeownership...can further restrict affordable rental housing opportunities..." The City determined that this type of development should be regulated in order to protect the City's rental housing stock, and in 1981 the City's zoning regulations were updated to include Condominium Conversion and Residential Rental Unit Demolition standards that remain a part of the code to this day¹¹.

Similarly, today the growing use of residential units (both rental and ownership) as STRs raises a number of issues, not the least of which is the potential for this activity to negatively affect the affordability and availability of permanent workforce housing in Carpinteria.

The City zoning code's only reference to short-term occupancy use is the allowance for hotels/motels in certain commercial zones. The zoning code does not specifically address STRs in the City's residential zone districts, nor does it differentiate between Vacation Rentals and Home Stays.

The City's practice has been to prohibit STRs in the single-family residential zone district while allowing STRs in multi-family residential zone districts. The basis for the allowance in multi-family residential zone districts is based on the City's long history of allowing STRs in multi-family residential zone districts such as the Beach Neighborhood. The basis for not allowing STRs in the single-family residential zone districts is that such use is a commercial activity inconsistent with single-family land uses.

As indicated previously, it is difficult to determine the number and trend for STRs in any city, including Carpinteria, because unlicensed STRs can be difficult to identify. However, it is reasonable to conclude that, as a vacation destination and based on anecdotal information, Carpinteria is experiencing significant growth in this type of use.

Attachment 2 to this Report is a map illustrating currently licensed STRs in the City of Carpinteria. The map illustrates that of the 271 licensed STR units, most are concentrated in the Beach and Downtown Neighborhoods. Also, 187 of the units are part of multi-family developments with onsite management, e.g., Sunset Shores. Onsite management is an important tool for addressing tenant issues that may arise concerning Vacation Rentals and which can create neighborhood nuisances. Also, Homeowners Association Covenants, Conditions and Restrictions (CC&Rs), are often the most effective compliance tool concerning activities by an owner that negatively affect other residents and owners. The City receives a low number of nuisance type complaints concerning Vacation Rentals in the Beach and Downtown Neighborhoods.

The City has recently received complaints concerning unlicensed STRs in the single-family residential zone district within the Concha Loma neighborhood. In response, the City has recently sent all property owners a letter to remind them of the

¹¹ Carpinteria Municipal Code Chapter 14.73, Residential Rental Unit Demolition, and Chapter 14.74, Condominium/Cooperative Conversion.

City's long-standing prohibition on STR use in the single-family residential zone district. Additional internet research was conducted to attempt to determine if and where a violation(s) may be occurring and specific letters were sent to two R-1 property owners whose rental information was found on the internet.

In 2005, after receiving complaints from neighbors about an illegal STR in a single-family residential zone district and issuing citations, the City settled a case with the owner who agreed to stop operating the STR and to pay \$25,000 in penalties and reimbursement charges for City expenses.

Based on internet searches and complaints received, staff believes it is very likely that there are currently unlicensed STRs operating in both single and multi-family zone districts; however, the bulk of STRs remain, as the map indicates, in multi-family areas of the Beach Neighborhood, Downtown District and Carpinteria Avenue corridor. Unlike in some communities where unpermitted STR use in single-family areas has become well established, STRs in single family areas of Carpinteria appear to be the exception. Likewise, there are very few STRs in multi-family zones outside of the Beach and Downtown Neighborhoods.

General Plan/Local Coastal Land Use Plan Policy Review. Local land use policies and zoning schemes aim, in part, to keep uses that have been determined to be incompatible from negatively affecting one another. One of the ways cities accomplish this is to establish land use categories and zoning districts that, through the development approval processes, function to separate residential and commercial uses and ensure that activities typical to commercial use do not undermine the health, safety and welfare of residential areas.

The proliferation of STRs in residential zone districts of cities across the state and country has resulted in many cities affirming this fundamental purpose of land use regulation and those policies and regulations that support and implement that purpose. In many cases, cities have determined that regulations concerning STRs are needed or, where already established, need to be amended, in order to allow STR use to be located and conducted in a manner that can be found consistent with local land use policies.

The City of Carpinteria's land use policies are established in its General Plan/Local Coastal Land Use Plan (CLUP).¹² The City's CLUP, including related estimates of population growth, service demand, jobs/housing balance, etc., does not anticipate a proliferation of STR use in residential areas. The impacts from proliferation of STR use in residential areas include, but are not limited to, creating unmet service demands, altering the character of neighborhoods, and limiting availability and cost of

¹² The City's General Plan/Local Coastal Land Use Plan can be found at <http://www.carpinteria.ca.us/communitydev/planning.shtml> , and the Zoning Code can be found at https://www.municode.com/library/ca/carpinteria/codes/code_of_ordinances .

housing (both rental and ownership). The following is a review and discussion of a sample of the City's CLUP policies.

1. The City's primary residential land use designations are Low and Medium Density Residential, and the descriptions of these categories (beginning on page nine of the CLUP) do not indicate an allowance for commercial use. Further, the City has a specific designation, Visitor-Serving Commercial, which is intended to provide for uses that serve visitors to the City such as hotels and motels. The implementing zone district, Visitor-Serving/Highway Commercial Overlay, states that the intent of the district includes requiring "adequate visitor-serving commercial uses in areas serving the beach and major highways..." The descriptions and limited application of these designations suggest that appropriate locations for visitor-serving accommodations should also be limited.
2. Objective LU-3 and Policies LU-3e, Objective LU-6 and Policy LU-6a concern maintaining an appropriate balance in the City between jobs and housing. As discussed, many cities are concerned that conversion of housing to Vacation Rentals will negatively affect the affordability and availability of workforce housing within the City.
3. Housing Element Policies: Commitment of a growing segment of the City's housing stock to Vacation Rentals would be expected to make it more difficult for the City to achieve its housing goals, including addressing the housing needs of all economic segments of the community, maintaining an appropriate balance between jobs and housing, conserving rental apartments, mobile homes and other affordable housing types and maintaining affordability of existing and future housing in the City.

The overall residential vacancy rate in Carpinteria, at 12.3%, is considered high, and is due in large part to residential units being used as second homes and Vacation Rentals. The City's long-term rental vacancy rate is very low, historically being less than 2%¹³. Conversion of a greater number of rental and ownership housing to Vacation Rentals would be expected to exacerbate the already scarce amount and type of housing available, the cost of housing, and the amount and nature of public facilities and services needed. This tension between the benefits of growth in the number of Vacation Rentals to the tourism sector of the local economy and an interest in protecting the integrity of the City's residential housing stock and neighborhoods is identified in the City's 2015 Economic Forecast¹⁴.

4. Community Design Element policies regarding neighborhood character, e.g., Objective CDS5-2 and CDS5-3, suggest that the preservation of

¹⁴ 2015 Carpinteria Valley Economic Profile, Page 13-14, Tourism

neighborhood character through development controls is appropriate and necessary for maintenance of neighborhoods consistent with the City's small beach town image.

LEGAL ISSUES

The City Attorney's office has worked closely with staff on this matter, and is prepared to address any questions from the Council regarding legal issues. As a general matter, it is a well-established legal principle that a public agency's police power has broad application in the area of land use, and at least one recent case finds that these broad police powers authorize a City to regulate in the area of STRs.

FINANCIAL CONSIDERATIONS

The City's economy includes a significant tourism component that supports private businesses and generates sales and TOT revenue. To the degree that STR use expands the capacity to accommodate visitors, it would be expected that this activity would be supportive of businesses that cater to visitors and generate related tax revenues in support of City services.

STR use may also negatively impact the economy by making it more difficult for businesses to attract and retain employees due to the lack of affordable housing. Loss of businesses would be expected to result in less tax revenue being available to support City services.

Finally, many cities are experiencing direct costs associated with the need for proactive enforcement of regulations pertaining to STRs. It is expected that Carpinteria will experience similar costs as proactive enforcement efforts increase.

OPTIONS FOR DIRECTING STAFF

The City Council may either receive and file this report and take no further action, or take action to initiate a zoning code amendment and direct staff concerning the desired changes. Should the City Council determine to not take action, the matter of vacation rental use will next be considered by the Planning Commission in the context of the City's comprehensive zoning code update, which is tentatively scheduled for public hearing in the fall. Should the Council determine to initiate a zoning code amendment, staff would prepare a draft ordinance pursuant City Council direction and bring the matter before the Planning Commission for consideration of making a recommendation to the City Council.

The following are brief descriptions of discrete options should the City Council determine to initiate legislative action. These options are not mutually exclusive and, with the exception of alternative A to option 1, some combination of options or all of the options may be explored. Further, hybrid options may also be developed, e.g., allowing

Home Stays in residential zones, prohibiting Vacation Rentals in single-family zones, and establishing limits on Vacation Rentals in multi-family zones.

OPTION 1: Adopt Geographically-Based Restrictions on STRs. The Council could decide to prohibit STRs in all residential areas or to allow STRs in some residential areas and not in others. Below are four potential possibilities under this approach:

- A. Prohibit STRs (Vacation Rentals and Home Stays) in all Residential Zone Districts throughout the City.** As a part of the City's authority to establish a long-range land use plan and to implement those policies through regulations, the City has adopted a General Plan and zoning regulations that direct the location and extent of land uses as well as policies and standards that serve to differentiate neighborhoods, districts and corridors and provide for a mixture of land use and housing types within each.¹⁵ In this context, should the City Council determine that STR use, i.e., Vacation Rentals and Home Stays, are incompatible with locations where the City permits residential use, it could establish an express prohibition. A prohibition of Vacation Rentals and Home Stays in the City would effectively limit transient occupancy use, i.e., overnight stays of 30 consecutive days or less to areas such as the visitor-serving overlay district, where hotels and similar commercial use is permitted.
- B. Allow STRs (Vacation Rentals and Home Stays) only in Multi-family Residential Zone Districts (includes mobile home parks) or only in certain areas zoned Multi-family Residential.** It is the City's current practice to allow Vacation Rentals and Home Stays in all multi-family residential zone districts. If this remains the case, the City may choose to make amendments to its zoning regulations that clarify that STRs are permitted in multi-family residential zone districts and expressly prohibited in single-family residential zone districts. This option would also allow the Council to direct that Vacation Rental use in multi-family residential zone districts be limited to specified areas where Vacation Rentals are concentrated, e.g., the Beach Neighborhood.
- C. Allow Home Stays and Prohibit Vacation Rentals in all Residential Zone Districts.** This would involve amending the City's zoning regulations to establish definitions that clearly differentiate between Vacation Rental and Home Stay uses, and that would expressly allow Home Stays and prohibit Vacation Rentals.

¹⁵ Government Code 65302.4, Expressions of community intentions regarding urban form and design.

D. Allow STRs (Home Stays and Vacation Rentals) in all Residential Zone Districts. This would involve initiating a zoning code amendment to clarify that STRs are expressly allowed in residential zone districts.

OPTION 2: Adopt Quantitative-Based Restrictions on STRs. The Council could also choose to allow STRs (Vacation Rentals, Home Stays, or both), as described above in Option 1 (alternatives B, C or D), but to implement a cap on the number of STR permits that may be issued. Quantitative restrictions may take the form of a fixed limit on the total number of STR permits that may be issued at any given time. Alternatively, the Council could implement a proximity restriction that prohibits STRs from being located within a certain distance of another STR. Implementation of quantitative-based restrictions would involve amending the zoning code to reflect decided-upon limits.

OPTION 3: Adopt Operational Restrictions on STRs. Many cities with STR regulations also incorporate performance-type standards for the operation of STRs. A review of these regulations can be found above in the Discussion section of this report. Implementation of such regulations involves amending the City's zoning regulations to establish special provisions for operation of STRs.

PRINCIPAL PARTIES EXPECTED AT MEETING

Local Residents
Property owners
Real estate management company representatives

ATTACHMENTS

1. Compilation of Short-Term Rental Articles, Studies, Reports and Ordinances (distributed separately with list attached)
2. Map of Licensed STRs in Carpinteria by area (as of May 2015)
3. Comparison table of sample city regulations
4. Letter, Housing Authority of the City of Santa Barbara, dated May 21, 2015

Staff Contact: Jackie Campbell, Community Development Director
805-684-5405 x451 / jackiec@ci.carpinteria.ca.us



Signature



Signature

Reviewed by: Dave Durlinger, City Manager

ATTACHMENT 1

Compilation of Short-Term Rental Articles, Studies, Reports and Ordinances (distributed separately)

A. Articles

1. Bill to limit online vacation rentals including Airbnb, Sonoma Tribune, May 14, 2015
2. 7 hot trends in real estate market: Hotel, condo and vacation rental booms and more, Orange County Register, July 3, 2015
3. The Advantages of Offering Short-Term Rental of Your Home, Noozhawk, May 11, 2015
4. At Airbnb, growth brings scrutiny, regulation; LA Times, June 10, 2015
5. Despite Pleas from public, Santa Barbara Council Backs Ban on Short-term Vacation Rentals; Noozhawk, July 24, 2015
6. The Airbnb effect, San Francisco Chronicle, July 12, 2015
7. Rental sites like Airbnb aren't as innocuous as they pretend, The Economy Hub, July 19, 2015
8. In San Francisco, a battle over the 'hotelization' of neighborhoods, Los Angeles Times, May 22, 2015
9. Los Angeles Proposing Strict Regulations on Short-term Vacation Rentals, But to What Effect, Jdsupra Business Advisor, July 27, 2015
10. Keys Crack Down on Unlicensed Vacation Rentals Underway, WLRN, Miami, Ft. Lauderdale, July 15, 2015
11. Vacation home scams reported in Santa Cruz County, Santa Cruz Local News, Central Coast News, July 21, 2015
12. Vacation home rental scams happening on Tbyee Island, WTOG-TV, July 16, 2015
13. Ojai temporarily bans vacation rentals operating without permit, VC Star, March 25, 2015
14. Permit for Short-term Rentals Still on Hold, Laguna Beach Local News, June 21, 2015
15. Private home rentals with ADA battle, Big Bear Valley News, August 11, 2010

B. Studies

1. Overview of Sharing Economy and Short-Term Rentals, State of California, Legislative Analyst's Office, March 18, 2015
2. Airbnb, Rising Rent, and the Housing Crisis in Los Angeles, Samaan, Roy, Laane, March 2015
3. Airbnb in the City, New York State Office of the Attorney General, October 2014
4. Vacation Home Rentals: Issues, Emerging Trends and Best Practices, Colorado Association of Ski Towns Study, June 2015

C. Reports

1. City of Santa Barbara
2. City of Goleta
3. City of Santa Monica
4. City of San Diego

D. Ordinances

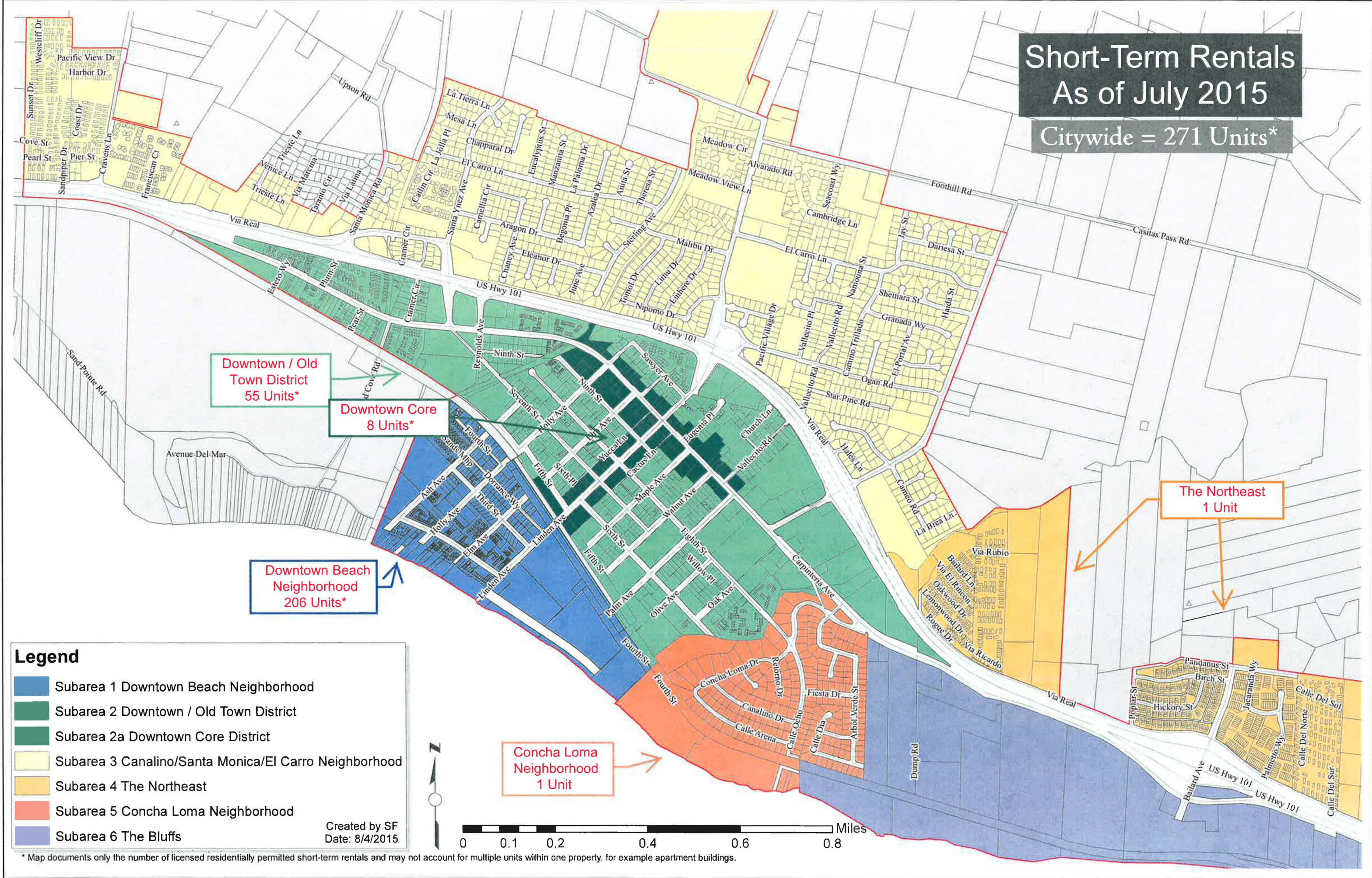
1. City of Goleta
2. City of Seal Beach
3. City of Laguna Beach
4. City of Santa Monica
5. City/County of San Francisco

ATTACHMENT 2

Map of Licensed STRs in Carpinteria by Area (as of May 2015)

Short-Term Rentals As of July 2015

Citywide = 271 Units*



Legend

- Subarea 1 Downtown Beach Neighborhood
- Subarea 2 Downtown / Old Town District
- Subarea 2a Downtown Core District
- Subarea 3 Canalino/Santa Monica/El Carro Neighborhood
- Subarea 4 The Northeast
- Subarea 5 Concha Loma Neighborhood
- Subarea 6 The Bluffs

Created by SF
Date: 8/4/2015

* Map documents only the number of licensed residentially permitted short-term rentals and may not account for multiple units within one property, for example apartment buildings.

ATTACHMENT 3

Comparison table of sample city regulations

Comparative Analysis of Short-term Residential Rental Regulations												
JURISDICTION	Estimated number of STR listings	Business Tax Certificate/ License required	Fee Amount	Restrictions	Transient Occupancy Tax Certificate Required	Transient Occupancy Tax Rate	Short-Term Rental Permit	Fee Amount	Criteria for STR Permit	STR Regulations	Status	Ordinance Link/ Reference Link
City of Carpinteria	271	Yes	\$12	N/A	Yes	12.00%	No	N/A	Permitted in multi-family zone districts	N/A	City Council Discussion August 2015	
County of Santa Barbara	421	No	N/A	N/A	Yes	10.00%	No	N/A	N/A	N/A	Discussion prompted during annual work plan Public Workshops July 2015 Planning Commission Oct/Nov 2015 Board of Supervisors Nov 2015 - Jan 2016	http://longridge-sbcountyplanning.org/programs/Short-term%20rentals/ShortTermRentals.aspx
City of Santa Barbara	349	Yes	\$15.00 for the first \$10,000 annual gross rent; \$1.00 for each additional \$1,000	N/A	Yes	12.00%	No	N/A	Prohibited in all residential zones	N/A	UNDER DISCUSSION - Next meeting August 11, 2015 1) Prohibit vacation rentals, as defined; 2) Work with Planning Commission to develop Zoning Ordinance; amend to allow homesharing where residential land use is allowed; 3) Enforcement of vacation rentals; 4) Work with city attorney to develop enforcement plan.	http://www.santa-barbaraca.gov/services/planning/mp/e/vacation_rentals.asp
City of Goleta	50	Yes	\$126.00	Valid for one year	Yes	12.00%	Yes	\$75	Permitted in residential zones other than motel/hotel unit	1) Primary occupant shall be 18 years or older; 2) Surety Bond of \$1,500; 3) Overnight occupancy limited to two persons within each rental in addition to a number that will not exceed two persons per bedroom; 4) Nuisance response plan must be approved, current and accurate; 5) Neighbor notification; 6) Permit number on all ads.	ACTIVE - Adopted February 17, 2015	http://qcode.us/codes/goleta/view.php?topic=5-5_08&frames=on
City of Ojai	1	N/A	N/A	N/A	Yes	10.00%	No	N/A	N/A	N/A	1) Current moratorium on CUPs for short-term rentals (approved April 2015); 2) Enforcement currently suspended; 3) Short-term rentals being discussed, however not currently permitted; 4) Staff currently analyzing possible regulations.	http://www.ci.ojai.ca.us/index.asp?Type=B_BASIC&SEC=%7BF59B7E13-BEB8-4DD5-82B7-47E7957E8BF2%7D
City of Ventura	75	Yes	\$45 + \$0.35 per \$1,000 in gross rents per year	Valid for one year	Yes	10.00%	Yes	\$600	Permitted in all residential zones	1) Surety Bond of \$1,500; 2) Rental agreements posted; 3) Nuisance response plan; 4) Owner keep written records; 5) Minimum stay of two nights; 6) Minimum stay of seven nights in summer; 7) Registration number on all ads.	ACTIVE - Adopted June 4, 2007	http://www.cityofventura.net/files/file/finance-tech/stvr/STVR%20Ordinance%202009-004.pdf
City of San Luis Obispo	80-90	Yes	\$73; \$223 in Downtown Business District	N/A	Yes	10.00%	Yes	\$305	1) Short-term vacation rentals not permitted; 2) Owner occupancy required; 3) Homestay rentals not permitted in guest houses or guest quarters.	1) Contact information provided to neighbors; 2) Overnight guests limited to four adults; 3) One parking space dedicated to homestay; 4) Responsible party other than owner; 5) Permit number on all ads.	ACTIVE - Adopted January 2015	http://www.codepublishing.com/CA/SanLuisObispo/?SanLuisObispo17/SanLuisObispo1708.html#17.08.140

ATTACHMENT 4

Letter, Housing Authority of the City of Santa Barbara, dated May 21, 2015



HOUSING

AUTHORITY OF THE
CITY OF SANTA BARBARA

808 Laguna Street / Santa Barbara
California / 93101

Tel (805) 965-1071
Fax (805) 564-7041

May 21, 2015

The Honorable Mayor Helene Schneider
and Members of the City Council
City of Santa Barbara
City Hall, De La Guerra Plaza
Santa Barbara, CA 93101

RE: SHORT TERM VACATION RENTALS

Dear Mayor Schneider and Members of the City Council:

On May 6, 2015, the Housing Authority Commission received and discussed information on the negative impacts short term vacation rentals have on Santa Barbara's already constrained and difficult housing market. Short term vacation rentals are defined as dwelling units rented for transient use of 30 consecutive days or less. Essentially, we are seeing transient occupancy (hotel type) rentals being done at the residential unit level; which, in almost all cases, is a violation of local zoning ordinances and building codes.

As you well know, creating and sustaining affordable housing for low and middle income persons and families remains one of our community's biggest challenges. The recent 2015 UCSB Economic Forecast Project shows the South Coast rental housing market having a vacancy rate of less than 1%. The study goes on to state *"A tenant would need to earn over \$57,566 per year (or \$28.28/hr.) to qualify to rent the average Santa Barbara South Coast apartment" and "\$72,617 per year (or \$36.31/hr.) would be required to qualify for the average two bedroom apartment rent."* Those salaries are much higher than what a large percentage of the Santa Barbara workforce earn, particularly those in the visitor-serving sector.

The Housing Authority Commission has concluded that the proliferation of short term vacation rentals exacerbates the existing tight rental housing market in Santa Barbara. That is because we are witnessing the wholesale removal of entire units (apartments, condos and single family homes) for the purpose of using them as short term vacation rentals. The owners of these dwellings (and/or their management companies and in some cases leasehold interests) are doing the math and realizing that nightly and weekly rentals can deliver much more revenue than a month to month rental. While some might argue that such is their right in a free market economy, short term vacation rentals violate current, well-established zoning restrictions and result in the loss of critical housing inventory—inventory that was built to house the local workforce and residents who are in need of housing.

Short term vacation rentals, when coupled with our community's extremely low vacancy rate, have caused many of the hard working, low-income families, seniors and disabled individuals we serve to be unable to locate a unit to rent under the Housing Authority's Section 8 Housing Choice Voucher (HCV) program. Over the last 12 months, the Authority's success rate for its Voucher holders (the ability of a Voucher holder to locate and lease an apartment before their Voucher expires) has dropped from 90% to 60%. In addition, the cost of the program continues to rise due to the ever increasing rents we are witnessing due to the limited supply.

Planning and economic development professionals have long acknowledged that housing vacancy rates of less than 5% constitute an unhealthy housing market for a given community as it fosters over-crowding, substandard housing and pushes rents beyond the reach of middle-income workers; to say nothing of the low-income workers, seniors and disabled households on fixed incomes that the Housing Authority was created to serve.

A recent report by the California Housing Partnership shows that the annual median rent in California has risen by 21% since 2000, while median income for renter households has fallen by 8%. This harsh reality has many communities and affordable housing providers questioning the wisdom of allowing short term vacation rentals which further reduce housing supply. It is clear from various studies that short term rentals are illegal under most local zoning ordinances (including Santa Barbara's) and that they negatively impact available housing—housing whose creation and purpose is to house local residents.

The City's 2015 Housing Element Update states ***"the City of Santa Barbara considers short-term vacation rentals to be a commercial use and permits them with a change of use permit in any zone that allows hotel use. Although hotels are only allowed in limited zones, vacation rentals in Santa Barbara have become common in most zones, especially residential zones. The use of residential units as short-term vacation rentals and/or only occupied as second homes poses a housing challenge to the City because these uses decrease available long-term housing opportunities for local residents as well as contribute to the increase in housing costs"***.

Two documents which examine short term/vacation rentals and regulatory options are enclosed. The first, Exhibit A, is a White Paper commissioned by the National Association of Realtors entitled "Short-Term Rental Housing Restrictions". While this "owner focused" White Paper favors allowing the use of housing as short term rentals in communities, it does a fair job of illuminating the **negative** impacts on available housing. Section 3.2.5 of the White Paper states: ***"Short-term rentals can affect housing costs in a community. When property owners elect to rent their homes on a short-term basis rather than renting on a longer-term basis (e.g., by the season or by the year), they essentially squeeze the supply of housing, pushing up the demand, and subsequently, the cost of housing in the community."***

The second document for your review, Exhibit B, is a recent report (March 2015) entitled "AirBnB, Rising Rent, and the Housing Crisis in Los Angeles". Beginning on page 16, the report details several issues with regard to short term rentals and highlights their negative impact on the housing market. The report describes the necessity of regulating firms such as AirBnB; including the requirement that these firms share rental information and data.

The Housing Authority has reviewed the regulatory schemes of a number of California cities that are trying to deal with the increased cost and reduced housing supply brought about by short term vacation rentals. Among those cities are Sonoma, St. Helena, San Francisco, Laguna Beach, and Santa Monica. We also provide for your review a copy of the City of Santa Monica's April 28, 2015 City Council Report and their adopted Ordinance. Santa Monica specifically makes short term vacation rentals unlawful under their zoning ordinances, but allows (1) home sharing, and (2) house swaps. Home sharing occurs where at least one of the primary owners/residents of a property lives on site throughout the short term stay of a visitor.

Home sharing and house-swaps have been around for decades, are relatively few in number and do not result in the removal of whole housing units from the market as short term vacation rentals generally do. Short term vacation rentals, as many studies show, increase the cost of an already expensive product—housing—whereas home sharing tends to spread good will for the community and allows a principal resident who needs some added income to earn some while hosting a guest. House swaps, where no money changes hands, allows local residents to take vacations they might not otherwise be able to afford. More importantly, home sharing and house swaps do not reduce housing supply.

The Commission strongly hopes, and respectfully requests, that the Council give the issue of short term vacation rentals the very serious attention it deserves. Should you desire further input from the Housing Authority Commission or our staff on this subject, please do not hesitate to contact me. Thank you for allowing us to comment on this important issue.

Sincerely,

HOUSING AUTHORITY OF THE
CITY OF SANTA BARBARA

A handwritten signature in black ink, appearing to read "Geoff Green", written over the printed name.

GEOFF GREEN
Chair

cc: Housing Authority Commission
Rob Pearson, Executive Director
Paul Casey, City Administrator
Ariel Calonne, City Attorney
George Buell, Community Development Director

A. Articles

5/14/15

SACRAMENTO — A California Senate finance committee on Wednesday approved a North Coast senator's controversial bill to more closely track online vacation rentals, over objections from industry representatives who decried the bill as an unprecedented intrusion on privacy.

The bill by state Sen. Mike McGuire, D-Healdsburg, now heads to the full Senate and into what is expected to be an increasingly pitched battle centered around the so-called sharing economy and traditional methods of tax collection to fund services ranging from road maintenance to firefighting.

Wednesday's hearing also was closely watched because of the potential for California to establish the most comprehensive online vacation rental regulations in the nation. That includes a provision in McGuire's bill requiring companies such as Airbnb and VRBO to disclose the addresses of rentals to local government taxing authorities.

"This business of home sharing has evolved from its roots of couch surfing," McGuire told members of the Senate's Governance and Finance Committee on Wednesday. "This is a multibillion-dollar business. Our bill is simple. All it does is make online vacation rental businesses follow local laws, just like the rest of us."

But David Owen, regional head of public policy at Airbnb, called the bill an "unprecedented" privacy intrusion that he said would require Internet companies to hand over "large swaths of data to local bureaucrats" so that they could search for violations of zoning regulations.

Airbnb has steadily ramped up its opposition to the proposed legislation, including turning out about 20 homeowners for Wednesday's hearing to share stories about how they've saved their homes or gained extra income by using the online service.

"If it wasn't for home sharing over the past two years, I would have lost my home. I'm out of work," one woman told the committee.

But a parade of representatives for labor unions, local governments and firefighters argued that not being able to collect the full amount of bed taxes generated through online vacation rentals hurts local economies.

Liza Graves, co-founder of BeautifulPlaces, a vacation rental booking company in Sonoma, said the company has remitted about \$1.5 million in bed taxes to Sonoma County since the company's inception in 2003.

"We want a level playing field," Graves said.

6/17

(page 2 of 3)

The divisions were apparent among committee members, who voted 4-2 to approve the bill. The committee's chairman, Sen. Robert Hertzberg, D-Van Nuys, abstained from the vote, after he raised concerns about proposed amendments to the bill arriving too late for the group to fully vet them.

Sen. John Moorlach, R-Costa Mesa, voted against the bill, saying he was concerned the bill amounted to a "patchwork of solutions when what we need is a good, broad view of what we're doing."

The implications of McGuire's bill are potentially far-reaching. More than 1 million people worldwide use Airbnb to rent out their properties, generating an estimated \$450 million in economic activity last year just in the city of San Francisco, according to Owen, the company's representative.

But supporters of the bill say local economies are losing out on potentially millions of dollars in uncollected bed taxes under the current system. McGuire also cited frustrations with some rentals becoming the equivalent of a "new hotel" in some neighborhoods.

His bill would require online rental companies to disclose to local taxing authorities the addresses of rentals, the number of nights stayed and total amount in rental fees paid per quarter. Cities and counties could require the companies to remit the proper amount of payment.

A Capitol staffer who attended Wednesday's hearing and asked not to be identified said Airbnb's main privacy concern is that the company's competitors could use the information required to be disclosed under McGuire's bill to the company's disadvantage.

Airbnb representatives, reached later Wednesday, said that characterization is inaccurate.

Bowing to industry concerns, McGuire has agreed to amend his bill to state that the information to be collected is confidential and not subject to disclosure, including under California's Public Records Act. The local jurisdiction also would be limited to using the information for tax and zoning administration purposes.

That means people who want to know the locations of vacation rentals in their neighborhoods may be out of luck.

Jason Liles, a former Sonoma County planning commissioner and McGuire's chief of staff, said after Wednesday's hearing that online vacation rental companies made a "fair case" that disclosing such information could harm the businesses.

(page 3 of 3)

“It would be unfair to disclose information about clients that someone else could go after,” he said.

He said some places in California, including Sonoma County, require people who rent out their properties as vacation rentals to obtain a business license, and that such information is available to the public.

You can reach Staff Writer Derek Moore at 521-5336 or derek.moore@pressdemocrat.com. On Twitter @deadlinederek.

ORANGE COUNTY REGISTER

7 hot trends in the real estate market: Hotel, condo and vacation rental booms and more

BY JEFF COLLINS
2015-07-03 15:37:52



Chinese investors continue to pour money into U.S. real estate, with California still a top destination. Hotels, condos and online real estate ventures also are booming.

And luxury amenities appear to know no bounds. Soon, some Miami high-rise condo owners will be able to take their cars up to their homes with them.

"Sleep with your sports car," says the website for the Porche Design Tower north of Miami Beach.

And someday soon, an app in your car will notify you to nearby homes that might interest you.

Those were among the hottest real estate topics at the recent conference of the National Association of Real Estate Editors (NAREE) conference in Miami.

The weeklong conference featured some of the nation's top housing economists and key industry leaders sharing the top trends they see happening this year. Here are seven of them.

1. Chinese investment boom

The Chinese real estate investment boom keeps getting bigger, as measured by the amount spent buying U.S. homes and investing in U.S. mega-developments.

Chinese home shoppers spent \$28.6 billion on U.S. homes in the year ending in March, double the amount two years earlier, the National Association of Realtors reported. At least \$10 billion of that went to buying homes in California.

In addition, Chinese citizens seeking green cards are a growing source of cash for housing and commercial developments under a federal program known as EB-5.

The program allows foreign investors to get permanent U.S. residency for themselves, their spouse and children under 21 if they invest enough to create at least 10 jobs here, said Miami attorney Ronald Fieldstone.

Minimum investments range from \$500,000 to \$1 million.

Since most foreign investors don't have the ability to create their own businesses, designated organizations pool cash from multiple investors, funneling the money into job-creating development projects.

EB-5 investors in 2014 claimed the full 10,000-visa allotment by August. This year's allotment was gone by May. More than 80 percent of the visas are going to Chinese citizens.

The most recent data available shows EB-5 investments totaled almost \$2 billion in 2013, of which \$317 million was spent in residential and commercial real estate development, according to Invest in the USA, an industry trade group.

EB-5 spending in Orange County, totaled \$25.1 million in 2013, up from \$2.1 million, Invest in the USA reported.

"It's very hard to get residency here. EB-5 is a foolproof way," Fieldstone said.

EB-5 money also is helping to finance the Hunters Point Shipyard and Treasure Island projects, two San Francisco housing developments managed by Orange County-based FivePoint Communities, he said.

2. Miami's condo boom

High-rise condo development has been on hold in Orange County since the housing crash, although two new projects are under review. Before the crash, developers built nine condo towers here.

In South Florida, however, developers have 357 condo towers in the works, with 43,150 units, according to Miami condo consultant Peter Zalewski, creator of Condo Vultures.

The condo boom – in a region notorious for overbuilding high-rise condo towers just before the crash – has been underway since 2011, he said.

The average price for a 1,000-square-foot unit in Miami starts at \$800,000, in an area that had a first-quarter median house price of \$269,000.

Foreign buyers, mainly from Latin America, account for most of the demand, with many putting up to 50 percent down to reserve a unit, Zalewski said.

One of the most distinctive luxury towers is the the 57-story Porche Design Tower. It features a specially designed elevator that whisks residents' cars into a glass-walled "sky garage" next to their units.

Most of the units also come with swimming pools on private balconies. Condos in the \$560 million residential tower start around \$4 million.

3. The hotel boom

A recovering economy is creating a boom in the hotel business.

Hotel occupancy rates are hitting record levels this year in Orange County and across the nation, and are expected to set another national record in 2016, said Jaime Lane, senior economist for PKF Hospitality Research.

Lane said strong demand from both business and leisure travelers is driving up occupancy levels.

"People have money to spend again, and they're spending it on travel," Lane said.

In Orange County, the projected 2015 hotel occupancy rate is 77.6 percent, up from last year's record 76.6 percent. The U.S. occupancy rate is projected to be a record 65.7 percent this year, up from 64.4 percent in 2014, PKF figures show.

Based on 2014 occupancy rates, Orange County hotels ranked eighth busiest among U.S. metro areas, following such cities as New York (85 percent), Oahu (84 percent), San Francisco (84 percent) and Los Angeles (79 percent).

4. Airbnb boom

The short-term vacation rental site Airbnb is a "market disrupter," with a value that may have surpassed the 4,000-hotel Marriott chain, PKF's Lane said.

Vacation rental sites like Airbnb, VRBO (Vacation Rentals by Owner) and HomeAway allow people to rent out a spare room or their entire home. Increasingly, landlords and tourist rental operators are using the sites to fill investment properties or a second home.

Despite ongoing battles with city regulators around the globe, Airbnb is the biggest and fastest growing vacation rental site, Lane said. The 7-year-old firm maintains its valuation totals \$24 billion, surpassing Marriott International's total value of \$21 billion, the Wall Street Journal reported recently.

The website has more than a million listings, Lane said. InsideAirbnb.com reports it had nearly 27,500 listings in New York this past spring, 14,520 in Los Angeles and 5,426 in San Francisco.

There are at least 800 in Orange County, according to an Airbnb search.

"Hotels are seeing new competitors they wouldn't otherwise have," Lane said.

5. Hot summer sales

This year's summer homebuying season should be the best in four years, says Nela Richardson, chief economist for online real estate site Redfin.

Redfin uses early indicators such as online requests to view homes and written offers. Home-tour requests on Redfin were up 24 percent from last year in May and 30 percent in June, Richardson said. Offers were up 13 percent in May and 1.3 percent in June.

The number of offers in which buyers waived a home inspection were up 6 percent both months. That's clearly a strong indicator of buyer demand, since waiving the inspection is a huge risk for buyers, she said.

6. More rental houses

The housing crash ended when big private equity firms and hedge funds began buying up single-family foreclosures en masse to hold as rentals.

Now, says Dan Ganguly, CEO of Irvine-based HomeUnion, 95 percent of those investing in houses are individuals rather than big firms.

He maintains that as homeownership rates fall, the benefits of buying houses to rent out will rise. The national rate fell to a 22-year low of 63.7 percent this year, U.S. Census figures show. Orange County's homeownership rate was down to 57.5 percent in 2013.

"The rental economy will continue to go up," said Ganguly, whose firm invests clients' money in houses across the nation. "That means that investing in residential real estate is going to continue to be viable."

7. New online world

Ninety percent of home searches now begin online. And the online real estate world today is dominated by two companies.

In February, No. 1 website Zillow paid more than \$2 billion to acquire No. 2 Trulia. In September, Rupert Murdoch's News Corp. announced a \$950 million agreement to buy Move Inc., operator of Realtor.com, the third-largest online listing company.

Ryan O'Hara, Move's new chief executive, said Realtor.com hopes to benefit by networking with News Corp.'s other properties, including the Wall Street Journal, Dow Jones, social media and video curator Storyful and book publisher HarperCollins.

"We hope to turbo-charge Realtor.com," O'Hara said, claiming the site's page views are up nearly 40 percent this year, so far, and has overtaken Trulia for the No. 2 spot.

Zillow and Trulia, meanwhile, are capitalizing on their early start in the mobile market; they were among the first to develop apps for the Apple Watch.

And soon, your car could be sending alerts as you drive: "You've been looking for a three-bedroom, two-bathroom house with a pool? Here's one."

"Everything," said Zillow spokeswoman Katie Curnutte, "will be more personalized."

Contact the writer: 714-796-7734 or jcollins@ocregister.com



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The Advantages of Offering Short-Term Rental of Your Home

http://www.noozhawk.com/noozhawk/article/short_term_renting_your_home

By Jack Ucciferri

I've always said that Santa Barbara is the best place in the world to come home to, but my homecomings have been even better since I've begun short-term renting my home when I travel.

I know that [Airbnb](#) and other short-term rental websites have stirred some controversy lately, but I believe that — when used responsibly — Airbnb is a win-win for all concerned.

» **Win 1** — I earn relatively passive income when I'm gone.

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» **Win 2** — The city grows its transient occupancy tax revenue base. That is the money that fills our general fund coffers that in turn provide us such great infrastructure and services.

» **Win 3** — Airbnb guests use less water and electricity per night as compared to hotel guests. Given the severity of our current drought, that's a big deal.

» **Win 4** — I'm extra nice and communicative with my neighbors so that they are assured that I care about the neighborhood and don't want a noisy party in my home any more than they want one next door.

» **Win 5** — My guests get a more authentic and affordable Santa Barbara experience.

» **Win 6** — When I go on vacation my home gets rejuvenated, too.

Here's what I've noticed about using Airbnb and how it impacts the various stakeholders in our community.

» **Money, money, money:** What better way to be welcomed home than finding a big check on the kitchen table? OK, Airbnb does not send me a physical check but it does arouse a digitized version of the check-

receiving sensation when I see that it has deposited a chunk of change straight into my checking account. Santa Barbara is one of the [most searched destinations](#) on Airbnb. That equals premium pricing and high occupancy rates for those of us who take advantage of Airbnb's service responsibly. Take a look through Airbnb's ["Santa Barbara, California"](#) listings to get a sense of how much homes like yours garner per night. Not bad, eh? A typical three-bed/two-bath home could easily gross \$400 a night.

» **Regulations, taxes and fees, oh my:** While the soul of Airbnb is in connecting out-of-town visitors with local hosts, at its heart, Airbnb is a business. Like all business activities, you need a business permit if you rent your home and you need to pay taxes on your income. Airbnb hosts are subject to a 12 percent transient occupancy tax from the [City of Santa Barbara](#) plus a \$2/night fee. Hosts in Carpinteria, unincorporated Santa Barbara County, and Goleta are on the hook for similar fees. Bed taxes from short-term rentals already provide a significant revenue stream to our local governments and will doubtless contribute much more as the industry matures and enforcement continues. While it is always a bummer to pay taxes and fees, there is no way to argue that they are not legitimate. [Check out the article I published](#) in January if you wonder what I mean by that and are curious about what you would owe.

» **Airbnb is greener:** Try as they might, it is difficult for hotels to be as resource efficient as well-managed short-term vacation rentals. According to [a report conducted by Cleantech Group](#), "Airbnb guests in North America saved the equivalent of 270 Olympic-sized pools of water while avoiding the greenhouse gas emissions equivalent to 33,000 cars on North American roads," over the course of a year.

"These findings suggest that Airbnb, by the very nature of its business, has raised the bar in sustainable tourism to a level that the conventional travel industry will find hard to beat," says Jonathan Tourtellot, founding director of the [National Geographic Center for Sustainable Destinations](#).

When someone stays at a hotel, they feel less connected with our community and therefore disinclined to take shorter showers, turn off the lights when they leave, walk or use public transportation to get around town, and spend their money at local businesses. Whereas most hotels provide their guests with wasteful single-use packaged toiletries that end up in our [Tajiguas Landfill](#), most short-term rental hosts provide their guests with access to the big bottles of shampoo and other necessities.

» **Howdy, neighbor!:** They say that good fences might make good neighbors. In my experience, Airbnb makes great ones. The way I look at it, there are two ways to approach being an Airbnb host in Santa Barbara: 1) surreptitiously rent out your place online and hope your neighbors don't notice or care. That is a bad strategy for a number of reasons, especially compared with how great it feels to 2) explain to your neighbors what you are doing and whom to call in the event that something seems amiss with the folks who'll be staying in your house. It never hurts to gift them a bottle of wine/local honey/fresh juice to show your closest neighbor how much you appreciate them. You will likely be surprised at how interesting and respectful Airbnb visitors tend to be. Airbnb's system is optimized to maximize positive person-to-person interactions and my neighbors can attest that most people who have stayed in my home via Airbnb have been pretty darn cool (and quiet) folks.

» **Will the real Santa Barbara please stand up?:** There is a reason why Airbnb is one of the largest and fastest growing companies in the world right now. People love the way traveling with Airbnb makes them feel. It allows travelers a more authentic experience, with a greater likelihood of meeting locals and understanding how we live, if only for a few days. When visitors have a positive experience in our town, they are more inclined to spend more time and money here. And they are more likely to come back and to encourage their friends and family to as well.

» **Home, sweet professionally managed home:** While the financial exchange has been digitized, [my short-term property management company](#) does leave behind flowers and a pristine home after the

guests have gone. If there is time for them to tackle some deferred maintenance, they'll handle that, too. And it doesn't feel like I paid anything for all of that because I am still getting a healthy check and didn't actually do anything. There is no better way to smooth the transition back to "real life" than by feeling like my home has been as rejuvenated by my trip as I have.

» **On net, responsible short term renting = wins all around:** While there are undoubtedly occasional problem properties or disrespectful renters, these can be dealt with effectively on a case-by-case basis under existing laws. I'm so passionate about Airbnb that I started a [OurTown Short Term Management](#) to help our community take advantage of it. As long as it isn't taking affordable housing units off the market, Airbnb is a huge net benefit to homeowners and our larger community. But don't take my word for it — give it a try next time you travel and you'll see what I mean.

— Jack Ucciferri's [OurTown Property Management](#) helps Santa Barbara-area residents earn passive income from renting out their homes while they travel. When he is not in Santa Barbara he can often be found in Nicaragua, where he has a luxury home management business. Jack attended UCSB for undergrad and graduate school.

http://www.noozhawk.com/noozhawk/article/short_term_renting_your_home

At Airbnb, growth brings scrutiny, regulation

By TIM LOGAN

JUNE 10, 2015, 3:00 AM

Airbnb started with three air mattresses on the floor of a San Francisco apartment. Seven years later, it's worth as much as Marriott.

The short-term rental giant, which connects travelers with spare bedrooms or entire homes, has raised enough investor money to value the company at \$20 billion. Airbnb "hosts" now list 1.2 million rentals worldwide.

Now the Silicon Valley firm finds itself caught between investors' appetite for fast growth and rising protests over its effect on neighborhoods and hotel jobs. The company's swift rise has come in a regulatory gray zone, avoiding the strict rules governing hotels or traditional landlords.

Airbnb continues to promote an image of helping mom-and-pop homeowners raise a little extra cash, but its platform has drawn far bigger operators who buy properties to rent out full-time. That's brought both profits and headaches, particularly as the company considers an initial public offering that could bring even more pressure for growth.

Cities from New York to Santa Monica are trying to figure out how best to zone, tax and oversee this new industry. As they do, they're getting an earful from hotel workers' unions worried about the effect on their jobs, housing advocates worried about a shortage of affordable apartments, and neighbors wary of strangers on their block every day.

Airbnb has responded with a battalion of lobbyists, especially in big states such as California and New York, along with beefed-up PR operations. It has hired veterans of Silicon Valley, the Obama administration and big labor unions.

To Nathan Blecharczyk, one of the trio of Airbnb co-founders who still run the company, these are good problems to have. It was just seven years ago that his friends Brian Chesky and Joe Gebbia laid out those air mattresses for people coming to a San Francisco design conference. Now, every night, 400,000 people use their website to do something similar.

"Airbnb profits from transactions," said Yassi Eskandari-Qajar, city policies program director at the Sustainable Economies Law Center in Oakland. "There's no incentive for them to put limits on how many people can do this, how much they can charge or how many homes they list."

But, she notes, Airbnb is mindful of political pressure. And when pushed, it has agreed to changes.

It has worked out deals to collect taxes — which are typically left up to hosts to pay — in several cities, including Malibu. In April, amid protests in Venice, it booted about a dozen large full-time rental firms from its site in Los Angeles. Now, it's trying to forge compromises with officials in a number of cities across the country, including L.A., over new regulations.

"There's a perception out there that Airbnb doesn't want there to be rules. We think rules would be fantastic," Blecharczyk said. "We think rules would help our community, but not necessarily the rules that have simply existed for decades."

Airbnb is trying to tell its own story. The company has dispatched a team of community organizers in L.A. and elsewhere to help mobilize hosts that best reflect the "Good Airbnb."

One afternoon last month, dozens of hosts showed up on the lawn outside Santa Monica City Hall for a rally against a law banning full-unit short-term rentals. They hoisted signs like "Home Sharing = Affordable Housing" and "Let Us Host" and eagerly shared their experiences.

Mary Williams was there. A single mom who lives in Century City, she rents out her converted garage on Airbnb. It helps pay the bills, she said, and she meets lots of interesting people, like the Australians who were staying there the week of the Santa Monica rally.

Putting a friendly face on Airbnb helps policymakers and critics alike understand it, said Williams, who has spoken several times to neighborhood councils that were considering anti-short-term-rental measures. When they meet the real people the company helps, she said, many opponents change their minds.

"City councils are starting to get it," she said. "Before, there was a lot of ignorance. But we're getting the message through."

They didn't get it in Santa Monica. That night, the City Council unanimously passed one of the toughest short-term rental laws in the country, rendering about 70% of units listed in the city illegal. It's a law Airbnb can't afford to see duplicated in other cities.

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Despite Pleas from Public, Santa Barbara Council Backs Ban on Short-Term Vacation Rentals

http://www.noozhawk.com/noozhawk/article/santa_barbara_city_council_supports_current_vacation_rental_ordinance

By Gina Potthoff, Noozhawk Staff Writer | [@ginapotthoff](#)



City leaders vote to support an ordinance already in place and direct staff to determine an appropriate 'amnesty period' for homeowners

Passionate testimony moved the Santa Barbara City Council on Tuesday night, but officials ignored the majority of pleas and unanimously voted to uphold a ban on short-term vacation rentals in residential zones — an existing albeit heavily ignored city ordinance.

The direction to staff, which also gave a nod to amending code to allow home sharing, was the first move the council has made to correct a hypocritical practice it put in motion years ago.

That's a fact more than 90 public speakers on either side of the controversial issue didn't let officials forget.



Santa Barbara's Council Chambers hosted a full house Tuesday night as more than 90 people filled out public speaker slips to discuss short-term vacation rentals. (Gina Potthoff / Noozhawk photo)

Officials called the special meeting to hear public input, and they weathered a flurry of it over four hours.

Young families, retirees and middle-class couples pleaded with the council to continue allowing short-term rentals, many saying it's the only way they can pay the mortgage or rent themselves.

Other homeowners saw Airbnb as a way to pay for indoor improvements or landscaping upkeep.

"I haven't seen any neighborhood that's looking bad because of vacation rentals," one proud short-term rental owner said. "The reality is, Santa Barbara is a very expensive place to come to. But when they come here, they spend money."

Another resident equated short-term rentals to a 2,000-room hotel that bypassed proper planning and environmental review processes.

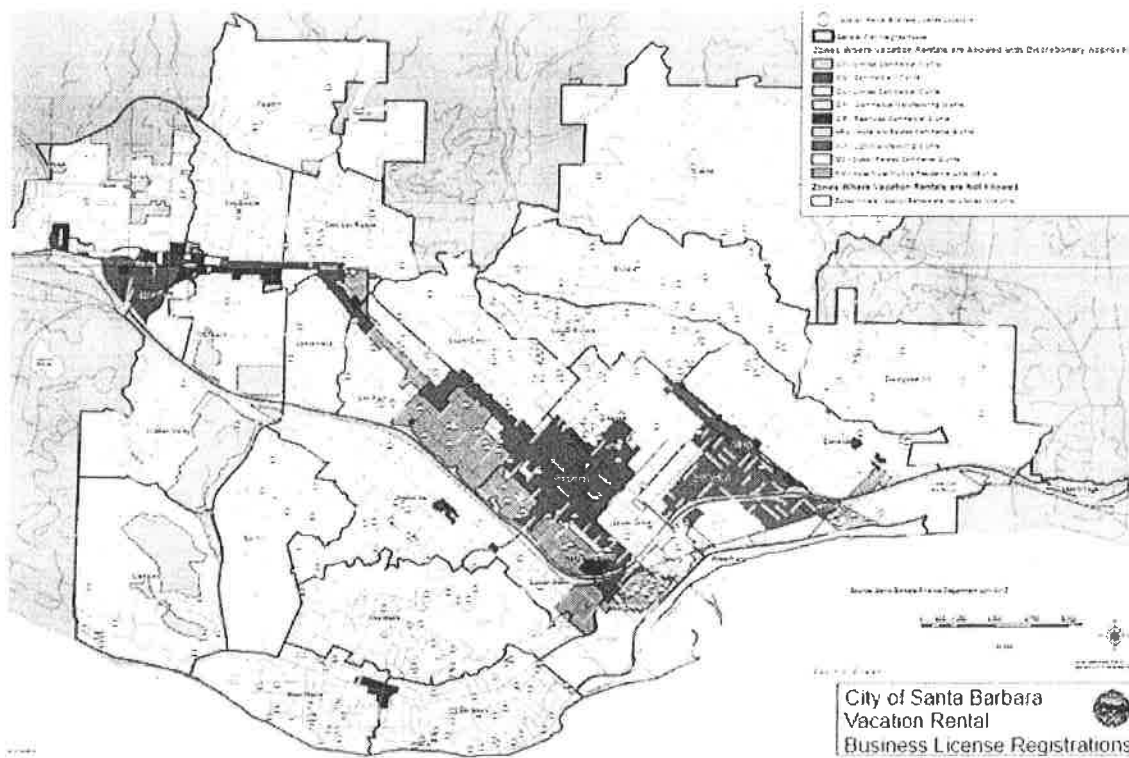
Jeanette Webber, who manages five Santa Barbara hotels, including the Best Western Pepper Tree Inn, asked the council to take a hard look at the impacts.

"Of course they're making a lot of money," she said, noting rentals don't have to pay for the same safety and other related inspections as hotels.

Staff made no recommendation but outlined what other cities do and listed four options in order of most restrictive to least, starting with banning all short-term rentals in any zone.

George Buell, the city's community development director, said the council could also pass an ordinance or amend municipal code to permit the rentals and home sharing in current allowable zones, including commercial or hotel/motel/multi-unit zones, or to allow home sharing but not vacation rentals anywhere in the city.

He defined home sharing as renting part of a dwelling that's a primary residence, with the host present during the stay.



Map shows where vacation rentals are allowed in Santa Barbara and where people have business licenses to operate them within the city. (City of Santa Barbara map)

http://www.noozhawk.com/noozhawk/article/santa_barbara_city_council_supports_current_vacation_rental_ordinance

The Airbnb effect

At least 350 entire homes listed on Airbnb appear to be full-time vacation rentals, bolstering claims by activists that the service removes scarce housing from the city's limited inventory. July 12, 2015

Stories by Carolyn Said | Design by Michael Grant | Development and graphics by Aaron Williams, Maegan Clawges and John Blanchard | Photography by Paul Chinn, Liz Hafalia, Jason Henry, Leah Millis, Amy Osborne, Lea Suzuki and Sam Wolson | Edited by Ben Muessig | Copyedited by Caroline Grannan

Both Airbnb and its San Francisco critics are correct. Most of the booming vacation-rental company's local listings are only occasionally rented to travelers, as Airbnb says. However, at least 350 entire properties listed on Airbnb — and hundreds more listed on competing sites HomeAway/VRBO and FlipKey — appear to be full-time vacation rentals, bolstering claims by activists that the services remove scarce housing from the city's limited inventory.

Those are among the findings from a data dive into the three companies' websites.

It's not the thousands of illegal hotels that critics allege have sprung up thanks to Airbnb and its rivals. But in a city wracked by a housing crisis, where a typical year sees just 2,000 new units added, a few hundred units off the market makes a significant dent.

Using houses as hotels ranks among San Francisco's most-contentious issues, debated fiercely by lawmakers, residents, advocates and corporations, and now likely headed for a ballot-box showdown.



Children from the Mission Neighborhood Head Start Preschool hold signs during the press conference where Supervisor David Campos announced an ordinance calling for a temporary moratorium on construction of market-rate housing in the Mission. *Photo: Amy Osborne, The Chronicle*

Opponents say short-term rentals are so lucrative that greedy landlords and tenants illegally divert precious housing stock to the practice. Proponents say services like Airbnb help regular people afford to stay in San Francisco, while forging international friendships.

For decades, a seldom-enforced law banned vacation rentals in San Francisco. A new law enacted on Feb. 1 legalized such rentals, with conditions: hosts must be full-time residents, whole-property rentals are capped at 90 days a year, and all hosts must register with the city. But so far only a fraction of hosts — about 700 —

have registered, while the city itself admits it struggles to catch scofflaws. Mayor Ed Lee this month created a new office to streamline registration and pursue violations.

At the core of this dispute is a simple question that is devilishly difficult to answer: How do the impromptu inns affect the city's housing market?

To investigate, The Chronicle commissioned data-extraction companies Connotate Inc. (http://www.connotate.com/#utm_source=2015June-Airbnb-SFC-article&utm_medium=PR&utm_term=none&utm_content=none&utm_campaign=2015Airbnb-SFC-article) and Import.io (<http://go.import.io/sfchronicle>) to harvest San Francisco information from the Airbnb, HomeAway and FlipKey websites on May 19. Connotate also extracted Airbnb listing data for The Chronicle on the same date in 2014 (<http://www.sfchronicle.com/business/item/Window-into-Airbnb-s-hidden-impact-on-S-F-30110.php>), allowing for insights about year-over-year changes. Here's a summary of the findings:

Total listings and cost

Amid all the controversy, the number of Airbnb listings in San Francisco grew 13.8 percent in the year, hitting 5,459, despite a significant portion of properties dropping out. The \$202 average nightly cost among all property types — entire

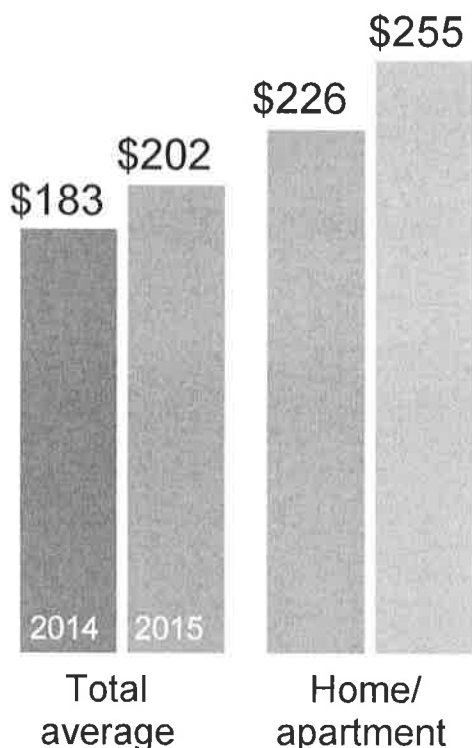
homes, private rooms and shared rooms — was up \$19 (10.9 percent) from a year ago.

Entire homes accounted for 3,264 of the 2015 listings, or 59.8 percent; private rooms numbered 1,969 or 36 percent and shared rooms tallied 226 or 4.1 percent. Prices for entire homes rose 13.3 percent to \$255; private rooms edged up 6 percent to \$123 and shared rooms ballooned 55 percent to \$124. That increase was propelled by some new hacker hostels — shared houses that pack young workers into bunk beds.

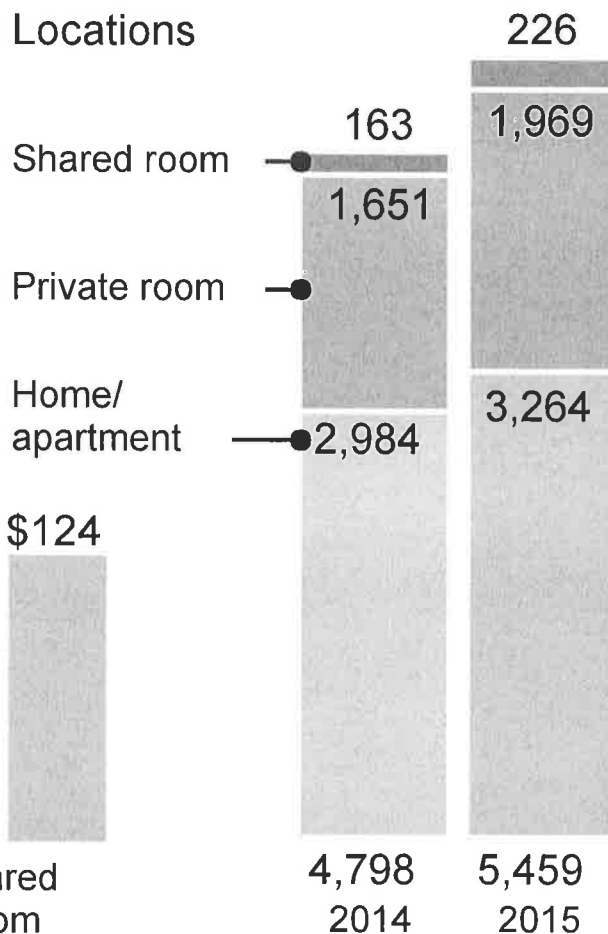
Airbnb growth in San Francisco

Airbnb's local listings increased by 661 properties or 13.8% over the past year. Prices rose across all categories of rentals.

Average prices



Locations



Length and frequency of rentals

Almost two-thirds — 64 percent — of all listings had 10 or fewer reviews over the past year, supporting the idea that they were rented only infrequently.

However, the remaining listings racked up a significant chunk of guest reviews — a telling, albeit conservative indicator of usage as not all guests leave reviews.

Properties listed on Airbnb both last year and this year averaged 22 reviews each. Among entire homes, 352 showed 26 or more reviews in the 52-week period. That means new guests checked in at least every other week and likely more often.

An additional 349 new or returning listings for entire homes also had 26 or more reviews, attained during an indeterminate time period.

Where are they?

Vacation rentals are spread throughout San Francisco, in contrast to the city's 34,000 hotel rooms, which are heavily clustered near Moscone Center, Union Square and Fisherman's Wharf.

The Mission District, with 789 listings (up from 681 last year), remains the city's most popular Airbnb location, followed by SoMa (388 listings) and the Western Addition/NoPa (369). Bernal Heights added 58 properties to become fourth-most-popular, with 264 spaces for rent. The Bayview added eight listings (for a total of 58), and racked up 757 new guest comments in a year, pointing to rise in usage in one of the city's lower-cost neighborhoods.

Who hosts?

While most Airbnb hosts control a single property, 205 hosts have three or more listings. These super hosts account for 4.8 percent of all hosts, but control 993 properties — 18.2 percent of Airbnb's local listings. Some are property managers, some are hacker hostels, some are legal hotels and some are people who may have siphoned off housing stock to make more money hosting visitors.







Clockwise from top left: Erin McElroy, director of the Anti-Eviction Mapping Project, protests Mason Street apartments from which tenants were allegedly evicted before being listed on vacation rental website VRBO *Photo: Sam Wolson, The Chronicle*. Two tech workers visiting from Europe look out over San Francisco from the balcony of their Airbnb rental, which is listed on the site year-round. *Photo: Sam Wolson, The Chronicle*. Airbnb guests greet family members after arriving at their short-term rental on a Twin Peaks block where multiple properties are listed on Airbnb, according to neighbors. *Photo: Leah Millis, The Chronicle*

Wrede Petersmeyer, who oversees Airbnb analytics, flew out from New York, to discuss the company's data and defend its model. Most entire units in San Francisco are rented out fewer than 30 days a year, he said, while only 10 percent of

hosts rent out a space where they do not live. Entire units were booked an average of 65 nights over the 12 months ended July 5, with a median stay of 29 nights, Airbnb said.

“Data scrapes are unfairly used to draw specific — often negative — conclusions about a small subset of our host community,” he said, “when the reality is the vast majority are middle-class families sharing the home in which they live.”

Since 60 percent of Airbnb’s local listings are entire homes, does that undercut the company’s assertion that guests and hosts are “sharing” spaces and forging friendships?

“Local, authentic hospitality doesn’t always mean the host has to be there to give you the keys,” Petersmeyer said.

NEXT STORY

Living with Airbnb

Living with Airbnb

A family in the Castro welcomes guests to raise funds and make friends, while a landlord in Nob Hill stands accused of turning a Victorian home into a full-time hotel. July 12, 2015

Geoff Benjamin and his husband, Craig Persiko, often list rooms in their four-bedroom Castro condo on Airbnb to raise spare cash. Another host identified on the site as Yumi has allegedly turned two entire flats on Nob Hill into Airbnb hotels, hosting a frequent stream of temporary renters, while also listing another room for rent in the Richmond District. The tales of these hosts illustrate both sides of the vacation-rental debate.

Persiko chairs the computer science department at City College of San Francisco, while Benjamin recently launched the SoMa cabaret theatre and nightclub Oasis — a labor of love financed by Airbnb guests.

Renting to travelers “in many ways became like a small-business loan that we didn’t have to repay,” Benjamin said. “In essence, it paid my salary for the two years it took to open Oasis.”

The couple rent two to four rooms to travelers at different times. They paid for sleep-away camp for their children, Tobias, 10, and Serafina, 12, by renting out their bedrooms while they were away, for instance.



Airbnb hosts Craig Persiko (second from left) and Geoff Benjamin (second from right) share breakfast at their home with New Yorkers Justin Smith (left) and John Marshall. *Photo: Lea Suzuki, The Chronicle*

They love meeting people, and the feeling seems mutual. Airbnb guests read to their kids and eat meals with the family. Benjamin said the rooms wouldn't work as permanent housing, because most people prefer not to stay long with a family with children.

"I've always wanted my children to identify as citizens of the world," Benjamin said. "A really excited energy comes from people when they travel. We get to see the city through their eyes."

Over on Nob Hill, Katieanne Moran and her flatmates say they are surrounded by Airbnb renters. Long-term tenants in the middle flat of a Victorian triplex, they discovered that the top floor and basement flats had been converted to full-time

Airbnb use, with six individual rooms going for \$100 to \$130 a night.

“Rooms were being rented below us, above us and in the building all around us,” she said. “It was very disconcerting; we felt trapped.”







Tenants Katieanne Moran (right) and Jil Lin (center) confront their landlord, a controversial Airbnb host, as she stops by their apartment. A backyard fire escape that Moran says Airbnb tenants in her Nob Hill building use to climb to the roof past her bedroom window. Moran and Lin show frustration after confronting their landlord about Airbnb use in their building. *Photos: Jason Henry, The Chronicle*

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Their landlady, Yumi, does not live in the building, the tenants said. When they voiced concerns about noise and security, the landlady said “she could do whatever she wanted and if it caused problems, we would be evicted.”

Now they’re suing Yumi, whose legal name is Mingjing Li, for violating city ordinances, negligence and creating a private nuisance. Li and her attorney declined to comment.

“This is one of the more egregious cases, but we often see landlords try to force tenants out ... (to use) Airbnb and other hosting platforms,” said Mark Hooshmand, the tenants’ lawyer. “Money motivates people to not follow regulations.”

NEXT STORY

Hosts or hoteliers?

Hosts or hoteliers?

The Chronicle compiled a conservative estimate of Airbnb listings functioning as full-time vacation rentals. July 12, 2015



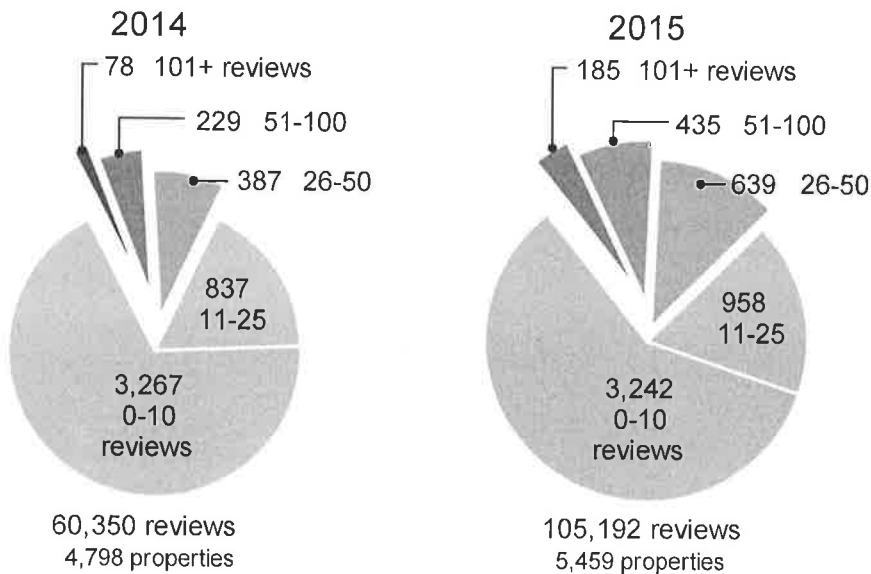
How many San Franciscans use Airbnb to turn their places into year-round hotels? Airbnb knows the answer: Its transaction system captures exactly how many nights each property is rented. The company could remove listings after they exceed the legal limit of 90 days — but it doesn't want to do so. It says those bad players would simply migrate to other platforms such as Craigslist that don't police listings.

Nor does it want to open the kimono on exactly how many days each place is rented out. And even though it now collects San Francisco's 14 percent hotel tax — remitting more than \$1 million a month — it resists requests to tell the tax collector which homes are rented and how often.

For someone looking in, guest reviews provide the best insight into how often a unit is rented. The more reviews, the more frequently a property hosts travelers. By counting how many reviews each property generated in the 365 days between our two data dives, we compiled a conservative estimate of places functioning as full-time vacation rentals.

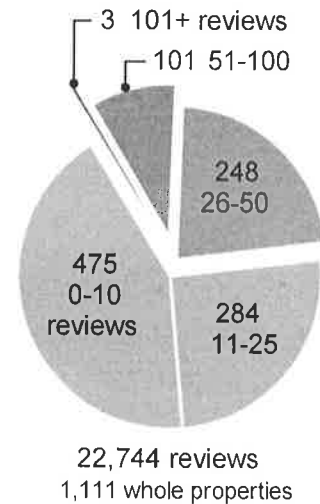
Reviews per property

While most properties had a small number of reviews, indicating casual usage, a significant minority accumulated many reviews, indicating frequent usage. The 2015 reviews here are cumulative; they include those from 2014 and earlier.



Guest reviews reveal frequent rentals

Of the 1,111 houses, apartments or condos listed on Airbnb on May 19, 2014 and May 19, 2015, almost a third racked up 26 or more guest reviews — implying near full-time usage as vacation rentals.



Among whole properties — houses, condos and apartments — listed on the site on May 19 in 2014 and 2015, 352 racked up 26 or more reviews over the year. That includes 104 with a stunning 51 or more reviews.

For entire units that weren't on the site last year, 349 had a total of 26 or more reviews. Some were new listings and some were returning properties, so we can't say conclusively that all reviews were accumulated in a single year.

Reviews underestimate usage. Airbnb says only two-thirds of guests leave reviews — meaning a property with 30 reviews in a year may have hosted 45 unique visitors, nearly one a week. San Francisco guests stay an average of 5.5 nights, Airbnb says, so 30 reviews translates into an average of 165 nights of occupancy — and likely more, accounting for guests who don't leave reviews.

Overall, the number of reviews for all San Francisco listings surged over the 12 months, rising by 44,842 to 105,192. Yet the majority of listings had only a handful of reviews, buttressing Airbnb's assertion of infrequent usage.

Looking at all categories of properties and including both repeats and the new or returned listings, 3,242 or 59.3 percent, have 10 or fewer reviews over their entire time on Airbnb. Another 958 had 11 to 25 reviews, while 639 had 26 to 50 reviews, implying usage between casual and frequent. But 620 homes and rooms, or 11.4 percent of listings, amassed 51 or more reviews, implying very heavy usage.



About a hundred supporters of vacation rentals rallied in front of City Hall on July 6, 2015 to demonstrate against the expected filing of signatures for a November ballot initiative that would clamp down on short-term rentals in private homes. *Photo by Liz Hafalia*

The power of super hosts

Most Airbnb hosts control just a single listing — but 206 hosts control

three or more listings. These “superhosts” account for 4.8 percent of all hosts, but run 18.2 percent of Airbnb’s San Francisco listings.

Annette Fajardo says it’s no mystery why landlords prefer to rent to short-term visitors.

“The dirty little secret is that owners do this to avoid rent control,” she said. At the same time, “rent-controlled tenants do it to make money on the units that the owners should be making money on.”

She’s in a position to know. Her SF Holiday Rentals, in business since 2002, is the city’s oldest short-term rental management site, she said. She handles 20 to 30 San Francisco listings and another seven to 10 in Pacifica, listing them on multiple websites, including Airbnb, HomeAway and its subsidiary VRBO.

Her listings focus on entire homes, many available year-round. About a third are in-law units; some are second homes; some are small buildings owned by a landlord, including her own Bernal Heights duplex (she lives elsewhere and rents both units to travelers).

She does this all legally. Her property owners now request a 30-day minimum stay, she said, exempting them from the new short-term rental law. “They didn’t want the headaches of working with the government or (officials) snooping into their business practices,” she said.

The change made her business easier, since she doesn’t have to handle turnover every few days.

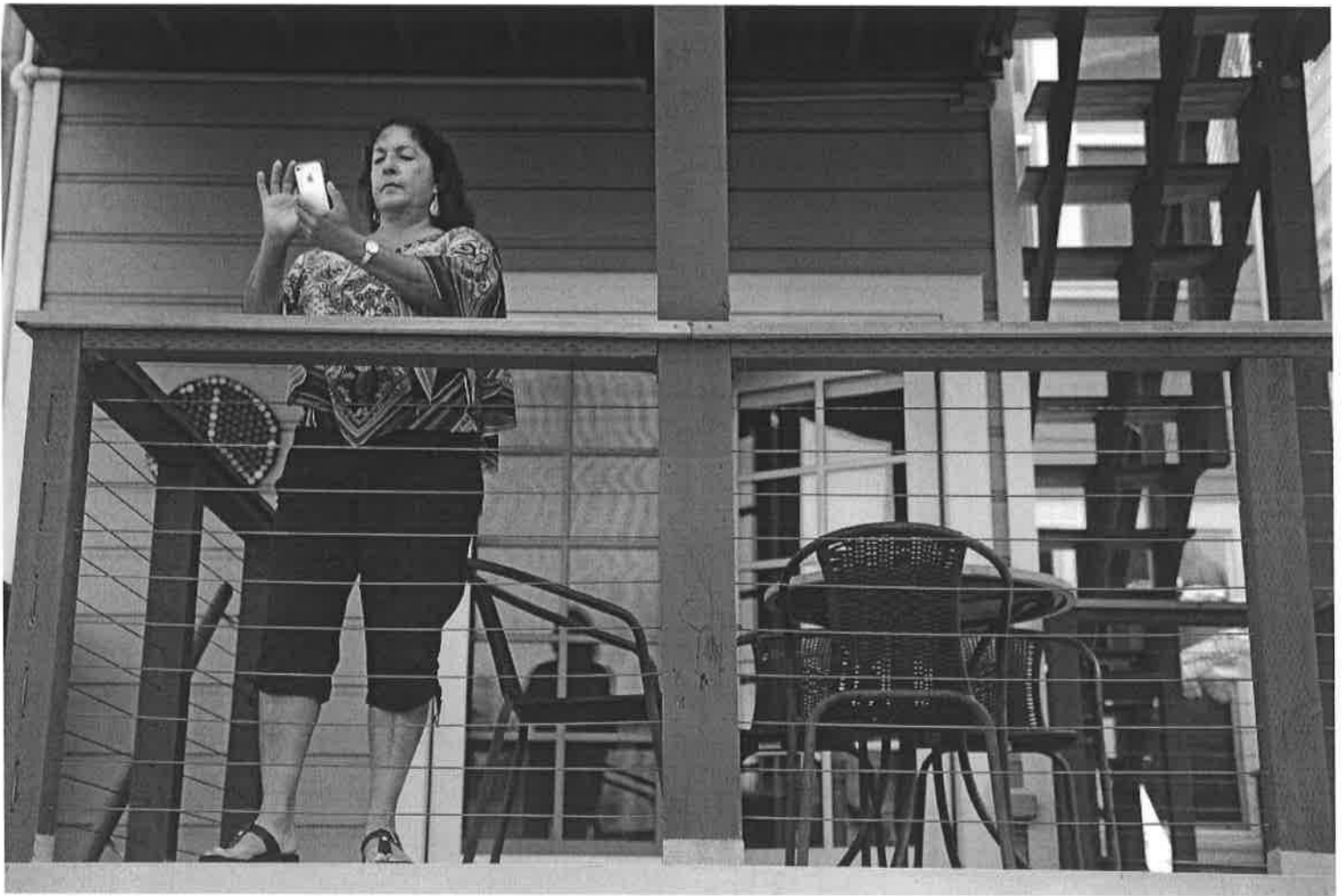
Fajardo is a “super host” on both Airbnb and HomeAway, among the top 10 on both sites based on number of listings.

Most Airbnb hosts (3,599 people, or 85 percent of hosts) control just a single listing, accounting for 66 percent of all properties. Another 434 list two properties. Many have a legitimate reason: Either they rent out two rooms in their home, or they rent out a room and also offer their entire home when they travel.

However, 205 hosts control three or more listings. These super hosts account for 4.8 percent of all hosts, but control 993 properties — 18.2 percent of Airbnb's San Francisco listings.







Property manager Annette Fajardo prepares a Castro District apartment for a 30-day rental in San Francisco. Fajardo operates SF Holiday Rentals, which handles vacation rentals for property owners. Nearly all of her SF owners now require 30-day minimum stays to skirt the city's new short-term rental law. *Photos: Paul Chinn, The Chronicle*

Many hosts with multiple listings are either property managers like Fajardo or people running hacker hostels, packing young techies into bunk beds for cheap crash space and camaraderie.

Properties handled by managers can include ones skirting regulations, as well as those like Fajardo's that adapted to become legal. Pillow (22 listings) and Guesthop (15 listings) are other leading concierge services.

Hacker hostels are problematic, as they may flout a variety of city rules on overcrowding, according to Scott Sanchez, San Francisco zoning administrator. If they require a 30-day minimum stay, however, they may be allowed in most districts as group houses, he said.

Airbnb's top two super hosts both run hacker hostels. Rob, No. 1 with 30 listings, rents rooms in Tech House SF but does not live there, residents said. Gatz, No. 2, runs Looky Home with 25 listings.

Another group of people who control multiple listings seems to have turned entire homes or apartments into year-round pads for travelers. Often they have just a handful of listings in different parts of the city.

Eighty Airbnb hosts have four to six listings, controlling 374 rentals among them. Generally that's too few for them to be property management services — and too many for them to be legitimately living at those locations. It's a rare San Franciscan who could rent six bedrooms at his or her home.

As part of a renewed effort on enforcing vacation-rental laws, San Francisco sent violation letters this month to hosts in this category, targeting 15 hosts with 72 short-term rentals around the city. More than half are blocks of multiple units in brand-new high-rises in SoMa and Mid-Market, while others are two- to four-units buildings entirely devoted to short-term rentals, the City Planning Department said. The units were listed on various services, while some had their own rental websites.

“We want to crack down on people taking housing off the market and hurting San Francisco,” said Tony Winnicker, a senior adviser to Mayor Ed Lee. “But we also want law-abiding people to be able to do occasional (short-term rentals) because it helps many people afford to live in our city.”

NEXT STORY

Airbnb hosts come and go

Airbnb hosts come and go

In the year since The Chronicle's last data dive, 2,773 listings dropped off of Airbnb — although they were replaced by 3,492 new listings. July 12, 2015

Bootstrapping a business was eating up her cash, so the San Francisco woman listed her Marina apartment on Airbnb in 2013.

She rented it out about 70 nights a year for \$260 a night. “I would coordinate trips for work and family, camp out with friends or do ‘Airbnb arbitrage,’ where I’d stay at a less-expensive Airbnb place,” she said. The cute one-bedroom with views of the Golden Gate Bridge was always snapped up.

“It was a self-perpetuating, ka-ching ka-ching money machine,” she said. “It was such a relief to know I could always rent it on Airbnb to subsidize my rent.” She made almost a year’s rent over two years.

But when San Francisco implemented its vacation-rental rules in February, registering her unit seemed like a hassle. She feared that the city might compel Airbnb to identify hosts and prosecute those who failed to register.

But her biggest worry — and the reason she declined to be named for this story — is that short-term renting violates her lease. She took down her listing.

“I felt like I made my hay when the sun was shining, but now it’s over,” she said.

In the year since The Chronicle's last data dive, 2,773 listings, or 57.8 percent, dropped out of the site, although they were replaced by a larger number: 3,492 new listings for a net growth of 719 listings, or 15 percent.

Airbnb says listings often cycle in and out. For instance, people list their house before they go on vacation and take it down when they return. Indeed, many of the new listings appear to have had longer tenure than a year.



Airbnb hospitality guru Chip Conley told hosts at the company's three-day conference that they are part of a global movement. *Photo: Gabriela Herman, Airbnb*

Tom Slee, an independent researcher and author of the forthcoming book “What’s Yours Is Mine” about on-demand companies, examined Airbnb churn worldwide, finding an exit rate of between 50 and 60 percent of listings in cities such as New York, Los Angeles, Amsterdam, Paris and Barcelona over about a year. At the same time, the entry rate of new listings always resulted in net growth, he found.

The listings that left generally had only a handful of reviews, implying infrequent usage, while those that stayed averaged reviews in the double digits, he said.

“My feeling was that it was largely people who tried it, found it wasn’t for them and left,” he said.

Looking at the Bay Area, including San Francisco, the East Bay and the Peninsula, he found a 51 percent exit rate, lower than that for the city alone. That props up the idea that San Francisco is losing more listings due to users’ fears about new regulations and landlord prohibitions on subleasing.

NEXT STORY

Flouting the law

Flouting the law

While Airbnb cultivates a folksy image of hosts as middle-class locals making ends meet, HomeAway proclaims its hosts are affluent out-of-towners renting their pied-a-terres.

July 12, 2015

A large, bold, grey letter 'W' with a slight 3D effect and a shadow, serving as a decorative initial for the first paragraph.

hile Airbnb cultivates a folksy image of its hosts as middle-class locals making ends meet, HomeAway proclaims that its hosts are affluent out-of-towners renting out their pieds-a-terre. “The vast majority of our listings fall into the category that the city is trying to stop: this ‘evil’ second-home owner, who we don’t believe is evil,” said Carl Shepherd, co-founder and chief development officer of the Texas company.

Prices for its 1,001 local listings, all private homes, reflect that more upscale image, averaging \$302 in San Francisco compared with Airbnb’s entire-home average of \$255.

HomeAway, which owns VRBO and other brands, is up front about the fact that its business model flouts San Francisco’s new vacation-rental law. In fact, it sued the city, saying the law was tailored for Airbnb. Most HomeAway properties in San Francisco are second homes whose owners do not reside here and thus are barred by the new law from renting to tourists for periods of less than 30 days, HomeAway said in its suit claiming discrimination. A judge tossed the case on procedural grounds.

Its hosts increasingly request 30-day minimums in San Francisco, Shepherd said, although only 156 listings specified monthly rates.

People who control multiple properties — often called super hosts — are more dominant on HomeAway than on Airbnb. Almost half of the HomeAway properties — 461, or 46 percent — are in the hands of someone with multiple listings. They are controlled by 87 hosts, or 14.8 percent of the total.

Hosts with dozens of listings are clearly vacation-management companies like Pillow and RedAwning Vacation Rentals. That doesn't prove that their listings are legal or illegal, just that they belong to other people.





Tenderloin resident David Grace adjusts a sign at a protest of Mason Street apartments from which tenants were allegedly evicted before being listed on VRBO. Supporters of vacation-rentals react to proposed amendments during a Board of Supervisors meeting on Airbnb legislation in October 2014.
Photos: Sam Wolson, The Chronicle

HomeAway functions like a classified listing service, rather than a middleman like Airbnb. That also means that far fewer reviews appear on its website.

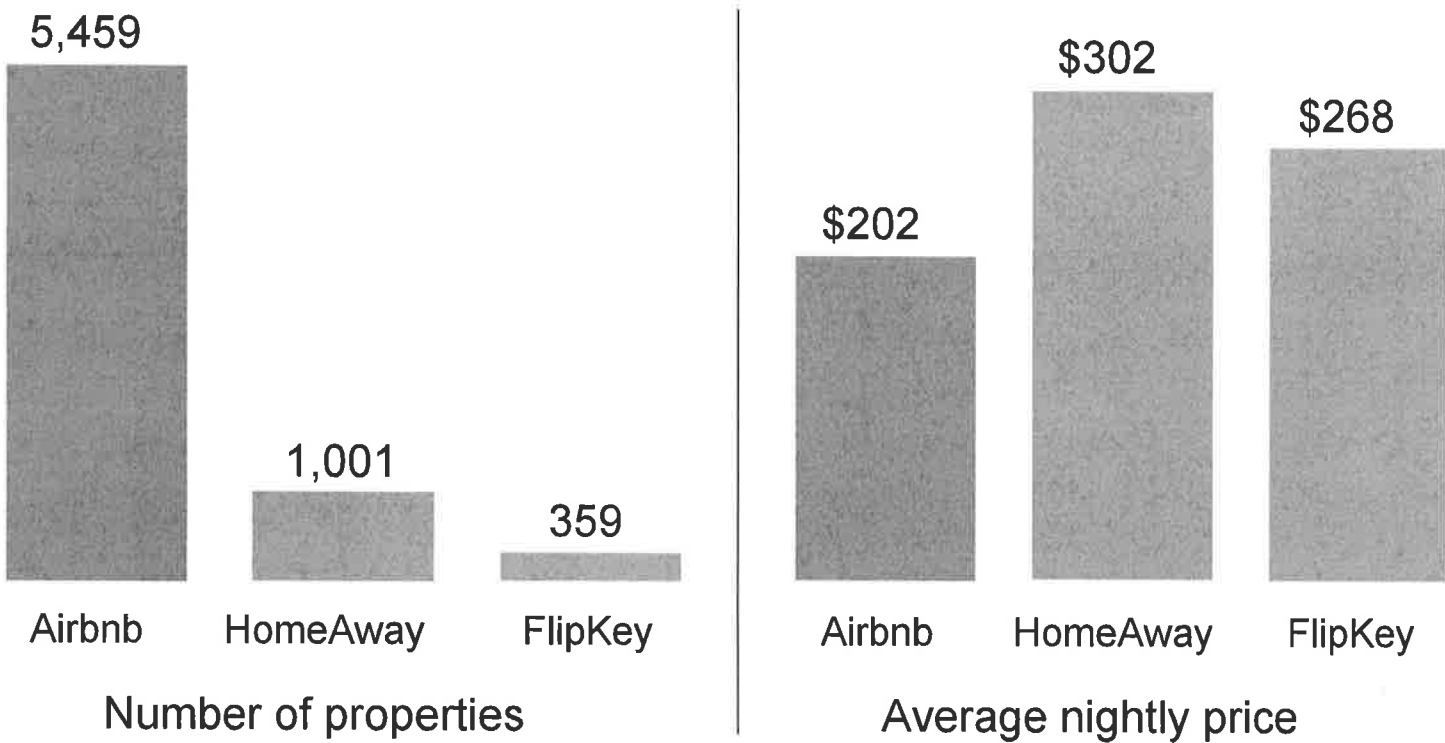
HomeAway said there is about a 10 to 15 percent overlap between its listings and those on Airbnb worldwide; it didn't have a breakdown for San Francisco. It has even more overlap with FlipKey because many large property managers list on both sites, but didn't have a specific number.

FlipKey, owned by TripAdvisor Inc., has 359 local properties with an average price of \$269. Super hosts also dominate its site, with 220 properties, or 61.3 percent, in the hands of 35 hosts, or 25.7 percent of hosts.

FlipKey declined to comment.

Comparing rental services

Airbnb has a much larger footprint in its San Francisco hometown than the next two largest vacation-rental sites. While 40 percent of Airbnb listings are for rooms or shared rooms, HomeAway and FlipKey listings are almost exclusively for entire residences.



HomeAway has a big chunk of homes — 148 — controlled by people with just two or three listings, often in different parts of the city.

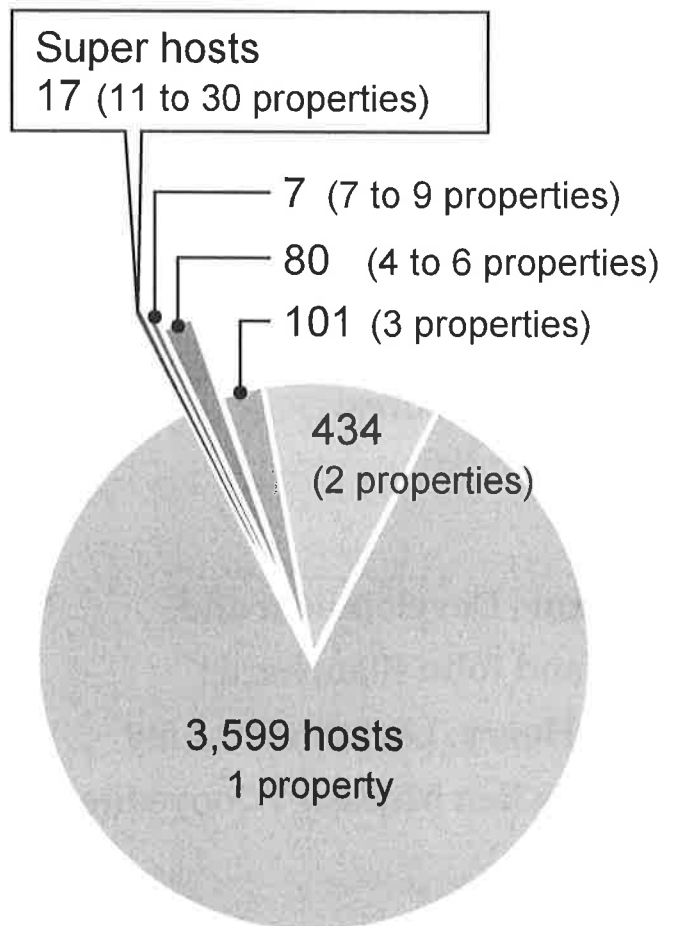
Shepherd is frank about the explanation. Most, he presumes, are tenants gaming the system.

“When someone has several different listings in a city like San Francisco, those are probably all rented apartments being arbitrated by the renter,” he said. “Arbitrage means I pay \$4,000 a month and rent it (short term) for \$300 a night, with or without the landlord’s permission, but most likely without.”

San Francisco actually abetted such people by regulating vacation rentals, Shepherd said.

“The new law tells you exactly how to skirt it,” he said. “All you have to do is say you live there 270 days a year. You do have to lie and you do have to obfuscate. But the city is at a distinct disadvantage because they can’t catch this.”

Super hosts in San Francisco



Most Airbnb hosts list one or two properties, but a significant minority have multiple listings. A total of 205 hosts, or 4.8 percent of hosts, control 995 properties or 18.1 percent of all listings. Hacker hostels and property managers are those with the lion's share. The trend toward superhosts is more pronounced on HomeAway and FlipKey, where property managers account for the biggest number of listings.

HomeAway	# of properties
Pillow	75
RedAwning	68
Come2SF Properties	58
Jesse Arguello	31
Holiday Velvet	9
FlipKey	
Come2SF Properties	40
AMSI S.F. Extended	33
Casa Buena Vista Rental	29
RedAwning	24
Jason	9

Airbnb	# of properties
Rob, Tech House S.F.	30
Gatz, Looky Home S.F.	25
Sean, Pillow	22
Ethan	15
Dana, Donatello timeshare	15
Annette, SF Holiday Rentals	15
Emily, Guesthop	15

Methodology

Web data extraction firm Connotate Inc.

(http://www.connotate.com/#utm_source=2015June-Airbnb-SFC-article&utm_medium=PR&utm_term=none&utm_content=none&utm_campaign=2015June-Airbnb-SFC-article). created automated scripts to navigate and harvest information on San Francisco listings from the Airbnb website over the course of several hours on May 19. Data extraction firm Import.io (<http://go.import.io/sfchronicle>) likewise harvested data from the HomeAway and FlipKey sites on May 19. Data included hosts, properties, neighborhoods, rates and ratings. Connotate and Import.io removed duplicates and performed other quality assurance measures.

Stories by Carolyn Said | Design by Michael Grant | Development and graphics by Aaron Williams, Maegan Clawges and John Blanchard | Photography by Paul Chinn, Liz Hafalia, Jason Henry, Leah Millis, Amy Osborne, Lea Suzuki and Sam Wolson | Edited by Ben Muessig | Copyedited by Carolyn Grannan

NEXT STORY

The Airbnb effect

The Economy Hub

With Michael Hiltzik

Rental sites like Airbnb aren't as innocuous as they pretend



Michael Hiltzik

LOS ANGELES TIMES

michael.hiltzik@latimes.com

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You could look at the recent proposals to clamp down on San Francisco's short-term housing rental market as the city's attempt to call Airbnb's bluff.

Airbnb is the high-tech start-up that allows residents or owners of homes and apartments to connect online with would-be renters of their spare couches, rooms or entire units. The firm, the most prominent of several "room-sharing" sites operating nationally, says its "typical single-property host" rents out space for 66 days a year, which sounds fairly innocuous.

So San Francisco, like Los Angeles, New York and some other cities, is offering to go easy on modest "sharing," in return for the collection of lodging taxes and strict enforcement of the rules against turning housing into unlicensed hotels.

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The pushback from Airbnb suggests that there's more to the phenomenon than a few families making a few bucks. Airbnb describes the influx of casual lodgers into residential neighborhoods as though it's an unalloyed blessing. In an appeal this spring directed at small-business owners in San Francisco, the firm bragged that "72% of Airbnb properties are outside

of traditional hotel districts, in neighborhoods that haven't benefited from tourism in the past." That's a boon to businesses in those outlying districts, the firm implied.

City officials and many of their constituents aren't so sure. "We want short-term rentals to be part of San Francisco," says Dave Campos, a San Francisco County supervisor who proposed stricter regulations. "But there's a commercial short-term rental industry that buys entire buildings and rents them all out. That's changing the character of the neighborhood and taking housing stock away from people who need it."

Campos says illegitimate rentals have effectively taken 1,900 long-term housing units off the San Francisco market at a time when the city is experiencing a historic housing shortage.

But fighting back against this trend hasn't been easy, in part because Mayor Ed Lee has been supportive of San Francisco-based Airbnb. A Campos measure that would have limited all short-term rentals to 60 days a year per unit, raised penalties for violations and required quarterly reports of rental activity was rejected last week by the county Board of Supervisors. The board opted to retain a cap of 90 days per sublet, with no limit on rentals during which the host remains on hand. Campos says that's a huge loophole, as it's almost impossible to verify.

The battle isn't over. A measure limiting all short-term rentals to 75 days a year has qualified for the city ballot in November.

At the heart of the debate is the question of just what business Airbnb is in. In a report the firm released last month, former Clinton and Obama administration economist Gene Sperling asserted that Airbnb was "an economic lifeline" to middle-class families beset by income stagnation over the last 15 years.

Sperling described the available space in a home as an "otherwise underutilized asset," an odd way to describe a room, or even a couch, that no one may happen to be occupying at a given moment. He cited "internal Airbnb data" to assert that the "typical" single-property lister on Airbnb was collecting \$7,530 a year for an average of 66 days a year, a sizable "raise" for a median household earning \$52,770 in 2013.

But the reality that concerns municipal officials is the drastic expansion and commercialization of short-term rentals. There are indications that owners or managers of single or multiple properties available for rent year-round provide a disproportionate share of the market's volume.

A study issued in March by the Los Angeles civic group LAANE found that although 52% of the listing hosts on Airbnb in L.A. were on-site hosts offering private or shared rooms, they

accounted for only 11% of revenue in the market. Leasing companies offering two or more whole units constituted 6% of all listing hosts but accounted for 35% of revenue.

"We all agree on the principle of protecting real sharing," Roy Samaan, the study's author, told me. "But the scale and professionalism of these new platforms have really ramped up the negative effects."

The Airbnb-style platform is a good example of how technology can turn an innocuous situation into a problem. It used to be no big deal, for instance, to have a listed home phone number when it appeared only in your local phone book; now that any listed number can be accessed from anywhere in the world with the click of a mouse, who doesn't feel a certain loss of privacy?

The rental or subletting of rooms, apartments or homes to transient tenants, even where strictly illegal, used to be sufficiently scattered to be winked at. Once Airbnb and its fellows provided the means to turn this activity into a commercial enterprise, its potential to destabilize whole neighborhoods became impossible to ignore. The character of a building, block, neighborhood or entire city is inextricably linked to the nature of occupancy, whether it's a community of owners, longtime renters or tourists. Cities thrive as melting pots of cultures, economic strata, and professionals and artists, not as homogenized housing for visitors.

In tight housing markets such as San Francisco or Los Angeles, the expansion of short-term rentals has been shown in some surveys to reduce the availability of long-term rental units. In San Francisco, accusations that landlords are evicting tenants have become commonplace.

"What we're trying to stop is the phenomenon of people buying buildings and evicting tenants so they can rent to tourists for three to four times as much," says Dale Carlson, a spokesman for Sharebetter SF, the community group that placed the short-term rental cap on the November city ballot.

Just last week, housing activists in Hollywood demanded the city investigate whether the owners of a local apartment house have illicitly converted it into a hotel by offering short-stay rentals via Airbnb.

The rules proposed or enacted by cities across the country have closely reflected local conditions. In New York, where the housing shortage is dire, the law forbids virtually any short-term rental of a residential unit. The city is proposing to sharply ramp up enforcement and penalties, in part because state Atty. Gen. Eric Schneiderman has charged that 72% of private short-term rentals violate the law.

Santa Monica, which treasures its aura of community, its history of rent control and its upscale single-family neighborhoods, enacted one of the strictest new laws in the country in May, banning as many as 1,400 of the 1,700 listings then appearing on Airbnb and two other rental sites.

In Los Angeles, Councilman Mike Bonin and Council President Herb Wesson have proposed allowing only the primary resident of a home or apartment to rent it out for short stays, and barring short-term rentals of rent-controlled units.

San Francisco's housing crisis, which is heightened by demand from an influx of high-tech company employees, places the city "at the cutting edge of this issue," says Carlson.

A proposal for a \$300-million bond to build up to 1,200 units of affordable housing will appear on the same ballot as the proposed cap on short-term rentals. "The irony is that we're asking taxpayers to pay more for a problem that Airbnb has created and exacerbated," Campos says.

Michael Hiltzik's column appears every Sunday. Read his blog, the Economy Hub, every day at latimes.com/business/hiltzik, reach him at mhiltzik@latimes.com, check out facebook.com/hiltzik and follow [@hiltzikm](https://twitter.com/hiltzikm) on Twitter.

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Robin Abcarian

Commentary, news and analysis

In San Francisco, a battle over the 'hotelization' of neighborhoods



Robin Abcarian

LOS ANGELES TIMES

robin.abcarian@latimes.com

MAY 22, 2015, 4:00 AM | REPORTING FROM SAN FRANCISCO

It's hard to find people here who are neutral about Airbnb, the explosively successful tech firm that has disrupted more than just the hotel business.

Judith Davis, 71, loves the short-term rental platform. A quintessential San Franciscan, Davis was married to the man who discovered Janis Joplin. She owns a memorabilia-filled Queen Anne Victorian in Noe Valley. She says she cannot make ends meet, let alone keep up with home repairs, on her \$965 monthly Social Security check.

For five years, she has rented out the lower level of her home on Airbnb for \$125 a night, earning a whole lot more than when she had a full-time tenant. If the city enacts a proposed limit on the number of nights she can rent out her house, she said, "I will lose half my income. And it wasn't that much to begin with."

Two miles away, in West Portal, Libby Noronha, a 66-year-old federal government retiree, told me she is not a fan of Airbnb. Noronha bought her traditional two-story detached stucco home in 2012, on what she believed to be a quiet residential street.

She soon learned that her next-door neighbor, a computer engineer, advertised three rooms of his house on Airbnb. She might not have minded, except the entrance to two of the units is a side door located in the 70-inch-wide passage between their homes.

"He has as many as six people coming and going, virtually all the time," she said. "There's luggage rolling on concrete. My dog is barking at 2 in the morning. It drives me nuts, frankly."

Nor is she sympathetic to people like Davis, who have become the face of Airbnb's campaign to fend off regulation.

"The entire argument for Airbnb is the whining: 'Oh, I can't afford to stay here if I don't rent out my rooms,'" she said. "What were these people doing before Airbnb?"

::

A handful of California cities have begun to address the "hotelization" of their residential neighborhoods. But in San Francisco, which has been transformed by the tech industry, the battle seems more pitched.

"This is round *whatever* in the long-standing fight in San Francisco over housing and development," said Roger Ritter, president of a homeowners group on the city's west side that wants short-term rentals more tightly regulated. "We see this as an assault on zoning laws."

Last month, Santa Monica dealt a big blow to short-term rental companies when it imposed a tough law that allows only homeowners who reside on the premises to rent rooms after registering with the city. The city will also collect a 14% occupancy tax.

San Francisco had already implemented a similar scheme. Unfortunately, fewer than 300 out of an estimated 6,000 short-term landlords registered.

No one knows how many tenants have been displaced by landlords looking for bigger returns with short-term rentals. But stories like Susan Whetzel's are not rare. Whetzel, 43, was tossed out of her beloved flat next to Mission Dolores Park by a landlord who now rents it on Airbnb.

"He charges \$250 a night for my place," she told me over coffee. "The house is now a three-story hotel."

The city's budget and legislative analyst has estimated that between one quarter and one half of the rentals on sites like Airbnb are owned by landlords who do not live on the premises, "commercial hosts" who operate illegally.

"We could be more accurate if Airbnb gave us their data," said Supervisor David Campos. The company has refused, citing privacy concerns.

Pro-tenant groups scoff at that.

"I'm sorry, but I don't believe a \$20-billion tech company is really concerned about users' privacy," said Sara Shortt, executive director of the Housing Rights Committee of San Francisco. "That's generally not been a big concern of theirs."

She believes that Airbnb, which charges hosts 3% and charges guests 6% to 12%, is simply protecting its income.

"In what other world," she asked, "would you be perfectly aware that you are facilitating illegal activity by providing the tools to do it and not take measures to filter out those who are violating the law?"

::

I want to like Airbnb.

It provides a very cool service. The people who work there seem nice. When I visited the South of Market headquarters, spokesman Christopher Nulty gave me a fresh-baked vegan oatmeal cookie, which was delicious.

But my conversation with David Owen, the company's regional head of public policy, was less satisfying. I wanted to know why the company is so resistant to regulation and to weeding out illegal rentals.

"I think there are a lot of rational conversations to have about what are the real issues that we're concerned about, and what are the best solutions to address them in our context and in other contexts," Owen said.

When I asked about regulation, he said: "We engage with elected officials everywhere to help educate them about what's going on and to help present our view of what's happening, what good regulation looks like and what bad regulation looks like."

So I pressed on about what "good regulation" looks like.

"Optimal regulation," he said, "is one that takes into account the concerns of our community and the folks that are doing this and, you know, balances them against the unique issues that are confronting that city."

The unique issue confronting San Francisco, of course, is a lack of rental stock, possibly exacerbated by commercial hosts who break the law with Airbnb's tacit approval.

"If a city's mechanism for enforcing the law is requiring an Internet company to do X, Y and Z," Owen said, "then that law is simply not going to work."

We'll see. Sacramento lawmakers are weighing a bill that would require short-term rental platforms to report booking information.

ShareBetter SF, a coalition of tenants, unions and homeowners, is trying to get a tough measure on the November ballot that would cap all such rentals at 75 nights a year, require companies and hosts to produce quarterly reports, and fine companies for listing rentals that don't comply with the law.

Now that would be a serious disruption. For Airbnb, anyway.

robin.abcarian@latimes.com

Twitter: @AbcarianLAT

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Los Angeles Proposing Strict Regulations on Short-term Vacation Rentals, But to What Effect?

7/27/2015 by Vincent Loh | Michelman & Robinson, LLP

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In recent years, the short-term online vacation rental market has flourished, and connecting travelers with short-term bedroom, apartment, or home rentals has become what many value as a billion dollar industry. The industry to date, however, has gone largely unregulated by state and local municipalities. That soon may change, though, as issues regarding regulations and taxing, both of which are well established for traditional landlords and hotels, has complicated, for many private owners, what has thus far been a lucrative endeavor.

Los Angeles' New Proposed Legislation

As online rentals have become increasingly profitable, investors have begun purchasing properties for the sole purpose of converting them into quasi-hotels. In Venice, for example, investors have purchased entire apartment buildings, evicted all tenants, and turned the units into short-term rentals. While profitable for the landlords, this practice has resulted in less available long-term housing, causing rents to skyrocket. In addition, and by virtue of their short-term nature, communities have started to lose the benefits that come with long-

term tenancy, including the labors of vested residents to keep their neighborhoods in good order.

In an effort to strike a balance between these competing interests, two Los Angeles City Councilmembers recently proposed a motion aimed at preventing investors from purchasing properties for the sole purpose of becoming “professional landlords.” Under the proposed law, owners would be permitted to rent out part or all of their dwellings for 30 days or less, but only if that dwelling is their primary residence. Individuals would still be able to make additional revenue by renting out their homes, but speculators would be precluded from “creating a syndicate of short term rental properties.”

Aside from restricting participants in the short-term rental market, the proposed law also would require the owners of short-term rentals to pay the transient occupancy taxes associated with the rentals. While these taxes have always been required, they largely go uncollected through the online booking model since the online travel agency typically serves only as a broker (i.e., it receives a percentage of the proceeds), leaving the collection of taxes to the host and guest. Given that these people are not industry professionals, they generally do not collect the tax and, consequently, city and county governments lose out on tax dollars.

Impact on Los Angeles Hotels

The proposed legislation has many potential benefits for Los Angeles hotels. Among other things, it will lessen the supply of short-term rentals available, thereby funneling more visitors into traditional hotels. Also, to the extent short-term rental owners begin assessing and collecting transient occupancy taxes, it will help to even out the

playing field with hotels by eliminating their (previous) ability to offer lower rates by virtue of the mere fact that transient occupancy taxes were not included.

However, it is unlikely that passage of the law by itself will result in any significant impact. While it is already illegal in almost every part of Los Angeles to have a short-term rental, property owners have not been hindered from participating in the practice. Indeed, enforcement of these laws has been nearly impossible since the vast majority of online rentals do not list actual property addresses, leaving government officials without any clear landlord to target for violations. Unless better enforcement procedures are implemented, that trend is unlikely to change even if this newest proposal is passed.

Better procedures may be on the horizon, though. In February, 2015, California Senator Mark McGuire introduced a bill that would require online vacation and short-term rental sites to report certain booking information on a quarterly basis, including the address of each property that was available and rented during the quarter, the total number of nights the property was rented, and the amounts paid for the occupancy. Additionally, the bill would prohibit the facilitating of those rentals prohibited by the cities or counties where they are located. Further, the bill would require the online vacation rental site to collect the applicable transient occupancy tax if requested by the city or county.

Should both bills pass, the online short-term rental industry will be dealt a significant blow, with Los Angeles hotels being the primary benefactors.

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Keys Crackdown On Unlicensed Vacation Rentals Underway

By Nancy Klingener • Jul 15, 2015, WLRN, Miami, Ft. Lauderdale

Since the Monroe County Tax Collector took over enforcement of unlicensed vacation rentals Jan. 1, the agency has collected \$52,000 in taxes and resolved hundreds of cases, according to Tax Collector Danise Henriquez.

The booming tourism industry in the Florida Keys means there's a strong demand for vacation lodging. The county this year has launched a crackdown on rentals that don't have proper licenses.

The booming tourism industry in the Florida Keys means there's a strong demand for vacation lodging. The county this year has launched a crackdown on rentals that don't have proper licenses.

Homes or condos rented for less than a month at a time in the Keys are required to collect the four-cent tourism tax, which funds the Keys tourism promotion effort as well as contributing to the county coffers. In addition, it's illegal to rent short-term without a special license in most areas and those licenses are limited.

"There's lost revenue up and down the Keys for everyone," Henriquez said. "And if they are illegally renting, we need to try and make them stop."

The county's Tourist Development Council issued a report in April detailing the extent of unlicensed vacation rentals in the island chain. Vacation rentals have long been a controversial topic in the Keys and online services such as Airbnb and Vacation Rental By Owner have made renting a home short-term much easier.

The county has created a hotline to report cases of suspected unlicensed rentals. Henriquez said her office has filed liens, seized bank accounts and referred two cases to the Monroe County State Attorney's Office.

The goal, Henriquez said, is compliance.

"I'm not here to try to put liens on properties. I'm not trying to seize your bank accounts," Henriquez said. "I'm just trying to make sure that there's a level playing field for everyone."

SANTA CRUZ, Calif. - Santa Cruz County prosecutors are warning people to take precautions when booking vacation rentals this summer to avoid getting scammed.

MORE FROM CENTRAL COAST NEWS

Vacation Rental Shoppers Scammed
On Craigslist

A family from Corte Madera recently got scammed by a person who posted a vacation rental in Santa Cruz on Craigslist. The posted listed an oceanfront home on West Cliff Drive for a rate of \$650 for three nights.

The family followed the emailed instructions from the "agent," who instructed them wire transfer the funds to a bank account, which they did.

The agent then told them to meet her at the property address at 3 p.m. on a specified day. When the family arrived at the residence, the door was answered by a long-term tenant who informed them they'd been scammed.

The vacationing couple reported the scam, but was unable to recover the \$650, and had to pay again for lodging elsewhere.

The Santa Cruz County District Attorney's Consumer Affairs Office says this kind of scam isn't uncommon. There are numerous examples of vacationers from other areas who come to Santa Cruz after a rental advertised on Craigslist only to arrive and discover that there is a homeowner or a tenant already living in the unit and the actual owner has not advertised it as a vacation rental.

The office advises the following precautions when looking for a vacation rental:

- Use a reputable travel agency, property management company, or online services that provide secure payments.
- Verify that the person offering the rental is the actual owner and that the address is valid.
- Never wire transfer money or purchase pre-paid cash cards to pay for a rental. Pay with a credit card for extra security.
- Be wary when a "property owner" claims that he is traveling abroad and wants to do business through email or texts.

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TYBEE ISLAND, GA (WTOC) - Searching for a vacation rental, whether on Tybee Island or any other desirable location, can be a risky task if you don't know what you're doing.

You might find a property and think you have a legitimate deal in a prime location, but in reality, you could be the victim of a scam.

WTOC spoke with one man who unknowingly gave \$1,500 dollars to a fake vacation rental listing, as well as a Tybee Island police captain, who recently had a break in an investigation to track several fake listings to their source.

The investigator says a man living in Iowa recently slipped up in a fake vacation rental scheme he had run for several years on Tybee. Here is how the scams take shape:

"They download the pictures and information from the rental property online, and then they make a false advertisement on Craigslist. And, they will undercut the rental company by several hundred dollars to make it look more exciting," said Capt. Tiffany Hayes, Tybee Island PD.

Hayes was recently honored for her work at City Council, because of a break in a case involving several fake vacation rental advertisements.

The creator linked his actual home address to a PayPal account online, allowing police to pinpoint his location.

"All these were found on Craigslist. They never spoke to anybody on the telephone; it was all handled through email or text messages. Wire transfers, money grams, Western Union, no hand-to-hand exchange, no credit cards, and no personal checks," said Capt. Hayes.

"They said that the representative would not be available; that I had to send it by Western Union," said Larry Norwood, victim of fake vacation rental scam.

Larry Norwood paid \$1,500 dollars to what he thought was a reputable vacation rental company. However, when he and his family arrived at the home they were supposed to have for several days last summer...

"We sensed there was something wrong, because there were two other cars with people unloading. We immediately asked them what they were doing with our rental; were they leaving; and they said no, they had it rented for the next three or four days," Norwood said.

"It's very sad. You have these entire families that show up, 10 people or 12 people who save their money. They are planning on having a wonderful vacation experience on our fabulous Tybee Island, and they get here and they find out they been scammed," said Stacey Jarrell, owner of Oceanfront Cottage Rentals.

Jarrell's company has been targeted by scammers using their vacation rental information as early as this year.

"The first clue is a cheap price. No rental property down here is really cheap during the summer season. Never pay with cash, no cash transfers, no Western Union or Money Gram, no personal checks. Use a credit card, because usually the credit card companies, if you can claim or show that there was a fraud, they are going to reimburse you in some way or form," said Capt. Hayes, Tybee PD.

Captain Hayes pointed out these vacation rental scams are not unique to Tybee Island. There are numerous vacation destinations up and down the coast that have to deal with this problem each year.

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Ojai temporarily bans vacation rentals operating without a permit

BY: Claudia Boyd-Barrett

POSTED: 5:02 PM, Mar 25, 2015

UPDATED: 5:12 PM, Mar 25, 2015

TAG: ojai (/topic/ojai)

OJAI, Calif. - Vacation rental owners in Ojai who operate without a permit will be barred from seeking one for at least 45 days under a moratorium enacted by the City Council.

Council members unanimously approved the stopgap measure at their regular meeting Tuesday night to give themselves time to craft new vacation rental regulations based on public input. The ban on permits can be extended for up to two years.

The action follows a decision by the council earlier this month to begin enforcing an existing a city code that prohibits vacation rentals in residential zones unless the owner obtains a conditional use permit. Enforcement is set to begin June 8, and the city plans to send out cease and desist notices to vacation rental owners operating without a permit.

(http://www.vcstar.com/news/local/ojai?utm_source=utm_campaign%3Ddojainews_story_embed&utm_medium=utm_medium%3Dstory_embed&utm_campaign=utm_campaign%3Dstory_embeds)

City Manager Rob Clark said the city has received numerous inquiries from property owners looking to obtain conditional use permits since the code enforcement decision. Council members agreed it would be premature to issue permits before new regulations are established.

“The last thing we want is an avalanche of (conditional use permit) applications to staff that may not be in compliance or at all in parallel with where we might be going on regulations,” Councilman Bill Weirick said.

Weirick and Councilwoman Betsy Clapp have been meeting with a small group of residents to discuss ideas for the new regulations. On Tuesday, they said they are ready to hold a public workshop on the issue, likely at the end of April. Clark said he would look into hiring a facilitator for the event.

Currently, just one vacation rental in the city has a conditional use permit, issued in 1985. It's unclear how many other rentals are operating illegally, but a search for Ojai vacation rentals on the Internet site Airbnb turns up over 400 results — with many likely outside city limits.

Officials and residents have expressed concern that these rentals lead to the deterioration of neighborhoods, drive up housing and rental prices, and deprive the city of transient occupancy tax revenue.

However, property owner Otis Bradley told the council Tuesday that he thinks short-term rentals provide a good service in the city. He said he rents out his house about 10 times a year, and four of the families he's rented to have gone on to buy homes in Ojai. He questioned whether the city has a right to stop people from renting out their own properties.

“Isn't it an owner's right to be able to rent their house out?” he asked.

In response, Mayor Severo Lara said the city hasn't decided whether it will allow or disallow vacation rentals, but the opinions of the public will be taken into account.

“We're just trying to figure out what's best for our community,” he said.

Weirick said he has looked at ordinances enacted by other cities in the state to regulate vacation rentals. Most of them require property owners to obtain temporary permits that are renewed annually, rather than conditional use permits that become attached to the property, he said.

(http://www.vcstar.com/apps?utm_source=utm_campaign%3Dapps_story_embed&utm_medium=utm_medium%3Dstory_embed&utm_campaign=utm_campaign%3Dstory_embeds)

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Permits for Short-term Rentals Still on Hold

Posted On 21 Jun 2015 By : Jennifer Erickson Comment: 0

Anyone hoping to earn some extra cash by renting out space in their home this summer to short term visitors will have to make other plans if they want to go about it legally.

The City Council Tuesday voted 4-1, with Mayor Pro Tem Steve Dicterow dissenting, to extend for 90 days a moratorium they imposed last month on issuing short-term lodging permits.

The action was taken to give staff more time to figure out the best ways to enforce or revise current regulations to address residents' complaints. Staff suggested a 10.5-month extension to make viable recommendations, but the Council demanded a more timely response.

Vacation destinations up and down the coast are now grappling with how to regulate the new phenomenon created by online booking services, such as Airbnb, that allow ordinary homeowners to land paying guests and pad their bank accounts. Some residents offer a room or guesthouse, but investors also see opportunity, buying up homes with the sole purpose of providing tourist accommodations.

This week's decision to hold off on new permits may placate residents who describe once-quiet neighborhoods transformed into hotel zones, just as it may frustrate those who expected to make ends meet by sharing their home with summer vacationers, unless they already have permits or plan to fly under the radar.

While Airbnb started as a place for people to rent out a room or even a couch, almost all complaints in Laguna have been about entire units used as vacation rentals, according to an earlier report by Assistant City Manager Christa Johnson.

Tourism office Visit Laguna Beach recently fielded calls from six tourists who said the reservations they made through AirBnB were cancelled when the homeowners learned of the moratorium, Johnson reported Tuesday.

The moratorium extension only prevents staff from processing new applications for permits. It won't affect existing permit holders and it likely won't matter to scofflaws.

Owners renting out homes without permits have become adept at avoiding detection, as evidenced by the hundreds of Laguna homes listed on rental websites that far exceed the 64 or so permit holders, Johnson's report says. The city received 56 complaints about unpermitted renters in 2014 and 19 new complaints in April alone, she said.

Council member Kelly Boyd lamented that the illegal renters were not only taking business away from bed-tax-paying hotels, but were also not paying the bed taxes themselves.

"It's not about the money. It's about people being able to live in their home and not be disturbed by a bunch of fraternity boys who just get drunk and rowdy," said Council member Toni Iseman. "And because we can't source the rental agency in order to enforce compliance, they've given us no choice," she said.

While last month's hearing was dominated by residents who aired their grievances about disrupted lives, this week drew testimony of people opposed to imposing restrictions.

Resident Michael Brown questioned how officials could be so sure that short-term renters were truly the source of all complaints about rowdiness, and suggested that it was unfair to impose restrictions across the board after hearing from "a few people who have problems."

Resident Howard Hills expressed disappointment that staff had not figured out a solution to the perceived problems with short-term rentals before the original moratorium expired. He also questioned the legality of establishing that moratorium on an urgency basis in the first place. "If you're going to regulate it, regulate it," he said.

Mayor Bob Whalen agreed that Hill's question was valid, but added that if they didn't extend the moratorium there might be a host of people rushing to get permits for fear of an imminent crack down. And the extension would allow tweaking permit regulations and studying whether short term lodging should be prohibited in some zones.

Council member Rob Zur Schmiede said the regulations need to be rewritten to grant short-term rental permits to specific homeowners, with annual renewal requirements, rather than the current approach that grants permission tied to the land.

Whalen said he personally hoped for a solution that would allow some form of short-term rentals, and called for solutions within 90 days.

Dicterow saw the need to address concerns over neighborhood disruption and also to accommodate responsible homeowners who want to take in short term renters, but called for extending the moratorium no more than 30 days to find solutions. "I think we need to move faster," he said. Prohibiting permits encourages people to violate the law, he said, adding that we need to work with the rental sites to help us with enforcement.

Staff intends to come back to the City Council with recommendations by Aug. 18, said City Manager John Pietig.

Homeowners currently must pay a \$275 fee to apply for a short-term rental permit and notify neighbors of their intent. If no one objects, the city's planning manager will approve the permit and the homeowner is required to obtain a business license and pay a 10 percent transient occupancy tax on the rental rate.

Private home rentals win ADA battle

More lawsuits may follow

By JUDI BOWERS

Reporter

Aug 11, 2010

Private home rental management companies and their owners are dancing a happy jig, especially Joyce Reed and Kathy Armsby. They were granted a motion for summary judgment stating management companies are not required to ensure that the rental homes they manage are compliant with the American Disabilities Act.

But while the management companies may be dancing, homeowners may want to hold on to their boogie shoes.

"(Joyce) Reed and (Kathy) Armsby successfully pointed the finger at the homeowners," said T. Matthew Phillips, attorney for the plaintiff, Ron O'Byrne.

In November 2009, Phillips filed suit against Joyce Reed of Grey Squirrel Resort and Kathy Armsby of Village Reservation Service in Big Bear Lake. The suit was filed on behalf of O'Byrne, who is disabled. The city of Big Bear Lake and Does 1-10 were also named.

The suit claimed O'Byrne e-mailed Reed and Armsby's private home rental management companies requesting to rent an ADA compliant house. He alleges both companies said they did not have ADA compliant houses.

Private home rentals are homes rented for periods of less than 30 days. The city of Big Bear Lake has an ordinance that governs the program.

To file suit under ADA, the disabled person must be denied access, which O'Byrne claims he was.

O'Byrne named the city of Big Bear Lake as a defendant claiming the city, under its private home rental ordinance, should require rental companies to provide ADA-compliant houses for rent. The city was dismissed as a defendant in February 2010. Reed and Armsby filed a motion for summary judgment on June 14, 2010. The motion was granted Aug. 6.

The ADA requires a person to be an operator of a place of public accommodations to be responsible for implementing ADA compliance. Phillips argued that Reed and Armsby are agents, but the relationship with the homeowners they represent makes them operators. The defense argued that as agents the managers are not operators.

Judge Dolly M. Gee, of the U.S. District Court, stated in her ruling that to operate means to put or keep in operation. The defendants are not authorized to make structural modifications to the vacation rental homes to render the homes ADA compliant. Reed and Armsby manage the homes but do not operate the rentals, the court ruled.

According to Michael Perry of CPRPRO, Reed and Armsby produced copies of the contracts they hold with homeowners they represent. The contracts do not provide the managers legal authority to modify the structure. CPRPRO stands for Citizens Protecting the Rights of Property owners and its members include private home rental managers and agents.

Phillips said the judge's ruling clearly states the responsibility isn't with the management companies, although he disagrees. "We believe the homeowner and agent are in bed together (regarding ADA compliance)," Phillips said. The judge's ruling states that the homeowner is in the best position to ensure nondiscrimination, Phillips said.

That said, Phillips declined to comment when asked if he plans to file suit against every homeowner in the city of Big Bear Lake who rents the house as a short-term rental unit. He said it's too early to tell at this point what the next step will be. Asked if his client, O'Byrne, plans to pursue the suit further, Phillips said, "There's nothing there ... as far as direction (from the client). So, no comment."

Movies Now Playing in Big Bear..

CLICK HERE

VILLAGE THEATERS

B. Studies

March 18, 2015

Overview of Sharing Economy and Short-Term Rentals

LEGISLATIVE ANALYST'S OFFICE

Prepared for:
Committee on Local Government
Hon. Brian Maienschein, Chair

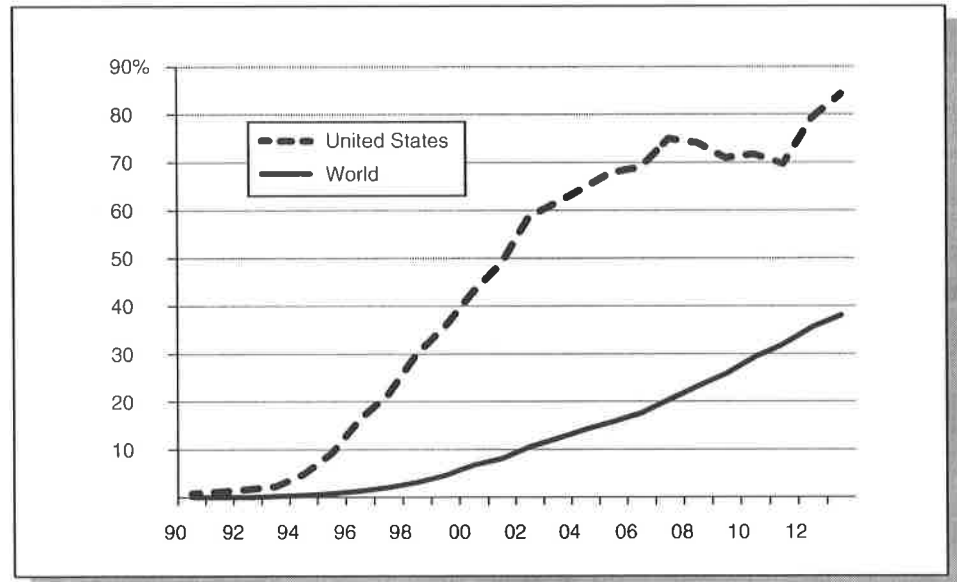
Assembly Revenue and Taxation Committee
Hon. Phil Ting, Chair





Internet Use Drives Societal and Economic Change

Percent of Population Using the Internet



First Wave of Change

- Most of the Internet-driven societal and economic change between 1990 and early 2000s pertained to how people and organizations shared information and bought things.
- Wave examples: Facebook, Amazon, Ebay, and email.



Recent Wave of Change

- Beginning a decade ago, a new wave of change started called the "sharing economy" or "peer-to-peer" (P2P) market.
- This wave relies on the strengths of the Internet to allow consumers and suppliers to complete transactions easily.
- Wave examples: Airbnb, HomeAway, and FlipKey (lodging); Uber and Lyft (transportation); and Kickstarter, Prosper, and Lending Club (financial services).



A Look at the Sharing Economy



Key Characteristics. Renting goods and contracting for short term services is nothing new. In the past, however, some desired transactions did not occur due to information limits or other barriers. Sharing economy businesses use the strengths of the Internet so that:

- Consumers can quickly search among myriad suppliers, compare information and reviews on suppliers, and complete transactions efficiently.
- Suppliers have wide access to consumers interested in using underutilized assets such as vacation homes and vehicles.
- The focus shifts from ownership of physical and human assets (like time, space, and skills) to access to these assets.



Technological Change Frequently Triggers Public Policy Questions

- The first wave of Internet changes prompted government to examine regulatory structures about data privacy and tax laws related to purchases of retail goods from businesses outside of California.
- Sharing economy changes are prompting policy debate in part because many of the affected businesses are in industries where government (1) has established a significant regulatory framework, including land use, business, and consumer protection regulations, and/or (2) collects taxes, such as transient occupancy taxes and business license taxes, that pay for government programs.



Lodging: Part of the Leisure and Hospitality Industry

Share of Wages and Business Income by Major Industry

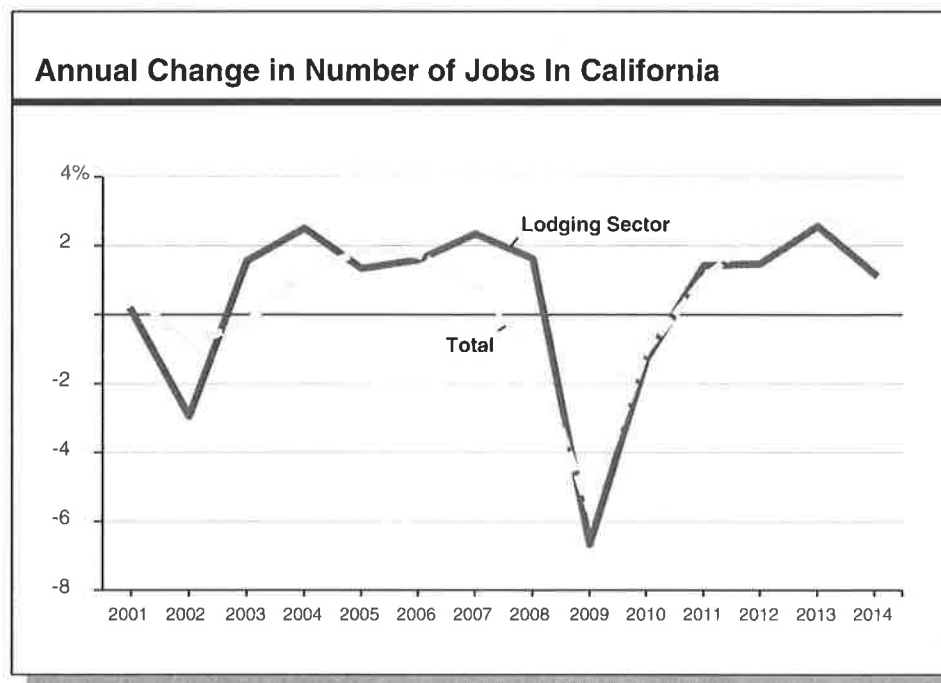
2013

Sector	California	United States
Finance, Insurance, and Real Estate	8.8%	9.2%
Government	17.4	17.1
Health Care and Social Assistance	9.5	10.9
Manufacturing	9.5	9.7
Professional and Technical Services	12.0	9.8
Wholesale and Retail Trade	10.5	11.0
Leisure and Hospitality	4.7	4.2
Food service	2.4	2.4
Arts, entertainment, and recreation	1.6	1.1
Lodging	0.7	0.7

- **Many Visitors.** Industry experts estimate California had about 230 million “person-trips” in 2013. About 80 percent of these trips were for leisure.
- **California Residents Accounted for About Three-Quarters of These Trips.** Residents of other states accounted for about one-fifth of these trips and visitors from other countries accounted for about 7 percent. Travelers from Mexico and Canada accounted for more than half of the international trips.
- **Tourism Spending.** Visitors are estimated to have spent over \$110 billion in 2013. This includes spending for lodging, food services, recreation, transportation, and retail businesses. Foreign visitors accounted for about 20 percent of this spending.



Employment Growth in State's Lodging Industry



Lodging Industry Employment Growth Generally Tracks State Employment. Nearly 210,000 people worked in the lodging industry in 2014, up from about 197,000 in 2000. (The employment data in this figure is drawn from employer surveys and likely excludes many people offering lodging through Internet sites.) While employment in the lodging industry generally tracks growth in overall state jobs, growth in total state employment has outpaced job growth in the lodging industry



Industry Wages Are Below the State's Average. In 2012, the average earnings for a private sector worker in California was about \$54,000. The average pay for a person in the lodging industry was almost \$28,000. Part of this difference in annual wages may reflect a greater likelihood that lodging industry employees work part-time.



Changes to Lodging Industry: Short-Term Rentals



Historically, Many Alternatives to Hotels. California has long had vacation home rentals, time-shares, bed and breakfasts, hostels, boarding homes, extended stay facilities, and campgrounds. In addition, many travelers stay with relatives and friends.



The Internet Has Made it Easy to Rent Residential Lodging for a Short Stay. It has allowed for the creation of a two-sided marketplace that matches people who rent out their homes ("hosts") with people looking for a place to stay ("guests"). Searching, information gathering, and contract completion is simple.



How it Works. Host creates a listing that describes the room or residence offered, price, location, and house rules. The host usually posts photographs.

- Potential guests message hosts directly. When a potential guest puts in a reservation request, the host has a day or so to accept or decline it.
- If a host accepts a reservation, the host and guest coordinate meeting times. After the visit, users (and, sometimes, the hosts) post reviews of one another. Reviews provide references for other guests and hosts. The site also may examine reviews to assess whether to bar a host or guest from using the site in the future.



Growth in Short-Term Rental Sector

- ☑ **Airbnb.** Started in 2008, this privately held company reports that it has over 1 million listings in 190 countries, including room rentals and rentals of entire homes. Airbnb states that it made its millionth booking in 2011 and its 25 millionth booking in 2014. Various media accounts estimate Airbnb's 2013 revenue at \$250 million.
- ☑ **HomeAway.** Started in 2004, this company held its initial public offering in 2011. Like Airbnb, HomeAway reports that it has over 1 million listings in 190 countries. HomeAway's listings are primarily entire homes, not rooms. Total revenues grew by 23 percent in 2014 to over \$119 million. HomeAway acquired and operates many other short-term rental sites, including VRBO.com, VacationRentals.com, and BedandBreakfast.com.
- ☑ **Major Traditional Lodging Providers.** In 2014, Marriot had more than 3,900 properties, with over 700,000 rooms in 79 countries, and reported revenues of nearly \$14 billion. In 2014, Hyatt reported having nearly 600 hotels, over 150,000 rooms, and revenues of over \$4 billion.



Short-Term Rentals From a Public Policy Standpoint: Attributes



Generates Income for Providers

- ***Most Rental Income Remains With Hosts.*** Combined administrative fees (paid by host and guest) typically are in range of up to 10 percent to 15 percent of rental costs.
- ***Provides Supplemental Income for Many Households.*** Two studies of Airbnb usage—one of a four-year period in New York City and one of single day in San Francisco—found that roughly 90 percent of hosts had two or fewer properties. Households typically rented out their own residence (in part or in full) or a second property. There is some evidence that these households have lower than median income.
- ***Ongoing Business Income for Other Hosts.*** Some property owners rent many properties year round and are using these sites to facilitate their property management business operations. The New York City study estimated that these hosts received about a third of Airbnb rental income in the city.



Visitors Save Money

- Short-term renters may save 20 percent or more, relative to the cost of a hotel. These savings can allow visitors to stay longer, or spend more on other leisure and tourism activities.



Community's Lodging Infrastructure Expands

- Repurposing idle capacity in a community expands the community's lodging infrastructure without new construction.
- This can be particularly advantageous if a community experiences unusually high demand for lodging (such as during a major sporting event), or is located in an area where new construction poses environmental concerns.



Short-Term Rentals From a Public Policy Standpoint: Concerns



Despite Prevalence of Short-Term Rentals, Their Legal Status Is Murky

- Short-term rentals have been called “illegal hotels” because some are inconsistent with local land use or business regulatory policies.
 - While many California communities have land use policies that limit or bar rentals of less than 30 days, short-term rental companies show listings throughout the state.
 - The New York State Attorney General estimated that over 70 percent of the Airbnb properties rented in New York City violated one or more local planning or business regulations.
 - The New Orleans Times-Picayune reported finding hundreds of short-term rentals listed for the French Quarter, despite a local law banning rentals of fewer than 60 days in the neighborhood.
- Governments worldwide are reconsidering their policies to more clearly allow, regulate, or prohibit short-term rentals.
 - France legalized short-term rentals of primary residences throughout the country.
 - Amsterdam adopted a law allowing residents to rent their homes for up to two months of the year to up to four people at a time, provided they pay the relevant taxes.
 - San Francisco’s new ordinance allows permanent residents to rent rooms if they register with the city, carry liability insurance, pay the city’s 14 percent hotel tax, and satisfy other criteria.
 - Burbank enacted rules banning short-term vacation rentals in residential zones.



Short-Term Rentals From a Public Policy Standpoint: Concerns *(Continued)*



Short-Term Rentals Can Disrupt Community Expectations About Residential Neighborhoods

- Many land use policies aim to separate residential properties from areas used for transient lodging. As a result, neighbors may be surprised if a residential property is used for business purposes.
- Although a host may screen prospective guests, neighbors may not have access to this information or know where to complain if problems arise on the property.



Hosts May Not Pay Business and Tourism Taxes

- Short-term rental companies typically advise hosts that they need to comply with local tax laws, but actual practices vary.
 - A study by the San Diego City Treasurer's Office in September 2014 found that 50 percent of short-term rental owners did not pay hotel occupancy taxes.
 - Some companies collect transient occupancy taxes directly from the customer. Airbnb collects these taxes only in six cities: San Francisco, San Jose, Amsterdam, Portland, Chicago, and the District of Columbia.
- Because California cities charge relatively high transient occupancy taxes, noncompliance can result in significantly reduced tax revenues.
- Resolving taxation issues related to short-term rentals is difficult without resolving the related regulatory issues. It is difficult to collect taxes from an industry sector that a city does not permit to operate.



Potential Changes to Economy



Growth in Short-Term Rentals Might Affect Traditional Lodging Sector

- Economic theory suggests that prices fall when supply increases or substitutes become available. While research is limited, there are some signs that growth in the short-term rental sector has placed downward pressure on the traditional lodging sector's prices and gross revenues.
- A recent Boston University study found that every 10 percent increase in the number of Airbnb rentals in Texas resulted in a 0.35 percent reduction in monthly hotel revenue. In the City of Austin, where Airbnb supply is large, the study concluded that this was equivalent to a 13 percent reduction in hotel revenue, with the effect concentrated among lower-cost hotels and hotels not catering to business travel.



Changes to Employment Patterns and Tax Revenues Possible

- ***Employment Patterns May Change.*** If more tourists stay in short-term rentals and fewer in traditional hotels, jobs in the traditional lodging sector might be negatively affected. At the same time, however, tourists and hosts involved in the short-term rental sector might spend their savings/earning on other goods and services, leading to increased jobs in these other sectors.
- ***Tax Revenues May Change.*** If a greater percentage of travelers stay in short-term rentals, tourism taxes might decline because these rentals typically cost less and some hosts currently do not pay taxes as required. The net effect on state and local tax revenues, however, would depend on the extent to which (1) visitors travel more or stay longer in response to these cost savings, (2) travelers and hosts spend their savings on items subject to other taxes, and (3) hosts' personal income tax liabilities increase due to their rental income earnings.

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AIRBNB, RISING RENT, AND THE HOUSING CRISIS IN LOS ANGELES

MARCH 2015



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A NEW ECONOMY FOR ALL

Roy Samaan

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This report seeks to explore the history of AirBnB, understand how its public pronouncements deviate from observed facts, and identify the tangible and intangible effects that the company is having on our housing market, neighborhood cohesion and public revenues.

A key component of this report is its analysis of the AirBnB market in Los Angeles based on a snapshot of AirBnB listings on October 17, 2014. Through the application of freely available code, we have collected a comprehensive set of data that includes information on AirBnB hosts, prices, listing locations and listing types. These data provide a great deal of insight into the contours of the company's operations in and effects on Los Angeles.

First, AirBnB's impact on Los Angeles is far larger than previously understood. We identified 8,400 hosts and 11,401 AirBnB units listed for rent in Los Angeles.

Second these units are not, by and large, the "shared" space implied by terms like host or sharing economy. Instead, nearly 90 percent of AirBnB's Los Angeles revenues are generated by lessors with whole units and leasing companies who rent out two or more whole units.

Third, AirBnB has created a nexus between tourism and housing that hurts renters. The 7,316 units taken off the rental market by AirBnB is equivalent to seven years' of affordable housing construction in Los Angeles.

AirBnB density overlaps with high median rents and lower rental vacancy. The top nine AirBnB neighborhoods have a vacancy rate below the threshold the city uses to deny conversion of apartments to condominiums.

As a whole, Los Angeles has seen rental rates grow three times faster than San Francisco, while growth

is twice as fast in AirBnB's nine top neighborhoods as in the rest of the city. The UCLA Anderson School of Business considers L.A.'s high cost of housing a "significant drag on job creation."

In Venice, as many as 12.5 percent of all housing units have become AirBnB units, all without public approval. There are 360 AirBnB units per square mile in Venice and longtime residents who never intended to live next to hotels now find themselves dealing with noise and safety concerns that negatively impact their quality of life.

Over 80 percent of the taxes and economic activity AirBnB claims to generate likely would have come to Los Angeles anyway, resulting in taxes being paid, higher wages being earned and more money being spent by visitors.

In short, AirBnB has become a major player in Los Angeles and is having major impacts, often negative. But Los Angeles is a key market for AirBnB as well. AirBnB is moving toward an Initial Public Offering (IPO), and can only capture the billions of dollars it hopes to if it can address one fundamental fact: AirBnB rentals, in L.A. and elsewhere, are largely illegal.

This report argues that as the city begins the process of crafting a regulatory regime to address the company's proliferation into residential neighborhoods, any potential policy ought to be assessed by four key criteria:

1. Housing must be protected
2. Systematic approval requirements must be in place
3. AirBnB must share the burden of enforcement
4. Only true sharing should be allowed

Who is AirBnB?

AirBnB sells itself as a platform akin to a community bulletin board. However, unlike most community bulletin boards, the company takes a percentage out of every transaction, has centralized control over all listings, and maintains a global scope of operations. In other words, AirBnB is a hotel company. It may be deregulated and decentralized, embedded within countless apartment buildings, bungalow courts and leafy suburban streets, but the company's primary function is to make a profit accommodating guests.

According to the story AirBnB tells about its founding, CEO Brian Chesky was unemployed when he moved to San Francisco in 2007. A large design conference came to town and Chesky saw an opportunity to generate a bit of income by renting out an air mattress in his San Francisco loft to conference attendees who could not find an affordable hotel room. Chesky and his roommates accommodated three guests and provided them with breakfast. Thus, AirBed & Breakfast - now known as AirBnB - was born.¹

Early growth and Silicon Valley roots

AirBnB's early growth focused mainly on large events like the 2008 Democratic National Convention in Denver and South by Southwest in Austin. With hotels in these markets at full occupancy, AirBnB provided a listing service for individuals with surplus space in their homes or apartments to rent out to like-minded travelers. After successfully completing these proof of concept trials, Chesky and the other AirBnB cofounders were invited to participate in Y-Combinator, a Silicon Valley tech start-up incubator program that connects budding entrepreneurs with major venture capital investors.²

The company emerged as a favorite of Y-Combinator founder Paul Graham who worked to connect the AirBnB team to his contacts in the venture capital world. An email exchange published on Graham's personal website, with full knowledge and permission of all parties involved, shows that from a very early stage AirBnB sold itself as both a hotel competitor and as the foundation of a new



AirBnB's three co-founders, Nathan Blecharczyk (left), Brian Chesky (center) and Joe Gebbia (right) were added to *Forbes* list of billionaires in 2015.

kind of peer-to-peer marketplace—"the eBay of spaces" as Graham wrote to a potential funder.

The company touted its revenue stream as "counter-cyclical," arguing that when the economy declined, as it did while AirBnB pursued its initial rounds of financing in 2009, more users would be drawn to the site since they "had to pay the rent."³ In other words, people would want to rent out

Renting out residentially zoned units as accommodation for travelers runs counter to land use regulations and zoning codes.

their homes because rising housing costs made it harder to afford the rent or mortgage. As we will see, AirBnB returns to this claim time and time again to sell its service to residents, regulators and the public. As we shall also see, the claim is at once misleading and even ironic, since AirBnB itself may contribute to those rising costs.

Regulatory uncertainty threatens IPO

Since April 2014, AirBnB has raised nearly \$800 million from global investment firms including TPG Capital, T. Rowe Price and Dragoneer Investment Group. AirBnB has been valued at \$13 billion, placing the company in the upper echelons of the hospitality industry.⁴ At this valuation, AirBnB has a higher market value than both Hyatt (\$8.4 billion) and Wyndham (\$9.3 billion).⁵ According to media reports, the company has been responsible for booking 10 million guest nights since 2008, and its own estimates indicate the company may have booked more room nights in 2014 than

major chains like Hilton and Intercontinental. The company generates revenue by charging hosts a three percent commission on each booking and by charging travelers a commission of between six and 12 percent, thus generating a yield of anywhere between nine and 15 percent in commission for every booking.⁶

Market observers expect AirBnB's successive rounds of fundraising are a prelude to an Initial Public Offering (IPO). However, renting out residentially zoned units as accommodation for travelers runs counter to land use regulations and zoning codes.⁷ For example, a March 2014 memo distributed by Los Angeles' Deputy Planning Director Alan Bell states that short term rentals are prohibited in single-family and lower density multi-family residential zones. The memo notes that the status of short term rentals in higher density multi-family and commercial zones is "complex."⁸

Uncertainty around the legality of AirBnB's core business model is further compounded by the fact that the company has not collected the hotel-related taxes mandated by most jurisdictions. Municipalities have explored a range of regulatory options to address the proliferation of illegal hotels in residential neighborhoods. Consequently every municipality represents a proving ground for AirBnB. Each time a city normalizes the company's activities, AirBnB becomes a more stable, secure investment. Receiving legitimacy from major markets, like Los Angeles, is a critical precondition to moving into the IPO phase of the company's growth cycle.

Each time a city normalizes the company's activities, AirBnB becomes a more stable, secure investment.

AirBnB's Political Playbook

AirBnB has marshaled a sophisticated political operation any time the company has faced even symbolic regulatory action.⁹ This generally involves packing a room with dozens of hosts. Armed with compelling stories, these hosts detail the ways in which renting out their spare rooms has enriched their lives and saved them from economic ruin. The hosts seem motivated by a combination of financial self interest and a sincere belief that they compose a beleaguered community. This gives AirBnB a group of personal, heartfelt and therefore effective spokespeople that most corporations can only dream of. This is no accident, but rather the result of a sophisticated operation based on a well-articulated marketing philosophy laid out in the book *The Culting of Brands: How to Turn Customers into True Believers*.¹⁰

Culting's author is Doug Atkin, who also happens to be AirBnB's Global Head of Community.¹¹ The book is pitched as a way to "teach marketers how to align themselves with a specific segment of the population, how to attract and keep new members, how to establish a mythology about the company, and how to manage a workforce filled with true believers."¹² The central thesis is that companies like Apple ("*Think Different*") and Nike ("*Just do it!*") share many characteristics common to cults like the Unification Church or the Hare Krishna in that these companies form a strong emotional connection to their customers and these customers view themselves as a part of a broader community.



This picture, taken from AirBnB's website, highlights the company's core principle of creating a sense of "belonging" through its service.

As Atkin puts it in the conclusion of *Culting*:

We have reached a unique intersection in society that favors marketers. On one side, established institutions are becoming increasingly inadequate sources of meaning and community. On the other, there has been a growth of a very sophisticated kind of consumerism... Alongside alternative religions, brands are now serious contenders for belief and community... [A]s long as traditional institutions fail, and marketers remain sophisticated, then brands can become credible sources of community and meaning.¹³

The *Culting* philosophy is evident in much of AirBnB's marketing, from its founding myth about the air mattress to its use of hosts as spokespeople. To build up this base, AirBnB has hired political field operatives in addition to contracting with traditional PR firms. A simple LinkedIn search shows that AirBnB's preference has been for hiring staffers with experience managing political campaigns. A December 2014 job posting for an AirBnB "community organizer" position, for example, listed "[r]ecruiting, training, and managing advocates of home sharing" as the primary job responsibility and "community organizing in political campaign[s]" as the top desired qualification for the position. As is the case with most jobs on a political campaign, the job listing also notes that the community organizer "will be a temporary position."¹⁴

The AirBnB Ecosystem

AirBnB's success is based on a revenue-generating model marked by externalized labor and overhead costs and centralized, low-risk control over a proprietary marketplace. Exploring the key elements of this marketplace sheds light on how the AirBnB system functions and where the company's internal workings deviate from its public pronouncements.

Hosts and listing types

AirBnB's business model is composed of three elements: hosts, listings and guests. Understanding the variations among these categories is a necessary step to unraveling how AirBnB generates revenue. AirBnB lists three different types of units as follows:

1. **Whole units:** An entire home, apartment or other accommodation. Host is not present in the unit during the guest's stay.
2. **Private rooms:** A space within a host's home or apartment with the expectation of some degree of privacy. Host is present in the unit during the guest's stay. In this listing type, the guest is essentially a short term housemate.
3. **Shared room:** Guest and host occupy the same living space, with a reduced expectation of privacy. This is the original "airbed" or couch surfing model described by the founder.

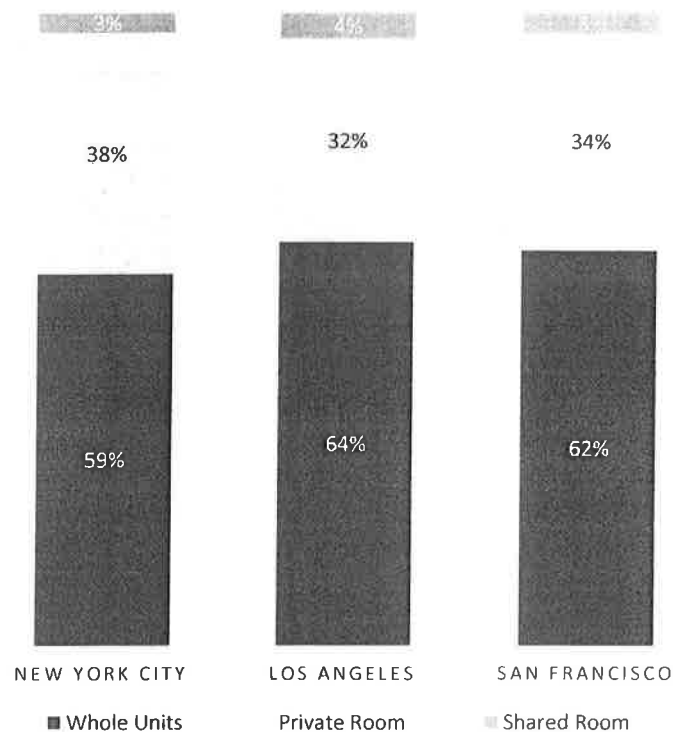
Renting out whole units exacerbates Los Angeles' existing shortfall of rental options while also creating safety hazards and quality of life concerns for Los Angeles neighborhoods.

Whole unit listings dominate key AirBnB markets

AirBnB's marketing and political outreach may center on private and shared room listings, but an examination of AirBnB listings in three key markets shows that the company's marketplace is dominated by whole unit listings.¹⁵

Figure 1

Percent of Listing Types by City



In all the major markets for which data are available, the number of whole unit listings outweighs the other types of listings by a nearly two-to-one margin, and shared rooms make up an almost negligible portion of the market.¹⁶ A breakdown by listing type appears in Figure 1.

Understanding the market mix of AirBnB's listings is a necessary step to gauging the effect the company has on residential neighborhoods. Renting out whole units exacerbates Los Angeles' existing shortfall of rental options while also creating safety hazards and quality of life concerns for Los Angeles neighborhoods.

The Los Angeles AirBnB Market

In a recent front page *Los Angeles Times* article exploring AirBnB's effects on neighborhoods, AirBnB reportedly claimed there were "roughly 4,500 hosts in L.A."¹⁷ The story did not indicate how many *units* AirBnB claimed to have in Los Angeles.

In fact, this significantly understates the size and scope of AirBnB's operations in the region. According to our data, as of October 17, 2014, there were more than 8,400 hosts in the Los Angeles area, nearly twice what AirBnB claimed. Even that number understates AirBnB's size. We found 11,401 AirBnB lodging units in the Los Angeles hospitality market.¹⁸

The categories AirBnB uses to describe its different types of lodgings are somewhat misleading. Terms like "host" and "sharing economy" imply a shared space and the presence of the person renting out the space in all three listing types. To better understand how the market actually works, we have developed a different system of categorization to more accurately reflect the size, type and scope of AirBnB's tourist-serving operations.

These categories are:

- Leasing Companies: Lessors listing two or more whole units;
- Single Lessors: Lessors listing a single whole unit; and
- On Site Hosts: Hosts listing private rooms or shared rooms.

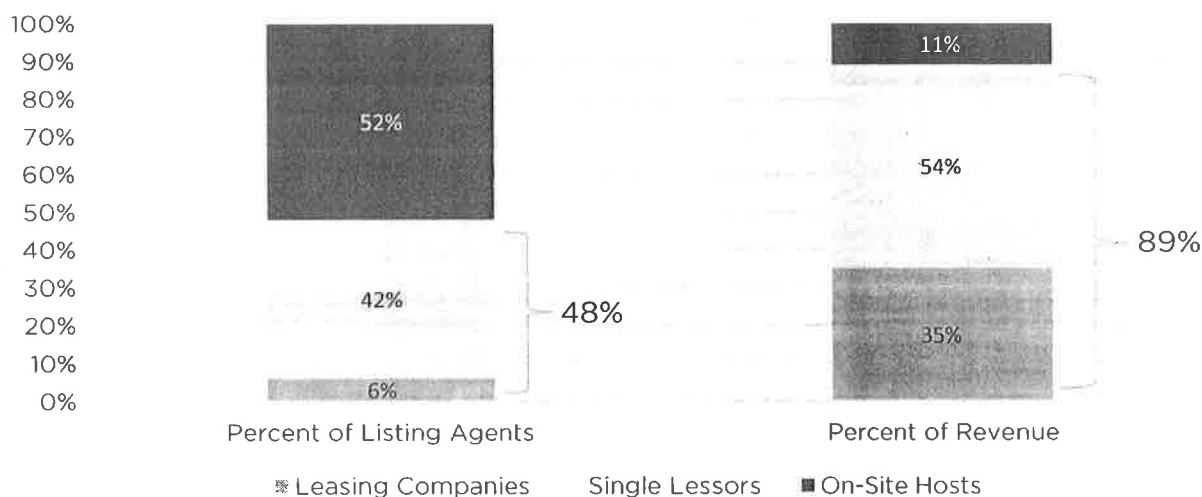
Figure 2, based on the company's data, shows that while those who actually "share"—the on-site hosts—are in the majority, they generate just 11 percent of the company's Los Angeles revenue.¹⁹

single lessors and leasing companies combine to generate 89 percent of AirBnB's Los Angeles revenue. A full 35 percent of revenue is generated by the six percent of the market that meets our definition of "leasing companies."

On-site hosts listing shared rooms accounted for less than one quarter of one percent of AirBnB's Los Angeles revenue. In terms of revenue generation, the spaces which most closely approximate AirBnB's earliest days are almost completely eclipsed by the listings which most closely resemble traditional hotels.

Figure 2

Revenue Generation by Listing Agent Type



High intensity use indicates hotel conversion

Commercial entities—the combination of leasing companies and individual lessors—are responsible for the most intensively used AirBnB units in the city. Rather than representing “surplus capacity” in the housing market, listings with hundreds of reviews present the clearest evidence of the conversion of residential uses into hotels.

For example, the most reviewed listing in our dataset is a Venice Beach guest home with 326 reviews and a minimum stay of two nights.²⁰ In Appendix B we describe how we estimate occupancy based on this information.

These adjusted booking data show this Venice guest house was likely to have been booked for 1,231 days, or 3.4 years.²² The listing’s hosts have been AirBnB members since 2009, meaning this unit had an occupancy rate of 69 percent. The average occupancy rate for a limited service hotel is 67.8 percent, according to PKF Hospitality Research’s 2014 Trends in the Hotel Industry.²³



This rent-controlled Venice apartment building has an AirBnB unit with a 93 percent occupancy rate.

The top 10 most highly reviewed AirBnB units had average occupancy rates of 66 percent, in line with industry rates. While not the most reviewed unit in our database one Venice studio, had an occupancy rate of 93 percent indicating this rent controlled unit is a near-constantly occupied hotel.²⁴

Hosts with multiple units may be professional management companies

As our category name suggests, “leasing companies” are not individuals. Instead, listing agencies have consolidated AirBnB listings under an assumed AirBnB host. A host going by the name “Ghc” is the most prolific host in our Los Angeles AirBnB database, with 78 whole units in a dense cluster spanning the border between Santa Monica and Venice. Ghc’s host page is pictured in Figure 3.²⁵ Ghc is, in fact, the AirBnB page for Globe Homes and Condos, a company that describes itself as a “full service vacation rental management company.”²⁶



Most reviewed AirBnB listing in Los Angeles is this Venice Beach guest house.

Globe Homes' owner is Sebastian de Kleer, who co-founded the Los Angeles Short term Rental Alliance (LA-STRA) with Ari Eryorulmaz of AE Hospitality, another leasing company.²⁷ Given its co-founders, it is not surprising that LA-STRA is unambiguous about supporting the rights of "professionals in the short term vacation rental industry." LA-STRA's mission is to "to organize and unify the vacation and corporate rental community with the purpose of being able to influence new developments in laws and regulations regarding short term furnished rentals."²⁸ However, in a *New York Times* piece profiling the proliferation of illegal hotels in New York City, de Kleer was far more succinct saying, "I need to be able to compete with the hotels[.]"²⁹

Before listing themselves as Ghc, de Kleer's company maintained its AirBnB presence under the name "Danielle and Lexi." The case of Danielle and Lexi is especially instructive in how complex the AirBnB

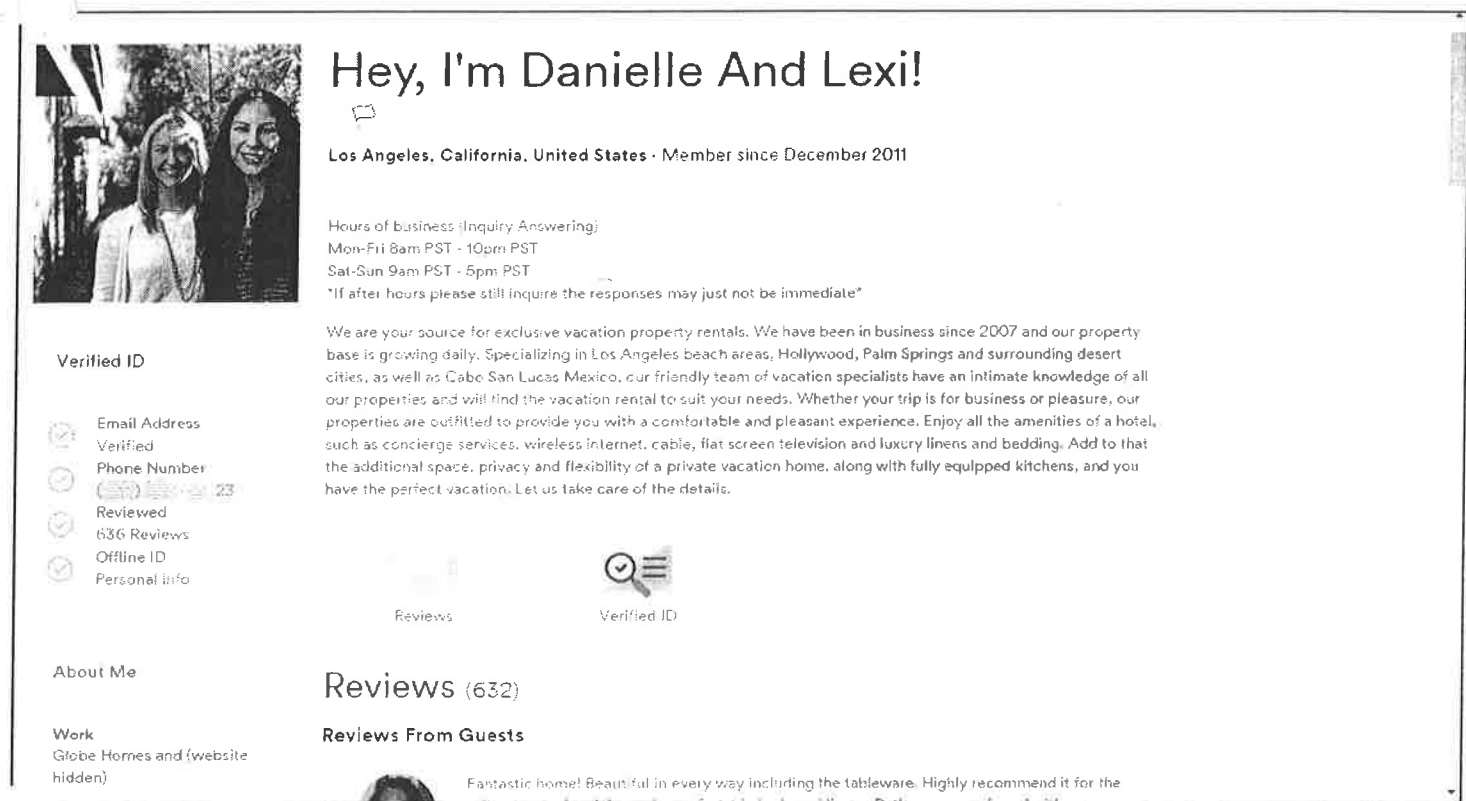
market in Los Angeles has become.³⁰ In spite of the fact that Danielle and Lexi received a "verified ID" badge on their profile page, we have no way of knowing if they had any role in the properties other than having their photo taken. All the listings featured on Danielle and Lexi's AirBnB host page were actually managed by Globe Homes and Condos. The Danielle and Lexi host page is pictured in Figure 4.

Ownership obscured

Globe Homes works with property owners to convert their properties into de facto hotels. Tracking down ownership information for these units is difficult as AirBnB only releases exact unit addresses once a booking has been confirmed. However, we were able to determine the exact address of one of the Globe-managed AirBnB properties. A search of public records showed the apartment building, located a few blocks off Abbot Kinney, is owned by Michael Tatum. Tatum also



Figure 3: The profile page for Globe Homes and Condos



The screenshot shows an Airbnb profile for 'Danielle and Lexi' from Los Angeles, California. The profile includes a photo of two women, a bio stating they have been in business since 2007, and a 'Verified ID' badge. The bio mentions they are a source for exclusive vacation property rentals in Los Angeles, Hollywood, Palm Springs, and surrounding desert cities. It also lists amenities like concierge services, wireless internet, cable, flat screen television, and luxury linens and bedding. The profile has 636 reviews and a 'Verified ID' badge. The 'About Me' section mentions 'Globe Homes and (website hidden)'. The 'Reviews' section shows a review from a guest: 'Fantastic home! Beautiful in every way including the tableware. Highly recommend it for the'.

Figure 4: Danielle and Lexi were the previous avatars of Globe Homes and Condos on Airbnb.

owns 19 other properties throughout Los Angeles and Santa Monica. Many of these properties also happen to be apartment buildings, although to the best of our knowledge these buildings have not been converted into tourist accommodations. Tatum purchased the building on Santa Clara Street, a low-density residential zone, in 2009

Tatum has a contract with Globe Homes, and Globe Homes, under the guise of "Danielle and Lexi," listed the units within the apartment building through Airbnb. The building has at least five units, all of which are covered by the City of Los Angeles Rent Stabilization Ordinance (RSO, also called "rent control").³¹

Renting these units out to transient visitors allows Michael Tatum to sidestep the tenant protections, bars on eviction, and limited rent increases built into the RSO, while collecting a predictable income from tourists.

Michael Tatum is presumably well aware of the limitations the RSO places on Los Angeles landlords. His father, Thomas Tatum, donated \$125,000 in support of Proposition 98, a 2008 initiative which would have allowed rent control units to become permanently market rate after being vacated by a tenant.³² Thomas Tatum was also a major backer of Proposition 199 in 1996,

In spite of the fact that Danielle and Lexi received a "verified ID" badge on their profile page, we have no way of knowing if they had any role in the properties other than having their photo taken.

along with his business partner, Jeffrey Kaplan. Tatum and Kaplan, who owned several hundred mobile home units in California, would have benefited greatly from the passage of Prop. 199 which was intended to phase out rent control protections in mobile home parks.³³ By renting their units out on AirBnB, the Tatums have finally bypassed the RSO, while also providing an instructive example of the relationship between AirBnB and rising housing costs described later in this report.

Globe Homes recently retired “Danielle and Lexi” as their avatars. Nonetheless, the Danielle and Lexi case underscores the regulatory complexity that cities face when trying to enforce zoning and housing ordinances at AirBnB units. Danielle and Lexi were not ultimately responsible for following city laws. The actual owners of a property need never interact directly with the traveling public, and AirBnB provides no way to directly contact a property’s owner as opposed to its agents or lessees.

This case also undermines one of the cornerstones of AirBnB’s business model, namely that the company’s ratings and identity verification system are a viable means by which travelers can vet their prospective hosts. Danielle and Lexi had a badge prominently featured on their profile page indicating that they had a “verified ID,” but they were at least two degrees of separation away from the property’s actual ownership.

A recent Boston University study suggests that AirBnB’s ratings are nearly worthless. According to this study, nearly 95 percent of AirBnB properties boast an average user-generated rating of either 4.5 or 5 out of 5 stars. These inflated ratings are believed to be caused in part by having hosts and guests review each other. As the *New York Times* coverage of this study noted, AirBnB guests that seem too critical worry they “might get turned down by future hosts who worry [guests] will be too demanding.”³⁴

The company does not monitor lodgings in any way, and relies exclusively on these ratings to determine the quality of the accommodation on offer.³⁵

The bottom of the AirBnB economy

AirBnB has argued that its service should be legalized on the grounds that it can help ordinary people supplement their incomes or remain in their homes. The company has also taken the position that “outdated” zoning codes are ill-suited to regulate the new, tech-driven “sharing economy.”

In this economy, AirBnB is a clear winner. As of October 17, 2014 there were 11,401 listings in the L.A. region as defined by AirBnB. Based on an analysis of AirBnB listing data and data provided by the company to the New York Attorney General’s office, we estimate the total revenue generated by these units to be \$80 million in 2014 alone.³⁶

However, our data show the very individuals who are meant to benefit the most from AirBnB’s service— “ordinary citizens”— are more than three times as likely to generate no revenue than hosts with multiple listings. Analyzing listing data from AirBnB’s public facing site shows that 38 percent of hosts with a single listing of *any type* generated no income whatsoever. These hosts have essentially failed to generate any benefit from listing their homes on AirBnB.

Our data show that the very individuals who are meant to benefit the most from AirBnB’s service – “ordinary citizens” – are more than three times more likely to generate no revenue than hosts with multiple listings.

Hosts with access to more resources are able to extract the most benefit out of the AirBnB market. For hosts with two or more listings, the rate of failure to generate revenue is only 11 percent. Only two percent of hosts with five or more listings have failed to generate revenue.

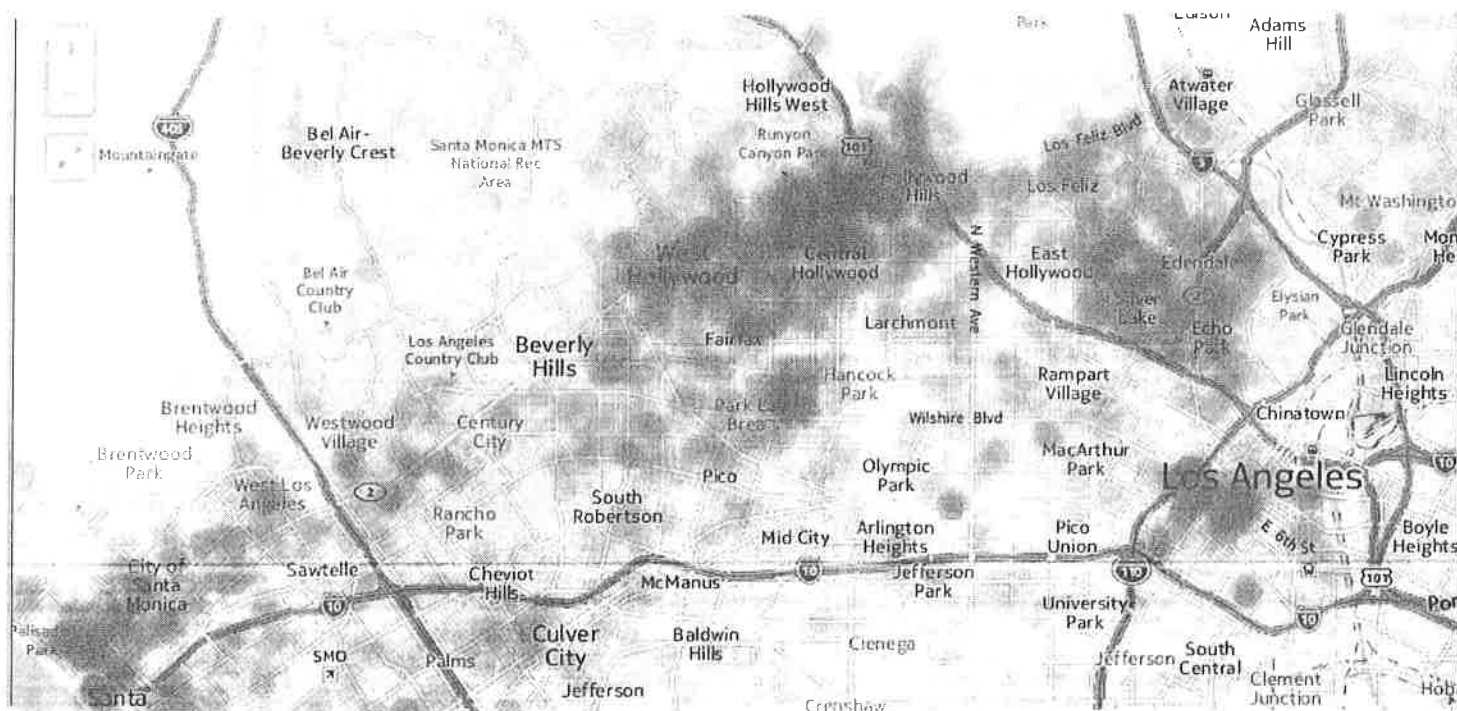
Rather than disrupting the existing economic order, AirBnB seems to have simply reinforced that hierarchy. Our data show that AirBnB units are most densely clustered in Los Angeles neighborhoods with rents that are, on average, 20 percent higher than citywide median rent.³⁷ These are affluent neighborhoods with attractive housing stock and easy access to amenities. These are the characteristics that make these places attractive to tourists and residents alike.³⁸

Research conducted by the Harvard Business School has also uncovered a racial component to who is most able to profit in the AirBnB marketplace.

Famin Edelman and Michael Luca conducted a study which found that “non-black hosts received

12 percent more for a similar apartment with similar ratings and photos relative to black hosts.” The authors’ statistical analysis controlled for “all of the attributes that are readily observable to a potential tenant browsing listings on AirBnB.”

Edelman and Luca conclude AirBnB’s attempts to build trust into the market it created may have the unintended consequence of enabling its users to impose a “significant penalty” on black hosts trying to earn income through AirBnB. Encouraging hosts to post photos of themselves and links to social media profiles provides all the information needed to engage in discriminatory practices. AirBnB’s “verified ID” program may make it easier for prospective tenants to discriminate against black hosts.³⁹ The median percentage of African Americans in AirBnB’s key profit-generating neighborhoods is 4.6 percent, below the citywide average of 9.5 percent.⁴⁰



presentation of the regions of Los Angeles in which AirBnB generated revenue. Revenue generation is clustered in coastal neighborhoods and in a corridor stretching from the Miracle Mile, through Hollywood and Silver Lake, to Downtown Los Angeles.

AirBnB's job costs

If AirBnB units were hotel rooms, the 11,401 units on the Los Angeles market would employ more than 7,400 hotel workers, earning an average wage of \$14.07 per hour.⁴¹ However, one way AirBnB keeps overhead low is to outsource traditional hospitality labor jobs, most notably housekeeping. Housekeeping is likely carried out by domestic workers employed by any number of home cleaning services.⁴² Domestic workers earn a median wage of \$10 per hour.⁴³

For every hour a domestic worker is hired to clean a tourist-serving accommodation, that worker is underpaid relative to a hotel worker by an average of \$4.07. If AirBnB lodging employed as many workers as hotel lodging, and assuming a standard 35 hour work week, paying AirBnB's cleaning workforce at the median domestic worker rate results in \$1.1 million less in wages than a similarly-sized hotel every week, or more than \$54 million every year.

AirBnB may actually cost jobs in hotels.

In fact, this likely understates the effect in several ways. Although data are not available, it is almost certain that AirBnB units do not provide as many jobs as hotels. Hotels employ workers in many job classifications AirBnB units do not—front desk, valet and parking, telephone operator, shuttle driver, security, and janitorial to name a few. These classifications account for two-thirds of the total hotel workforce. Moreover, unlike in a hotel, most AirBnB units are not cleaned every day, and some may be cleaned by the owner or host rather than by a cleaning company.

It is more likely that AirBnB units provide employment for, at most, 20 percent of the number of workers as a similarly-sized hotel. In other words, even a high estimate finds some 1,500 workers in place of the 7,400 that would be in a hotel with as many rooms as AirBnB. The wages paid to workers at AirBnB lodgings may be 13.2 percent of what they would be at a similarly sized hotel, resulting in a difference of \$3.1 million a week in wages.

Further, AirBnB may actually cost jobs in hotels. A 2014 Boston University School of Management study demonstrated that AirBnB's growth has had a statistically significant negative impact on hotel revenue.⁴⁴ This effect compounds the downward pressure that AirBnB places on wages, as hotels are less likely to give part-time employees any more hours or hire new staff.

For those workers in the AirBnB system, challenges extend beyond lower wages. Domestic workers face a notoriously exploitative and unregulated employment landscape. A study released by the University of Illinois Chicago and the National Domestic Workers Alliance found 61 percent of California domestic workers receive a wage insufficient to support a family and 54 percent of these workers reported working with toxic cleaning supplies. The report also found that "the lack of enforceable standards increases the likelihood of mistreatment."⁴⁵

Many housekeepers working for a hotel qualify for healthcare under the Affordable Care Act. Domestic workers are likely to be employed by smaller employers or engaged as independent contractors, reducing the likelihood that they will qualify for healthcare. Enforcing discrimination claims, overtime violations, and safety standards is challenging enough when all workers are directly employed by a single employer at a single worksite, but exponentially more so in the diffuse domestic work sector.⁴⁶

AirBnB and the Housing Market

Whether a market is digital or physical, basic economic principles of supply and demand are still operative. Traditionally, the rental housing market and the hospitality industry do not intersect. However, AirBnB has created a platform that allows landlords to pit tourist dollars against renter dollars. Landlords can potentially earn significantly more money by converting traditional rental stock into AirBnB units, as many appear to have done.

Los Angeles cannot afford to lose housing units. The Los Angeles Department of City Planning's Housing Needs Assessment shows that the city needs an additional 5,300 units of affordable housing each year to keep up with demand. However, Los Angeles developers have only averaged about 1,100 units of affordable housing per year since 2006. The 7,316 whole apartments currently listed on AirBnB represents nearly seven years' of affordable housing construction at the current rate of housing development.⁴⁷

AirBnB has created a platform that allows landlords to pit tourist dollars against renter dollars. Landlords can potentially earn significantly more money by converting traditional rental stock into AirBnB units, as many appear to have done.

Los Angeles has the highest percentage of renters of any city in the country. Although the average rental price in Los Angeles has increased over the last three years, median wages have stagnated.⁴⁸

These factors have combined to make the Los Angeles rental market the least affordable in the

The 7,316 whole apartments currently listed on AirBnB represents nearly seven years' of affordable housing construction at the current rate of housing development.

country.⁴⁹ According to research conducted by UCLA's Ziman Center for Real Estate, 77 percent of low income Angelenos devote more than half their income to rent.

AirBnB creates incentives to take units off the rental market

The Morrison Apartments in Venice Beach show this new incentive structure in action. Located one block from the Venice Boardwalk, the 21 units in the Morrison are covered by the City of Los Angeles Rent Stabilization Ordinance. Coldwell Banker Commercial (CBC) recently listed the Morrison for sale. In an Exclusive Offering Memorandum obtained by a member of the Venice Neighborhood Council, CBC presents the conversion of the Morrison to AirBnB units as the prudent financial choice for prospective owners.

CBC estimates that a landlord could expect about \$200,000 in net annual income by renting these rent-controlled units out on the open market. If the new landlord converts the building into AirBnB units, CBC estimates they could expect to bring in more than \$477,000 per year, assuming a 67 percent occupancy rate. The projected rate of return under the Morrison's residential configuration is estimated to be 5.6 percent, while the projected rate of return for configuring the Morrison as an AirBnB building is 13 percent.⁵⁰ The occupancy rate for nearby hotels is above 75 percent and these properties consistently sell out during the summer high season.⁵¹

FINANCIAL OVERVIEW

The Morrison Apartments - 14 Westminster Ave., Venice, CA 90291

[illegible]

THE MORRISON APARTMENTS

14 WESTMINSTER AVENUE, VENICE, CA 90291



21 UNITS - OFFERED AT \$6,000,000

ERIC SACKLER

EMUS SAKKIN
Director
T: 310-975-4970
E: EmusSakk@earthlink.net
11641 San Vicente Blvd, 10th Fl.
Los Angeles
California 90047



AIRBNB/VRBO PRO FORMA FINANCIAL OVERVIEW

The Morrison Apartments • 14 Westminster Ave., Venice, CA 90291

Investment Summary		Unit Risk-Adjusted Securities Income			
Plan	Investment	Assets	Units	Market	Income
Plan A	100,000	1.0	100	100.00	100.00
Plan B	200,000	2.0	200	200.00	200.00
Plan C	300,000	3.0	300	300.00	300.00
Plan D	400,000	4.0	400	400.00	400.00
Plan E	500,000	5.0	500	500.00	500.00
Plan F	600,000	6.0	600	600.00	600.00
Plan G	700,000	7.0	700	700.00	700.00
Plan H	800,000	8.0	800	800.00	800.00
Plan I	900,000	9.0	900	900.00	900.00
Plan J	1,000,000	10.0	1,000	1,000.00	1,000.00



What is an EMB?

Equipment Maintenance	\$6,000
Insurance	\$2,000
Utilities	\$1,000
Supplies	\$500
Depreciation	\$1,000
Interest	\$1,000
Payroll Taxes	\$1,000
Income	\$20,000
Net Income	\$10,000
Total Expenses	\$12,000
Prepared by: J.M.	\$10,000
Reviewed by: J.M.	\$10,000

Prepared by Coldwell Banker, this financial overview compares the rate of return for a traditional rental listing and conversion to an illegal hotel.

It is reasonable to assume that landlords and property owners across the city are making similar cost-benefit analyses with respect to their housing stock. One enterprising AirBnB impresario, Jon Wheatley, even posted a step-by-step guide for buying apartments for the purpose of running a remotely-managed AirBnB listing.⁵² While Coldwell Banker does encourage prospective buyers to “check with the city” before converting a building into AirBnB stock, the challenges inherent to enforcing the zoning code on more than 11,000 AirBnB units has allowed these sorts of bootleg boutiques to proliferate unchecked throughout Los Angeles neighborhoods.⁵³

This new incentive structure has very real consequences for Los Angeles renters. The Waldorf is an historic apartment building in the heart of Venice. As the building's owner has begun converting the Waldorf into a de facto hotel, long-term residents have felt increasingly unwelcome in their homes. As their friends and neighbors

have moved out, their building's owner has listed newly vacant apartments as short-term tourist accommodations rather than bringing in new long-term tenants. Residents also believe their landlord is no longer performing basic maintenance on their apartment because they are not as profitable as the tourist-serving units.

OCTOBER 1978

I BOUGHT AN APARTMENT TO RENT OUT ON AIRBNB

In 2012 I bought an apartment specifically to rent out on airbnb. I've been managing it remotely for the past year. This post includes everything I learned as well as some revenue numbers.

The how-to guide posted by Jon Wheatley detailing how to purchase a rental unit and operate it as an AirBnB unit.

Table 1

AirBnB's Top Grossing Neighborhoods in the City of Los Angeles

Neighborhood	Percentage of total AirBnB Listings	Number of AirBnB Listings	Percentage of Revenue	Residential Vacancy Rate
Venice	12%	1,137	23%	4%
Downtown	3%	270	14%	4%
Miracle Mile	9%	848	9%	3%
Hollywood	11%	980	7%	3.5%
Hollywood Hills	5%	452	6%	3.5%
Echo Park	3%	325	5%	3.5%
Silver Lake	4%	361	5%	3.5%
Mar Vista	2%	191	2%	2.6%
Los Feliz	2%	196	2%	3.5%
Total	51%	4,760	73%	Avg: 3.5%

Beyond the nuisance this has caused, Waldorf residents miss the sense of community they once had with their neighbors. They report being awakened by regular cleaning crew visits and not recognizing the people they pass in the hallways when they get home from work.

Even though a portion of their building is already being used as hotel, Waldorf residents would likely be swiftly evicted if they rented out their apartments on AirBnB. In one case, a Venice landlord brought suit against one of his tenants who was renting out her rent-controlled Venice apartment at a nightly rate equivalent to about \$3,000 per month, while paying a rent of just \$1,000 per month.⁵⁴ This landlord was presumably aware that his tenant was paying a monthly rent well below the neighborhood's median rent.⁵⁵ AirBnB is plainly illegal in low density residential areas, and converting a rental apartment into a business is against the terms of most residential leases. Consequently, this landlord had unambiguous legal grounds for an eviction. He is now able to list this unit at the market rate, tripling the rent he earns every month in the process.

High AirBnB density overlaps with higher rents and lower rental vacancy

AirBnB has units listed throughout Los Angeles, but just nine of the City's 95 neighborhoods are responsible for generating 73 percent of the company's revenue. These neighborhoods are ranked in Table 1 in order of the share of total revenue.

The apartment listing service *Lovely* releases a quarterly report of the Los Angeles rental market charting the growth in median rent. The Q3 2014 report, released December 2014, highlights some dynamics shaping the Los Angeles rental market. The report's key finding is that rents in Los Angeles have increased 10.4 percent between Q1 2013 and Q3 2014 with a median rent of \$1,865 across all unit types and sub-markets. This represents a growth rate more than three times that of San Francisco.⁵⁶

The rapid growth in rents has a cumulative effect on the regional economy. The UCLA Anderson School of Business March 2014 Human Capital Report indicated the high cost of housing in Los Angeles has created a statistically significant drag on job creation in the region.⁵⁷

AirBnB market density coincides with neighborhoods that have rents well above the citywide average. These neighborhoods boast an average rent 20 percent higher than the citywide average.⁵⁸

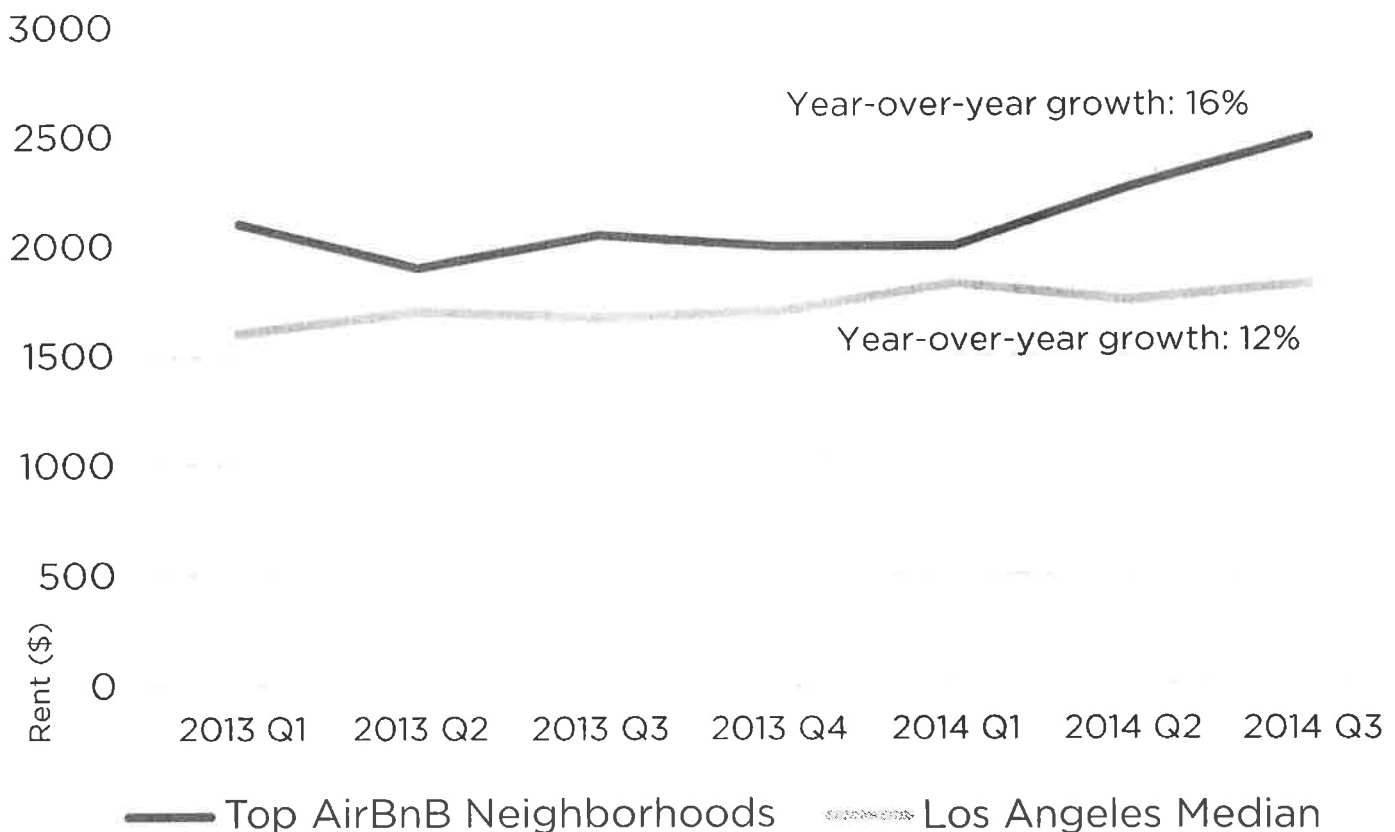
Rental prices in these neighborhoods have increased substantially in recent years. Real estate listing company Zillow creates an index of Los Angeles neighborhood rents going back to 2011. According to Zillow's data, these neighborhoods have all had double digit increases in rent over the last three and a half years; Hollywood's rent has climbed by 20 percent, while rent in Echo Park has increased by 31 percent. Mar Vista, a residential West Los Angeles neighborhood adjacent to both Venice and Santa Monica, has had a 41 percent

increase in rent since 2011.⁵⁹ As shown in Figure 5, since the beginning of 2013 rents in AirBnB's top neighborhoods have climbed 16 percent, as compared to a 12 percent growth in the citywide median rent over the same time period.

Rental pricing is based on numerous economic factors and market forces, and we do not know the exact relationship between AirBnB density and median rents. It is telling that the average vacancy rate for AirBnB's top nine neighborhoods stands at 3.5 percent. The City of Los Angeles places special significance on neighborhoods with low vacancy rates. In 2006, at the height of a boom in the conversion of rent-controlled units into condominiums, the Los Angeles City Council passed an ordinance allowing City agencies to deny

Figure 5

Comparison in Median Rent Between AirBnB Top Neighborhoods and Citywide Median Rent



do conversions in neighborhoods with vacancy rates below five percent.⁶⁰ Removing rental units from these markets by the thousands, as AirBnB has facilitated, appears to have contributed to declining vacancy rates, and consequent rising rents.

Examining AirBnB listings turns up examples like the case of 1010 Wilshire, a high end apartment building with 227 units in Downtown Los Angeles. AirBnB lists Alexandra as the “host,” though as with Danielle and Lexi, we have no way of knowing if she runs the building or is merely an attractive image in a photograph. Either way, 1010 Wilshire’s management has listed 20 percent of its units as tourist accommodations on AirBnB rather than housing for locals.

When the rental market does not work in 1010 Wilshire’s management’s favor, they can participate in the tourist market instead. This distorts the rental market by limiting rental supply. In doing this, 1010 Wilshire’s management is following the path of

Removing rental units from these markets by the thousands appears to have contributed to declining vacancy rates, and consequent rising rents.

least resistance to the highest rent possible. AirBnB has provided the tools and incentive structure that make this decision not only profitable, but also reasonable.



Hey, I'm Alexandra!

Los Angeles, California, United States • Member since June 2013

Alexandra is the owner and manager of 1010 Wilshire, a high end apartment building in Downtown Los Angeles. She is a professional and experienced host, and has been hosting guests for over 5 years. She is a member of the 1010 Wilshire community and is always available to help guests with any questions or requests.

Verified ID

Verified ID



Reviews (26)

Reviews From Guests



The place was great and the host was very helpful. The building was very nice and the location was perfect. I would definitely recommend this place to anyone visiting LA.

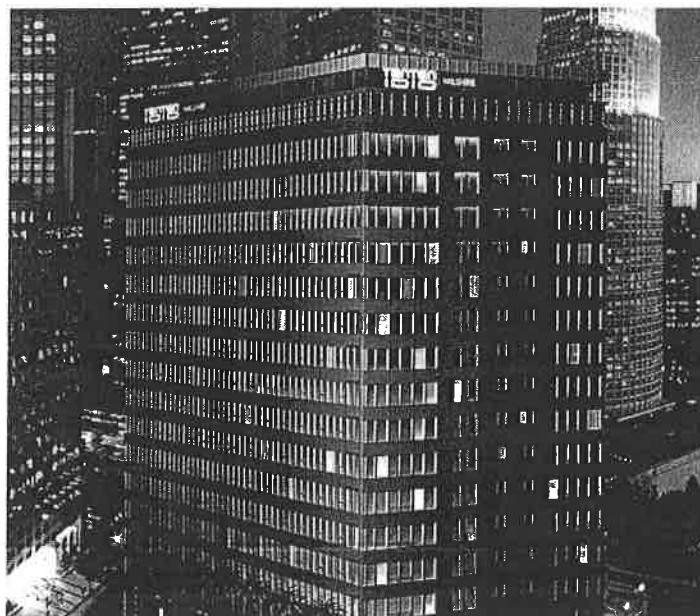


The place was great and the host was very helpful. The building was very nice and the location was perfect. I would definitely recommend this place to anyone visiting LA.



Alex made all the arrangements for my stay and was extremely helpful. The place was great and the host was very helpful. The building was very nice and the location was perfect. I would definitely recommend this place to anyone visiting LA.

Host page for Alexandra, 1010 Wilshire’s AirBnB leasing agent.



Exterior shot of 1010 Wilshire from the leasing company’s home page.

AirBnB in Los Angeles Neighborhoods

When municipalities implement zoning codes they have a basic purpose, namely the promotion of the health, safety, and general welfare of the community. Zoning codes fulfill this purpose by maintaining a separation between major land use categories (residential, agricultural, industrial, commercial) and by allowing only specified types of use in each major category. Most municipal zoning codes generally do not, for example, allow for the construction of heavy commercial uses in the midst of a single-family residential community.⁶¹

The Los Angeles Municipal Code treats residential zones with a great deal of deference, particularly where new commercial developments are concerned. If a new project is proposed that requires a variance from established zoning for an area, neighbors within a 500 foot radius must be notified, and an Area Planning Commission takes up the issue in a public hearing.⁶²

In AirBnB's Venice stronghold there are 1,137 AirBnB units. According to our estimates this is about 12.5 percent of all housing units in the community and an average of 360 AirBnB listings per square mile.⁶³ In some parts of Venice whole blocks have been given over to illegal hotel operations.⁶⁴ Public hearings and approval were not held for any of these conversions. By contrast, a local developer has sought to build the Abbot Kinney Hotel, an 82-room property, for more than three years, working with the Planning Department, community groups and numerous official and unofficial public forums. Approvals have not been granted as of this writing.

One reason for the long process for the Abbot Kinney hotel is concerns about neighborhood character and traffic. As the number of tourists in an area increases relative to the number of permanent

residents, it stands to reason that objective and subjective measures of neighborhood cohesion would decrease. A 2012 Urban Institute study pointed to research around residential instability. According to this study, "high residential instability in a neighborhood can result in reduced social cohesion and disrupt institutions which, in turn, can make a neighborhood more susceptible to crime."⁶⁵

For many long-time Venice residents, this academic verification was unnecessary. They have seen first hand what it is like to have a neighborhood converted into a hotel overnight. For one resident, it has meant watching an 80-year-old neighbor get sent to the hospital over a confrontation with loud tourists on his block. He notes that there are "different people every week... hanging out smoking on the sidewalks." He feels his community has changed for the worse, a sentiment echoed by another Venice resident forced to leave after 27 years when the house he was living in was sold. He says, "I'm not some romanticist that believes everything has to stay the same, but AirBnB has turned our neighborhood into a nightmare...We live on a 'walk street'...where we knew our neighbors...I don't know the people here anymore."

Numerous tourists moving through a neighborhood can also exacerbate parking deficiencies and worsen overall quality of life for residents. Scott Plante, a past member of the Silver Lake Neighborhood Council, has received more than 30 complaints over the past year from neighbors. These complaints include unfamiliar cars blocking driveways, late night parties on formerly quiet streets, and concerns about child safety in an environment with fewer familiar eyes on the street. As Plante noted in a recent *Los Angeles Times* story detailing the difficulties Silver Lake has had with AirBnB units, "It's supposed to be a spare room — not corporate interests taking over our neighborhood and turning everything into a virtual hotel."⁶⁶

In Venice there are an average of 360 AirBnB listings per square mile.

Who Can You Trust?

Public health and safety in hotels

Hotels are subject to numerous health, safety, and insurance requirements. The city has seen fit to regulate hotels differently than residential properties because they are different in fundamental ways. AirBnB allows hosts to utilize their spaces like hotels without being subject to any of the same regulatory checks to which actual hotels have adapted over the years.

According to the Los Angeles Municipal Code, hotels must, for example, keep detailed registries of all guests. These registries are often used in criminal investigations and to “regulate sketchy motels that can serve as magnets for crime.”⁶⁷ AirBnB hosts do not maintain such records. Such registries can also help public health officials in tracking the spread of infectious disease. By design, traditional hotels serve many more guests on a per unit basis than do typical rental apartments. This makes them more likely to act as vectors for infectious diseases and in like bed bugs, influenza and measles.

Hoteliers are aware of the risks and have instituted protocols to deal with these issues. Hyatt Hotels, for example, has instituted a chain-wide hypoallergenic rooms program that involves medical grade air filters and biannual intensive decontamination treatments.⁶⁸ Even budget brands like Best Western equip their housekeepers with ultraviolet wands and black lights to ensure each guest room is thoroughly cleaned after each guest checks out.

As tech writer Brendan Mulligan discovered, a lack of standardized cleanliness can throw a major wrench into a trip. Mulligan is a self-described “big fan” of AirBnB. Unfortunately, on a recent trip Mulligan was greeted by pillows and sheets which he described as “disgusting” and possibly “soaked in every bodily fluid imaginable.” Mulligan goes on to say of the risk involved when booking an AirBnB apartment, “There is no baseline of cleanliness, and no immediate options if it doesn’t suit your needs. ... When you check into a hotel room, you see a big

stain in the middle of the bed, you can ask to switch rooms, or at the very least to get new sheets. But when you check into an apartment in a foreign city, you don’t have that option.”⁶⁹

If AirBnB were to mandate higher standards for their hosts, their business model dictates that each individual host would bear the responsibility for sanitation. The company has made some efforts to connect hosts with local cleaning crews through a partnership with Handy, another shared economy company focused on residential cleaning.⁷⁰ Nowhere in Handy’s promotional material does the company, which outsources cleaning duty to an undefined pool of cleaners, mention the kind of intensive sanitization offered by major hotel chains.⁷¹ As discussed above, our data suggest some AirBnB units are being used with the same intensity and guest turnover as hotels, but without the benefit of cleanliness standards. Without such standards, infectious diseases may be transmitted more easily in AirBnB units. Without registries, public health officials may have a harder time halting their spread.



Some AirBnB units are being used with the same intensity and guest turnover as hotels, but without the benefit of cleanliness standards. Without such standards, infectious diseases may be transmitted more easily in AirBnB units.

ADA compliance and enforcement

As public accommodation spaces, hotels are subject to the Americans with Disabilities Act (ADA) compliance standards. Under ADA guidelines, any public accommodation with five or more rooms set aside for guests qualifies as a “place of lodging” and is subject to the accessibility requirements set forth in the ADA.⁷² ADA requirements for lodging places include accessibility retrofits to entry and exit points, grab bars in restrooms, and designated lodgings for individuals with disabilities. As of 2012, lodgings must also enumerate through their reservation systems the types of accessible features in each handicap accessible room.

AirBnB is aware of these requirements, but the company does not verify any of its hosts’ claims of wheelchair accessibility. The company’s Host Help Center summarizes a few salient points about the ADA and notes that hosts with five or more listings “may” need to comply with the ADA.⁷³ The company also points out that ADA requirements are not generally applicable to residences. Only AirBnB knows exactly which hosts have five or more units at a single address. The best approximation we can make is to examine the number of people an AirBnB listing can accommodate. There are 647 whole unit AirBnB listings in Los Angeles that accommodate five or more people. While these listings may exist in a regulatory grey area, commercial hosts who operate *de facto* hotels are very clearly operating “places of lodging” as defined by the ADA.

One such host owns a multifamily building in Hollywood. He operates this property as a hotel by using AirBnB to list out individual units that are not rented out by long-term tenants. His Cozmo property contains 32 multi-family units, a fluctuating number of which appear to be rented out via AirBnB.⁷⁴ These units are available for both long-term tenants through the traditional leasing process and to travelers through AirBnB. Were this a full time hotel property, it would clearly be subject to ADA requirements.



Figure 6: An AirBnB bathroom in a building with more than five units. There are no grab bars in this bathroom.



Figure 7: ADA compliant bathroom in a traditional hotel. Note grab bars and roll-in shower stall.

Cozmo units appear to be simultaneously residential and hotel uses. ADA compliant bathrooms in hotels, such as the one at a Hilton, shown in Figure 6, feature grab bars and showers that can accommodate a wheelchair.⁷⁵ Cozmo management posted the image in Figure 7 to illustrate the bathroom in one of their units that has been marked as “wheelchair accessible” though it does not appear any different from most residential bathrooms.⁷⁶

Under the ADA, hospitality reservation systems are required to give potential guests the option to reserve wheelchair accessible accommodations. Again, AirBnB’s inability to standardize its offerings may land guests who require wheelchair accessibility in some very inaccessible units. Take for example a listing in Hollywood which bills itself as “wheelchair accessible.” Perusing its attached photographs, one of which is shown in Figure 8, quickly turns up a picture of a steep staircase leading to the bedroom. There appear to be no additional accommodations for a guest that would allow a wheelchair bound guest to make his or her way up to the bedroom.

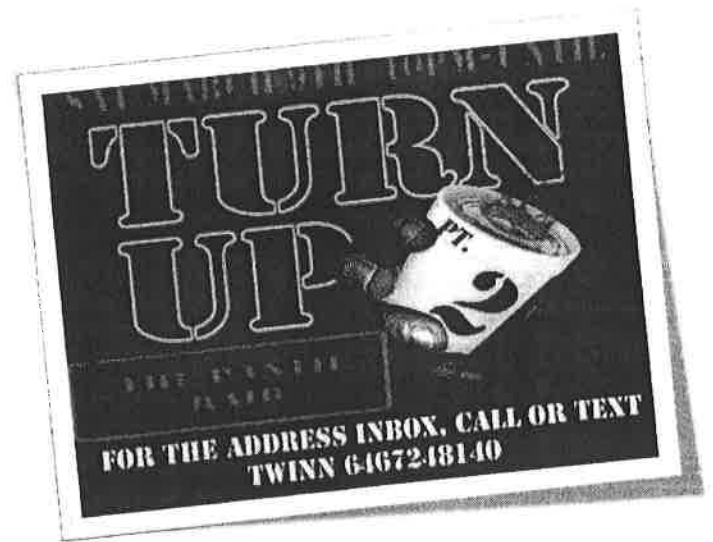


Figure 9: Flyer advertising a party in Ari Teman’s New York City apartment. Teman was not aware of this party.

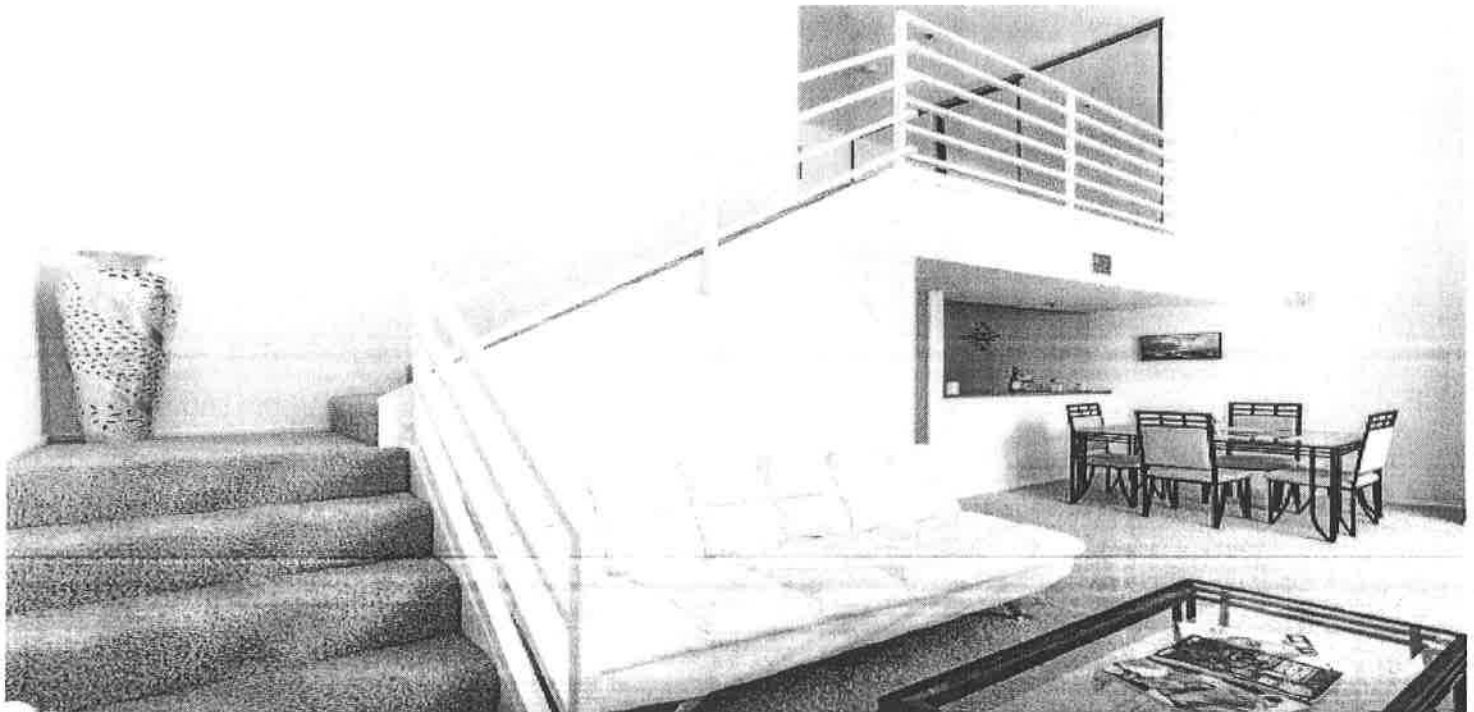


Figure 8: A “wheelchair accessible” AirBnB unit in Hollywood.

Strained relations between AirBnB and its hosts

The assumption of trust between AirBnB hosts and guests is the lynchpin holding the AirBnB marketplace together. Every horror story detailing travelers blindsided by misleading AirBnB listings or plagued by bed bugs undermines this trust.⁷⁷ Misbehaving or destructive guests also shake the trust that hosts place in AirBnB. Hosts have faced illegal activity in their homes, theft of their belongings, or destruction of their property.⁷⁸

New York City AirBnB host Ari Teman's experience provides an instructive example of the risk hosts incur when they rent out their homes. Teman agreed to rent out his space because the prospective guest "had a verified account and he seemed legit... he had three positive reviews." Teman alleges the individual to whom he rented his home was in fact a party promoter who never had any intention of using the space as a last minute accommodation for his in-laws as he had initially claimed. A Google search of his guest's phone number turned up the promotional flyer, shown in Figure 9. When Teman returned to his condominium, he discovered a "huge posse of large men and women... looking like they got tossed from a club, hanging out in front" of his condo.⁷⁹ When he entered his home, Teman described the scene that greeted him as "a group of nearly nude, overweight people" engaged in what the *New York Post* dubbed an "overweight orgy." After the story broke into the media, AirBnB paid Teman \$23,000 to cover the damage resulting from "Pantie Raid."⁸⁰

Ari Teman's story is admittedly salacious, but for every "orgy" there are undoubtedly countless stories of burned rugs, broken lamps, and stolen items. If these stories were to emerge and paint an uncharitable portrait of the company, it could dim AirBnB's ability to attract venture capital or issue its IPO.

Against this backdrop, AirBnB hired Joie de Vivre Hotels founder Chip Conley as its Head of Global Hospitality. Under Conley, Joie de Vivre arose as



Figure 10: An image of a bedbug accompanying Rachelle Bergstein's Yahoo Travel piece (Source: Getty Images).

a key player in the boutique hotel segment by redeveloping underused historic buildings in urban cores into high end boutique hotels. In a sense, the Joie de Vivre brand is a spiritual predecessor to AirBnB. Rather than focus on the utilitarian daily needs of travelers, both Joie de Vivre and AirBnB attempt to entice travelers with the promise of a unique hospitality experience.⁸¹

One of Conley's key goals at AirBnB is to professionalize the company's hosts.⁸² These initiatives currently include professional photographers for AirBnB listings and referral to housekeeping services to ensure a uniformly tidy experience for AirBnB guests.⁸³

Assumption of risk and liability

AirBnB claims it is not at legal risk in the same way as its hosts and guests. This is because the company treats its hosts as independent contractors.⁸⁴ As such its legal position has been that it cannot be held liable for the actions of its independent contractors or their guests.⁸⁵ In high profile cases, like the "Pantie Raid" party described above, the company has settled out of court rather than face prolonged media scrutiny.

It is not distributed equally throughout AirBnB's reservation process. Taking on the highest level of risk are AirBnB's hosts who must contend with the uncertainty inherent in opening their homes to strangers, while also risking the ire of landlords, neighbors, and city regulators. Hosts may also be held liable for injuries suffered by guests during their stay and any property damage that may result from unruly guests. Guests take on the risk of paying someone they do not know upfront for an accommodation that may or may not live up to the listing description.

Rachelle Bergstein, a travel writer for *Yahoo! News*, experienced the pitfalls of AirBnB travel first-hand. Bergstein booked from a host with "terrific reviews." Unfortunately, this host also had bedbugs. The morning after their first night in the "charming" Silver Lake studio, Bergstein and her husband discovered a bedbug the size of an "apple seed"

crawling across their duvet cover (See Figure 10).

As it turns out, the host Bergstein rented from was in fact "not the owner, or even a tenant... [h]e was a listing agent" who pointed Bergstein to the part of the AirBnB Terms of Service that reminded guests that bookings are "made at the guest's own risk." While Bergstein's host ultimately relented in offering her a refund, she was dismayed to find that receiving a refund meant that she could not leave a review warning other guests of the unit's bedbug problem. She reminds travelers in the review of her AirBnB experience that price should not be the only criterion when selecting a place to stay. As Bergstein noted "AirBnB might have the advantage over hotels when it comes to price and charm, [but] a midrange chain hotel is clearly a better choice if you care about quality control." Bergstein is not likely to give AirBnB another chance until "guests are assured of a corporate guarantee, too."⁸⁶

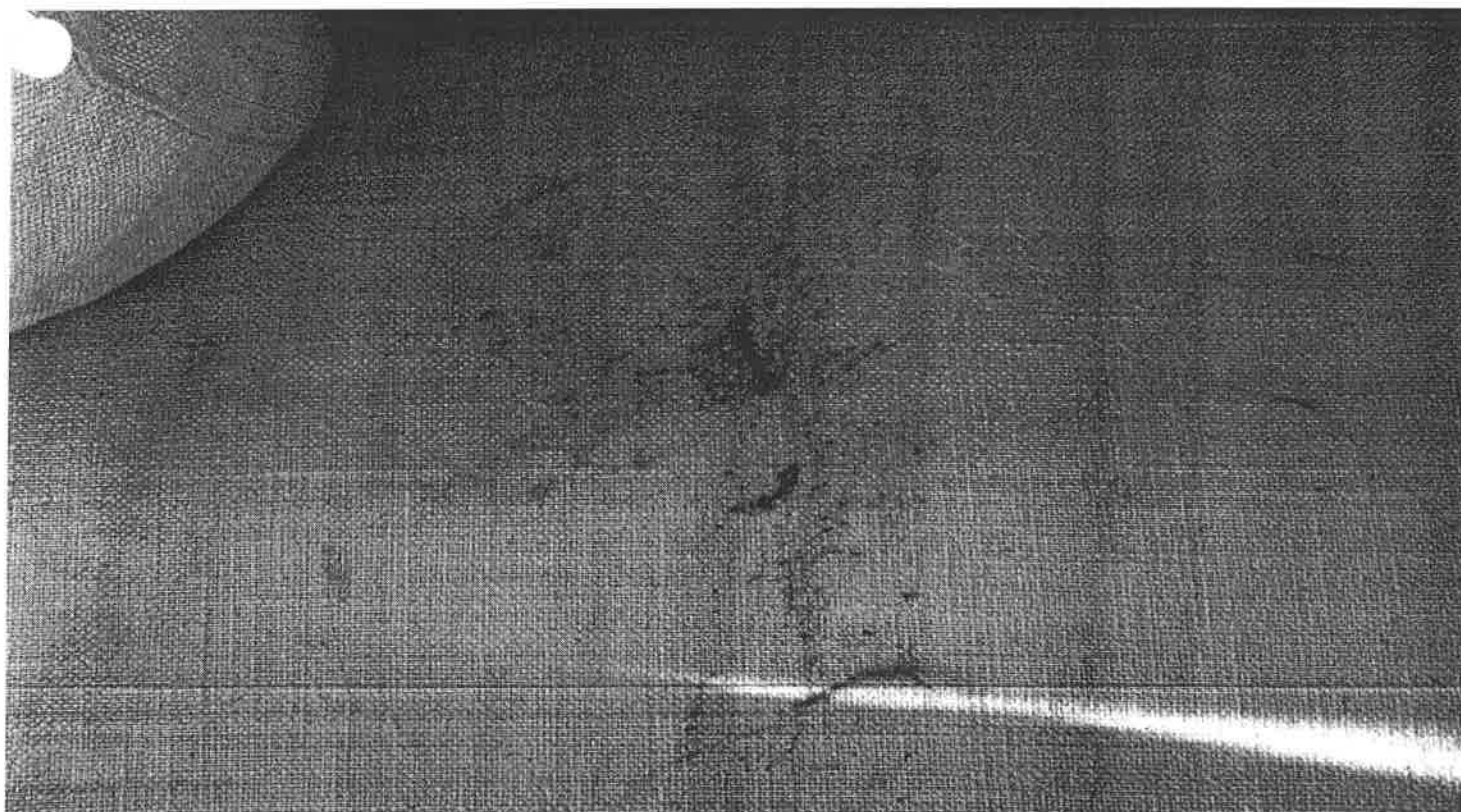


Figure 11: Rachel Bassini discovered feces smeared on her couch after she rented out her space on AirBnB.

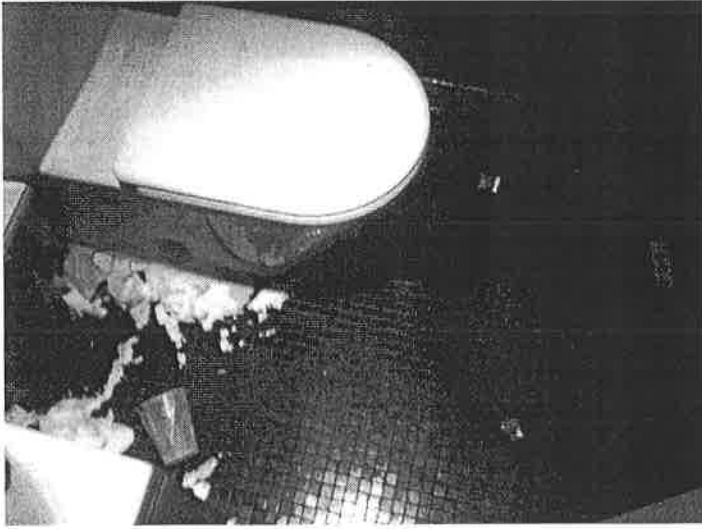


Figure 12: Rachel Bassini's bathroom after she rented out her space on AirBnB.

Host Guarantee and Peers' homesharing liability insurance

AirBnB does offer its hosts a guarantee that it will cover up to \$1 million in "Covered Losses" as defined by the company.⁸⁷ However, this guarantee only covers property damage and not major areas of homeowner liability such as personal injury suffered by a guest. Moreover, a homeowner's existing insurance may not cover any such liability as the homeowner is engaged in a commercial enterprise.⁸⁸ This is a significant point because the fine print of AirBnB's Host Guarantee specifies that it will only cover losses once hosts have exhausted other coverage and only if hosts file claims with AirBnB within a specified window. Hosts are expected to wrangle with their own insurance companies, and with the guests who have damaged their home before AirBnB will even consider paying out on the Host Guarantee.⁸⁹

In some cases, AirBnB has refused to abide by its own Host Guarantee, even where damage to a host's property was clearly the result of guest misbehavior. When Rachel Bassini returned to her home after renting it out through AirBnB, she discovered "feces covering the bathroom and couch, used condoms all over the bedroom, and chewed gum on the floors, walls, and couches." Some of the photographs of the

damage to Bassini's home are pictured in Figures 11 and 12. When Bassini attempted to collect on the promise made by the Host Guarantee, an AirBnB representative told her that "the Host Guarantee only cover[s] structural damage, not contents." Fearing that she had no further recourse, Bassini attempted to recover damages from her guest, but his AirBnB account had been suspended. AirBnB again denied Bassini's claim because she failed to file a report within 72 hours. The Company issued her a \$100 credit and deemed the matter closed. However, AirBnB reversed its decision after media inquiries and agreed to cover the cost to repair Bassini's home, so long as she "submits the proper paperwork."⁹⁰

In January 2015, Peers, the lobbying group founded by AirBnB marketing executive Doug Atkin, began offering "Homesharing Liability Insurance." There is a monthly fee of \$36 for this insurance, which will cover personal injury and other claims up to \$2 million for Peers members. However, this insurance does not cover claims related to bedbugs — a key risk associated with accommodating the traveling public. Nor does the policy cover bodily injury arising from violations of the Americans with Disabilities Act or "federal, state, local or common law regulating fire or life safety."⁹¹ This policy has only been available for a short time, and it remains to be seen how it will be applied to claims made by hosts who are in violation of their lease agreements and local zoning codes and regulations.

The Promise of Tax Revenue

Best estimates show that AirBnB's Los Angeles County listings generated \$80 million in revenue during 2014, of which approximately \$58 million was earned within the City of Los Angeles.⁹² The City of Los Angeles collects a 14 percent Transient Occupancy Tax (TOT) on a monthly basis from all hotel operators in the city limits, yielding a tax obligation of \$8.1 million for AirBnB's City of Los Angeles hosts. This tax is meant to be assessed on travelers who rent a room from a hotel, motel, or inn.⁹³

As we explore below, AirBnB often approaches cities with the promise of remitting a monthly fee equal to the TOT in exchange for the passage of regulations that legitimize their business model. The rationale behind this offer is that cities will be adding new revenue to municipal coffers. However, this revenue is mostly reallocated from hotels which would have remitted these taxes anyway.

AirBnB's economic analysis, released in December 2014, the company asserts that 37 percent of its guests would not have visited Los Angeles or would not have stayed as long as they did were it not for AirBnB. Assuming AirBnB's numbers are true, a minimum of 63 percent of the revenue generated by its listings was reallocated from hotels and is not new. If AirBnB had no listings in Los Angeles, these guests would have stayed in Los Angeles hotels, supported good jobs for Angelenos, and had a negligible impact on the city's neighborhoods, all while paying taxes.

Because AirBnB merged the "would not have visited Los Angeles" and "would not have stayed as long" categories, it is not clear how these 37 percent of travelers are distributed. If we assume an even split, then the number of travelers who would have come to Los Angeles regardless of AirBnB's listings rises to 81.5 percent. This means Los Angeles would have received between \$5.1 million and \$6.6 million in TOT from hotel stays were it not for AirBnB. In this scenario AirBnB only offers \$1.4 million in new TOT that would not have otherwise

been collected by hotels. This figure is equal to about 45 percent of the wages lost by AirBnB's domestic cleaners each year because they are not paid the same wages as housekeepers in the hotel industry doing the same work.

AirBnB's study also claimed the company's activities were responsible for \$312 million in economic activity and the "support" of 26,000 jobs. As with the tax revenue, we estimate that 81.5 percent of these benefits were merely shifted from one place to another, from hotels to AirBnB. In fact, since visitors who stay in hotels spend more than those who stay in homes, the net effect of staying in AirBnB instead of a hotel is a negative one, and that may well outweigh any additional travel days.

Beyond that, there are negative externalities which also go unconsidered in the limited economic impact data that AirBnB released in December 2014. For example, the UCLA Anderson School of Business study found that the high cost of housing has generated a statistically significant drag on job creation in Los Angeles. Fewer rental units, a drag on job creation, a reduction in tax revenues and a qualitative assessment of AirBnB's effects

If AirBnB had no listings in Los Angeles, guests would have stayed in Los Angeles hotels, supported good jobs for Angelenos, and had a negligible impact on the city's neighborhoods, all while paying taxes.

in neighborhoods are key elements that must be considered before a accurate judgment of the company's impact can be rendered.

Fewer rental units, a drag on job creation, a reduction in tax revenues and a qualitative assessment of AirBnB's effects in neighborhoods must be considered before a true judgment of the company's impact can be rendered.

AirBnB revenue is clustered in established tourist districts

In Los Angeles, AirBnB revenue generation is clustered in key tourist districts. AirBnB claims its service helps drive tourist spending to

neighborhoods that are not typically beneficiaries of that spending. However, data derived from the company's public listings do not support this claim.

The top ten AirBnB sub markets in Los Angeles are listed in Table 2, with the number of whole units and a revenue estimate.

These ten neighborhoods account for more than 50 percent of AirBnB listings as well as nearly 70 percent of AirBnB revenue generated in the Los Angeles area. Taken together, these neighborhoods encompass the heart of the L.A. tourist economy. A May 2014 Los Angeles Chamber of Commerce analysis found the Venice/ Santa Monica/ Marina del Rey area is Southern California's second most popular tourist destination, behind Disneyland. Hollywood, West Hollywood and Downtown Los Angeles are also singled out as key tourist-attracting districts.⁹⁴ Nestled between Hollywood and Downtown Los Angeles, Silver Lake and Echo Park contain many of the city's top rated bars and restaurants.⁹⁵ AirBnB is competing with traditional hotels for tourist dollars in the city's most popular tourist serving areas.⁹⁶

Table 2

AirBnB's Top 10 Revenue Generating Neighborhoods

Neighborhood	Whole Units	Total Units	Whole Unit Percent of Units	Whole Unit Revenue	Total Revenue	Whole Unit % of Rev.
Venice	882	1,137	78%	\$11,787,842	\$13,474,974	87%
Santa Monica	538	773	70%	\$8,077,411	\$9,315,075	87%
Hollywood	646	980	66%	\$5,544,207	\$6,747,061	82%
Downtown LA	220	272	81%	\$5,885,101	\$6,038,738	97%
Mid-Wilshire	514	848	61%	\$4,079,629	\$5,021,018	81%
West Hollywood	455	619	74%	\$3,666,100	\$4,181,391	88%
Hollywood Hills	315	452	70%	\$3,541,258	\$3,956,867	89%
Silver Lake	268	361	74%	\$2,681,351	\$3,043,461	88%
Echo Park	230	325	71%	\$ 2,427,196	\$2,639,005	92%
Marina Del Rey	136	172	79%	\$1,582,497	\$1,677,048	94%
Total	4,206	5,942	71%	\$48,273,023	\$56,094,638	88%

Policy and Regulatory Intervention

AirBnB's financial future will be determined in large part by the company's ability to convince municipal authorities to grant the company legitimacy by establishing a regulatory framework around the company's operations. When we examine the experiences that city regulators have had with AirBnB three themes emerge:

1. AirBnB will offer to remit fees equivalent to local tax rates to cities in exchange for legalization. These fees are not negotiated into any public code, but instead are determined by a contract negotiated between the company and cities in private. AirBnB will not share information allowing cities to verify the accuracy of the payments.⁹⁷
2. As evidenced in Portland, Oregon, AirBnB's flagship "Shared City," AirBnB will not participate in the enforcement of the model legislation it provided to the City, nor will the company monitor its listings for compliance.⁹⁸

The majority of AirBnB hosts will not comply with any licensing or permitting systems.⁹⁹ AirBnB will not modify its listings to require hosts to display their permit numbers, nor will it voluntarily turn over the addresses of unlicensed hosts to regulatory agencies. This refusal extends to providing addresses so that cities can conduct basic safety inspections to ensure the health and well being of AirBnB's own community of hosts and guests.¹⁰⁰

In the section that follows, we review the policy experience in several cities, and use the lessons from those cities to begin formulating criteria through which one can assess any potential AirBnB regulations.

Before beginning that review, however, we want to raise a critical question about the basic proposal being offered by AirBnB—payment of significant funds in exchange for rules legalizing AirBnB's operations. This system has gone into effect in two cities: Portland and San Francisco.

According to a January 2015 *Washington Post* story, between July 1 and December 30 2014, AirBnB has turned over approximately \$5 million in hotel fees to Portland and San Francisco.¹⁰¹ The combined unit count of these two cities—7,600—is less than the approximately 8,300 units within Los Angeles city limits. Moreover, tax rates in Portland are three percentage points lower than in Los Angeles. Yet, in just six months, AirBnB has turned over to the two cities 62 percent of what we estimate it would owe in Los Angeles for a whole year—a larger market with higher tax rates.

We may be severely undercounting AirBnB's Los Angeles revenues and tax obligation. If so, that would explain this discrepancy. However, this does not seem likely, given that we found twice as many hosts as AirBnB reported, and our estimates are based in part on the results of a subpoena by the New York Attorney General. If our estimates are correct, an alternative concern must be raised. By agreeing to a privately negotiated agreement with Portland and San Francisco, AirBnB may be paying more than it is required to pay in taxes. Many have rightly raised questions about how cities ensure they get all they deserve without proper monitoring. But the high payments here suggest an alternative danger—a company like AirBnB could overestimate the dollars involved to incentivize the city to adopt the laws the company wants.

Portland, Oregon

With much fanfare, AirBnB designated Portland its first "Shared City." This meant that the company and the city had determined to work together to create a regulatory framework that would allow the city to collect hotel taxes in exchange for creating a new category of housing in its planning code—the "Accessory Short Term Rental (ASTR)."¹⁰² The City of Portland decided to divide its ASTR regulation into two separate pieces of legislation. The first piece covered AirBnB units in single-family homes, followed by a second ordinance governing AirBnB units in multi-family housing.



Both pieces of legislation relied on the same basic framework. If hosts complied with the application requirements, they would be granted an ASTR permit. This permit was to be displayed inside the ASTR unit and the permit number was required to be posted on all listings advertising the space. To receive this permit, hosts were obliged to pay a nominal fee, notify their neighbors (or landlords) of their intentions to rent their space and submit to an inspection to verify installation of smoke and carbon monoxide detectors. The policy also limited the number of days that a homeowner could rent a space in his home up to 95 days per year.¹⁰³

Portland's ASTR policy was passed as an amendment to the City's zoning code. These ordinances remain silent on the issue of hotel taxes. Instead the City's Revenue Bureau negotiated a separate, private agreement to address specific issues around hotel tax collection. A redacted version of this agreement was only made public pursuant to a public records request made by reporter Elliot Njus at *The Oregonian* newspaper.¹⁰⁴ While AirBnB repeatedly denied it was a hotel operator in the agreement, the company was asking for the city to treat it "as though [it] were a single 1,600 room hotel."¹⁰⁵

Further complicating matters is the fact that a miniscule proportion of Portland's AirBnB hosts have sought legitimization and taxation—the Portland Revenue Bureau estimates that 93 percent

of all hosts have not obtained the necessary permits, had their units inspected for building and safety compliance, or notified their neighbors of their intent to operate a short-term rental.¹⁰⁶ Without any way to regularly identify individual hosts, the City of Portland Revenue Bureau had no way to monitor how the monies it was receiving did or did not relate to the overnight stays of visitors in AirBnB lodgings.

As Portland moved towards legalizing AirBnB rentals in multi-family units these issues became key political sticking points in negotiations. Portland Commissioner Nick Fish took the lead in pressing AirBnB to release host addresses to the city. At a late December 2014 hearing, the Regional Head of Public Policy for AirBnB, David Owen, argued against releasing such data on the grounds that it would constitute a violation of hosts' privacy rights. This argument did not pass muster with Commissioner Fish. As he put it:

We are not asking for people's confidential information. We are asking for an address of a home-based business, and under your view because that has an internet component that raises privacy concerns that are different than motels and hotels. We invoke the internet and we claim an exemption from all the other laws and rules of society. We welcomed you to Portland, but we have to make sure that the guests in one of your hosts' places—and you do not inspect

your hosts' places—we have to make sure that guest is safe, and the only way that we can do it is to have an address. If we don't have an enforcement mechanism that works why on earth would we give you the green light to do something that we can't reasonably enforce?¹⁰⁷

The City did ultimately “green light” the ASTR program to include multi-family units. However, the city also passed legislation to address Fish’s concerns. In exchange for granting legitimacy to the majority of AirBnB’s Portland listings, companies like AirBnB must now submit contact information for all hosts for any regulatory or tax purpose to the Revenue Bureau, as well as prominently display the host’s permit number on all listings.¹⁰⁸

How well this will work is not clear. At a public hearing on this policy AirBnB’s David Owen refused to commit to following Portland’s new regulations if they included disclosure requirements for hosts.¹⁰⁹

Rules, as currently written, do not create any direct liability for AirBnB so long as they continue to pay money to the city.

San Francisco, California

Passage of San Francisco’s AirBnB regulations was rendered no less contentious by the fact that the city is AirBnB’s birthplace. As has been widely noted, San Francisco has undergone dramatic rent increases in recent years. These increases have been exacerbated by the limited supply of housing in the city. Not surprisingly then, the process to pass an ordinance pitted housing advocates against AirBnB as both sought to influence the San Francisco Board of Supervisors. Housing advocates pressed for a requirement that AirBnB pay some \$25 million in back taxes.¹¹⁰ They also wanted a ban on AirBnB units in rent-controlled buildings and a prohibition against renting units that have been vacated under the Ellis Act. None of these amendments were included in the final legislation, though some San Francisco Supervisors vowed to pursue these items as stand-alone legislation.¹¹¹

Passed in 2014, the San Francisco policy caps the number of days that a whole unit can be rented out at 90 per year. Although monitoring bookings for compliance with this provision would be very simple for AirBnB, the company has refused to assist the city in enforcement. Out of approximately 5,000 hosts, as of February 15, 2015, only 130 had set appointments with the Planning Department to obtain their permits, drawing further comparisons to Portland’s experience.¹¹²

Building in new enforcement mechanisms now seems necessary to some previous AirBnB supporters. San Francisco Supervisor Jane Kim voted for the original ordinance but is now working to pass a supplemental ordinance that would allow nonprofit organizations to sue to enforce the short term rental law. She believes the first ordinance does not “have enough teeth” to ensure effective enforcement.¹¹³ Meanwhile, a coalition of affordable housing and community organizations known as Share Better S.F. has begun the process of collecting signatures to place an initiative on



the next municipal ballot that would implement far stricter regulations on AiBnB rentals in the City.¹¹⁴

New York City, New York

New York City has taken a more hardline approach to regulating AirBnB than either San Francisco or Portland. Under New York State law, residential rentals shorter than 30 days are considered illegal. New York City has taken the lead in halting AirBnB's expansion through rigorous enforcement of this law, while New York State Attorney General Eric Schneiderman has served the company with subpoenas to get exact addresses and revenues generated by AirBnB listings. As a result of these subpoenas, the Attorney General's office found that more than 72 percent of AirBnB's New York City revenue was generated by illegal listings. The Attorney General's report also found that commercial hosts dominated the New York City AirBnB market.

Share Better New York, a coalition of affordable housing, community, and labor organizations has been pressing New York City to address the proliferation of illegal hotels as part of a broader



New York City residents rally against AirBnB ahead of a January 20, 2015 New York City Council hearing.

strategy to maintain rental affordability in the notoriously pricy city. The City Council has pressed for increased transparency and accountability from AirBnB. During the course of an eight hour hearing to determine what impacts AirBnB has had on New York's housing stock, it was found that AirBnB *could* force hosts to comply with state law, but the company has refused to do so. Upon pointed questioning from City Councilmembers, AirBnB Head of Public Affairs David Hantman admitted not having done any research to determine which listings



New York City Councilwoman Helen Rosenthal addressed a crowd of affordable housing advocates as they rallied against "illegal hotels" ahead of an eight-hour hearing on the sharing economy at the New York City Council (Photo: Capital New York).

illegal. This answer failed to satisfy New York City Councilman Jumaane Williams. "Wouldn't that be something a responsible company would do if they wanted to keep doing business in New York City?" Williams asked.

The company's refusal to assist with enforcement in Portland, San Francisco and New York City seems to have more to do with ideology than with technical capacity. As expressed by the company's Head of Public Affairs, David Hantman, AirBnB believes "very strongly that you should be allowed to rent out your own home whenever you want."

The marathon hearing also found that complaint-based enforcement does not effectively curtail the proliferation of illegal AirBnB listings. In the last year, the Mayor's Office of Special Enforcement received nearly 1,150 complaints leading to nearly 900 inspections. However, a recent survey has shown the overall number of AirBnB listings in New York has not changed since aggressive enforcement began.¹¹⁵

Southern California Cities

In the greater Los Angeles area, the cities of Malibu and West Hollywood have begun the process of regulating AirBnB-type rentals within their city limits.

The city of West Hollywood, under the direction of the City Manager, created the Shared Economy Task Force to study home and ride sharing in West Hollywood. The Task Force recommended that the West Hollywood City Council draft legislation to amend the zoning code to define "short term rentals" and reiterate that these types of rentals are illegal in West Hollywood. The West Hollywood City Council is now considering the matter.¹¹⁶

In May 2014, Malibu's City Council voted to authorize officials to issue subpoenas to gather accurate information on the scope of short term rentals. These types of rentals are legal under the Malibu zoning code, but must be registered with the city and remit hotel taxes. To date, only 50 Malibu properties have complied with these regulations, although the City noted there are more than 400 listings on various short term rental sites.¹¹⁷

Los Angeles City Council has also begun the process of assessing AirBnB's effects on the city. The Council has convened a Shared Economy Working Group to assess the best practices in regulating the shared economy in the residential sector.¹¹⁸



Principles for Regulating AirBnB

As we have seen, cities are clearly grappling with how best to regulate AirBnB. While cities have employed a variety of strategies to control AirBnB's proliferation, no municipality has been able to effectively limit the growth and negative effects of the large-scale conversion of residential units into tourist accommodations. What may have been considered "best practices" a year ago, today seem rushed and nearly unenforceable. Given the shifting policy landscape, it may be worthwhile to establish an evaluative framework that can be applied to any proposed short-term rental policy.

Housing must be protected

Los Angeles has faced a severe shortfall in housing units, leading to low vacancy rates and rapidly increasing rents. AirBnB's highest density is in the neighborhoods where these dynamics have been especially pronounced. Any policy should have protecting housing units as a top priority.

Systematic approval requirements

Neighborhood cohesion is vital to preserving quality of life and safety in Los Angeles communities. One neighbor's decision to list her unit on AirBnB can have wide-ranging negative effects. As with any land use change that has a potentially negative effect on a community, neighbors in the vicinity of a prospective AirBnB unit should receive advance notification of the potential AirBnB listing and be granted an opportunity to object to this conversion. Based on public input, the city should have the opportunity to approve, reject or impose conditions on a proposed AirBnB conversion. In this way, AirBnB's impacts on neighborhoods can be mitigated and provisions for clear disclosure guidelines and dispute resolution procedures can be established. Los Angeles should also protect renters by requiring permission from landlords before a rental unit can be placed on AirBnB.

AirBnB must share the burden of enforcement

Cities have not been able to effectively regulate AirBnB. Without the company's cooperation, cities must pay the costs associated with investigation and enforcement of existing zoning codes. Even when AirBnB has seen its preferred legislation pass, the company has refused to participate in policing listings. As we have seen in New York City, enforcement strategies focused only on hosts but not on the company facilitating potentially illegal activity, will fall short.

Only true sharing should be allowed

The majority of AirBnB's Los Angeles hosts are on-site. Because they are present to monitor their guests' behavior, and because these types of AirBnB listings do not remove units from the Los Angeles housing market, they create fewer negative externalities than other types of AirBnB listings. Protecting these types of listings while curtailing off-site and commercial hosts represents a smart approach to balancing the needs of Los Angeles communities with the desire of some residents to rent out space in their homes while they are present.

Appendix A: Revenue Calculation

Our analysis shows that there were more than 114,000 reviews left on AirBnB listings. The number of reviews attached to each listing is the best approximation of the number of visitors that a given AirBnB unit has accommodated. Since travelers can only leave a review on a listing after they have completed their stay, every review indicates a confirmed stay. However, not every guest leaves a review after her stay, so our estimates are likely to undercount the volume of guests served by each unit.

The number of reviews also allows us to approximate the revenue generated by each unit listed on AirBnB. By multiplying the number of reviews, the minimum stay, and the listed price, we have been able to estimate the minimum total revenue generated for each individual unit in our dataset. This formula yielded our initial revenue estimate of \$37,726,492 in Los Angeles for 2014.

We applied the same formula to data we pulled down from New York City's public AirBnB listings to yield a revenue estimate of \$121,219,400. We also compared our estimated revenue to the actual value calculated by the New York Attorney General's AirBnB analysis. The Attorney General's report on AirBnB calculated AirBnB's 2014 New York City revenue based on booking information the company turned over after being served with subpoenas. The Attorney General's office showed AirBnB generated revenue of \$282 million in 2014. Using this data point, we created a ratio to determine the relationship between our revenue estimates and actual revenue. We therefore concluded that our Los Angeles revenue was undercounted by a similar rate and revised our estimates upward. This formula also allows us to understand which hosts have failed to generate any revenue at all. We define the failure rate in this instance as the percentage of hosts who have not made any money by listing their space or spaces on AirBnB.

Appendix B: Occupancy Rates

Occupancy rates for AirBnB listings are calculated by first multiplying the number of reviews by the average minimum stay for all listings. Following the procedure described in Appendix A, we then create a conversion factor based on the New York Attorney General's bookings data. Our New York City dataset showed a total of 239,950 reviews had been left on New York's AirBnB listings. We know from the booking data that there were 497,322 AirBnB stays booked through AirBnB. We then applied this ratio to our own review data to obtain a more accurate estimate of the number of stays at a given AirBnB unit. Hosts list the year that they joined AirBnB, which allows us to then compare the number of stays to the number of days that the host has been active to generate an estimate of an individual unit's occupancy rate.

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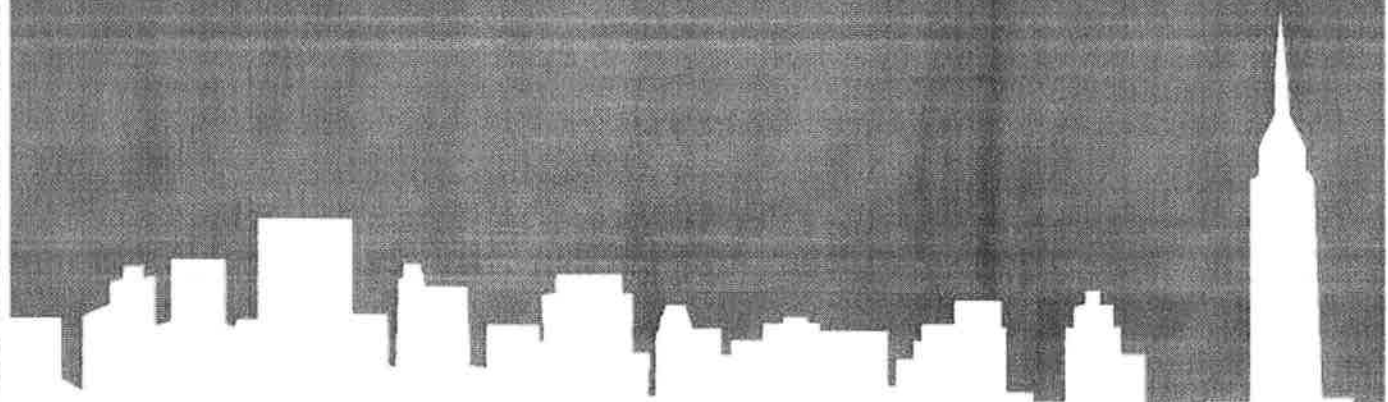
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www.laane.org



Airbnb in the city

From the Office of:
New York State Attorney General
Eric T. Schneiderman

A white silhouette of the New York City skyline is positioned at the bottom of the page, featuring various skyscrapers and the Empire State Building on the right.

October 2014

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This report was prepared by the Office of the Attorney General of the
State of New York's Research Department and Internet Bureau.

INTRODUCTION

The rapid rise of short-term rental platforms like Airbnb have dramatically expanded the use of traditional apartments as transient hotel rooms—sparking a public debate in New York and in communities worldwide about the real-world consequences of this online marketplace.

Where supporters of Airbnb and other rental sites see a catalyst for entrepreneurship, critics see a threat to the safety, affordability, and residential character of local communities. Are the new platforms fueling a black market for unsafe hotels? By bidding up the price of apartments in popular areas, do short-term rentals make metropolitan areas like New York City less affordable? Is the influx of out-of-town visitors upsetting the quiet of longstanding residential neighborhoods?

Until now, the discourse has centered more on opinions and anecdotes than facts. This report seeks to bridge the gulf between rhetoric and reality. It offers the first exploration of the data on how users in New York City, one of Airbnb's most important markets, utilize the most successful online lodging rental platform. More broadly, the report endeavors to use quantitative data to inform an ongoing debate about how we embrace emerging, disruptive technologies, while protecting the safety and well-being of our citizens.

By analyzing Airbnb bookings for "private" stays,¹ this report presents a snapshot of short-term rentals in New York City from January 1, 2010 through June 2, 2014 (the "Review Period"). Among the key findings:

Short-Term Rentals Experienced Explosive Growth. Private short-term bookings in New York City on Airbnb increased sharply during the Review Period, registering more than a tenfold increase. The associated revenue also spiked, nearly doubling each year. This year, revenue to Airbnb and its hosts from private short-term rentals in New York City is expected to exceed \$282 million.

Most Short-Term Rentals Booked in New York Violated the Law. State and local laws in New York—including the Multiple Dwelling Law and the New York City Administrative Code—prohibit certain short-term rentals. During the Review Period, 72 percent of units used as private short-term rentals on Airbnb appeared to violate these laws.²

Commercial Users Accounted for a Disproportionate Share of Private Short-Term Rentals by Volume and Revenue. Ninety-four percent of Airbnb hosts offered at most two unique units during the Review Period. But the remaining six percent of hosts dominated the platform during that period, offering up to hundreds of unique units, accepting 36 percent of private short-term bookings, and receiving \$168 million, 37 percent of all host revenue. This report refers to these hosts as "Commercial Users."

¹ Airbnb hosts can offer a "shared room," where the host remains present during the stay, an "entire home/apartment," where the host is not present, or a "private room," where the host may or may not remain present during the stay. This report and its source data address only the last two categories, which, when combined, are labeled "private" stays, rentals, or reservations in the report.

² By assuming that *all* reservations listed as a "Private Room" complied with these laws, the analysis *understates* the degree to which rentals on Airbnb may have violated the law. Specifically, a "Private Room" rental for less than 30 days is legal only where a permanent resident was present during the stay.

Top Commercial Users Employed Rental Platforms to Run Multimillion-Dollar Short-Term Rental Businesses. Well over 100 Commercial Users each controlled 10 or more unique Airbnb units during the Review Period. Together, these hosts accepted 47,103 private short-term reservations and earned \$59.4 million in revenue. The highest-earning operation administered 272 unique Airbnb listings, booked 3,024 reservations, and received \$6.8 million in revenue during the Review Period. Each of the top 12 New York City operations on Airbnb during that period earned revenue exceeding \$1 million.

Private Short-Term Rentals Displaced Long-Term Housing in Thousands of Apartments. In 2013, more than 4,600 units were booked as short-term rentals through Airbnb for three months of the year or more. Of these, nearly 2,000 units were booked as short-term rentals for a cumulative total of half the year or more—rendering them largely unavailable for use by long-term residents.³ Notably, the share of revenue to Airbnb and its hosts from units booked as private short-term rentals for more than half the year increased steadily, accounting for 38 percent of each figure by 2013.

Numerous Short-Term Rental Units Appeared to Serve as Illegal Hostels. New York law does not permit commercial enterprises to operate hostels, where multiple, unrelated guests share tight quarters. In 2013, approximately 200 units in New York City were booked as private short-term rentals for more than 365 nights during the year. This indicates that multiple transients shared the same listing on the same night, as they would in an illegal hostel. The 10 most-rented units for private short-term rentals were each booked for an average of about 1,900 nights in 2013, with the top listing accepting 13 reservations on an average night.

Gentrified or Rapidly Gentrifying Neighborhoods Primarily in Manhattan Accounted for the Vast Majority of Revenue from Private Short-Term Rentals in New York City. Bookings in just three Community Districts in Manhattan—the Lower East Side/Chinatown, Chelsea/Hell's Kitchen, and Greenwich Village/SoHo—accounted for approximately \$187 million in revenue to hosts, or more than 40 percent of private stay revenue to hosts during the Review Period. By contrast, all the reservations in three *boroughs* (Queens, Staten Island, and the Bronx) brought hosts revenue of \$12 million—less than three percent of the New York City total.

³ The actual number of apartments that shifted from long- to short-term housing could be much higher. This analysis covers paid Airbnb bookings only, omitting short-term rentals simultaneously offered on other platforms. This analysis also excludes nights when the apartments remain vacant between bookings.

DATA & TERMINOLOGY

In late 2013, the Office of the Attorney General of the State of New York ("NYAG") launched an investigation of users of web platforms like Airbnb who run large-scale enterprises in violation of fire safety, zoning, tax, and other applicable laws. Appendix A provides a brief overview of several applicable laws. In particular, the Multiple Dwelling Law (the "MDL"), as amended in 2010, prohibits rentals in "Class A" buildings—a category encompassing most residential apartment buildings in New York City—for stays of less than 30 days. This prohibition confronts the fire and safety risks associated with hotels and other transient accommodations, as detailed in Appendix B.

On May 14, 2014, NYAG served Airbnb with a subpoena for detailed information about rental transactions on its platform. Shortly thereafter, and pursuant to an agreement dated May 20, 2014, Airbnb shared data with NYAG reflecting certain rental transactions in an anonymized format (the "Data").

In particular, Airbnb produced Data on 497,322 transactions (the "Reviewed Transactions") for stays between January 1, 2010 and June 2, 2014 (the "Review Period") that involved:

- (1) A private stay, i.e. where the host listed an "entire home/apartment" or a "private room" for rent;

and

- (2) One of the following:

- a. A rental transaction for a stay in New York City of less than 30 days; or
- b. A rental transaction for a stay in a unit in New York City of between 30 and 180 days that did not qualify for the *de minimis* exception for hotel room occupancy taxes (i.e., where a unit is booked for only up to 14 days or at most three times in a given year).

While private stays constitute the bulk of New York City reservations on Airbnb, the company declined to disclose the number of transactions not meeting the review criteria. It is therefore unclear how many transactions are excluded from the Data. As above, this report uses the word "private" (often paired with "booking," "reservation," "stay," or "short-term rental") as shorthand to distinguish the Reviewed Transactions (involving rentals for an "entire home/apartment" or a "private room") from other Airbnb transactions, particularly those involving a "shared room."

Airbnb anonymized key details of the Reviewed Transactions, replacing user names and unit numbers with unique ID codes. When analyzing the transactions, this analysis assumes the accuracy and uniqueness of Airbnb's designations.

NYAG also conducted a second-level analysis of the Reviewed Transactions using New York City's Geosupport Desktop Edition. By geo-locating the building addresses associated with the 35,354 unique units in the Data, NYAG identified the unique Borough, Block, and Lot ("BBL") identification number for all but 3,138 unique units. The BBL numbers allowed NYAG to search for the units in the Primary Land Use

Tax Lot Output ("PLUTO") database, which identifies the type of building for zoning purposes. By necessity, NYAG relied on the accuracy of this database.

NYAG sought and obtained this Data in connection with potential enforcement actions involving the Reviewed Transactions. The information and analyses contained in this report, however, are provided solely to aid the public discourse. Pursuant to the terms of its agreement with Airbnb, dated May 20, 2014, NYAG may publicly disclose its analyses of the Data (such as those contained in this report). The underlying Data may not be disclosed.

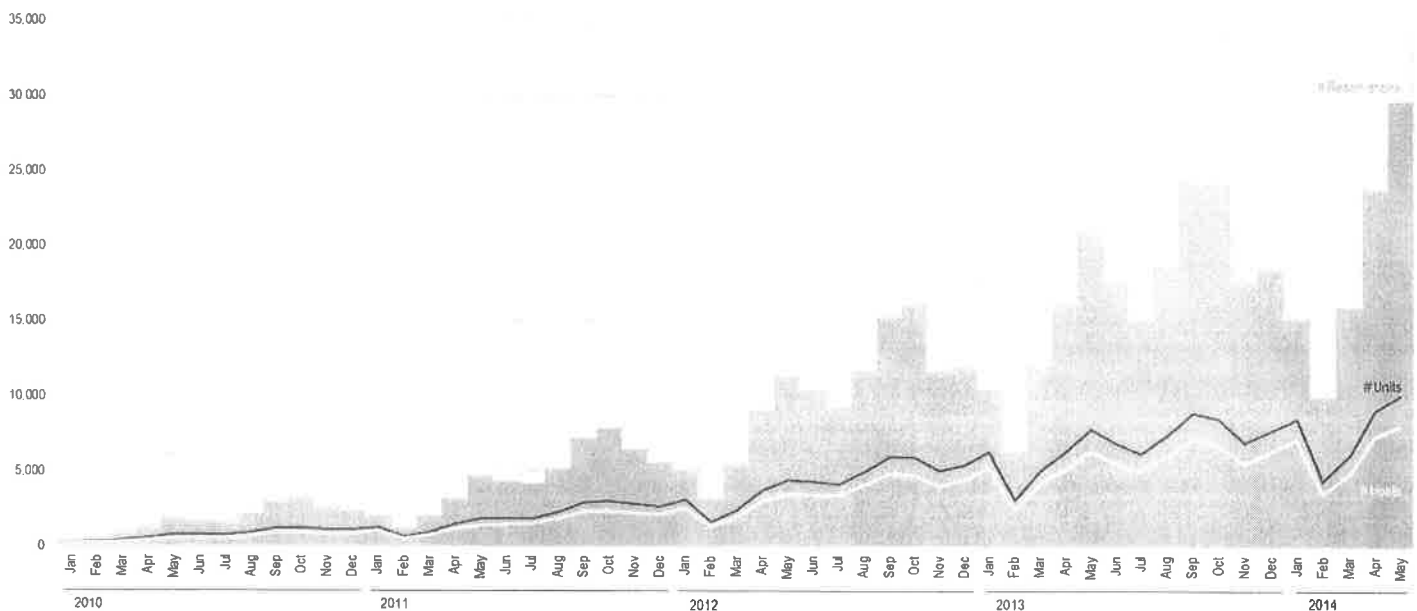
GROWTH IN PRIVATE SHORT-TERM RENTALS

Private Short-Term Rentals in New York City have Grown at a Staggering Pace.

During the Review Period, the number of unique units booked for private short-term rentals through Airbnb has exploded, rising from 2,652 units in 2010 to 16,483 in just the first five months of 2014. Private bookings in New York City saw a nearly twelvefold spike, rising from 20,808 in 2010 to an estimated 243,019 in 2014.⁴ As with traditional hotel rooms, the short-term rental market varies seasonally. The chart below (Figure 1) shows that private bookings on Airbnb were on an upward trajectory throughout the Review Period, as measured by number of hosts, unique units, and total reservations.

Figure 1:
Monthly Growth in Private Short-Term Rentals on Airbnb

(Source: Airbnb Data, 2010-2014)

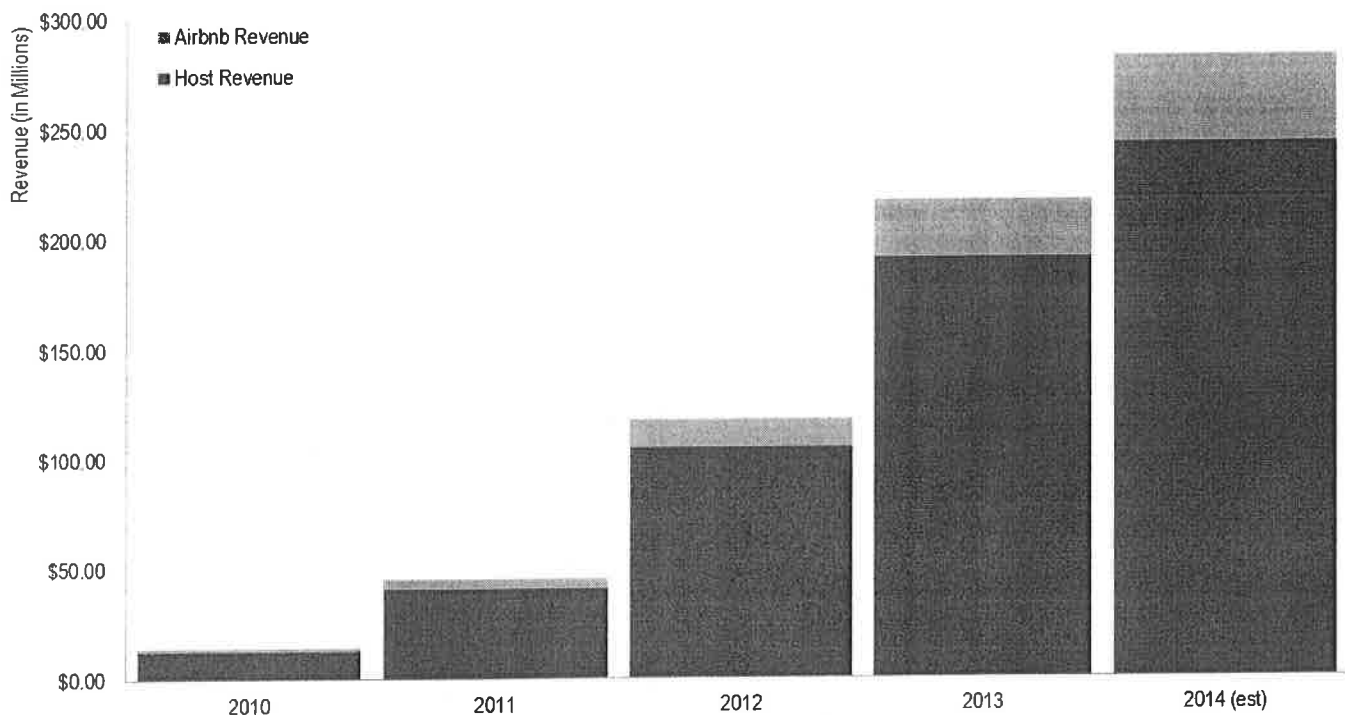


⁴ For illustrative purposes, NYAG estimated 2014 year-end totals by assuming that the average monthly performance experienced in the first five months of the year in the relevant category would continue throughout the year. This is a rough estimate, which does not account for seasonal or other factors. For example, the estimation method makes no adjustment for the seasonal peak seen in August and September of previous years.

Private Short-Term Rentals in New York City Generated Over \$500 million in Revenue in Less than Five Years. As reflected in Figure 2 below, between the start of 2010 and the end of 2013, revenue to Airbnb and its hosts from private short-term rentals in New York City doubled almost every year, with revenue in 2014 estimated to exceed \$282 million. During the Review Period (January 1, 2010 through June 2, 2014), transaction fees associated with the Reviewed Transactions resulted in direct revenue to Airbnb of about \$61 million.⁵

Figure 2:
Revenue from Airbnb Reservations Nearly Doubled Every Year

(Source: Airbnb Data, 2010-2014)



⁵ Hosts pay Airbnb a three percent fee for reservations booked on the platform. Guests pay Airbnb a fee that varies from six to 12 percent of the reservation.

Most Private Short-Term Rentals Booked in New York City Violated the Law.

Comparing the addresses associated with the Reviewed Transactions to a database of New York City buildings suggests that 72% of unique units used as private short-term rentals on Airbnb during the Review Period involved the rental of an "entire/home apartment" for less than 30 days in either (1) a "Class A" multiple dwelling or (2) a non-residential building.⁶ These rentals would respectively violate the MDL (which prohibits such rentals in "Class A" buildings) or the New York City Administrative Code (which prohibits the use of non-residential buildings for housing). See Appendix A.

As depicted in Figure 3 below, the 300,891 reservations that appear to violate the building use and zoning laws yielded approximately \$304 million for hosts during the Review Period. Airbnb itself earned almost \$40 million in fees from these transactions. This represents approximately two out of every three dollars Airbnb received in connection with the Reviewed Transactions.

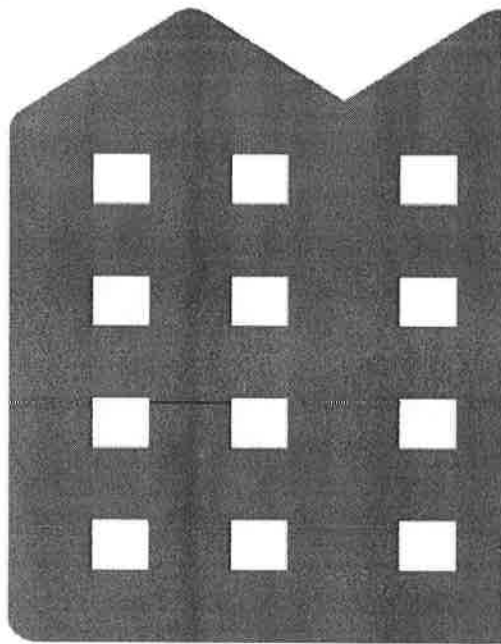
Figure 3: Most Private Short-Term Rentals on Airbnb Appear to Violate New York Law

(Source: Airbnb Data, 2010-2014, compared with PLUTO)

72%

Percent of unique units rented in apparent violation of the MDL or NYC Administrative Code.

Revenue:	\$304 Million
Reservations:	300,891
Units:	25,532
Hosts:	20,835



The above numbers likely understate the degree to which private short-term rentals posted on Airbnb during the Review Period may have violated the law. For purposes of this calculation, the report assumes that *all* reservations identified as a "private room" (as distinct from an "entire home/apartment") complied with the MDL, regardless of whether they were located in a "Class A" building. In fact, "private room" rentals in "Class A" buildings shorter than 30 days would comply with the MDL only where the host or another permanent resident remained in the unit during the guest's stay.

⁶ Specifically, the MDL permits rentals shorter than 30 days in hotels and "Class B" buildings, primarily one- and two-family homes. This analysis therefore assumes that rentals in residential buildings comply with the MDL where they are designated in the Department of Buildings separate classification system as Class A ("One Family Dwelling"), B ("Two Family Dwelling"), H (Hotels), S0 ("Primarily One Family with Two Stores or Offices"), S1 ("Primarily One Family with Store or Office"), or S2 ("Primarily Two Family with Store or Office"). The MDL also permits sublets of apartments for 30 days or more.

New York City Is Likely Owed Millions in Unpaid Hotel Taxes from Private Short-Term Rentals. A number of taxes may apply to private short-term rentals. See Appendix A. In particular, New York City assesses a hotel room occupancy tax of 5.875 percent that applies to private short-term rentals. Excluding fines and penalties, the total estimated liability for hotel room occupancy taxes associated with the Reviewed Transactions is over \$33 million.⁷ See Figure 4 below.

Few Airbnb hosts appear to have filed the paperwork with New York City necessary to remit hotel room occupancy taxes, nor did Airbnb collect any of the hotel taxes owed for the Reviewed Transactions.⁸ Even the most conservative estimate therefore finds that private short-term rentals booked through Airbnb incurred millions of dollars in unpaid hotel room occupancy taxes.

Figure 4:
Private Short-Term Rentals in New York City Incurred Over \$33
Million in Hotel Tax Liability

(Source: Airbnb Data, 2010-2014)

Year	Hotel Room Occupancy Taxes
2010	\$961,378
2011	\$3,079,250
2012	\$7,797,270
2013	\$14,221,841
2014 (through 6/2/14)	\$7,407,413
Total	\$33,467,152

⁷ To calculate the total estimated liability for hotel room occupancy taxes, we first multiplied the total payments for private short-term rentals by the hotel room occupancy tax rate (.05875). Next, we added the per-room fee, which ranges up to \$2 per night depending on the cost of the room. We then excluded all "private room" transactions where the host only offered one listing. (Such transactions would not be taxable where the host remained present during the stay.) Finally, we applied the *de minimus* exception, excluding tax liability for any unit booked in a given year (a) for fewer than 14 days; or (b) on fewer than three separate occasions. See Appendix A for further discussion of the hotel room occupancy tax.

⁸ Based on guidance from tax authorities, Airbnb maintains that it is not required to collect these taxes on behalf of hosts.

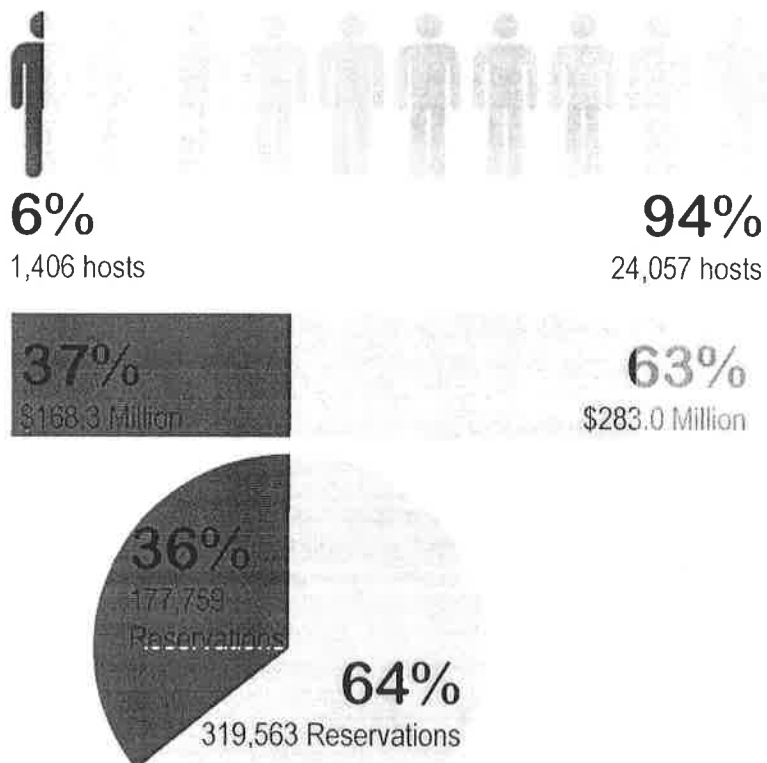
COMMERCIAL USERS

While Commercial Users Represented a Minority of Hosts, They Dominated the Private Short-Term Rental Market in Units, Reservations, and Revenue. 25,463 hosts offered private short-term rentals in New York City during the Review Period. Of these hosts, 24,057 (94 percent) offered no more than two unique units for private short-term rentals during the period.⁹

As illustrated in Figure 5, 1,406 hosts (six percent) acted as "Commercial Users," running larger operations that administered from three to 272 unique units during the Review Period. During that period, Commercial Users controlled more than one in five unique units in New York City booked on Airbnb as private short-term rentals, accepted more than one in three private reservations, and received more than one of every three dollars in revenue from private short-term rentals on Airbnb—for a total of \$168 million.

Figure 5:
Commercial Users Accounted for a Disproportionate Share of Private Short-Term Rentals

(Source: Airbnb Data, 2010-2014) ■ Commercial Users (Hosts with 3+ Unique Units)



⁹ While operating smaller ventures, these hosts may nonetheless be in violation of the law. See, e.g., pp. 8-9 above.

Major Commercial Ventures Used Airbnb to Conduct Multimillion-Dollar Businesses. Since 2010, 124 Commercial Users offered 10 or more unique units as private short-term rentals. These Commercial Users operated enterprise-scale ventures that together earned revenue of \$60 million during the Review Period. The chart below (Figure 6) reflects the top 12 Commercial Users by revenue. During the Review Period, these Commercial Users together controlled 801 unique units, accepted 14,655 private reservations, and received more than \$24.2 million in total revenue for private short-term rentals. A single Commercial User—the top New York host on Airbnb during the Review Period—controlled 272 unique units and received revenue of \$6.8 million. This individual received two percent of all New York host revenue for private stays and personally earned Airbnb close to \$800,000 in fees.

Figure 6: The Top Commercial Users Earned Millions from Private Short-Term Rentals

(Source: Airbnb Data, 2010-2014)

Host	Unique Units	Reservations	Nights Booked	Revenue to Host
1	272	3,024	29,234	\$6,838,472
2	223	1,342	12,003	\$2,863,493
3	46	1,833	12,184	\$2,168,027
4	22	1,607	13,103	\$1,616,814
5	16	751	4,212	\$1,613,763
6	27	1,480	8,675	\$1,598,276
7	24	1,185	6,008	\$1,418,058
8	21	802	4,731	\$1,417,459
9	14	1,072	6,175	\$1,345,823
10	9	663	3,211	\$1,156,561
11	34	425	7,708	\$1,138,706
12	92	471	3,198	\$1,026,270
Total	801	14,655	110,442	\$24,201,722.00

In April 2014, in direct response to NYAG's investigation, Airbnb publicly claimed it had barred certain large Commercial Users from accepting additional reservations. The time period covered by the Data does not enable us to gauge whether Airbnb's purported reform lessened the domination of Commercial Users in the private short-term rental market. Commercial Users with between three and nine unique units, however, enjoyed a similarly elite position on the platform; during the Review Period, they were responsible for one-quarter of all private short-term bookings and received revenue of \$108.9 million—about one in every four dollars hosts received. Regardless, the Data make clear that during the approximately 4.5-year Review Period, Commercial Users accounted for a substantial and disproportionate share of Airbnb's business in New York City.

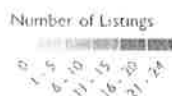
EFFECTS OF SHORT-TERM RENTALS ON RESIDENTIAL HOUSING SUPPLY

Thousands of Residential Units in New York City Were Dedicated Primarily or Exclusively to Private Short-Term Rentals. In 2013, over 4,600 unique units were each booked as private short-term rentals for three months of the year or more. Of these, nearly 2,000 units were each booked as private short-term rentals on Airbnb for at least 182 days—or half the year. While generating \$72.4 million in revenue for hosts, this rendered the units largely unavailable for use by long-term residents.¹⁰ Notably, more than half of these units had also been booked through Airbnb for at least half of the prior year (2012). Because Airbnb anonymized the unit numbers associated with the Data, NYAG could not quantify the precise number of these units subject to the rent regulations.

The majority of units converted to private short-term rentals are in popular neighborhoods in Brooklyn and Manhattan, as reflected in Figure 7. A dozen buildings in those same neighborhoods had 60 percent or more of their units used at least half the year as private short-term rentals, suggesting that the buildings were operating as de facto hotels.

Figure 7: Units Booked as Private Short-Term Rentals for Most of 2013 Were Concentrated in Brooklyn & Manhattan

(Source: Airbnb Data, 2013)



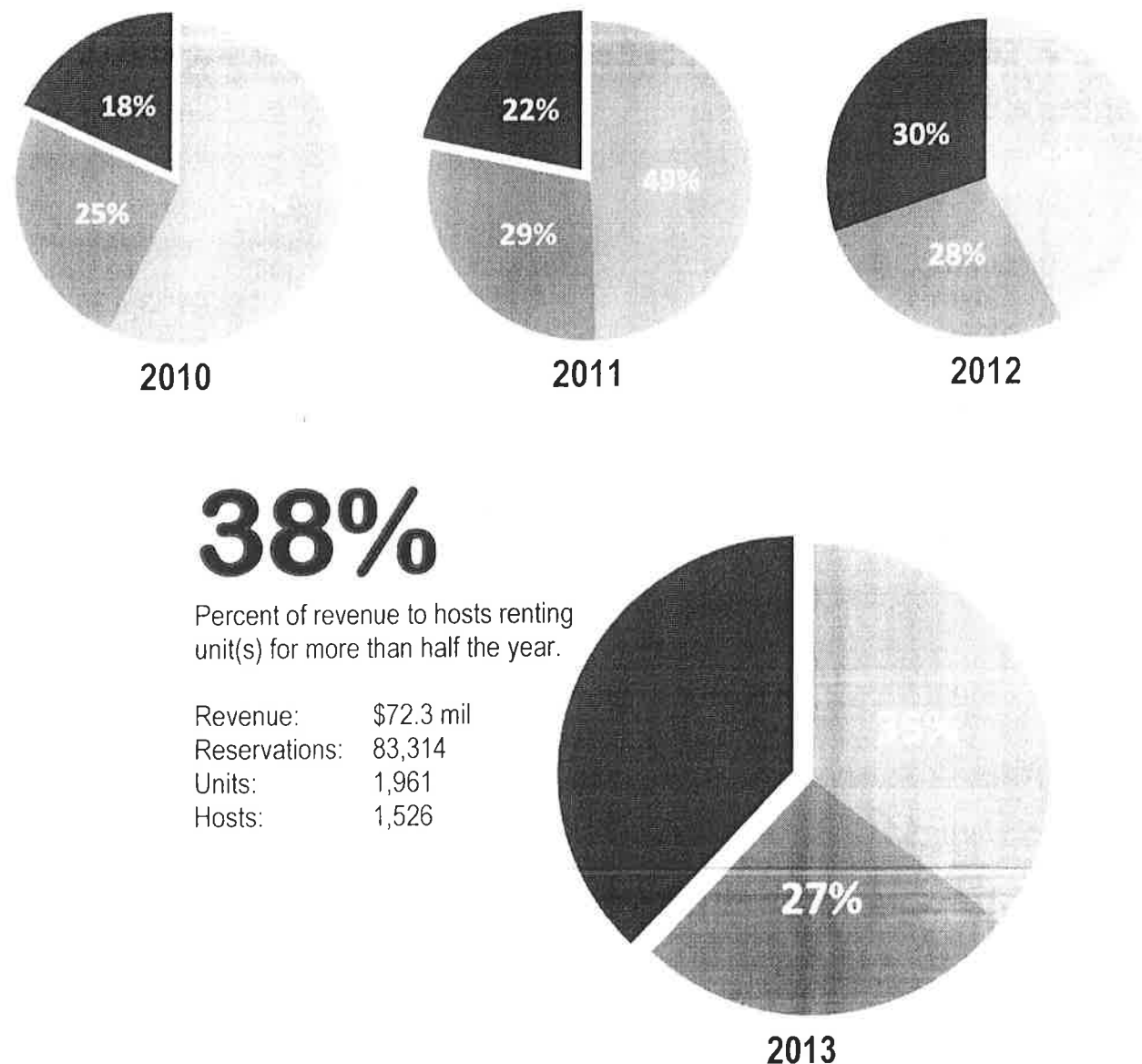
¹⁰ It is likely that the number of units dedicated to private short-term rentals is substantially higher. The Reviewed Transactions cover Airbnb reservations only. Although listing on more than one site is common, this analysis cannot account for short-term rentals booked on other platforms. Also, the Data do not indicate periods when a unit is left intentionally vacant pending further short-term rentals.

Units Dedicated Primarily or Exclusively to Private Short-Term Rentals Accounted for an Increasing Share of Revenue Over Time. As reflected in Figure 8 below, over time, the share of revenue hosts received from units booked for more than half the year has increased, rising from 18 percent of private short-term rental revenue in New York City in 2010 to 38 percent of such revenue in 2013. Airbnb's revenue from the associated fees also increased, rising from over \$270,000 in 2010 to \$10 million in 2013. Units booked on Airbnb as private short-term rentals for half the year or more—and thereby largely removed from long-term housing—generated 38 percent of all fees Airbnb received in 2013 in connection with the Reviewed Transactions.

Figure 8: Increasing Share of Host Revenue from Units Booked as Private Short-Term Rentals for Majority of the Year

(Source: Airbnb Data, 2010-2014)

- Unit rented for 182+ days in year
- Unit rented for 90-182 days in year
- Unit rented for less than 90 days in year



Numerous Units Booked as Private Short-Term Rentals May Have Operated as Illegal Hostels. Certain states permit hostels, where multiple, transient strangers often share rooms outfitted with bunk beds and barebones amenities. Because tight quarters and other factors create heightened fire and safety risks to travelers and permanent residents, these states generally require hostels to adhere to rigorous safety requirements. New York currently prohibits for-profit hostels entirely.

Although other explanations may apply to certain listings, patterns of high occupancy in connection with a single unit are consistent with their use as a hostel or other high-volume transient accommodation. Close to 200 units throughout New York City were each booked on Airbnb as private short-term rentals for more than 365 total nights in 2013.¹¹

Figure 9 below provides data associated with 10 most-booked private short-term listings on Airbnb in 2013. For 2013, these units averaged 1,920 booked nights *each*. One listing in Brooklyn accepted 285 individual reservations for a total of 4,735 booked nights. Thus, on an average night, this listing accommodated 13 reservations.

Figure 9: Ten Most-Rented Units Booked Substantially More Than 365 Nights a Year

(Source: Airbnb Data, 2013)

Rank	Borough	Reservations	Nights Booked	Average Nightly Rate Charged	Revenue to Host
1	Brooklyn	285	4,735	\$49.12	\$193,495.00
2	Brooklyn	90	2,273	\$107.77	\$130,331.00
3	Brooklyn	361	2,129	\$45.15	\$81,110.00
4	Manhattan	313	2,059	\$178.72	\$305,243.00
5	Manhattan	304	1,599	\$75.73	\$108,130.00
6	Manhattan	44	1,407	\$104.22	\$100,992.00
7	Brooklyn	460	1,313	\$101.94	\$113,168.00
8	Manhattan	221	1,278	\$158.80	\$169,693.00
9	Manhattan	204	1,245	\$105.97	\$110,965.00
10	Queens	182	1,165	\$132.44	\$119,716.00

¹¹ The Data exclude all listings identified as a "shared room," which could likewise serve as illegal hostels or other high-volume transient accommodations. We expect that the number of New York City units booked as short-term rentals for more 365 days a year during the Review Period would increase if these transactions were included.

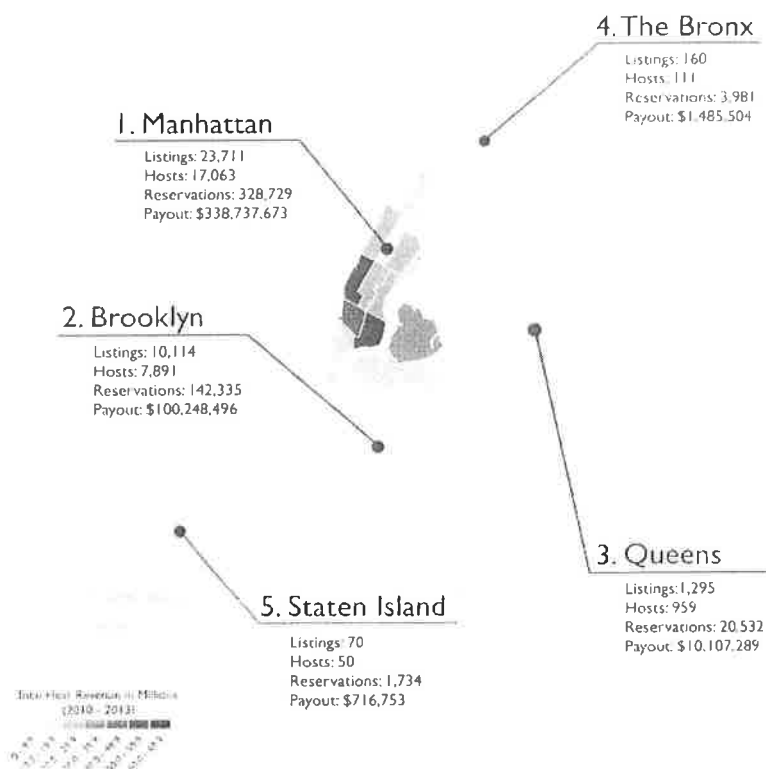
GEOGRAPHIC DISTRIBUTION OF SHORT-TERM RENTALS

Revenue Generated in Manhattan and Brooklyn Accounted for Virtually All Revenue from Private Short-Term Rentals Citywide. During the Review Period, private bookings in those two boroughs yielded \$438 million to Airbnb hosts—97 percent of the citywide revenue totals. The 33,825 unique units in Manhattan and Brooklyn during that period accounted for the vast majority (96 percent) of units used for private short-term rentals booked citywide. This runs counter to the suggestion that any benefits associated with private short-term rentals are well-distributed throughout the city.

As depicted in Figure 10 below, during the Review Period, about 17,000 hosts offered over 23,000 unique units in Manhattan for private short-term rentals and received revenue of \$338 million. Brooklyn emerged as a distant second in each category, with just under 8,000 hosts offering about 10,000 unique units and receiving revenue of approximately \$100 million. By contrast, private short-term rentals in the remaining three boroughs (Queens, Staten Island, and the Bronx) together yielded hosts just \$12.2 million—less than three percent of the citywide total.

Figure 10: Vast Majority of Private Short-Term Rentals Booked in Manhattan and Brooklyn

(Source: Airbnb Data, 2010-2014)



Three Community Districts in Manhattan Accounted for an Outsize Share of Private Short-Term Rentals in the Borough and Citywide. As reflected in Figure 11, three Community Districts—the Lower East Side/Chinatown, Chelsea/Hell's Kitchen, and Greenwich Village/SoHo—accounted for one-third of unique units booked as private short-term rentals in New York City. These three, largely downtown districts accounted for host revenue of \$186.9 million, which represented 55 percent of host revenue for private stays in Manhattan and 41 percent of host revenue for private stays citywide. Greenwich Village/SoHo and Chelsea/Hell's Kitchen had the highest median rents in New York City, tied at \$2,035 per month in 2012.¹² The Lower East Side was the most rapidly gentrifying neighborhood in New York City (based on the spread between median rents of new residents compared with all renters).¹³

Figure 11:
Three Lower Manhattan Community Districts Accounted for Most of Borough Revenue
(Source: Airbnb Data, 2010-2014)



¹² NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN02 Greenwich Village/SoHo." Available: http://furmancenter.org/files/sotc/SOC2013_Manhattan_02.pdf

NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN04 Clinton/Chelsea." Available: http://furmancenter.org/files/sotc/SOC2013_Manhattan_04.pdf

¹³ NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN03 Lower East Side/Chinatown." Available: http://furmancenter.org/files/sotc/SOC2013_Manhattan_03.pdf

Williamsburg and Greenpoint Hosted the Greatest Share of Private Short-Term Rentals in Brooklyn. During the Review Period, most revenue from private Brooklyn short-term rentals came from Community Districts along the Northern Brooklyn waterfront and in the neighborhoods often collectively called "Brownstone Brooklyn." As depicted in Figure 12 below, the Williamsburg/Greenpoint Community District had for the largest concentration of private short-term rentals in Brooklyn, generating \$39 million for hosts—40 percent of the boroughwide total and nearly 10 percent of the citywide total.

Like the Lower East side, the Williamsburg/Greenpoint Community District was one of the most rapidly gentrifying neighborhoods in New York City, as reflected in the disparity between the rents paid by old and new renters in 2012.¹⁴ Other popular community districts included Downtown Brooklyn/Fort Greene (\$14.7 million revenue), Prospect Heights/Bedford Stuyvesant (\$14.4 million revenue), and Park Slope (\$8.67 million revenue).

Figure 12: Williamsburg and Greenpoint Accounted for 40 Percent of Brooklyn Host Revenue

(Source: Airbnb Data, 2010-2014)



¹⁴ NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "BK01 Greenpoint/Williamsburg." Available: http://furmancenter.org/files/sotc/SOC2013_Brooklyn_01.pdf

APPENDIX A:

SUMMARY OF SELECTED LAWS

PROPERTY USE AND SAFETY LAWS

Property use and safety laws establish basic standards for the permissible and sound use of property. These laws seek to protect the health, safety, morals, welfare, and reasonable comfort of the residents of the property.

One such law is the New York State Multiple Dwelling Law (the "MDL"), which prohibits rentals of less than 30 days in "Class A" multiple dwelling. Prior to 2010, the MDL defined "Class A" buildings as those dwellings occupied "as a rule, for permanent residence purposes." The phrase "as a rule, for permanent residence purposes" was ambiguous and left room for various interpretations. For example, the phrase "as a rule" could mean that at least some measure of secondary short-term occupancy is permitted in a "Class A" building, provided that the majority of units are occupied on a permanent residency basis. The court in *City of New York v. 330 Continental, LLC*, 60 A.D.3d 226 (1st Dept. 2009) followed this interpretation, holding that the MDL is not violated when only a minority of units in a Class A building are used as transient hotel rooms.

In 2010, the MDL was amended to specify that permanent residency of a dwelling means at least 30 consecutive days' occupancy by a "natural person or family" in a unit. Thus, one cannot rent out an apartment in a "Class A" multiple dwelling for less than 30 days, unless a "permanent resident" is present during the rental period. A "multiple dwelling" is a dwelling occupied by three or more families living independently. The purpose of this prohibition is to protect guests, ensure the proper fire and safety codes, and protect permanent residents who "must endure the inconvenience of hotel occupancy in their buildings." It was also designed to preserve the supply of affordable permanent housing. See New York State Assembly Memorandum in Support of Legislation (S. 6873-B, 233rd Leg. (N.Y. 2010 (Sponsor's Memo) Bill No. A10008).

Even if the building is not a "Class A" multiple dwelling, a short-term rental could still violate the law. For example, New York City Administrative Code, section 28-118.3.2, prohibits changes to the use, occupancy, or egress of a building. A short-term stay in a building that is not a "Class A" multiple dwelling would violate the law unless the building's certificate of occupancy expressly authorized that type of use.

TAX LAWS

Anyone who rents out a unit on a short-term basis must pay applicable hotel taxes. These taxes include the New York City Hotel Occupancy tax of 5.875%, plus an additional per room fee of 50 cents to \$2, depending on the total cost of the room.¹⁵

The operator (as relevant here, the host) is personally liable for the portion of the tax collected or required to be collected. The operator must collect the tax for all rentals of apartments or rooms, except in the case of: (1) rental of only one room in an owner-occupied home; (2) rentals for less than 14 days, or for fewer than three occasions during the year (for any number of total days);¹⁶ and (3) "long-term leases," i.e., rentals for a continuous period of 180 consecutive days.

Other taxes, including sales taxes and the New York City Unincorporated Business Tax ("UBT"), may also apply. The UBT is a 4% tax on net income imposed on individuals or unincorporated entities that carry on or are currently liquidating a trade, business, profession, or occupation within New York City. This includes those engaged in the business of renting out homes and apartments for profit as an unincorporated business.

¹⁵ This additional fee is based on the "rent" being charged for a room:

If the rent for the room is...	The tax will be...
\$10 or more, but less than \$20	50 cents per day per room + the hotel room occupancy tax rate
\$20 or more, but less than \$30	\$1 per day per room + the hotel room occupancy tax rate
\$30 or more, but less than \$40	\$1 per day per room + the hotel room occupancy tax rate
\$40 or more	\$2 per day per room* + the hotel room occupancy tax rate

A hotel suite may have more than one room. The tax will be \$2.00 per room per day on each of the rooms that make up the suite plus the hotel room occupancy tax for the entire suite rental. For example, the tax on a suite with 3 rooms will be \$6.00 per day plus the hotel room occupancy tax for the entire suite rental.

¹⁶ Rentals of listings in a single building are aggregated and rentals of listings by a single owner or primary leaseholder are aggregated across buildings. Once a facility is required to pay hotel occupancy tax, it must continue to pay the tax until it falls below the de minimis thresholds for three consecutive years.

APPENDIX B: SELECTED AFFIDAVITS (FIRE & SAFETY ISSUES)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
THE CITY OF NEW YORK.

Plaintiff,

AFFIDAVIT IN
SUPPORT

-against-

Index No.

CITY OASES, LLC, et al.,

Defendants.
-----X

STATE OF NEW YORK)
)ss.
COUNTY OF KINGS)

THOMAS JENSEN, being duly sworn, deposes and says:

1. I am employed by the New York City Fire Department ("FDNY") as the Chief of Fire Prevention, a position I have held since 2007. I am a member of FDNY's uniformed firefighting force, and hold the rank of Assistant Chief. I have been employed by FDNY since 1973, when I was appointed to the position of Firefighter. Prior to being appointed to the rank of Assistant Chief, I was promoted to and held the ranks of Lieutenant, Captain, Battalion Chief, Deputy Chief, Deputy Assistant Chief.

2. As Chief of Fire Prevention, I oversee the operations and personnel of the Bureau of Fire Prevention, the FDNY bureau primarily responsible for FDNY's fire prevention and code enforcement mission. In addition, as Chief of Fire Prevention I served as the Chair of the Fire Protection Systems Committee of the New York City Department of Buildings Code Revision Project that culminated in the 2014 New York

City Building Code, and I was a member of the Managing Committee of FDNY's Code Revision Project that culminated in the 2014 New York City Fire Code.

3. I am fully familiar with the New York City Fire Code, and its predecessor, the New York City Fire Prevention Code, by virtue of my training, experience and position.

4. I make this affidavit in support of plaintiffs' application for a temporary restraining order, and preliminary injunction in the above-captioned action. This affidavit outlines the heightened fire and life safety concerns and standards associated with transient residential occupancies, as compared to non-transient residential occupancies.

5. FDNY is responsible for enforcing the New York City Fire Code ("Fire Code") and rules promulgated thereunder, which seek to prevent fires and mitigate their danger to life or property, throughout the five boroughs of New York City. FDNY also has authority to enforce fire and life safety provisions contained in the New York City Building Code ("Building Code").

6. One type of building occupancy specifically addressed in the Fire Code and Building Code are hotels and other transient accommodations.

7. Transient residential occupancies in New York City (classified by Building Code Section 310.1.1 as Group R-1 occupancies) are required to be designed, constructed and operated in accordance with more stringent fire protection requirements than those applicable to apartment buildings and other non-transient residential occupancies (classified by New York City Building Code Section 310.1.2 as Group R-2 occupancies).

8. A major reason for this distinction is that the visitors who stay in transient residential occupancies are not familiar with the layout of the building, including the exit stairwells, as are permanent residents. Occupants of transient accommodations therefore are likely to find it more difficult to evacuate the building quickly in the event of a fire or other emergency. This would be especially the case if there is a heavy smoke condition, smoke being a prime cause of death and serious injury in the event of fire. Occupants of transient accommodations typically are only familiar with the entrance through which they entered and the elevators. Use of elevators is discouraged in the case of a fire because they may open on floors engulfed by fire, smoke or heat, or even stall between floors.

9. Historically, it has taken tragic fires to lead to major changes and improvements in fire safety. For example, the 1980 fire at the Las Vegas MGM Grand Hotel and Casino, which resulted in some eighty-five (85) deaths and hundreds of injuries, and other significant hotel fires in Las Vegas, Houston, and White Plains, New York, led to substantial changes in fire safety requirements for transient accommodations in New York City. Beginning in the 1980s, FDNY addressed the need for heightened fire safety protection requirements in transient accommodations, first by issuance of a directive (Fire Prevention Directive 2-82), then by promulgation of a rule (3 RCNY 39-01), and more recently through the enactment in 2008 of Chapter 4 of the new New York City Fire Code, which, together with the new Fire Department rules, incorporated the requirements of the now repealed Fire Prevention Directive 2-82 and 3 RCNY 39-01.

10. With the enactment of Local Law No. 148 of 2013, the Fire Code was revised to enhance emergency preparedness in hotels and other transient residential

occupancies by requiring that the emergency preparedness plans, staff training and drills in such occupancies address all types of emergencies, not just fires. The Fire Department will be promulgating rules implementing these new Fire Code provisions. Until such time as such rules are promulgated, existing (2008 Fire Code) emergency preparedness requirements for hotels and other transient residential occupancies remain in effect as set forth in FC401.3.6.1.

11. The Fire Code imposes or references a series of requirements on transient residential occupancies beyond those which are applicable to non-transient residential occupancies:

- (a) Provision of portable fire extinguishers (FC 906.1);
- (b) Provision of automatic sprinkler systems (FC 903.2, referencing the Building Code);
- (c) Provision of photoluminescent exit path markings for exits and stairwells in high-rise buildings (FC 1001.2, referencing the Building Code);
- (d) Provision of manual, automatic, or manual and automatic fire alarm systems, on all floors with smoke detection capability, notification of building occupants and, in most buildings, voice communication capability (FC 907.2, referencing the Building Code and National Fire Protection Association Standard 72);
- (e) A fire safety and evacuation plan, which sets forth the evacuation and other procedures to be implemented in the event of a fire, and which

designates the fire safety director, deputy fire safety directors and fire brigade members¹ (2008 Fire Code Section FC 404.2.1):

(f) Provision of a fire safety director, who is responsible for implementing the fire safety and evacuation plan, notifying the Fire Department, and communicating all instructions and directions to building occupants in the event of a fire, and who must possess a FDNY certificate of fitness and be present in the hotel or motel at all times (2008 Fire Code Section FC 401.6.5):

(g) Provision of a lobby fire command center, equipped with a control panel that displays the status of alarm devices in the building, and that is used by the fire safety director and FDNY emergency response personnel to implement the fire safety and evacuation plan (FC 907.3):

(h) Provision of a fire brigade, consisting of building staff trained in fire safety, who assist the fire safety director and FDNY personnel with the implementation of the fire safety and evacuation plan (2008 Fire Code Section FC 401.6.5); and

(i) Posting of diagrams on every guest room entrance door showing the route to two stairwells or other means of egress (FC 405.5).

12. In contrast, the New York City Fire Code contains the following less stringent fire protection requirements for non-transient residential occupancies:

(a) There is no requirement for portable fire extinguishers.

¹ 2008 Fire Code Section 402.4.1(8) requires this plan for "Group R-1 occupancies, occupied by more than 30 lodgers, or more than 15 lodgers above street level, for a period of 90 days or less; and/or operated to accommodate such numbers of lodgers for such period of occupancy; and/or designed to contain a total of more than 30 sleeping rooms, or more than 15 sleeping rooms above the street level, for such period of occupancy; and/or occupied by one or more lodgers on a floor more than 75 feet (22 860 mm) above the street level, for such period of occupancy, or operated or designed for such lodging."

(b) There was no requirement for a building-wide fire alarm system in older apartment buildings, and, in newer apartment buildings, the requirement for a fire alarm system is limited to certain areas of the building and does not alert building occupants in the event the fire alarm system is activated (FC 907.2, referencing the Building Code and National Fire Protection Association Standard 72).

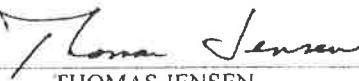
(c) In contrast to the detailed fire safety and evacuation plan and emergency preparedness staff to implement it required in transient residential occupancies, in apartment buildings the Fire Code only requires annual distribution of a fire safety guide that contains information about the building, basic fire prevention and fire preparedness measures and emergency fire safety instructions in the event of fire (FC 406.2.1).

(d) In contrast to the posting of diagrams on each transient occupancy unit showing two evacuation routes, in apartment buildings there need only be a fire safety notice posted on the back of the main entrance door to individual dwelling unit doors and in the common areas of the building, that assists occupants in selecting the safest course of action in the event of a fire (FC 405.5).

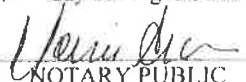
13. Accordingly, a visitor who occupies a unit in an apartment building that is being used illegally for transient occupancy, does not have the benefit of the fire and life safety measures required in legal transient occupancies for the protection of persons unfamiliar with the layout of the building. Moreover, a visitor who occupies a unit in an apartment building that is being used illegally for transient occupancy is not afforded the same opportunity to familiarize himself or herself with the information contained in the

fire safety guide for that building, as is afforded to a resident of the building. The visitor is thus placed at significantly increased risk of injury or death in the event of a fire.

14. In the larger context of fire safety in New York City it is important to note that the overall fire protection measures developed and instituted in recent decades have resulted in a dramatic decline in the number of fatalities attributable to fire incidents. As depicted in Exhibit A attached hereto, the number of fire related fatalities declined from almost 300 in 1976 to 62 in fiscal year 2010. That number has since declined even further. FDNY Statistics for fiscal year 2013 (see Exhibit B) reported 493,377 fire incidents, including 25,278 structural fires but only 47 civilian fire fatalities. New York City's fire protection measures, including those designed to protect transient visitors to the City, have contributed to the historically low level of fire deaths.


THOMAS JENSEN
Chief of Fire Prevention

Sworn to before me this
19th day of August, 2014.


NOTARY PUBLIC

Melvin Archer
Notary Public, State of New York
No. 0241883828
Qualified in New York County
Commission Expires 12/31/17

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
THE CITY OF NEW YORK.

Plaintiff,

Index No.:

-against-

CITY OASES, LLC. MINA GUIRGUIS, SZILVIA
PATKOS, HAMID KERMANS SHAH a/k/a
ABDOLHAMID KERMANS SHAH. ABDOLMAJID
KERMANS SHAH a/k/a MAJID KERMANS SHAH,
WILSHIRE LIMITED. THE LAND AND BUILDING
KNOWN AS 59 FIFTH AVENUE, BLOCK 570, LOT
6, County of New York. City and State of New York,
RAHMAN NY INC., THE LAND AND BUILDING
KNOWN AS 5 WEST 31ST STREET, BLOCK 833,
LOT 36, County of New York, City and State of New
York and "JOHN DOE" and "JANE DOE." numbers 1
through 10, fictitiously named parties, true names
unknown, the parties intended being the managers or
operators of the business being carried on by defendants
CITY OASES, LLC, RAHMAN NY INC., and/or
WILSHIRE LIMITED,

Affidavit of
VLADIMIR PUGACH

Defendants.

-----X
STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

VLADIMIR PUGACH, being duly sworn, deposes and says:

1. I am presently employed as an Associate Inspector for the New York City
Department of Buildings (hereinafter the "DOB"), and I have been so employed for almost
nine (9) years. I have been assigned to the Mayor's Office of Special Enforcement ("OSE")

(formerly named the Office of Midtown Enforcement) since July 2009, where I serve as a member of the Mayor's Inspection Task Force (hereinafter the "MTF").

2. The MTF is composed of inspectors from various New York City agencies, including the DOB, the New York City Fire Department, the New York City Health Department, and the Department of Finance, as well as officers from the New York City Police Department. The MTF's function is to perform 'quality of life' inspections, covering compliance with health, safety and fire codes, in structures located within the five boroughs of the plaintiff CITY OF NEW YORK [the "CITY"].

3. I submit this affidavit, which is based upon both my personal knowledge and my review of pertinent records kept by the CITY and its various agencies, in support of the plaintiff's application for a temporary restraining order, as well as its motion for a preliminary injunction.

4. On December 3, 2011, and August 25, 2012, I participated in code enforcement inspections of 59 Fifth Avenue, New York; and on April 21, 2012, and October 5, 2013, I participated in code enforcement inspections of 5 West 31st Street. These inspections were conducted by the MTF in response to complaints that dwelling units in the buildings were being operated as illegal transient hotel units.

59 Fifth Avenue

A. December 3, 2011 Inspection

5. During the December 3, 2011 inspection of 59 Fifth Avenue, I observed, among other things, (a) that the second and third floors had been converted from 2 class A apartments to 3 class A apartments on each floor without first obtaining a permit as required by the New York City Building Code; (b) that the second and third floors were occupied for

transient use, contrary to that allowed by the certificate of occupancy for the building; (c) that there was a failure to provide (i) a fire alarm system as required for transient occupancy, (ii) a sprinkler system as required for transient occupancy, and (iii) the means of egress required for transient occupancy.

6. Accordingly, I issued ECB Notices of Violation for the violations, as follows:

- i. Violation No. 34924282Z for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by Certificate of Occupancy No. 75911, in that the 2nd and 3rd floors were converted from two class A apartments to 3 class A apartments, and were occupied by transient, short-term guests, scheduled to stay for less than 30 days. Additionally, the attic apartment was illegally occupied as an office. This is a Class 1 Hazardous violation.
- ii. Violation No. 34924283K for violation of § 28-105.1 of the New York City Building Code for work without a DOB permit for the installation of full height partitions creating additional apartments on the 2nd and 3rd floors, and plumbing for the additional apartment. This is a Class 1 Hazardous violation.
- iii. Violation No. 34924284M for violation of § BC 1004.4 of the New York City Building Code for failure to provide required means of egress for transient use of the 2nd and 3rd floors. This is a Class 1 Hazardous Violation.
- iv. Violation No. 34924285Y for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.
- v. Violation No. 34924286X for violation of § BC 903.2.7 of the New York City Building Code for failure to provide an automatic sprinkler system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.

A copy of the Certificate of Occupancy No. 75911 is annexed hereto as Exhibit "A".

7. These violations directed discontinuation of the illegal occupancy, the obtaining of permit for the work done without a permit, and imposed a partial stop work

order. Copies of each of the December 3, 2011 ECB Notices of Violation are collectively annexed hereto as Exhibit "B".

8. On the day of the inspection, December 3, 2011, I took photographs at 59 Fifth Avenue of the "House Rules" for the transient guests, and of documents in possession of guests showing the booking of accommodations at 59 Fifth Avenue, indicating the length of stay, among other things, documents which were shown by guests to the MTF team. Those photographs are attached as Exhibit "C".

9. The violations were the subject of a hearing at the New York City Environmental Control Board ("ECB"), held on April 12, 2012, at which I testified. After hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the April 19, 2012 ECB decision is annexed hereto as Exhibit "D".

10. Defendant Wilshire Limited appealed the ECB judge's decision to the Board. That appeal was denied by Appeal Decision and Order issued on December 20, 2012. A copy is attached as Exhibit "E".

B. August 25, 2012 Inspection

11. On August 25, 2012, I participated in a follow-up code enforcement inspection of 59 Fifth Avenue conducted by the MTF, in response to a new complaint that 2nd and 3rd floor apartments were being operated as an illegal transient hotel.

12. During that inspection I observed that there had been no change in the illegal use of the 2nd and 3rd floor apartments for transient use and occupancy, and that the attic apartment was also being used and occupied transiently. In addition, I observed that the egress and fire safety violations had not been corrected.

13. Accordingly, I issued ECB Notices of Violation for the recurring violations

and additional fire safety violations, as follows:

- i. Violation No. 34979610R for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by Certificate of Occupancy No. 75911, in that the 2nd and 3rd floors were converted from two class A apartments to 3 class A apartments, and were occupied by transient, short-term guests, scheduled to stay for less than 30 days. Additionally the attic was also being occupied by transient, short-term guests, and one of the 2nd floor apartments as an office. This is a recurring Class 1 Hazardous violation.
- ii. Violation No. 34979611Z for violation of § BC 1004.4 of the New York City Building Code for failure to provide required means of egress for transient use of the 2nd and 3rd floors. This is a recurring Class 1 Hazardous Violation.
- iii. Violation No. 34979612K for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a recurring Class 1 Hazardous Violation.
- iv. Violation No. 34979613M for violation of § BC 903.2.7 of the New York City Building Code for failure to provide a sprinkler system in a building used for transient occupancy. This is a recurring Class 1 Hazardous Violation.
- v. Violation No. 34979614Y for violation of § 28-204.4 of the New York City Building Code, for failure to comply with the Commissioner's order to file a certificate of correction with respect to the five violations described in Paragraph 6 of this Affidavit.

14. The violations directed discontinuation of the illegal occupancy and the filing of a certificate of correction. Copies of the August 25, 2012 ECB Notices of Violation are collectively annexed hereto as Exhibit "F"

15. During the inspection I took photographs of documents in possession of guests showing the booking of accommodations at the Subject Premises and information on check-in procedures. Copies of these photographs are annexed hereto as Exhibit "G".

16. The violations were the subject of a hearing at the New York City Environmental Control Board ("ECB"), held on May 2, 2013, at which I testified. After

hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the May 10, 2013 ECB decision is annexed as Exhibit "H".

17. Defendant Wilshire Limited appealed the ECB judge's decision to the Board. That appeal was denied by Appeal Decision and Order issued on October 31, 2013. A copy of the Appeal Decision and Order is annexed hereto as Exhibit "I".

5 West 31st Street

A. April 21, 2012 Inspection

18. During the code inspection of 5 West 31st Street conducted by the MTF on April 21, 2012, I observed, among other things, (a) that, on the ninth and tenth floors, full height partitions had been erected to create twelve transient-use rooms, and plumbing and electrical wiring installed, without first obtaining a permit as required by the New York City Building Code; (b) that the ninth and tenth floors were occupied for transient use; (c) that there was a failure to provide (i) a fire alarm system as required for transient occupancy, (ii) a sprinkler system as required for transient occupancy, and (iii) the means of egress required for transient occupancy; and (d) that there was a failure to comply with the Building Code requirements for the direction of swing of exit doors for transient accommodations, in that the doors marked for exit on the ninth and tenth floors swing against the direction of egress.

19. There being no certificate of occupancy for 5 West 31st Street, upon my examination of the records at the DOB concerning the building, I determined that the transient occupancy on the ninth and tenth floors of the building is contrary to that which is lawfully allowed.

20. Accordingly, I issued ECB Notices of Violation for the violations, as follows:

- i. Violation No. 34947948H for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by

DOB records, in that the 9th and 10th floors, with twelve sleeping rooms, were occupied by transient, short-term guests, scheduled to stay for less than 30 days. This is a Class 1 Hazardous violation.

- ii. Violation No. 34947947X for violation of § 28-105.1 of the New York City Building Code for work without a DOB permit for the installation of full height partitions creating twelve transient-use rooms on the 9th and 10th floors, and for the installation of plumbing and electrical wiring. This is a Class 1 Hazardous violation.
- iii. Violation No. 34947942R for violation of §§ 28-301.1, BC 1018.1, and 27-366 of the New York City Building Code for failure to provide required means of egress for transient use of the 9th and 10th floors. This is a Class 1 Hazardous Violation.
- iv. Violation No. 34947943Z for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.
- v. Violation No. 34947944K for violation of § 1008.1.2.2 of the New York City Building Code for failure to comply with the required direction of swing of exit doors in a building with transient occupancies. This is a Class 1 Hazardous Violation.
- vi. Violation No. 34974946Y for violation of § 28-118.3 of the New York City Building Code for an altered or changed building being occupied without a valid certificate of occupancy, as required by §§ 28-118.3.1 and 28-118.3.2.

21. The violations directed discontinuation of the illegal occupancy, the obtaining of a certificate of occupancy, and compliance with the Code. Copies of the April 21, 2012 ECB Notices of Violation are collectively annexed hereto as Exhibit "J".

22. On the day of the inspection, April 21, 2012, I took photographs at 5 West 31st Street of the operator's contact information and Certificate of Authority posted at the building, of booking invoices and reservation documents. Those photographs are annexed hereto collectively as Exhibit "K".

23. The Violations were the subject of a hearing at the New York City

Environmental Control Board ("ECB"), held on February 28, 2013, at which I testified. After hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the March 14, 2013 ECB decisions is annexed hereto as Exhibit "L".

B. October 5, 2013 Inspection

24. On October 5, 2013, I participated in a follow-up code enforcement inspection of 5 West 31st Street conducted by the MTF in response to a new complaint that the Subject Premises was being operated as an illegal transient hotel.

25. On that date the apparent person in charge refused entry to the MTF to perform an inspection. That individual, Iana Ivashyna, was the same apparent person in charge at the time of the first inspection performed on April 21, 2012. A photograph of her official New York State identification card taken during the prior inspection conducted on April 21, 2012 is attached as Exhibit "M".

26. Each and every one of the sixteen (16) ECB NOV's noted above that I issued to the defendants herein included an order from the DOB Commissioner to correct the conditions that gave rise to the charged violations and to certify such correction with DOB. Under DOB regulations, a Class 1 [immediately hazardous] violation must be corrected 'immediately'.

27. I have reviewed the DOB records regarding the Buildings at 5 West 31st Street and 59 Fifth Avenue. Based upon my review, I have determined that, to date, the defendant owners have failed to certify their correction for each and every one of the sixteen (16) NOV's that were issued to them on December 3, 2011, April 21, 2012, and August 25, 2012. Of those sixteen (16) NOV's, fifteen (15) of them were issued on the basis that the violations were Class I hazardous violations and, in fact, after their respective hearings, the ECB upheld

such violations as Class 1 hazardous violations. The sixteenth violation [NOV 34979614Y] was issued as an "Aggravated 1" violation, indicating that the charged violation was issued as a 'repeat offense', which is considered to be a more serious violation than a Class 1 violation. A copy of a recent print-out from DOB records for each of the two buildings, at 5 West 31st Street and 59 Fifth Avenue, is annexed hereto collectively, as Exhibit "N", confirming this information.

28. Finally, as part of OSE's investigation regarding the operation by defendants of illegal short-term rentals in permanent residence apartments in New York City, I, together with MTF member New York City Police Department ["NYPD"] Sergeant Arthur Levine, confirmed the current offering and availability of short-term accommodations at both 59 FIFTH AVENUE and 5 WEST 31st STREET. See Affidavit of NYPD Sergeant Arthur Levine, sworn to on August 22, 2014 ["Levine Affid."], at paragraph 4.

29. In that regard, we booked reservations through the Contempo Design Suites web site, <http://www.contempodesignnyc.com>, for two (2) days [11/6/14 – 11/8/14] at 59th FIFTH AVENUE, under the alias name of "Kim Gallagher". In addition, we booked reservations through the Urban Oasis web site, <http://www.urbanooasisnyc.com>, for seven (7) days [5/1/15 – 5/8/15] at 5 WEST 31st STREET, under the alias name of "Martin Keller". Copies of the reservation documents and invoices for 59 FIFTH AVENUE and 5 WEST 31ST STREET are annexed to the Levine Affid., respectively, as Exhibits "A" and "B".

30. Based on my observations with Sergeant Levine that the defendants were offering apartments in both 59 FIFTH AVENUE and 5 WEST 31st STREET for short-term rental, and based on our actual booking of short-term rental accommodations at both Buildings despite the fact that such accommodations are not lawfully permitted by the relevant provisions

of the applicable statutes and codes, I issued two ECB Notices of Violation: ECB NOV # 35096468M [to respondent/defendant WILSHIRE LIMITED, for 59 FIFTH AVENUE] and ECB NOV # 35096469Y [to respondent/defendant RAHMAN NY INC., for 5 WEST 31ST STREET]. Both NOV's cited the respondents/defendants for their violations of NYC Building Code [Admin. Code] § 28-210.3 [Illegal conversions of dwelling units from permanent residences.] which states, in pertinent part, that "It shall be unlawful for any person or entity who owns or occupies a multiple dwelling or dwelling unit classified for permanent residence purposes to use or occupy, offer or permit the use or occupancy or to convert for use or occupancy such multiple dwelling or dwelling unit for other than permanent residence purposes." Copies of the two NOV's are annexed hereto , collectively, as Exhibit "O".


VLADIMIR PUGACH

Sworn to before me on the
25th day of August, 2014


Notary Public

JOHN P. BIGOLSKI
Notary Public, State of New York
No. 01815023114
Qualified in Kings County
Commission Expires Jan. 31, 2018-JB

APPENDIX C: SELECTION OF ANONYMOUS COMPLAINTS

During the Review Period, thousands of New Yorkers submitted complaints to state and city agencies complaining about the proliferation of short-term rentals, primarily in New York City. These complaints raise a host of grievances with short-term rentals, including safety, noise, and a failure to abide by building rules. The excerpts below—which are anonymized to protect the complainants—highlight a few of the broad themes found in these complaints.

Complaint Submitted October 13, 2013 (NYAG):

[I live in] a Class A, partly rent-stabilized, partly market-rent four-flight walk-up tenement building of a lower Manhattan neighborhood. The apartment on the 1st floor being rented out as a hotel suite... The [temporary renters] apparently [do not] have key to side yard to dispose of garbage so was dumping it on street in front. After we complained by leaving notes a maid service began to appear every few days to clean the apartment... We urged management to put an end to illegal hotel rental. In July, 2012 [an apartment in the building] was burglarized of all her grandmother's jewelry in what appeared to be an inside job. Meanwhile, I began to notice a revolving door in the apartment beneath mine. This morning, another neighbor concerned about the erosion of Class A apartments found on line [the apartment in question] being [listed] on Airbnb. It appears that [numerous other apartments my block have also been] listed on Airbnb... Safety, building security, quiet enjoyment of our homes, any sense of community are under assault: please investigate.

Complaint Submitted October 14, 2013 (NYAG):

I write to ask you to take the strongest enforcement action possible against the proliferation of illegal hotels in our neighborhoods facilitated openly by the website Airbnb. I live in a middle class, northern Brooklyn neighborhood and about one and a half years ago I spent almost one entire hellish year battling an illegal hotel operating in the apartment below me. I called countless [City agencies] but to no avail. The person who operated that site had numerous others throughout the city. It was a health and safety risk and the proprietor threatened me with physical force for reporting her and the landlord at the time (the building has since been sold) was a willing accomplice as he hoped to get higher rent from a hotel than from legal tenants. Rent in our neighborhood has become near unaffordable for us and it is partly because people can charge such high rents to illegal hotels.

Complaint Submitted March 11, 2014 (NYAG):

I am writing to bring your attention to a business that is using Airbnb to illegally rent out its apartments via Airbnb, essentially operating as a hotel chain masquerading as individuals renting apartments. The company in question is [presents itself as a legitimate short-term rental service] using several pseudonyms. From what I can tell, they are buying NY tenement apartments and

renting them out to tourists. Among many other problems, this has the effect of forcing long-standing residents out of their apartments to serve tourists.

Complaint Submitted March 12, 2014
(Office of New York Senator Elizabeth Kruger):

I am 41 year old resident of New York City [and hold a lease in a] building with three apartments in Northern Brooklyn... Since October of 2010 I have confronted the problem of [the tenant in the unit above mine] renting the apartment for tourists. They use the Airbnb [website]. At first I got really frightened of having transient strangers entering and exiting the building with so much frequency, then I kind of got used to it, but never felt comfortable with the circumstances. Besides, my life and the life of my roommates is constantly disrupted with the noise from upstairs neighbor with groups of people making heavy noise, especially during the night. We have had property stolen from the basement, lost deliveries left inside the building, the front door was once vandalized and the list of incidents goes on... The host accommodates up to four people in each room (for a total of 12 people at the same time). [For] at least one year the host has [been offering short-term rentals and does] not live in the building but with his girlfriend somewhere else in the neighborhood. To rent the rooms he comes to meet his clients, gives them the keys to the building, and then leaves...

Complaint Submitted March 21, 2014
(New York City Office of Special Enforcement):

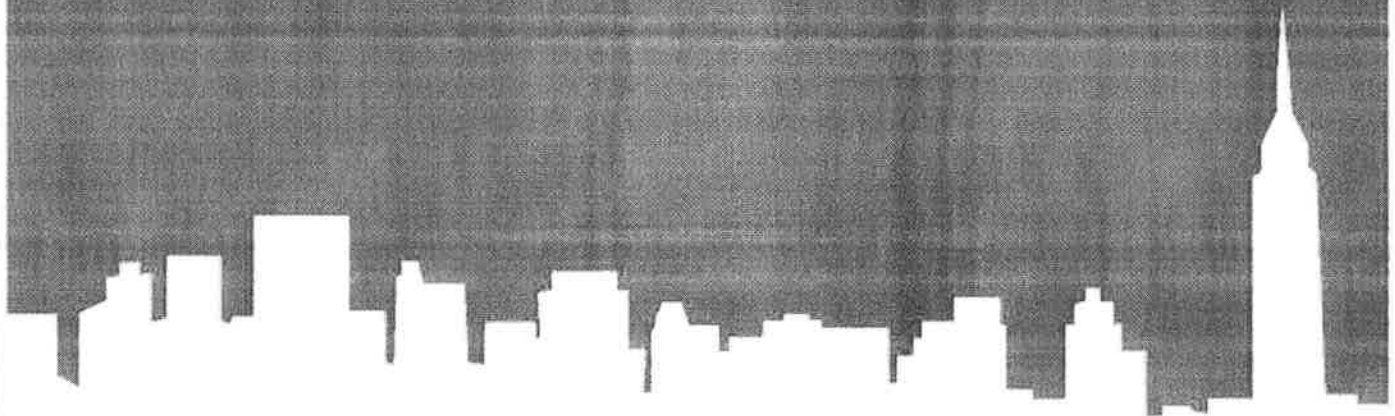
[I just wanted to give you] an update on two apartments [being used as illegal hotels]. Both apartments are owned by the same landlord... and both apartments are almost continuously occupied [for short periods by groups of tourists from all over the world]... We also see a cleaning person and the Airbnb hostess visiting both apartments with supplies. I have met every family so far (except the one that moved in today) to let them know about the situation. I am hoping that some of them mention the fact of this being an illegal rental on the Airbnb website, or to the hostess... All of the felt something was amiss when the hostess failed to meet them in person and had them pick up the keys from someone else... Our lives have been seriously affected by these illegal activities



NEW YORK STATE OFFICE

of the

ATTORNEY
GENERAL





June 2015

Dear Members, Friends & Colleagues:

CAST began its efforts with the impacts of Vacation Home Rentals (VHR's) back in 2009 when we put together a task force, developed an RFP, and subsequently chose a vendor to help our communities identify short-term rentals and bring them into compliance. At the time, our efforts were revenue-focused, as we recognized that our member towns were missing potentially large chunks of revenue from short-term rental owners who were not in compliance with their local government's tax requirements.

This was a lengthy process, but one of major importance as we helped bring this issue to the forefront on a national level. Our vendor, VRCompliance LLC, helped several of our communities bring in many thousands of dollars of otherwise lost revenue by assisting them in tracking and collecting information on VHR's.

While revenue collection still remains an issue, CAST's focus has shifted to include the impacts that VHR's are having on our communities in terms of loss of long-term rental housing, community character, zoning, safety, parking, noise, etc. The VHR industry is growing so rapidly there's a much bigger picture that is changing daily and is a moving target. Many of our member communities are in crisis, or will soon reach a crisis point, because of the proliferation of VHR's and the challenges created in regulating them and mitigating their impact.

To assist our members in better understanding this industry and learn from each other as to how each is handling the challenges, the CAST Board of Directors agreed to commission a study and best practices guide with Melanie Rees of Rees Consulting, Wendy Sullivan of WSW Associates and Chris Cares of RRC Associates. The end result is the attached report.

We hope that you find this report to be informative, insightful and helpful to you in your ongoing efforts. We'd like to thank the ten CAST communities who made this report possible – Breckenridge, Crested Butte, Durango, Estes Park, Frisco, Jackson, Mt. Crested Butte, Ouray, Park City and Steamboat Springs. And we also thank Melanie Rees, Wendy Sullivan and RRC Associates for their time, professionalism and thorough research efforts.

For more information, please contact me at 970-485-2737 or info@coskitowns.com.

Sincerely,

Joyce Burford

Joyce Burford
Executive Director



Vacation Home Rentals

Issues, Emerging Trends and Best Practices

WIMDU

HOUSE
TRIP



June 2015

Prepared for:

Colorado Association of Ski Towns

With Participation by:

Breckenridge, Crested Butte, Durango, Estes Park, Frisco, Jackson, Mt. Crested Butte, Ouray, Park City and Steamboat Springs

Prepared by:

Rees Consulting Inc.

WSW Consulting

RRC Associates LLC

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Introduction

Purpose

The purpose of this report is to assist officials in Rocky Mountain resort communities better understand and oversee the growing number of Vacation Home Rentals (VHR's) rented by visitors through online hosting sites, such as VRBO and Airbnb. It describes regulations and tracking systems, examines impacts to neighborhoods and workforce housing and provides examples of best practices that can be easily referenced.

The focus is on 10 members of the Colorado Association of Ski Towns (CAST) that sponsored this study:

Breckenridge	Jackson
Crested Butte	Mt. Crested Butte
Durango	Ouray
Estes Park	Park City
Frisco	Steamboat Springs

There are wide-ranging benefits to sharing information on the efforts undertaken and lessons learned in these comparable mountain towns. Much insight is also gained from the information provided on leading edge practices and up-to-date efforts by communities across the country to respond to the proliferation of short-term rentals in residential neighborhoods. Research shows that the issues facing the large high-cost cities are much the same as the concerns that have surfaced among CAST towns. Fortunately this expands the best practices from which towns can borrow as they craft responses appropriate for the unique characteristics of their communities.

Organization of the Report

This report begins with the Executive Summary, which includes an introduction to the industry, the size of the market in participating CAST towns, and the extent to which specified issues are of concern in these communities. The subsequent sections in this report are organized around the major themes that emerged across our research:

- I. Tracking
- II. Regulations
- III. Licensing and Permitting
- IV. Taxing
- V. Staffing
- VI. Neighborhood Impacts
- VII. Workforce Housing

Each section consists of four subsections:

- Issues and Emerging Trends – Information primarily on national trends related to the particular Section. Examples from communities throughout the nation are provided. Information on the

evolution of national concerns and methods that have been employed or discussed to address each issue are presented.

- CAST Survey Findings – Findings from a survey of the 10 CAST communities that participated in this study. Information on how different communities have addressed or struggled with VHR issues in each section is presented. Particularly innovative or effective methods to address each issue are highlighted.
- Best Practices – Practices that communities wanting to address particular issues should consider. This includes examples from larger cities, high-cost communities and resort towns. Each practice will likely require tailoring to meet unique community circumstances.
- Potential Practices – Suggestions that communities may consider to address certain issues. This includes practices for which either community examples were not found or that address issues that may selectively affect certain communities or be of peripheral concern to some.

Each section informs the types of issues town officials and staff have raised and that may arise as communities shape policies, continue oversight and consider regulatory options.

How to Use This Report

This report is intended to be used as a manual for communities interested in learning about and addressing particular VHR impacts. Each section may be read independently of the other sections. Each section contains all of the information particular to the section's topic, meaning it should not be necessary to "mine" information from other sections of the report to collect the information needed.

If read from front to cover, readers will encounter some repetition among sections. Several community examples and methods used can be effective at addressing multiple VHR issues and may, therefore, appear in multiple sections. Each section, however, highlights the most important components of each example that helps address the topic issue for that particular section, presenting new or alternative information from that provided in other sections.

Methodology

Sources referenced in this report include:

- A 12-page questionnaire completed by staff in the 10 participating CAST communities;
- A survey on perceptions about community concerns related to short-term Vacation Home Rentals completed by 34 staff and elected officials in the 10 participating towns;
- Articles published in newspapers, trade journals and on-line news services;
- Municipal and county web sites, codes, ordinances, policy memos and relevant studies;
- Hosting sites (VRBO, Airbnb, etc.);

- Colorado State Demography Section of the Department of Local Affairs;
- 2010 Census; and
- The Colorado Constitution, Colorado Revised Statutes and relevant case law.

Terminology

Vacation Home Rental (VHR): The term used in this report for the residential units that are listed for rent on a short-term basis through one or more online hosting sites. There is no consistency in the terms used by municipalities or the industry for these units. “Vacation” was included since this report focuses on mountain resort towns where most rentals are used for vacations. “Home” indicates these are residential units rather than commercial lodging.

Hosting Site(s): VRBO, Airbnb and an increasing number of other for-profit internet-based businesses that provide online listing services for various types of short-term residential rentals including Vacation Home Rentals.

Owner/Manager: The contact entity for the Vacation Home Rental. Often referred to as the “host,” particularly in reference to renting of bedrooms within a private residence and accessory units where the primary occupant (owner or long-term renter) lives on site.

Executive Summary

Overview of the VHR Industry

Vacation Home Rentals are BIG Business. The industry is large and rapidly growing, capturing an increasing share of the travel/lodging market. New hosting sites like Vacasa are continually popping up, trying to capture a share of the large profits being generated. In 2014 there were over 2.1 million rentals listed on the top three hosting sites:

- HomeAway, which includes VRBO and roughly 60 other hosting sites, has more than 1 million listings in 190 countries.
- Airbnb offers over 800,000 listings in more than 34,000 cities worldwide.
- FlipKey offers 300,000 properties in 179 countries.

In comparison, the Marriot family of hotels, which has 19 different brands (from Ritz Carlton to the Courtyard), are located in 4,000 destinations in 78 countries – only 40% of the countries served by HomeAway and 12% of the cities serviced by Airbnb.

Part of this fast rise in VHR activity has been assisted by the unequal taxing structure in its early years when compared to traditional lodging businesses. “When you tax one thing and don't tax another, it's not shocking that one grows faster,” as stated by William F. Fox, University of Tennessee economics professor, in an interview with Bloomberg BNA. This is also part of the reason electronic commerce developed as rapidly as it did 15 years ago.

VHR's in the “Sharing Economy”

The industry, for which no single term has emerged, is considered part of the “sharing economy”, which is described on Wikipedia as:

*A **sharing economy** takes a variety of forms, often leveraging information technology to empower individuals, corporations, non-profits and government with information that enables distribution, sharing and reuse of excess capacity in goods and services. A common premise is that when information about goods is shared (typically via an online marketplace), the value of those goods may increase, for the business, for individuals, and for the community.*

The industry has grown far beyond its original status within the “sharing economy.” It is no longer just using “excess capacity” -- a spare bedroom or two, the home a family would otherwise leave empty while on vacation, or the second home that owners visit only a few times a year. Many units now listed on these hosting sites previously housed members of the workforce. They were once homes for families, but are now tourist accommodations. They were occupied by their owners or rented long term but are now investor owned and rented for the highest rates achievable as frequently as possible for maximum profits.

The business model is very distinct from the traditional lodging industry, which also uses online advertising and booking systems. The difference is that most online hosting sites function as brokers, taking a percentage of rent charged but leaving compliance with local laws to the individual

owner/manager and guest. Unlike hotels and other commercial lodging accommodations, online hosting sites do not ensure that residences meet quality or minimum safety standards, generally do not collect sales and lodging taxes, and are not limited to locations within commercial zones where the use may be more compatible or expected.

VHR's Presence in Mountain Towns

VHR's are a significant resource in Rocky Mountain towns, providing visitors an alternative to traditional lodging offered in these tourism-based economies. The growth in the number of residential units listed on hosting sites in these communities is outpacing much of the rest of the country and growth in visitor utilization of these sites is also up. HomeAway reported in 2014 that Park City and Winter Park made their list of top 10 destinations for the largest increase in new vacation rental listings. Crested Butte was one of the top 10 in terms of destinations, showing the largest increase in traveler demand.

VHR's now equal between 1% and 52% of total residential units among the participating CAST communities. In most towns, VHR numbers have been growing during a time when the recession brought construction to a halt and new housing starts have just started to recover.

VHR's Compared to Housing Units

	Total Housing Units 2014 Estimates	VHR Listings 2014	Percent of Units Listed
Breckenridge	7,187	2,911	41%
Crested Butte	1,098	170	15%
Durango	7,234	73	1%
Estes Park	4,176	301	7%
Frisco	3,167*	184	6%
Jackson	4,736	N/A	N/A
Mt. Crested Butte	1,575	819	52%
Ouray	802	97	12%
Park City	9,471*	2,547	27%
Steamboat Springs	9,991	696	7%

*2000 Census figures; 2014 estimates for other towns from Colorado State Demographer.

Community Concerns

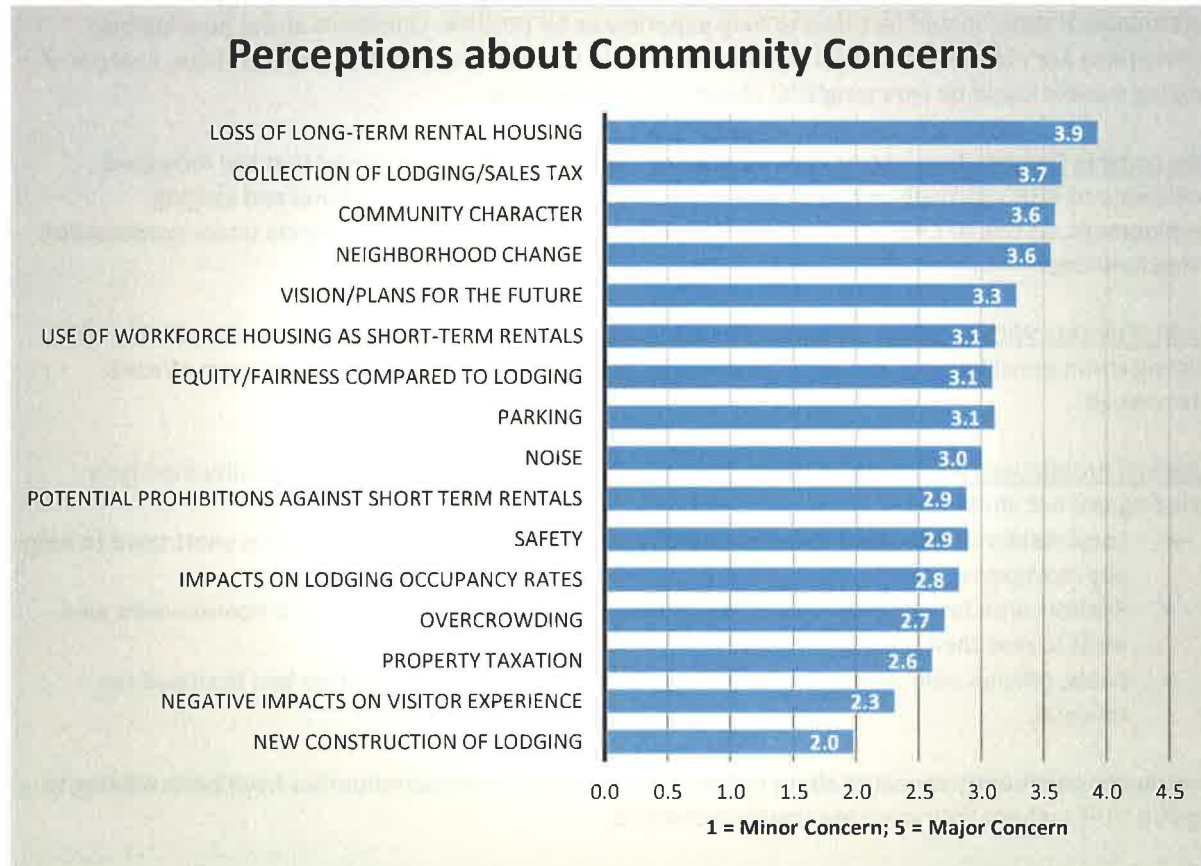
From large cities to small resort towns, the proliferation of VHR's is raising concerns. The National League of Cities reported that common elements among communities of all sizes are the issues of ensuring that safety, regulation and licensing systems are up to par, along with proper taxing procedures given the revenue development potential.

Issues related to the tight and expensive housing markets, preservation of resident neighborhoods and character, and ensuring a fair playing field with other lodging businesses in terms of tax payment and regulations are the top concerns among participating CAST communities. The top five issues of concern, in order, are:

- Loss of free-market rental housing previously rented to the workforce on a long-term basis;

- Collection of lodging/sales tax;
- Community character;
- Neighborhood change; and
- Vision/plans for the future.

The use of housing restricted for occupancy only by members of the workforce as a VHR was of less concern than the loss of market rentals; this report will show it happens infrequently. Safety is a moderate concern but one that might increase over time if accidents and injuries occur.



Source: Survey of elected officials and staff in 10 participating CAST communities; 34 responses received.

Several other concerns that were not as prominent deserve mention given their unique ties to these communities.

Visitor Experience – The potential negative impacts of VHR’s on visitor experience, through low quality or unsafe accommodations for example, received a relatively low rating overall. Park City, however, rated this issue significantly higher (3.7 average). The resort prides itself on its reputation for offering a paramount visitor experience and is concerned that a largely unregulated industry could adversely impact this experience.

Over time, concerns about negative visitor experiences may increase from:

- Publicized incidents of visitors who are endangered, hurt or even killed by unsafe VHR's that are not up to lodging codes;
- Dissatisfaction among visitors who want to "live like locals" and experience the "real" community they are visiting, yet discover that the increased number of VHR's have displaced locals and turned neighborhoods into lodging districts.

In many resort communities, surveys sponsored by Chambers of Commerce, the ski resort companies, the municipalities or other entities could be a source for better understanding visitor experience and determining if steps should be taken to help experiences be positive. Questions about how lodging reservations are made are standard in these surveys. In some towns including Breckenridge, analysis of existing surveys could be very insightful about visitor experience.

New Lodging Construction – Most communities do not appear to be concerned that the increased availability of VHR's through online hosting sites may be a factor in reduced hotel and lodging development. Of the 10 CAST participants, the only one with major lodging projects under construction is Breckenridge.

Equity/Fairness With Lodging – Communities are concerned about VHR's being treated equitably with existing commercial lodging. The term "level playing field" was used by many of the town officials interviewed.

Potential Prohibitions Against Short-Term Rentals – This is a concern of many community members, including but not limited to:

- Local residents who want to occasionally rent their homes or spare bedrooms short term to help pay mortgages.
- Realtors with listings they want to be allowed to sell to investors or second homeowners who want to rent their units short term.
- Public officials who recognize the contributions that VHR's make to their bed base and tax revenue.

Contrary to community concerns about potential prohibitions, most communities have been moving to legalize VHR's where they were previously prohibited.

Matrix of Best Practices

The following matrix summarizes the Best Practices described in this report. The Best and Potential Practices are listed in the column on the left. The report section within which each practice is discussed and recommended appears across the top row. An "X" indicates each section within which the recommended practice is discussed. This serves both as a summary of practice recommendations that was derived from this research, as well as a map for the report so that communities interested in a particular practice can easily locate each section of the report with relevant information. Some practices are applicable to multiple issues as indicated by an "X" under more than one category.

CAST could have a significant role in the implementation of Best Practices, taking on responsibilities for state initiatives in revisions to state statutes on property and sales taxes, negotiating agreements with hosting sites and developing efficient tracking systems.

Best and Potential Practices	Tracking	Regulations	Licensing Permits	Taxing	Staffing	Neighborhood Impacts	Workforce Housing
Post information within the VHR		X	X			X	
Require local manager/emergency contact		X	X			X	
Coordinate with jurisdictions in region	X			X	X		
Create website on VHR's		X	X			X	
Require property inspections		X	X				
Negotiate Airbnb agreement	X			X			
Require license numbers to be on all listings	X		X				
Give neighbors notice			X		X		
Map licensed/permitted VHR's	X					X	
Establish fee to cover management costs			X		X		
Coordinate tracking across departments	X				X		
Publish VHR requirements in newspapers			X		X		
Work with code enforcement on complaints	X						
Post local VHR regulations on Airbnb	X						
Restrict VHR concentration		X					
Implement more restrictive regulations where impacts are higher		X					
Give owners unique rights to short-term their homes		X					
Permit bedroom rentals w/owners present		X					
Create separate categories for VHR's depending on time rented		X					
Dedicate/hire staff for license compliance			X				
Educate realtors about requirements			X				
Link complaints to legal vs illegal VHR's			X				
Establish enforcement procedures and use them			X				
Revoke licenses/permits for violations			X				
Increase license fees to mitigate workforce housing impacts			X				
Collect VHR details on license or permit applications			X				
Educate visitors that listings must have license numbers			X				
Initiate state action to address 30-day limit on sale taxation				X			
Initiate state action to address how properties are classified for property taxes							
Assign community development lead responsibility for VHR's					X		
Coordinate VHR's w/ economic development					X		
Add staff specialist					X		
Hold stakeholder roundtables						X	
Impose occupancy limits						X	
Impose visitor limits						X	

Best and Potential Practices continued	Tracking	Regulations	Licensing Permits	Taxing	Staffing	Neighborhood Impacts	Workforce Housing
Limit outdoor parties						X	
Manage trash						X	
Address parking						X	
Have general nuisance provision						X	
Use real estate database to track conversion of housing into VHR's							X
Create housing census							X
Prohibit use of workforce housing for VHR's							X
Require check for workforce compliance when licensing VHR's							X
Allocate VHR revenue to housing							X
Replace lost housing units							X

I. Tracking

Issues and Emerging Trends

The ability to track and collect information on Vacation Home Rentals advertised on hosting sites is in turmoil. Local governments have been struggling with finding and identifying VHR owners and property managers since this issue arose in the mid-2000's. CAST communities are not the only communities struggling with collecting the information that they need to ensure VHR's are operating as legal licensed and tax paying entities. The general consensus is that more cooperation from the hosting sites is needed to improve tracking and VHR compliance. Current litigation and legislative efforts are largely aimed at this purpose.

Progress Made on Hosting Site Compliance

Both Airbnb and HomeAway (and its subsidiaries), the two primary hosting sites, provide information on their websites and in their user agreements that alert VHR owners that they may be subject to and must comply with permitting, licensing and tax laws in their jurisdiction.

Airbnb has a "Responsible Hosting" webpage, which includes notifying owners to check their community's regulations with respect to taxing, permits and other regulations, with links provided to several city websites explaining these requirements.

Airbnb has negotiated agreements with several cities to collect taxes on behalf of VHR's that are hosted on their website. San Francisco was also able to collect back-taxes owed. These agreements may contain additional provisions, such as requiring permit numbers to be posted on advertisements. Part of Portland's agreement will allow VHR hosts to receive free smoke and carbon monoxide detectors upon request and Airbnb will assist Portland's tourism board to promote the city and its attractions.

Tracking Units Has Become Harder

Despite these advances, collecting information on VHR's advertised on these sites has gotten more difficult. The experience of CAST community participants has not been unlike that of cities and counties throughout the nation. CAST communities noted that:

- Exact address and owner contact information is not available on Airbnb and limited on other sites;
- Listings are inconsistent, with some providing street addresses and unit numbers and others not; and
- VRBO no longer lists properties in the same order, meaning that new listings are harder to find.

Communities Use Subpoenas to Obtain Information

Several communities facing the same frustrations have issued subpoenas with some success to procure ownership and rental information from Airbnb and other hosting sites. VHR owners have sued Airbnb to preserve the privacy of their information. Pursuant to Airbnb's user agreement, subpoenas protect them

against legal action from VHR owners/managers. Subpoenas are, therefore, one method through which detail on owners and bookings may be received from some hosting sites.

Data Mining Barriers

Adding complication, HomeAway's user agreement for visitors to its website prohibits data mining of information on VRBO and its other sites without its written permission. Governments seeking information to ensure VHR license and tax compliance have not been issued such permission. Program scripts to collect data from Airbnb are available online, but are of limited utility for tracking units given the impreciseness of property location and lack of address and owner information provided.

Cities Requiring Hosting Sites to Provide VHR Data

The lack of accessible data has resulted in some communities instituting or considering ordinances requiring names and addresses to be provided by hosting sites. For example, Portland has struggled to increase its license participation rate above 10 percent. The City's inability to identify violators or receive cooperation from Airbnb in ensuring compliance or providing needed information led the City to pass a new ordinance effective this year. As of February 20, 2015, VHR hosting websites are required to provide the VHR location and names and addresses of VHR owners/managers so the City can verify that properties are operating pursuant to city requirements. This information has yet to be released by the hosting sites.

San Francisco began licensing short-term rentals in February of this year. In March, only a few dozen residents had registered, while about 5,000 rooms and units are listed on short-term rental sites. A city board member has proposed revisions to require Airbnb to share data about rentals, including length of time rented and unit information.

State Initiatives Surfacing

Dueling state initiatives have also been making their way into the legislature. For example, in California, SB 593 would require online vacation rental companies to disclose VHR information to cities and counties. A competing bill, AB 1220, sought to prohibit local governments from collecting Transient Occupancy Tax (T.O.T.) for short-term residential rentals, but has since been withdrawn by its author.

CAST Survey Findings

When Communities Began Tracking

Most participating CAST communities began tracking VHR's advertised on various hosting sites between five and ten years ago. Tax collection was the primary motivation. Durango is the exception, having started tracking in 2014 in response to neighborhood impacts and citizen concerns.

Hosting Sites Tracked

All track VRBO and Airbnb and most also track HomeAway and Craigslist. Local property manager sites and the local newspaper are alternative sources that some communities scour. Only three communities track rooms for rent in addition to complete units.

Frequency of Tracking

Communities may pull data monthly, quarterly, yearly, or a few times each year. Durango, Breckenridge and Steamboat are a few communities that track VHR's on a regular basis. Several other communities track properties "as time allows."

Information Collected

All communities face challenges collecting VHR data. The information available varies by hosting site. Airbnb does not provide addresses, owner contact information, nor exact locations of units and other sites have varying pieces of information available. While condo complex names, bedrooms available for rent, and rental terms (daily, weekly, monthly) may be pulled from various sites, this information is inconsistent in its availability.

Understanding Owner Occupancy of VHR's

Only Frisco noted that they are able to identify the time that owners occupy their units. This is typically checked only when units are listed by both a property manager and the owner. They have found that owner occupancy may be reported on the listings calendar on some hosting sites. For units managed by a management company for part of the year, some may be able to report the number of weeks for which the owner occupies the unit or is responsible for bookings.

Approach/Methodology

Each community pulls data manually and conducts a record-by-record search. While VHR addresses can eventually be identified, the process is time-consuming and can be frustrating.

VHR information is stored in MS Excel or Access and new listings are manually compared to existing files. In communities with licensing and permitting requirements, listed VHR's are cross-checked with licensing/permitting records to check compliance.

If addresses are not found through the hosting sites, communities use a combination of photos, online maps, condominium complex names, owner names and/or property management names to locate a property. If an owner or property manager is known, they can be contacted for an address. Maps may provide the general location, and photos make it possible to identify the property upon driving to the area or comparing to ArcGIS and Google map street views. Some conducting property searches are very familiar with the communities and can recognize most properties from the photos while sitting at their desks.

Durango and Steamboat Springs both tried creating accounts on Airbnb to notify owners of their need to comply with regulations. Both accounts were promptly canceled for violation of user agreements. Frisco has had some success contacting owners through the hosting sites without incident – the small number of properties in this community (under 30) may not have drawn the attention of the hosting sites.

Duplication of Effort

In most CAST communities, different entities parse the same data to identify only those properties within their respective jurisdictions. Better communication and coordination of resources could improve the tracking process and investment for all entities.

Estes Park is unique because it also manages legal VHR's in unincorporated areas of the county defined as the "Estes Valley" (this is discussed in more detail in the Permitting section of this report). Therefore, the role of monitoring units located both within and outside town limits within the Estes Valley is conducted by only one jurisdictional office.

Assistance From Complaints

Ouray and Estes Park reported that neighbor complaints regarding noise, parking, parties or other nuisance issues can call their attention to units that are VHR's.

Durango provides an online map of all permitted VHR's with the ability for visitors to submit complaints directly to the community development department, which can be useful for tracking VHR activity. It also informs neighbors of the existence (or not) of VHR's in their area.

Best Practices

Optimally, hosting sites would be required to provide needed information to communities upon request to track VHR's. Communities can monitor the progress of Portland's new ordinance and state legislation, such as California's SB 593, in achieving local and statewide compliance. Communities could also lobby for similar initiatives on a statewide basis. Since taxation is largely controlled by state statutes, cooperative initiatives are needed.

Until hosting sites start providing this information, communities should consider several options:

Negotiate Airbnb agreement – Portland, Malibu

- Can go beyond tax collection and require permit numbers to be on ads and VHR information to be provided upon request.
- Most individual communities may be too small, but cooperative agreements encompassing multiple communities, entire counties, or the CAST organization may have some success.

Post local VHR regulations on Airbnb – Truckee, Snowmass

- Have your community added to the list of cities for which Airbnb provides direct links to your VHR requirements at <https://www.airbnb.com/support/responsible-hosting>

Require license numbers to be displayed on all advertising – Durango, Steamboat

- Greatly assists with identifying non-compliant properties and new listings.

Coordinate VHR tracking across departments – Steamboat

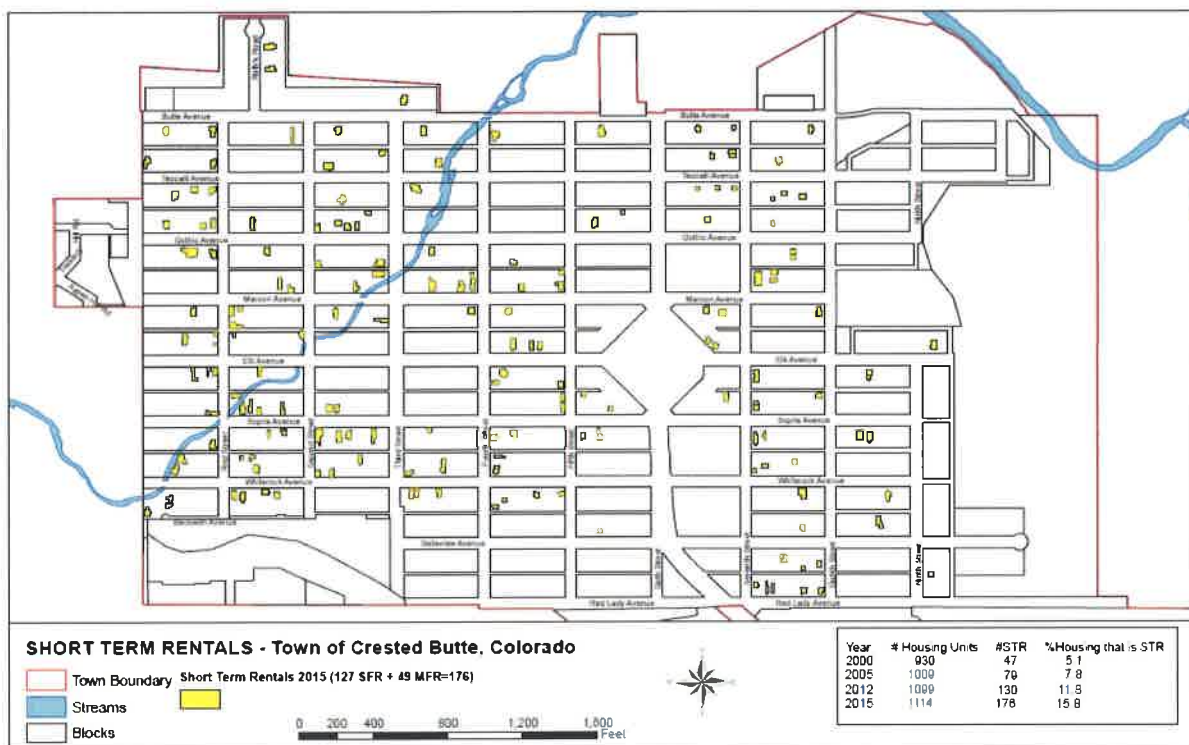
- When collecting information on the CAST survey for this study, several communities needed to pass the survey to various departments to collect the needed information, with inconsistent results. Steamboat has a system where planning staff provides VHR data to finance, who then provides legal VHR listings to police/compliance – the departments were in communication. Various city departments with an interest in tracking VHR's need to coordinate to share information and avoid duplication of effort.

Work with Code Enforcement on Complaints – Ouray, Estes Park

- Communication with code compliance, planning, police or other departments that enforce VHR's and nuisance regulations can call attention to properties that may be illegal VHR's.

Map VHR's – Durango and Crested Butte

- This educates the public regarding VHR's in the community and can provide a resource through which complaints can be logged, helping to locate illegal VHR's.
- It provides elected officials and staff the information needed to quickly understand changes in their communities and to revise policies and codes as appropriate. The following maps of VHR's in Crested Butte illustrate how powerful mapping can be.



Coordinate VHR tracking with other jurisdictions in the region – Estes Park

- When searching on the hosting sites for VHR's in a specified location, rentals located both within and outside of city or town limits are shown. Rather than have both city/town staff and county staff parse the same properties to identify those that are within and outside of the jurisdiction, sharing the responsibility could be much more efficient.

Potential Practice

CAST Initiative – Development of Tracking System and Database

- Develop a system that captures data on units for sharing by multiple departments and that could be replicated by towns and counties.

II. Regulations

Issues and Emerging Trends

The VHR market has hit many communities by storm and is growing. Since their founding in the mid- and late-2000's, Airbnb, Flipkey and HomeAway combined now advertise over 2,000,000 properties. Largely driven by concerns over public safety, fair business practices with lodging establishments, and lost tax revenue, many communities have moved toward developing regulations to address the growing issue. Even communities in which VHR's are illegal have needed to either increase enforcement of existing prohibitions or implement regulations to address the rising number of VHR's. Although regulatory approaches vary, one apparent constant is that enforcement of adopted regulations has been a significant challenge and needs to be an important consideration in any regulatory program.

VHR's Proliferate Where Prohibited

Simply prohibiting VHR's will not make them go away. Units are still advertised and rented where they are prohibited.

- In April of 2014, the City of Napa, California, had about 40 licensed VHR's in the city. In Napa County, where VHR's are banned, there were 285 listings on Airbnb and HomeAway.
- Most all VHR's are illegal in Philadelphia, yet over 1,000 properties were advertised on Airbnb in April of this year. The City admittedly takes a lax stance on enforcing their prohibition absent a complaint being received.
- VHR's are not formally legal in Washington D.C., yet Airbnb negotiated an agreement to begin collecting taxes from these properties. Over 1,000 rentals were advertised on Airbnb in the city in April of this year.
- For states with strong protections for private property rights, banning VHR's can also backfire. The City of Sedona, Arizona had to pay diminution in property values to private property owners when, in 2008, it strengthened the enforcement provisions of its ordinance banning short-term rentals.

Moving From Prohibition to Regulation

Finding that VHR's existed despite prohibitions, many communities have been moving toward regulating them. Preserving neighborhood character has been a common concern in addition to tax collection, fair business practices and safety, mentioned above. In higher-cost communities with limited housing stock for residents, the loss of long-term rentals and discouraging VHR speculative buyers have been factors in shaping regulations.

- Portland legalized limited VHR's in July 2014 for single-family homes, at which time 1,500 properties were listed on Airbnb's website. As stated by the mayor, "We're trying to legalize what's already going on, in a way that is sensible." The program was expanded in February 2015 to also include multi-unit buildings. Owners may rent out up to 5 bedrooms in their homes upon acquiring a \$180

permit, receiving an inspection to make sure there are adequate smoke alarms and carbon monoxide detectors and legal bedrooms are being rented, and providing notice to neighbors. Owners must occupy their homes at least 9 months out of each year – a regulation intended to prevent the speculative purchase of homes for conversion into short-term rentals.

- VHR's were legalized in San Francisco, effective February of this year. Under the law, residents in San Francisco are allowed to rent their properties an unlimited amount of days if the owner or manager is present. There is a 90-day cap on rentals in which the owner or manager is not present. The different limits were aimed at allowing residents to use Airbnb for needed income, while making it impossible for landlords to lease their units short term on a permanent basis. Before the law passed, all short-term rentals (rentals less than 30 days) were banned.
- Austin legalized VHR's in certain areas in 2012. The City broadened the rules six months later to allow partial rental of homes, which was previously illegal. Owners must apply for a \$285 permit, receive an inspection, have adequate insurance and notify neighbors. VHR's that are not an owner's primary residence cannot comprise more than 3% of any given census tract.
- Prior to 2010, Estes Park allowed VHR's in the town as an accessory use to single-family homes; VHR's were prohibited in the county. In 2010, the Town Board and County Commissioners approved allowing VHR's as a primary use throughout the Estes Valley, which includes part of the unincorporated county. Recognizing that growth in this market would continue, a goal was to take steps to preserve residential neighborhood character through operational restrictions.

Enforcement is the Weak Link

Communities with good intentions in adopting regulations have found that enforcing them is the weak link. Cities have been unable to procure cooperation from hosting sites to not list illegal VHR's nor to provide them the information needed to locate VHR's that are in violation of local or state regulations. Regulations that restrict the number of days VHR's may be rented or that require owner occupancy of homes have been a particular challenge.

- A VHR owner in Portland must occupy the rented home at least 9 months out of the year, yet the City has been seeing a rise in the number of multiple rentals being advertised by a single owner or manager. Even for VHR's with a single owner, knowing that units are owner-occupied 270 days has proved largely unenforceable. Airbnb can provide the rental period information needed, but it and other hosting sites have, in the words of a Portland City Commissioner, "made it clear they do not intend to play ball with us on the enforcement side." Portland does require that owners maintain a guest log book with guest names, information and dates of stay that can be inspected by the City upon request, but this has not deterred owners from advertising multiple units.
- In San Francisco, of about 5,000 listings on Airbnb last May, two-thirds were entire houses or apartments. Also, owners or managers controlled more than one unit in nearly one-third of listings. Without exact data about who is renting, for how long, and whether the owner is present at the time, enforcement of even a strong regulatory framework like San Francisco's can be frustrating. The Planning Department is asking for additional funding to administer the law, and officials are proposing ways to strengthen its effectiveness. One proposal is to require Airbnb to share its booking data with the City. Whether Airbnb can do this legally absent a subpoena is in question.

Portland and New York Get Aggressive

The lack of cooperation in enforcement from hosting sites has caused some communities to take a stronger stance.

- Portland initially took the cooperative track by negotiating a tax collection agreement with Airbnb and instituting VHR regulations, but has since changed its stance. A new ordinance, effective February 20, 2015 (and referenced in the Tracking section), requires hosting sites to provide VHR location and owner information to the city. Hosting sites and VHR owners are also required to “prominently display” permit numbers on their advertising. Further, hosting sites cannot advertise VHR’s that do not have permits. The City can fine VHR owners and hosting companies up to \$500 for each property that is not in compliance. Letters seeking voluntary compliance are being issued. Time will tell how enforcement of the regulation is received.
- New York found that 72% of VHR reservations made on Airbnb between 2010 and 2014 violated state laws regarding VHR’s. The Attorney General recently announced a joint enforcement initiative with city regulators to shut down illegal hotels, which will reduce Airbnb’s presence in New York. The process uses 311 complaints to help NYC Office of Special Enforcement find and eventually shut down illegal hotels. In 2014, there were 1,150 illegal hotel complaints filed.

VHR’s Fight Back

With all of the negative publicity from communities regarding the adverse impacts of VHR’s and enforcement problems, local VHR advocacy groups have been forming in some communities. Hosting sites have also started pouring some money into lobbying groups to sponsor VHR-friendly legislation to support their current business practices, if not undo some regulatory gains. Airbnb is credited with helping to push AB 1220 this year in California, which sought to prohibit local governments from collecting Transient Occupancy Tax on VHR’s.

- In Virginia, the Short Term Lodging Association was established by owners who support renting their homes. Their hope is that regulations strike a balance between letting them continue to rent, yet operate in a responsible manner. Similar groups have formed in New York (Short Term Rental Advocacy) and San Diego (the Short-Term Rental Alliance of San Diego).
- The Short Term Rental Advocacy Center is a new group that was formed by and lobbies on behalf of Airbnb, HomeAway, TripAdvisor and FlipKey. It provides data and resources regarding an alternative view of VHR impacts – benefits to the tourism economy and income to owners to help pay mortgages. It provides a platform that allows individuals to access and use the information in support of short-term rentals.
- Fair to Share is an online resource and action center for San Franciscans who believe that you should be allowed to share your home. The Fair to Share lobbying platform is owned by Airbnb, and it is being used to push the City’s legislation to be more favorable towards the company.

CAST Survey Findings

Restrictions on the Number and Location of VHR's

Seven of the ten CAST participating communities limit VHR's in certain zones. Breckenridge, Frisco and Mt. Crested Butte have no location restrictions.

Durango is the only participating community that limits the number of VHR's within a given geographic area in some of the zones within which VHR's may be located. A combined total of 39 permits may be issued on a first-come, first-serve basis in two of their "Established Neighborhood" zones. The goal is to prevent clustering of VHR's and maintain neighborhood integrity. This equates to a 3% cap of the total number of lots in any neighborhood and a limit of one unit per block/street segment. A second vacation rental could be located on the street segment if it meets specific criteria and obtains a Conditional Use Permit.

	Location Restrictions
Breckenridge	No location restrictions
Crested Butte	Only permitted in Residential Districts (R1, R1A, R1C, R2, R2C, R3C) and B3 Business District. Cannot be rented for less than one month more than twice in any calendar year in the B1 Business district. Not allowed in B2, Commercial and Tourist Districts.
Durango	Limited to certain neighborhoods; cap on total number allowed in each area
Estes Park	No location restrictions
Frisco	No location restrictions
Jackson	Only permitted in Lodging overlay district and Snow King Master Plan
Mt. Crested Butte	No location restrictions
Ouray	Only permitted in High Density Residential (R2) and Commercial Districts
Park City	Limited in Single Family zones
Steamboat	Allowed in all zones except mobile homes and industrial zones.

Variations in Regulations Based on Unit Type or Location

Communities do not apply all VHR requirements to all properties within all zones on an equal basis. This is typically because VHR use in some areas is either less desirable or has a larger impact on neighborhood character than in others.

- In Breckenridge, VHR's are permitted in all zones. VHR of condominiums, however, are less restrictive than for single-family homes. A single-family residence is permitted as a VHR once the property owner purchases an accommodation unit license. These homes are subject to additional conditions to help maintain the residential character of the neighborhood. These special conditions focus around parking, trash, noise and nuisance standards.
- In Steamboat Springs, only duplexes and single-family homes outside of the Resort Residential districts are required to get VHR licenses through the community development department. This is

where the impacts to neighborhoods are of most concern. VHR permits are not required for condominiums regardless of their location. Condominiums and rentals in the Resort Residential districts are still required to get a sales tax license and pay applicable taxes, though they are not subject to parking, number of people, and other limitations that apply to VHR licensed properties.

Restrictions on Length of Time VHR's Can Be Rented and the 30-Day Loophole

VHR's are generally defined as being rented for either less than 30 days or 30 days or less by all CAST participating communities. This definition does not place an upper limit on the number of consecutive days that a unit may be rented, which creates a 30-day loophole. If VHR's are rented for 30 or more consecutive days (as may often occur in the summer months in mountain resort towns), they are treated as a long-term rental and not required to pay sales and lodging taxes. The 30-day requirement is discussed in more detail in the Taxing section of this report.

Distinguishing between Year-Round and Occasional VHR's

Steamboat Springs allows two categories of short-term residential rentals, one of which is appropriate for residents who occupy their homes most of the year, but rent it out on occasion.

- "Vacation Home Rentals" may be rented any number of days during the year, but not for more than 29 consecutive days. It must meet city licensing and VHR operational requirements.
- "Short-Term Rentals" are single family homes and duplexes that may only be rented by visitors *up to twice per year, not to exceed 30 days annually*. Owners only need a business/tax license to operate. The small number of "short-term rentals" makes it fairly easy to locate units that are violating their license by monitoring advertising. Licensed units found to be in violation receive a Notice of Violation letter, with a possible citation into municipal court.

Rental of Bedrooms

Only Breckenridge, Estes Park and Steamboat do not allow owners to rent individual bedrooms while they are occupying the home. Many communities that allow bedrooms rentals do not track, license or collect taxes from these rentals. In Estes Park, owners that occupy their homes and rent out one or more bedrooms are defined as a bed-and-breakfast and must be licensed as such.

Communities that allow bedroom rentals provide owners the ability to supplement their income, use rooms vacated by grown children and, as hosts, assist visitors in getting to know their community. Enforcement can be a challenge, however, depending upon the complexity of bedroom rental regulations.

Changes to Regulations

Four of the ten CAST participating communities have implemented regulation changes to address the rise in VHR's.

- Breckenridge strengthened sections of its nuisance ordinance to address VHR concerns, such as parking, trash and noise. As part of receiving a VHR license, the town requires that a local contact person be designated to receive communications from the town regarding the VHR. This person must maintain a residence or permanent place of business within the town.
- Durango has allowed Tourist Homes since 1989. The increase in vacation rental interest as well as an increase in the number of VHR complaints led to amendments in 2007, 2008, 2009 and 2014. These amendments established separation of VHR's to prevent clusters, transferability of permits, parking, HOA approval of VHR's, safety standards (fire extinguishers required) and required a locally available property manager, among others.
- Park City altered its business license and approval process with a specific VHR category.
- Jackson clarified its definition and interpretation of VHR's, continuing its prohibition of VHR's in residential zones.

Local Property Manager

Most of CAST participating communities require a local property manager/emergency contact. Most are required to be available 24/7. This includes Breckenridge, Crested Butte, Durango, Estes Park, Frisco, Mt. Crested Butte, Park City and Steamboat.

- Park City has the most specific requirements. The property manager or contact person must reside or have offices within Summit County. The contact person must be able to respond to telephone inquiries within twenty (20) minutes. The contact person is stated to be "personally liable for the failure to properly manage the rental." If the contact person is someone other than the owner, the person "must comply with applicable state law, including U.C.A. Section 61-2-2, as amended, which requires those who receive valuable consideration to lease property to have a state license."
- Estes Park requires the name of a local property manager that can be available around the clock, but local is not specified to mean "within the Estes Valley." There have been problems with unresponsive managers and penalties to hold managers accountable are not in place.
- Breckenridge requires the contact person/property manager to reside or have a permanent place of business within town. Owners are liable for strict compliance with all VHR regulations and they cannot delegate this liability.

Safety Requirements/Inspections

Four CAST participating communities have safety standards for VHR's. In Durango, safety standards are tied to an inspection of the property before permits or licenses are issued.

Park City and Steamboat Springs indicated that they do not have specific safety standards, but they do require inspections of units prior to issuing permits or licenses. Park City requires safety inspections of all new, previously unlicensed VHR's "to ensure compliance with building, fire, municipal and health codes." Licenses must be renewed each year, but a new inspection will not occur unless there is a

change of ownership. Inspections may occur at other times and failure to meet standards can result in license revocation.

VHR permitting or licensing inspections may check for fire extinguishers and alarms, carbon-monoxide detectors, structural integrity of the building and emergency escape and rescue availability. Some also make sure the number of bedrooms match the application and are suitable to rent.

Guest Experience

The Tourism Office in Breckenridge's Chamber of Commerce conducts ongoing surveys of visitors and residents and has added a question to identify VHR visitors and their satisfaction with their accommodations.

Some communities will look at online reviews of properties when tracking units, although it is recognized that this is not a good measure of general visitor satisfaction since not all visitors provide reviews, nor are negative reviews necessarily posted.

Best Practices

When considering adding or changing regulations, the pros and cons of VHR's must be weighed for each community. The existing unit mix, lodging base, community character and neighborhood composition will affect the type and extent of regulations that may be needed. Some communities have allowed VHR's to occur relatively unrestricted in areas where they are appropriate – e.g. in existing high-tourism accommodation areas – while protecting residential neighborhoods with more restrictive requirements. The following recommendations are regulations that communities can consider for various issues of concern, but will need to be tailored to meet the unique needs of each community.

Safety

Require VHR safety inspections – Park City, Breckenridge, Durango

- Inspections should ensure compliance with building, fire, municipal and health codes and VHR permit specifications (number of bedrooms, parking, etc.). Units should be inspected upon initial license or permit issuance. Change in ownership, unit status, receipt of complaints or notification of a potential inconsistency or problem may trigger another inspection. Absent other re-inspection triggers, Portland requires an inspection at least every six years.

Post safety and emergency contact information in the VHR - Breckenridge

Property Management

Require local manager/emergency contact – Grand Lake, Park City, Breckenridge

- This requirement is viewed as critical to the success of short-term vacation rentals in residential neighborhoods to address guest or neighborhood questions and resolve conflicts quickly.
- Be specific. E.g., manager/emergency contact with residence or place of business within the community/county, available 24/7, able to respond onsite within 45 minutes of complaints.

Consider penalty for failure to respond – violation of VHR regulations, fine, potential VHR license revocation.

Neighborhood and Community Character

Restrict number/concentration of VHR's – Durango

- Durango allows no more than 3% of homes to be VHR's in certain neighborhoods. No more than one VHR permitted per block. Permits are issued on a first-come, first-serve basis. This may allow too few VHR's in communities that do not have the lodging bed base of Durango.

More restrictive regulations where VHR less desirable/has higher negative impact – Breckenridge, Grand Lake, Durango, Steamboat Springs

- CUP in Grand Lake and some neighborhoods in Durango.
- Higher "nuisance" standards imposed on single-family VHR's in Breckenridge.
- Single-family and duplex VHR's in Steamboat Springs must receive licenses through the community development department in all but the Resort Residential zone, making them subject to parking, number of people, and other regulations. All condominiums are exempt from this requirement.

Provide VHR Options for Owners and Help Protect Local Housing Supply

Create Separate Categories for VHR's Depending on Time Rented – Steamboat Springs

- Year-round VHR's, typically investor owned or second home. No limit on the total number of days that the home may be rented per year. In Steamboat, this category is subject to a community development license process and extensive VHR regulations.
- Limited VHR's, rented only occasionally by resident owner. Provides an option for local resident occupants (could be an owner or long-term renter) to supplement their income. In Steamboat, this category can be rented no more than twice, nor more than 30 days total in any given year and it only needs a business/tax license to operate.
- Large cities have had trouble enforcing limited rent term restrictions. Steamboat reports few limited VHR rentals and can enforce by monitoring VHR hosting sites. Smaller communities can manage rental term regulations on a per-unit basis more effectively than large cities.

Discourage speculative VHR purchases – San Francisco, Portland

- Owner-occupancy requirements. Portland – VHR owner must occupy the home nine months of each year, which preserves community and discourages speculative VHR purchases.
- Limited rental days during the year. San Francisco – a 90-day cap on rental nights per year for un-hosted VHR's (i.e., the owner is not present while renting the home).

Permit Bedroom Rentals With Owner Present – Petaluma (proposed)

- This allows owners to supplement their income/mortgage by providing them the option of hosting guests in their home. Some CAST communities have restrictive bed-and-breakfast requirements that may prevent this practice.
- Petaluma defines a bed-and-breakfast as three-or-more bedrooms being hosted; if less than three bedrooms then it is a VHR.
- Require permits, inspect units and consider taxes/license fees.

III. Licensing and Permitting

Issues and Emerging Trends

License requirements evolved along with regulations to ensure responsible maintenance and leasing of VHR's. License and permit applications typically require safety inspections and the background information necessary to ensure VHR's are operated in accordance with local regulations. This may include insurance requirements, designating a 24/7 emergency contact to handle problems and complaints, requiring license and permit numbers to be displayed on all advertising, providing "good neighbor" information to renters, and notifying neighbors of units being rented and VHR manager contact information. Yearly renewal ensures communities remain up-to-date on VHR changes and permit revocation procedures help ensure continuous VHR owner compliance.

A challenge for some communities has been getting VHR owners to acquire necessary permits and licenses. While education of owners and property managers regarding the licensing process has been instituted by most communities, this has been more effective when paired with good enforcement.

Licenses and Permits Often Have Safety, Advertising, Notice and Renewal Requirements

Permits and licenses typically record necessary information regarding the VHR, such as number of bedrooms, owner information, property manager or emergency contact information, use or occupancy restrictions, among other requirements. In addition, to receive a permit or license, many communities require the following:

- Safety inspection: Austin, Portland, San Francisco, Chicago, Santa Fe;
- Proof of adequate property insurance coverage: Austin, San Francisco, Santa Fe; and
- Permit or license number to be displayed on all advertising: Austin, Portland, San Francisco, Santa Fe, Sonoma County, Bend, Oregon.

Neighbors may also need to be notified as part of the permit process. For example:

- Austin requires notice be given to neighbors for public comment as part of the permit approval process, similar to other land use applications.
- Many communities require notice to be sent to neighbors upon permit issuance. Notice may provide neighbors with the address; terms of rental use or permit; contact information for a property manager, owner or emergency contact in the event of problems; and the process for reporting violations or complaints to the community's enforcement office. This can be an effective tool to help neighbors know about and police VHR activity in their area. Portland, Oregon, and Petaluma, Santa Cruz, and Sonoma County in California require neighbor notice.

Most of the above communities also require annual renewal of permits or licenses. Yearly renewal maintains a current list of active vacation rentals and contact information. Renewals may also be withheld if VHR regulations have been violated, too many complaints have been received, applicable

taxes have not been paid, or if there are health and safety issues on the property. As an exception, Portland requires renewal every two years, with a new inspection required every six years, barring a change in owner, bedrooms rented, or cause for safety or violation concern.

License and Permit Fees

Most communities have modest license and permit fees for VHR's – in some cases insufficient to cover paperwork processing, tax collection, property inspections and monitoring.

- Portland charges \$178 for the initial license and \$62 for each renewal year in which an inspection is not required. For inspection years, \$178 is charged.
- Austin charges \$285 for an initial permit and \$235 for renewals. A budget of \$350,000 has been established to cover the hiring of three staff members to register and inspect VHR's. Fees for an estimated 1,500 VHR's are intended to fund this budget.
- In Napa, fees were initially set to cover all application processing, inspections and monitoring of VHR permits such that no costs were borne by the general public. In 2009, owners paid \$1,075 per year; the permit fee has since decreased to \$197 per year. Fewer complaints than expected were received from neighbors. As a result, the City reduced their allocation of code enforcement staff to VHR's and, with it, permit fees.

Enforcement of Licensing and Permitting Requirements

Getting properties to receive required permits and licenses can be a challenge. Generally, communities with active tracking and identification of illegal rental properties, paired with resident, property manager and visitor education and strong enforcement ability have been the most successful. In larger cities in particular, this means dedicating staff or hiring new positions to address illegal VHR's, taking a proactive approach in notifying owners of permit and licensing requirements, and following up with non-responsive owners.

Portland has a license compliance rate of less than 10%. At the other end of the spectrum, Austin has a compliance rate of about 72%. While other factors are involved, enforcement has played a role in this difference.

- In Portland, permit issuance was initially centered in the Bureau of Development Services office, which admittedly is reactive. The office only acts to enforce city rules when a complaint is received; they do not take an active role in locating or citing illegal VHR's. A new city ordinance adopted this year places enforcement with the Revenue Bureau, which takes a more proactive approach. The Bureau is issuing letters to hosting sites to advise them of the requirement that permit numbers must be posted on all VHR advertising. Companies can be fined up to \$500 per non-compliant property. Responses are pending.
- In Austin, permit fees are higher than Portland, yet compliance rates are much higher. The City's Code Compliance Department hired additional staff specifically to investigate illegal short-term rental activity and advertised such to the public. The city can also fine VHR operators up to \$2,000 per day of non-compliance. When 1,089 properties were notified that they needed licenses, 72

percent came into compliance by either delisting or getting licenses. Code Compliance and the City's criminal prosecution are working together to follow up with the other 300 properties to ensure everyone is playing by the same rules.

Education can also play an important role. Public information campaigns through newspaper articles and website postings have been widely used education tools. Less prominent are visitor education campaigns regarding the importance of renting units that display permit numbers in their advertisements. Units displaying valid permit numbers let visitors know that they are renting a legal unit (as opposed to a scam) and that units meet safety and VHR operational requirements. Visitor education can work from the demand side of the equation.

Revocation of Licenses or Permits

Most communities have the ability to revoke licenses or permits in the event that VHR regulations are violated or taxes are not paid. Some have a purely discretionary process, whereas others may establish mandatory thresholds for revocation. For example:

- The City of Santa Fe documents all alleged regulation violations for VHR's and pursues enforcement through the municipal court if warranted. Upon conviction of a third violation by the municipal court, the city *shall* revoke the permit.
- Portland has a more discretionary revocation procedure, but once a permit is revoked, it may not be renewed for two years.

CAST Survey Findings

Who Requires Licenses and Permits

- All participating communities except Ouray require a *business license* for VHR's. All communities require a sales tax license number.
- Five communities also require a permit to ensure compliance with land use regulations.
- All require licenses to be renewed once per year. Breckenridge assumes that owners are renewing their licenses unless the town is informed otherwise. The town will issue an automatic renewal and charge yearly fees.

License and Permit Requirements

	Business License	Permit	Yearly Renewal
Breckenridge	X		X
Crested Butte	X		X
Durango	X	X	X
Estes Park	X	X	X
Frisco	X		X
Jackson	X	X	X
Mt. Crested Butte	X		X
Ouray			
Park City	X	X	X
Steamboat Springs	X	X	X

For communities requiring permits:

- Estes Park is unique because it also manages legal VHR's in unincorporated areas of the county, defined as the "Estes Valley." Business licenses are required for VHR's within city limits only. VHR's in the county must get an operating permit.
- Jackson permits VHR's only in the Lodging Overlay District and the Snow King Master Plan. A one-time basic land use permit must be received for VHR's in these zones.
- Steamboat requires single-family homes and duplexes outside of the Resort Residential districts to apply for a VHR license through the community development department. This application is reviewed the same as an application for approval of a Use with Criteria. Condominiums are not required to have this license.
- Durango requires a Limited Use Permit be received for VHR uses. A Conditional Use Permit may be applied for if general land use permit criteria are not met.
- Park City requires that the VHR's be located within a zone and subzone allowing VHR's. A Conditional Use Permit may be required in some zones.

Permit and License Fees

Fees are applied either on a flat-rate basis each year or scaled based on the number of bedrooms, sleeping rooms (which includes rooms with a pullout couch bed), or pillows. Fees overall are relatively modest.

- Breckenridge charges a base fee of \$75 for a studio unit, plus \$25 per additional bedroom, not to exceed \$175.
- Estes Park charges \$150 for renewal of a VHR business license for town properties; renewal of the county operating permit has no fee.

- Park City charges a \$17 administrative fee, plus \$28.74 per bedroom.

Fees for permits range between \$500 and \$750, imposed as a one-time application fee. Durango also has a one-time lodgers tax fee (\$25) in addition to the below.

Cost of Permits

	Permit Application	Yearly Renewal
Breckenridge	-	\$75 studio, \$25 additional bedrooms, \$175 max
Crested Butte	-	\$10/pillow
Durango	\$750	\$50 (license)
Estes Park	\$0	\$150 (license)
Frisco	-	\$75
Jackson	\$500	N/A
Mt. Crested Butte	-	\$10/pillow
Ouray	-	N/A
Park City	\$1,100 (if CUP needed)	\$17 admin plus \$28.74/bedroom
Steamboat Springs	\$500	\$50 per sleeping room (permit)

License and Permit Requirements

License applications collect varying information within the CAST participating communities.

- The most common items are VHR addresses and property manager or emergency contact information.
- None of the CAST participating communities requires evidence of insurance suitable for short-term rental use. Nor are times or dates on which the unit will be rented obtained.
- Only two communities require license or permit numbers to be on VHR advertising. Requiring these numbers has been reported to greatly assist with compliance verification when tracking units.

In Durango all advertisements for an approved vacation rental unit must clearly display the permit number issued for the stated purpose of enhancing enforcement of illegal VHR. Failure to display the permit number is grounds for revocation of the permit.

- Fire and safety inspections are required by three communities upon license or permit application. Inspections are not required as part of the license or permit renewal process.

Information Required on Licenses/Permits

	Unit Address	Unit Type	Manager Contact Information	Inspection	License Number on Advertising
Breckenridge	X	X	X		
Crested Butte	X		X		
Durango	X	X	X	X	X
Estes Park	X		X		
Frisco	X		X		
Jackson					
Mt. Crested Butte	X		X		
Ouray					
Park City	X		X	X	
Steamboat Springs	X		X	X	X

Notice to neighbors of rental activity in the neighborhood is required by only one community.

- Durango requires notice to be sent to neighbors when a permit is pending to solicit public comment prior to approval. After approval, notice indicating the terms of the VHR and contact information in case of complaints or problems, is not required as is the case in many California communities.

Has a map on its website of all permitted VHR's. This allows the public to see VHR activity in their neighborhood and know whether a permitted VHR is next door.

Posting of license and permit numbers, along with terms of responsible VHR's and contact information, within the unit can be beneficial to visitors.

- Breckenridge requires single-family VHR's to post "Special Conditions of License" in a "conspicuous location" in the VHR for the benefit of visitors. It outlines parking requirements; trash, noise and nuisance information; emergency contact requirements; and town contact information.

Enforcement of Licensing and Permitting Requirements

CAST participating communities tend to have higher compliance with license and tax requirements than larger cities. Of listed properties, those with a valid license range from 99% in Breckenridge down to about 50% in Estes Park. This is in part due to the smaller VHR pool and local knowledge of properties by those tracking listings – photos are often easy to recognize.

The most successful communities combine dedicated staff time to locate illegal VHR's, education of the public and owners of VHR requirements, and enforcement procedures backed by a willingness to enforce.

- Breckenridge:
 - Has one of the more proactive owner outreach programs. Education begins when the Town Clerk sends all new owners an introductory letter and application form for VHR's, explaining the licensing program. A reminder letter on VHR requirements is sent every four years.
 - Has an estimated 99% compliance rate from existing owners, in part due to a dedicated investigative search for illegal rentals several years ago. Listed units were compared with the license database and "nice" letters were sent to owners regarding requirements. Non-respondents received a "mean" letter letting them know they needed to respond or they would be sent to court. For the few that still did not respond, the town's lawyer sent a certified letter to the owner, at which time everyone complied.
 - Publicized licensing requirements in a newspaper article which made a "big deal" over unlicensed VHR's and notified owners that the Town was *ramping up enforcement*.
 - Achieved on-going compliance. About 2,750 units were in compliance in 2011. Only 15 units listed in 2012 were found not licensed and roughly about five non-compliant units since that time have been identified each year.
- Steamboat Springs:
 - Has an estimated 75% compliance rate with existing VHR license requirements. The City did a similar push as Breckenridge in 2009 to get existing owners to license VHR properties. A total of 440 letters were sent to owners without required tax licenses, resulting in 110 new licenses within a couple of months.
 - Sends notice of violation letters to owners if they are advertising without proper licenses. Violators have 15 days from receipt of the notice of violation letter to submit an application or remove their advertising. Should they fail to do this they are issued a citation into municipal court with fines of up to \$999 per day, jail time of up to 180 days, or both.
 - Relies on complaints from neighbors to locate violators. The finance department keeps a list of licensed properties, including VHR permitted properties from the community development department. Monthly updates to this list are provided to the police department, who responds to complaints. The police department can then notify the respective departments if a call involves either a legal (or illegal) VHR.
- Mt. Crested Butte has also noticed a difference with consistent tracking of VHR listings. When research was done every quarter, compliance was near 95%; when research was done "when available," compliance dropped to near 85%. When non-compliant properties are found, two letters may be sent. The first threatens a lien on their property if they do not respond. The second is a certified letter which includes the intent to lien. If that is ignored, then a lien is filed with the county based on estimated sales tax.
- Ouray often finds properties through the neighbor complaint process. Owners are educated about VHR requirements in an attachment sent out periodically with customer utility bills.

- Some communities have also instituted property manager and realtor seminars regarding VHR requirements. New owners have approached some communities seeking to short-term rent their new home in zone where they may not be permitted based on erroneous realtor information. Education of the real estate community can help with misconceptions.

Revocation of Licenses or Permits

Licenses or permits may be revoked in several CAST participating communities.

- In Park City, violation of the noise ordinance, occupancy loads, failure to use designated off-street parking, illegal conduct, or any other abuse, which violates any law regarding use or occupancy of the premises is grounds for revocation. Failure to collect and deposit sales tax is also a violation of the license and grounds for revocation.
- In Estes Park, the Town Code Compliance Officer manages enforcement efforts of vacation home regulations. Once a violation is verified, the officer generally attempts to work with the property owner to address the issues without formal enforcement action. Formal enforcement efforts can eventually lead to town properties having their license revoked and/or a hearing at the Estes Park Municipal Court. Violations may occur due to parking, illegal renting of an ADU, occupancy limit violations, among other violations. The town has only had one revocation, which was in part due to the unit operating as an illegal bed-and-breakfast as opposed to a VHR.
- Steamboat has a three-strikes policy. If a VHR receives three violations in one year, then the VHR permit can be revoked for up to two years.

Best Practices

License requirements

Establish License Safety/Inspection, Property Manager/Contact, Advertising, Notice Requirements

- Require property inspection – Breckenridge, Durango, Park City
- Require local Property Manager/Emergency contact – Breckenridge, Park City
- Require permit/license numbers on all advertising – Durango
- Require notice to neighbors of permitted VHR's – Sonoma County, Petaluma (proposed)
Written notice to neighbors after VHR approval. Provide the terms of the VHR and owner/manager contact information in case of complaints or problems.
- Post VHR contact information and requirements in VHR unit – Breckenridge
Educates visitors on any parking requirements; trash, noise and nuisance information; emergency contact requirements; and town contact information.

Fees

Establish fees to cover costs of VHR management – Austin, Napa

- Communities need to develop a targeted system for managing VHR's and take firm inventory of staff time and costs required for VHR monitoring, processing and management. This will allow

communities to develop a budget for VHR oversight and establish fees sufficient to cover the program.

Explore Variation in Fees Based on Use and/or Unit Type – Santa Fe

- While additional analysis of Colorado statutes is recommended, fee systems similar to Santa Fe's could provide for variation in fees for year-round VHR's compared with residences that are normally occupied by their owners and only rented short term for two periods per year. There are no fees for the latter, whereas fees for year-round VHR's range from \$175 for an accessory dwelling to \$350 for a single-family home.

Compliance: Investigation, Education, Enforcement

Dedicate or hire staff to track and manage license compliance – Park City, Austin

Mail new homeowners VHR regulations and license application – Breckenridge, Mt. Crested Butte

- Breckenridge also follows up with a reminder letter every four years.

Publish VHR requirements in newspaper, websites – Breckenridge, Durango

Seminars and education outreach to real estate professionals – Estes Park, Park City

- Can help educate realtors and property managers regarding VHR's so they can properly inform their clients as to VHR legality and regulations.

Link complaints to legal and illegal VHR's - Steamboat

- Have Code Enforcement communicate with VHR tracking departments (planning, finance). Can help find illegal VHR's and monitor permitted VHR's for regulation compliance.

Establish license/permitting enforcement procedures and threaten or use them when necessary – Breckenridge, Mt. Crested Butte, Austin

Revocation

Make permits/licenses revocable if non-compliant – Steamboat, Estes Park, Santa Fe

- Steamboat has a three-strikes permit policy – three violations in one year and the permit may be revoked for up to 2 years. Three-strikes gives some certainty to owners and clarity to the city for enforcement.
- Santa Fe makes revocation *mandatory* after three-strikes.
- Estes Park has a discretionary revocation policy in the event of a violation.

Potential practices

Increase license fees to mitigate workforce housing impacts.

- No quantification has been done to date to determine the specific impacts VHR's have on workforce housing. A nexus study may be required to quantify the link between the impacts on housing and the fees charged.

Collect VHR unit operating detail on permit/license application

- Depending upon the complexity of regulations and VHR rental term requirements, license/permit applications can capture number of bedrooms rented, unit type, times of the year rented, when owner occupied, etc. to assist with monitoring and evaluate the appropriateness of potential revisions to regulations.

Educate visitors that VHR's not showing permit numbers are illegal

- As more communities require permit and license numbers to be shown on all advertising, a visitor education campaign could help spur compliance from the demand side. Inform visitors that units not showing a permit number may not meet safety standards and/or may be a scam.

IV. Taxing

Issues and Emerging Trends

The significant revenue-generating potential from VHR's prompted many communities to begin collecting taxes from this market. Concerns over equity and fairness with existing lodging establishments were also a significant factor for some. CAST participating resort communities rate these issues among their top ten concerns about VHR's.

Difficulty tracking and locating illegal VHR's have frustrated some community efforts to collect taxes. Although some progress has been made with hosting sites, many communities are pushing for more cooperation. The process has been likened to the ongoing litigation over getting taxes from hotel rooms booked through online travel companies, some of which are reaching resolution, but it has taken a decade.

Taxes Help Pay for VHR Services and Impacts

VHR taxes support a variety of general fund purposes for which taxes are allocated. The taxes help cover services that assist and benefit VHR operations, including fire and police departments and municipal infrastructure. In San Francisco, the taxes also help feed the City's Affordable Housing Trust Fund.

The Ability to Tax VHR's as Commercial Property is Limited

In Colorado, the Constitution and State Statutes limits the ability for jurisdictions to classify properties as commercial and residential. The distinction between residential and commercial classifications is significant because residential real property is valued for property tax assessment at a lower rate than commercial. See Colo. Const. Art. X, § 3(1)(b). It is possible that some VHR's may be able to be classified as "commercial" rather than "residential" for property tax purposes, but this will depend upon whether the use and ownership of the particular property meets the legal reclassification requirements. Some of these requirements include:

- Residential real property includes residential land and residential improvements, excluding hotels and motels. Colo. Rev. Stat. § 39-1-102(14.5).
- Hotels and motels include lodging that is predominantly used on an "overnight or weekly basis." Hotels and motels exclude properties that are rented on a long-term basis (i.e., for 30 days or more). Colo. Rev. Stat. § 39-1-102(5.5); E.R. Southtech, Ltd. v. Arapahoe County Board of Equalization, 972 P.2d 1057, 1060 (Colo.App. 1998).
- Hotel units include four or more units in a project that are owned by the same entity. If one entity owns and operates four or more VHR's, their properties may be a candidate for commercial reclassification if other requirements are met. See Colo. Rev. Stat. § 39-1-102(5.5), et seq.
- Bed-and-breakfasts are overnight establishments where the innkeeper resides in or near the establishment, providing accommodations for a fee, at least one meal per day, with no more than 13 sleeping rooms. Colo. Rev. Stat. § 39-1-102(2.5).

None of the CAST participating communities classify VHR's as commercial. Looking to other states, Palm Beach, Florida, classifies VHR's as commercial property. In Palm Beach, if a VHR is rented for less than three months over three times per year, then the property is classified as a commercial, rather than residential, property for taxation purposes. An owner can also lose their County homestead exemption, which provides a substantial property tax break to resident homeowners, if homes are rented for more than thirty days in one year.

Hosting Sites Have Shown Some Signs of Cooperation

After initial battles in which HomeAway and Airbnb denied any liability or necessity to perpetuate tax collection for VHR's, these hosting sites have been showing some signs of cooperation, albeit on different levels and capacities.

- HomeAway has invested in HotSpot Tax, Inc., to allow VHR owners an efficient interface through which they can pay their taxes, although HomeAway does not facilitate collection of those taxes.
- Airbnb has negotiated agreements with several cities to collect taxes on behalf of VHR's that are hosted on their website. Airbnb also paid an estimated \$25 million in back taxes to San Francisco.
- Airbnb volunteered to begin collecting taxes for properties in Washington D.C., even though VHR's are not explicitly recognized by D.C. law. Airbnb has learned this can be a way to open the door to invite VHR's into more communities by at least removing the tax barrier.

Locating VHR Tax Evaders Remains a Challenge

With Transient Occupancy Taxes (TOTs) and Airbnb, it is primarily an issue of how to collect the tax, not whether it applies in the first place. Particularly in larger cities, taxing authorities cannot spend time to go after each VHR, but they can spend the resources to go after the hosting companies that are advertising and, in some cases, managing them.

Tax Collection Agreements Do Not Extend to All Hosting Companies

In cities where Airbnb has agreed or been required to collect taxes, it automatically collects the local hotel or occupancy taxes on every transaction. Airbnb pays in a lump sum, omitting details about individual hosts or guests. The company began collecting taxes in Portland and San Francisco last year and has since reached agreements with many other communities, including with Chicago and Washington, D.C. These cities are among the company's largest markets; however, a recent agreement with Malibu indicates smaller cities are also having some success.

Airbnb would like a level playing field with HomeAway and other hosting sites now that it has started collecting taxes in some cities. Airbnb, however, operates on a different platform than HomeAway. Airbnb manages all transactions for its users and acts as a merchant for VHR bookings, whereas VHR owners/managers merely advertise on HomeAway. HomeAway never touches the monetary exchange between owners and renters. Based on this model, San Francisco agreed that HomeAway is not an operator that is required to collect taxes under their tax regulations.

CAST Survey Findings

VHR Lodge and Sales Tax Collections – the 30-Day Rental Rule

The ability to collect sales and lodging taxes are limited by the Colorado Constitution and Statutes. Sales taxes are collected for any unit rented for less than 30 consecutive days; units rented for 30 consecutive days or more are considered long term and exempt from the sales tax.¹ Any county lodging tax adopted pursuant to Colo. Rev. Stat. § 30-11-107.5 also does not apply to homes rented for 30 or more consecutive days.

VHR's are defined as being rented for either less than 30 days or 30 days or less by all CAST participating communities for tax collection purposes. These definitions do not provide an upward cap on the number of consecutive days a VHR may be rented. This would allow, for example, a VHR to be rented for a consecutive period of 6-weeks in July, which would be exempt from paying taxes.

Of all participating CAST communities, only Steamboat Springs provided a category of VHR's that would prevent the unit from being rented for a period of more than 30 days. In Steamboat Springs, "Short-Term Rentals" are single-family homes and duplexes that may only be rented by visitors *up to twice per year, not to exceed 30 days annually*.

Tax Rates on VHR's

All CAST participating communities collect taxes on VHR's, excluding the town of Jackson. A mix of sales tax, lodging tax, local marketing district tax and personal property tax (for furnishings) on VHR's are applied. Some communities have multiple tax collection entities, each of which collect taxes on their own.

- Sale tax rates range from 0.25% in Steamboat Springs, up to 7.95% in Park City.
- Lodging tax rates range from \$3 per night in Ouray, up to 3.4% in Breckenridge.
- Total sales and lodging tax rates range from 1.25% in Steamboat Springs, up to 10.95% in Park City.
- Local Marketing District (LMD) taxes also apply in Steamboat Springs, Estes Park, Mt. Crested Butte and Crested Butte. Steamboat Springs has one tax collection entity that collects all taxes; in the other towns, the LMD taxes are collected independently of the Town Clerk.
- Some communities have additional entities that collect taxes, which are not listed in the below table. For example, the Breckenridge Mountain Master Association also collects a 2% assessment on VHR's and the Summit County Housing Authority collects a 0.125% tax.

¹ See E.R. Southtech, Ltd. v. Arapahoe County Board of Equalization, 972 P.2d 1057, 1060 (Colo.App. 1998); 1 Code Colo. Reg. 201-4 Department of Revenue Regulations.

- Summit County collects “personal property tax” for furnishings within VHR.² The value of the furnishings constitutes the property to which the property tax is applied. This provides another source of potential revenue for communities.

Local Tax Collections by Type

	Sales Tax	Lodging Tax	Other (LMD)
Breckenridge	2.5%	3.4%	-
Crested Butte	4%	n/a	-
Durango	N/A	2%	-
Estes Park	5%	2% (LMD)	-
Frisco	2%	2.35%	-
Jackson	N/A	N/A	-
Mt. Crested Butte	5%	N/A	4% (County)
Ouray	3%	\$3/night	-
Park City	7.95%	3%	-
Steamboat	0.25%	1%	2%

VHR Tax Revenues

Not all participating CAST communities were able to report VHR tax collections separate from tax collections on other lodging properties. This increases the difficulty of tracking the financial impact that VHR has on local revenues. Understanding the financial impact of VHR’s can help communities identify the extent to which VHR tax collections should be a priority (or not) based on lost revenue potential. Improved record-keeping systems and coordination with licensing and permitting offices would help communities track this information.

For those communities that provided separate tax information, VHR tax collections range between 1% and 73% of tax collections on all lodging properties. The percentage of sales tax collections from VHR’s in a community is related to the volume of alternative lodging properties available.

- In Mt. Crested Butte and Crested Butte, VHR tax collections comprise a respective 73% and 60% of tax collections on all lodging. Of Mt. Crested Butte’s lodging establishments, only two are hotels. Condotels including the Grand Lodge and Mountaineer Square are included in these figures and account for the high percentage. In Crested Butte, there are relatively few lodging establishments, all of which are small, making VHR’s a very significant share of guest accommodations and sales tax on lodging.
- In Estes Park and Ouray, hotel and motel rooms are much more prevalent. Estes Park has about 4,000 hotel/motel rooms and cabins and just over 4,000 residential housing units. VHR’s comprise a lower 13% and 1% of total taxes collected on lodging in these communities.

² See Colo. Const. art. X, § 3(c); Colo. Rev. Stat. § 39-1-102(11).

VHR and Total Lodge Tax Collections Compared: 2014 Collections

	Crested Butte	Estes Park	Frisco	Mt. Crested Butte	Ouray
Sales tax (VHR only)	\$150,368	\$382,748	\$105,690	\$597,885	\$2,922
Sales tax (all lodging properties)	\$251,182	\$2,871,340	\$340,586	\$819,361	\$279,098
% from VHR	60%	13%	31%	73%	1%
	-	-	-	-	-
Lodging tax (VHR only)	Not collected	Not reported	\$123,484	County only	\$2,396
Lodging tax (all lodging properties)	Not collected	\$1,596,347	\$388,198	County only	\$228,071
% from VHR	-	-	32%	-	1%

CAST participating communities were asked to report comparative tax collection information for each year beginning in 2010. For those able to respond, between 2010 and 2014:

- In Crested Butte, VHR sales tax collections increased from about 47% to 60% of all lodging sales tax collections;
- In Frisco, VHR sales tax collections increased from about 28% to 31% of all lodging sales tax collections;
- In Estes Park, VHR sales tax collections consistently comprised between 12% and 13% of all lodging sales tax collections; and
- In Ouray, VHR sales tax collections increased from about 0.5% to 1%.

Best Practices

Coordinated Tax Collection

Negotiate tax collection agreement with Airbnb – Portland, Malibu, numerous others

- Most individual communities may be too small, but cooperative agreements encompassing multiple communities, entire counties, or the CAST organization may have some success.

Coordinate tax collection among collection entities within a geographic area – Steamboat Springs

- The City of Steamboat Springs collects taxes on behalf of the city and its LMD.

Improved Tracking of VHR Tax Revenues

- Coordinate information with the VHR licensing/permitting staff and tax collection to enable easier identification of tax revenues received from VHR's.

Potential Practices

Initiate state-level action to address the under 30-day rental restriction for collecting short-term rental taxes that now limits the ability of local communities to collect taxes on VHR's that are consecutively rented for longer than a 30-day period.

V. Staffing

Issues and Emerging Trends

As with most aspects of the VHR industry, staffing has evolved over time and continues to be an area where needs are not clearly known.

Staff Responsibilities Shift as Issues Grow

Responsibility for tracking VHR's and ensuring that they are in compliance with local tax and licensing requirements has evolved over time. Since collection of tax revenues was the first concern of most mountain municipalities, finance departments were typically assigned research and compliance duties. As neighborhood impacts, land use, zoning and workforce housing issues emerged, staff in planning and community development departments became involved. Law enforcement has also had the responsibility for responding to complaints about noise, parking and other neighborhood disruptions but has typically not documented the source as a VHR.

Existing Staff Take On Increase in Duties

While there are exceptions to this trend, in most mountain communities existing staff have absorbed the increase in work load. Responsibilities are decentralized with staff in multiple departments performing tasks. VRCompliance LLC, a business that contracted with several CAST members to track VHR's, has ceased operations.

Allocating Time/Staff Resources is Low/Moderate Priority

Tracking of VHR units is done in many communities as time permits, typically only a few times per year. This creates the possibility that units rented on a short-term basis through online hosting sites only part of the time are not well tracked.

Administrative Costs are Unclear

The cost associated with the tracking and compliance has not been well documented. For the most part, mountain towns have not been conducting cost/benefit analyses to determine if hiring additional staff or redirecting existing assignments in order to conduct more frequent monitoring of VHR's listed on line would be worth the investment.

Staffing Not Shared - Regional Inefficiencies

In most mountain towns, more than one jurisdiction levies taxes on short-term rentals but these entities generally do not share responsibilities and information. In areas where municipalities are in close proximity (i.e. Crested Butte and Mt. Crested Butte, Telluride and Mountain Village, Summit County, CO) or are often considered a single-market area, searches on hosting sites list all of the VHR's available in the area, not within the borders of a single town. Yet the towns covered each spend time separately researching the units to identify the ones within their boundaries.

Large Cities Get Aggressive

Metropolitan areas are greatly expanding their staffing efforts to respond to the proliferation of units, concerns, complaints and tax compliance. Applicable taxes add up to significant sums in major cities. For example, the New York Attorney General has estimated that New York City is owed at least \$33.4 million in unpaid hotel occupancy taxes over the past five years, as a result of short-term rentals through Airbnb. With such large amounts at stake, New York's search for illegal short-term rentals now combines a variety of sources - building/fire inspectors, police, lawyers and tax specialists using multiple techniques ranging from door-knocking to digital sleuthing and video surveillance.

CAST Survey Findings

Responsible Departments

Finance department staff is involved in almost all of the 10 CAST participating towns. When this is not the case, administrative staff, under the direction of the town manager, handles VHR's. Responsibility is shared with planning/community development/building staff in half of the communities.

Town Departments Responsible for VHR Management

	Tracking	Licensing/ Tax Collection	Regulations	Complaints
Breckenridge	Finance	Finance	Finance	Finance
Crested Butte	Finance	Finance	Building	Marshals
Durango	Comm Dev/Code Enforce. & City Clerk	Finance & Comm Dev	Comm Dev	Comm Dev/ Code Enforce.
Estes Park	Comm Dev/Town Clerk	Town Clerk	Comm Dev	Comm Dev/Police
Frisco	Finance	Finance	Finance	CDD
Jackson	Planning & Building			Planning & Building
Mt. Crested Butte	Admin	Admin		
Ouray	Admin	Admin	Admin/PD	
Park City	Building	Finance	Building/Planning	Building
Steamboat Springs	Planning	Planning/Tax	Planning	Planning

Number of Staff Involved and Hours Spent

Among most towns, either one or two staff members per department are involved in the four main areas of responsibility – tracking, licensing/tax collection, regulations and complaints. On average, 3.7 staff members have some type of responsibility. Durango has the most staff involved – 12 staff in three departments followed by Crested Butte and Park City with four each.

Staffing and Time Spent on VHR Management

	Tracking	Licensing/ Tax Collection	Regulations	Complaints	Total
Average # of Staff Involved	1.6	1.4	1.8	1.3	3.6
Avg. Hours Spent Monthly	19	34	6	6	54

It takes an average of 54 hours per month to manage the systems now in place. Nearly two-thirds of the time is spent on licensing and tax collection. Tracking of VHR listings takes up about one-third of the hours devoted.

Costs

Staff frequently expressed uncertainty when questioned about the cost of their work on overseeing Vacation Home Rentals. The average cost totaled \$1,567/ month or \$18,800/year among the seven CAST towns who provided rough estimates.

On an hourly basis, costs range from \$22 to \$32, which likely is not a fully loaded figure including benefits.

Best Practices

Staffing Alternatives

Community Development Department Takes the Lead – Durango

- As issues continue to expand and concerns shift from a focus on tax collection to workforce housing and neighborhood issues, lead responsibility is placed within the purview of community development/planning/building staff in Durango. Community development coordinates quarterly with finance and administrative services.

VHR Oversight Coordinated by Economic Development Staff – Park City

- In recognition of the importance of VHR's to the resort town's economy, economic development staff coordinate oversight tasks, coordinating with finance, building and planning staff.

Staff Specialist Added – Park City

- A staff person was hired to implement an inspection program, insuring that VHR units are safe and of sufficient quality for a positive visitor experience, which is considered tantamount to the community's sustainability as a high-end destination resort. Park City is the only one of the 10 CAST towns that has hired staff specifically for its VHR oversight.

Potential Practices

Share Staff/Contract Services through Regional Cooperation

Whatever system is used to track, license, tax and oversee VHR's, sharing the responsibility with neighboring jurisdictions should be more efficient. Summit County shared the VRCompliance LLC contract when they used the company's services to track VHR's.

Compare Costs/Benefits

The staff cost to oversee VHR's should be documented. This will enable cost/benefit analysis, potentially support increases in license fees and inform consideration of other administrative options, such as contract services.

VI. Neighborhood Impacts

Issues and Emerging Trends

The impacts of VHR's are widespread. Communities have become alarmed about changes in the character of their residential neighborhoods as they transition into lodging districts. Familiar faces are being replaced by transient populations. In many cities, neighbors are outraged and leading the fight against the proliferation of the industry. In mountain towns where visitors are the mainstay of the economy, residents and community officials are also concerned about changes in community character as well as specific disruptions including noise, parking violations, overcrowding and garbage.

Metro Areas React to Neighborhood Concerns

In urban areas, concerns about neighborhood impacts were generally first to get significant attention. Short-term rentals were often prohibited in residential zones and were thus illegal uses that could not be licensed and taxed. Boulder is a prime example. When the issue of taxing short-term rentals was raised several years ago, the City chose not to take action at that time. When complaints lodged by neighbors in 2014 increased in number and volume, the City's initial response was to issue 20 cease and desist letters to known violators of zoning prohibitions. The letters were quickly rescinded when the magnitude of the violations became better understood. Comprehensive solutions responsive to neighborhood concerns are now under investigation.

Neighborhoods Organize Across the Country

Neighborhoods are consolidating into organizations with a voice, establishing unified positions on issues that primarily impact neighborhoods. Citizen-initiated referendums that might prohibit or severely limiting VHR's are starting to appear in communities of all sizes. Examples of neighbor groups include:

- Asheville: Coalition of Asheville Neighborhoods
- Los Angeles: Keep Neighborhoods
- New York, San Francisco: ShareBetter
- New York: Westside Neighborhood Alliance

National Group(s) Form to Deal with Issues

At the national level, *Neighbors for Overnight Oversight* is an online coalition of residents, community leaders and businesses seeking to protect neighborhoods by supporting regulations and oversight for the short-term rental market. They work on measures to ensure that VHR's comply with basic safety measures to protect consumers and neighbors. They offer an advocacy tool kit and spread the word about situations when things go wrong. Similar groups may form; change happens quickly in this industry.

Hosting Sites Cooperatively Defend Rights

As referenced in the Regulations section of this report, hosting sites have reacted quickly to initiatives by citizen groups to place limits on their operations and demand accountability. They are doing so in a well-funded, cooperative manner. Each of the top hosting sites is a powerhouse in its own right; together they are formidable and will make initiatives at the metropolitan, state and federal level a hard fight. The extent to which they may attempt to influence neighborhood protection efforts in smaller towns is uncertain.

Code Enforcement and Local Property Managers Effective Tools in Mountain Towns

Local governments that permit VHR's have found a code enforcement approach effective at dealing with nuisance conditions, such as excessive noise, parking and trash. In some towns like Breckenridge, nuisance control regulations that have been part of the municipal code for years are being dusted off and used increasingly to mitigate adverse impacts on neighborhoods resulting from VHR's. In other towns like Durango, new codes have been created to specifically address VHR's in neighborhoods.

A tool adopted by many towns already and under consideration in others is requiring that VHR's have a local property manager/contact on call to respond to neighborhood complaints (see Regulations section for details).

CAST Survey Findings

Concerns About Neighborhoods

While most mountain towns first directed their VHR efforts on tax collection and licensing, neighborhood impacts have come to the forefront of policy and operational considerations. Among the 10 CAST study participants, Durango was the exception to this trend, focusing first on neighborhood impacts then designing regulations and licensing requirements aimed at preserving their residential areas.

Concern is higher for impacts on community character and neighborhood change than on specific nuisances although parking and noise are not far behind.

Neighborhood Concern Ratings

1 = minor concern; 5 = major concern

Concern	Avg. Rating
Community character	3.6
Neighborhood change	3.6
Parking	3.1
Noise	3.0
Safety	2.9
Overcrowding	2.7

Complaints

On average, 8.5 complaints were received last year by the six CAST participants that reported on complaints. Four of the 10 did not report any complaints in the past year, due at least in part to the lack of a standard complaint processing system.

Parking is the chief complaint followed by noise. Parking is particularly problematic in towns like Mt. Crested Butte where on street parking is not allowed. Complaints about VHR's where they are not allowed topped the list in Durango. Exterior lights being left on overnight and for long periods were also mentioned.

VHR-Related Complaints Received

Nature of Complaints	
Parking	22%
Noise	19%
Too many occupants	15%
Garbage	12%
Other: Illegal rentals, exterior lights left on	47%
Total*	115%

*Total exceeds 100% since multiple reasons sometimes cited.

How complaints are received and handled varies widely. In terms of receiving complaints:

- Town staff receives all or most complaints in Jackson, Mt. Crested Butte, Ouray and Park City;
- Elected officials have been contacted most often in Durango;
- Law enforcement usually gets the calls in Steamboat.

Towns learn of zoning/ordinance violations and other causes for complaint through:

- Neighbors -- the main source of complaints;
- Patrolling/observation is done by three of the 10 towns;
- Websites: "Overnight Oversight" or similar neighborhood watch has been a source in a couple of the communities;
- Facebook – While not noted as a source for complaints about VHR's in CAST towns, Facebook has been a forum for community interaction on related issues. In the small community of Pitkin, Colorado (about 70 residents) Facebook is the place where heated debates have occurred.
- Property managers who handle legal short-term rentals are a source of complaints about VHR's where they are not allowed.

Best Practices

Practices related to neighborhood impacts are grouped into two categories: Outreach/Education and Nuisance Mitigation.

Outreach and Education

Website – Durango

- Page on City's website covers regulations, history, recent news and opportunities for input with a link to map showing permitted VHR's.

Mapping of Permitted VHR's – Durango

- A map of all the permitted VHR's in the City that can be viewed by citizens with complaints submitted directly to community development staff via the website.

Neighbor Notices – Sonoma County and Petaluma (proposed)

- Letters notifying that a permit has been issued and containing contact information on mandatory property manager located within a 1-hour drive and on call 24/7 given to all neighbors within 100 feet of a VHR.

Stakeholder Roundtables – Durango

- Two discussions supported by informative PowerPoint presentations with realtors, property owners, vacation rental managers, neighborhood advocates, code enforcement staff, downtown HOA representatives, and lodging industry representatives.

Chamber Outreach – Breckenridge

- Meetings held for education about rules and procedures.

Newspaper Notices and Articles – Breckenridge

- Published notices in the newspaper to educate public/property owners about what is allowed.

Community Engagement – Durango

- A community meeting held on neighborhood issues publicized through multiple outlets including traditional media, social media, the City website and City e-mail listservs. Comments became extensive; Durango's staff recommends developing a system for organizing comments from the outset of any public education process.

Complaint Handling Process – Durango

- Website and other forms of public outreach channel comments/inquiries/complaints through to a designated planner; one person handles/routes complaints other than those needing immediate police response.

Educate Visitors – Breckenridge

- Create a brochure on the Town's noise, parking, occupant, visitor and garbage regulations associated with VHR's and require that it be posted in all VHR units.

Nuisance Mitigation

Occupancy Limits

- Estes Park: A maximum of two persons per bedroom plus two persons with an 8-person maximum. Children under 3 exempted.
- Sonoma County: Two persons per bedroom plus two up to a 12-person maximum subject to design load of septic system or as allowed through granting of a Use Permit.
- Steamboat Springs: 1 person per 200 SF.

Visitor Limits – Sonoma County

- A maximum of 6 visitors are allowed in addition to the maximum permitted, which equals up to 18 persons in homes with 5 or more bedrooms. Exceptions are allowed on the national holidays of Easter, Memorial Day, 4th of July, Labor Day, Thanksgiving, Christmas Eve and Christmas.

Outdoor Party Limits

- Steamboat Springs: Outdoor activities are prohibited at which more than twice the number of allowed occupants are in attendance, which equates to a maximum of 16 guests staying in the unit and no more than 32 persons at an outdoor party.
- Sonoma County: Special events, outdoor events, lawn parties, weddings and similar activities are not allowed at any time at VHR's in Rural Residential and Urban Residential zones.

Trash Management – Grand Lake

- The Pay as You Throw (PAYT) program involves the Town offering plastic bags for \$3.00 (25 Gal.) and \$4.00 (40 Gal.) that can be thrown in 5 animal-resistant dumpsters located by the Public Works Department shop in town.

Parking

- Sonoma County: 1 space minimum for up to 2 bedrooms; 2 spaces for 3 or 4 bedrooms and at least 3 spaces for larger units, which must demonstrate adequate parking.
- Breckenridge and Grand Lake: No motor vehicles can be parked on the lawn or landscaped areas or in the public street or right-of-way adjacent to the accommodation unit, and no person can stay overnight in any motor vehicle which is parked at an accommodation unit.
- Santa Fe: No recreational vehicles can be parked on the site or on the street.
- Steamboat Springs: Maximum of 4 cars outside of a garage.

Noise Limits

- Palm Springs: No outdoor amplified sound is permitted at any time when short-term rented.
- Sonoma County: Outdoor amplified sound is not permitted at any time unless through a Cultural or Special Event Permit or Use Permit.

General Nuisance

- Lake Tahoe Basin: All-encompassing but vague "Occupants cannot create unreasonable noise or disturbances, engage in disorderly conduct or violate provisions of state law regarding noise, overcrowding, alcohol or drugs."

VII. Workforce Housing

Issues and Emerging Trends

Concerns have increased within the last year over the impacts that VHR's are having on workforce housing, particularly its availability and cost. Communities have not done much to date to quantify the impacts but seem to be increasingly interested in options they might pursue to preserve and provide affordable housing for their workforce.

Loss of Long-Term Rentals

The conversion of rental units that have historically housed employees has become a major concern in mountain towns. Availability of workforce rental housing in all inter-mountain resort communities became very scarce in 2014. In 2014, apartment vacancy rates were extremely low -- less than 1% in many areas. In some towns like Jackson, the lack of rental housing has been called a crisis. Conversion of long-term rentals occupied by locals into VHR's has often been anecdotally cited as the reason for such a dramatic shift in rental availability.

Rent Increases

The economic principles of supply and demand have been functioning well in mountain towns. With the decrease in the rental supply, due at least in part to conversion into VHR's, rents have been rising. At one apartment complex near Vail, rents increased by over \$500/month in 2014. In response to the steep jump in rents in many Colorado mountain communities efforts are underway to develop additional apartments in Buena Vista, Breckenridge, Crested Butte, Edwards, Eagle, Mountain Village, Telluride, Salida and Steamboat Springs.

Large Cities Also Concerned

The concern about loss of long-term rentals is not isolated to mountain resort communities. A March 2015 report titled *Airbnb, Rising Rents and the Housing Shortage in Los Angeles* by LAANE, a group that supports "a new economy for all" cited the loss of over 7,300 long-term rental units. This estimate has been widely quoted in publications throughout the country, reflecting the growing concern over this issue.

Using Workforce Housing as Vacation Home Rentals

Some residents of deed-restricted workforce housing have rented their homes or spare bedrooms through online hosting sites. These scattered incidents have typically been reported by neighbors who also live in nearby homes with deed restrictions prohibiting the practice.

In Aspen, some community officials are in favor of allowing residents of restricted workforce housing to use their homes as vacation rentals, advertising through hosting sites and producing much needed extra income. The housing authority's guidelines and deed restrictions explicitly prohibit such use because, as the housing authority director explained, "it undermines the spirit and intent of the workforce housing program." The housing authority's outside legal counsel has strongly advised against permitting this

activity. Aspen is the only mountain town identified to date in which changes to regulations prohibiting the use of workforce housing as vacation home rentals may be considered.

Quantifying the Situation

While concerns over the impacts that the proliferation of VHR's has had on housing for the workforce, few attempts have been made to quantify the impacts. Evidence is anecdotal but many communities feel loss of units is significant since, as the town manager of Estes Park indicated, "It is so easy to have vacation rentals and the profits are substantial, that many people are choosing to utilize their properties as vacation rentals, thereby taking at least a portion of these off of the long term rental market." (sic)

Impacts on Accessory Units

One impact that is particularly hard to track is the use of accessory units at VHR's. Construction of deed restricted accessory dwelling units are often encouraged by municipalities through incentives such as density bonuses and fee waivers/reductions. The units can provide housing for the workforce, retirees and family members as their needs change. Petaluma is one community concerned about their ADU's or "granny flats" becoming VHR's.

CAST Survey Findings

Loss of Long-Term Rentals

The loss of housing previously rented by members of the local workforce on a long-term basis has become the top concern in participating CAST communities, edging out tax collection. Communities rated this an average of 3.9 (on a scale of 1 to 5 with 5 being "major concern"). Concern about conversion of long-term rentals that housed employees into short-term vacation home rentals is particularly high in Breckenridge, Crested Butte, Frisco, Jackson and Park City. Steamboat Springs is the only town surveyed where concern about this issue is low.

Tracking Conversion from Long-Term to Short-Term Rentals

While the concern is widespread, only two of the 10 CAST towns surveyed have tracked or attempted to identify residential units that were occupied by local residents but are now short-termed.

- Breckenridge maintains a property database used primarily for its RETT that classifies each residential unit according to its primary use. Long-term rentals have held steady at 9% to 10% of the inventory, despite fluctuations due to new construction and conversion into VHR's.
- Durango gains knowledge about the past use of units through its VHR permitting system. While the system has been in place for less than a year, staff estimates roughly half are out-of-town owners or professional property managers. The other half are local homeowners who travel and want the option to rent the house while gone, have a 2nd unit on their property that they want to rent, or want to short-term rent a room in the house. This system does not track change in use.

Using Deed Restricted Workforce Housing as VHR's

Incidents where illegal use of deed restricted workforce housing as VHR's has been very limited. Only Jackson and Frisco reported known incidents. None of the 10 towns reported requests by residents of restricted workforce housing for permission to rent their homes or spare bedrooms short term.

Despite few reported incidents, concern about the potential use of workforce housing as VHR's is relatively high, ranking 6th out of 16 issues tested in the CAST survey. While staff are aware of the concern, most feel compliance with prohibitions will not be problematic because neighbors will report violations and annual compliance monitoring will detect unauthorized rental of units.

Best Practices

Tracking Conversion of Employee Housing Into VHR's

Real Estate Database – Breckenridge

- The finance department maintains a database developed for tracking real estate transfer tax (RETT). New owners are contacted when units are sold to determine change in use.

Housing Census – Crested Butte

- The Town Planner has historically conducted a census on the use/occupancy of every residential unit in the community. This tool has been helpful on many tasks related to workforce housing and could be used to track loss of employee housing. It has documented that short-term rentals have increased from 5.1% of total housing units in 2000 to 15.8% in 2015, with a growth rate – times faster than the growth in housing.

Prohibiting Use of Workforce Housing as VHR's

Deed Restriction Provisions – Breckenridge

- Only “qualified occupants” who are employed in Summit County can reside in units, which prohibits renting the unit or individual bedrooms to visitors. Non-paying guests are allowed. Renting to roommates who are employed in Summit County is also allowed.

Web Site Notice - Aspen

- The Aspen/Pitkin County Housing Authority web site has in bold, red typeface, “Under NO circumstances are you allowed to rent your deed restricted home or room out through VRBO, Airbnb or equivalent.”

Potential Practices

License Check for Housing Compliance

- Require sign off by housing agency/department in charge of administering workforce housing on VHR's license/permit applications.

Tracking System Crosscheck

- Provide addresses and photos of restricted workforce housing to staff who license and track VHR's.

Allocate VHR Revenue to Housing

- To fund replacement housing and units needed by growing workforce, allocate tax revenues into an affordable housing fund. A proposal to do this is under consideration in Nashville.

Replace Lost Housing Units

- Develop goals and plans for workforce housing development that take into account loss of housing through conversion into VHR's.

C. Reports

Part 1



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: June 23, 2015

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department
Administration Division, Finance Department

SUBJECT: Council Direction On Short-Term Vacation Rental Regulations

RECOMMENDATION

That Council provide direction to staff regarding regulation and enforcement of short-term vacation rentals.

EXECUTIVE SUMMARY

The trend of converting residential units into full- or part-time vacation rentals has become popular, especially in vacation destination communities such as Santa Barbara. The City Council and staff are aware that short-term vacation rentals exist throughout the City and that most are operating in residential areas where they are not currently allowed. To date, alleged violations have been investigated and code enforcement action taken only in response to neighborhood complaints.

At the same time, however, the City is collecting Transient Occupancy Tax (TOT) revenue from short-term vacation rental owners. In response to the growing concerns over the impacts of vacation rentals in neighborhoods and the potential for confusion created by the City's enforcement actions and simultaneous collection of TOT, the City Council recently directed staff to address this policy issue.

This report provides background and contextual information for the public and City Council discussion and includes options for the regulation and enforcement of vacation rentals in the City of Santa Barbara.

DISCUSSION

The rapid rise of short-term vacation rentals is posing unforeseen challenges and opportunities for cities across California and the country. The City Council and staff are aware that short-term vacation rentals exist throughout the City and that most are operating in residential areas where they are not allowed under the Zoning Ordinance.

Please see the attached map that illustrates the areas of the City where vacation rentals can be permitted through a discretionary review process and then operate legally under the City's Zoning Ordinance. Areas mapped in color show the zoning districts in which short-term vacation rentals are currently allowed, and the grey parts of the map illustrate areas of the City where short-term vacation rentals are not allowed. The yellow dots represent locations where short-term vacation rental operators that have registered with the Finance Department, have a business license and pay Transient Occupancy Tax (TOT). Not all short-term vacation rentals operating in the City have applied for a business license and pay TOT. Many more short-term rentals exist in the City than are represented on this map

There is concern that short-term rentals negatively impact neighborhood character and contribute to other nuisances, including noise and on-street parking impacts. Further, the commercialization of rental housing contributes to an increase in rents by reducing the amount of housing stock available to longer-term tenants. The City's Housing Element has a long-standing policy to protect and preserve the City's rental housing stock.

On the other hand, some short-term rental owners earn income to supplement or cover housing costs. Short-term rentals also provide travelers and tourists with an alternative to traditional lodging and dining establishments and provide a unique view into life in Santa Barbara. Guests can select from a variety of housing options and have a unique experience of staying in a home in a neighborhood. Statements have been made that short-term rentals increase tourism and boost the local economy. In Fiscal Year 2015, TOT from vacation rentals is expected to generate an estimated \$1.19 million.

The purpose of this staff report is to provide some basic information to set the stage for Council's discussion of short-term vacation rentals. Establishing a clear definition of terms is important. A shared understanding of the City's Municipal Code, policies, registration and enforcement practices is important as well.

Definition of Terms Used in This Report

For the purposes of this Council Agenda Report and Council discussion, Staff recommends a common use of the following terms and definitions. These are not terms or definitions currently found in the City's Municipal Code.

"Home Sharing Rental" – A resident(s) hosts visitors in their home for short periods of time (less than 30 days) while at least one of the primary residents lives on-site throughout the stay. Guests pay a nightly fee and enjoy non-exclusive shared use of the unit with the person(s) who lives there. Typically, the primary resident actively hosts the guests during the visit.

"Vacation Rental" – The rental of any un-hosted dwelling unit to any person for exclusive transient use of less than 30 days. Guests pay a nightly fee and enjoy the exclusive private use of the unit.

“House Swapping” – The exchange of a house by one owner with another owner in a different city for short periods of time by agreement without compensation or fees. These are informal, non-commercial arrangements that are not subject to City Municipal Code regulations. As such, they are not referenced further in this report.

Regulatory Approaches in Other Communities

In preparation for this Council discussion, Staff researched how other jurisdictions allow and regulate or prohibit and enforce vacation rentals and home sharing rentals.

In many jurisdictions, short-term rentals in residential neighborhoods are not allowed and considered illegal. Short-term rentals are usually viewed as a commercial activity and considered no different than a hotel. Some jurisdictions have moved to explicitly ban vacation rentals including West Hollywood, Aliso Viejo, Sonoma County and Saratoga. Other cities have recently developed a program or ordinance to register vacation rentals and collect the TOT, including Napa, Santa Cruz, Ventura, Malibu and Goleta.

Many cities have a long history of permitting and regulating short-term vacation rentals including most cities in the Palm Springs region, many coastal cities in San Diego, Orange, and Los Angeles Counties including Carlsbad, Encinitas, Newport Beach and Manhattan Beach. In the South and Central Coast region, the cities of Ventura, Morro Bay and the counties of San Luis Obispo and Santa Cruz have a history of permitting and regulating short-term vacation rentals.

A recent trend is to make a distinction between vacation rentals and home sharing rentals and regulate them separately. San Francisco, Santa Monica and the City of San Luis Obispo have recently moved to prohibit vacation rentals but allow home-sharing rentals, provided that the owner meets specified requirements and then remits TOT to the City.

Communities that allow and regulate vacation rentals or home sharing rentals use some or all of the following techniques to manage their impacts in residential neighborhoods:

- Permit(s) and license(s) required and grounds for denial
- Transit Occupancy Tax payment
- Performance Standards such as:
 - Minimum length of stay, maximum number of stays per dwelling unit
 - Limits on occupancy (# guests per bedroom or house)
 - Advance notification (neighbors, landlord, city)
 - Owner occupancy requirement; non-owners prohibited from renting
 - Inspection requirements for Building and Fire Code compliance
 - Minimum separation between vacation rentals
 - Minimum insurance requirements
 - Trash/recycling collection and receptacle location requirements

- Noise Ordinance compliance
- Parking standards
- Sign Code compliance
- Preparation of Nuisance Response Plans
- Designated emergency contact within 30 miles, available 24 hours/day for complaints
- Posting of permit and conditions in unit
- Require that a City issued registration number be disclosed when listing online
- Annual limits on number of permits issued
- Surety Bond (an alternate form of deposit the City could access to collect administrative fines not paid)
- Violations, noticing, permit modification or revocation procedures
- Enforcement and Citation Provisions

Many cities include these regulations in the business, revenue and taxation sections of their Municipal Codes, rather than the Zoning Ordinance. Failure to comply with vacation rental or home sharing regulations, or failure to pay the required TOT is typically grounds for business license revocation and rental operation closure.

Municipal Code Regulations

The Municipal Code contains regulations that cover all aspects of the City organization. Titles 4, 5, and 28 of the Code are of particular interest for this report.

Title 4: Revenue, Finance and Purchasing

Title 4 contains regulations for how City taxes are established and collected. For the purposes of collecting Transient Occupancy Tax (TOT) for overnight stays of less than 30 days, it includes a definition of hotel as follows:

Any structure, any portion of any structure, or any property or portion thereof which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobilehome or recreational vehicle park (as defined in Title 28 of this Code), or other similar structure or portion thereof. (§4.08.020.B).

Title 5: Business Taxes and Permits

This title contains a chapter on Business Taxes and includes a disclaimer that:

No payment of tax under the provisions of this chapter shall be construed as permission to conduct or carry on a business at any place within the City where

the conducting or carrying on of such business is prohibited by the Zoning Ordinance of the City (§5.04.020).

As such, although many of the vacation rental units operating in the City have obtained the required business license and are paying TOT, they are not considered to be legally permitted without proper zoning or further discretionary review and approval.

Title 28: The Zoning Ordinance

The Zoning Ordinance contains regulations related planning, zoning and development review in the City. For the purposes of zoning regulation and land development, it includes a definition for "hotel" and "residential unit" as follows:

Hotel: "A building, group of buildings or a portion of a building which is designed for or occupied as the temporary abiding place of individuals for less than thirty (30) consecutive days including, but not limited to establishments held out to the public as auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses." (§28.04.395)

Residential Unit: "A building or portion thereof designed or occupied for residential purposes, containing not more than one (1) kitchen per residential unit, but not including hotels or boarding houses." (§28.04.590.A)

Due to the intensity of land use caused by the frequent turnover of guests, hotels are only allowed in the City's Commercial and R-4 (Hotel, Motel, and Multiple Residence) Zones. The City considers short-term vacation rentals and home sharing to be a commercial use and may only permit them with a change of use permit in any zone that allows hotel use.

City Enforcement Practices

The growing industry of online marketing sites such as Airbnb, VRBO, Homeaway, Vacasa and many others are making short-term rentals more accessible to vacationers and travelers than ever before. Currently, there are hundreds of short-term lodging listings within the City on these websites. For entire units or homes, the number of listings range from an estimated 500 to 600 units (May 2015). With the addition of listings for home shares (short-term rental of private and shared rooms), the total approaches 1,000.

All vacation rentals or home shares that are not zoned and permitted as hotels, motels, or bed and breakfasts are in violation of the Municipal Code. Enforcement is currently done on a complaint basis, similar to most other alleged land use violations.

The City has seen a slight rise in complaints about vacation rentals, and the majority involve cases where the entire housing unit is being rented out as a vacation rental.

The City has received very few complaints to date where a single room is rented out and the primary occupant remains on the property. Vacation rental complaints are extremely challenging enforcement cases, as the activity is not necessarily easily observed from the street or visible to the public. Since 2004, over 60 complaints regarding vacation rentals have been received. Zoning staff has been able to verify non-compliance and successfully abate most of those cases. The remaining cases were closed due to lack of evidence to confirm a violation. Currently, there are seven vacation rental complaints under investigation by Zoning enforcement staff.

Legal Issues

Regulating vacation rentals under the Zoning Ordinance falls under the City's police powers to protect the public health, safety and welfare of its residents. The Council would need to amend the Zoning Ordinance in order to legalize vacation rentals in most residential zones.

The City Attorney's approach has been to enforce both the TOT and zoning ordinance concurrently when complaints are forwarded to the City Attorney's office. In other words, the City Attorney's policy is to enforce all violations of the municipal code concurrently.

Collection of Transient Occupancy Tax

In 2010, the City had just 52 registered vacation rentals paying TOT in accordance with the City's TOT Ordinance. In that year, the City initiated an effort to identify and bring into compliance other vacation rentals that were not paying TOT. This effort was primarily in response to concerns from the lodging industry of the competitive advantage afforded vacation rental operators who were not paying the 12% TOT applicable to daily room rates. As part of its audit effort, the City offered an amnesty program whereby owners of vacation rentals that responded to letters sent by Finance staff would be exempt from three years of back taxes due if they came forward within a specified time period, registered with the City, and began remitting TOT in accordance with the City's Ordinance. A similar program was offered in 2014.

As a result of the two amnesty programs, a number of vacation rental owners registered with the City. In addition, a large number of vacation rental owners, presumably having heard of the City's audit/amnesty program, came forward outside of the two amnesty program period windows and are now also in compliance. Today, there are 349 vacation rentals registered with the City paying TOT.

Options for the City of Santa Barbara

Following public input, staff will seek Council direction on what, if any, adjustments should be made to the City's current regulations or procedures regarding vacation rentals and home sharing rentals. For discussion purposes, staff is providing four

options, beginning with the most restrictive option to the least restrictive option. Other variations could be pursued.

1. Prohibit vacation rentals and home sharing rentals in the City (including R-4 and commercial zones) and forego collection of TOT. Vacation rentals and home sharing rentals are not defined in the Municipal Code and are currently being viewed as a commercial hotel use and regulated as such. Presently, if a property owner sought the proper land use approvals, one could legalize a vacation rental or home share rental in a commercial or zoning district where hotels are conditionally allowed, although few have chosen to do that to-date. If Council decides to prohibit short-term rentals throughout the city, regardless of zoning designation, staff would develop definitions and explicitly prohibit them within City limits.

In this case, Community Development and Finance Department staff would work together to notify property owners currently operating short-term rentals and provide a deadline to allow ample time for most existing reservations to be honored, but no new listings or bookings would be allowed.

2. Allow vacation rentals and home sharing rentals only in hotel/motel/multiple residential unit (R-4) and commercial zoning districts, and continue collecting TOT. Under this scenario, vacation rentals and home sharing rentals could continue to be treated as commercial operations, subject to the Nonresidential Growth Management Ordinance and related provisions of the Municipal Code, or an alternate permitting process could be developed. All short-term rentals would continue to be prohibited in residential zones.

Similar to Option 1, Staff would attempt to notify property owners that currently operate short-term rentals and provide a deadline by which existing reservations could be honored, but no new listings would be allowed.

Staff would then proactively enforce existing zoning regulations on unpermitted short-term rentals. In the R-4 and commercial zones, staff would explore the creation of new regulations and processes to encourage operators to legalize their operations.

3. Allow home-sharing rentals, but not vacation rentals, wherever residential uses are allowed, require registration and collect TOT. Under this scenario, vacation rentals would be prohibited throughout the City and home-sharing rentals would be allowed in all zones where residential uses are currently allowed. Hosts of home sharing rentals would need to register the unit, meet performance standards and pay TOT. Similar to Option 1, staff would notify property owners currently operating vacation rentals and provide a deadline by which most existing reservations could be honored, but no new listings or bookings would be allowed.

4. Allow vacation rentals and home sharing rentals where residential uses are allowed and continue collecting TOT. This scenario would allow vacation rentals and

home sharing rentals throughout the City, subject to performance standards to minimize neighborhood impacts. In this scenario, staff resources would likely be redirected from complaint-based enforcement to a more proactive role in registering and monitoring short-term rentals for performance standard compliance.

BUDGET/FINANCIAL INFORMATION

Transit Occupancy Tax

In Fiscal Year 2015, the City's General Fund expects to receive approximately \$1.19 million in TOT revenues from the 349 registered vacation rentals. This revenue source is forecast to grow to \$1.27 million in Fiscal Year 2016. These amounts exclude any back taxes paid. This contrasts with the total TOT expected in Fiscal Year 2015 of \$19.5 million from all properties, including hotels, motels, and other lodging establishments. It is important to note that the City's Creek Restoration and Water Quality Improvement Fund receives 2% of the total 12% TOT collected pursuant to the Measure B approved by City voters in November of 2000. In Fiscal Year 2015, the amount of TOT expected from vacation rentals pursuant to Measure B is approximately \$204,000 and is in addition to the \$1.19 million expected in the General Fund.

Depending on Council's direction regarding the regulation of vacation rentals, the financial impact could range from no impact to a projected loss of nearly \$1.3 million in projected and ongoing TOT revenues. If Council decides to allow short-term rentals, it is difficult to predict the number of property owners that would elect to properly permit and operate their rental and pay the required TOT.

Staffing

Responding to requests to investigate short-term vacation rental complaints is time consuming, because zoning violations of this nature are often difficult to prove. Depending on direction from Council, additional staff resources may be necessary, either to proactively enforce a prohibition against short-term rentals or to administer a rental registration program and conduct a permit compliance program.

NEXT STEPS

After receiving initial direction from Council, staff anticipates additional research, public outreach and work sessions with the Planning Commission over the next three to four months. If amendments to the Municipal Code are required, the Planning Commission would make a recommendation to the Council. Applicable implementation measures, if any, will likely be subject to review by the Ordinance and/or Finance Committees prior to Council consideration

ATTACHMENT: City of Santa Barbara Vacation Rental Business License
Registrations Map

PREPARED BY: Elizabeth Limón, Project Planner

SUBMITTED BY: George Buell, Community Development Director
Robert Samario, Finance Director/Acting Assistant City
Administrator

APPROVED BY: City Administrator's Office



Agenda Item F.1
PUBLIC HEARING
Meeting Date: February 3, 2015

TO: Mayor and Councilmembers

FROM: Tim W. Giles, City Attorney

CONTACT: Genie Wilson, Finance Director

SUBJECT: Introduction of Ordinance Requiring Registration of Short-Term Vacation Rentals

RECOMMENDATION:

Introduce and conduct first reading, (by title only), and waive further reading of Ordinance No.15-__ entitled "An Ordinance of the City Council of the City of Goleta, California, Adopting Chapter 8 of Title 5 of the Goleta Municipal Code Relating to Short-Term Vacation Rentals."

BACKGROUND:

Over the past few years, the City has taken various steps to address problems which arise from the rental of residential properties for short-term vacation purposes. Some tenants of such vacation properties are not considerate of their residential neighbors in part due to the fact that they stay for a short period of time. Leases of property for more than 30 days are more likely to result in tenants who are considerate of their neighbors. Problems which have been reported include offensive language, loud noises, parties and large occupancies which may continue late into the night, adverse parking impacts, and litter.

Rental of residential property is subject to the City's Transient Occupancy Tax. However, records reveal few property owners are collecting this tax from their tenants. Additionally, these rentals are subject to the Tourism Business Improvement District (TBID) assessments approved by the City Council.

The City Council has strengthened its ordinances to deal with some of these impacts but has not been successful in gaining compliance in all cases. The City Council has requested staff to propose further regulations to improve the City's ability to regulate short-term vacation rental properties.

The proposed ordinance has been reviewed by the Ordinance Committee on two occasions. Testimony was taken from the public at both meetings. The Committee has recommended that the Council adopt the proposed Ordinance.

DISCUSSION:

Regulation of short-term vacation rentals is a problem faced by jurisdictions throughout California. This is becoming an increasing problem as various on-line services are becoming popular clearing houses for these types of property. Jurisdictions have adopted a variety of approaches, but there is no consensus on what methods are best or which regulations are legal.

The proposed ordinance would create a registration program. It would require property owners to apply for and obtain a regulatory license before renting their property for less than 30 days. A registration program provides the following benefits:

- An opportunity to educate owners of their obligations;
- A mechanism to notify neighbors and give them an opportunity to object to the use;
- A database to assure appropriate compliance with tax obligations;
- Most importantly, a procedure for revocation when the use is abused.

The program would be administered by the Finance Department, as are most regulatory licenses. Applicants would be required to provide: a plan for responding to complaints; proof of their Business License and Transient Occupancy Registration; a bond in the amount of \$1,500 to assure compliance; a fee to cover the cost of administering the program and proof that all properties within 200 feet have been notified of the application.

The nuisance response plan would provide the name and contact information both for the property owner and a person who will be available to promptly respond to any nuisance complaints. The City would expect to make this information available on its website so that at any hour of the day that a nuisance exists, neighbors can make a direct contact with a responsible person.

Permits will specify the maximum number of overnight occupants for the rental as well as the maximum number of vehicles associated with the rental. The maximum number of occupants is limited to two plus two for each bedroom. The maximum number of vehicles is limited to the number of off-street parking spaces available on the property. This will help reduce overcrowding and other impacts. The property owner will be required to assure the property complies with all codes and regulations. The property owner must obtain proper identification from their tenants and provide them with all of the regulations necessary to avoid being a nuisance. The property owner is also responsible for the upkeep of the property include making sure all trash is picked up and properly disposed.

When a permit is issued, a member of the public can request an administrative hearing with the City Manager challenging the permit. Additionally, if the regulations are subsequently violated, the City may suspend, modify or revoke the permit. Existing administrative enforcement remedies would allow the City to recover costs of enforcement.

If the Council desires to move forward with this ordinance, it may be introduced at this meeting, upon a majority vote. The law requires adoption to occur at a subsequent meeting. The establishment of a fee for the regulatory permit will require a subsequent action by Council. This is a registration program, similar to the Business License program. Council had directed a minimum fee for the business license as it is primarily a registry program as opposed to an active regulatory program. Accordingly, staff intends to propose a fee consistent with the business license fee. A study will be prepared to justify the fee amount. Staff anticipates presenting a resolution establishing the fee at the time the ordinance is presented for adoption. The ordinance would be effective on the 31st day after adoption.

Staff is developing the forms and procedures to efficiently implement this ordinance. Staff will consider administrative policies to implement the program to assure maximum efficiency. Staff is considering policies administratively adopted by other jurisdictions including of a policy allowing for limited forgiveness for past tax liabilities.

GOLETA STRATEGIC PLAN:

This proposed ordinance would assist the City in achieving two of its strategic goals: Preserve and Enhance Quality of Life in Goleta and Insure Financial Stability.

FISCAL IMPACTS:

The adoption of a fee is routinely intended to make this program revenue neutral. Staff will subsequently propose a registration fee which covers most, but not necessarily all staff costs. The municipal code provides for cost recovery for enforcement efforts that may be required. An indirect benefit comes from the ability to capture future Transient Occupancy Taxes which may have been unreported in the past. However, the amount of revenue is difficult to predict without knowing the number of actual rental properties, the occupancy rates and rental rates.

ALTERNATIVES:

The Council is under no obligation to adopt this ordinance. Council may direct staff to evaluate and return with modifications to the proposed program.

Legal Review By:



Tim W. Giles
City Attorney

Approved By:



Michelle Greene
City Manager

ATTACHMENTS:

1. Ordinance No. 15-__ "An Ordinance of the City Council of the City of Goleta, California, Adopting Chapter 8 of Title 5 of the Goleta Municipal Code Relating to Short-Term Vacation Rentals)".

ATTACHMENT 1:

Ordinance No. 15-__ “An Ordinance of the City Council of the City of Goleta, California, Adopting Chapter 8 of Title 5 of the Goleta Municipal Code Relating to Short-Term Vacation Rentals”).

ORDINANCE NO. 15-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, ADDING CHAPTER 5.08 OF TITLE 5 TO THE GOLETA MUNICIPAL CODE ESTABLISHING REGULATIONS FOR SHORT-TERM VACATION RENTALS.

THE CITY COUNCIL OF THE CITY OF GOLETA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Code Amendment.

Title 5, Chapter 5.08 is hereby added to the Goleta Municipal Code as set forth below:

Chapter 5.08 Short-Term Vacation Rentals

- Sec. 5.08.010. Authority and purpose.
- Sec. 5.08.020. Definitions.
- Sec. 5.08.030. Permit Required.
- Sec. 5.08.040. Permit Applications.
- Sec. 5.08.050. Permit Fees.
- Sec. 5.08.060. Nuisance Response Plans.
- Sec. 5.08.070. Notice of Nuisance Response Plans.
- Sec. 5.08.080. Grounds for Denial of Permit.
- Sec. 5.08.090. Performance Standards.
- Sec. 5.08.100. Surety Bonds.
- Sec. 5.08.110. Cessation of Use of a Property as Short-Term Vacation Rental.
- Sec. 5.08.120. Violations.
- Sec. 5.08.130. Permit Suspension, Modification or Revocation.

Sec. 5.08.010. Authority and purpose.

This chapter is adopted pursuant to the police powers of the city for the purpose of requiring the owner or owners of a residential dwelling unit that is used as a short-term vacation rental, as defined herein, to apply for and secure a permit authorizing such use in the manner provided for by this chapter.

Sec. 5.08.020. Definitions.

The definitions set forth in this section shall govern the meaning and construction of the words and phrases used in this chapter, except where the context of such words and phrases clearly indicates a different meaning or construction:

Short-term vacation rental means a "dwelling unit" other than a dwelling unit located in a "hotel", as those terms are defined in this code, that is rented to a tenant for a period of not more than 30 consecutive days.

Owner of a short-term vacation rental means the person or persons holding fee title to a dwelling unit operated and used as a short-term vacation rental, or a person or persons holding the lease estate to a dwelling unit and operating and using the leased dwelling unit as short-term vacation rental, or the agents of any such persons.

Permit Administrator means the City Finance Director or such other city employee as may be designated by the City Manager to administer the provisions of this chapter. The permit administrator shall have the authority to make interpretations and to promulgate guidelines in order to facilitate orderly administration of this chapter.

Sec. 5.08.030. Permit Required.

No owner or owners of a short-term vacation rental shall rent, offer to rent, or advertise for rent the short-term vacation rental to another person without a permit approved and issued in the manner provided for by this chapter.

Sec. 5.08.040. Permit Applications.

Applications for a permit required by this chapter shall be in a form and contain the information required by the permit administrator, and shall be accompanied by the following:

1. A nuisance response plan containing the information required by this chapter;
2. A transient occupancy registration certificate issued by the City Finance Director pursuant to Chapter 6 of Title 3 of the Goleta Municipal Code;
3. A surety bond in the amount of \$1,500.00 issued by a responsible surety company and in the form required by this chapter;

4. A permit application fee in an amount established in the manner provided for by this chapter; and
5. A written declaration affirming that, at least 30 days prior to issuance of the permit, occupants of all residences and businesses located within 200 feet from the proposed short term vacation rental have been notified of the proposed permit and have been informed in writing in a form acceptable to the City of the proposed use and the contact information with the City to seek additional information or register concerns or objections.

Sec. 5.08.050. Permit Fees.

All permit application fees and the fees charged incident to the amendment of a nuisance response plan shall be established by the City Council.

Sec. 5.08.070. Nuisance Response Plans.

1. Each nuisance response plan accompanying an application for a permit required by this chapter shall contain the following information and otherwise be in a form required by the permit administrator.
 - A. The mailing address and telephone number of the owner or owners of the residential dwelling unit or units to be used as a short-term vacation rental pursuant to the permit;
 - B. The name, address and telephone number of the person or persons who will be available by telephone, and who will be responsible for promptly responding to or causing a prompt response to a nuisance complaint arising out of the occupancy or use of the short-term rental(s) by tenants, their visitors and/or their guests. For the purposes of this chapter, a return telephone call to a complainant within 30 minutes of the initial complaint shall be deemed "prompt".
 - (i) No more than a total of three persons shall be designated in the response plan as a person responsible for responding to or causing a response to a nuisance complaint; and
 - (ii) Only one such person shall be designated as the person responsible for responding to a nuisance complaint during any particular hours of the day, different days in a week, and/or different weeks of the year.

- C. The manner of responding to or causing a response to a nuisance complaint, including but not limited to the manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.
 - D. The manner of assuring timely corrective action to remedy the conditions that caused the nuisance complaint. For the purposes of this chapter, "timely corrective action" shall include, at a minimum, a telephone call to the primary adult occupant of the short-term vacation rental within 30 minutes of the initial nuisance complaint.
 - E. The proposed maximum number of overnight occupants, with supporting documentation identifying unusual size, interior layout, parking or other physical characteristics, if any, that support a request for occupancy greater than two persons plus two persons per bedroom.
 - F. The number of off-street parking spaces and number of bedrooms available at the short-term vacation rental.
2. At any time, the owner or owners of a short-term vacation rental may change the content of the nuisance response plan approved incident to the issuance of the permit by filing an amended response plan with the permit administrator. Such amended response plan shall contain all of the information and be in the form required by Section 5.08.060 of this chapter, and shall be accompanied by an amended response plan fee in an amount established in the manner provided for by this chapter.

Sec. 5.08.070. Notice of Nuisance Response Plans.

Promptly following the approval and issuance of a permit required by this chapter, or the approval of an amended nuisance response plan in the manner provided for by this chapter, the permit administrator shall require the applicant to provide proof that the nuisance response plan has been mailed by first class mail addressed to the owner or occupant of every property, any part of which is located within a 200-foot radius of the property that is to be used and occupied as a short-term vacation rental, pursuant to such permit.

Sec. 5.08.080. Grounds for Denial or Revocation of Permit.

1. Upon receipt of an application for a permit required by this chapter, the permit administrator will review the application and supporting documents, and will approve and issue a permit to the owner or owners of the property or properties that are the subject(s) of the application that authorizes the use and occupancy of such property as a short-term vacation rental if the permit administrator finds that the required application fee has been paid, and that the nuisance response plan and surety bond submitted with the application conforms to the requirements of this chapter. A permit may be denied if a short term vacation rental permit issued to the applicant or for the property has been suspended or revoked in the prior twenty-four months.
2. Every permit shall specify the maximum number of overnight occupants allowed at the short term vacation rental and the maximum number of vehicles associated with the overnight occupancy of the short-term vacation rental which can be parked at the property. Notice of issuance of the Permit shall be provided to everyone who files a written request for such notice.
3. Any party may file a written request for a hearing before the City Manager within 10 days following a decision by the City to grant a short term vacation rental permit. The public shall be provided notice of the hearing in compliance with State law. The hearing shall be opened no more than 45 days following the request for hearing being received by the City. A decision shall be made by the City Manager or their designee within 10 days of the hearing. The decision of the City Manager shall be final.
3. This chapter shall not be interpreted to create a property interest in potential increased occupancy.

Sec. 5.08.090. Performance Standards.

Each owner, and each tenant or occupant of a short-term vacation rental, shall at all times comply with or cause compliance with the performance standards applicable to short-term vacation rentals they own, lease or occupy, as established by this section.

1. The owner shall ensure that the short-term vacation rental complies with all applicable codes regarding fire, building and safety, and all other relevant laws and ordinances.
2. No person shall offer to rent or advertise for rent a short-term vacation rental without including in the offer

or advertisement the city permit number applicable to the property in the form "Goleta Permit No. _____." The permit number shall be printed in the same size type as the largest type used in the main body of the offer or advertisement.

3. The owner shall require the primary overnight and daytime occupant of the short-term vacation rental to be an adult 18 years of age or older. This adult shall provide a telephone number to the owner and shall be accessible to the owner by telephone at all times.
4. Prior to occupancy, the owner shall obtain the name, address, and driver's license number or a copy of the passport of the primary adult occupant of the short-term vacation rental. The owner shall require that adult to sign a formal acknowledgement that he or she is legally responsible for compliance of all occupants of the short-term vacation rental or their guests with all provisions of this chapter. This information shall be provided by the responsible party identified in the nuisance response plan upon request of any police officer or employee of the city authorized to enforce this chapter or state law.
5. The owner shall limit overnight occupancy of the short-term vacation rental to a specific number of occupants, with the maximum number of overnight occupants being two persons within each short-term vacation rental plus a number that will not exceed two persons per bedroom within each short-term rental.
6. The owner shall limit the number of vehicles associated with the overnight occupancy of the short-term rental to a specific number of vehicles, with the maximum number of vehicles being the number of off-street parking spaces available at the property.
7. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection on scheduled trash collection days. The owner of the short-term vacation rental shall provide sufficient trash collection containers and service to meet the demand of the occupants.
8. Each lease or rental agreement for a short-term vacation rental shall include the following terms, notifications and disclosures, which terms shall also be posted in a conspicuous location inside the unit:
 - (a) The maximum number of overnight occupants and day use visitors that are permitted.

- (b) The maximum number of vehicles that overnight occupants may park at the short-term rental.
 - (c) Notification that on-street parking is extremely limited in some areas of the city.
 - (d) The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or refuse on the exterior of the property.
 - (e) Notification that the occupant may be cited or fined by the city and/or immediately evicted by the owner pursuant to state law, in addition to any other remedies available at law, for violating any other provisions of this chapter.
 - (f) Notification that failure to conform to the occupancy requirements of the short-term vacation rental is a violation of this chapter.
 - (g) Notification that amplified sound, including radios, televisions and other electronic devices are subject to the City's Noise Ordinance as set forth in Goleta Municipal Code section 9.09.020.
 - (h) A prohibition on illegal loud parties, along with notification of the City's right to recover the costs of special enforcement needed to address certain loud parties.
 - (i) The name of the managing agency, agent, rental manager, local contact person, or owner of the unit, and a telephone number at which that party may be reached at all times.
 - (j) A copy of the "Good Neighbor Guidelines" which may from time to time be prepared by the permit administrator. These guidelines may include location-specific information, such as neighborhood quiet hours, local speed limits and the prohibition of fires and fireworks in beach areas.
 - (k) Notification that the property is part of the City of Goleta's Short-Term Vacation Rental Program.
 - (l) A copy of this chapter of the Goleta Municipal Code, as it may be amended from time to time.
9. Upon receipt of a nuisance complaint or upon notification of an allegation that any occupant and/or guest of the short-term vacation rental has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the Goleta Municipal Code or any state law, the owner shall promptly respond and take timely corrective action to prevent a recurrence of such conduct by

those occupants or guests. Failure of the owner to respond promptly and/or to take timely corrective action regarding the condition, operation, or conduct of occupants of the short-term vacation rental shall be a violation of this chapter. An owner is not required or authorized to act as a peace officer or to intervene in situations that pose a risk to personal safety. The owner, or his or her agent, shall maintain records of the name, violation, date, and time of each complaint, disturbance, response and corrective action.

10. The owner shall cause a copy of the nuisance response plan to be posted in a conspicuous place within the property.
11. The owner shall annually provide to permit administrator written confirmation of compliance with all elements of the performance standards and the approved nuisance response plan and confirming that the nuisance response plan is current and accurate.
12. The performance standards may be modified by the permit administrator upon request of the owner based upon site-specific circumstances for the purpose of allowing reasonable accommodation of a short-term vacation rental occupant as may be required by state or federal disability laws. All requests must be in writing and shall identify how the strict application of the standard conditions creates an unreasonable hardship to a property such that, if the requirement is not modified, reasonable use of the property for a short-term vacation rental would not be allowed.

Sec. 5.08.100. Surety bonds.

1. Each surety bond accompanying an application for a permit required by this chapter shall be issued by a surety licensed to do business in the State of California that has an A.M. Best Financial Strength Rating of at least "A-", shall name the city as the bond obligee, and shall be conditioned on the payment of any administrative fine assessed in the manner provided for by Chapter 1.02 of this Code within the time provided for therein if:
 - A. The administrative fine was assessed either against the permittee or against any tenant or other person occupying or using the short-term vacation rental operated pursuant to such permit; and

- B. Arose out of a violation of this chapter, or the occupancy or use of such short-term vacation rental in a manner that violated any provision of this Code.
2. At any time following the issuance of a permit required by this chapter, the permittee may file a substitute surety bond with the permit administrator issued by a surety that meets the requirements of this section. Upon determining that such substitute bond conforms to such requirements, the permit administrator shall return the bond being replaced by the substitute surety bond to the permittee.

Sec. 5.08.110. Cessation of Use of a Property as Short-Term Vacation Rental.

Where the owner of property used and occupied as a short-term vacation rental pursuant to a permit approved and issued in the manner provided for by this chapter determines to cease such use, the property owner shall promptly cause a notice of such determination to be filed with the permit administrator. Within thirty (30) days following confirmation that there are no pending enforcement actions arising from violations of this Chapter, Permit Administrator shall return the surety bond provided to the City to the permittee.

Sec. 5.08.120. Violations.

Any of the following acts or omissions arising out of the operation and use of a short-term vacation rental are unlawful and constitute a misdemeanor punishable in the manner provided for by Section 1.01.190 of this Code:

- 1. Rental, offering for rental, or advertising for rental of a dwelling unit located on any property within the City by the owner of the property as a short-term vacation rental without a permit authorizing such use that has been approved and issued in the manner required by this chapter;
- 2. Failure of the owner of a short-term vacation rental issued a permit in the manner required by this chapter or the owner's designated agent to respond to a nuisance complaint arising out of the occupancy and use of the short-term rental by a tenant, or the tenant's visitors or guests in the manner and within the time required by a nuisance response plan approved by the permit administrator incident to the issuance of such permit; or

3. Failure of the owner of a short-term vacation rental issued a permit in the manner required by this chapter to keep a response plan required by the chapter on file with the permit administrator containing the name of the current person or persons responsible for responding to a nuisance complaint within the time required by this chapter.
4. Failure of the owner of a short-term vacation rental issued a permit in the manner required by this chapter to keep a valid surety bond required by this chapter on file with the permit administrator at all times such permit remains in effect.
5. Offering to rent or advertising for rent a short-term vacation rental without including in the offer or advertisement the city permit number applicable to the property in the form "Goleta Permit No. _____" with the permit number printed in the same size type as the largest type used in the offer or advertisement.
6. Failure to comply with or cause compliance with any performance standard listed in this chapter.

Sec. 5.08.130. Permit Suspension, Modification or Revocation.

In addition to any other remedy provided by this chapter, a permit issued pursuant to this chapter may be suspended, modified or revoked for violations of this chapter, for violation of any other law on the premises of the short-term vacation rental, or for the maintenance of such other conditions as may be shown to be injurious to the public health and safety. Revocation proceedings may be initiated by the City Manager or City Attorney and shall be conducted pursuant to the procedures set forth in Section 1.02.110 of this code.

SECTION 2. SEVERABILITY.

Should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance shall remain in full force and effect.

SECTION 3. CONSTRUCTION.

The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect on the 31st day following the date of its final adoption.

SECTION 5. CERTIFICATION.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

INTRODUCED ON the ____ day of _____, 2015.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2015.

PAULA PEROTTE, MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

TIM W. GILES
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, Deborah S. Lopez, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 15-__ was introduced on _____, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the _____, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK



City Council Report

City Council Meeting: April 28, 2015

Agenda Item: 7-A

To: Mayor and City Council
From: David Martin, Director of Planning and Community Development
Subject: Vacation Rentals and Home-Sharing

Recommended Action

Staff recommends that the City Council introduce for first reading the attached ordinance amending the Santa Monica Municipal Code adding Chapter 6.20 Home-Sharing, in order to establish regulations for short-term rental of a portion of a dwelling unit by the owner or tenant occupant.

Executive Summary

At its April 15, 2015 meeting, Council directed staff to draft an ordinance reaffirming the City's prohibition against vacation rentals while legalizing home-sharing and imposing regulations on home-sharing uses. Vacation rentals and home-sharing are both forms of short-term rentals, as are hotels, motels and bed and breakfasts. Unlike traditional visitor serving uses, vacation rentals and home-sharing involve the rental of residential dwelling units for periods of 30 days or less. Such rentals typically occur in privately owned residential properties, including apartments, condominiums, and single-family homes and are sometimes considered as being part of the new "sharing economy". The main distinction between the two is that while home-sharing contemplates the primary resident actively hosting their guests during their visit, vacation rentals are unhosted. The unhosted nature of vacation rentals makes their negative impacts on the community particularly acute.

Hosting Platforms, such as AirBnB or VRBO, enable individuals to rent living spaces to travelers, ranging anywhere from an entire home, to a couch or spare bedroom. Short-term rentals have proliferated in Santa Monica and the total number of units is now estimated at 1700. Short-term rentals involving residential dwelling units are considered controversial, with advocates arguing that such short-term rentals provide individuals with the ability to earn extra income to support their basic cost of living expenses, enables travelers to find less expensive alternative to hotels, and that guests of vacation rentals stay longer and spend more money in the communities in which they stay. Critics of such short-term rentals argue that this type of activity changes the character of residential neighborhoods, reduces long-term residential housing from the

market, increases rents, skirts regulations (e.g. health and safety inspections), and potentially harms hospitality industry jobs and wages.

In response to Council direction, the proposed ordinance would:

- Establish a regulatory framework to legalize and regulate home-sharing
- Restate the requirement on hosts and Hosting Platforms to collect and remit Transient Occupancy Tax
- Reiterate and explicitly make vacation rentals unlawful
- Prohibit any person from advertising a vacation rental or Home-Sharing that is not licensed, and
- Require Hosting Platforms to disclose to the City on a regular basis the name of the host, the address of each listing, length of stay for each listing, and the price paid for each stay.

Background

At its April 15, 2015 meeting, Council directed staff to draft an ordinance reaffirming the City's prohibition against vacation rentals while legalizing home-sharing. Vacation rentals and home-sharing are both forms of short-term rentals, generally understood to be the renting of a dwelling unit for periods of 31 days or less. In the case of home-sharing, the permanent resident or host remains on site during the rental period to guide and supervise their guests/renters. On the other hand, vacation rental describes situations whereby the permanent resident or host does not remain on site during the rental period.

Home-sharing, vacation rentals, and even house swapping have been around for decades. Historically these activities have taken place on message boards or in advertising in magazines and newspapers. The proliferation of Internet use has allowed for connections to be made through web sites such as Craigslist, Vacation Rentals by Owner (VRBO), and Airbnb.

According to Wikipedia, the "term 'sharing economy' began to appear in the mid-2000s, as new business structures emerged inspired by enabling social technologies and an increasing sense of urgency around global population growth and resource depletion" and that the "sharing economy business models

emerge from our oldest instincts as humans — cooperation, sharing, generosity, individual choice and flexibility. Models include renting, bartering, loaning, gifting, swapping and forms of shared ownership such as cooperative structures."

The most talked about form of the sharing economy is the peer-to-peer ("P2P") marketplaces. In this model, individuals transact directly with other individuals typically through a technology platform, such as Airbnb, Uber, PetVaca, JustShareIt, and Liquid. To assist with this discussion, additional information on the short-term rental market trends and impacts are provided as attachments:

- Cities, The Sharing Economy and What's Next, A report issued by the National League of Cities Center for City Solutions and Applied Research, March 2015, Attachment A
- Airbnb, Rising Rent, and the Housing Crisis in Los Angeles, LAANE, March 2015, Attachment B
- Airbnb in the City, Office of the New York State Attorney General, October 2014, Attachment C
- Overview of Sharing Economy and Short-Term Rentals, California Legislative Office's Committee on Local Government and the Assembly Revenue and Taxation Committee, March 18, 2015, Attachment D
- What the Sharing Economy Means to the Future of Travel, Skift, 2013, Attachment E

Short-term rental websites, sometimes referred to as Hosting Platforms, enable property owners, tenants and occupants to rent their living space to travelers — ranging anywhere from an entire home to a couch or spare bedroom. Typically, these are short-term rentals consisting of several days, week, or in some cases months.

Short-term rental advocates argue that short-term rentals provide individuals with the ability to earn extra income to support their basic cost of living expenses,

enables travelers to find less expensive alternative to hotels, and that guests of vacation rentals stay longer and spend more money in the communities in which they stay.

Critics of short-term rentals argue that this type of activity changes the character of residential neighborhoods, reduces long-term residential housing from the market, increases rents, skirts regulations (e.g. health and safety inspections), and potentially harms hospitality industry jobs and wages.

Although there are a variety of short-term rental websites or Hosting Platforms, Airbnb has been the primary driver in transforming the vacation rental market; particularly because of the marketplace platform it has created which provides for a decentralized supply of short-term lodging positioned to compete directly with hotels instead of only providing an alternative when hotel rooms are scarce. Airbnb provides property owners, and other investors, with an efficient means to convert residential units into short-term lodging (i.e. hotel type units).

In an article in the magazine Inc., naming Airbnb as the magazine's 2014 company of the year, Duke University economics professor Michael Munger, who is also considered an expert on the "sharing economy", is quoted saying that early improvements in Airbnb's web site and payment process helped Airbnb do something previous sharing companies hadn't managed - to acquire an aura of style, respectability, safety, and trustworthiness.

Because of the direct role of Airbnb, this staff report will have a more specific focus on the impacts of this service, particularly since the legalization of home-sharing would be primarily fulfilled by Airbnb hosts.

Zoning

The draft Zoning Ordinance (DZO), defines "lodging" as "An establishment providing overnight accommodations to transient patrons who maintain a permanent place of residence elsewhere for payment for periods of 30 consecutive calendar days or less." It includes three types of lodging, "Bed and Breakfast", "Hotel and Motel", and "Vacation Rental". However, the DZO does not specifically address home-sharing as a form of short-term rental.

The DZO defines vacation rentals as "A property with a dwelling unit or guest house intended for permanent occupancy that is available for rent or hire for any person other than the primary owner for transient use less than 30 days or is otherwise occupied or utilized on a transient basis for less than 30 days." The DZO makes clear that a vacation rental is not a bed and breakfast or hotel, for which detailed conditions are set forth and where a Conditional Use Permit (CUP) are usually required for those other types of uses. Neither the current ZO nor the DZO allow vacation rentals or home-sharing as defined in this report in residential zones.

Under the current ZO and proposed DZO, house swapping, or the rental of a residential unit for more than 30 consecutive days, including when a person is on a sabbatical, is generally authorized by local law.

Taxes

Article 6 of the SMMC regulates business activity. Chapters 6.04 through 6.14 outline business license and tax requirements. Rental of residential property for any term (e.g. apartments, hotels, rooming houses), is assigned tax rate group I. Businesses in this tax group are required to pay the sum of \$75 on the first \$60,000 of gross receipts, plus the sum of \$1.25 for each \$1,000 or fraction thereof of gross receipts in excess of \$60,000. A small business exemption is provided for businesses with gross receipts of \$40,000 or less. Short-term

rentals in Santa Monica would qualify as a business activity and would as such be required to obtain a business license, with a zoning conformance review. In most cases, home-sharing rentals could likely qualify for a business license Small Business Exemption as provided for in Article 6 of the SMMC.

SMMC Chapter 6.68 imposes a Transient Occupancy Tax ("TOT") for short-term lodging including short-term rentals and hotel stays. The law defines a transient as "any person who, for any period of not more than one month either at his own expense or at the expense of another, obtains lodging or the use of any lodging space in any hotel as hereinafter defined, for which lodging or use of lodging space a charge is made". A hotel is currently defined as "any public or private hotel, inn, hostelry, tourist home or house motel, rooming house or other lodging place with the City of Santa Monica offering lodging, wherein the owner and operator thereof, for compensation, furnishes lodging to any transient..." The tax is paid by the person renting the vacation rental unit or hotel room and is collected by the person providing the lodging (e.g. hotel or bed and breakfast operator). These are collected similar to a sales tax. Hotels in Santa Monica currently collect and remit TOT to the City and are audited periodically by a third party contracted with by the Finance Department to ensure accurate remittance of the tax.

Short-term rentals are required to collect and remit TOT to the City, just as hotels do, whether or not they are operating legally with the proper business license and zoning approval. Existing local law obligates both the hosts and the Hosting Platforms to collect and remit TOTs to the City for Home-Sharing and for Vacation Rental uses. California cities are currently struggling with not only the question of whether to allow short-term rentals, but how best to ensure collection of TOT. Airbnb has argued that it was only a platform to facilitate the rental of short-term rental units and that the individuals providing the units were required

to comply with local laws. However, Airbnb collects and remits TOT for rentals in the following jurisdictions:

- Multnomah County and Portland, Oregon USA (as of July 2014)¹
- San Francisco, CA USA (as of October 1, 2014)²
- San Jose, CA USA (as of February 1, 2015)
- Chicago, IL USA (as of February 15, 2015)
- District of Columbia USA (as of February 15, 2015)
- Amsterdam, NL (as of February 1, 2015)
- Malibu, CA USA (as of April 20, 2015)

On March 18, 2015 California State Senator Mike McGuire (D-Healdsburg) sponsored amendments to Senate Bill 593 that would allow local jurisdictions to require Hosting Platforms, including online vacation rental companies to disclose the address of vacation rental listing, number of overnight stays, and revenue from rentals, to assist with the collection of TOT. Local jurisdictions could use the information to issue tax bills. The bill allows local jurisdictions to require Hosting Platforms to collect the tax when the guest pays for the rental and remits to the taxing authority, which is consistent with existing law in Santa Monica. The bill has been submitted to the Senate Transportation and Housing Committee.

Discussion

Home-sharing and vacation rentals are distinct from timeshares and house swapping. Although sometimes used as short-term rentals, timeshares are typically a fully furnished condominium or hotel type facility that is jointly shared

¹ Airbnb began collecting TOT for Portland vacation rentals as part of an agreement with the City that coincided with the City's legalization of vacation rentals in single-family homes, including duplexes and accessing buildings. Apartments and condos are were not originally authorized for vacation rentals but were added in February 2015. In the agreement Airbnb does not provide any occupancy data to the City but has agreed to pay tax in accordance with Portland's TOT law as though it were a 1600 room hotel.

² Airbnb began collecting TOT for San Francisco vacation rentals in advance of the Board of Supervisors considering the legalization of some vacation rentals.

by multiple owners. House swapping is the exchange of a house by one owner with another owner in a different city. Services, such as HomeExchange.com, connect homeowners through a website listing service (i.e. Hosting Platform). There is no "rent" paid by either party. Instead there is an agreement between both parties to exchange homes for a specified period of time. Under existing local law, this activity would not constitute a business activity or a short-term rental, and would generally be authorized.

Additionally, there has been a long history of residents hosting out of town guests in their homes for little or no compensation. For instances, residents frequently host foreign exchange scholars, researchers or students and generally receive no compensation other than small gifts or other tokens of appreciation from their guests. These activities are also generally authorized under local law. Indeed, such activities generate positive effects, as guests often spread the good-will of Santa Monica to their home countries. Additionally, the guests' positive experiences in Santa Monica may motivate them to host Santa Monicans in their home countries. This cycle of sharing and exchange promotes cross cultural understanding and civic engagement.

Short-term rentals typically occur in privately owned residential properties, including apartments, condominiums, and single-family homes. In Santa Monica short-term rentals can range from \$35 per night for a shared room to more than \$1000 per night for a home with 5 bedrooms. The most popular sites providing for vacation rentals and home-sharing are HomeAway (which includes VRBO.com, HomeAway.com, and VacationRentals.com) and Airbnb. Larger travel sites have begun to also enter the Vacation Rental marketplace, including Orbitz and Expedia.

For the purpose of this report the following terms will be defined as:

- "Home-Sharing Rental" – An activity whereby a resident hosts visitors in their home, for periods of less than 31 consecutive days, while at least one of the primary residents lives on-site throughout the visitor's stay. The guest enjoys the non-exclusive shared use of the unit with the person who is domiciled at the location.
- "Vacation Rental" – Rental of any dwelling unit, in whole or in part, to any persons for exclusive transient use of less than 30 consecutive days, whereby the unit is only approved for permanent residential occupancy and not approved for transient occupancy. The guest enjoys the exclusive private use of the unit.
- "Short-Term Rental" – Any rental of a residential dwelling unit that is 31 consecutive days or less, including home-sharing and vacation rentals.
- "House Swapping" - The exchange of a house by one owner with another owner in a different city for short periods of time by agreement between both parties to exchange homes for a specified period of time without compensation.

Short-Term Rental Hosting Platforms

Multiple Hosting Platforms exist for short-term rentals, including:

- Airbnb
- HomeAway
- VRBO (a HomeAway company)
- VacationRentals.com (a HomeAway Company)
- SabbaticalHomes
- Sublet.com
- Trip Advisor
- Flipkey (a Tripadvisor company)
- Craigslist
- Roomorama
- Globe Homes and Condos

The two most prominent companies are Airbnb and HomeAway. HomeAway maintains several sites that it has acquired over the last ten years. Below is a more detailed description of these two platforms.

HomeAway

HomeAway, Inc. was founded in 2004 as CEH Holdings. The company acquired several sites and consolidated them into a single vacation marketplace, launching HomeAway.com in June 2006. Vacation Rentals by Owner (VRBO), one of HomeAway's holdings was founded in 1995 by a married couple trying to rent their ski condo. The HomeAway sites represent over 1,000,000 paid listings of vacation rental homes in 190 countries. The HomeAway portfolio includes vacation rental websites HomeAway.com, VRBO.com and VacationRentals.com in the United States; HomeAway.co.uk and OwnersDirect.co.uk in the United Kingdom; HomeAway.de in Germany; Abritel.fr and Homelidays.com in France; HomeAway.es and Toprural.es in Spain; AlugueTemporada.com.br in Brazil; HomeAway.com.au and Stayz.com.au in Australia; and Bookabach.co.nz in New Zealand. HomeAway also owns Asia Pacific short-term rental site, travelmob.com. HomeAway also operates BedandBreakfast.com, which its website calls "the most comprehensive global site for finding bed-and-breakfast properties, providing travelers with another source for unique lodging alternatives to chain hotels". The HomeAway portfolio operates as a listing service. Hosts are charged to list their units; guests do not have fees charged to them by the HomeAway sites.

An example of a VRBO listing for a studio apartment near Idaho Avenue and 17th Street in Santa Monica states:

The Garden Casita is located just behind a breath taking garden on a quiet street in Santa Monica's safest, yet hip, upscale neighborhood. Find yourself a few steps away from Whole Foods organic grocery store, lively restaurants, cafes, bars, trendy boutiques, yoga studios, spas, gyms, antique shops, the local library and more on Montana Ave.

Perfect for a solo traveler or couple on extended vacation, beach holiday, or romantic getaway...Still contact me if booked during your time frame, have 2 other similar properties! Also open to stays less than 7 days if timing is right."

Airbnb

Airbnb was founded in 2008 and now claims to be in more than 34,000 cities with more than 25,000,000 guests in more than 190 countries. According to the founder's public statements, the idea for Airbnb developed when a large design conference was in San Francisco and, as a means to earn income, the founder rented out an air mattress in his San Francisco loft to conference attendees who could not find an affordable hotel room. The founder and his roommates hosted three guests and provided them with breakfast, which is where the name Airbed and Breakfast, now Airbnb, comes from. Airbnb refers to the person listing a space for rent as a "host" and the person renting the space as a "guest".

Airbnb's early marketing was geared to providing "airbeds" in areas with large conferences, where hotels were at capacity. The launch of the company was coordinated with the 2008 Democratic National Convention in Denver, to take advantage of the hotel room shortage.

Airbnb has transformed the short-term rental market, particularly because of the marketplace platform it has created that provides for a decentralized supply of short-term lodging positioned to compete directly with hotels instead of only providing an alternative when hotel rooms are scarce.

In a January 21, 2015 article in Quartz, the online news source states "Airbnb has already overtaken major hotel companies in terms of its valuation by investors, but its growth could have it outpacing them in more concrete terms—actual guest bookings—in a few years, according to a Barclays research report." The article goes on to report that the:

"Barclay's report, titled 'Hotels: Is Airbnb a game-changer?' predicts that Airbnb's growth in bookings could triple in size in the next year, putting the company on track to outpace the largest hotel companies within a few years. It projects that by the end of 2016, the room-sharing platform could boast 129 million room-nights per year. Airbnb currently represents as much as 17.2% of hotel room supply in New York, 11.9% in Paris, and 10.4% in London, according to Barclays' estimates, and those percentages are projected to increase. Airbnb also poses a greater threat to the midscale segment of the hotel industry than to luxury categories, and hotels have a leg up when it comes to business travel, the report said. Despite Airbnb's efforts to target more business travelers, the report says that just 10% of Airbnb bookings are currently used for business travel."

Airbnb's Short-Term Rental Model

According to Airbnb they provide "a trusted community marketplace for people to list, discover, and book unique accommodations around the world...." Airbnb hosts list their properties - which can be single rooms, a suite of rooms, apartments, moored yachts, houseboats, entire houses or even a castle. It's free to create a listing, and hosts decide how much to charge per night, per week or per month. Each listing allows hosts to promote properties through titles, descriptions, photographs with captions and a user profile where potential guests can get to know a bit about the hosts. The company charges guests a percentage fee for each listing. Airbnb hosts in the United States are provided coverage for their legal liability for property damage and bodily injury to third parties, arising during a stay at the Host's Airbnb accommodation³

³ For rentals in California the limit is \$1,000,000 per occurrence per policy year subject to a per location limit of \$2,000,000 and a policy aggregate limit of \$10,000,000. The Host Protection Insurance Program went into effect on January 15, 2015. The coverage is excess over any other applicable insurance that will respond to an occurrence. If there is no other applicable primary policy, the policy underlying the Host Protection Insurance program will act as primary.

There are three types of rentals on Airbnb:

1. "Entire Place" – Guests have full access to the unit, which may be a house, apartment, or condo
2. "Private Room" – Guests rent a private bedroom but share the unit, which may be a house, apartment, or condo with another person. The guest might share the unit with the full time occupant of the unit or with another Airbnb guest.
3. "Shared Room" – Guests rent a bed or couch in a unit with limited expectation of privacy. The guest may share a bedroom or other common room such as a living room. The guest might share the space with the full time occupant of the unit, or with another Airbnb guest (these types of shared rentals are commonly referred to as "hacker hostels" or "communal spaces").

The Airbnb service provides property owners, and other investors, with an efficient means to convert residential units into short-term lodging. Airbnb serves as both a listing service, but also maintains a degree of centralized control over the inventory listed on its site. Although originally the Airbnb concept was for an individual to provide lodging in their own home, whether in an apartment, condo, or single-family residence, the success of the model in terms of revenue has relied on the renting of entire homes as vacation rentals⁴.

Commercial leasing companies have begun to operate in this space, converting long-term rental units into vacation rentals. One vacation and corporate rental listing agent, Globe Homes and Condos, which is located in Venice and goes under the host name Chic on the Airbnb site, has offered 92 Airbnb listings in the Los Angeles and Palm Springs areas, with the largest number of listings in

⁴ Airbnb, Rising Rent, and the Housing Crisis in Los Angeles, LAANE, Roy Samman, March 2015

Venice and 8 in Santa Monica⁵. Global Homes and Condos describes itself on its website as "a full-service vacation rental management company". In addition to the units it listed on Airbnb, it also lists Santa Monica vacation rentals on its own website www.globehomesandcondos.com. On April 3, 2015, the Los Angeles Times reported that Airbnb, in response to a March 2015 LAANE report, dropped 50 Globe Homes and Condos listings from its site. The article also noted that "a number of other large hosts in the region have also disappeared from the site"⁶.

Real estate agents have also highlighted offering short-term rentals as an attractive revenue source in multi-family dwellings, ultimately contributing to the justifications on sales price. The recent sale of a home located at 14 Westminster Avenue in Venice touted the revenue potential from converting the units to Vacation Rentals. The Exclusive Offering Memorandum pages 14-18 (see Attachment F) on the building states:

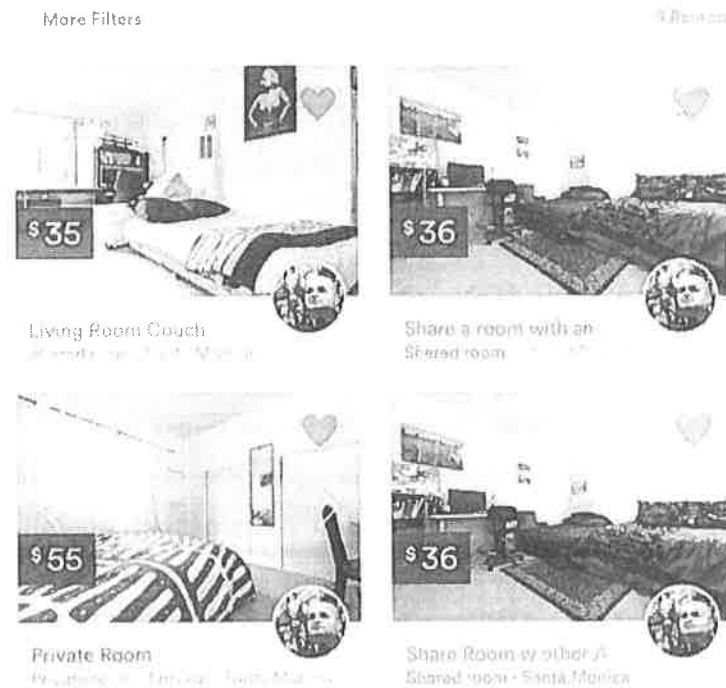
The building's character, architectural details, location and history make it a prime candidate for conversion to short-term housing (check with city.) Current average asking rates for Airbnb single units in the area are approximately \$138/night and \$144/night for one-bedroom units. The Morrison Apartments is in an above average location so it is likely that it will over-perform the market as a hole.

One host with four listings in Santa Monica actually provides units that Airbnb guests can share with each other. In the listings, the host specifically notes that the room is to "share with other Airbnb guests".

⁵ The listing agent Globe Homes and Condos (aka Ghc) is reported in the March 2015 laane report and verified by staff

⁶ This action by Airbnb was unprecedented and included other listing companies. It is not precisely clear on the criteria it used to make this decision. In an April 5, 2015 Los Angeles Times article, one of the affected company's representative indicated that Airbnb said that they were told by Airbnb that the company conflicted with Airbnb's growth plans.

In this type of rental, although it appears to be a shared unit, it is not the type of shared unit originally envisioned when Airbnb was founded or promoted in its marketing and promotional materials. These types of shared rentals are entire units where the host does not actually live in the unit.



Regulatory Approaches

Generally speaking short-term rentals in residential neighborhoods are typically illegal or severely restricted under most zoning laws. As noted on page 5 of this report, vacation rentals and home-sharing, as defined in this report, is not allowed in residential districts by either the ZO or DZO. It is normally viewed as a commercial activity and usually considered no different than a hotel. In addition to local zoning regulations, tenant leases may restrict or prohibit the subletting of a unit⁷, as well as Rent Control laws may also restrict how a tenant in a rent controlled unit may be able to carry out a short-term rental. Recently, some

⁷ California Senator Isadore Hall (D-Compton) is sponsoring Senate Bill 761, which the Senator says in press reports would require online short-term rental companies to inform its users that a tenant who sublets their apartment as a vacation rental may be violating their lease and create a cause for eviction.

jurisdictions have proactively moved to ban or maintain bans on the activity after studying the issue, including West Hollywood, Aliso Viejo, Sonoma County, and Saratoga. Seal Beach, after having allowed vacation rentals, banned the issuing of permits for any vacation rentals after October 22, 2012. Only those that had been issued or that were already in process are allowed.

Courts have generally upheld local prohibitions of vacation rentals in residential neighborhoods. Most notably, in *Ewing v. City of Carmel-By-The-Sea*, 234 Cal.App.3d 1579 (1991), owners of single family homes in the City of Carmel brought suit against Carmel challenging the constitutionality of a city zoning ordinance which prohibited vacation rentals from operating within residential properties. The owners alleged that the Carmel ordinance constituted a "taking" in violation of the Fifth Amendment of the U.S. Constitution and that the ordinance was arbitrary, irrational, overbroad and unconstitutionally vague in violation of the equal protection and due process clauses of the Fourteenth Amendment of the U.S. Constitution.

The Court of Appeal resoundingly rejected each of the plaintiff's claims and affirmed the constitutionality of Carmel's vacation rental prohibition. The Court reasoned that maintenance of the character of residential neighborhoods is a proper purpose of local zoning laws. The Court recognized that residential character of a neighborhood is threatened when a significant number of residences are occupied not by permanent residents but by a stream of short-term visitors. "Such rentals undoubtedly affect the essential character of a neighborhood and the stability of a community," because such visitors "have little interest in the public agencies or in the welfare of the citizenry." Carmel's ordinance precisely sought to remedy such ill effects of vacation rentals, which was a proper exercise of the City's police powers. Similarly, numerous other courts throughout the Country have similarly upheld local vacation rental prohibitions. See, e.g., *Aamodt v. City of Norfolk, Ark.*, 682 F.3d 735 (8th Cir.

2012) (upholding Norfolk, Arkansas's short-term rental ban); *Neumont v. Florida*, 610 F.3d 1249 (11th Cir. 2010) (upholding Monroe County, Florida's short-term rental restrictions); *Siwinski v. Town of Ogden Dunes*, 949 N.E.2d 825 (Ind. 2011) (affirming Ogden Dunes, Indiana's prohibition against vacation rentals).

Of course not all cities have chosen to ban all short-term rentals. Several cities in California have recently enacted laws to legalize short-term rentals, including Napa, San Francisco, San Luis Obispo, Seal Beach, and Arroyo Grande. Attachment G provides a summary of some California vacation rental laws.

Enforcement / Permitting

Due to limited enforcement resources, illegal short-term rental activities have established a strong presence in the City and continues to flourish with little sign of abatement.

Short-term rental enforcement is currently handled on a complaint basis by the City's Code Enforcement Division due to resource limitations. From July 2014 to February 2015, 47 enforcement cases have been initiated and 10 administrative citations have been issued. Thirteen cases are currently in the active enforcement process. Vacation rental enforcement cases are extremely resource intensive because it can be very difficult to verify the violation. Unlike most other Code Enforcement cases, these violations are frequently not in plain-view.

A recent review of listings in Santa Monica appear to show approximately 1700 rentals listed between Airbnb (1000), HomeAway (350), and VRBO (340). Home-sharing represents a small percentage of this total number⁸. Of the

⁸ According to the LAANE report Airbnb, Rising Rent, and the Housing Crisis in Los Angeles, LAANE issued in March 2015 (see Attachment B), 30% of units are of a portion of a unit. However, this likely includes rentals that are shared between multiple guests where the owner or other primary resident is not living in the unit.

listings on Airbnb staff estimates that approximately 275 are advertised as home-sharing. Although as noted above, some listings of home-sharing rentals are in fact the sharing of a living unit where the owner is not present and instead the sharing is between multiple guests (i.e. "communal space"). It can also be difficult initially to know if the units are in fact in Santa Monica as sometimes they are advertised as being in Santa Monica but are in fact in Los Angeles/Venice.

Even with the legalization of home-sharing, regulating and bringing into compliance the legitimate home-sharing units would still require additional staffing to also take off the market the more than 1400 vacation rentals that currently exist.

Additionally, listing platforms, such as Airbnb, have not been helpful in the investigations by cities. Such platforms often refuse to disclose listing information (e.g. the landlord's contact and personal information) to enforcement personnel. There is currently some legal ambiguity as to the extent of the City's authority to compel the release or inspection of such data by the listing companies. In *Patel v. City of Los Angeles*, 738 F.3d 1058 (9th Cir. 2013), the Ninth Circuit Court of Appeals, sitting en banc, held that Los Angeles's Municipal code requirement that hotel guest records be made available to any police officer for inspection was facially invalid under the Fourth Amendment, insofar as it authorized inspections of those records without affording an opportunity for hotels to obtain judicial review of the reasonableness of the demand prior to suffering penalties for refusing to comply. The Supreme Court granted review of this case on October 20, 2014 and a decision is expected later this summer. Staff hopes that the Supreme Court will provide further clarity and guidance on the scope of regulatory authority in this important area⁹.

⁹ As noted earlier in this report, as part of the discussion on TOT, Senate Bill 539 would authorize local jurisdictions to require Hosting Platform to disclose the address of vacation rental listing, number of overnight stays, and revenue from rentals, to assist with the collection of TOT.

As an example of the difficulties that Santa Monica may face without adequate regulations and resources, after being in effect for two months, San Francisco City Planning officials are calling their recently adopted short-term rental ordinance unworkable. Planning staff reports that 455 applications were received and 170 registrations were issued as of Tuesday, April 14, 2015 out of an estimated 5000 listing. In particular, Planning staff found that it was too hard to distinguish between or regulate "hosted" (i.e. home-sharing) units from "un-hosted" (i.e. vacation rental) units. In response, new legislation is being proposed to further limit short-term rentals.

An April 14, 2015 press release from the Office of San Francisco Mayor Edwin Lee, notes that the new legislation introduced "come on the heels of a hearing [Supervisor Farrell] hosted in March that focused on the Planning Department's capabilities of enforcing the current short-term rentals law, and the financial resources necessary for effective enforcement. The press release also states that the legislation will include:

- A 120-day annual "hard cap" on the number of days a year that permanent residents can rent out their home or a portion of their home for under 30 days¹⁰. Short-term rentals will continue to be prohibited for anyone who is not the permanent resident of a home or apartment in San Francisco.
- Treating all short-term rental hosts equally by striking the current difference in the law between "hosted" and "un-hosted" short-term rentals.
- The creation of the Office of Short-Term Rental Administration and Enforcement that will be staffed and resourced by the Planning Department, Department of Building Inspection, and the Treasurer/Tax

¹⁰ The current law allows a host could do 90 days of rentals when the primary occupant isn't living in the unit (i.e. vacation rental) or an unlimited number of days of rentals when the primary occupant is living in the unit (home-sharing rental).

Collector's office.

- This new office will provide a single-location for members of the public to apply for the City Registry and for City staff to coordinate in the administration and aggressive enforcement of the law.
- If the City fails to enforce following complaints, and after a certain period has expired, a private right of action to sue for attorney's fees and injunctive relief will be extended to residents of the building, neighbors within 100 feet, housing nonprofit organizations and neighborhood associations for hosts alleged to have violated the short-term rental laws.

TOT Collection

If Council adopts the proposed regulations, outlined in more detail beginning on page 21, and legalizes home-sharing, the Finance Department will reach out to existing platforms, including Airbnb, to ensure collection of TOT on behalf of the City, consistent with existing law. In the March 2015 report issued by LAANE on the impacts of Airbnb in Los Angeles (see Attachment B), it estimates that there were 235 home-sharing type units listed in Santa Monica. According to the report, these units generated approximately \$1,237,664 in revenue in 2014 or an average of \$5,267 per unit. Santa Monica charges a 14% tax on the full amount paid for a room rental. If bona fide home-sharing units were legalized and paid TOT, the City could expect to receive approximately \$173,272 in tax revenue or an average of \$737 per unit based on the LAANE estimates of revenue generated.

However, it is important to note that even with the legalization of home-sharing as defined by the proposed ordinance, some individuals that currently offer their units as a home-share might not be entitled to do so under their lease, some "shared" rentals listed on Airbnb would not meet the definition of a home share as defined by the proposed ordinance, and some rent controlled units might not be legally able to charge as much as they do currently. Therefore, for the

purpose of the financial impacts portion of the report, staff assumes the final number of units that would pay TOT is 80% of the 235 estimated by the LAANE report.

If staff were successful in obtaining cooperation from Hosting Platforms to collect TOT on behalf of the City, revenues would be collected more quickly and would also include revenues from illegal units, creating an initial spike in revenue with a leveling off as unlawful units were removed from the market.

Proposed Regulations

At Council's direction, staff recommends the adoption of the attached Ordinance modified as recommended below. The Ordinance would establish the following minimal regulations¹¹:

- Reiterate and explicitly make vacation rentals unlawful.
- Define home-sharing as "An activity whereby the residents host visitors in their homes, for compensation, for periods of less than 30 consecutive days, while at least one of the primary residents lives on-site throughout the visitors' stay.
- License the activity of home-sharing rentals for compensation as a commercial activity, as such restates the requirement to obtain a business license in accordance with Section 6.08.130 of the SMMC.
- Restate the requirement to pay TOT in accordance with Chapter 6.68 of the SMMC.
- Restate existing law's requirement that the host and Hosting Platforms collect applicable TOTs and remit them to the City. Failure to comply would be grounds for the revocation of the business license.

¹¹ As noted on page 8 "house swapping" is not prohibited under existing law.

- Require individuals engaged in home-sharing to take responsibility for and actively prevent any nuisance activities.
- Require individuals engaged in home-sharing to comply with applicable health, safety, building, fire protection, and rent control laws.
- Prohibit any person from advertising a vacation rental or Home-Sharing that is not licensed.
- Require Hosting Platforms to disclose to the City on a regular basis as determined by regulations promulgated to enforce the Home-Sharing Ordinance, including the name of the host, the address of each listing, length of stay for each listing, and the price paid for each stay.
- Authorize the City Manager or designee to promulgate regulations to implement the provisions of the Home-Sharing Ordinance, which may cover but is not limited to permit conditions, reporting requirements, inspection frequencies, or insurance requirements.
- Authorize private legal actions to enforce the proposed ordinance. This provision, which reflects the Council's direction to Staff at its April 15, 2015 meeting, authorizes private legal actions to enforce the requirements of the proposed ordinance. Staff has not proposed any noticing requirements (to the City or to the alleged violator) prior to allowing the private law suit, though would be happy to include them if so direct by the Council.

Staff Recommendations on Home-Sharing Leasing Restrictions

The proposed ordinance does not seek to alter landlord tenant relationships, as established under existing law. Staff does not recommend any further intrusion into the landlord tenant relationship as it could expose the ordinance to legal challenge and because it is not necessary. Council's concern about protecting tenants from unwarranted evictions without being fully apprised of their rights is already addressed by City Charter Sections 1806 and 2304, which requires notice before the landlord may commence eviction proceedings for breach of any

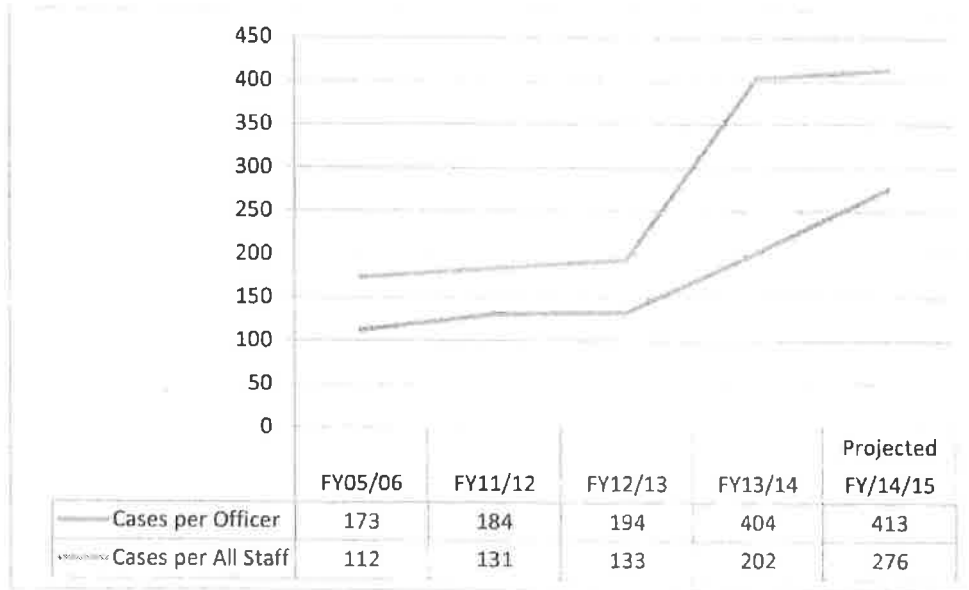
lease obligation. Additionally, compelling landlords to accept home-sharing would likely increase their property insurance obligations and potentially complicate their existing financing conditions. Requiring a property to allow for home-sharing would also reduce a property owner's ability to control the character and environment of their property by introducing transient uses.

Accordingly, significant enforcement resources are required to address unpermitted short-term rentals proactively. Staff is recommending the addition of two Code Enforcement Officers and one Administrative Analyst to staff enforcement of the program.

Staffing

In Santa Monica staff estimates that there are approximately 1700 short-term rentals listed between the three main listing sites. This does not include other less prominent sites. For perspective, Code Enforcement currently has approximately 1200 active cases open at any given time, with a total of approximately 500 new cases annually.

The average number of cases per officer has increased by 105% from FY11/12 to FY13/14 due to the additional programs added over the last two years, including leaf blowers, street performers on the Pier, vendors, trainers, surf instructors, pedicabs, and taxicabs. The chart below provides the number of cases handled per enforcement officer since and cases handled by the division per all staff since FY05/06:



The ratio of budgeted support staff to officers in FY05/06 was 41%; in FY14/15 is 31%. Staff is recommending 2 Code Enforcement Officers and 1 Administrative Analyst to support the enforcement of the Short Term Rental Enforcement program. With the addition of these three proposed new staff the ratio of support staff to officers would be 33%, in keeping with the historical ratios.

As noted above, other cities have had a very difficult time enforcing against short term rentals, as well as registering short term rentals where it has been legalized. Additionally, most cities in California that allow for short term rentals only allow property owners to conduct the activity. Not renters. As noted above, San Francisco Planning staff found that it was too hard to distinguish between or regulate "hosted" (i.e. home-sharing) units from "un-hosted" (i.e. vacation rental) units.

Because staff will be introducing a more proactive program, instead of relying on complaints, there would be an initial spike in short term rental cases that would likely be sustained for approximately 2 years or more. Cases would then most likely begin to level off.

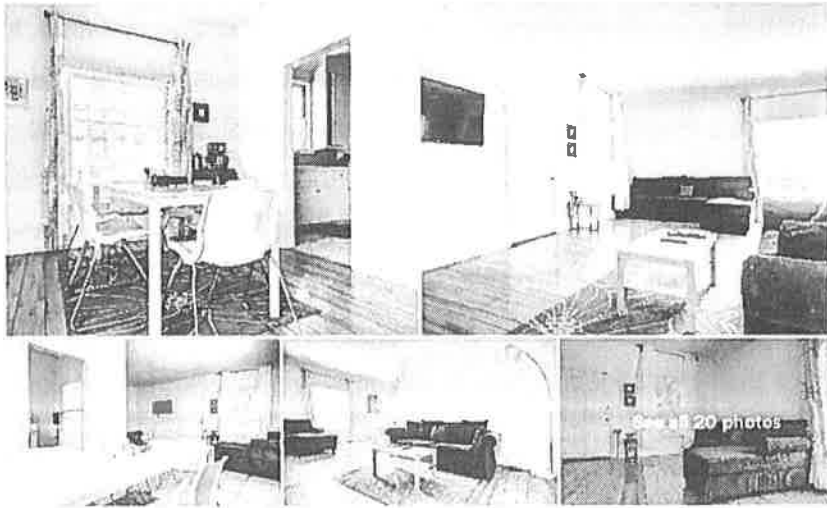
Many short term rentals can be found on Hosting Platform listings, however, addresses are not usually provided. Although a map is provided, it only provides an approximation of where the unit is. Administrative staff would need to read through listing text and review pictures to identify the location of the house or building that the unit is located in. Single family homes would of course be easier to locate than apartment or condominium units. The following provides examples of the type of information available on a listing and a map that shows the location. In the example below, although the listing indicates 5th Street, no images of the building are included and the map provides a large area.

Listing Information

About This Listing

Modern airy, lots of sunshine apartment located 4 short blocks from the beach and just 3 blocks from 3rd Street Promenade.
Each bedroom has a queen size bed and a full sofa bed in the living room.
Enjoy cool evening ocean breezes in the garden.

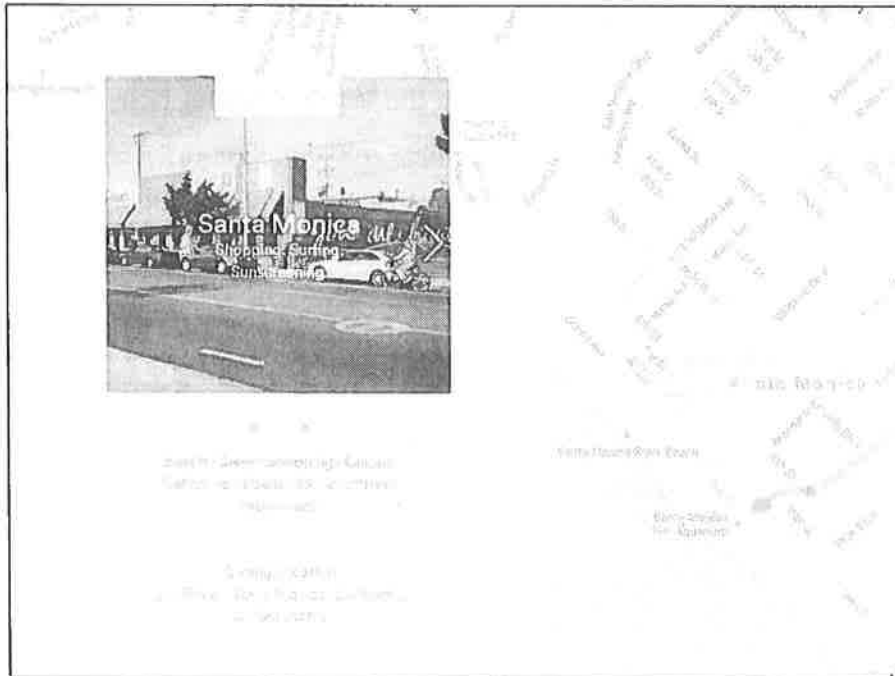
Contact Host



See all 20 photos

Property type:	Apartment	Beds:	3
Accommodates:	6	Check In:	3:00 PM
Bedrooms:	2	Check Out:	11:00 AM
Bathrooms:	1		

Map of Where Listing is Located



Although the operation of a short-term rental is fundamentally a zoning violation, to ensure an efficient enforcement process, staff will be addressing short term rentals by utilizing Article 6-Business, Professions, Trade of the SMMC instead of Article 9-Planning and Zoning. In particular staff could initiate cases by enforcing the lack of a business license. By using this approach, once the unit and owner or occupant is identified, staff may be able to issue a Notice of Violation or monetary citation based on the advertisement and/or any other information that they gather as part of their investigation, which will all serve as evidence of doing business.

As a matter of education, staff may initiate enforcement actions with a Notice of Violation (which does not include a monetary fine); educational materials on the Home Sharing Ordinance would also be provided with the notice. By requiring the person operating a home-share to obtain a business license, the City is able

to conduct the legal review necessary to determine if the rental meets the requirements of the Home Sharing Ordinance.

For instance, enforcement steps could include:

- Reviewing Hosting Platform listings, such as Airbnb and VRBO.
- Separating listings by vacation rentals and home-sharing, based on the information provided in the listing.
- Conducting research to narrow down the location of the listing.
- Conducting inspections to determine the actual address of the listing.
 - ◆ If listed as a home-share, the occupant of the unit would be identified by utilizing information provided in the listing, apartment management, and/or other public records.
 - ◆ If listed as a vacation rental, the building owner would be identified through public records information, Home Owners Associations (HOA), and/or condominium building management.
- Interviewing witnesses
- Issuing a Notice of Violation to the building owner or occupant for operating a business without a business license, with an order to comply within an established number of days. The notice may include information regarding the Home Sharing Ordinance to assist the person with knowing if their unit could be illegal or if it would qualify as a home-share. The information provided would also discuss taxes, including the Small Business exemption for business license tax.
- For a vacation rental listing, to cure the violation the owner may need to return a form (provided with the notice) informing the City that the short term rental activity has ceased and that the listing has been removed. The notice could also include information on the penalties for failure to comply, including payment of unpaid back-taxes for Business License tax and Transient Occupancy Tax.

- For a home-sharing listing, to cure the violation the occupant may need to initiate the business license process or return a form (provided with the notice) informing the City that the short term rental activity has ceased and that the listing has been removed. The notice may also include information on the penalties for failure to comply, including payment of unpaid back-taxes for Business License tax and Transient Occupancy Tax.
- If the operator of a vacation rental removes the listing, Enforcement Staff may need to verify that the listing had been removed and may submit the case for monitoring. If the same person began operating again additional enforcement steps would commence, which could include the issuance of a monetary citation and/or criminal prosecution.
- If a person opts to register and apply for a business license, they would need to complete a supplemental form (details of the form have not be established) and comply with the requirements of the Home Sharing Ordinance by providing proof of occupancy in the unit (similar to how they do now for a preferential parking permit). The person would also be required to register for Transient Occupancy Tax.
- Following up on Notices of Violation and citations for compliance. If a person who has received a Notice of Violation fails to comply, additional enforcement steps would commence, which could include the issuance of a monetary citation and/or criminal prosecution.

Staff may also initiate specific educational efforts to make the public aware of the Short-Term Rental Enforcement Program to seek voluntary compliance. Educational materials may also include the reasons why the program is being initiated.

Code Enforcement Officers would be responsible for conducting inspections, working with individuals that have received notices or citations, educating the

public about the Home Sharing Ordinance, attending citation appeal hearings, writing case reports for criminal prosecution referral, and testifying in court.

Administrative staff would be responsible for researching short term rental Hosting Platform listings, identifying or narrowing down the possible location of listings, organizing inspection routes, processing notices and citations, processing payments, coordinating hearings, sending out correspondence, and answering questions from the public about the Home Sharing Ordinance.

Environmental Analysis

The proposed ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3). This section provides that CEQA only applies to those projects that have the potential for causing a significant effect on the environment. The proposed ordinance does not have that possibility. As indicated in this staff report, regardless of legal status, short-term rentals, in the form of vacation rentals and home-sharing, have long existed in the City. See, e.g., *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428 (actual environmental conditions existing at the time of CEQA analysis should be used as a baseline, even when such actual conditions are in violation of current regulatory provisions). Most short-term rentals are historically vacation rentals, with home-sharing making up a small percentage of the overall mix. The proposed ordinance reinforces the illegality of vacation rentals and adopts additional enforcement tools to mitigate their presence in the City. The proposed ordinance also adopts new regulations applicable to home-sharing. Thus, it appears that the end result could be a reduction in short term rentals in Santa Monica, which would be environmentally beneficial.

Next Steps

- Establish proactive enforcement program and hire staff, Q1-FY2015-16
- Begin education campaign regarding the ordinance with public and listing companies, Q2-FY2015-16
- Reach out to listing companies to set up arrangements for listing companies to collect TOT on behalf of the City
- Evaluate of the program and return to Council with any adjustments necessary to ensure the success of the program by February 2016.
- Provide Council with a status report by Q1-FY2016-17

Alternatives

Council could direct staff to draft an ordinance that would re-enforce existing prohibitions against home-sharing and vacation rentals in residential neighborhoods, provide additional clarity, tools, and approve the requested Code Enforcement staffing to proactively enforce the zoning requirements related to short-term rentals with the goal of removing all short-term rentals from the market in Santa Monica.

Financial Impacts & Budget Actions

The Short-Term Rental Regulatory Enforcement Program will require the addition of 3.0 FTE permanent positions and supplies and expenses for a total of \$410,029 in FY2015-16 and a cost of \$266,898 annually.

With 100% compliance the program will generate estimated annual revenues of approximately \$138,500 in Transient Occupancy Tax. However, due to the ramp up time to achieve compliance, staff estimates total revenue of approximately \$69,000 (50% compliance) for FY 2015-16 and \$110,800 (80% compliance) for FY 2016-17. Higher amounts would be realized sooner if Hosting Platforms begin collecting TOT on behalf of the City. Staff also estimates that in the first year of enforcement fines totaling approximately \$85,000 could also be collected;

however, fines are not easily predictable, since fines would likely only be issued after a period of time is provide to correct the violation.

Prepared by: Salvador M. Valles, Acting Chief Administrative Officer

Approved:

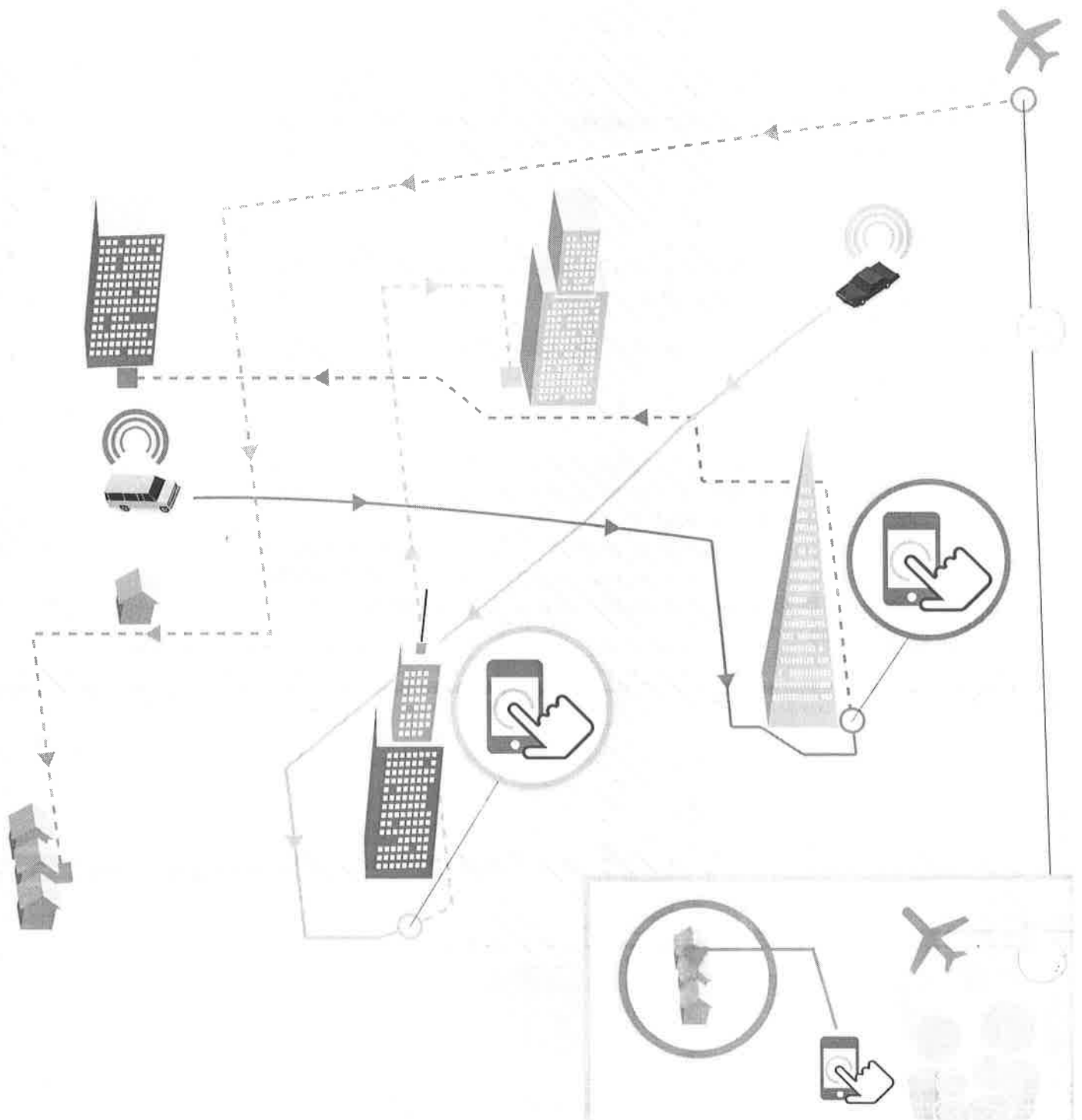
Forwarded to Council:

David Martin
Director of Planning and Community
Development

Elaine Polachek
Interim City Manager

Attachments:

- A. Cities, The Sharing Economy and What's Next, A report issued by the National League of Cities Center for City Solutions and Applied Research, March 2015
- B. Airbnb, Rising Rent, and the Housing Crisis in Los Angeles, LAANE, March 2014
- C. Airbnb in the City, Office of the New York State Attorney General, October 2014
- D. Overview of Sharing Economy and Short-Term Rentals, California Legislative Office's Committee on Local Government and the Assembly Revenue and Taxation Committee, March 18, 2015
- E. What the Sharing Economy Means to the Future of Travel, Skift, 2013
- F. Exclusive Offering Memorandum Pages 14-18, 14 Westminister Avenue
- G. Summary of California Vacation Rental Regulations
- H. Ordinance**



About the National League of Cities

The National League of Cities (NLC) is the nation's leading advocacy organization devoted to strengthening and promoting cities as centers of opportunity, leadership and governance. Through its membership and partnerships with state municipal leagues, NLC serves as a resource and advocate for more than 19,000 cities and towns and more than 218 million Americans.

NLC's Center for City Solutions and Applied Research provides research and analysis on key topics and trends important to cities, creative solutions to improve the quality of life in communities, inspiration and ideas for local officials to use in tackling tough issues and opportunities for city leaders to connect with peers, share experiences and learn about innovative approaches in cities.

About the Authors

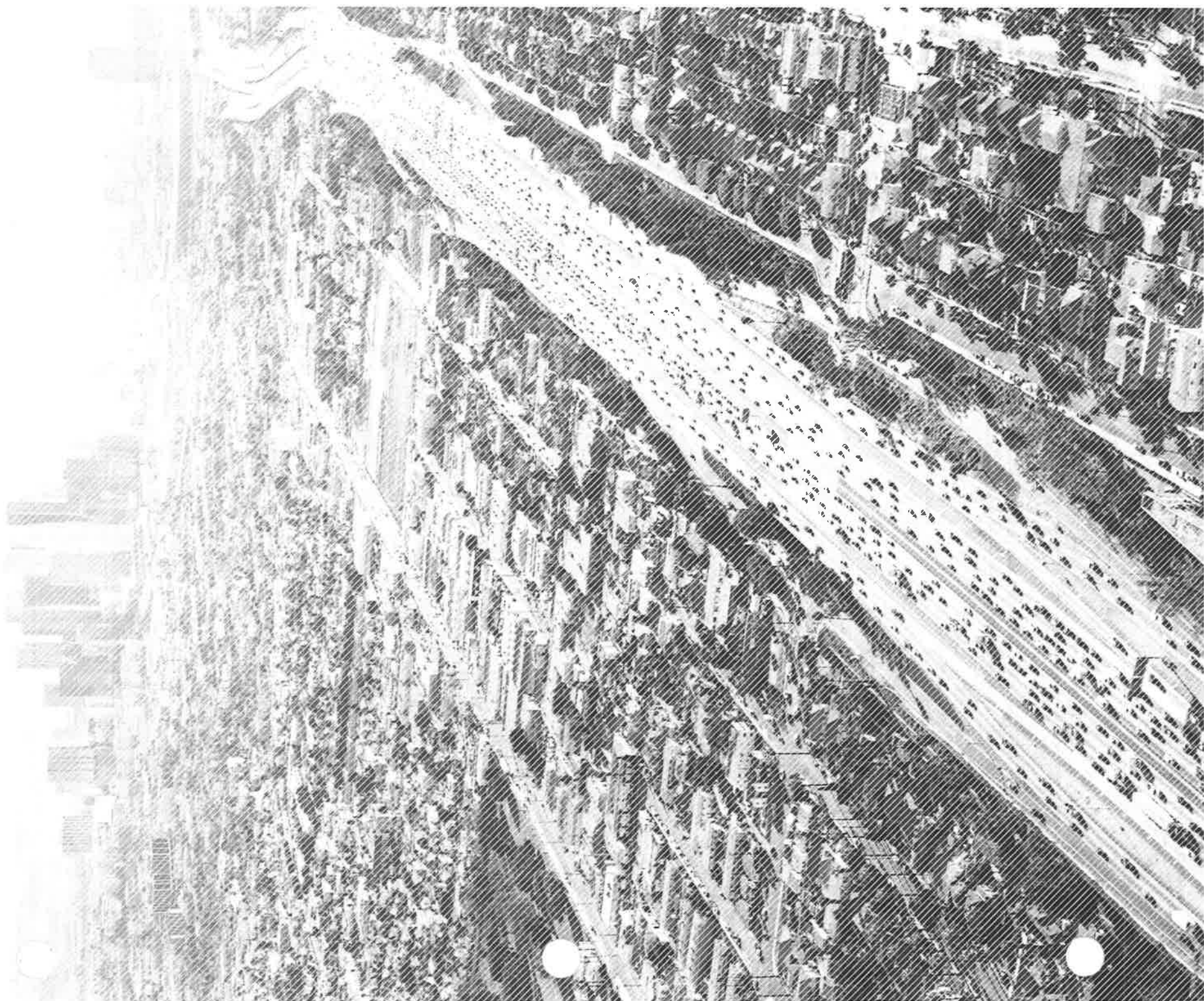
Lauren Hirshon, Director of Consulting; **Morgan Jones**, Associate Consultant; **Dana Levin**, Associate Consultant; **Kathryn McCarthy**, Associate Consultant; **Benjamin Morano**, Associate Consultant; **Sarah Simon**, Consulting Intern with the Fels Institute of Government at the University of Pennsylvania.

Brooks Rainwater, Center Director of the Center for City Solutions and Applied Research at the National League of Cities.

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CITIES, THE SHARING ECONOMY and WHAT'S NEXT



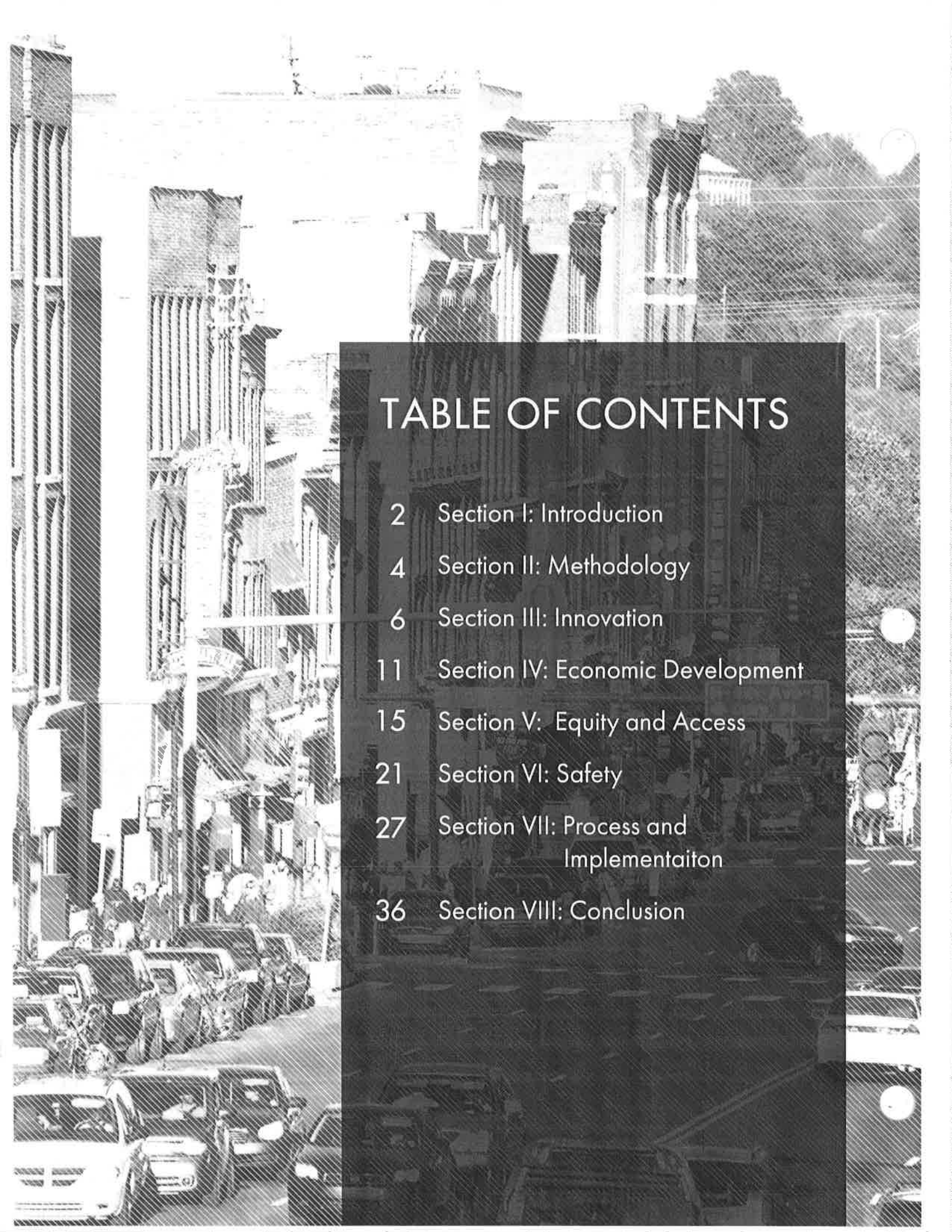


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Section I

INTRODUCTION

We are on the cusp of a monumental shift taking place in cities around the world. From innovative technologies and business models to redefined concepts of equity and safety, the sharing economy is impacting cities. At the same time, cities make the sharing economy work and power its ability to grow worldwide. And this is only the beginning. With more than half of the world's population living in cities - a figure projected to rise precipitously in coming years - all eyes are on cities for global leadership.

This National League of Cities report seeks to provide an analysis of what is currently happening in American cities so that city leaders may better understand, encourage and regulate the growing sharing economy. Interviews were conducted with city officials on the impact of the sharing economy and related topics, and the report centers around five key themes: innovation, economic development, equity, safety and implementation.

The sharing economy is also commonly referred to as collaborative consumption, the collaborative economy, or the peer-to-peer economy. This term refers to business models that enable providers and consumers to share resources and services, from housing to vehicles and more. These business models typically take the form of an online and/or application-based platform for business transactions. The vast differences in the types of sharing economy platforms can be mind-boggling, from pure sharing services with no money changing hands to commercial services and everything in between. Policymakers often assume that the concept of the sharing economy applies only to ridesharing (or ride-hailing¹) and homesharing, and are typically unaware of the wide array of goods and services that can be shared, which range from food and other consumables to an individual's time and tools. Municipalities, for example, can even share heavy equipment, reducing overall expenditures and providing needed tools that might otherwise have been unavailable.

It is safe to say that the sharing economy is thriving - it is upending traditional industries, disrupting local regulatory environments, and serving as a benchmark for innovation and growth. This is all happening at once, and there is no status quo; while emerging models are

developing, the relative novelty of this issue precludes long-term, tested best practices. Additionally, there is no "one-size-fits-all" regulatory framework that every locality can or should apply to the influx of new economic activity. One of the truly innovative aspects of cities is their ability to experiment and develop unique, locally-driven solutions to new challenges.

NLC recently published a research report analyzing the current sentiment towards homesharing and ridesharing, and we concluded that the general sentiment of cities towards the sharing economy is shifting in certain municipalities, while others remain more resistant to change. Unlike other emerging city issues, the patterns of diffusion across the country do not necessarily present themselves along the traditional lines of city size or region. States are also playing a significant role in the emergence of the sharing economy, often intervening in a manner that includes legislation, regulatory rulings and even legal action.

The common theme within this conceptual space is that cities make the sharing economy work. Cities play a central role in deciding which sharing economy practices are adopted and which are rejected. Further, the unanticipated surge in sharing economy business models and the proliferation of companies that serve as catalysts for collaborative consumption has created a disruption of existing systems. Traditional industries are being upended with the growth of innovative sharing economy models that do not fit neatly into existing local regulatory environments. Much of this shift has been a direct result of the fact that community members both expect on-demand services and crave collaborative opportunities. City leaders must walk a fine line, working to embrace change and innovation while simultaneously prioritizing safety and developing context-sensitive city solutions that work for their community.

¹ *The terminology for what has been popularly termed ridesharing is in flux, with the Associate Press shifting to ride-hailing with a January 2015 decision whereas others continue to use the term ridesharing. For purposes of this report, because interviews were conducted prior to the AP's shift, and most city leaders know the terminology as ridesharing, we have used ridesharing throughout.*

Why Sharing?

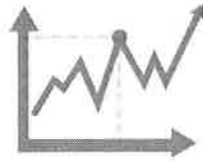
1



Cities experience an increase in

Urbanization

2



Changing conditions in

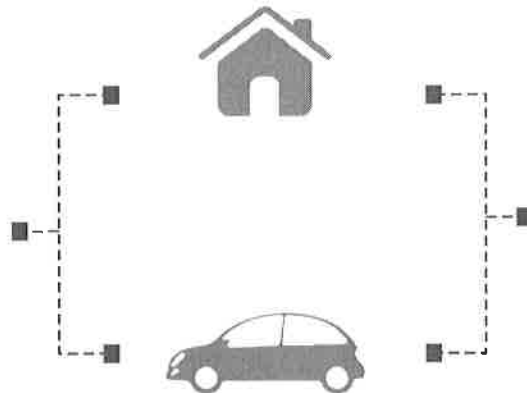
Economics

3



Generational changes in

**User Preference/
Lifestyle**



Many cities are welcoming these new business models, despite regulatory barriers and the swift and sometimes aggressive nature of their immersion.



Section II

METHODOLOGY

This research emerged from conversations with city leaders around the country who were looking for guidance on how to modify or develop new regulations for the sharing economy. The National League of Cities partnered with researchers from Fels Consulting at the University of Pennsylvania's Master's in Public Administration program to design a research approach, develop interview questions, and identify interview candidates who could share insights on their strategies, tactics and lessons learned while regulating this new space.

Over a four month period, from November 2014 through February 2015, Fels Consulting conducted 12 hour-long interviews with a diverse array of current and former city officials. In our selection process, we sought to maximize geographic diversity and maintain a balanced mix of representatives from both small and large cities. We also aimed to interview officials who served in a variety of positions in city government. Of the 12 interviews conducted,

four officials held positions as a city councilmember, four held positions in offices focused on economic development or special projects, two held positions in offices focused on transit or sustainability, and the remaining two served as advisors to councilmembers or to the city. These officials represented the following cities: Austin, Texas (two interviews conducted); Dallas; Denver; Indianapolis; Madison, Wis.; Petaluma, Calif.; Philadelphia; Portland, Ore.; San Luis Obispo, Calif.; Seattle; and Washington, D.C.

To supplement this research, we also reviewed dozens of current articles on cities' responses to the sharing economy and studied ordinances, bills and various pieces of legislation.

The sections outlined in this report represent the major themes that emerged across our research, and are organized around the types of questions city officials may want to ask themselves as they embark on this regulatory process.

Sharing and the City

Interviews conducted with city officials from a diverse selection of cities across the United States.



Section III

INNOVATION

How can cities meet their governing obligations while positioning themselves as innovative places to live, work and visit?



Innovation is one of the terms most often associated with the sharing economy. The first section of this report examines the role of local politics in the sharing economy. It also explores the ways in which cities can encourage and create innovative policies, and it considers the role of data in helping to make cities more innovative.

The concept of innovation is at the forefront of discussions about the sharing economy. Thanks to new technological platforms and widespread use of social media, citizens have gained the power to call and track a ride, rent out their homes, and share goods instead of purchasing more than they need or can afford. Sharing economy services have also presented cities with unprecedented, complex questions. The greatest challenge for any city is finding a balance between embracing these platforms, as well as the various benefits they offer to residents and visitors, and regulating them in the name of safety and responsibility. In the context of the sharing economy, being “receptive to innovation” has become the gold standard for any city. This was an emergent theme across interviews, as officials discussed the desire for their cities to be seen as innovative and adaptive. They stressed the importance of understanding the dynamics of city politics, tourism and business goals, as well as letting the market decide which companies most benefit residents and visitors.

Where do politics and innovation intersect as cities work to create new policies?

The unique political structure of any city, from its mayor to its city manager to its city councils and agencies, affects the process of working with and regulating the city’s homesharing and Transportation Network Companies (TNCs) like Uber and Lyft that operate within its boundaries. Due to rapidly evolving business models, intense media campaigns, and vocal constituents, the process of regulating sharing economy businesses can be complex and contentious, often straining staff time and resources across multiple offices. With no clear precedent for the regulatory process, each city must determine which agency or agencies, committees and staff members will take the lead on meeting with stakeholders, drafting ordinances and implementing new policies.

Indianapolis has approached the sharing economy through what they have termed the “big tent” idea, welcoming any business that might positively impact the city and its residents to pilot their product. A city official explained that beyond “a good faith discussion and engagement around safety,” the city does not want to impede a thriving platform built around a good idea and sophisticated data from doing what it does best.

Indianapolis continuously seeks ways to make its downtown vibrant and friendly and attract

more traffic to the city. After recently hosting the Super Bowl, Indianapolis has seen an increase in conventions, and the presence of Uber and Lyft has greatly improved transportation connections for both residents and visitors. This focus on innovation as part of the urban economy has helped the city attract millennials and other groups who utilize these platforms, embrace competition among similar companies, and think broadly about whether sharing economy services benefit citizens.

In our interviews, an official from Indianapolis detailed how the first reaction to brand new ideas is often to limit or prohibit them, noting that cities have to temper this impulse by stepping back and asking whether the business or service is in the best interest of the community. An official from Dallas took a similar approach to crafting TNC regulations in his city, stating “embrace it, then see about regulating it. If you go at it with the approach that [these companies] are invading, you’ll have a lot more trouble coming up with a good transportation-for-hire ordinance.” From the outset, the city council decided it was crucial for Dallas to be seen as innovative and forward-thinking. To achieve this, the city opted to accept TNCs as widely used and desired by the public, and convened stakeholders to determine how best to regulate their services. The Dallas official maintained that, when cities fight over whether TNCs are legal at all, they do themselves a disservice by fighting the inevitable progress of innovative technology. If the public likes a product enough, it will thrive; therefore, it is in the best interests of cities to focus on establishing regulations to ensure citizen safety.

An official from Seattle echoed that sentiment, adding that cities reputed for technology and innovation run counter to those ideals when they attempt to stifle the sharing economy. No city wants to be perceived as anti-innovation. At the same time, elected officials who do support the sharing economy can face intense criticism when they make decisions they believe are in the best interests of the local economy. One Washington, D.C. city

councilmember was vilified in the media and accused of being “anti-innovation” by TNC activists after imposing a temporary price floor on Uber soon after it launched, out of concern that it would suddenly put taxis out of business before the city could create and implement appropriate legislation.

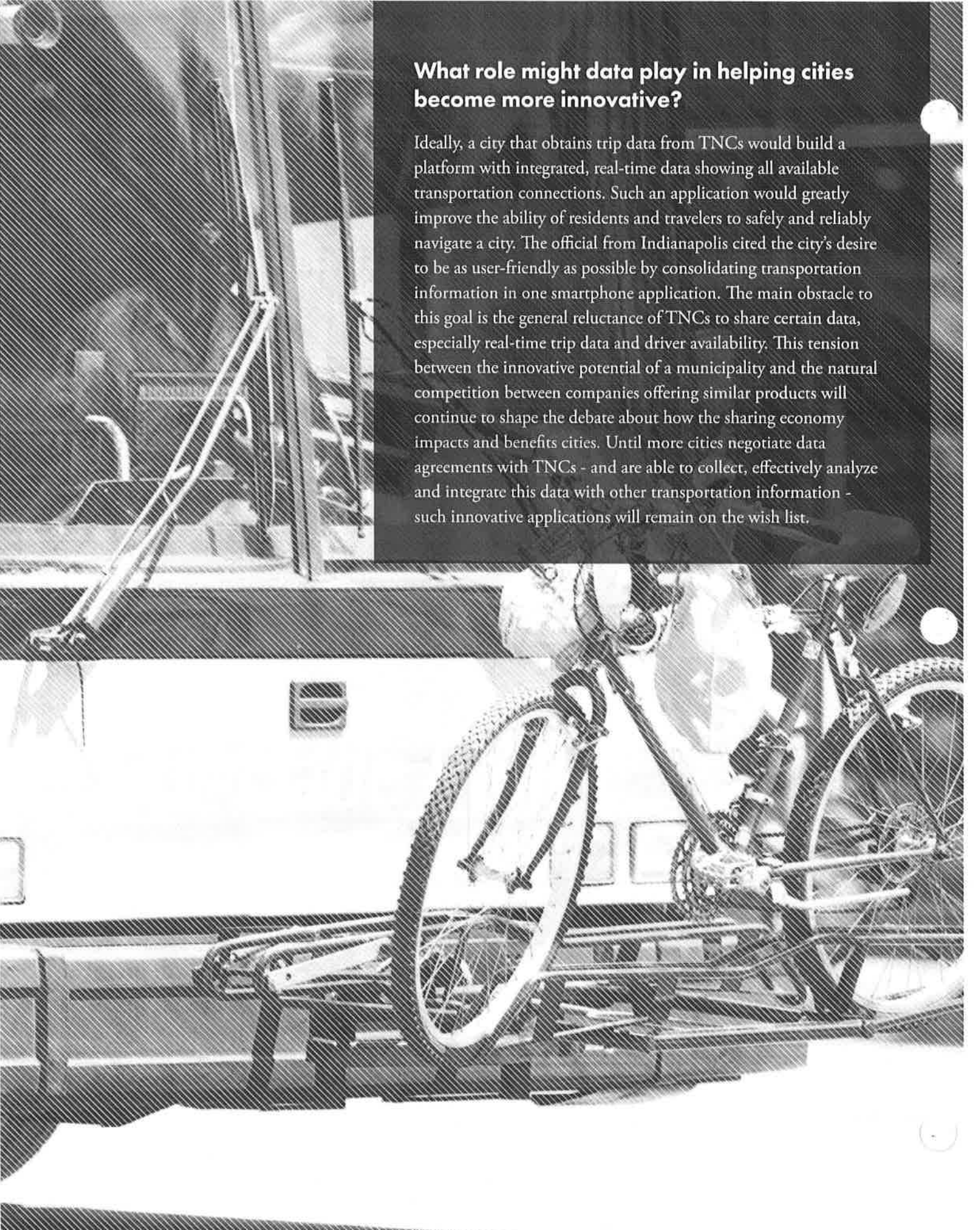
The official from Seattle further observed that city planning practices are changing and becoming increasingly innovative. People have many alternatives to traditional taxis, thanks to more efficient public transportation, expanded bike lanes, shared bike programs, increased awareness of cyclists, improved walking paths, and better signage for pedestrians. The official questioned whether TNCs might simply be a convenient scapegoat in the eyes of taxi companies because ridesharing has brought frustrations with the conventional taxi model to the foreground. Additional research may be helpful in exploring how the evolution of modern city planning, with its emphasis on environmental sustainability, has diverted business away from taxis and toward different methods of transportation.

The demographic makeup of a particular city can also accelerate its regulation process and increase the role of innovation in related dialogue. Two officials from Austin, Texas, detailed how the city’s rapidly growing population of tech-savvy millennials pushed the city to implement regulations for both TNCs and Airbnb. The Austin technology community is invested in the city itself and vocal about improvements it wants to see - an attitude that served as an impetus for creating ordinances. TNCs in particular appeal to Austin’s millennial population and are useful to tourists and visitors who are already familiar with these companies. Uber first began operating in Austin during the city’s South by Southwest (SXSW) festivals, offering free rides and building its client base. The city quickly cracked down, and the tech community responded by critiquing the city for hindering innovation. Austin responded to these concerns by becoming one of the first cities to pass sharing economy ordinances. Thanks to input from the entrepreneur and tech communities, Austin

recognized the potential for data sharing and used this point as an impetus for regulation. The city has made a concerted effort to live up to its reputation of creativity and innovation, and is often cited by other cities as a model of sharing economy policy.

Overall, cities that have successfully created regulations around TNCs and homesharing have made a conscious choice to integrate these popular, increasingly trusted services. The officials from Dallas and Indianapolis emphasized the importance of letting the market decide whether sharing economy services should be accommodated; they both went on to note that natural competition will dictate which platforms will operate successfully in each city. Inherent in the desire to be progressive is the fact that a city must embrace the constant evolution of new, innovative companies – and accept some level of uncertainty in the process.





What role might data play in helping cities become more innovative?

Ideally, a city that obtains trip data from TNCs would build a platform with integrated, real-time data showing all available transportation connections. Such an application would greatly improve the ability of residents and travelers to safely and reliably navigate a city. The official from Indianapolis cited the city's desire to be as user-friendly as possible by consolidating transportation information in one smartphone application. The main obstacle to this goal is the general reluctance of TNCs to share certain data, especially real-time trip data and driver availability. This tension between the innovative potential of a municipality and the natural competition between companies offering similar products will continue to shape the debate about how the sharing economy impacts and benefits cities. Until more cities negotiate data agreements with TNCs - and are able to collect, effectively analyze and integrate this data with other transportation information - such innovative applications will remain on the wish list.

Section IV

ECONOMIC DEVELOPMENT

What is the impact of the sharing economy on economic development?

As cities weigh the pros and cons of the disruption of traditional services with the benefits of potentially improved and expanded services, a number of issues arise – in particular, issues involving revenue capture, job creation, and the impact of tourism.

As the sharing economy has grown in recent years, its relevance to local economies has also increased. The ease of participating in the sharing economy offers the potential to open up new revenue streams for individuals and generate additional activity in the local economy - but this is not a given. The officials we interviewed explained that they are considering how the sharing economy affects tourism, local spending and job creation; however, many interviewees felt as though they had incomplete answers and little reliable data. We also heard about different strategies officials have adopted to capture revenue from sharing economy services that are supplementing or substituting for services that are usually taxed. Finally, officials identified the need for a deeper understanding of the amount of new business being created versus the amount that is simply being replaced.

How can cities capture revenue from sharing economy activities without creating unnecessary burdens?

As the sharing economy continues to grow, cities have become concerned with the potential loss of revenue that would normally come from taxes on traditional services such as hotels and taxis. As cities have begun to regulate TNCs and homesharing, they have approached the issue of revenue capture in different ways. In Washington, D.C. the recent TNC legislation included a provision requiring TNCs to pay taxes equaling one percent of all revenues from trips originating in the city; annual totals are estimated to be in the millions. In Seattle, TNCs must pay a fee of 10 cents for each ride that originates in the city. This is expected to cover the costs of enforcement and regulation of TNC licensing, but it remains to be seen whether this will be a source of revenue for the city. Other cities, such as Dallas, decided not to touch the issue of revenue

capture when drafting legislation, believing that the increased economic activity will help to boost local spending.

In the case of homesharing, much of the debate on revenue capture has centered on hotel or occupancy taxes, which are mandated for hotels and bed and breakfasts. In many cities, such as Austin, Washington, D.C., Madison, Portland, Chicago and San Francisco, homesharing companies have begun to include local hotel taxes in their rates, either voluntarily or as part of local regulations on homesharing. In other cities that have not reached an agreement, the onus is on hosts to pay taxes on their revenues; however, this is very difficult to enforce, and it is generally accepted that few hosts actually pay taxes on their homestays. This has been a point of contention for many hotels and bed and breakfasts, which feel that homesharing has an unfair advantage in pricing given that local occupancy taxes can be as high as 15 percent. Companies such as Airbnb have been willing to work with cities to include the occupancy taxes into their rates; however, in cities where homesharing is still illegal, this makes any formal agreements on payment of taxes difficult.

There is also the long-term question of lost sales revenue as the sharing economy grows. A Denver official stressed the need to think about how the sharing economy will impact the local economy in the long run; with more people looking to share space, goods and services, cities and local businesses may not be able to depend on or project the same income from traditional sales. While this has not yet become a pressing issue, it will be important for policymakers to keep in mind moving forward. Abuse of these services, such as converting apartments into solely short-term rental units, is also a significant risk and can lead to revenue loss. A Philadelphia official, speaking about the dangers of parties abusing the system, cited a recent New York Attorney General report about homesharing in New York City, which found that 37 percent of revenue generated through Airbnb rentals in the city went to six percent of hosts. One of the main economic

benefits of the sharing economy is the potential for individuals to generate supplemental income. When individuals abuse the system, however, it is more difficult for those individuals who play by the rules to benefit to the same extent. Additionally, when the sharing economy is professionalized, there are consequences for the city as a whole, as fewer revenues go back into the city and, in the case of Airbnb, local housing markets bear added burdens. While difficult, it will be important for regulators to develop the means to prevent such abuses.

What impact does the sharing economy have on job creation?

Many proponents of the sharing economy have pointed to job creation as a major argument for embracing the sharing economy. But how accurate are these claims and how can cities track them? The potential for job creation and increased supplementary incomes exists - but with little reliable data, it remains difficult to determine the veracity of these claims. An official from Washington, D.C. who was involved in the creation of the city's TNC legislation warned against policy makers advancing regulations solely because TNCs are providing jobs. The official stated that job growth is more related to politics than policy, and that there are often better arguments to support sharing economy services, such as the fact that constituents want these services and find them more reliable or cheaper than alternatives.

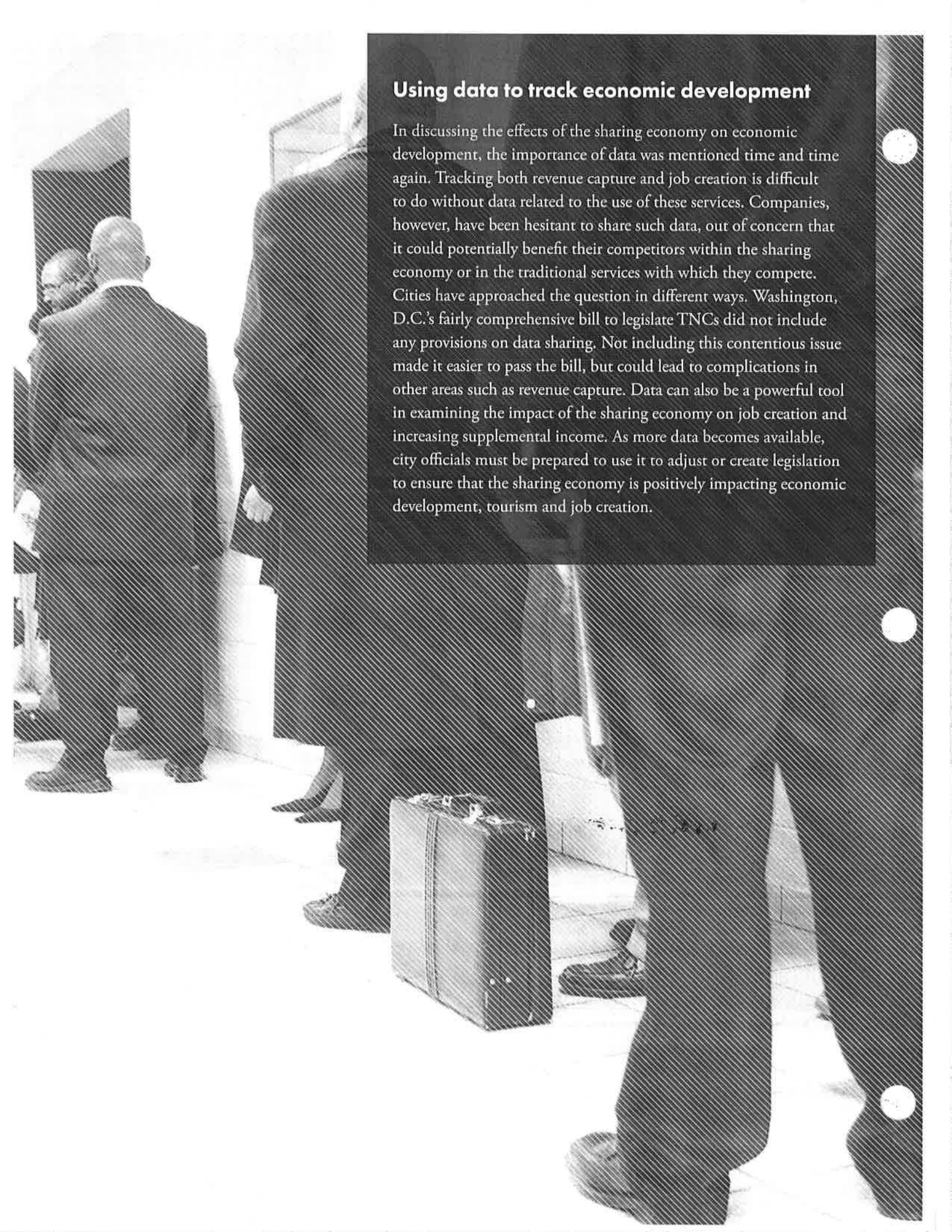
What impact does the sharing economy have on tourism?

There is also the question of how the sharing economy impacts economic development in more indirect ways. Consider its impact on tourism, for example. An official from Indianapolis explained that the city's acceptance of the sharing economy has strengthened the city's position in bidding for large events and conventions. These events and conventions help to generate additional revenue for the city through increased local spending on lodging, goods and services. An official from Portland, however, mentioned that there has been little research

as to whether the sharing economy actually increases tourism or whether it is simply diverting people and money away from traditional service providers such as hotels and taxis.

What role should cities play in creating a level playing field for sharing economy businesses and traditional businesses?

A consistent theme throughout our conversations with city officials was the need to develop a level playing field between companies participating in the sharing economy and their competitors who provide more traditional services, such as taxis and hotels. In many cities, including Madison and Austin, officials spoke about major concerns from the taxi companies regarding the legislative burdens placed on them, which often do not apply to the newer sharing economy services. For example, in some instances, taxi companies felt that the need to purchase medallions, maintain different insurance policies, or pay various tolls and taxes created an unfair advantage. In Portland, officials heard comparable concerns from owners of bed and breakfasts. City officials agreed it was important to work not only with companies involved in the sharing economy, but also with those that provide comparable services in more traditional roles, in order to ensure that the playing field is leveled, and, when applicable, legislation is updated so that everyone can benefit.



Using data to track economic development

In discussing the effects of the sharing economy on economic development, the importance of data was mentioned time and time again. Tracking both revenue capture and job creation is difficult to do without data related to the use of these services. Companies, however, have been hesitant to share such data, out of concern that it could potentially benefit their competitors within the sharing economy or in the traditional services with which they compete. Cities have approached the question in different ways. Washington, D.C.'s fairly comprehensive bill to legislate TNCs did not include any provisions on data sharing. Not including this contentious issue made it easier to pass the bill, but could lead to complications in other areas such as revenue capture. Data can also be a powerful tool in examining the impact of the sharing economy on job creation and increasing supplemental income. As more data becomes available, city officials must be prepared to use it to adjust or create legislation to ensure that the sharing economy is positively impacting economic development, tourism and job creation.

Section V

EQUITY AND ACCESS

How can cities ensure that the emerging sharing economy promotes access and equity?

Within the regulatory and legislative environment, there are existing laws and rules governing rides for hire and housing that raise issues with the business models of the new TNCs and homesharing services. Questions arise on whether these services benefit and accommodate all neighborhoods as well as people of different abilities and income levels. Many cities suffer from affordable housing issues that can be potentially exacerbated through the advent of homesharing platforms. Digital literacy concerns must also be raised when examining new economic platforms that are computer-based or smart phone-enabled and could preclude participation by those at the bottom of the economic ladder. This report also explores how cities can use new revenue streams from the sharing economy to invest in services that support access and equity.

The residents best positioned to profit from the growth of the sharing economy are usually those who own assets such as cars or homes. Renters can also take advantage of the platforms to supplement their incomes, but this trend arguably favors those with existing wealth or desirable resources. As one city official explained, the emergence of the sharing economy has created an opportunity for governments to adopt a proactive approach to ensuring that these services benefit as many of their residents as possible.

In addressing issues of equity and access, the city officials we interviewed talked about their strategies and approaches for understanding which populations will benefit most from participating in the sharing economy, as well as the impact these services might have on underserved neighborhoods and residents, the value of collecting new data to identify gaps in core services, and the opportunity to establish funding pools for frequently under-funded services like transit and affordable housing.

How can cities ensure that TNC services are reaching as many of our neighborhoods as possible?

Officials we spoke with were mindful of the impact the rise of TNCs might have on access in

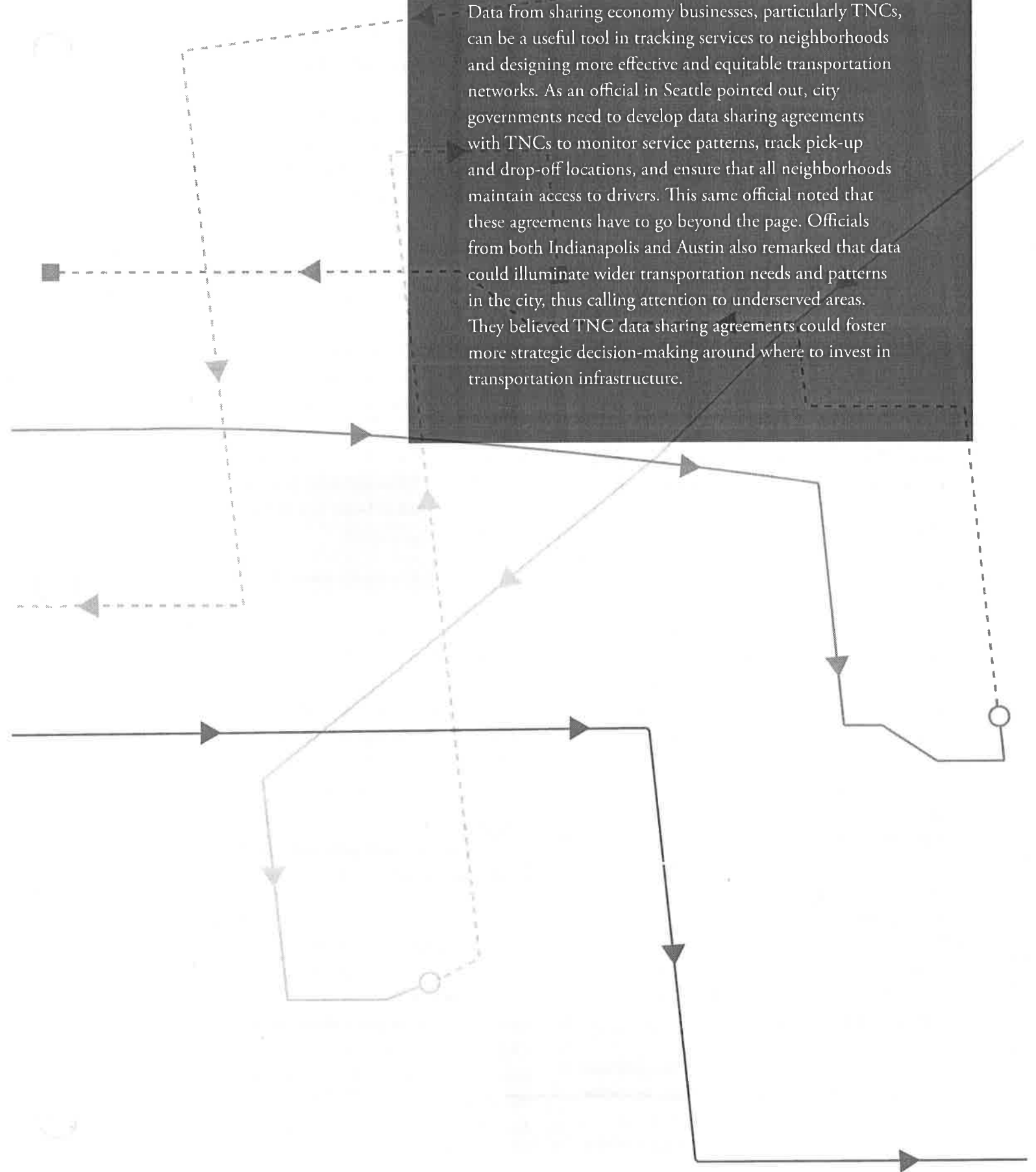
underserved communities. Officials from both Madison and Austin pointed out that taxis are required by licensing agreements with the city to service all neighborhoods and to operate 24 hours a day, seven days a week. One transportation department official we spoke with explained that cabs are classified as a public utility; he therefore believes it is important that their service not be degraded as a result of the introduction of TNCs. The official from Madison noted that concerns regarding TNC drivers “cherry picking” from neighborhoods seemed valid, and explained that, during a public hearing, some drivers indicated they avoided certain neighborhoods due to “safety concerns.”

Other officials were less wary of TNCs’ potential impact, or expressed concern about existing discriminatory patterns with cab service. An official from Philadelphia was optimistic that TNC services might spur entrepreneurship from residents living in underserved communities. The official explained that, as these residents join the sharing economy, they might be more likely to operate in their own neighborhoods, thereby bringing services to these neglected areas. An official from Indianapolis was similarly optimistic that TNCs could compensate for inadequacies in the public bus system and provide services in areas not served by taxis, thereby increasing access for residents. Likewise, a third official from Seattle acknowledged that some neighborhoods are not adequately serviced by the traditional taxi system; however, the official noted that it remains to be seen whether or not TNCs will rectify this problem.

Continuing this theme of equitable transportation services, an official from Washington, D.C. noted that taxis in the District have historically been criticized for refusing to service African American customers. Cab drivers claim they feel unsafe driving into areas where African American customers live, and that, after they drop passengers off into outlying neighborhoods, they lose fare on the return to the city center. The official pointed out that some African

Tracking pick-up and drop-off locations

Data from sharing economy businesses, particularly TNCs, can be a useful tool in tracking services to neighborhoods and designing more effective and equitable transportation networks. As an official in Seattle pointed out, city governments need to develop data sharing agreements with TNCs to monitor service patterns, track pick-up and drop-off locations, and ensure that all neighborhoods maintain access to drivers. This same official noted that these agreements have to go beyond the page. Officials from both Indianapolis and Austin also remarked that data could illuminate wider transportation needs and patterns in the city, thus calling attention to underserved areas. They believed TNC data sharing agreements could foster more strategic decision-making around where to invest in transportation infrastructure.



American constituents shared that TNC services have ameliorated this challenge because TNCs rely on phone apps rather than street hails to request rides. None of the officials interviewed raised the issue of how customer ratings may or may not be vulnerable to bias.

How can cities work with TNCs to provide services to people with physical disabilities?

During our interviews, several officials also brought up the issue of ensuring people with disabilities have access to rides. Advocates of the Americans with Disabilities Act (ADA) have been vocal in their appeals to ensure that TNCs provide options for people with physical disabilities. Many city officials are working with TNCs on regulations that meet ADA requirements and provide equivalent transportation services to people with disabilities.

The most challenging accessibility issue for TNCs is serving passengers in electric wheelchairs requiring a vehicle with a ramp or lift. Several cities told us they considered mandating that all TNCs maintain a certain percentage of their fleet as wheelchair accessible. However, all jurisdictions have thus far avoided this model. In Dallas, this requirement was considered infeasible, as it would mean larger TNCs like Uber and Lyft would have to have a disproportionately high number of wheelchair accessible vehicles that would exceed demand for their services. Ultimately, the city decided to include a general clause in the transportation ordinance that explicitly stated TNCs could not deny service to those requiring special assistance. If a particular TNC does not have wheelchair accessible vehicles readily available, they have the option to refer passengers to another company that can provide wheelchair accessible cars, similar to provisions adopted by the California Public Utilities Commission in California.

Washington, D.C. encountered similar challenges mandating that TNCs have wheelchair accessible vehicles; it was impractical for the District to require drivers to upgrade their personal cars to be

wheelchair accessible. However, Washington has long suffered a shortage of wheelchair accessible vehicles. According to the District official, only 25 taxicabs were equipped to transport passengers in wheelchairs. The shortage of available vehicles prompted a comprehensive legislative proposal, the Vehicle for Hire Accessibility Amendment Act. This bill outlines certain requirements for TNCs to pay into an accessibility fund (the Wheelchair Accessible For-Hire Vehicle Service Fund) which will be used for the purchase, operation, training and use of wheelchair accessible for-hire vehicles within the District. Furthermore, the legislation requires each taxi company and TNC to submit records of the requests for wheelchair accessible services, as well as data on the amount of time between the reservation and service delivery. Similar models have been adopted in Chicago and Seattle, where ordinances require companies to collect per-ride fees from passengers to be contributed to funds supporting wheelchair-accessible transportation.

Austin has taken a similar approach collecting data to reach the goal of having equivalent services for people with disabilities. Cars must report the wait time of reservations made for wheelchair accessible vehicles. As is the case in Dallas, Uber and Lyft can contract drivers that solely work with the disabled community. Austin has long struggled with providing taxi services to disabled individuals, so TNCs have greatly expanded services for people with disabilities.

Should cities be concerned that homesharing will affect the affordable housing stock?

The topic of homesharing and affordable housing is a complicated issue. On one hand, homesharing can provide supplemental income to homeowners or lessees who might otherwise be unable to afford their current payments. Officials from Austin, Denver and San Luis Obispo explained that their residents advocated to legalize homesharing in their jurisdictions for this reason. Likewise, an official from Portland noted, "We heard from the majority of people that homesharing allows them to earn

income in a new way; many people we heard from have said, ‘I can actually afford to stay in my house because of this.’”

On the other hand, short-term rentals can potentially yield landlords more profit than standard rentals; thus, some officials acknowledged the possible risk of reducing long-term rental stock in general, and affordably-priced housing stock in particular. Taken as a group, the officials suggested that their constituents voiced concerns over affordability to a lesser degree than constituents advocating for the opportunity to increase their supplemental income. The same official from San Luis Obispo shared that many residents wanted to see legislation put in place to temper the likelihood that homes would be converted to short-term rentals. This concern over maintaining the composition of housing stock prompted the city to craft an ordinance legalizing home stays for owner-occupied homes only. The city then verifies owner-occupied status through tax claim records. Likewise, the official from Portland acknowledged that concerns over a potential reduction in stock prompted the city to introduce a bill in which revenue from homesharing was diverted to an affordable housing fund. Although the measure was defeated, the strategy of allocating a proportion of homesharing revenue to a designated affordable housing fund offers a promising practice for cities seeking to promote equity.

Interviewees did not broach the topic of the socioeconomic status of the neighborhoods in which homesharing customers generally choose to board. Acquiring more information on these patterns would allow stakeholders to achieve better clarity on which communities are receiving supplemental income and perhaps experiencing enhanced affordability.

More research is needed to determine the extent to which homesharing is affecting the affordable rental market - if homesharing is affecting the market at all. When asked about the benefits or costs of homesharing to affordability, an official from Denver acknowledged, “I just don’t know yet.” Similarly, the official from Portland stated that more research

is needed to determine how homesharing might affect affordable housing. Given the large number of variables that can affect market rental rates and a consumer’s experience of affordability, as well as the relatively small percentage of homes presently being rented through homesharing sites, answers may prove elusive for some time.

To what extent will digital literacy issues affect participation in the sharing economy?

Since the sharing economy primarily relies on web-based technology, at least one city official in Indianapolis expressed concern that citizens with digital literacy challenges (the knowledge, skills and behaviors necessary to use a broad range of digital devices such as smartphones, tablets and laptops) may not be able to take advantage of the services. The official pointed out that senior citizens, for example, may not be proficient in smartphone technology. Reflecting a similar concern while acknowledging that the taxi industry ascribes itself the label of “every man’s transportation,” an official from Seattle pointed out the need for transportation services serving the elderly who may not use smartphone technology. An official in Philadelphia, however, was not concerned about seniors’ participation in the sharing economy, referencing a Pew Research Center study which found that 18 percent of seniors own smartphones, and approximately half of relatively more educated, affluent seniors access the web.

Depending on the digital literacy of their constituents, other city officials may want to be mindful of these barriers as they are developing new regulations for TNCs and other sharing economy businesses.

What opportunities exist to use new revenue streams created by the sharing economy to support access and equity issues?

As previously noted, many officials we spoke with agreed that shifts in the economic landscape driven by the sharing economy have the potential to

affect revenue streams for cities, which could affect assets like affordable housing and mass transit. Traditionally, cabs pay fees to the city in order to operate, and both hotels and bed and breakfasts pay taxes as well. However, officials in only three of the cities we spoke with (D.C., Seattle and Madison) mentioned a formal arrangement to capture revenue from sharing economy services. D.C. indicated that TNCs agreed to share 1 percent of revenue with the city, Madison issued a tax for homestay hosts, and Seattle mandated a ten cent tax on each TNC ride originating in the city.

An article published in the Washington Post in late January 2015 on revenue sharing agreements between cities and sharing economy businesses noted that cities stand to gain “millions in revenue ” from these agreements. As new agreements are established, a few of the city officials we spoke with noted that they are exploring opportunities to reinvest these funds into supporting equity and access issues.

Section VI

SAFETY

How can cities promote and regulate safety provisions in sharing economy services?

How can cities promote and regulate safety provisions in sharing economy services? Safety is of paramount concern whenever services provided have the potential to affect the life, welfare and wellbeing of community residents. As such, this section examines how cities approach insurance policies, the involvement of the owner in homestays occurring on their property, the extent to which sharing economy services can increase safety in cities, and how cities can ensure that parties are held accountable for safety measures.

The first question that often comes to the minds of city officials considering the sharing economy is how they can ensure that these new services are safe for residents. Two-way ratings systems incorporated by most sharing economy platforms offer a level of feedback on the consumer experience. Some sharing economy advocates claim that rating systems add an additional layer of accountability with benefits for public safety (e.g., an individual can choose not to get into the car of an Uber driver with only three stars instead of four); however, cities have focused on additional safety protocols, recognizing that “reputation” is not the only component of a robust trust and safety system. These measures commonly include background checks, insurance, and inspections.

How should cities approach insurance policies?

Questions around insurance coverage have emerged as one of the thorniest challenges in regulating TNCs. One city official from Dallas commented that resolving questions of insurance was one of the most difficult aspects of crafting their new legislation. She also mentioned that several insurance companies are in the process of developing new policies for TNC drivers, which may make ordinance development easier for city governments.

As one approach, Dallas developed a comprehensive system of insurance requirements for TNC drivers mandating that they have insurance coverage 24/7, as is the case with taxis in the city. However, unlike the

“one-size-fits-all” commercial insurance used by taxis, Dallas created a three-phase system of insurance to ensure different “ride phases” have unique coverage.

Phase 1 occurs when a TNC driver is driving but does not have the app for his or her company turned on. In this phase, drivers must have their own private personal insurance. Phase 2 occurs when a driver turns on the app, indicating he or she is available to provide a ride but has not accepted a ride. During this phase, Dallas requires that Uber, Lyft or any other TNC provides contingent (or “drop-down”) insurance to cover claims that might not be covered by a driver’s personal insurance. Finally, Phase 3 occurs when a driver accepts a ride and is on the way to pick up their passenger; in this phase, the driver or company must have primary insurance in the event of an accident. See Table 1 for a summary.

Similarly, in Washington, D.C. companies like Uber and Lyft must maintain primary automobile insurance of at least \$1 million when the auto operator is engaged in a prearranged ride. When the operator is logged into the company’s digital dispatch but not engaged in a ride, either the company or operator must have primary insurance that recognizes the operator as a private vehicle for hire operator and provides minimum coverage of at least \$50,000 per person per accident.

Other cities, like Austin and Indianapolis, do not have 24/7 insurance requirements. In Austin, drivers must provide commercial automobile liability insurance (with a coverage minimum of \$1 million) beginning with the time the TNC driver accepts a trip request on the app and ending when the rider departs the vehicle. Indianapolis differs from Austin in that it requires insurance to have a liability life from when someone gets into the car to when someone leaves, instead of when the TNC driver accepts a trip request on the app. Indianapolis also requires \$1.5 million minimum coverage.

Finally, city officials from Madison, Austin and Indianapolis all mentioned that regulations on TNCs are causing their cities to revisit regulations

Table 1

Dallas TNC Ordinance Insurance Requirements

Phase	Description	Insurance
1	TNC driver is driving but the app for his/her company is not turned on (he/she is not seeking a passenger)	Personal insurance
2	TNC driver is driving and the app for his/her company is turned on (he/she is seeking a passenger)	Company-provided contingent insurance
3	TNC driver has accepted a ride and is either driving to pick up passenger or has passenger in car	Primary commercial insurance

on the taxi industry. A city official from Indianapolis mentioned that the insurance regulations on TNCs were higher than on taxi cabs, which have a minimum coverage of \$100,000. As a result, the official believed that TNCs could be safer and better in the case of an accident, due to the higher coverage on these types of vehicles. In general, the officials agreed that, in their cities, insurance requirements for TNCs were more stringent than regulations on taxis.

How should cities address the involvement of the owner in homestays occurring on his/her property?

A sticking point for drafting ordinances regulating homestays has been the extent to which owners should be involved in the homestay. A distinction between “owner occupancy” and “owner presence” has arisen in some cities; the former requires that the host show proof of occupancy of the room he or she is renting out, and the latter requires that the host be physically present for the duration of a homestay. In many cities, neighborhood groups have advocated for an owner presence requirement, citing concerns that residential neighborhoods could become overrun with “transient populations,” or strangers who would rent out residential homes and would not be known by or accountable to neighbors.

The city of San Luis Obispo passed a comprehensive ordinance which requires that the dwelling be owner-occupied; owner presence is encouraged but not mandated in the ordinance due to difficulties in enforcing such a requirement. However, to alleviate neighborhood concerns, the city requires homestay hosts or a “designated responsible party” (DRP) to be within a 15 minute drive of the property and available via telephone 24 hours a day, seven days a week while rentals are occurring. Officials included a requirement for a DRP in the ordinance to ensure that someone would be held responsible for complaints regarding the homestay if the property owner wasn’t present to minimize the risk of disturbances. In addition, San Luis Obispo included the DRP requirement to make sure that complaints from neighbors regarding noise levels and parking of visitors’ cars would be addressed.

Some cities have not included DRP requirements. For example, the ordinance passed by the city of Madison mandates that homestays must be owner-occupied, but makes no mention of owner presence or DRPs. For larger cities, the increase in paperwork associated with designated responsible parties may be cost prohibitive and difficult to enforce. Other cities have not attempted to regulate or address the issue of homestays altogether. For example, Washington,

D.C. and Indianapolis have not passed ordinances regulating vacation rentals, thus exempting hosts in those cities from room tax or even occupying the room they are renting out. One official from Washington, D.C. hypothesized that “homesharing issues may get solved by private interactions between renters and their landlords,” questioning whether cities should be involved in the regulation of homestays.

How can cities ensure that parties are held accountable for safety measures?

As city officials have turned to regulating the sharing economy to ensure safety, different challenges have emerged for TNCs than have emerged for homestays. Generally, city officials concerned about ridesharing safety have focused on background checks for drivers, while the driving point for homesharing safety has revolved around building codes and inspections.

What approaches can cities take to enforce background checks for TNC drivers?

Some cities have chosen to verify the results of TNC drivers’ background checks after the companies conduct them. Dallas, for example, works with a software company to verify that these background checks meet the city’s standards. The city has faced technology and resource challenges as a result of prioritizing insurance and background checks. Only a handful of transportation regulation staff were tasked with processing the data, which led the city to eventually automate the process through software. However, a city official from Dallas mentioned that even with the software, the city is having difficulty processing background checks ahead of the deadline to register a TNC driver. Learning from their experience, cities should consider the administrative challenges they might encounter when putting stringent requirements in place.

Moreover, Dallas originally thought it could simply contract with a certification company that would verify that the providers used by TNCs meet the city’s background check requirements. As the city has

discovered, few companies exist to certify background checks, rather than providing the checks themselves. Dallas instead decided to require that TNCs use background check companies that are approved by the city; those companies will certify the TNCs’ results, and the city periodically audits the background checks.

Some cities, on the other hand, decide not to verify the background checks conducted by companies like Uber and Lyft. When asked, an official from Indianapolis explained that they conducted a pilot program for TNCs in the city where they would not regulate TNCs as taxis. During this pilot program, city officials asked Uber and Lyft, the two companies operating in the city at the time, how they conduct background checks. The companies explained they use third parties that check sex offender registries as well as alcohol and drug offense databases. The city decided not to independently verify the results of TNC drivers’ background checks, believing the companies approach was thorough enough and did not merit the use of additional city resources.

How can cities ensure that building codes are followed?

In many cities that have chosen to regulate homestays, adherence to building codes has emerged as a major safety concern. Cities generally want to protect the integrity of buildings, especially by regulating fire escapes, energy usage, and occupancy limitations, and officials in multiple cities expressed their desire to promote public safety through compliance with building codes. However, cities have approached this aspect of safety in diverse ways.

Some cities have incorporated inspections into their ordinances. For example, Madison passed a fairly restrictive ordinance that limits how often people can rent space, how many rentals must occur before the city can collect taxes, and how often hosts must rent out their space before inspections are required. After a certain number of rentals, the city requires inspections to ensure adherence to building codes.

Other cities with ordinances have opted not to incorporate inspections into their set of regulatory

tools. In San Luis Obispo, inspections were not included in the ordinance. While the city council noted that inspections are generally desirable to ensure compliance with building codes, a city official noted that smaller cities do not have the same resources to conduct inspections on a large scale, which informed the council's decision.

In other cities, officials have taken a more laissez-faire approach to regulating homestays. Cities such as Indianapolis and Philadelphia have not created ordinances regarding homestays, choosing instead to rely on reports from neighbors to resolve issues on a case-by-case basis. In Philadelphia, one official noted that very few complaints had been lodged against Airbnb, leading city government not to address homesharing companies through ordinances.

To what extent can sharing economy services increase safety in cities?

Some advocates for sharing economy services, particularly TNCs, argue that ridesharing can increase safety in cities by decreasing drunk driving, providing new data on accidents and driving patterns, and reducing thefts. Proponents of TNCs contend that ridesharing services can increase safety by providing easily-accessible transportation alternatives. For example, in the city of Austin, stringent crackdowns on TNC drivers were criticized by police officers who were told to stop TNC drivers providing safe rides home to intoxicated individuals, instead of arresting drunk drivers. This criticism resonated with public officials concerned with the efficient use of public resources. Since cabs are a cash business, people have also argued that new TNC technology that provides credit card payments will reduce thefts committed against taxi drivers. Systems tracking every ride could also help ensure all riders make it to their destination safely. Finally, additional data on accidents and driving patterns could assist city planners in developing safer transportation networks. To substantiate these claims, more data is needed to examine the frequency of drunk driving, thefts and injuries to drivers, and broader transportation patterns.



Section VII

PROCESS AND IMPLEMENTATION

Who is responsible for establishing ordinances?
How can a city engage the community and
key stakeholders? How can a city regulate
ordinances once they are passed?

In this section, the report examines community and stakeholder engagement throughout the process of drafting the ordinance, as well as the benefits and drawbacks to incorporating TNC ordinances into broader transportation legislation, the enforcement of new regulations and responsibility for enforcement, and the impact that state level regulations have on the city lawmaking process surrounding the sharing economy.

In addition to determining how to approach the social, economic and safety issues presented in this report, cities must also establish a process by which they make these decisions. How should cities solicit feedback from constituents? Which stakeholders should be present at the table? How can cities collect input from these parties? Are their benefits to drafting regional ordinances? After passing ordinances, how do cities carry out an implementation plan and delegate responsibilities?

Drafting the ordinance: How can city officials engage constituents and key stakeholders?

In many interviews, city officials reflected that traditional public engagement was a key ingredient in drafting regulatory ordinances. As the primary customers of sharing economy services, local constituents often have valuable feedback and many cities strategically sought to incorporate constituent responses to these services in the legislation process. Common policy issues that communities have been vocal on include safety, parking, neighborhood integrity and occupancy.

Another theme that emerged across interviews was stakeholder engagement. Most officials noted that city governments should consider the stakeholders they want at the table to discuss the regulation of sharing economy services. An obvious stakeholder in TNC discussions is the taxi industry. In some cities, the taxi industry is united and powerful, while in other cities, the taxi industry is composed of individual drivers who operate independently of overhead taxi companies. Other groups that

frequently arose in interviews as important and relevant to include in discussion are airports, disability advocates, the local police force, and local university students and professors. And of course, it is also critical to seek input from community residents that use these services, which cities like Seattle have proactively done through instruments like surveys and other community participation methods.

There are several characteristics of cities that influence the degree to which they can feasibly engage constituents and key stakeholders throughout the process of drafting ordinances. The extent to which constituents are vocal about sharing economy services can impact the approach city government takes to include their feedback. In Philadelphia, for example, there was little outcry on ridesharing options, therefore the Mayor did not seek feedback on regulating these services. Conversely, Dallas received upwards of 1,800 emails from local residents, 1,700 of which praised Uber and Lyft services. Already amenable to new ridesharing platforms, Dallas councilmembers used this overwhelming positive feedback to further push the agenda.

Additionally, there are fundamental differences between large and small cities' ability to involve constituents and stakeholders. While community engagement emerged as a best practice among large and small cities, logistically, it can be more difficult for larger cities to solicit and organize feedback from residents. It is more manageable for small cities to hold public forums, collect survey responses, and conduct educational workshops to involve locals in the ordinance drafting process.

Several cities created formal settings to engage locals in the discussion around regulating sharing economy services. For example, to supplement email feedback, Dallas held three public forum meetings at City Hall while they were drafting new legislation. According to one Dallas official, these meetings were very controlled; while the setting was an open forum, attendees were restricted to speaking for only three to four minutes. Constituents of Dallas used this opportunity to voice their approval of Uber and Lyft.



In Petaluma, a considerably smaller city, officials organized a hands-on community workshop to start a neighborhood dialogue around regulating homesharing. Homesharing hosts, guests and anyone who had filed a complaint about short-term rentals were invited to participate. The Department of Economic Development used social media and placed an advertisement in the local paper announcing the workshop. Sixty residents, including the local realtors association attended the workshop. A team of city officials, including planning staff and code compliance staff, moderated the workshop and kept it focused on how the city could address neighborhood concerns about short-term rentals. Ultimately, the city used this input to draft a policy that was manageable to implement. The workshop also provided a vehicle to encourage residents to obtain a vacation permit if they wanted to participate in homesharing.

Prior to the workshop, Petaluma city officials reached out to other cities in the area to identify common policy issues. They brought these issues, which included parking, neighborhood management, occupancy, and length of stay, to the workshop and engaged in small table discussions with residents. The workshop affirmed that most people fell in the middle of the spectrum in regards to how restrictive they believed homesharing regulations should be. Overall, most residents wanted the

city to be more restrictive with parking and less restrictive with noticing and occupying ordinances. The city sent a follow-up survey to solicit additional feedback after the workshop. Petaluma officials used the data they collected during the workshop and through the survey, assessed the feasibility of suggestions, and drafted an ordinance to present to the Planning Commission.

Other cities chose not to create formal settings for constituent feedback. For example, Indianapolis informally collects constituent responses to sharing economy services by reading comments in local articles and blogs about Uber and Lyft, in addition to its formal complaint line, the Mayor's Action Center. City officials keep an open ear to constituent voices, but have yet to receive anything but overwhelmingly positive feedback on the ridesharing services.

Stakeholder Engagement

One of the greatest challenges to drafting any sharing economy legislation is the extent to which city governments involve key stakeholders throughout the process. Stakeholders including taxi companies, individual taxi drivers, limousine companies, TNC companies and ADA advocates all have a vested interest in the outcome of regulatory policies. Many city officials commented on the value of understanding where these stakeholders are coming

from, particularly regarding the business models of various sharing economy services. While several officials were familiar with the services and have used them, one official decided to become a Lyft driver and provide rides to constituents. From this experience, he was able to gain a deeper knowledge of the way TNCs operate.

While finding compromise among these groups is an arduous process, a city official from Portland urged cities to engage with stakeholders as early as possible because there is no “one-size-fits-all” approach to regulation. An official from Austin echoed this sentiment, advising city officials to resist the natural reflex reaction to crush out new services that come in and don’t play by the rules. However, this can be challenging, as a city official from Denver noted, because in many cities, TNCs have started operating without formally discussing or negotiating regulatory terms with city government first.

This was the case in Austin. Uber arrived in Austin and approached transportation regulators around the time of the SXSW festival. Because Austin did not have a formal strategy to integrate Uber into their transportation system, Uber worked around regulatory codes and began operating illegally. The city cited TNC drivers and impounded vehicles in response. The taxicab industry grew very anxious over increasing competition with the new TNCs.

These tensions motivated a city official to convene a working group consisting of TNC and taxicab representatives. According to one city official, the working group was assembled with the hope of achieving informed consent, because achieving consensus would have been practically impossible. While the group did make progress, ultimately it was unable to reach an agreement around regulatory standards in a timely manner. Another city official decided to resolve the ongoing disputes by prioritizing the regulatory requirements the city absolutely had to meet to get a temporary policy in place. After devising provisions around safety and consumer protection, the city agreed any company that could show they were meeting the

requirements could apply for a permit. This was not a permanent regulatory structure, but the city recognized the need to have something temporary in place because TNCs were going to operate with or without legal authority to do so. When ordinances must be drafted quickly, oftentimes executive decisions made by city officials are more efficient and expedient than convening stakeholders in an open dialogue.

Others cities, including Dallas, found utility in assembling key stakeholders for regular meetings. In Dallas, a City Councilwoman led biweekly meetings for two months with representatives from the taxi and TNC industries. She noted that the frequency of meetings provided enough time for all parties to resolve conflicts between existing models and new services. Facilitated carefully by the Councilwoman, these meetings provided an outlet for each representative to outline what their company needed. The representative also noted that having a clear agenda for every meeting and only tackling one or two issues a session, for example insurance, was crucial. Through these series of meetings, Dallas was able to draft (and pass) a comprehensive ordinance with regulation parameters for both taxis and TNCs.

In addition to bringing TNCs and taxi companies to the table, cities also engaged other stakeholders to build consensus and receive input on sharing economy regulations. In Indianapolis, the Department of Enterprise Development reached out to the local police department, which was unsure how to regulate TNCs. Police are actively collaborating with the city on how best to manage these new services. In Washington, D.C. it was vital to engage the executive and legislative branches. During the second attempt to finalize TNC regulatory legislation, the Councilwoman chairing the transportation committee worked to build consensus among other district councilmembers. Cities including Austin, Seattle, and Dallas included regional airports in conversations about regulations.

Are there benefits to incorporating TNC ordinances into broader transportation legislation? Are their benefits to coordinating with regional legislation on TNC regulation?

Cities have several options when it comes to the scope of sharing economy ordinances. Because Uber and Lyft often begin operating in cities without regulations, many city officials are forced to react quickly, often with uncertainty, to draft legislation. Consequently, as sharing economy services evolve, cities must revise legislation. A Washington, D.C. official noted that this iterative process can be time-consuming and frustrating. Cities that tackle regulation in a piecemeal manner may find themselves continually rewriting legislation. Lastly, some cities have opted not to fully regulate or fully market-enforce new sharing economy services. There are lessons from this process that can help city leaders become more nimble in responding with new regulatory approaches.

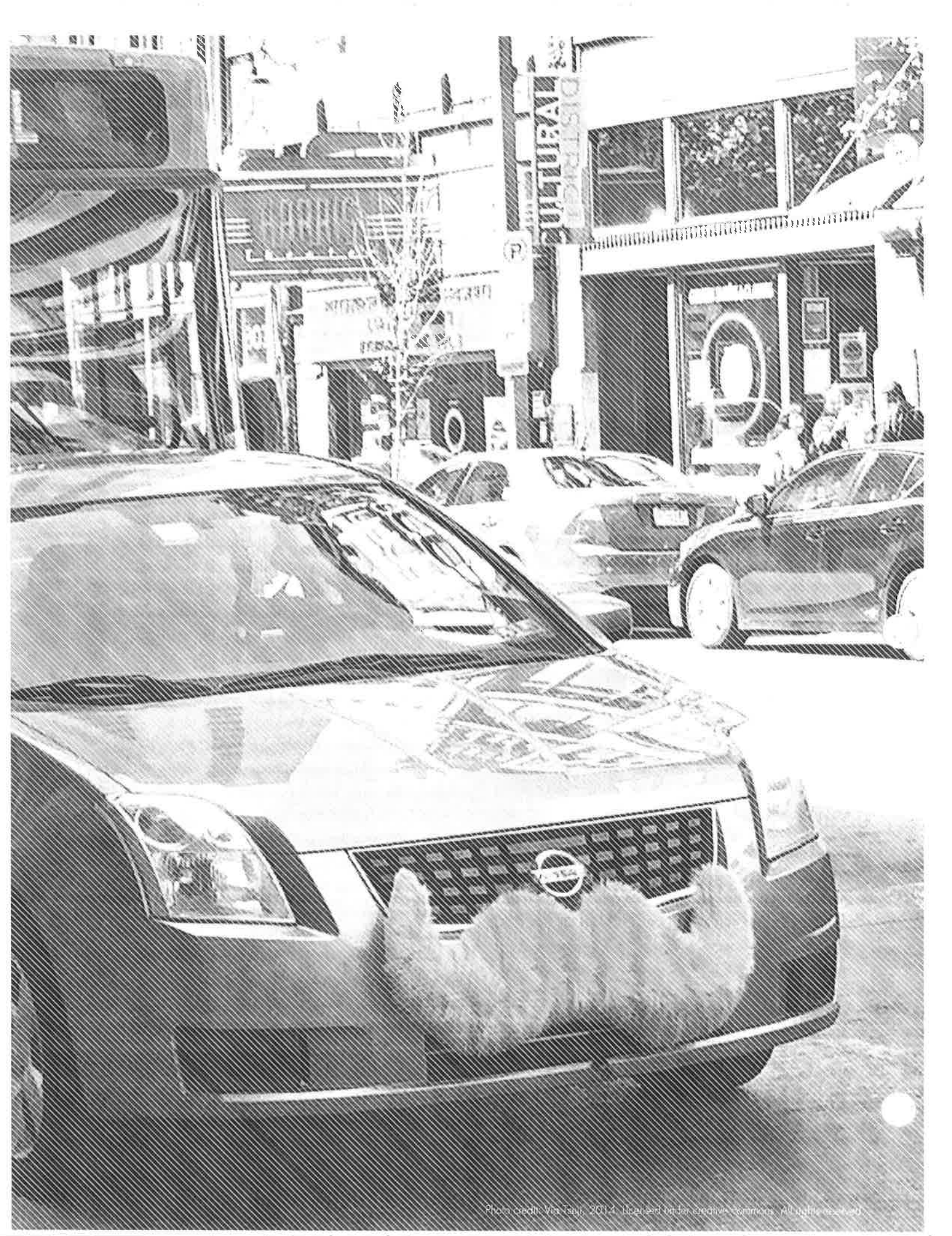
While many cities are drafting brand new regulations in response to new services like Uber and Lyft, some cities have found utility in incorporating ridesharing regulations into broader transportation ordinances. Due in part to the success of the working group, Dallas was able to draft an umbrella ordinance that outlined regulations for taxis, limousines and TNCs. Consolidating all regulations into a single piece of legislation was useful for Dallas.

Conversely, a representative from Washington, D.C. noted one of the lessons he learned was to separate TNC legislation from a larger transportation bill. In the District, the first attempt at TNC regulation was part of a larger taxi reform bill. The TNC measure included in the bill focused on the proposed price floors mentioned earlier in the report. The issue of the price floor became so controversial that it threatened the whole taxi reform bill - most of which had nothing to do with TNCs. In hindsight, the D.C. official noted, it would have been beneficial to isolate the ridesharing ordinance to avoid the threat of defeating the larger transportation bill. In

the second attempt at TNC regulation, Washington officials did indeed create separate legislation, this time around regulating UberX, Lyft and Sidecar. The bill passed in the fall of 2014.

As ridesharing becomes more popular and widespread, metropolitan areas may attempt to create regional approaches to regulation. There are potential benefits to a regional strategy, including a consistent and uniform approach to regulation and administration, and standardized requirements for drivers. However, coordination between neighboring cities can be challenging. In Texas, the North Central Texas Council of Governments proposed a regional TNC regulatory policy. However, coordination attempts between Dallas, Fort Worth and the Dallas/Fort Worth International Airport have been fruitless. One issue is timing; while Dallas has just finalized a regulation ordinance, Fort Worth is only beginning to draft theirs. Furthermore, the cities have fundamentally different views on insurance coverage for drivers, one of the biggest issues to tackle when drafting regulatory policies. The divergence on these issues has made a regional policy infeasible at this time.

From these interviews, it is evident that there are a variety of approaches to structure regulations. A representative from Philadelphia argued that regulations should be created on a sliding scale based on differences between providers, especially for Airbnb. She noted that regulations should be scaled according to how people operate and sell their services. For instance, regulation should look different for someone renting their apartment while they vacation a few times a year versus a developer who purchases property solely to list on Airbnb. This idea of a sliding regulation scale also applies to TNCs; should regulations be different for drivers who work a few hours a month versus drivers who work full time? As more data is collected on the degree to which providers are engaging in the sharing economy, cities may find utility in creating a sliding scale to regulate these different situations appropriately. An example of how this can be done



is seen in the city of Chicago, which addressed this in their ordinance by creating two separate categories, one for companies whose drivers on a fleet wide basis averaged fewer than 20 hours per week, and one for companies whose drivers exceeded that average.

Who's enforcing new regulations?

As more and more cities pass ordinances related to sharing economy services, many are beginning to encounter challenges implementing the regulations. Several city officials noted that the complex nature of sharing economy services makes regulation and enforcement a daunting task. For most cities, transportation and homesharing services comprise a relatively small portion of the budget, but take a significant amount of time to tackle. Many agencies are reluctant to get involved with implementing ordinances because they recognize the huge drain it would be on staff time and resources. This is particularly difficult for smaller cities with limited staff like San Luis Obispo.

Even large cities, like Dallas, encountered staffing difficulties when implementing regulations. Once the ridesharing ordinance passed, Dallas recognized they didn't have enough employees enforcing the regulations. The city decided to remove much of the paperwork associated with background checks to free up more staff to work on enforcement.

A city official from Washington, D.C. said he would like to see more cross-collaboration among agencies to make regulatory oversight more manageable. The reluctance of many city agencies to own enforcing regulation has prevented many cities from creating comprehensive and effective policies around regulation.

Ownership of sharing economy regulations within city government can be problematic, so some cities have chosen to outsource implementation activities to entities outside of city government. A major change in recent legislation in Seattle is that the city no longer conducts inspection of vehicles (taxis, for-hire-vehicles, and TNCs). Instead, the city now approves auto-repair mechanics to do inspections on the city's behalf.

How do state-level regulations impact ordinances and processes for cities?

Regulation is often not the sole responsibility of city officials. In many cases, state legislation plays an influential role in a city's ability to draft and implement local ordinances. Differences between state and local sharing economy ordinances became a recurring theme in interviews. City officials stressed that regulations passed at the state level were likely to be less stringent or less comprehensive than city ordinances. There appear to be two reasons for this:

1. State government is rarely equipped to implement, monitor and enforce extremely detailed regulations around sharing economy services. Ridesharing and homesharing fundamentally exist at the local level.
2. The state approaches regulations from a broader perspective, with the goal of establishing legality and basic parameters for operation. Those laws tend to give TNCs in particular more flexibility and less direct accountability with regard to background checks and commercial insurance for drivers.

One official we interviewed identified insurance requirements as a complicated decision at the state level, and noted his state might pick up the issue later this year. From a public safety standpoint, his city estimates that if the state decides to regulate TNCs, the state-mandated insurance minimum for TNC drivers would prove too lenient in terms of defining the division between personal and commercial insurance coverage. Since any state law will override local policies, this is a legitimate area of concern for cities. Philadelphia also faces a blurred line between city and state politics. The Philadelphia Parking Authority has worked aggressively to halt TNC operations by ticketing drivers and impounding cars. The Mayor of Philadelphia has no jurisdiction over the PPA because it is a state-chartered agency, and has not openly challenged PPA activity around ride-sharing. However, the Philadelphia City Council passed a resolution supporting ridesharing and urging statewide action to

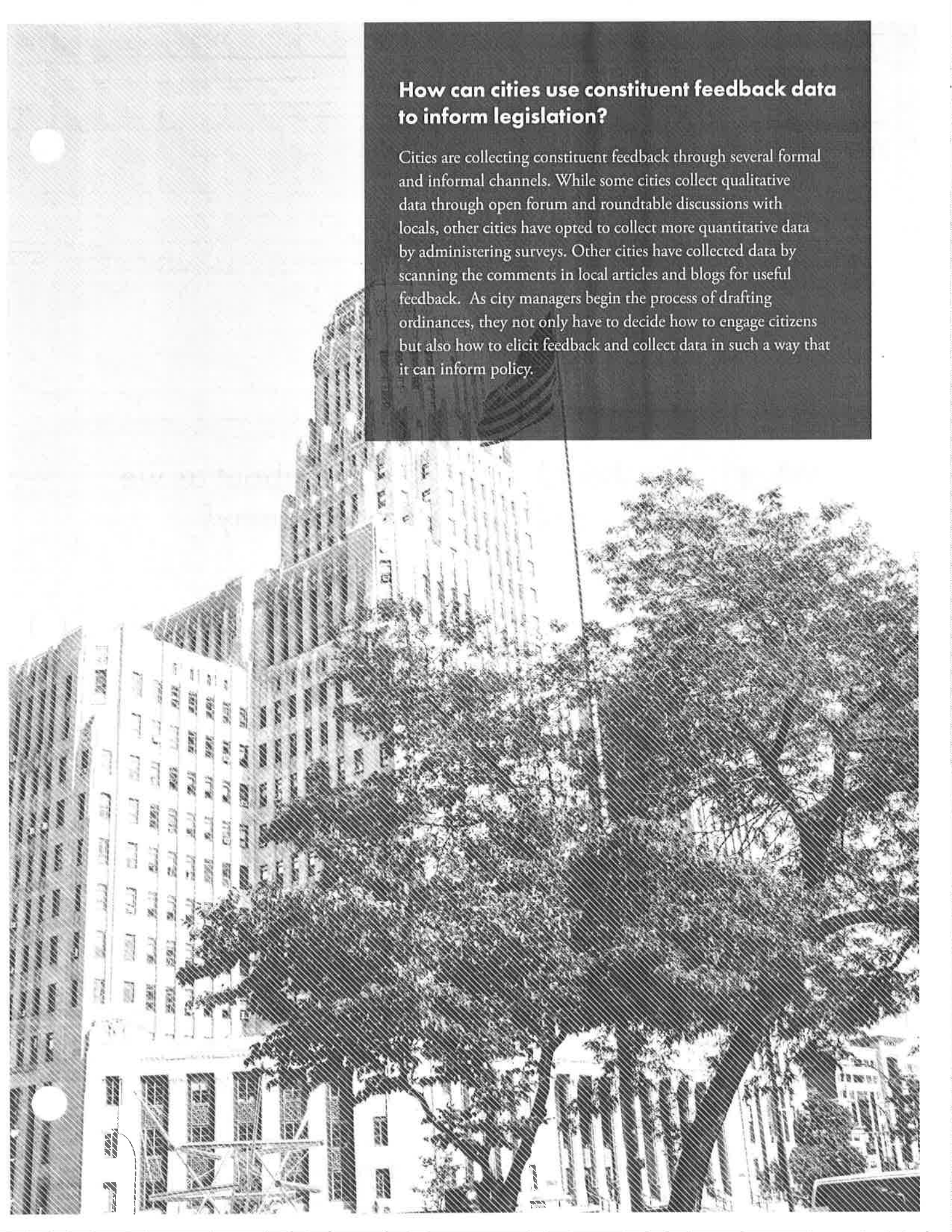
clear the path for TNCs in Philadelphia. Elsewhere in Pennsylvania, TNCs may now operate legally thanks to a two-year experimental license recently issued by the state Public Utilities Commission.

This experimental license represents the culmination of extensive lobbying efforts by both Uber and Lyft to establish a foothold in the state. Both companies have made policy advocacy a priority around the country; despite entering negotiations with many cities, from a business perspective they would prefer state-level regulations. The Seattle official alluded to this strategy as well. Currently, Washington state law allows municipalities to regulate licensing for taxis and other vehicles, while the state oversees limousines. TNCs find this municipality-based regulation frustrating because they are forced to operate under multiple sets of regulations, despite the physical proximity between their markets. As a result, TNC lobbyists are making a push to change Washington law and give the state jurisdiction over all vehicle licensing, which would provide uniformity across markets.

California was one of the first states to pass a comprehensive law regulating TNCs - a major political victory for Uber and Lyft - which eased the burden on city governments and helped resolve ongoing disputes between those companies, the taxi industry and cities. The official from San Luis Obispo touched upon this notion of market uniformity, but noted that cities are still responsible for issuing licenses. The inevitable interplay between state laws and city obligations is also a topic of discussion in Austin. Officials there believe that state-level regulation tends to be more industry-friendly. For example, if the state requires background checks, the TNC will likely be able to conduct those checks itself instead of being forced to have a third party complete them. With many cities strapped for extra staff, resources and money, it is unlikely that municipal personnel will be able to verify that those background checks were completed.

How can cities use constituent feedback data to inform legislation?

Cities are collecting constituent feedback through several formal and informal channels. While some cities collect qualitative data through open forum and roundtable discussions with locals, other cities have opted to collect more quantitative data by administering surveys. Other cities have collected data by scanning the comments in local articles and blogs for useful feedback. As city managers begin the process of drafting ordinances, they not only have to decide how to engage citizens but also how to elicit feedback and collect data in such a way that it can inform policy.



Section VIII

CONCLUSION

What issues should we be thinking about as we look to the future of the sharing economy?

Across our interviews we heard that there is no one-size-fits-all approach to regulating the sharing economy. Depending on community priorities, neighborhood compositions, available housing stock, tourism demands, existing transportation networks, major events and other issues, cities may choose to take different approaches. Nonetheless, several overarching themes did emerge from our research.

As city officials prepare to modify regulations or develop new ordinances or legislation to fit the sharing economy they must balance issues of innovation, economic development, tourism, equity, access, and safety. At the same time, they must be mindful of the processes they put in place to understand these new businesses, engage the right stakeholders, share ideas for new regulations, capture and analyze new data, and develop implementation strategies. This report revealed a set of key questions officials can ask themselves to guide these decisions. It also offered insights on processes that will lead to effective regulations.

Beyond that, our research highlighted how disruptive technologies and new business models will continue to present governments with important questions related to regulations. As we move into the future, how can cities become more adaptive, nimble and responsive? How can cities regulate in a more nuanced manner? How can cities establish lasting policies that will help manage the business models of the future?

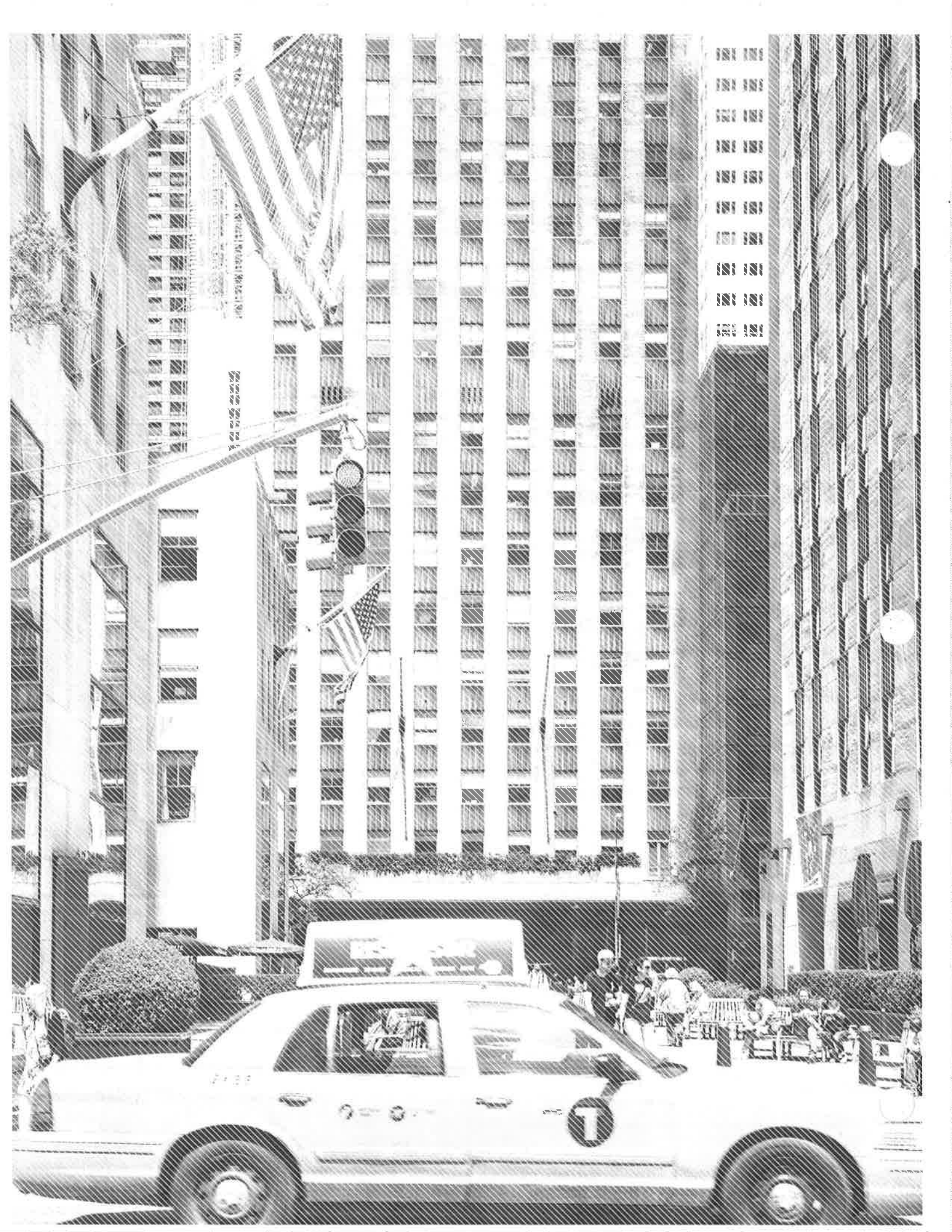
These dramatic changes also serve as an inspiration for public sector leaders and present exciting new opportunities for government transformations. Inspired by the sharing economy, how can governments capitalize on its assets and resources differently? How can cities share their buildings and spaces with the full community? Are there new opportunities to maximize the use of city fleets and other vehicles? How could cities share equipment, personnel and other resources across jurisdictions?

In many ways, this research has offered more questions than answers. However, our city leaders

across the country have proven that they are poised to answer tough questions and develop effective new strategies and approaches to navigating this rapidly changing landscape.

At the National League of Cities, we are continually working to help city leaders stay informed on pressing issues and the changes taking place in cities across the nation. This report is meant as a primer for cities seeking a better understanding of what is currently occurring within the sharing economy space.

The sharing economy will only continue to grow and change as cities serve as laboratories for these ever-changing technologies and business models. There is great promise with the rapid ascent of sharing economy services in our nation's cities, and the best thing that city policymakers can do is keep an open mind about how the new economy might be fruitful with the right regulatory framework in place - because sharing is here to stay.

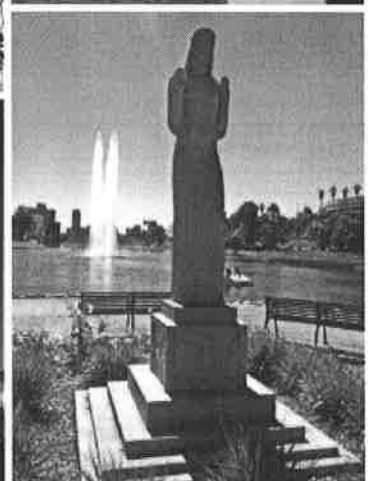


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A NEW ECONOMY FOR ALL

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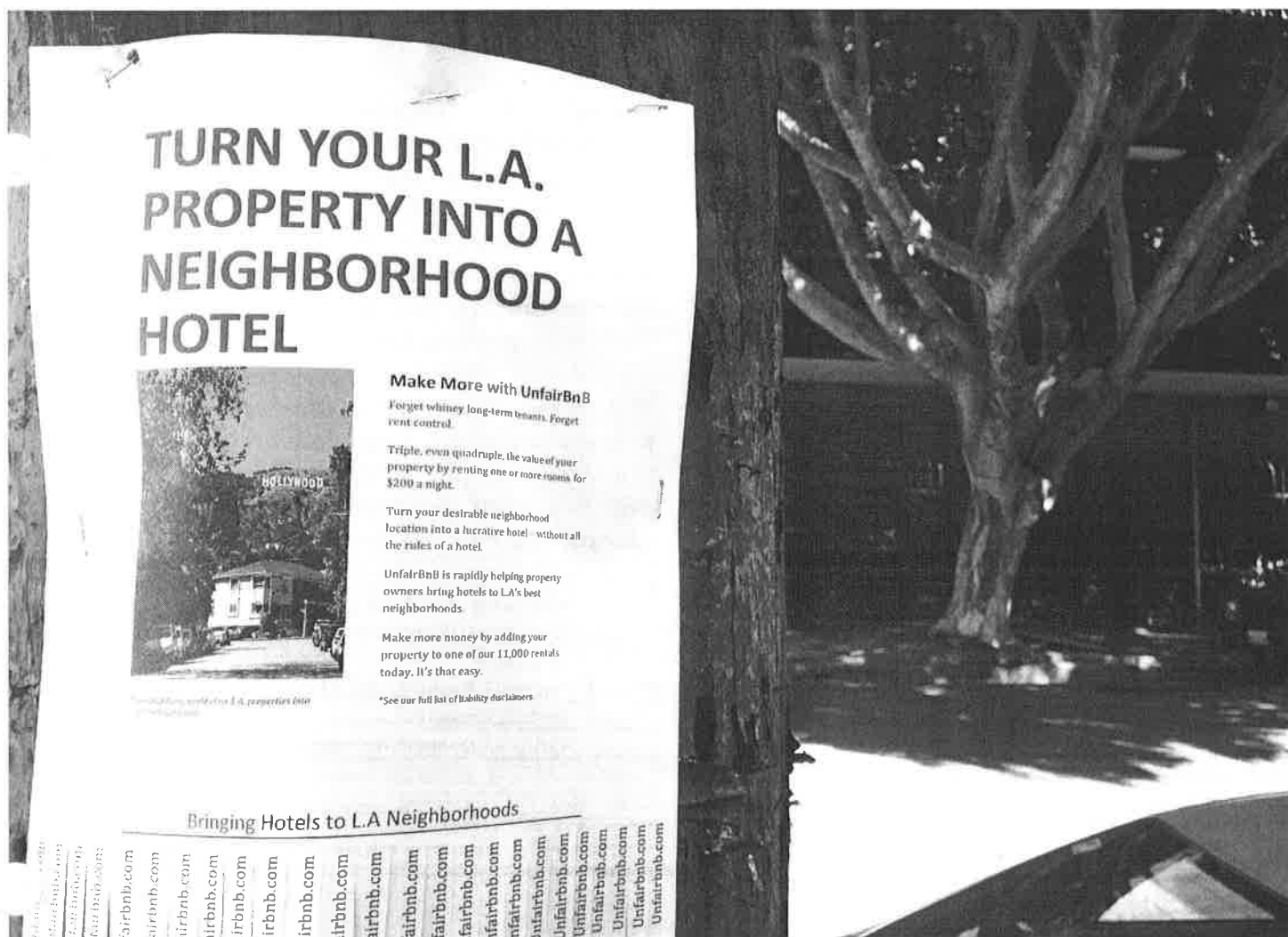
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Executive Summary

Sharing our homes has been commonplace for as long as there have been spare rooms and comfortable couches. Whether through word of mouth, ads in newspapers or flyers on community bulletin boards, renters and homeowners alike have always managed to rent out or share rooms in their living spaces. These transactions were decidedly analog, but they represented a genuine peer-to-peer marketplace. Websites like Craigslist eventually made connecting sellers to buyers far more common. Companies like HomeAway applied the same principle to the vacation home rental market, allowing owners of vacant homes to connect with vacationers. In all these cases, transactions were limited to the buyers and sellers.

If there were negative effects arising from the transaction, they were largely limited to the buyers and sellers.

AirBnB changes this basic formula. By incentivizing the large-scale conversion of residential units into tourist accommodations, AirBnB forces neighborhoods and cities to bear the costs of its business model. Residents must adapt to a tighter housing market. Increased tourist traffic alters neighborhood character while introducing new safety risks. Cities lose out on revenue that could have been invested in improving the basic quality of life for its residents. Jobs are lost and wages are lowered in the hospitality industry.



This report seeks to explore the history of AirBnB, understand how its public pronouncements deviate from observed facts, and identify the tangible and intangible effects that the company is having on our housing market, neighborhood cohesion and public revenues.

A key component of this report is its analysis of the AirBnB market in Los Angeles based on a snapshot of AirBnB listings on October 17, 2014. Through the application of freely available code, we have collected a comprehensive set of data that includes information on AirBnB hosts, prices, listing locations and listing types. These data provide a great deal of insight into the contours of the company's operations in and effects on Los Angeles.

First, AirBnB's impact on Los Angeles is far larger than previously understood. We identified 8,400 hosts and 11,401 AirBnB units listed for rent in Los Angeles.

Second these units are not, by and large, the "shared" space implied by terms like host or sharing economy. Instead, nearly 90 percent of AirBnB's Los Angeles revenues are generated by lessors with whole units and leasing companies who rent out two or more whole units.

Third, AirBnB has created a nexus between tourism and housing that hurts renters. The 7,316 units taken off the rental market by AirBnB is equivalent to seven years' of affordable housing construction in Los Angeles.

AirBnB density overlaps with high median rents and lower rental vacancy. The top nine AirBnB neighborhoods have a vacancy rate below the threshold the city uses to deny conversion of apartments to condominiums.

As a whole, Los Angeles has seen rental rates grow three times faster than San Francisco, while growth

is twice as fast in AirBnB's nine top neighborhoods as in the rest of the city. The UCLA Anderson School of Business considers L.A.'s high cost of housing a "significant drag on job creation."

In Venice, as many as 12.5 percent of all housing units have become AirBnB units, all without public approval. There are 360 AirBnB units per square mile in Venice and longtime residents who never intended to live next to hotels now find themselves dealing with noise and safety concerns that negatively impact their quality of life.

Over 80 percent of the taxes and economic activity AirBnB claims to generate likely would have come to Los Angeles anyway, resulting in taxes being paid, higher wages being earned and more money being spent by visitors.

In short, AirBnB has become a major player in Los Angeles and is having major impacts, often negative. But Los Angeles is a key market for AirBnB as well. AirBnB is moving toward an Initial Public Offering (IPO), and can only capture the billions of dollars it hopes to if it can address one fundamental fact: AirBnB rentals, in L.A. and elsewhere, are largely illegal.

This report argues that as the city begins the process of crafting a regulatory regime to address the company's proliferation into residential neighborhoods, any potential policy ought to be assessed by four key criteria:

1. Housing must be protected
2. Systematic approval requirements must be in place
3. AirBnB must share the burden of enforcement
4. Only true sharing should be allowed

Who is AirBnB?

AirBnB sells itself as a platform akin to a community bulletin board. However, unlike most community bulletin boards, the company takes a percentage out of every transaction, has centralized control over all listings, and maintains a global scope of operations. In other words, AirBnB is a hotel company. It may be deregulated and decentralized, embedded within countless apartment buildings, bungalow courts and leafy suburban streets, but the company's primary function is to make a profit accommodating guests.

According to the story AirBnB tells about its founding, CEO Brian Chesky was unemployed when he moved to San Francisco in 2007. A large design conference came to town and Chesky saw an opportunity to generate a bit of income by renting out an air mattress in his San Francisco loft to conference attendees who could not find an affordable hotel room. Chesky and his roommates accommodated three guests and provided them with breakfast. Thus, AirBed & Breakfast - now known as AirBnB - was born.¹

Early growth and Silicon Valley roots

AirBnB's early growth focused mainly on large events like the 2008 Democratic National Convention in Denver and South by Southwest in Austin. With hotels in these markets at full occupancy, AirBnB provided a listing service for individuals with surplus space in their homes or apartments to rent out to like-minded travelers. After successfully completing these proof of concept trials, Chesky and the other AirBnB cofounders were invited to participate in Y-Combinator, a Silicon Valley tech start-up incubator program that connects budding entrepreneurs with major venture capital investors.²

The company emerged as a favorite of Y-Combinator founder Paul Graham who worked to connect the AirBnB team to his contacts in the venture capital world. An email exchange published on Graham's personal website, with full knowledge and permission of all parties involved, shows that from a very early stage AirBnB sold itself as both a hotel competitor and as the foundation of a new



AirBnB's three co-founders, Nathan Blecharczyk (left), Brian Chesky (center) and Joe Gebbia (right) were added to *Forbes* list of billionaires in 2015.

kind of peer-to-peer marketplace—"the eBay of spaces" as Graham wrote to a potential funder.

The company touted its revenue stream as "counter-cyclical," arguing that when the economy declined, as it did while AirBnB pursued its initial rounds of financing in 2009, more users would be drawn to the site since they "had to pay the rent."³ In other words, people would want to rent out

Renting out residentially zoned units as accommodation for travelers runs counter to land use regulations and zoning codes.

their homes because rising housing costs made it harder to afford the rent or mortgage. As we will see, AirBnB returns to this claim time and time again to sell its service to residents, regulators and the public. As we shall also see, the claim is at once misleading and even ironic, since AirBnB itself may contribute to those rising costs.

Regulatory uncertainty threatens IPO

Since April 2014, AirBnB has raised nearly \$800 million from global investment firms including TPG Capital, T. Rowe Price and Dragoneer Investment Group. AirBnB has been valued at \$13 billion, placing the company in the upper echelons of the hospitality industry.⁴ At this valuation, AirBnB has a higher market value than both Hyatt (\$8.4 billion) and Wyndham (\$9.3 billion).⁵ According to media reports, the company has been responsible for booking 10 million guest nights since 2008, and its own estimates indicate the company may have booked more room nights in 2014 than

major chains like Hilton and Intercontinental. The company generates revenue by charging hosts a three percent commission on each booking and by charging travelers a commission of between six and 12 percent, thus generating a yield of anywhere between nine and 15 percent in commission for every booking.⁶

Market observers expect AirBnB's successive rounds of fundraising are a prelude to an Initial Public Offering (IPO). However, renting out residentially zoned units as accommodation for travelers runs counter to land use regulations and zoning codes.⁷ For example, a March 2014 memo distributed by Los Angeles' Deputy Planning Director Alan Bell states that short term rentals are prohibited in single-family and lower density multi-family residential zones. The memo notes that the status of short term rentals in higher density multi-family and commercial zones is "complex."⁸

Uncertainty around the legality of AirBnB's core business model is further compounded by the fact that the company has not collected the hotel-related taxes mandated by most jurisdictions. Municipalities have explored a range of regulatory options to address the proliferation of illegal hotels in residential neighborhoods. Consequently every municipality represents a proving ground for AirBnB. Each time a city normalizes the company's activities, AirBnB becomes a more stable, secure investment. Receiving legitimacy from major markets, like Los Angeles, is a critical precondition to moving into the IPO phase of the company's growth cycle.

Each time a city normalizes the company's activities, AirBnB becomes a more stable, secure investment.

AirBnB's Political Playbook

AirBnB has marshaled a sophisticated political operation any time the company has faced even symbolic regulatory action.⁹ This generally involves packing a room with dozens of hosts. Armed with compelling stories, these hosts detail the ways in which renting out their spare rooms has enriched their lives and saved them from economic ruin. The hosts seem motivated by a combination of financial self interest and a sincere belief that they compose a beleaguered community. This gives AirBnB a group of personal, heartfelt and therefore effective spokespeople that most corporations can only dream of. This is no accident, but rather the result of a sophisticated operation based on a well-articulated marketing philosophy laid out in the book *The Culting of Brands: How to Turn Customers into True Believers*.¹⁰

Culting's author is Doug Atkin, who also happens to be AirBnB's Global Head of Community.¹¹ The book is pitched as a way to "teach marketers how to align themselves with a specific segment of the population, how to attract and keep new members, how to establish a mythology about the company, and how to manage a workforce filled with true believers."¹² The central thesis is that companies like Apple ("*Think Different*") and Nike ("*Just do it!*") share many characteristics common to cults like the Unification Church or the Hare Krishna in that these companies form a strong emotional connection to their customers and these customers view themselves as a part of a broader community.



IT BELONG ANYWHERE.
See how Airbnb hosts create a sense of belonging around the world.

This picture, taken from AirBnB's website, highlights the company's core principle of creating a sense of "belonging" through its service.

As Atkin puts it in the conclusion of *Culting*:

We have reached a unique intersection in society that favors marketers. On one side, established institutions are becoming increasingly inadequate sources of meaning and community. On the other, there has been a growth of a very sophisticated kind of consumerism... Alongside alternative religions, brands are now serious contenders for belief and community... [A]s long as traditional institutions fail, and marketers remain sophisticated, then brands can become credible sources of community and meaning.¹³

The *Culting* philosophy is evident in much of AirBnB's marketing, from its founding myth about the air mattress to its use of hosts as spokespeople. To build up this base, AirBnB has hired political field operatives in addition to contracting with traditional PR firms. A simple LinkedIn search shows that AirBnB's preference has been for hiring staffers with experience managing political campaigns. A December 2014 job posting for an AirBnB "community organizer" position, for example, listed "[r]ecruiting, training, and managing advocates of home sharing" as the primary job responsibility and "community organizing in political campaign[s]" as the top desired qualification for the position. As is the case with most jobs on a political campaign, the job listing also notes that the community organizer "will be a temporary position."¹⁴

The AirBnB Ecosystem

AirBnB's success is based on a revenue-generating model marked by externalized labor and overhead costs and centralized, low-risk control over a proprietary marketplace. Exploring the key elements of this marketplace sheds light on how the AirBnB system functions and where the company's internal workings deviate from its public pronouncements.

Hosts and listing types

AirBnB's business model is composed of three elements: hosts, listings and guests. Understanding the variations among these categories is a necessary step to unraveling how AirBnB generates revenue. AirBnB lists three different types of units as follows:

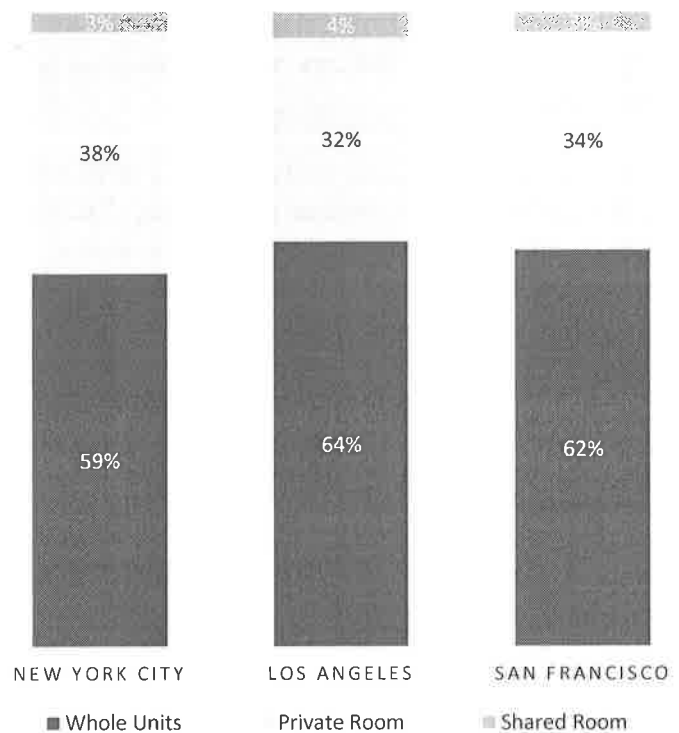
1. Whole units: An entire home, apartment or other accommodation. Host is not present in the unit during the guest's stay.
2. Private rooms: A space within a host's home or apartment with the expectation of some degree of privacy. Host is present in the unit during the guest's stay. In this listing type, the guest is essentially a short term housemate.
3. Shared room: Guest and host occupy the same living space, with a reduced expectation of privacy. This is the original "airbed" or couch surfing model described by the founder.

Renting out whole units exacerbates Los Angeles' existing shortfall of rental options while also creating safety hazards and quality of life concerns for Los Angeles neighborhoods.

Whole unit listings dominate key AirBnB markets

AirBnB's marketing and political outreach may center on private and shared room listings, but an examination of AirBnB listings in three key markets shows that the company's marketplace is dominated by whole unit listings.¹⁵

Figure 1
Percent of Listing Types by City



In all the major markets for which data are available, the number of whole unit listings outweighs the other types of listings by a nearly two-to-one margin, and shared rooms make up an almost negligible portion of the market.¹⁶ A breakdown by listing type appears in Figure 1.

Understanding the market mix of AirBnB's listings is a necessary step to gauging the effect the company has on residential neighborhoods. Renting out whole units exacerbates Los Angeles' existing shortfall of rental options while also creating safety hazards and quality of life concerns for Los Angeles neighborhoods.

The Los Angeles AirBnB Market

In a recent front page *Los Angeles Times* article exploring AirBnB's effects on neighborhoods, AirBnB reportedly claimed there were "roughly 4,500 hosts in L.A."¹⁷ The story did not indicate how many *units* AirBnB claimed to have in Los Angeles.

In fact, this significantly understates the size and scope of AirBnB's operations in the region. According to our data, as of October 17, 2014, there were more than 8,400 hosts in the Los Angeles area, nearly twice what AirBnB claimed. Even that number understates AirBnB's size. We found 11,401 AirBnB lodging units in the Los Angeles hospitality market.¹⁸

The categories AirBnB uses to describe its different types of lodgings are somewhat misleading. Terms like "host" and "sharing economy" imply a shared space and the presence of the person renting out the space in all three listing types. To better understand how the market actually works, we have developed a different system of categorization to more accurately reflect the size, type and scope of AirBnB's tourist-serving operations.

These categories are:

- Leasing Companies: Lessors listing two or more whole units;
- Single Lessors: Lessors listing a single whole unit; and
- On Site Hosts: Hosts listing private rooms or shared rooms.

Figure 2, based on the company's data, shows that while those who actually "share"—the on-site hosts—are in the majority, they generate just 11 percent of the company's Los Angeles revenue.¹⁹

single lessors and leasing companies combine to generate 89 percent of AirBnB's Los Angeles revenue. A full 35 percent of revenue is generated by the six percent of the market that meets our definition of "leasing companies."

On-site hosts listing shared rooms accounted for less than one quarter of one percent of AirBnB's Los Angeles revenue. In terms of revenue generation, the spaces which most closely approximate AirBnB's earliest days are almost completely eclipsed by the listings which most closely resemble traditional hotels.

Figure 2

Revenue Generation by Listing Agent Type



High intensity use indicates hotel conversion

Commercial entities—the combination of leasing companies and individual lessors—are responsible for the most intensively used AirBnB units in the city. Rather than representing “surplus capacity” in the housing market, listings with hundreds of reviews present the clearest evidence of the conversion of residential uses into hotels.

For example, the most reviewed listing in our dataset is a Venice Beach guest home with 326 reviews and a minimum stay of two nights.²⁰ In Appendix B we describe how we estimate occupancy based on this information.

These adjusted booking data show this Venice guest house was likely to have been booked for 1,231 days, or 3.4 years.²² The listing’s hosts have been AirBnB members since 2009, meaning this unit had an occupancy rate of 69 percent. The average occupancy rate for a limited service hotel is 67.8 percent, according to PKF Hospitality Research’s 2014 Trends in the Hotel Industry.²³



The most reviewed AirBnB listing in Los Angeles is this Venice Beach guest house.



This rent-controlled Venice apartment building has an AirBnB unit with a 93 percent occupancy rate.

The top 10 most highly reviewed AirBnB units had average occupancy rates of 66 percent, in line with industry rates. While not the most reviewed unit in our database one Venice studio, had an occupancy rate of 93 percent indicating this rent controlled unit is a near-constantly occupied hotel.²⁴

Hosts with multiple units may be professional management companies

As our category name suggests, “leasing companies” are not individuals. Instead, listing agencies have consolidated AirBnB listings under an assumed AirBnB host. A host going by the name “Ghc” is the most prolific host in our Los Angeles AirBnB database, with 78 whole units in a dense cluster spanning the border between Santa Monica and Venice. Ghc’s host page is pictured in Figure 3.²⁵ Ghc is, in fact, the AirBnB page for Globe Homes and Condos, a company that describes itself as a “full service vacation rental management company.”²⁶

Globe Homes' owner is Sebastian de Kleer, who co-founded the Los Angeles Short term Rental Alliance (LA-STRA) with Ari Eryorulmaz of AE Hospitality, another leasing company.²⁷ Given its co-founders, it is not surprising that LA-STRA is unambiguous about supporting the rights of "professionals in the short term vacation rental industry." LA-STRA's mission is to "to organize and unify the vacation and corporate rental community with the purpose of being able to influence new developments in laws and regulations regarding short term furnished rentals."²⁸ However, in a *New York Times*' piece profiling the proliferation of illegal hotels in New York City, de Kleer was far more succinct saying, "I need to be able to compete with the hotels[.]"²⁹

Before listing themselves as Ghc, de Kleer's company maintained its AirBnB presence under the name "Danielle and Lexi." The case of Danielle and Lexi is especially instructive in how complex the AirBnB

market in Los Angeles has become.³⁰ In spite of the fact that Danielle and Lexi received a "verified ID" badge on their profile page, we have no way of knowing if they had any role in the properties other than having their photo taken. All the listings featured on Danielle and Lexi's AirBnB host page were actually managed by Globe Homes and Condos. The Danielle and Lexi host page is pictured in Figure 4.

Ownership obscured

Globe Homes works with property owners to convert their properties into de facto hotels. Tracking down ownership information for these units is difficult as AirBnB only releases exact unit addresses once a booking has been confirmed. However, we were able to determine the exact address of one of the Globe-managed AirBnB properties. A search of public records showed the apartment building, located a few blocks off Abbot Kinney, is owned by Michael Tatum. Tatum also



Figure 3: The profile page for Globe Homes and Condos

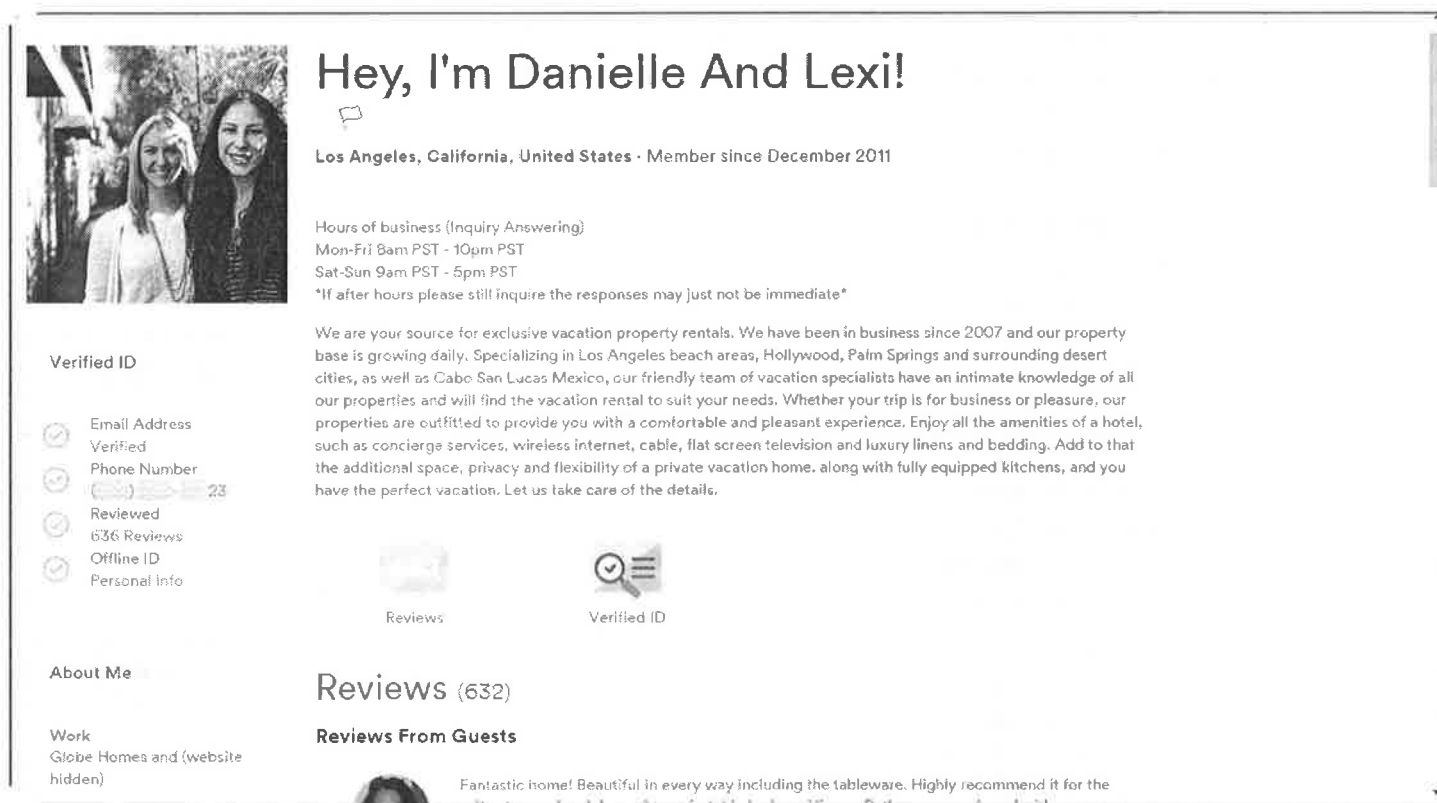


Figure 4: Danielle and Lexi were the previous avatars of Globe Homes and Condos on Airbnb.

owns 19 other properties throughout Los Angeles and Santa Monica. Many of these properties also happen to be apartment buildings, although to the best of our knowledge these buildings have not been converted into tourist accommodations. Tatum purchased the building on Santa Clara Street, a low-density residential zone, in 2009

Tatum has a contract with Globe Homes, and Globe Homes, under the guise of "Danielle and Lexi," listed the units within the apartment building through Airbnb. The building has at least five units, all of which are covered by the City of Los Angeles Rent Stabilization Ordinance (RSO, also called "rent control").³¹

Renting these units out to transient visitors allows Michael Tatum to sidestep the tenant protections, bars on eviction, and limited rent increases built into the RSO, while collecting a predictable income stream from tourists.

Michael Tatum is presumably well aware of the limitations the RSO places on Los Angeles landlords. His father, Thomas Tatum, donated \$125,000 in support of Proposition 98, a 2008 initiative which would have allowed rent control units to become permanently market rate after being vacated by a tenant.³² Thomas Tatum was also a major backer of Proposition 199 in 1996,

In spite of the fact that Danielle and Lexi received a "verified ID" badge on their profile page, we have no way of knowing if they had any role in the properties other than having their photo taken.

along with his business partner, Jeffrey Kaplan. Tatum and Kaplan, who owned several hundred mobile home units in California, would have benefited greatly from the passage of Prop. 199 which was intended to phase out rent control protections in mobile home parks.³³ By renting their units out on AirBnB, the Tatums have finally bypassed the RSO, while also providing an instructive example of the relationship between AirBnB and rising housing costs described later in this report.

Globe Homes recently retired “Danielle and Lexi” as their avatars. Nonetheless, the Danielle and Lexi case underscores the regulatory complexity that cities face when trying to enforce zoning and housing ordinances at AirBnB units. Danielle and Lexi were not ultimately responsible for following city laws. The actual owners of a property need never interact directly with the traveling public, and AirBnB provides no way to directly contact a property’s owner as opposed to its agents or lessees.

This case also undermines one of the cornerstones of AirBnB’s business model, namely that the company’s ratings and identity verification system are a viable means by which travelers can vet their prospective hosts. Danielle and Lexi had a badge prominently featured on their profile page indicating that they had a “verified ID,” but they were at least two degrees of separation away from the property’s actual ownership.

A recent Boston University study suggests that AirBnB’s ratings are nearly worthless. According to this study, nearly 95 percent of AirBnB properties boast an average user-generated rating of either 4.5 or 5 out of 5 stars. These inflated ratings are believed to be caused in part by having hosts and guests review each other. As the *New York Times* coverage of this study noted, AirBnB guests that seem too critical worry they “might get turned down by future hosts who worry [guests] will be too demanding.”³⁴

The company does not monitor lodgings in any way, and relies exclusively on these ratings to determine the quality of the accommodation on offer.³⁵

The bottom of the AirBnB economy

AirBnB has argued that its service should be legalized on the grounds that it can help ordinary people supplement their incomes or remain in their homes. The company has also taken the position that “outdated” zoning codes are ill-suited to regulate the new, tech-driven “sharing economy.”

In this economy, AirBnB is a clear winner. As of October 17, 2014 there were 11,401 listings in the L.A. region as defined by AirBnB. Based on an analysis of AirBnB listing data and data provided by the company to the New York Attorney General’s office, we estimate the total revenue generated by these units to be \$80 million in 2014 alone.³⁶

However, our data show the very individuals who are meant to benefit the most from AirBnB’s service— “ordinary citizens”— are more than three times as likely to generate no revenue than hosts with multiple listings. Analyzing listing data from AirBnB’s public facing site shows that 38 percent of hosts with a single listing of *any type* generated no income whatsoever. These hosts have essentially failed to generate any benefit from listing their homes on AirBnB.

Our data show that the very individuals who are meant to benefit the most from AirBnB’s service – “ordinary citizens” – are more than three times more likely to generate no revenue than hosts with multiple listings.

Hosts with access to more resources are able to extract the most benefit out of the AirBnB market. For hosts with two or more listings, the rate of failure to generate revenue is only 11 percent. Only two percent of hosts with five or more listings have failed to generate revenue.

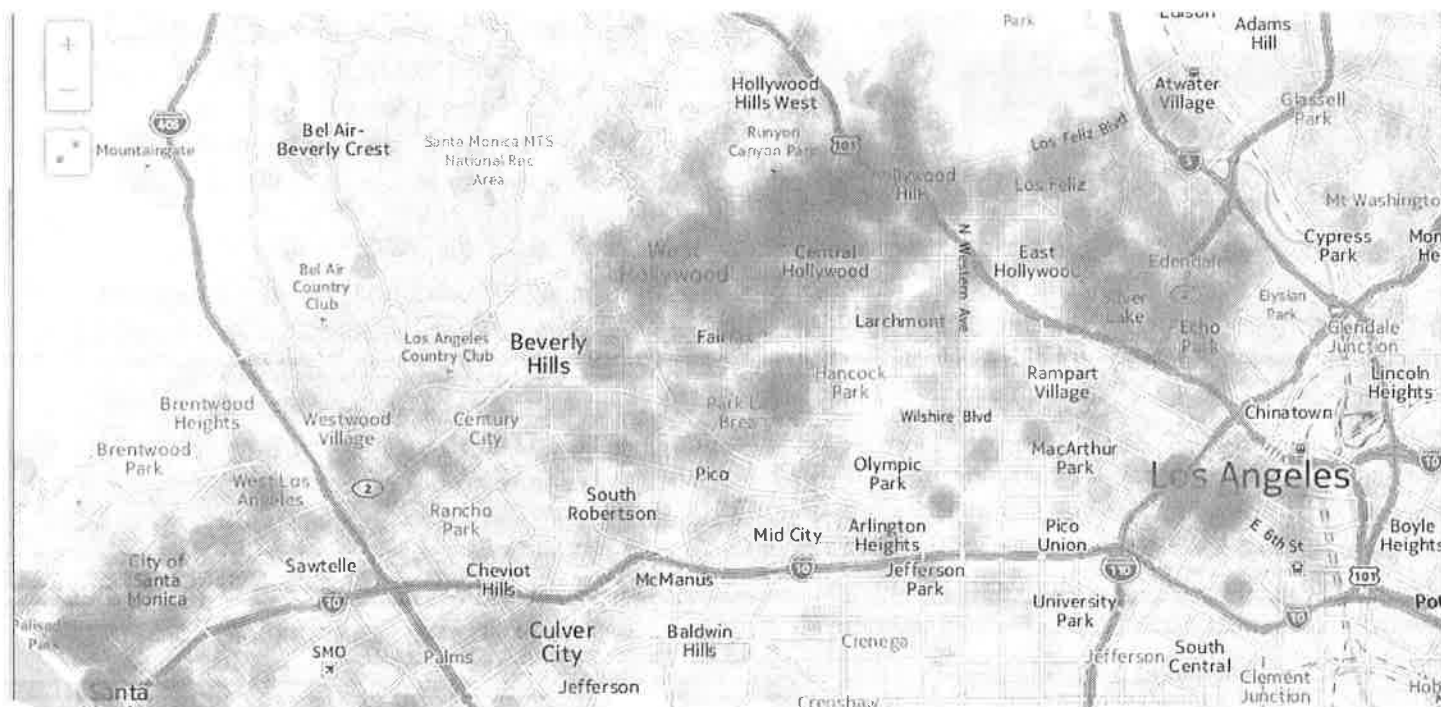
Rather than disrupting the existing economic order, AirBnB seems to have simply reinforced that hierarchy. Our data show that AirBnB units are most densely clustered in Los Angeles neighborhoods with rents that are, on average, 20 percent higher than citywide median rent.³⁷ These are affluent neighborhoods with attractive housing stock and easy access to amenities. These are the characteristics that make these places attractive to tourists and residents alike.³⁸

Research conducted by the Harvard Business School has also uncovered a racial component to who is most able to profit in the AirBnB marketplace.

Njamin Edelman and Michael Luca conducted a study which found that “non-black hosts received

12 percent more for a similar apartment with similar ratings and photos relative to black hosts.” The authors’ statistical analysis controlled for “all of the attributes that are readily observable to a potential tenant browsing listings on AirBnB.”

Edelman and Luca conclude AirBnB’s attempts to build trust into the market it created may have the unintended consequence of enabling its users to impose a “significant penalty” on black hosts trying to earn income through AirBnB. Encouraging hosts to post photos of themselves and links to social media profiles provides all the information needed to engage in discriminatory practices. AirBnB’s “verified ID” program may make it easier for prospective tenants to discriminate against black hosts.³⁹ The median percentage of African Americans in AirBnB’s key profit-generating neighborhoods is 4.6 percent, below the citywide average of 9.5 percent.⁴⁰



representation of the regions of Los Angeles in which AirBnB generated revenue. Revenue generation is clustered in coastal neighborhoods and in a corridor stretching from the Miracle Mile, through Hollywood and Silver Lake, to Downtown Los Angeles.

AirBnB's job costs

If AirBnB units were hotel rooms, the 11,401 units on the Los Angeles market would employ more than 7,400 hotel workers, earning an average wage of \$14.07 per hour.⁴¹ However, one way AirBnB keeps overhead low is to outsource traditional hospitality labor jobs, most notably housekeeping. Housekeeping is likely carried out by domestic workers employed by any number of home cleaning services.⁴² Domestic workers earn a median wage of \$10 per hour.⁴³

For every hour a domestic worker is hired to clean a tourist-serving accommodation, that worker is underpaid relative to a hotel worker by an average of \$4.07. If AirBnB lodging employed as many workers as hotel lodging, and assuming a standard 35 hour work week, paying AirBnB's cleaning workforce at the median domestic worker rate results in \$1.1 million less in wages than a similarly-sized hotel every week, or more than \$54 million every year.

AirBnB may actually cost jobs in hotels.

In fact, this likely understates the effect in several ways. Although data are not available, it is almost certain that AirBnB units do not provide as many jobs as hotels. Hotels employ workers in many job classifications AirBnB units do not—front desk, valet and parking, telephone operator, shuttle driver, security, and janitorial to name a few. These classifications account for two-thirds of the total hotel workforce. Moreover, unlike in a hotel, most AirBnB units are not cleaned every day, and some may be cleaned by the owner or host rather than by a cleaning company.

It is more likely that AirBnB units provide employment for, at most, 20 percent of the number of workers as a similarly-sized hotel. In other words, even a high estimate finds some 1,500 workers in place of the 7,400 that would be in a hotel with as many rooms as AirBnB. The wages paid to workers at AirBnB lodgings may be 13.2 percent of what they would be at a similarly sized hotel, resulting in a difference of \$3.1 million a week in wages.

Further, AirBnB may actually cost jobs in hotels. A 2014 Boston University School of Management study demonstrated that AirBnB's growth has had a statistically significant negative impact on hotel revenue.⁴⁴ This effect compounds the downward pressure that AirBnB places on wages, as hotels are less likely to give part-time employees any more hours or hire new staff.

For those workers in the AirBnB system, challenges extend beyond lower wages. Domestic workers face a notoriously exploitative and unregulated employment landscape. A study released by the University of Illinois Chicago and the National Domestic Workers Alliance found 61 percent of California domestic workers receive a wage insufficient to support a family and 54 percent of these workers reported working with toxic cleaning supplies. The report also found that "the lack of enforceable standards increases the likelihood of mistreatment."⁴⁵

Many housekeepers working for a hotel qualify for healthcare under the Affordable Care Act. Domestic workers are likely to be employed by smaller employers or engaged as independent contractors, reducing the likelihood that they will qualify for healthcare. Enforcing discrimination claims, overtime violations, and safety standards is challenging enough when all workers are directly employed by a single employer at a single worksite, but exponentially more so in the diffuse domestic work sector.⁴⁶

AirBnB and the Housing Market

Whether a market is digital or physical, basic economic principles of supply and demand are still operative. Traditionally, the rental housing market and the hospitality industry do not intersect. However, AirBnB has created a platform that allows landlords to pit tourist dollars against renter dollars. Landlords can potentially earn significantly more money by converting traditional rental stock into AirBnB units, as many appear to have done.

Los Angeles cannot afford to lose housing units. The Los Angeles Department of City Planning's Housing Needs Assessment shows that the city needs an additional 5,300 units of affordable housing each year to keep up with demand. However, Los Angeles developers have only averaged about 1,100 units of affordable housing per year since 2006. The 7,316 whole apartments currently listed on AirBnB represents nearly seven years' of affordable housing construction at the current rate of housing development.⁴⁷

AirBnB has created a platform that allows landlords to pit tourist dollars against renter dollars. Landlords can potentially earn significantly more money by converting traditional rental stock into AirBnB units, as many appear to have done.

Los Angeles has the highest percentage of renters of any city in the country. Although the average rental price in Los Angeles has increased over the last three years, median wages have stagnated.⁴⁸

These factors have combined to make the Los Angeles rental market the least affordable in the

The 7,316 whole apartments currently listed on AirBnB represents nearly seven years' of affordable housing construction at the current rate of housing development.

country.⁴⁹ According to research conducted by UCLA's Ziman Center for Real Estate, 77 percent of low income Angelenos devote more than half their income to rent.

AirBnB creates incentives to take units off the rental market

The Morrison Apartments in Venice Beach show this new incentive structure in action. Located one block from the Venice Boardwalk, the 21 units in the Morrison are covered by the City of Los Angeles Rent Stabilization Ordinance. Coldwell Banker Commercial (CBC) recently listed the Morrison for sale. In an Exclusive Offering Memorandum obtained by a member of the Venice Neighborhood Council, CBC presents the conversion of the Morrison to AirBnB units as the prudent financial choice for prospective owners.

CBC estimates that a landlord could expect about \$200,000 in net annual income by renting these rent-controlled units out on the open market. If the new landlord converts the building into AirBnB units, CBC estimates they could expect to bring in more than \$477,000 per year, assuming a 67 percent occupancy rate. The projected rate of return under the Morrison's residential configuration is estimated to be 5.6 percent, while the projected rate of return for configuring the Morrison as an AirBnB building is 13 percent.⁵⁰ The occupancy rate for nearby hotels is above 75 percent and these properties consistently sell out during the summer high season.⁵¹

AIRBNB, RISING RENT, AND THE HOUSING CRISIS IN LOS ANGELES

FINANCIAL OVERVIEW The Morrison Apartments - 14 Westminster Ave, Venice, CA 90291									
INVESTMENT SUMMARY									
Item	Unit	Value	Actual	Market	Value	Actual	Market	Value	Actual
Unit 1	1	\$12,000	\$12,000	\$12,000	Unit 2	1	\$12,000	\$12,000	\$12,000
Unit 3	1	\$12,000	\$12,000	\$12,000	Unit 4	1	\$12,000	\$12,000	\$12,000
Unit 5	1	\$12,000	\$12,000	\$12,000	Unit 6	1	\$12,000	\$12,000	\$12,000
Unit 7	1	\$12,000	\$12,000	\$12,000	Unit 8	1	\$12,000	\$12,000	\$12,000
Unit 9	1	\$12,000	\$12,000	\$12,000	Unit 10	1	\$12,000	\$12,000	\$12,000
Unit 11	1	\$12,000	\$12,000	\$12,000	Unit 12	1	\$12,000	\$12,000	\$12,000
Unit 13	1	\$12,000	\$12,000	\$12,000	Unit 14	1	\$12,000	\$12,000	\$12,000
Unit 15	1	\$12,000	\$12,000	\$12,000	Unit 16	1	\$12,000	\$12,000	\$12,000
Unit 17	1	\$12,000	\$12,000	\$12,000	Unit 18	1	\$12,000	\$12,000	\$12,000
Unit 19	1	\$12,000	\$12,000	\$12,000	Unit 20	1	\$12,000	\$12,000	\$12,000
Unit 21	1	\$12,000	\$12,000	\$12,000	Unit 22	1	\$12,000	\$12,000	\$12,000
Unit 23	1	\$12,000	\$12,000	\$12,000	Unit 24	1	\$12,000	\$12,000	\$12,000
Unit 25	1	\$12,000	\$12,000	\$12,000	Unit 26	1	\$12,000	\$12,000	\$12,000
Unit 27	1	\$12,000	\$12,000	\$12,000	Unit 28	1	\$12,000	\$12,000	\$12,000
Unit 29	1	\$12,000	\$12,000	\$12,000	Unit 30	1	\$12,000	\$12,000	\$12,000
Unit 31	1	\$12,000	\$12,000	\$12,000	Unit 32	1	\$12,000	\$12,000	\$12,000
Unit 33	1	\$12,000	\$12,000	\$12,000	Unit 34	1	\$12,000	\$12,000	\$12,000
Unit 35	1	\$12,000	\$12,000	\$12,000	Unit 36	1	\$12,000	\$12,000	\$12,000
Unit 37	1	\$12,000	\$12,000	\$12,000	Unit 38	1	\$12,000	\$12,000	\$12,000
Unit 39	1	\$12,000	\$12,000	\$12,000	Unit 40	1	\$12,000	\$12,000	\$12,000
Unit 41	1	\$12,000	\$12,000	\$12,000	Unit 42	1	\$12,000	\$12,000	\$12,000
Unit 43	1	\$12,000	\$12,000	\$12,000	Unit 44	1	\$12,000	\$12,000	\$12,000
Unit 45	1	\$12,000	\$12,000	\$12,000	Unit 46	1	\$12,000	\$12,000	\$12,000
Unit 47	1	\$12,000	\$12,000	\$12,000	Unit 48	1	\$12,000	\$12,000	\$12,000
Unit 49	1	\$12,000	\$12,000	\$12,000	Unit 50	1	\$12,000	\$12,000	\$12,000
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Unit 53	1	\$12,000	\$12,000	\$12,000	Unit 54	1	\$12,000	\$12,000	\$12,000
Unit 55	1	\$12,000	\$12,000	\$12,000	Unit 56	1	\$12,000	\$12,000	\$12,000
Unit 57	1	\$12,000	\$12,000	\$12,000	Unit 58	1	\$12,000	\$12,000	\$12,000
Unit 59	1	\$12,000	\$12,000	\$12,000	Unit 60	1	\$12,000	\$12,000	\$12,000
Unit 61	1	\$12,000	\$12,000	\$12,000	Unit 62	1	\$12,000	\$12,000	\$12,000
Unit 63	1	\$12,000	\$12,000	\$12,000	Unit 64	1	\$12,000	\$12,000	\$12,000
Unit 65	1	\$12,000	\$12,000	\$12,000	Unit 66	1	\$12,000	\$12,000	\$12,000
Unit 67	1	\$12,000	\$12,000	\$12,000	Unit 68	1	\$12,000	\$12,000	\$12,000
Unit 69	1	\$12,000	\$12,000	\$12,000	Unit 70	1	\$12,000	\$12,000	\$12,000
Unit 71	1	\$12,000	\$12,000	\$12,000	Unit 72	1	\$12,000	\$12,000	\$12,000
Unit 73	1	\$12,000	\$12,000	\$12,000	Unit 74	1	\$12,000	\$12,000	\$12,000
Unit 75	1	\$12,000	\$12,000	\$12,000	Unit 76	1	\$12,000	\$12,000	\$12,000
Unit 77	1	\$12,000	\$12,000	\$12,000	Unit 78	1	\$12,000	\$12,000	\$12,000
Unit 79	1	\$12,000	\$12,000	\$12,000	Unit 80	1	\$12,000	\$12,000	\$12,000
Unit 81	1	\$12,000	\$12,000	\$12,000	Unit 82	1	\$12,000	\$12,000	\$12,000
Unit 83	1	\$12,000	\$12,000	\$12,000	Unit 84	1	\$12,000	\$12,000	\$12,000
Unit 85	1	\$12,000	\$12,000	\$12,000	Unit 86	1	\$12,000	\$12,000	\$12,000
Unit 87	1	\$12,000	\$12,000	\$12,000	Unit 88	1	\$12,000	\$12,000	\$12,000
Unit 89	1	\$12,000	\$12,000	\$12,000	Unit 90	1	\$12,000	\$12,000	\$12,000
Unit 91	1	\$12,000	\$12,000	\$12,000	Unit 92	1	\$12,000	\$12,000	\$12,000
Unit 93	1	\$12,000	\$12,000	\$12,000	Unit 94	1	\$12,000	\$12,000	\$12,000
Unit 95	1	\$12,000	\$12,000	\$12,000	Unit 96	1	\$12,000	\$12,000	\$12,000
Unit 97	1	\$12,000	\$12,000	\$12,000	Unit 98	1	\$12,000	\$12,000	\$12,000
Unit 99	1	\$12,000	\$12,000	\$12,000	Unit 100	1	\$12,000	\$12,000	\$12,000

THE MORRISON APARTMENTS

14 WESTMINSTER AVENUE, VENICE, CA 90291

21 UNITS - OFFERED AT \$6,000,000

ERIC SACKLER
Director
T: 310-475-4795
Eric.Sackler@cbwcl.com
11601 San Vicente Blvd, 10th Fl.
Los Angeles
CA 90049-1577

COLDWELL BANKER COMMERCIAL

AIRBNB/VRBO PRO FORMA FINANCIAL OVERVIEW The Morrison Apartments - 14 Westminster Ave, Venice, CA 90291									
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Unit 41	1	\$12,000	\$12,000	\$12,000	Unit 42	1	\$12,000	\$12,000	\$12,000
Unit 43	1	\$12,000	\$12,000	\$12,000	Unit 44	1	\$12,000	\$12,000	\$12,000
Unit 45	1	\$12,000	\$12,000	\$12,000	Unit 46	1	\$12,000	\$12,000	\$12,000
Unit 47	1	\$12,000	\$12,000	\$12,000	Unit 48	1	\$12,000	\$12,000	\$12,000
Unit 49	1	\$12,000	\$12,000	\$12,000	Unit 50	1	\$12,000	\$12,000	\$12,000
Unit 51	1	\$12,000	\$12,000	\$12,000	Unit 52	1	\$12,000	\$12,000	\$12,000
Unit 53	1	\$12,000	\$12,000	\$12,000	Unit 54	1	\$12,000	\$12,000	\$12,000
Unit 55	1	\$12,000	\$12,000	\$12,000	Unit 56	1	\$12,000	\$12,000	\$12,000
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Unit 61	1	\$12,000	\$12,000	\$12,000	Unit 62	1	\$12,000	\$12,000	\$12,000
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Unit 65	1	\$12,000	\$12,000	\$12,000	Unit 66	1	\$12,000	\$12,000	\$12,000
Unit 67	1	\$12,000	\$12,000	\$12,000	Unit 68	1	\$12,000	\$12,000	\$12,000
Unit 69	1	\$12,000	\$12,000	\$12,000	Unit 70	1	\$12,000	\$12,000	\$12,000
Unit 71	1	\$12,000	\$12,000	\$12,000	Unit 72	1	\$12,000	\$12,000	\$12,000
Unit 73	1	\$12,000	\$12,000	\$12,000	Unit 74	1	\$12,000	\$12,000	\$12,000
Unit 75	1	\$12,000	\$12,000	\$12,000	Unit 76	1	\$12,000	\$12,000	\$12,000
Unit 77	1	\$12,000	\$12,000	\$12,000	Unit 78	1	\$12,000	\$12,000	\$12,000
Unit 79	1	\$12,000	\$12,000	\$12,000	Unit 80	1	\$12,000	\$12,000	\$12,000
Unit 81	1	\$12,000	\$12,000	\$12,000	Unit 82	1	\$12,000	\$12,000	\$12,000
Unit 83	1	\$12,000	\$12,000	\$12,000	Unit 84	1	\$12,000	\$12,000	\$12,000
Unit 85	1	\$12,000	\$12,000	\$12,000	Unit 86	1	\$12,000	\$12,000	\$12,000
Unit 87	1	\$12,000	\$12,000	\$12,000	Unit 88	1	\$12,000	\$12,000	\$12,000
Unit 89	1	\$12,000	\$12,000	\$12,000	Unit 90	1	\$12,000	\$12,000	\$12,000
Unit 91	1	\$12,000	\$12,000	\$12,000	Unit 92	1	\$12,000	\$12,000	\$12,000
Unit 93	1	\$12,000	\$12,000	\$12,000	Unit 94	1	\$12,000	\$12,000	\$12,000
Unit 95	1	\$12,000	\$12,000	\$12,000	Unit 96	1	\$12,000	\$12,000	\$12,000
Unit 97	1	\$12,000	\$12,000	\$12,000	Unit 98	1	\$12,000	\$12,000	\$12,000
Unit 99	1	\$12,000	\$12,000	\$12,000	Unit 100	1	\$12,000	\$12,000	\$12,000

Prepared by Coldwell Banker, this financial overview compares the rate of return for a traditional rental listing and conversion to an illegal hotel.

It is reasonable to assume that landlords and property owners across the city are making similar cost-benefit analyses with respect to their housing stock. One enterprising AirBnB impresario, Jon Wheatley, even posted a step-by-step guide for buying apartments for the purpose of running a remotely-managed AirBnB listing.⁵² While Coldwell Banker does encourage prospective buyers to "check with the city" before converting a building into AirBnB stock, the challenges inherent to enforcing the zoning code on more than 11,000 AirBnB units has allowed these sorts of bootleg boutiques to proliferate unchecked throughout Los Angeles neighborhoods.⁵³

This new incentive structure has very real consequences for Los Angeles renters. The Waldorf is an historic apartment building in the heart of Venice. As the building's owner has begun converting the Waldorf into a de facto hotel, long-term residents have felt increasingly unwelcome in their homes. As their friends and neighbors

have moved out, their building's owner has listed newly vacant apartments as short-term tourist accommodations rather than bringing in new long-term tenants. Residents also believe their landlord is no longer performing basic maintenance on their apartment because they are not as profitable as the tourist-serving units.

OCTOBER 28TH

I BOUGHT AN APARTMENT TO RENT OUT ON AIRBNB

In 2012 I bought an apartment specifically to rent out on airbnb. I've been managing it remotely for the past year. This post includes everything I learned as well as some revenue numbers

The how-to guide posted by Jon Wheatley detailing how to purchase a rental unit and operate it as an AirBnB unit.

Table 1

AirBnB's Top Grossing Neighborhoods in the City of Los Angeles

Neighborhood	Percentage of total AirBnB Listings	Number of AirBnB Listings	Percentage of Revenue	Residential Vacancy Rate
Venice	12%	1,137	23%	4%
Downtown	3%	270	14%	4%
Miracle Mile	9%	848	9%	3%
Hollywood	11%	980	7%	3.5%
Hollywood Hills	5%	452	6%	3.5%
Echo Park	3%	325	5%	3.5%
Silver Lake	4%	361	5%	3.5%
Mar Vista	2%	191	2%	2.6%
Los Feliz	2%	196	2%	3.5%
Total	51%	4,760	73%	Avg: 3.5%

Beyond the nuisance this has caused, Waldorf residents miss the sense of community they once shared with their neighbors. They report being awakened by regular cleaning crew visits and not recognizing the people they pass in the hallways when they get home from work.

Even though a portion of their building is already being used as hotel, Waldorf residents would likely be swiftly evicted if they rented out their apartments on AirBnB. In one case, a Venice landlord brought suit against one of his tenants who was renting out her rent-controlled Venice apartment at a nightly rate equivalent to about \$3,000 per month, while paying a rent of just \$1,000 per month.⁵⁴ This landlord was presumably aware that his tenant was paying a monthly rent well below the neighborhood's median rent.⁵⁵ AirBnB is plainly illegal in low density residential areas, and converting a rental apartment into a business is against the terms of most residential leases. Consequently, this landlord had unambiguous legal grounds for an eviction. He is now able to list this unit at the market rate, nearly tripling the rent he earns every month in the process.

High AirBnB density overlaps with higher rents and lower rental vacancy

AirBnB has units listed throughout Los Angeles, but just nine of the City's 95 neighborhoods are responsible for generating 73 percent of the company's revenue. These neighborhoods are ranked in Table 1 in order of the share of total revenue.

The apartment listing service *Lovely* releases a quarterly report of the Los Angeles rental market charting the growth in median rent. The Q3 2014 report, released December 2014, highlights some dynamics shaping the Los Angeles rental market. The report's key finding is that rents in Los Angeles have increased 10.4 percent between Q1 2013 and Q3 2014 with a median rent of \$1,865 across all unit types and sub-markets. This represents a growth rate more than three times that of San Francisco.⁵⁶

The rapid growth in rents has a cumulative effect on the regional economy. The UCLA Anderson School of Business March 2014 Human Capital Report indicated the high cost of housing in Los Angeles has created a statistically significant drag on job creation in the region.⁵⁷

AirBnB market density coincides with neighborhoods that have rents well above the citywide average. These neighborhoods boast an average rent 20 percent higher than the citywide average.⁵⁸

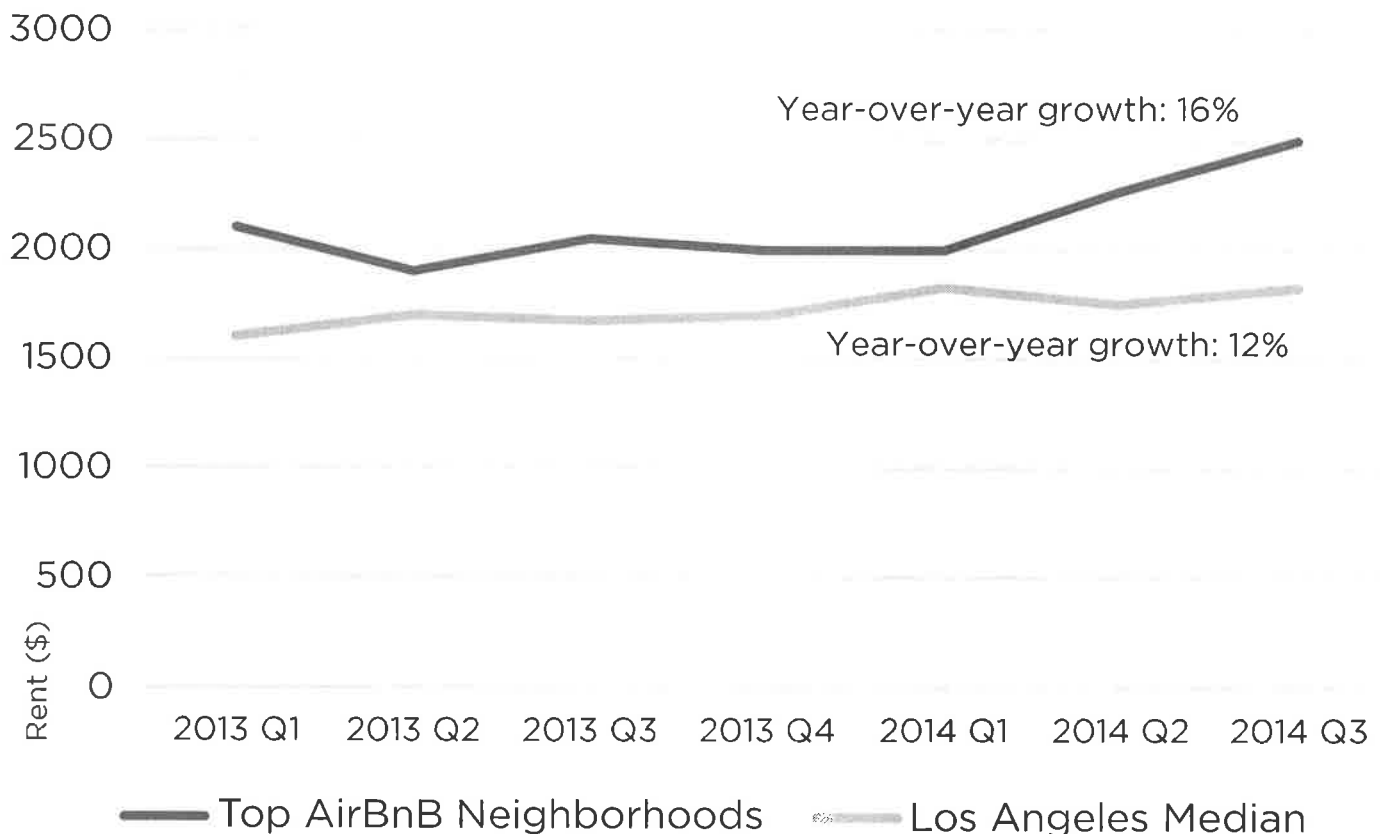
Rental prices in these neighborhoods have increased substantially in recent years. Real estate listing company Zillow creates an index of Los Angeles neighborhood rents going back to 2011. According to Zillow's data, these neighborhoods have all had double digit increases in rent over the last three and a half years; Hollywood's rent has climbed by 20 percent, while rent in Echo Park has increased by 31 percent. Mar Vista, a residential West Los Angeles neighborhood adjacent to both Venice and Santa Monica, has had a 41 percent

increase in rent since 2011.⁵⁹ As shown in Figure 5, since the beginning of 2013 rents in AirBnB's top neighborhoods have climbed 16 percent, as compared to a 12 percent growth in the citywide median rent over the same time period.

Rental pricing is based on numerous economic factors and market forces, and we do not know the exact relationship between AirBnB density and median rents. It is telling that the average vacancy rate for AirBnB's top nine neighborhoods stands at 3.5 percent. The City of Los Angeles places special significance on neighborhoods with low vacancy rates. In 2006, at the height of a boom in the conversion of rent-controlled units into condominiums, the Los Angeles City Council passed an ordinance allowing City agencies to deny

Figure 5

Comparison in Median Rent Between AirBnB Top Neighborhoods and Citywide Median Rent



Condo conversions in neighborhoods with vacancy rates below five percent.⁶⁰ Removing rental units from these markets by the thousands, as AirBnB has facilitated, appears to have contributed to declining vacancy rates, and consequent rising rents.

Examining AirBnB listings turns up examples like the case of 1010 Wilshire, a high end apartment building with 227 units in Downtown Los Angeles. AirBnB lists Alexandra as the “host,” though as with Danielle and Lexi, we have no way of knowing if she runs the building or is merely an attractive image in a photograph. Either way, 1010 Wilshire’s management has listed 20 percent of its units as tourist accommodations on AirBnB rather than housing for locals.

When the rental market does not work in 1010 Wilshire’s management’s favor, they can participate in the tourist market instead. This distorts the rental market by limiting rental supply. In doing this, 1010 Wilshire’s management is following the path of

Removing rental units from these markets by the thousands appears to have contributed to declining vacancy rates, and consequent rising rents.

least resistance to the highest rent possible. AirBnB has provided the tools and incentive structure that make this decision not only profitable, but also reasonable.



Hey, I'm Alexandra!

Los Angeles, California, United States • Member since June 2015

I have selected and view the best of everything the city has to offer. I have a variety of studios, 1 bedroom, 2 bedrooms, 3 bedrooms, and 4 bedrooms. I also have a 1010 Wilshire in Downtown Los Angeles. I work in the management office and am always ready to help you. You can count on our management team to deliver the best to you.

Verified ID

Reviews



Email Address
Phone Number
Facebook
Twitter
LinkedIn
Instagram
Pinterest

Reviews (26)

Reviews From Guests



This place was great and Alexandra was so easy to work with. The building had awesome amenities especially in the whole rooftop area. Worth checking out if you're staying in the downtown LA area.



This was a great stay! This room was just as expected to be in the building was great. I was in luck with one of the best and the rooftop deck was wonderful. I only wish we had a bigger room.



Alex made all the arrangements for this awesome luxury apartment extremely easy. It was such a nice stay. I had to say. Because of this experience I will be staying at Alexandra's 1010 Wilshire AirBnB and I will choose AirBnB over hotels from now on.



Host page for Alexandra, 1010 Wilshire’s AirBnB leasing agent.

Exterior shot of 1010 Wilshire from the leasing company’s home page.

AirBnB in Los Angeles Neighborhoods

When municipalities implement zoning codes they have a basic purpose, namely the promotion of the health, safety, and general welfare of the community. Zoning codes fulfill this purpose by maintaining a separation between major land use categories (residential, agricultural, industrial, commercial) and by allowing only specified types of use in each major category. Most municipal zoning codes generally do not, for example, allow for the construction of heavy commercial uses in the midst of a single-family residential community.⁶¹

The Los Angeles Municipal Code treats residential zones with a great deal of deference, particularly where new commercial developments are concerned. If a new project is proposed that requires a variance from established zoning for an area, neighbors within a 500 foot radius must be notified, and an Area Planning Commission takes up the issue in a public hearing.⁶²

In AirBnB's Venice stronghold there are 1,137 AirBnB units. According to our estimates this is about 12.5 percent of all housing units in the community and an average of 360 AirBnB listings per square mile.⁶³ In some parts of Venice whole blocks have been given over to illegal hotel operations.⁶⁴ Public hearings and approval were not held for any of these conversions. By contrast, a local developer has sought to build the Abbot Kinney Hotel, an 82-room property, for more than three years, working with the Planning Department, community groups and numerous official and unofficial public forums. Approvals have not been granted as of this writing.

One reason for the long process for the Abbot Kinney hotel is concerns about neighborhood character and traffic. As the number of tourists in an area increases relative to the number of permanent

residents, it stands to reason that objective and subjective measures of neighborhood cohesion would decrease. A 2012 Urban Institute study pointed to research around residential instability. According to this study, "high residential instability in a neighborhood can result in reduced social cohesion and disrupt institutions which, in turn, can make a neighborhood more susceptible to crime."⁶⁵

For many long-time Venice residents, this academic verification was unnecessary. They have seen first hand what it is like to have a neighborhood converted into a hotel overnight. For one resident, it has meant watching an 80-year-old neighbor get sent to the hospital over a confrontation with loud tourists on his block. He notes that there are "different people every week... hanging out smoking on the sidewalks." He feels his community has changed for the worse, a sentiment echoed by another Venice resident forced to leave after 27 years when the house he was living in was sold. He says, "I'm not some romanticist that believes everything has to stay the same, but AirBnB has turned our neighborhood into a nightmare...We live on a 'walk street'...where we knew our neighbors...I don't know the people here anymore."

Numerous tourists moving through a neighborhood can also exacerbate parking deficiencies and worsen overall quality of life for residents. Scott Plante, a past member of the Silver Lake Neighborhood Council, has received more than 30 complaints over the past year from neighbors. These complaints include unfamiliar cars blocking driveways, late night parties on formerly quiet streets, and concerns about child safety in an environment with fewer familiar eyes on the street. As Plante noted in a recent *Los Angeles Times* story detailing the difficulties Silver Lake has had with AirBnB units, "It's supposed to be a spare room — not corporate interests taking over our neighborhood and turning everything into a virtual hotel."⁶⁶

In Venice there are an average of 360 AirBnB listings per square mile.

Who Can You Trust?

Public health and safety in hotels

Hotels are subject to numerous health, safety, and insurance requirements. The city has seen fit to regulate hotels differently than residential properties because they are different in fundamental ways. AirBnB allows hosts to utilize their spaces like hotels without being subject to any of the same regulatory checks to which actual hotels have adapted over the years.

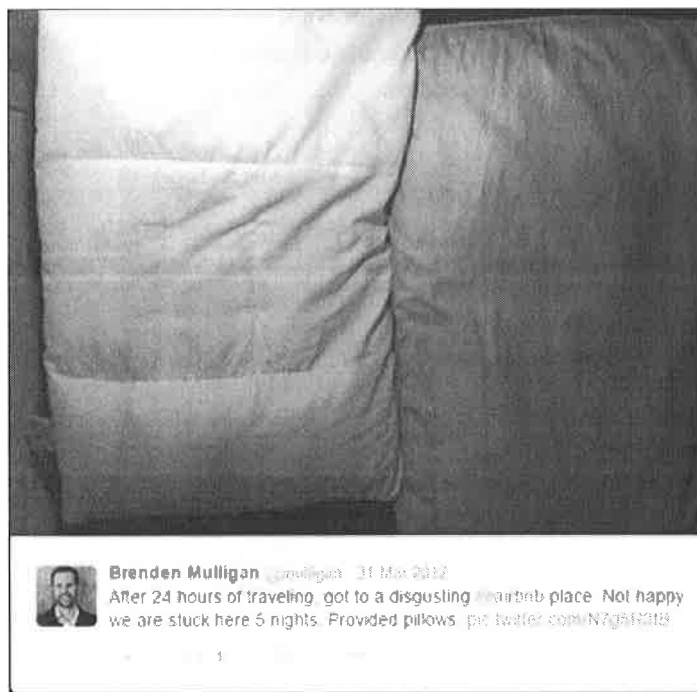
According to the Los Angeles Municipal Code, hotels must, for example, keep detailed registries of all guests. These registries are often used in criminal investigations and to “regulate sketchy motels that can serve as magnets for crime.”⁶⁷ AirBnB hosts do not maintain such records. Such registries can also help public health officials in tracking the spread of infectious disease. By design, traditional hotels serve many more guests on a per unit basis than do typical rental apartments. This makes them more likely to act as vectors for infectious diseases and germin like bed bugs, influenza and measles.

Hoteliers are aware of the risks and have instituted protocols to deal with these issues. Hyatt Hotels, for example, has instituted a chain-wide hypoallergenic rooms program that involves medical grade air filters and biannual intensive decontamination treatments.⁶⁸ Even budget brands like Best Western equip their housekeepers with ultraviolet wands and black lights to ensure each guest room is thoroughly cleaned after each guest checks out.

As tech writer Brendan Mulligan discovered, a lack of standardized cleanliness can throw a major wrench into a trip. Mulligan is a self-described “big fan” of AirBnB. Unfortunately, on a recent trip Mulligan was greeted by pillows and sheets which he described as “disgusting” and possibly “soaked in every bodily fluid imaginable.” Mulligan goes on to say of the risk involved when booking an AirBnB apartment, “There is no baseline of cleanliness, and no immediate options if it doesn’t suit your needs. ... when you check into a hotel room, you see a big

stain in the middle of the bed, you can ask to switch rooms, or at the very least to get new sheets. But when you check into an apartment in a foreign city, you don’t have that option.”⁶⁹

If AirBnB were to mandate higher standards for their hosts, their business model dictates that each individual host would bear the responsibility for sanitation. The company has made some efforts to connect hosts with local cleaning crews through a partnership with Handy, another shared economy company focused on residential cleaning.⁷⁰ Nowhere in Handy’s promotional material does the company, which outsources cleaning duty to an undefined pool of cleaners, mention the kind of intensive sanitization offered by major hotel chains.⁷¹ As discussed above, our data suggest some AirBnB units are being used with the same intensity and guest turnover as hotels, but without the benefit of cleanliness standards. Without such standards, infectious diseases may be transmitted more easily in AirBnB units. Without registries, public health officials may have a harder time halting their spread.



Some AirBnB units are being used with the same intensity and guest turnover as hotels, but without the benefit of cleanliness standards. Without such standards, infectious diseases may be transmitted more easily in AirBnB units.

ADA compliance and enforcement

As public accommodation spaces, hotels are subject to the Americans with Disabilities Act (ADA) compliance standards. Under ADA guidelines, any public accommodation with five or more rooms set aside for guests qualifies as a “place of lodging” and is subject to the accessibility requirements set forth in the ADA.⁷² ADA requirements for lodging places include accessibility retrofits to entry and exit points, grab bars in restrooms, and designated lodgings for individuals with disabilities. As of 2012, lodgings must also enumerate through their reservation systems the types of accessible features in each handicap accessible room.

AirBnB is aware of these requirements, but the company does not verify any of its hosts' claims of wheelchair accessibility. The company's Host Help Center summarizes a few salient points about the ADA and notes that hosts with five or more listings “may” need to comply with the ADA.⁷³ The company also points out that ADA requirements are not generally applicable to residences. Only AirBnB knows exactly which hosts have five or more units at a single address. The best approximation we can make is to examine the number of people an AirBnB listing can accommodate. There are 647 whole unit AirBnB listings in Los Angeles that accommodate five or more people. While these listings may exist in a regulatory grey area, commercial hosts who operate *de facto* hotels are very clearly operating “places of lodging” as defined by the ADA.

One such host owns a multifamily building in Hollywood. He operates this property as a hotel by using AirBnB to list out individual units that are not rented out by long-term tenants. His Cozmo property contains 32 multi-family units, a fluctuating number of which appear to be rented out via AirBnB.⁷⁴ These units are available for both long-term tenants through the traditional leasing process and to travelers through AirBnB. Were this a full time hotel property, it would clearly be subject to ADA requirements.



Figure 6: An AirBnB bathroom in a building with more than five units. There are no grab bars in this bathroom.



Figure 7: ADA compliant bathroom in a traditional hotel. Note grab bars and roll-in shower stall.

Cozmo units appear to be simultaneously residential and hotel uses. ADA compliant bathrooms in hotels, such as the one at a Hilton, shown in Figure 6, feature grab bars and showers that can accommodate a wheelchair.⁷⁵ Cozmo management posted the image in Figure 7 to illustrate the bathroom in one of their units that has been marked as “wheelchair accessible” though it does not appear any different from most residential bathrooms.⁷⁶

Under the ADA, hospitality reservation systems are required to give potential guests the option to reserve wheelchair accessible accommodations. Again, AirBnB’s inability to standardize its offerings may land guests who require wheelchair accessibility in some very inaccessible units. Take for example a listing in Hollywood which bills itself as “wheelchair accessible.” Perusing its attached photographs, one of which is shown in Figure 8, quickly turns up a picture of a steep staircase leading to the bedroom. There appear to be no additional accommodations this listing that would allow a wheelchair bound guest to make his or her way up to the bedroom.



Figure 9: Flyer advertising a party in Ari Teman’s New York City apartment. Teman was not aware of this party.



Figure 8: A “wheelchair accessible” AirBnB unit in Hollywood.

Strained relations between AirBnB and its hosts

The assumption of trust between AirBnB hosts and guests is the lynchpin holding the AirBnB marketplace together. Every horror story detailing travelers blindsided by misleading AirBnB listings or plagued by bed bugs undermines this trust.⁷⁷ Misbehaving or destructive guests also shake the trust that hosts place in AirBnB. Hosts have faced illegal activity in their homes, theft of their belongings, or destruction of their property.⁷⁸

New York City AirBnB host Ari Teman's experience provides an instructive example of the risk hosts incur when they rent out their homes. Teman agreed to rent out his space because the prospective guest "had a verified account and he seemed legit... he had three positive reviews." Teman alleges the individual to whom he rented his home was in fact a party promoter who never had any intention of using the space as a last minute accommodation for his in-laws as he had initially claimed. A Google search of his guest's phone number turned up the promotional flyer, shown in Figure 9. When Teman returned to his condominium, he discovered a "huge posse of large men and women... looking like they got tossed from a club, hanging out in front" of his condo.⁷⁹ When he entered his home, Teman described the scene that greeted him as "a group of nearly nude, overweight people" engaged in what the *New York Post* dubbed an "overweight orgy." After the story broke into the media, AirBnB paid Teman \$23,000 to cover the damage resulting from "Pantie Raid."⁸⁰

Ari Teman's story is admittedly salacious, but for every "orgy" there are undoubtedly countless stories of burned rugs, broken lamps, and stolen items. If these stories were to emerge and paint an uncharitable portrait of the company, it could dim AirBnB's ability to attract venture capital or issue its IPO.

Against this backdrop, AirBnB hired Joie de Vivre Hotels founder Chip Conley as its Head of Global Hospitality. Under Conley, Joie de Vivre arose as



Figure 10: An image of a bedbug accompanying Rachelle Bergstein's Yahoo Travel piece (Source: Getty Images).

a key player in the boutique hotel segment by redeveloping underused historic buildings in urban cores into high end boutique hotels. In a sense, the Joie de Vivre brand is a spiritual predecessor to AirBnB. Rather than focus on the utilitarian daily needs of travelers, both Joie de Vivre and AirBnB attempt to entice travelers with the promise of a unique hospitality experience.⁸¹

One of Conley's key goals at AirBnB is to professionalize the company's hosts.⁸² These initiatives currently include professional photographers for AirBnB listings and referral to housekeeping services to ensure a uniformly tidy experience for AirBnB guests.⁸³

Assumption of risk and liability

AirBnB claims it is not at legal risk in the same way as its hosts and guests. This is because the company treats its hosts as independent contractors.⁸⁴ As such its legal position has been that it cannot be held liable for the actions of its independent contractors or their guests.⁸⁵ In high profile cases, like the "Pantie Raid" party described above, the company has settled out of court rather than face prolonged media scrutiny.

Risk is not distributed equally throughout AirBnB's reservation process. Taking on the highest level of risk are AirBnB's hosts who must contend with the uncertainty inherent in opening their homes to strangers, while also risking the ire of landlords, neighbors, and city regulators. Hosts may also be held liable for injuries suffered by guests during their stay and any property damage that may result from unruly guests. Guests take on the risk of paying someone they do not know upfront for an accommodation that may or may not live up to the listing description.

Rachelle Bergstein, a travel writer for *Yahoo! News*, experienced the pitfalls of AirBnB travel first-hand. Bergstein booked from a host with "terrific reviews." Unfortunately, this host also had bedbugs. The morning after their first night in the "charming" Silver Lake studio, Bergstein and her husband discovered a bedbug the size of an "apple seed"

crawling across their duvet cover (See Figure 10).

As it turns out, the host Bergstein rented from was in fact "not the owner, or even a tenant... [h]e was a listing agent" who pointed Bergstein to the part of the AirBnB Terms of Service that reminded guests that bookings are "made at the guest's own risk." While Bergstein's host ultimately relented in offering her a refund, she was dismayed to find that receiving a refund meant that she could not leave a review warning other guests of the unit's bedbug problem. She reminds travelers in the review of her AirBnB experience that price should not be the only criterion when selecting a place to stay. As Bergstein noted "AirBnB might have the advantage over hotels when it comes to price and charm, [but] a midrange chain hotel is clearly a better choice if you care about quality control." Bergstein is not likely to give AirBnB another chance until "guests are assured of a corporate guarantee, too."⁸⁶

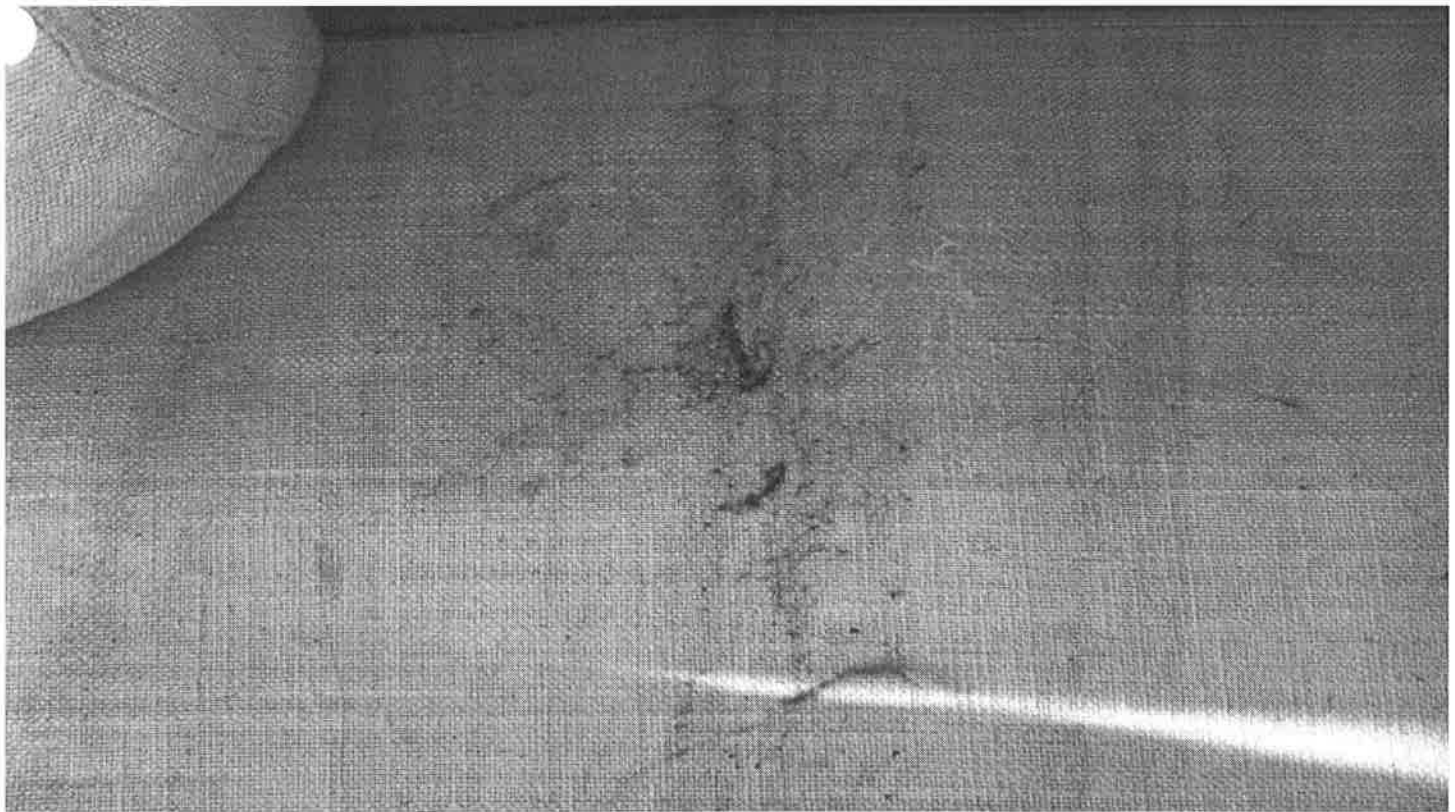


Figure 11: Rachel Bassini discovered feces smeared on her couch after she rented out her space on AirBnB.



Figure 12: Rachel Bassini's bathroom after she rented out her space on AirBnB.

Host Guarantee and Peers' homesharing liability insurance

AirBnB does offer its hosts a guarantee that it will cover up to \$1 million in "Covered Losses" as defined by the company.⁸⁷ However, this guarantee only covers property damage and not major areas of homeowner liability such as personal injury suffered by a guest. Moreover, a homeowner's existing insurance may not cover any such liability as the homeowner is engaged in a commercial enterprise.⁸⁸ This is a significant point because the fine print of AirBnB's Host Guarantee specifies that it will only cover losses once hosts have exhausted other coverage and only if hosts file claims with AirBnB within a specified window. Hosts are expected to wrangle with their own insurance companies, and with the guests who have damaged their home before AirBnB will even consider paying out on the Host Guarantee.⁸⁹

In some cases, AirBnB has refused to abide by its own Host Guarantee, even where damage to a host's property was clearly the result of guest misbehavior. When Rachel Bassini returned to her home after renting it out through AirBnB, she discovered "feces covering the bathroom and couch, used condoms all over the bedroom, and chewed gum on the floors, walls, and couches." Some of the photographs of the

damage to Bassini's home are pictured in Figures 11 and 12. When Bassini attempted to collect on the promise made by the Host Guarantee, an AirBnB representative told her that "the Host Guarantee only cover[s] structural damage, not contents." Fearing that she had no further recourse, Bassini attempted to recover damages from her guest, but his AirBnB account had been suspended. AirBnB again denied Bassini's claim because she failed to file a report within 72 hours. The Company issued her a \$100 credit and deemed the matter closed. However, AirBnB reversed its decision after media inquiries and agreed to cover the cost to repair Bassini's home, so long as she "submits the proper paperwork."⁹⁰

In January 2015, Peers, the lobbying group founded by AirBnB marketing executive Doug Atkin, began offering "Homesharing Liability Insurance." There is a monthly fee of \$36 for this insurance, which will cover personal injury and other claims up to \$2 million for Peers members. However, this insurance does not cover claims related to bedbugs — a key risk associated with accommodating the traveling public. Nor does the policy cover bodily injury arising from violations of the Americans with Disabilities Act or "federal, state, local or common law regulating fire or life safety."⁹¹ This policy has only been available for a short time, and it remains to be seen how it will be applied to claims made by hosts who are in violation of their lease agreements and local zoning codes and regulations.

The Promise of Tax Revenue

Our best estimates show that AirBnB's Los Angeles County listings generated \$80 million in revenue during 2014, of which approximately \$58 million was earned within the City of Los Angeles.⁹² The City of Los Angeles collects a 14 percent Transient Occupancy Tax (TOT) on a monthly basis from all hotel operators in the city limits, yielding a tax obligation of \$8.1 million for AirBnB's City of Los Angeles hosts. This tax is meant to be assessed on travelers who rent a room from a hotel, motel, or inn.⁹³

As we explore below, AirBnB often approaches cities with the promise of remitting a monthly fee equal to the TOT in exchange for the passage of regulations that legitimize their business model. The rationale behind this offer is that cities will be adding new revenue to municipal coffers. However, this revenue is mostly reallocated from hotels which would have remitted these taxes anyway.

AirBnB's economic analysis, released in December 2014, the company asserts that 37 percent of its guests would not have visited Los Angeles or would not have stayed as long as they did were it not for AirBnB. Assuming AirBnB's numbers are true, a minimum of 63 percent of the revenue generated by its listings was reallocated from hotels and is not new. If AirBnB had no listings in Los Angeles, these guests would have stayed in Los Angeles hotels, supported good jobs for Angelenos, and had a negligible impact on the city's neighborhoods, all while paying taxes.

Because AirBnB merged the "would not have visited Los Angeles" and "would not have stayed as long" categories, it is not clear how these 37 percent of travelers are distributed. If we assume an even split, then the number of travelers who would have come to Los Angeles regardless of AirBnB's listings rises to 81.5 percent. This means Los Angeles would have received between \$5.1 million and \$6.6 million in TOT from hotel stays were it not

AirBnB. In this scenario AirBnB only offers \$1.4 million in new TOT that would not have otherwise

been collected by hotels. This figure is equal to about 45 percent of the wages lost by AirBnB's domestic cleaners each year because they are not paid the same wages as housekeepers in the hotel industry doing the same work.

AirBnB's study also claimed the company's activities were responsible for \$312 million in economic activity and the "support" of 26,000 jobs. As with the tax revenue, we estimate that 81.5 percent of these benefits were merely shifted from one place to another, from hotels to AirBnB. In fact, since visitors who stay in hotels spend more than those who stay in homes, the net effect of staying in AirBnB instead of a hotel is a negative one, and that may well outweigh any additional travel days.

Beyond that, there are negative externalities which also go unconsidered in the limited economic impact data that AirBnB released in December 2014. For example, the UCLA Anderson School of Business study found that the high cost of housing has generated a statistically significant drag on job creation in Los Angeles. Fewer rental units, a drag on job creation, a reduction in tax revenues and a qualitative assessment of AirBnB's effects

If AirBnB had no listings in Los Angeles, guests would have stayed in Los Angeles hotels, supported good jobs for Angelenos, and had a negligible impact on the city's neighborhoods, all while paying taxes.

in neighborhoods are key elements that must be considered before a accurate judgment of the company's impact can be rendered.

Fewer rental units, a drag on job creation, a reduction in tax revenues and a qualitative assessment of AirBnB's effects in neighborhoods must be considered before a true judgment of the company's impact can be rendered.

AirBnB revenue is clustered in established tourist districts

In Los Angeles, AirBnB revenue generation is clustered in key tourist districts. AirBnB claims its service helps drive tourist spending to

neighborhoods that are not typically beneficiaries of that spending. However, data derived from the company's public listings do not support this claim.

The top ten AirBnB sub markets in Los Angeles are listed in Table 2, with the number of whole units and a revenue estimate.

These ten neighborhoods account for more than 50 percent of AirBnB listings as well as nearly 70 percent of AirBnB revenue generated in the Los Angeles area. Taken together, these neighborhoods encompass the heart of the L.A. tourist economy. A May 2014 Los Angeles Chamber of Commerce analysis found the Venice/ Santa Monica/ Marina del Rey area is Southern California's second most popular tourist destination, behind Disneyland. Hollywood, West Hollywood and Downtown Los Angeles are also singled out as key tourist-attracting districts.⁹⁴ Nestled between Hollywood and Downtown Los Angeles, Silver Lake and Echo Park contain many of the city's top rated bars and restaurants.⁹⁵ AirBnB is competing with traditional hotels for tourist dollars in the city's most popular tourist serving areas.⁹⁶

Table 2

AirBnB's Top 10 Revenue Generating Neighborhoods

Neighborhood	Whole Units	Total Units	Whole Unit Percent of Units	Whole Unit Revenue	Total Revenue	Whole Unit % of Rev.
Venice	882	1,137	78%	\$11,787,842	\$13,474,974	87%
Santa Monica	538	773	70%	\$8,077,411	\$9,315,075	87%
Hollywood	646	980	66%	\$5,544,207	\$6,747,061	82%
Downtown LA	220	272	81%	\$5,885,101	\$6,038,738	97%
Mid-Wilshire	514	848	61%	\$4,079,629	\$5,021,018	81%
West Hollywood	455	619	74%	\$3,666,100	\$4,181,391	88%
Hollywood Hills	315	452	70%	\$3,541,258	\$3,956,867	89%
Silver Lake	268	361	74%	\$2,681,351	\$3,043,461	88%
Echo Park	230	325	71%	\$ 2,427,196	\$2,639,005	92%
Marina Del Rey	136	172	79%	\$1,582,497	\$1,677,048	94%
Total	4,206	5,942	71%	\$48,273,023	\$56,094,638	88%

Policy and Regulatory Intervention

AirBnB's financial future will be determined in large part by the company's ability to convince municipal authorities to grant the company legitimacy by establishing a regulatory framework around the company's operations. When we examine the experiences that city regulators have had with AirBnB three themes emerge:

1. AirBnB will offer to remit fees equivalent to local tax rates to cities in exchange for legalization. These fees are not negotiated into any public code, but instead are determined by a contract negotiated between the company and cities in private. AirBnB will not share information allowing cities to verify the accuracy of the payments.⁹⁷
2. As evidenced in Portland, Oregon, AirBnB's flagship "Shared City," AirBnB will not participate in the enforcement of the model legislation it provided to the City, nor will the company monitor its listings for compliance.⁹⁸
3. The majority of AirBnB hosts will not comply with any licensing or permitting systems.⁹⁹ AirBnB will not modify its listings to require hosts to display their permit numbers, nor will it voluntarily turn over the addresses of unlicensed hosts to regulatory agencies. This refusal extends to providing addresses so that cities can conduct basic safety inspections to ensure the health and well being of AirBnB's own community of hosts and guests.¹⁰⁰

In the section that follows, we review the policy experience in several cities, and use the lessons from those cities to begin formulating criteria through which one can assess any potential AirBnB regulations.

Before beginning that review, however, we want to raise a critical question about the basic proposal being offered by AirBnB—payment of significant funds in exchange for rules legalizing AirBnB's operations. This system has gone into effect in two cities, Portland and San Francisco.

According to a January 2015 *Washington Post* story, between July 1 and December 30 2014, AirBnB has turned over approximately \$5 million in hotel fees to Portland and San Francisco.¹⁰¹ The combined unit count of these two cities—7,600—is less than the approximately 8,300 units within Los Angeles city limits. Moreover, tax rates in Portland are three percentage points lower than in Los Angeles. Yet, in just six months, AirBnB has turned over to the two cities 62 percent of what we estimate it would owe in Los Angeles for a whole year—a larger market with higher tax rates.

We may be severely undercounting AirBnB's Los Angeles revenues and tax obligation. If so, that would explain this discrepancy. However, this does not seem likely, given that we found twice as many hosts as AirBnB reported, and our estimates are based in part on the results of a subpoena by the New York Attorney General. If our estimates are correct, an alternative concern must be raised. By agreeing to a privately negotiated agreement with Portland and San Francisco, AirBnB may be paying more than it is required to pay in taxes. Many have rightly raised questions about how cities ensure they get all they deserve without proper monitoring. But the high payments here suggest an alternative danger—a company like AirBnB could overestimate the dollars involved to incentivize the city to adopt the laws the company wants.

Portland, Oregon

With much fanfare, AirBnB designated Portland its first "Shared City." This meant that the company and the city had determined to work together to create a regulatory framework that would allow the city to collect hotel taxes in exchange for creating a new category of housing in its planning code—the "Accessory Short Term Rental (ASTR)."¹⁰² The City of Portland decided to divide its ASTR regulation into two separate pieces of legislation. The first piece covered AirBnB units in single-family homes, followed by a second ordinance governing AirBnB units in multi-family housing.



Both pieces of legislation relied on the same basic framework. If hosts complied with the application requirements, they would be granted an ASTR permit. This permit was to be displayed inside the ASTR unit and the permit number was required to be posted on all listings advertising the space. To receive this permit, hosts were obliged to pay a nominal fee, notify their neighbors (or landlords) of their intentions to rent their space and submit to an inspection to verify installation of smoke and carbon monoxide detectors. The policy also limited the number of days that a homeowner could rent a space in his home up to 95 days per year.¹⁰³

Portland's ASTR policy was passed as an amendment to the City's zoning code. These ordinances remain silent on the issue of hotel taxes. Instead the City's Revenue Bureau negotiated a separate, private agreement to address specific issues around hotel tax collection. A redacted version of this agreement was only made public pursuant to a public records request made by reporter Elliot Njus at *The Oregonian* newspaper.¹⁰⁴ While Airbnb repeatedly denied it was a hotel operator in the agreement, the company was asking for the city to treat it "as though [it] were a single 1,600 room hotel."¹⁰⁵

Further complicating matters is the fact that a miniscule proportion of Portland's Airbnb hosts have sought legitimization and taxation—the Portland Revenue Bureau estimates that 93 percent

of all hosts have not obtained the necessary permits, had their units inspected for building and safety compliance, or notified their neighbors of their intent to operate a short-term rental.¹⁰⁶ Without any way to regularly identify individual hosts, the City of Portland Revenue Bureau had no way to monitor how the monies it was receiving did or did not relate to the overnight stays of visitors in Airbnb lodgings.

As Portland moved towards legalizing Airbnb rentals in multi-family units these issues became key political sticking points in negotiations. Portland Commissioner Nick Fish took the lead in pressing Airbnb to release host addresses to the city. At a late December 2014 hearing, the Regional Head of Public Policy for Airbnb, David Owen, argued against releasing such data on the grounds that it would constitute a violation of hosts' privacy rights. This argument did not pass muster with Commissioner Fish. As he put it:

We are not asking for people's confidential information. We are asking for an address of a home-based business, and under your view because that has an internet component that raises privacy concerns that are different than motels and hotels. We invoke the internet and we claim an exemption from all the other laws and rules of society. We welcomed you to Portland, but we have to make sure that the guests in one of your hosts' places—and you do not inspect

your hosts' places—we have to make sure that guest is safe, and the only way that we can do it is to have an address. If we don't have an enforcement mechanism that works why on earth would we give you the green light to do something that we can't reasonably enforce?¹⁰⁷

The City did ultimately “green light” the ASTR program to include multi-family units. However, the city also passed legislation to address Fish's concerns. In exchange for granting legitimacy to the majority of AirBnB's Portland listings, companies like AirBnB must now submit contact information for all hosts for any regulatory or tax purpose to the Revenue Bureau, as well as prominently display the host's permit number on all listings.¹⁰⁸

How well this will work is not clear. At a public hearing on this policy AirBnB's David Owen refused to commit to following Portland's new regulations if they included disclosure requirements for hosts.¹⁰⁹

These rules, as currently written, do not create any direct liability for AirBnB so long as they continue to pay money to the city.

San Francisco, California

Passage of San Francisco's AirBnB regulations was rendered no less contentious by the fact that the city is AirBnB's birthplace. As has been widely noted, San Francisco has undergone dramatic rent increases in recent years. These increases have been exacerbated by the limited supply of housing in the city. Not surprisingly then, the process to pass an ordinance pitted housing advocates against AirBnB as both sought to influence the San Francisco Board of Supervisors. Housing advocates pressed for a requirement that AirBnB pay some \$25 million in back taxes.¹¹⁰ They also wanted a ban on AirBnB units in rent-controlled buildings and a prohibition against renting units that have been vacated under the Ellis Act. None of these amendments were included in the final legislation, although some San Francisco Supervisors vowed to pursue these items as stand-alone legislation.¹¹¹

Passed in 2014, the San Francisco policy caps the number of days that a whole unit can be rented out at 90 per year. Although monitoring bookings for compliance with this provision would be very simple for AirBnB, the company has refused to assist the city in enforcement. Out of approximately 5,000 hosts, as of February 15, 2015, only 130 had set appointments with the Planning Department to obtain their permits, drawing further comparisons to Portland's experience.¹¹²

Building in new enforcement mechanisms now seems necessary to some previous AirBnB supporters. San Francisco Supervisor Jane Kim voted for the original ordinance but is now working to pass a supplemental ordinance that would allow nonprofit organizations to sue to enforce the short term rental law. She believes the first ordinance does not “have enough teeth” to ensure effective enforcement.¹¹³ Meanwhile, a coalition of affordable housing and community organizations known as Share Better S.F. has begun the process of collecting signatures to place an initiative on



the next municipal ballot that would implement far stricter regulations on AiBnB rentals in the City.¹¹⁴

New York City, New York

New York City has taken a more hardline approach to regulating AirBnB than either San Francisco or Portland. Under New York State law, residential rentals shorter than 30 days are considered illegal. New York City has taken the lead in halting AirBnB's expansion through rigorous enforcement of this law, while New York State Attorney General Eric Schneiderman has served the company with subpoenas to get exact addresses and revenues generated by AirBnB listings. As a result of these subpoenas, the Attorney General's office found that more than 72 percent of AirBnB's New York City revenue was generated by illegal listings. The Attorney General's report also found that commercial hosts dominated the New York City AirBnB market.

Share Better New York, a coalition of affordable housing, community, and labor organizations has been pressing New York City to address the proliferation of illegal hotels as part of a broader



New York City residents rally against AirBnB ahead of a January 20, 2015 New York City Council hearing.

strategy to maintain rental affordability in the notoriously pricy city. The City Council has pressed for increased transparency and accountability from AirBnB. During the course of an eight hour hearing to determine what impacts AirBnB has had on New York's housing stock, it was found that AirBnB *could* force hosts to comply with state law, but the company has refused to do so. Upon pointed questioning from City Councilmembers, AirBnB Head of Public Affairs David Hantman admitted not having done any research to determine which listings



New York City Councilwoman Helen Rosenthal addressed a crowd of affordable housing advocates as they rallied against "illegal hotels" ahead of an eight-hour hearing on the sharing economy at the New York City Council (Photo: Capital New York).

are illegal. This answer failed to satisfy New York City Councilman Jumaane Williams. “Wouldn’t that be something a responsible company would do if they wanted to keep doing business in New York City?” Williams asked.

The company’s refusal to assist with enforcement in Portland, San Francisco and New York City seems to have more to do with ideology than with technical capacity. As expressed by the company’s Head of Public Affairs, David Hantman, AirBnB believes “very strongly that you should be allowed to rent out your own home whenever you want.”

The marathon hearing also found that complaint-based enforcement does not effectively curtail the proliferation of illegal AirBnB listings. In the last year, the Mayor’s Office of Special Enforcement received nearly 1,150 complaints leading to nearly 900 inspections. However, a recent survey has shown the overall number of AirBnB listings in New York City has not changed since aggressive enforcement began.¹¹⁵

Southern California Cities

In the greater Los Angeles area, the cities of Malibu and West Hollywood have begun the process of regulating AirBnB-type rentals within their city limits.

The city of West Hollywood, under the direction of the City Manager, created the Shared Economy Task Force to study home and ride sharing in West Hollywood. The Task Force recommended that the West Hollywood City Council draft legislation to amend the zoning code to define “short term rentals” and reiterate that these types of rentals are illegal in West Hollywood. The West Hollywood City Council is now considering the matter.¹¹⁶

In May 2014, Malibu’s City Council voted to authorize officials to issue subpoenas to gather accurate information on the scope of short term rentals. These types of rentals are legal under the Malibu zoning code, but must be registered with the city and remit hotel taxes. To date, only 50 Malibu properties have complied with these regulations, although the City noted there are more than 400 listings on various short term rental sites.¹¹⁷

Los Angeles City Council has also begun the process of assessing AirBnB’s effects on the city. The Council has convened a Shared Economy Working Group to assess the best practices in regulating the shared economy in the residential sector.¹¹⁸



Principles for Regulating AirBnB

As we have seen, cities are clearly grappling with how best to regulate AirBnB. While cities have employed a variety of strategies to control AirBnB's proliferation, no municipality has been able to effectively limit the growth and negative effects of the large-scale conversion of residential units into tourist accommodations. What may have been considered "best practices" a year ago, today seem rushed and nearly unenforceable. Given the shifting policy landscape, it may be worthwhile to establish an evaluative framework that can be applied to any proposed short-term rental policy.

Housing must be protected

Los Angeles has faced a severe shortfall in housing units, leading to low vacancy rates and rapidly increasing rents. AirBnB's highest density is in the neighborhoods where these dynamics have been especially pronounced. Any policy should have protecting housing units as a top priority.

Systematic approval requirements

Neighborhood cohesion is vital to preserving quality of life and safety in Los Angeles communities. One neighbor's decision to list her unit on AirBnB can have wide-ranging negative effects. As with any land use change that has a potentially negative effect on a community, neighbors in the vicinity of a prospective AirBnB unit should receive advance notification of the potential AirBnB listing and be granted an opportunity to object to this conversion. Based on public input, the city should have the opportunity to approve, reject or impose conditions on a proposed AirBnB conversion. In this way, AirBnB's impacts on neighborhoods can be mitigated and provisions for clear disclosure guidelines and dispute resolution procedures can be established. Los Angeles should also protect renters by requiring permission from landlords before a rental unit can be placed on AirBnB.

AirBnB must share the burden of enforcement

Cities have not been able to effectively regulate AirBnB. Without the company's cooperation, cities must pay the costs associated with investigation and enforcement of existing zoning codes. Even when AirBnB has seen its preferred legislation pass, the company has refused to participate in policing listings. As we have seen in New York City, enforcement strategies focused only on hosts but not on the company facilitating potentially illegal activity, will fall short.

Only true sharing should be allowed

The majority of AirBnB's Los Angeles hosts are on-site. Because they are present to monitor their guests' behavior, and because these types of AirBnB listings do not remove units from the Los Angeles housing market, they create fewer negative externalities than other types of AirBnB listings. Protecting these types of listings while curtailing off-site and commercial hosts represents a smart approach to balancing the needs of Los Angeles communities with the desire of some residents to rent out space in their homes while they are present.

Appendix A: Revenue Calculation

Our analysis shows that there were more than 114,000 reviews left on AirBnB listings. The number of reviews attached to each listing is the best approximation of the number of visitors that a given AirBnB unit has accommodated. Since travelers can only leave a review on a listing after they have completed their stay, every review indicates a confirmed stay. However, not every guest leaves a review after her stay, so our estimates are likely to undercount the volume of guests served by each unit.

The number of reviews also allows us to approximate the revenue generated by each unit listed on AirBnB. By multiplying the number of reviews, the minimum stay, and the listed price, we have been able to estimate the minimum total revenue generated for each individual unit in our dataset. This formula yielded our initial revenue estimate of \$37,726,492 in Los Angeles for 2014.

We applied the same formula to data we pulled down from New York City's public AirBnB listings to yield a revenue estimate of \$121,219,400. We also compared our estimated revenue to the actual value calculated by the New York Attorney General's AirBnB analysis. The Attorney General's report on AirBnB calculated AirBnB's 2014 New York City revenue based on booking information the company turned over after being served with subpoenas. The Attorney General's office showed AirBnB generated revenue of \$282 million in 2014. Using this data point, we created a ratio to determine the relationship between our revenue estimates and actual revenue. We therefore concluded that our Los Angeles revenue was undercounted by a similar rate and revised our estimates upward. This formula also allows us to understand which hosts have failed to generate any revenue at all. We define the failure rate in this instance as the percentage of hosts who have not made any money by listing their space or spaces on AirBnB.

Appendix B: Occupancy Rates

Occupancy rates for AirBnB listings are calculated by first multiplying the number of reviews by the average minimum stay for all listings. Following the procedure described in Appendix A, we then create a conversion factor based on the New York Attorney General's bookings data. Our New York City dataset showed a total of 239,950 reviews had been left on New York's AirBnB listings. We know from the booking data that there were 497,322 AirBnB stays booked through AirBnB. We then applied this ratio to our own review data to obtain a more accurate estimate of the number of stays at a given AirBnB unit. Hosts list the year that they joined AirBnB, which allows us to then compare the number of stays to the number of days that the host has been active to generate an estimate of an individual unit's occupancy rate.

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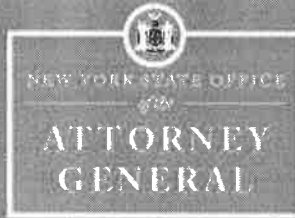
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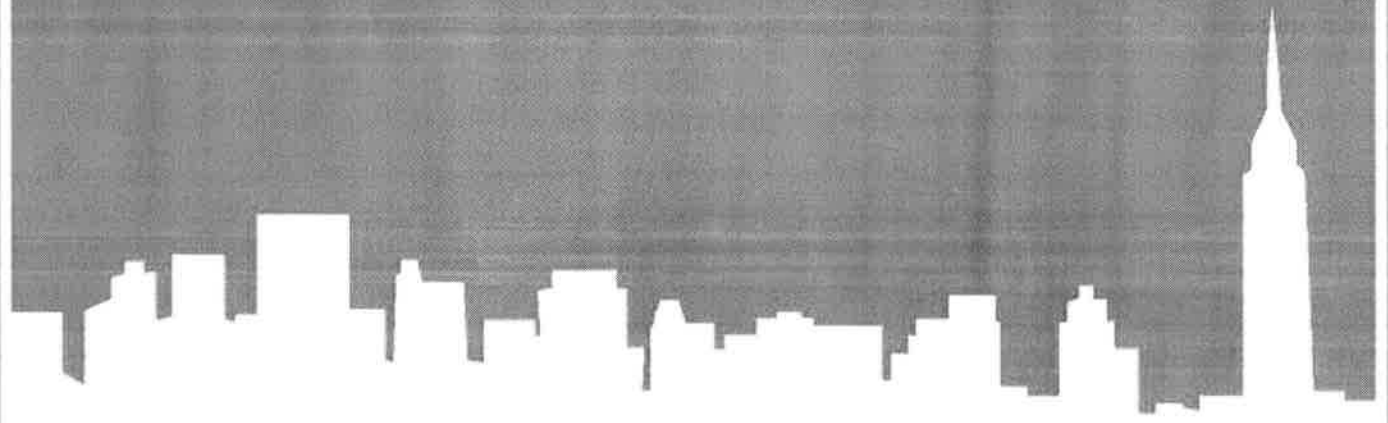
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Airbnb in the city

From the Office of:
New York State Attorney General
Eric T. Schneiderman



October 2014

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This report was prepared by the Office of the Attorney General of the State of New York's Research Department and Internet Bureau.

INTRODUCTION

The rapid rise of short-term rental platforms like Airbnb have dramatically expanded the use of traditional apartments as transient hotel rooms—sparking a public debate in New York and in communities worldwide about the real-world consequences of this online marketplace.

Where supporters of Airbnb and other rental sites see a catalyst for entrepreneurship, critics see a threat to the safety, affordability, and residential character of local communities. Are the new platforms fueling a black market for unsafe hotels? By bidding up the price of apartments in popular areas, do short-term rentals make metropolitan areas like New York City less affordable? Is the influx of out-of-town visitors upsetting the quiet of longstanding residential neighborhoods?

Until now, the discourse has centered more on opinions and anecdotes than facts. This report seeks to bridge the gulf between rhetoric and reality. It offers the first exploration of the data on how users in New York City, one of Airbnb's most important markets, utilize the most successful online lodging rental platform. More broadly, the report endeavors to use quantitative data to inform an ongoing debate about how we embrace emerging, disruptive technologies, while protecting the safety and well-being of our citizens.

By analyzing Airbnb bookings for "private" stays,¹ this report presents a snapshot of short-term rentals in New York City from January 1, 2010 through June 2, 2014 (the "Review Period"). Among the key findings:

Short-Term Rentals Experienced Explosive Growth. Private short-term bookings in New York City on Airbnb increased sharply during the Review Period, registering more than a tenfold increase. The associated revenue also spiked, nearly doubling each year. This year, revenue to Airbnb and its hosts from private short-term rentals in New York City is expected to exceed \$282 million.

Most Short-Term Rentals Booked in New York Violated the Law. State and local laws in New York—including the Multiple Dwelling Law and the New York City Administrative Code—prohibit certain short-term rentals. During the Review Period, 72 percent of units used as private short-term rentals on Airbnb appeared to violate these laws.²

Commercial Users Accounted for a Disproportionate Share of Private Short-Term Rentals by Volume and Revenue. Ninety-four percent of Airbnb hosts offered at most two unique units during the Review Period. But the remaining six percent of hosts dominated the platform during that period, offering up to hundreds of unique units, accepting 36 percent of private short-term bookings, and receiving \$168 million, 37 percent of all host revenue. This report refers to these hosts as "Commercial Users."

¹ Airbnb hosts can offer a "shared room," where the host remains present during the stay, an "entire home/apartment," where the host is not present, or a "private room," where the host may or may not remain present during the stay. This report and its source data address only the last two categories, which, when combined, are labeled "private" stays, rentals, or reservations in the report.

² By assuming that all reservations listed as a "Private Room" complied with these laws, the analysis *understates* the degree to which rentals on Airbnb may have violated the law. Specifically, a "Private Room" rental for less than 30 days is legal only where a permanent resident was present during the stay.

Top Commercial Users Employed Rental Platforms to Run Multimillion-Dollar Short-Term Rental Businesses. Well over 100 Commercial Users each controlled 10 or more unique Airbnb units during the Review Period. Together, these hosts accepted 47,103 private short-term reservations and earned \$59.4 million in revenue. The highest-earning operation administered 272 unique Airbnb listings, booked 3,024 reservations, and received \$6.8 million in revenue during the Review Period. Each of the top 12 New York City operations on Airbnb during that period earned revenue exceeding \$1 million.

Private Short-Term Rentals Displaced Long-Term Housing in Thousands of Apartments. In 2013, more than 4,600 units were booked as short-term rentals through Airbnb for three months of the year or more. Of these, nearly 2,000 units were booked as short-term rentals for a cumulative total of half the year *or more*—rendering them largely unavailable for use by long-term residents.³ Notably, the share of revenue to Airbnb and its hosts from units booked as private short-term rentals for more than half the year increased steadily, accounting for 38 percent of each figure by 2013.

Numerous Short-Term Rental Units Appeared to Serve as Illegal Hostels. New York law does not permit commercial enterprises to operate hostels, where multiple, unrelated guests share tight quarters. In 2013, approximately 200 units in New York City were booked as private short-term rentals for more than 365 nights during the year. This indicates that multiple transients shared the same listing on the same night, as they would in an illegal hostel. The 10 most-rented units for private short-term rentals were each booked for an average of about 1,900 nights in 2013, with the top listing accepting 13 reservations on an average night.

Gentrified or Rapidly Gentrifying Neighborhoods Primarily in Manhattan Accounted for the Vast Majority of Revenue from Private Short-Term Rentals in New York City. Bookings in just three Community Districts in Manhattan—the Lower East Side/Chinatown, Chelsea/Hell's Kitchen, and Greenwich Village/SoHo—accounted for approximately \$187 million in revenue to hosts, or more than 40 percent of private stay revenue to hosts during the Review Period. By contrast, all the reservations in three *boroughs* (Queens, Staten Island, and the Bronx) brought hosts revenue of \$12 million—less than three percent of the New York City total.

³ The actual number of apartments that shifted from long- to short-term housing could be much higher. This analysis covers paid Airbnb bookings only, omitting short-term rentals simultaneously offered on other platforms. This analysis also excludes nights when the apartments remain vacant between bookings.

DATA & TERMINOLOGY

In late 2013, the Office of the Attorney General of the State of New York ("NYAG") launched an investigation of users of web platforms like Airbnb who run large-scale enterprises in violation of fire safety, zoning, tax, and other applicable laws. Appendix A provides a brief overview of several applicable laws. In particular, the Multiple Dwelling Law (the "MDL"), as amended in 2010, prohibits rentals in "Class A" buildings—a category encompassing most residential apartment buildings in New York City—for stays of less than 30 days. This prohibition confronts the fire and safety risks associated with hotels and other transient accommodations, as detailed in Appendix B.

On May 14, 2014, NYAG served Airbnb with a subpoena for detailed information about rental transactions on its platform. Shortly thereafter, and pursuant to an agreement dated May 20, 2014, Airbnb shared data with NYAG reflecting certain rental transactions in an anonymized format (the "Data").

In particular, Airbnb produced Data on 497,322 transactions (the "Reviewed Transactions") for stays between January 1, 2010 and June 2, 2014 (the "Review Period") that involved:

(1) A private stay, i.e. where the host listed an "entire home/apartment" or a "private room" for rent;

and

(2) One of the following:

- a. A rental transaction for a stay in New York City of less than 30 days; or
- b. A rental transaction for a stay in a unit in New York City of between 30 and 180 days that did not qualify for the *de minimis* exception for hotel room occupancy taxes (i.e., where a unit is booked for only up to 14 days or at most three times in a given year).

While private stays constitute the bulk of New York City reservations on Airbnb, the company declined to disclose the number of transactions not meeting the review criteria. It is therefore unclear how many transactions are excluded from the Data. As above, this report uses the word "private" (often paired with "booking," "reservation," "stay," or "short-term rental") as shorthand to distinguish the Reviewed Transactions (involving rentals for an "entire home/apartment" or a "private room") from other Airbnb transactions, particularly those involving a "shared room."

Airbnb anonymized key details of the Reviewed Transactions, replacing user names and unit numbers with unique ID codes. When analyzing the transactions, this analysis assumes the accuracy and uniqueness of Airbnb's designations.

NYAG also conducted a second-level analysis of the Reviewed Transactions using New York City's Geosupport Desktop Edition. By geo-locating the building addresses associated with the 35,354 unique units in the Data, NYAG identified the unique Borough, Block, and Lot ("BBL") identification number for all but 3,138 unique units. The BBL numbers allowed NYAG to search for the units in the Primary Land Use

Tax Lot Output ("PLUTO") database, which identifies the type of building for zoning purposes. By necessity, NYAG relied on the accuracy of this database.

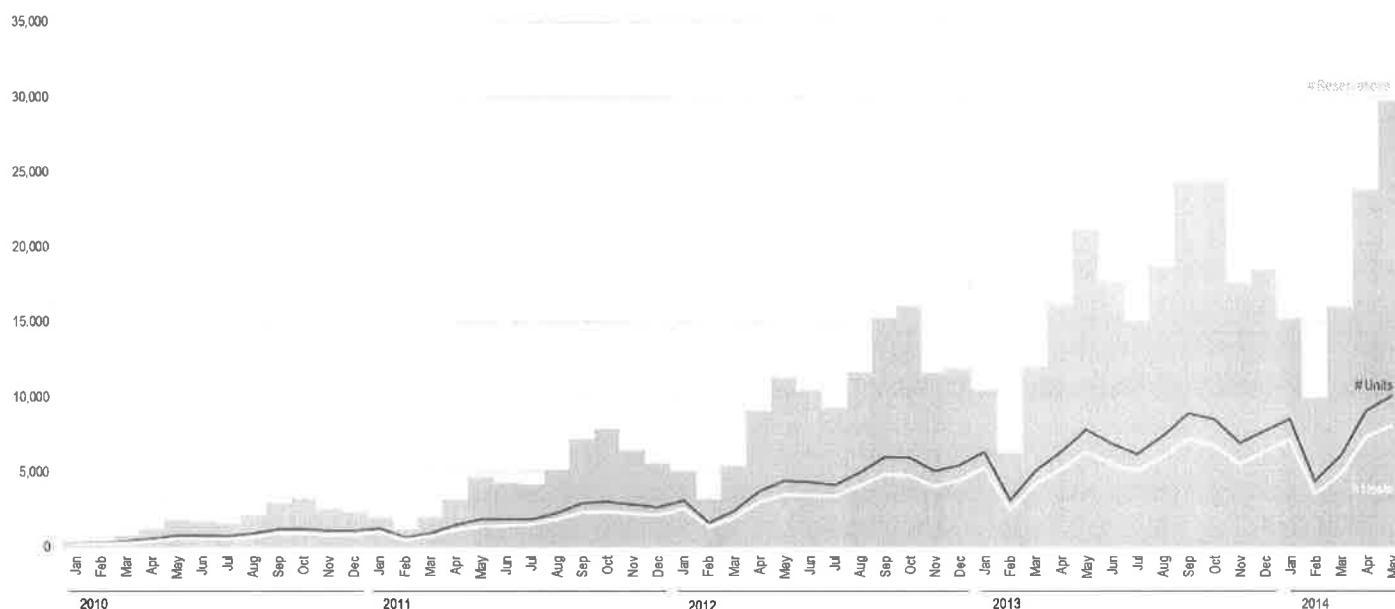
NYAG sought and obtained this Data in connection with potential enforcement actions involving the Reviewed Transactions. The information and analyses contained in this report, however, are provided solely to aid the public discourse. Pursuant to the terms of its agreement with Airbnb, dated May 20, 2014, NYAG may publicly disclose its analyses of the Data (such as those contained in this report). The underlying Data may not be disclosed.

GROWTH IN PRIVATE SHORT-TERM RENTALS

Private Short-Term Rentals in New York City have Grown at a Staggering Pace.

During the Review Period, the number of unique units booked for private short-term rentals through Airbnb has exploded, rising from 2,652 units in 2010 to 16,483 in just the first five months of 2014. Private bookings in New York City saw a nearly twelvefold spike, rising from 20,808 in 2010 to an estimated 243,019 in 2014.⁴ As with traditional hotel rooms, the short-term rental market varies seasonally. The chart below (Figure 1) shows that private bookings on Airbnb were on an upward trajectory throughout the Review Period, as measured by number of hosts, unique units, and total reservations.

Figure 1:
Monthly Growth in Private Short-Term Rentals on Airbnb
(Source: Airbnb Data, 2010-2014)

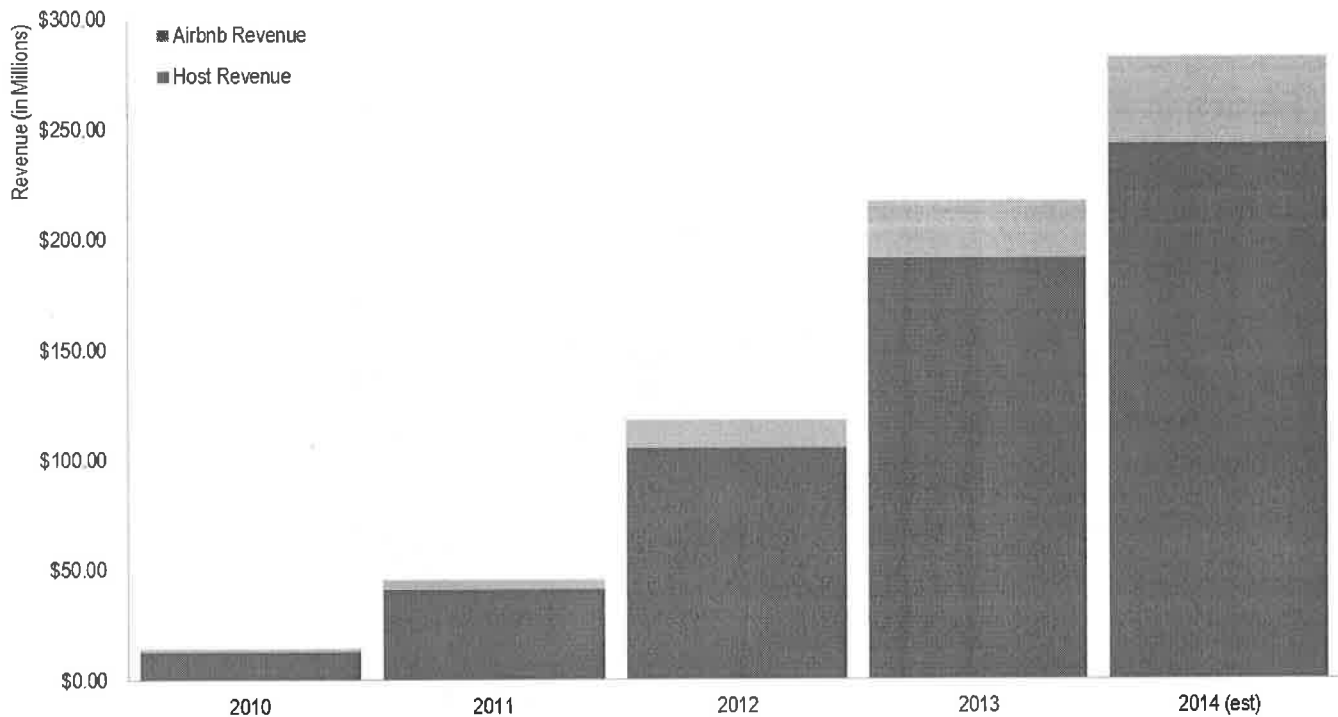


⁴ For illustrative purposes, NYAG estimated 2014 year-end totals by assuming that the average monthly performance experienced in the first five months of the year in the relevant category would continue throughout the year. This is a rough estimate, which does not account for seasonal or other factors. For example, the estimation method makes no adjustment for the seasonal peak seen in August and September of previous years.

Private Short-Term Rentals in New York City Generated Over \$500 million in Revenue in Less than Five Years. As reflected in Figure 2 below, between the start of 2010 and the end of 2013, revenue to Airbnb and its hosts from private short-term rentals in New York City doubled almost every year, with revenue in 2014 estimated to exceed \$282 million. During the Review Period (January 1, 2010 through June 2, 2014), transaction fees associated with the Reviewed Transactions resulted in direct revenue to Airbnb of about \$61 million.⁵

Figure 2:
Revenue from Airbnb Reservations Nearly Doubled Every Year

(Source: Airbnb Data, 2010-2014)



⁵ Hosts pay Airbnb a three percent fee for reservations booked on the platform. Guests pay Airbnb a fee that varies from six to 12 percent of the reservation.

Most Private Short-Term Rentals Booked in New York City Violated the Law.

Comparing the addresses associated with the Reviewed Transactions to a database of New York City buildings suggests that 72% of unique units used as private short-term rentals on Airbnb during the Review Period involved the rental of an "entire/home apartment" for less than 30 days in either (1) a "Class A" multiple dwelling or (2) a non-residential building.⁶ These rentals would respectively violate the MDL (which prohibits such rentals in "Class A" buildings) or the New York City Administrative Code (which prohibits the use of non-residential buildings for housing). See Appendix A.

As depicted in Figure 3 below, the 300,891 reservations that appear to violate the building use and zoning laws yielded approximately \$304 million for hosts during the Review Period. Airbnb itself earned almost \$40 million in fees from these transactions. This represents approximately two out of every three dollars Airbnb received in connection with the Reviewed Transactions.

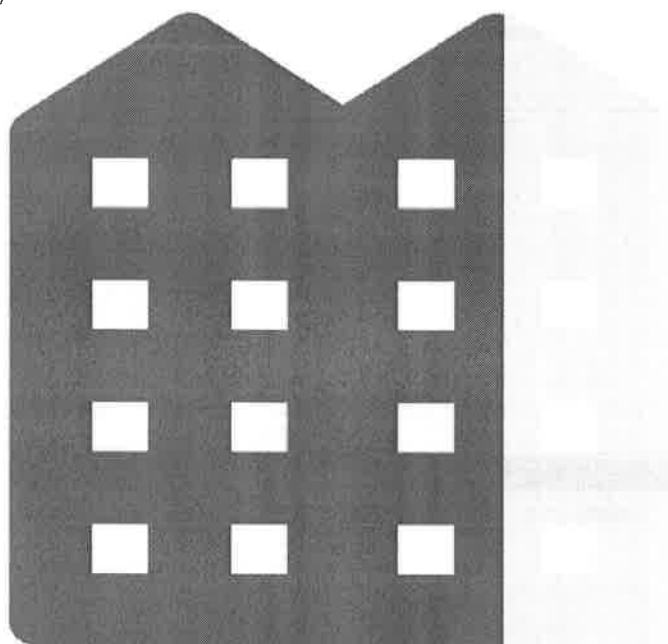
Figure 3: Most Private Short-Term Rentals on Airbnb Appear to Violate New York Law

(Source: Airbnb Data, 2010-2014, compared with PLUTO)

72%

Percent of unique units rented in apparent violation of the MDL or NYC Administrative Code.

Revenue:	\$304 Million
Reservations:	300,891
Units:	25,532
Hosts:	20,835



The above numbers likely understate the degree to which private short-term rentals posted on Airbnb during the Review Period may have violated the law. For purposes of this calculation, the report assumes that *all* reservations identified as a "private room" (as distinct from an "entire home/apartment") complied with the MDL, regardless of whether they were located in a "Class A" building. In fact, "private room" rentals in "Class A" buildings shorter than 30 days would comply with the MDL only where the host or another permanent resident remained in the unit during the guest's stay.

⁶ Specifically, the MDL permits rentals shorter than 30 days in hotels and "Class B" buildings, primarily one- and two-family homes. This analysis therefore assumes that rentals in residential buildings comply with the MDL where they are designated in the Department of Buildings separate classification system as Class A ("One Family Dwelling"), B ("Two Family Dwelling"), H (Hotels), S0 ("Primarily One Family with Two Stores or Offices"), S1 ("Primarily One Family with Store or Office"), or S2 ("Primarily Two Family with Store or Office"). The MDL also permits sublets of apartments for 30 days or more.

New York City Is Likely Owed Millions in Unpaid Hotel Taxes from Private Short-Term Rentals. A number of taxes may apply to private short-term rentals. See Appendix A. In particular, New York City assesses a hotel room occupancy tax of 5.875 percent that applies to private short-term rentals. Excluding fines and penalties, the total estimated liability for hotel room occupancy taxes associated with the Reviewed Transactions is over \$33 million.⁷ See Figure 4 below.

Few Airbnb hosts appear to have filed the paperwork with New York City necessary to remit hotel room occupancy taxes, nor did Airbnb collect any of the hotel taxes owed for the Reviewed Transactions.⁸ Even the most conservative estimate therefore finds that private short-term rentals booked through Airbnb incurred millions of dollars in unpaid hotel room occupancy taxes.

Figure 4:
Private Short-Term Rentals in New York City Incurred Over \$33
Million in Hotel Tax Liability

(Source: Airbnb Data, 2010-2014)

Year	Hotel Room Occupancy Taxes
2010	\$961,378
2011	\$3,079,250
2012	\$7,797,270
2013	\$14,221,841
2014 (through 6/2/14)	\$7,407,413
Total	\$33,467,152

⁷ To calculate the total estimated liability for hotel room occupancy taxes, we first multiplied the total payments for private short-term rentals by the hotel room occupancy tax rate (.05875). Next, we added the per-room fee, which ranges up to \$2 per night depending on the cost of the room. We then excluded all "private room" transactions where the host only offered one listing. (Such transactions would not be taxable where the host remained present during the stay.) Finally, we applied the *de minimus* exception, excluding tax liability for any unit booked in a given year (a) for fewer than 14 days; or (b) on fewer than three separate occasions. See Appendix A for further discussion of the hotel room occupancy tax.

⁸ Based on guidance from tax authorities, Airbnb maintains that it is not required to collect these taxes on behalf of hosts.

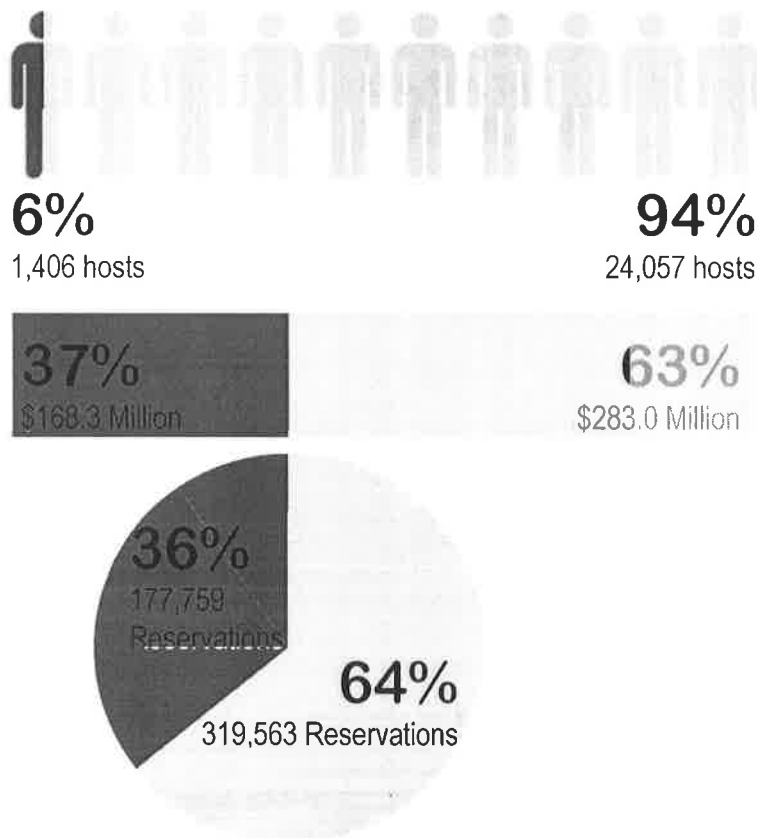
COMMERCIAL USERS

While Commercial Users Represented a Minority of Hosts, They Dominated the Private Short-Term Rental Market in Units, Reservations, and Revenue. 25,463 hosts offered private short-term rentals in New York City during the Review Period. Of these hosts, 24,057 (94 percent) offered no more than two unique units for private short-term rentals during the period.⁹

As illustrated in Figure 5, 1,406 hosts (six percent) acted as "Commercial Users," running larger operations that administered from three to 272 unique units during the Review Period. During that period, Commercial Users controlled more than one in five unique units in New York City booked on Airbnb as private short-term rentals, accepted more than one in three private reservations, and received more than one of every three dollars in revenue from private short-term rentals on Airbnb—for a total of \$168 million.

Figure 5:
Commercial Users Accounted for a Disproportionate Share of Private Short-Term Rentals

(Source: Airbnb Data, 2010-2014) ■ Commercial Users (Hosts with 3+ Unique Units)



⁹ While operating smaller ventures, these hosts may nonetheless be in violation of the law. See, e.g., pp. 8-9 above.

Major Commercial Ventures Used Airbnb to Conduct Multimillion-Dollar Businesses. Since 2010, 124 Commercial Users offered 10 or more unique units as private short-term rentals. These Commercial Users operated enterprise-scale ventures that together earned revenue of \$60 million during the Review Period. The chart below (Figure 6) reflects the top 12 Commercial Users by revenue. During the Review Period, these Commercial Users together controlled 801 unique units, accepted 14,655 private reservations, and received more than \$24.2 million in total revenue for private short-term rentals. A single Commercial User—the top New York host on Airbnb during the Review Period—controlled 272 unique units and received revenue of \$6.8 million. This individual received two percent of all New York host revenue for private stays and personally earned Airbnb close to \$800,000 in fees.

Figure 6: The Top Commercial Users Earned Millions from Private Short-Term Rentals

(Source: Airbnb Data, 2010-2014)

Host	Unique Units	Reservations	Nights Booked	Revenue to Host
1	272	3,024	29,234	\$6,838,472
2	223	1,342	12,003	\$2,863,493
3	46	1,833	12,184	\$2,168,027
4	22	1,607	13,103	\$1,616,814
5	16	751	4,212	\$1,613,763
6	27	1,480	8,675	\$1,598,276
7	24	1,185	6,008	\$1,418,058
8	21	802	4,731	\$1,417,459
9	14	1,072	6,175	\$1,345,823
10	9	663	3,211	\$1,156,561
11	34	425	7,708	\$1,138,706
12	92	471	3,198	\$1,026,270
Total	801	14,655	110,442	\$24,201,722.00

In April 2014, in direct response to NYAG's investigation, Airbnb publicly claimed it had barred certain large Commercial Users from accepting additional reservations. The time period covered by the Data does not enable us to gauge whether Airbnb's purported reform lessened the domination of Commercial Users in the private short-term rental market. Commercial Users with between three and nine unique units, however, enjoyed a similarly elite position on the platform; during the Review Period, they were responsible for one-quarter of all private short-term bookings and received revenue of \$108.9 million—about one in every four dollars hosts received. Regardless, the Data make clear that during the approximately 4.5-year Review Period, Commercial Users accounted for a substantial and disproportionate share of Airbnb's business in New York City.

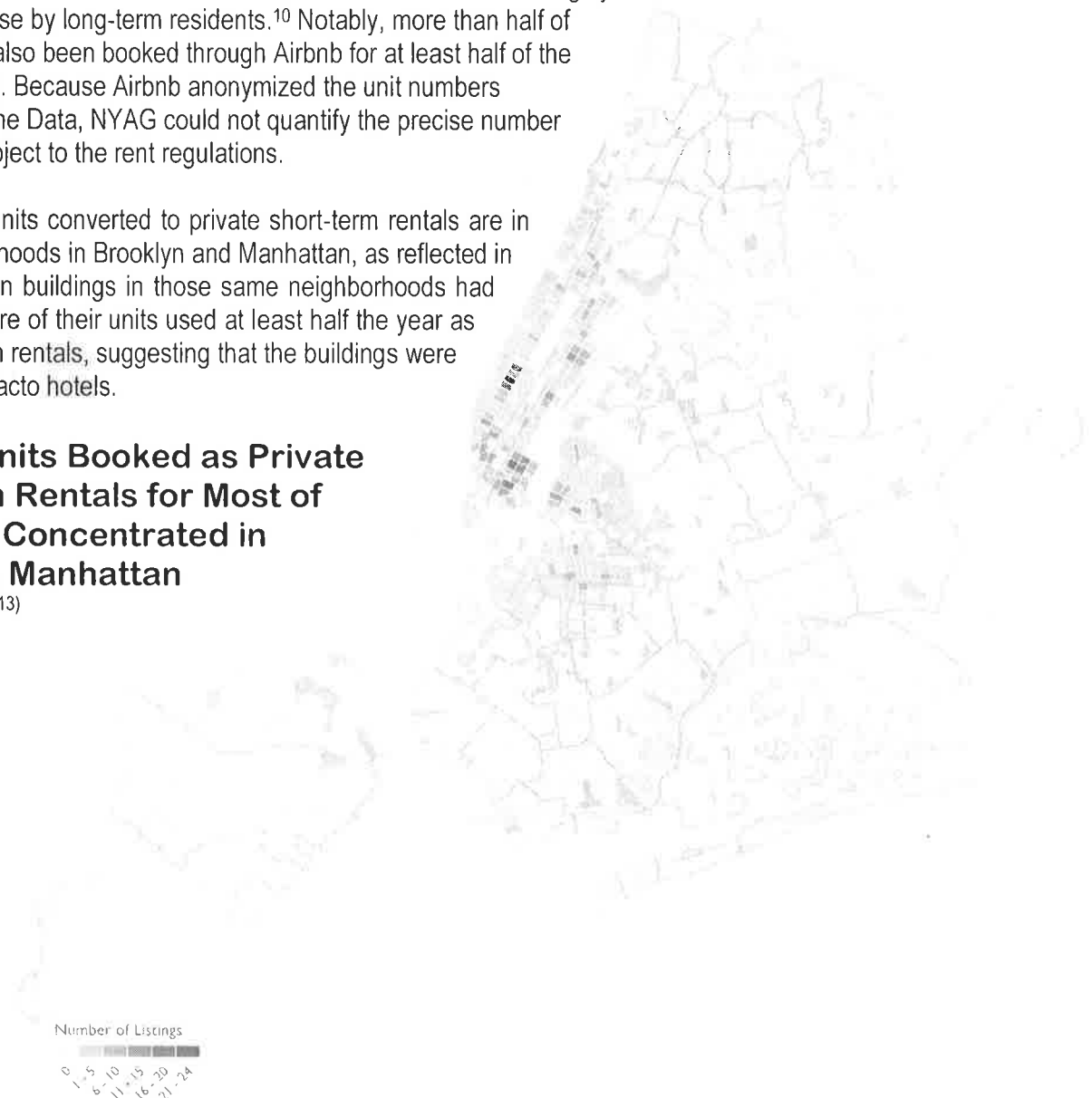
EFFECTS OF SHORT-TERM RENTALS ON RESIDENTIAL HOUSING SUPPLY

Thousands of Residential Units in New York City Were Dedicated Primarily or Exclusively to Private Short-Term Rentals. In 2013, over 4,600 unique units were each booked as private short-term rentals for three months of the year or more. Of these, nearly 2,000 units were each booked as private short-term rentals on Airbnb for at least 182 days—or half the year. While generating \$72.4 million in revenue for hosts, this rendered the units largely unavailable for use by long-term residents.¹⁰ Notably, more than half of these units had also been booked through Airbnb for at least half of the prior year (2012). Because Airbnb anonymized the unit numbers associated with the Data, NYAG could not quantify the precise number of these units subject to the rent regulations.

The majority of units converted to private short-term rentals are in popular neighborhoods in Brooklyn and Manhattan, as reflected in Figure 7. A dozen buildings in those same neighborhoods had 60 percent or more of their units used at least half the year as private short-term rentals, suggesting that the buildings were operating as de facto hotels.

Figure 7: Units Booked as Private Short-Term Rentals for Most of 2013 Were Concentrated in Brooklyn & Manhattan

(Source: Airbnb Data, 2013)



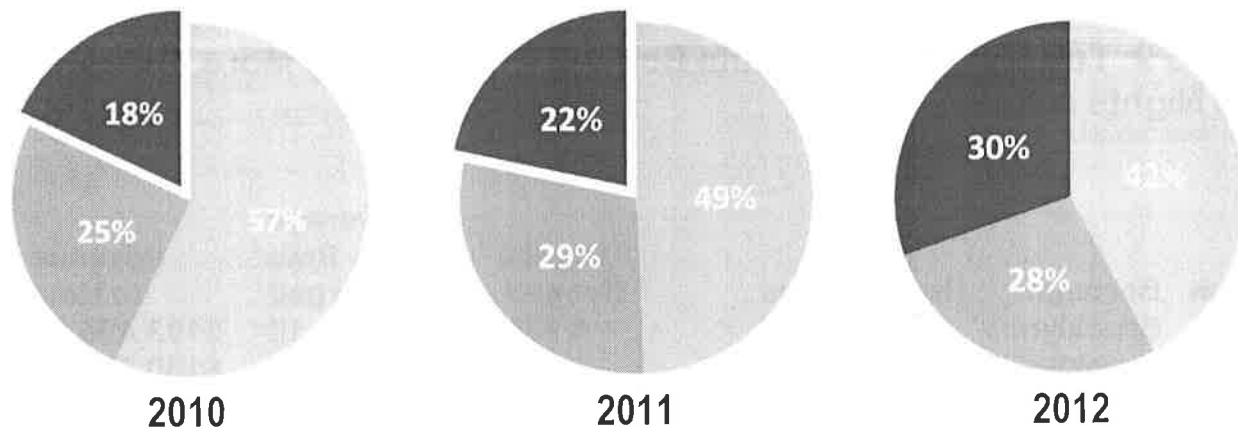
¹⁰ It is likely that the number of units dedicated to private short-term rentals is substantially higher. The Reviewed Transactions cover Airbnb reservations only. Although listing on more than one site is common, this analysis cannot account for short-term rentals booked on other platforms. Also, the Data do not indicate periods when a unit is left intentionally vacant pending further short-term rentals.

Units Dedicated Primarily or Exclusively to Private Short-Term Rentals Accounted for an Increasing Share of Revenue Over Time. As reflected in Figure 8 below, over time, the share of revenue hosts received from units booked for more than half the year has increased, rising from 18 percent of private short-term rental revenue in New York City in 2010 to 38 percent of such revenue in 2013. Airbnb's revenue from the associated fees also increased, rising from over \$270,000 in 2010 to \$10 million in 2013. Units booked on Airbnb as private short-term rentals for half the year or more—and thereby largely removed from long-term housing—generated 38 percent of all fees Airbnb received in 2013 in connection with the Reviewed Transactions.

Figure 8: Increasing Share of Host Revenue from Units Booked as Private Short-Term Rentals for Majority of the Year

(Source: Airbnb Data, 2010-2014)

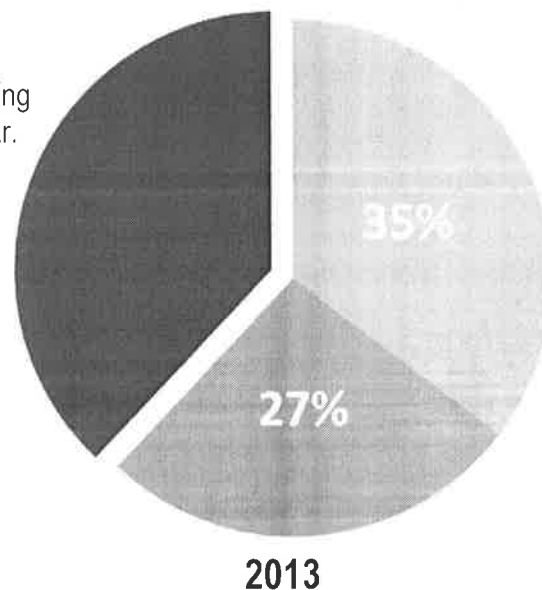
- Unit rented for 182+ days in year
- Unit rented for 90-182 days in year
- Unit rented for less than 90 days in year



38%

Percent of revenue to hosts renting unit(s) for more than half the year.

Revenue: \$72.3 mil
 Reservations: 83,314
 Units: 1,961
 Hosts: 1,526



Numerous Units Booked as Private Short-Term Rentals May Have Operated as Illegal Hostels. Certain states permit hostels, where multiple, transient strangers often share rooms outfitted with bunk beds and barebones amenities. Because tight quarters and other factors create heightened fire and safety risks to travelers and permanent residents, these states generally require hostels to adhere to rigorous safety requirements. New York currently prohibits for-profit hostels entirely.

Although other explanations may apply to certain listings, patterns of high occupancy in connection with a single unit are consistent with their use as a hostel or other high-volume transient accommodation. Close to 200 units throughout New York City were each booked on Airbnb as private short-term rentals for more than 365 total nights in 2013.¹¹

Figure 9 below provides data associated with 10 most-booked private short-term listings on Airbnb in 2013. For 2013, these units averaged 1,920 booked nights *each*. One listing in Brooklyn accepted 285 individual reservations for a total of 4,735 booked nights. Thus, on an average night, this listing accommodated 13 reservations.

Figure 9: Ten Most-Rented Units Booked Substantially More Than 365 Nights a Year

(Source: Airbnb Data, 2013)

Rank	Borough	Reservations	Nights Booked	Average Nightly Rate Charged	Revenue to Host
1	Brooklyn	285	4,735	\$49.12	\$193,495.00
2	Brooklyn	90	2,273	\$107.77	\$130,331.00
3	Brooklyn	361	2,129	\$45.15	\$81,110.00
4	Manhattan	313	2,059	\$178.72	\$305,243.00
5	Manhattan	304	1,599	\$75.73	\$108,130.00
6	Manhattan	44	1,407	\$104.22	\$100,992.00
7	Brooklyn	460	1,313	\$101.94	\$113,168.00
8	Manhattan	221	1,278	\$158.80	\$169,693.00
9	Manhattan	204	1,245	\$105.97	\$110,965.00
10	Queens	182	1,165	\$132.44	\$119,716.00

¹¹ The Data exclude all listings identified as a "shared room," which could likewise serve as illegal hostels or other high-volume transient accommodations. We expect that the number of New York City units booked as short-term rentals for more 365 days a year during the Review Period would increase if these transactions were included.

GEOGRAPHIC DISTRIBUTION OF SHORT-TERM RENTALS

Revenue Generated in Manhattan and Brooklyn Accounted for Virtually All Revenue from Private Short-Term Rentals Citywide. During the Review Period, private bookings in those two boroughs yielded \$438 million to Airbnb hosts—97 percent of the citywide revenue totals. The 33,825 unique units in Manhattan and Brooklyn during that period accounted for the vast majority (96 percent) of units used for private short-term rentals booked citywide. This runs counter to the suggestion that any benefits associated with private short-term rentals are well-distributed throughout the city.

As depicted in Figure 10 below, during the Review Period, about 17,000 hosts offered over 23,000 unique units in Manhattan for private short-term rentals and received revenue of \$338 million. Brooklyn emerged as a distant second in each category, with just under 8,000 hosts offering about 10,000 unique units and receiving revenue of approximately \$100 million. By contrast, private short-term rentals in the remaining three boroughs (Queens, Staten Island, and the Bronx) together yielded hosts just \$12.2 million—less than three percent of the citywide total.

Figure 10: Vast Majority of Private Short-Term Rentals Booked in Manhattan and Brooklyn

(Source: Airbnb Data, 2010-2014)



Three Community Districts in Manhattan Accounted for an Outsize Share of Private Short-Term Rentals in the Borough and Citywide. As reflected in Figure 11, three Community Districts—the Lower East Side/Chinatown, Chelsea/Hell's Kitchen, and Greenwich Village/SoHo—accounted for one-third of unique units booked as private short-term rentals in New York City. These three, largely downtown districts accounted for host revenue of \$186.9 million, which represented 55 percent of host revenue for private stays in Manhattan and 41 percent of host revenue for private stays citywide. Greenwich Village/SoHo and Chelsea/Hell's Kitchen had the highest median rents in New York City, tied at \$2,035 per month in 2012.¹² The Lower East Side was the most rapidly gentrifying neighborhood in New York City (based on the spread between median rents of new residents compared with all renters).¹³

Figure 11:
Three Lower Manhattan Community Districts Accounted for Most of Borough Revenue
 (Source: Airbnb Data, 2010-2014)



¹² NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN02 Greenwich Village/SoHo." Available: http://furmancenter.org/files/sotc/SOC2013_Manhattan_02.pdf

NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN04 Clinton/Chelsea." Available: http://furmancenter.org/files/sotc/SOC2013_Manhattan_04.pdf

¹³ NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN03 Lower East Side/Chinatown." Available: http://furmancenter.org/files/sotc/SOC2013_Manhattan_03.pdf

Williamsburg and Greenpoint Hosted the Greatest Share of Private Short-Term Rentals in Brooklyn. During the Review Period, most revenue from private Brooklyn short-term rentals came from Community Districts along the Northern Brooklyn waterfront and in the neighborhoods often collectively called “Brownstone Brooklyn.” As depicted in Figure 12 below, the Williamsburg/Greenpoint Community District had for the largest concentration of private short-term rentals in Brooklyn, generating \$39 million for hosts—40 percent of the boroughwide total and nearly 10 percent of the citywide total.

Like the Lower East side, the Williamsburg/Greenpoint Community District was one of the most rapidly gentrifying neighborhoods in New York City, as reflected in the disparity between the rents paid by old and new renters in 2012.¹⁴ Other popular community districts included Downtown Brooklyn/Fort Greene (\$14.7 million revenue), Prospect Heights/Bedford Stuyvesant (\$14.4 million revenue), and Park Slope (\$8.67 million revenue).

Figure 12: Williamsburg and Greenpoint Accounted for 40 Percent of Brooklyn Host Revenue

(Source: Airbnb Data, 2010-2014)



¹⁴ NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "BK01 Greenpoint/Williamsburg." Available: http://furmancenter.org/files/sotc/SOC2013_Brooklyn_01.pdf

APPENDIX A:

SUMMARY OF SELECTED LAWS

PROPERTY USE AND SAFETY LAWS

Property use and safety laws establish basic standards for the permissible and sound use of property. These laws seek to protect the health, safety, morals, welfare, and reasonable comfort of the residents of the property.

One such law is the New York State Multiple Dwelling Law (the "MDL"), which prohibits rentals of less than 30 days in "Class A" multiple dwelling. Prior to 2010, the MDL defined "Class A" buildings as those dwellings occupied "as a rule, for permanent residence purposes." The phrase "as a rule, for permanent residence purposes" was ambiguous and left room for various interpretations. For example, the phrase "as a rule" could mean that at least some measure of secondary short-term occupancy is permitted in a "Class A" building, provided that the majority of units are occupied on a permanent residency basis. The court in *City of New York v. 330 Continental, LLC*, 60 A.D.3d 226 (1st Dept. 2009) followed this interpretation, holding that the MDL is not violated when only a minority of units in a Class A building are used as transient hotel rooms.

In 2010, the MDL was amended to specify that permanent residency of a dwelling means at least 30 consecutive days' occupancy by a "natural person or family" in a unit. Thus, one cannot rent out an apartment in a "Class A" multiple dwelling for less than 30 days, unless a "permanent resident" is present during the rental period. A "multiple dwelling" is a dwelling occupied by three or more families living independently. The purpose of this prohibition is to protect guests, ensure the proper fire and safety codes, and protect permanent residents who "must endure the inconvenience of hotel occupancy in their buildings." It was also designed to preserve the supply of affordable permanent housing. See New York State Assembly Memorandum in Support of Legislation (S. 6873-B, 233rd Leg. (N.Y. 2010 (Sponsor's Memo) Bill No. A10008).

Even if the building is not a "Class A" multiple dwelling, a short-term rental could still violate the law. For example, New York City Administrative Code, section 28-118.3.2, prohibits changes to the use, occupancy, or egress of a building. A short-term stay in a building that is not a "Class A" multiple dwelling would violate the law unless the building's certificate of occupancy expressly authorized that type of use.

TAX LAWS

Anyone who rents out a unit on a short-term basis must pay applicable hotel taxes. These taxes include the New York City Hotel Occupancy tax of 5.875%, plus an additional per room fee of 50 cents to \$2, depending on the total cost of the room.¹⁵

The operator (as relevant here, the host) is personally liable for the portion of the tax collected or required to be collected. The operator must collect the tax for all rentals of apartments or rooms, except in the case of: (1) rental of only one room in an owner-occupied home; (2) rentals for less than 14 days, or for fewer than three occasions during the year (for any number of total days);¹⁶ and (3) "long-term leases," i.e., rentals for a continuous period of 180 consecutive days.

Other taxes, including sales taxes and the New York City Unincorporated Business Tax ("UBT"), may also apply. The UBT is a 4% tax on net income imposed on individuals or unincorporated entities that carry on or are currently liquidating a trade, business, profession, or occupation within New York City. This includes those engaged in the business of renting out homes and apartments for profit as an unincorporated business.

¹⁵ This additional fee is based on the "rent" being charged for a room:

If the rent for the room is...	The tax will be...
\$10 or more, but less than \$20	50 cents per day per room + the hotel room occupancy tax rate
\$20 or more, but less than \$30	\$1 per day per room + the hotel room occupancy tax rate
\$30 or more, but less than \$40	\$1 per day per room + the hotel room occupancy tax rate
\$40 or more	\$2 per day per room* + the hotel room occupancy tax rate

A hotel suite may have more than one room. The tax will be \$2.00 per room per day on each of the rooms that make up the suite plus the hotel room occupancy tax for the entire suite rental. For example, the tax on a suite with 3 rooms will be \$6.00 per day plus the hotel room occupancy tax for the entire suite rental.

¹⁶ Rentals of listings in a single building are aggregated and rentals of listings by a single owner or primary leaseholder are aggregated across buildings. Once a facility is required to pay hotel occupancy tax, it must continue to pay the tax until it falls below the de minimis thresholds for three consecutive years.

APPENDIX B: SELECTED AFFIDAVITS (FIRE & SAFETY ISSUES)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
THE CITY OF NEW YORK,

Plaintiff,

AFFIDAVIT IN
SUPPORT

-against-

Index No.

CITY OASES, LLC, et al.,

Defendants.
-----X

STATE OF NEW YORK)
)ss.:
COUNTY OF KINGS)

THOMAS JENSEN, being duly sworn, deposes and says:

1. I am employed by the New York City Fire Department ("FDNY") as the Chief of Fire Prevention, a position I have held since 2007. I am a member of FDNY's uniformed firefighting force, and hold the rank of Assistant Chief. I have been employed by FDNY since 1973, when I was appointed to the position of Firefighter. Prior to being appointed to the rank of Assistant Chief, I was promoted to and held the ranks of Lieutenant, Captain, Battalion Chief, Deputy Chief, Deputy Assistant Chief.

2. As Chief of Fire Prevention, I oversee the operations and personnel of the Bureau of Fire Prevention, the FDNY bureau primarily responsible for FDNY's fire prevention and code enforcement mission. In addition, as Chief of Fire Prevention I served as the Chair of the Fire Protection Systems Committee of the New York City Department of Buildings Code Revision Project that culminated in the 2014 New York

City Building Code, and I was a member of the Managing Committee of FDNY's Code Revision Project that culminated in the 2014 New York City Fire Code.

3. I am fully familiar with the New York City Fire Code, and its predecessor, the New York City Fire Prevention Code, by virtue of my training, experience and position.

4. I make this affidavit in support of plaintiffs' application for a temporary restraining order, and preliminary injunction in the above-captioned action. This affidavit outlines the heightened fire and life safety concerns and standards associated with transient residential occupancies, as compared to non-transient residential occupancies.

5. FDNY is responsible for enforcing the New York City Fire Code ("Fire Code") and rules promulgated thereunder, which seek to prevent fires and mitigate their danger to life or property, throughout the five boroughs of New York City. FDNY also has authority to enforce fire and life safety provisions contained in the New York City Building Code ("Building Code").

6. One type of building occupancy specifically addressed in the Fire Code and Building Code are hotels and other transient accommodations.

7. Transient residential occupancies in New York City (classified by Building Code Section 310.1.1 as Group R-1 occupancies) are required to be designed, constructed and operated in accordance with more stringent fire protection requirements than those applicable to apartment buildings and other non-transient residential occupancies (classified by New York City Building Code Section 310.1.2 as Group R-2 occupancies).

8. A major reason for this distinction is that the visitors who stay in transient residential occupancies are not familiar with the layout of the building, including the exit stairwells, as are permanent residents. Occupants of transient accommodations therefore are likely to find it more difficult to evacuate the building quickly in the event of a fire or other emergency. This would be especially the case if there is a heavy smoke condition, smoke being a prime cause of death and serious injury in the event of fire. Occupants of transient accommodations typically are only familiar with the entrance through which they entered and the elevators. Use of elevators is discouraged in the case of a fire because they may open on floors engulfed by fire, smoke or heat, or even stall between floors.

9. Historically, it has taken tragic fires to lead to major changes and improvements in fire safety. For example, the 1980 fire at the Las Vegas MGM Grand Hotel and Casino, which resulted in some eighty-five (85) deaths and hundreds of injuries, and other significant hotel fires in Las Vegas, Houston, and White Plains, New York, led to substantial changes in fire safety requirements for transient accommodations in New York City. Beginning in the 1980s, FDNY addressed the need for heightened fire safety protection requirements in transient accommodations, first by issuance of a directive (Fire Prevention Directive 2-82), then by promulgation of a rule (3 RCNY 39-01), and more recently through the enactment in 2008 of Chapter 4 of the new New York City Fire Code, which, together with the new Fire Department rules, incorporated the requirements of the now repealed Fire Prevention Directive 2-82 and 3 RCNY 39-01.

10. With the enactment of Local Law No. 148 of 2013, the Fire Code was revised to enhance emergency preparedness in hotels and other transient residential

occupancies by requiring that the emergency preparedness plans, staff training and drills in such occupancies address all types of emergencies, not just fires. The Fire Department will be promulgating rules implementing these new Fire Code provisions. Until such time as such rules are promulgated, existing (2008 Fire Code) emergency preparedness requirements for hotels and other transient residential occupancies remain in effect as set forth in FC401.3.6.1.

11. The Fire Code imposes or references a series of requirements on transient residential occupancies beyond those which are applicable to non-transient residential occupancies:

- (a) Provision of portable fire extinguishers (FC 906.1);
- (b) Provision of automatic sprinkler systems (FC 903.2, referencing the Building Code);
- (c) Provision of photoluminescent exit path markings for exits and stairwells in high-rise buildings (FC 1001.2, referencing the Building Code);
- (d) Provision of manual, automatic, or manual and automatic fire alarm systems, on all floors with smoke detection capability, notification of building occupants and, in most buildings, voice communication capability (FC 907.2, referencing the Building Code and National Fire Protection Association Standard 72);
- (e) A fire safety and evacuation plan, which sets forth the evacuation and other procedures to be implemented in the event of a fire, and which

designates the fire safety director, deputy fire safety directors and fire brigade members¹ (2008 Fire Code Section FC 404.2.1);

(f) Provision of a fire safety director, who is responsible for implementing the fire safety and evacuation plan, notifying the Fire Department, and communicating all instructions and directions to building occupants in the event of a fire, and who must possess a FDNY certificate of fitness and be present in the hotel or motel at all times (2008 Fire Code Section FC 401.6.5);

(g) Provision of a lobby fire command center, equipped with a control panel that displays the status of alarm devices in the building, and that is used by the fire safety director and FDNY emergency response personnel to implement the fire safety and evacuation plan (FC 907.3);

(h) Provision of a fire brigade, consisting of building staff trained in fire safety, who assist the fire safety director and FDNY personnel with the implementation of the fire safety and evacuation plan (2008 Fire Code Section FC 401.6.5); and

(i) Posting of diagrams on every guest room entrance door showing the route to two stairwells or other means of egress (FC 405.5).

12. In contrast, the New York City Fire Code contains the following less stringent fire protection requirements for non-transient residential occupancies:

(a) There is no requirement for portable fire extinguishers.

¹ 2008 Fire Code Section 402.4.1(8) requires this plan for "Group R-1 occupancies, occupied by more than 30 lodgers, or more than 15 lodgers above street level, for a period of 90 days or less; and/or operated to accommodate such numbers of lodgers for such period of occupancy; and/or designed to contain a total of more than 30 sleeping rooms, or more than 15 sleeping rooms above the street level, for such period of occupancy; and/or occupied by one or more lodgers on a floor more than 75 feet (22 860 mm) above the street level, for such period of occupancy, or operated or designed for such lodging."

(b) There was no requirement for a building-wide fire alarm system in older apartment buildings, and, in newer apartment buildings, the requirement for a fire alarm system is limited to certain areas of the building and does not alert building occupants in the event the fire alarm system is activated (FC 907.2, referencing the Building Code and National Fire Protection Association Standard 72).

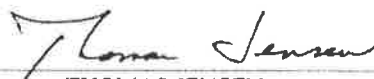
(c) In contrast to the detailed fire safety and evacuation plan and emergency preparedness staff to implement it required in transient residential occupancies, in apartment buildings the Fire Code only requires annual distribution of a fire safety guide that contains information about the building, basic fire prevention and fire preparedness measures and emergency fire safety instructions in the event of fire (FC 406.2.1).

(d) In contrast to the posting of diagrams on each transient occupancy unit showing two evacuation routes, in apartment buildings there need only be a fire safety notice posted on the back of the main entrance door to individual dwelling unit doors and in the common areas of the building, that assists occupants in selecting the safest course of action in the event of a fire (FC 405.5).

13. Accordingly, a visitor who occupies a unit in an apartment building that is being used illegally for transient occupancy, does not have the benefit of the fire and life safety measures required in legal transient occupancies for the protection of persons unfamiliar with the layout of the building. Moreover, a visitor who occupies a unit in an apartment building that is being used illegally for transient occupancy is not afforded the same opportunity to familiarize himself or herself with the information contained in the

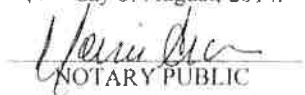
fire safety guide for that building, as is afforded to a resident of the building. The visitor is thus placed at significantly increased risk of injury or death in the event of a fire.

14. In the larger context of fire safety in New York City it is important to note that the overall fire protection measures developed and instituted in recent decades have resulted in a dramatic decline in the number of fatalities attributable to fire incidents. As depicted in Exhibit A attached hereto, the number of fire related fatalities declined from almost 300 in 1976 to 62 in fiscal year 2010. That number has since declined even further. FDNY Statistics for fiscal year 2013 (see Exhibit B) reported 493,377 fire incidents, including 25,278 structural fires but only 47 civilian fire fatalities. New York City's fire protection measures, including those designed to protect transient visitors to the City, have contributed to the historically low level of fire deaths.



THOMAS JENSEN
Chief of Fire Prevention

Sworn to before me this
19th day of August, 2014.


NOTARY PUBLIC

Melina Archer
Notary Public, State of New York
No. 0249893826
Qualified in New York County
Commission Expires 12/7/17

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
THE CITY OF NEW YORK.

Plaintiff,

Index No.:

-against-

CITY OASES, LLC, MINA GUIRGUIS, SZILVIA
PATKOS, HAMID KERMANS SHAH a/k/a
ABDOLHAMID KERMANS SHAH, ABDOLMAJID
KERMANS SHAH a/k/a MAJID KERMANS SHAH,
WILSHIRE LIMITED, THE LAND AND BUILDING
KNOWN AS 59 FIFTH AVENUE, BLOCK 570, LOT
6, County of New York, City and State of New York,
RAHMAN NY INC., THE LAND AND BUILDING
KNOWN AS 5 WEST 31ST STREET, BLOCK 833,
LOT 36, County of New York, City and State of New
York, and "JOHN DOE" and "JANE DOE," numbers 1
through 10, fictitiously named parties, true names
unknown, the parties intended being the managers or
operators of the business being carried on by defendants
CITY OASES, LLC, RAHMAN NY INC., and/or
WILSHIRE LIMITED,

Affidavit of
VLADIMIR PUGACH

Defendants.

-----X
STATE OF NEW YORK)

ss.:

COUNTY OF NEW YORK)

VLADIMIR PUGACH, being duly sworn, deposes and says:

1. I am presently employed as an Associate Inspector for the New York City
Department of Buildings (hereinafter the "DOB"), and I have been so employed for almost
nine (9) years. I have been assigned to the Mayor's Office of Special Enforcement ("OSE")

(formerly named the Office of Midtown Enforcement) since July 2009, where I serve as a member of the Mayor's Inspection Task Force (hereinafter the "MTF").

2. The MTF is composed of inspectors from various New York City agencies, including the DOB, the New York City Fire Department, the New York City Health Department, and the Department of Finance, as well as officers from the New York City Police Department. The MTF's function is to perform 'quality of life' inspections, covering compliance with health, safety and fire codes, in structures located within the five boroughs of the plaintiff, CITY OF NEW YORK [the "CITY"].

3. I submit this affidavit, which is based upon both my personal knowledge and my review of pertinent records kept by the CITY and its various agencies, in support of the plaintiff's application for a temporary restraining order, as well as its motion for a preliminary injunction.

4. On December 3, 2011, and August 25, 2012, I participated in code enforcement inspections of 59 Fifth Avenue, New York; and on April 21, 2012, and October 5, 2013, I participated in code enforcement inspections of 5 West 31st Street. These inspections were conducted by the MTF in response to complaints that dwelling units in the buildings were being operated as illegal transient hotel units.

59 Fifth Avenue

A. December 3, 2011 Inspection

5. During the December 3, 2011 inspection of 59 Fifth Avenue, I observed, among other things, (a) that the second and third floors had been converted from 2 class A apartments to 3 class A apartments on each floor without first obtaining a permit as required by the New York City Building Code; (b) that the second and third floors were occupied for

transient use, contrary to that allowed by the certificate of occupancy for the building; (c) that there was a failure to provide (i) a fire alarm system as required for transient occupancy, (ii) a sprinkler system as required for transient occupancy, and (iii) the means of egress required for transient occupancy.

6. Accordingly, I issued ECB Notices of Violation for the violations, as follows:

- i. Violation No. 34924282Z for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by Certificate of Occupancy No. 75911, in that the 2nd and 3rd floors were converted from two class A apartments to 3 class A apartments, and were occupied by transient, short-term guests, scheduled to stay for less than 30 days. Additionally, the attic apartment was illegally occupied as an office. This is a Class 1 Hazardous violation.
- ii. Violation No. 34924283K for violation of § 28-105.1 of the New York City Building Code for work without a DOB permit for the installation of full height partitions creating additional apartments on the 2nd and 3rd floors, and plumbing for the additional apartment. This is a Class 1 Hazardous violation.
- iii. Violation No. 34924284M for violation of § BC 1004.4 of the New York City Building Code for failure to provide required means of egress for transient use of the 2nd and 3rd floors. This is a Class 1 Hazardous Violation.
- iv. Violation No. 34924285Y for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.
- v. Violation No. 34924286X for violation of § BC 903.2.7 of the New York City Building Code for failure to provide an automatic sprinkler system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.

A copy of the Certificate of Occupancy No. 75911 is annexed hereto as Exhibit "A".

7. These violations directed discontinuation of the illegal occupancy, the obtaining of permit for the work done without a permit, and imposed a partial stop work

order. Copies of each of the December 3, 2011 ECB Notices of Violation are collectively annexed hereto as Exhibit "B".

8. On the day of the inspection, December 3, 2011, I took photographs at 59 Fifth Avenue of the "House Rules" for the transient guests, and of documents in possession of guests showing the booking of accommodations at 59 Fifth Avenue, indicating the length of stay, among other things, documents which were shown by guests to the MTF team. Those photographs are attached as Exhibit "C".

9. The violations were the subject of a hearing at the New York City Environmental Control Board ("ECB"), held on April 12, 2012, at which I testified. After hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the April 19, 2012 ECB decision is annexed hereto as Exhibit "D".

10. Defendant Wilshire Limited appealed the ECB judge's decision to the Board. That appeal was denied by Appeal Decision and Order issued on December 20, 2012. A copy is attached as Exhibit "E".

B. August 25, 2012 Inspection

11. On August 25, 2012, I participated in a follow-up code enforcement inspection of 59 Fifth Avenue conducted by the MTF, in response to a new complaint that 2nd and 3rd floor apartments were being operated as an illegal transient hotel.

12. During that inspection I observed that there had been no change in the illegal use of the 2nd and 3rd floor apartments for transient use and occupancy, and that the attic apartment was also being used and occupied transiently. In addition, I observed that the egress and fire safety violations had not been corrected.

13. Accordingly, I issued ECB Notices of Violation for the recurring violations

and additional fire safety violations, as follows:

- i. Violation No. 34979610R for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by Certificate of Occupancy No. 75911, in that the 2nd and 3rd floors were converted from two class A apartments to 3 class A apartments, and were occupied by transient, short-term guests, scheduled to stay for less than 30 days. Additionally the attic was also being occupied by transient, short-term guests, and one of the 2nd floor apartments as an office. This is a recurring Class 1 Hazardous violation.
- ii. Violation No. 34979611Z for violation of § BC 1004.4 of the New York City Building Code for failure to provide required means of egress for transient use of the 2nd and 3rd floors. This is a recurring Class 1 Hazardous Violation.
- iii. Violation No. 34979612K for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a recurring Class 1 Hazardous Violation.
- iv. Violation No. 34979613M for violation of § BC 903.2.7 of the New York City Building Code for failure to provide a sprinkler system in a building used for transient occupancy. This is a recurring Class 1 Hazardous Violation.
- v. Violation No. 34979614Y for violation of § 28-204.4 of the New York City Building Code, for failure to comply with the Commissioner's order to file a certificate of correction with respect to the five violations described in Paragraph 6 of this Affidavit.

14. The violations directed discontinuation of the illegal occupancy and the filing of a certificate of correction. Copies of the August 25, 2012 ECB Notices of Violation are collectively annexed hereto as Exhibit "F"

15. During the inspection I took photographs of documents in possession of guests showing the booking of accommodations at the Subject Premises and information on check-in procedures. Copies of these photographs are annexed hereto as Exhibit "G".

16. The violations were the subject of a hearing at the New York City Environmental Control Board ("ECB"), held on May 2, 2013, at which I testified. After

hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the May 10, 2013 ECB decision is annexed as Exhibit "H".

17. Defendant Wilshire Limited appealed the ECB judge's decision to the Board. That appeal was denied by Appeal Decision and Order issued on October 31, 2013. A copy of the Appeal Decision and Order is annexed hereto as Exhibit "I".

5 West 31st Street

A. April 21, 2012 Inspection

18. During the code inspection of 5 West 31st Street conducted by the MTF on April 21, 2012, I observed, among other things, (a) that, on the ninth and tenth floors, full height partitions had been erected to create twelve transient-use rooms, and plumbing and electrical wiring installed, without first obtaining a permit as required by the New York City Building Code; (b) that the ninth and tenth floors were occupied for transient use; (c) that there was a failure to provide (i) a fire alarm system as required for transient occupancy, (ii) a sprinkler system as required for transient occupancy, and (iii) the means of egress required for transient occupancy; and (d) that there was a failure to comply with the Building Code requirements for the direction of swing of exit doors for transient accommodations, in that the doors marked for exit on the ninth and tenth floors swing against the direction of egress.

19. There being no certificate of occupancy for 5 West 31st Street, upon my examination of the records at the DOB concerning the building, I determined that the transient occupancy on the ninth and tenth floors of the building is contrary to that which is lawfully allowed.

20. Accordingly, I issued ECB Notices of Violation for the violations, as follows:

- i. Violation No. 34947948H for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by

DOB records, in that the 9th and 10th floors, with twelve sleeping rooms, were occupied by transient, short-term guests, scheduled to stay for less than 30 days. This is a Class 1 Hazardous violation.

- ii. Violation No. 34947947X for violation of § 28-105.1 of the New York City Building Code for work without a DOB permit for the installation of full height partitions creating twelve transient-use rooms on the 9th and 10th floors, and for the installation of plumbing and electrical wiring. This is a Class 1 Hazardous violation.
- iii. Violation No. 34947942R for violation of §§ 28-301.1, BC 1018.1, and 27-366 of the New York City Building Code for failure to provide required means of egress for transient use of the 9th and 10th floors. This is a Class 1 Hazardous Violation.
- iv. Violation No. 34947943Z for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.
- v. Violation No. 34947944K for violation of § 1008.1.2.2 of the New York City Building Code for failure to comply with the required direction of swing of exit doors in a building with transient occupancies. This is a Class 1 Hazardous Violation.
- vi. Violation No. 34974946Y for violation of § 28-118.3 of the New York City Building Code for an altered or changed building being occupied without a valid certificate of occupancy, as required by §§ 28-118.3.1 and 28-118.3.2.

21. The violations directed discontinuation of the illegal occupancy, the obtaining of a certificate of occupancy, and compliance with the Code. Copies of the April 21, 2012 ECB Notices of Violation are collectively annexed hereto as Exhibit "J".

22. On the day of the inspection, April 21, 2012, I took photographs at 5 West 31st Street of the operator's contact information and Certificate of Authority posted at the building, of booking invoices and reservation documents. Those photographs are annexed hereto collectively as Exhibit "K".

23. The Violations were the subject of a hearing at the New York City

Environmental Control Board ("ECB"), held on February 28, 2013, at which I testified. After hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the March 14, 2013 ECB decisions is annexed hereto as Exhibit "L".

B. October 5, 2013 Inspection

24. On October 5, 2013, I participated in a follow-up code enforcement inspection of 5 West 31st Street conducted by the MTF in response to a new complaint that the Subject Premises was being operated as an illegal transient hotel.

25. On that date the apparent person in charge refused entry to the MTF to perform an inspection. That individual, Iana Ivashyna, was the same apparent person in charge at the time of the first inspection performed on April 21, 2012. A photograph of her official New York State identification card taken during the prior inspection conducted on April 21, 2012 is attached as Exhibit "M".

26. Each and every one of the sixteen (16) ECB NOV's noted above that I issued to the defendants herein included an order from the DOB Commissioner to correct the conditions that gave rise to the charged violations and to certify such correction with DOB. Under DOB regulations, a Class 1 [immediately hazardous] violation must be corrected 'immediately'.

27. I have reviewed the DOB records regarding the Buildings at 5 West 31st Street and 59 Fifth Avenue. Based upon my review, I have determined that, to date, the defendant owners have failed to certify their correction for each and every one of the sixteen (16) NOV's that were issued to them on December 3, 2011, April 21, 2012, and August 25, 2012. Of those sixteen (16) NOV's, fifteen (15) of them were issued on the basis that the violations were Class I hazardous violations and, in fact, after their respective hearings, the ECB upheld

such violations as Class 1 hazardous violations. The sixteenth violation [NOV 34979614Y] was issued as an "Aggravated 1" violation, indicating that the charged violation was issued as a 'repeat offense', which is considered to be a more serious violation than a Class 1 violation. A copy of a recent print-out from DOB records for each of the two buildings, at 5 West 31st Street and 59 Fifth Avenue, is annexed hereto collectively, as Exhibit "N", confirming this information.

28. Finally, as part of OSE's investigation regarding the operation by defendants of illegal short-term rentals in permanent residence apartments in New York City, I, together with MTF member New York City Police Department ["NYPD"] Sergeant Arthur Levine, confirmed the current offering and availability of short-term accommodations at both 59 FIFTH AVENUE and 5 WEST 31st STREET. See Affidavit of NYPD Sergeant Arthur Levine, sworn to on August 22, 2014 ["Levine Affid."], at paragraph 4.

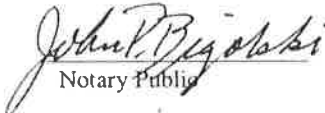
29. In that regard, we booked reservations through the Contempo Design Suites web site, <http://www.contempodesignnyc.com>, for two (2) days [11/6/14 – 11/8/14] at 59th FIFTH AVENUE, under the alias name of "Kim Gallagher". In addition, we booked reservations through the Urban Oasis web site, <http://www.urbanooasisnyc.com>, for seven (7) days [5/1/15 – 5/8/15] at 5 WEST 31st STREET, under the alias name of "Martin Keller". Copies of the reservation documents and invoices for 59 FIFTH AVENUE and 5 WEST 31st STREET are annexed to the Levine Affid., respectively, as Exhibits "A" and "B".

30. Based on my observations with Sergeant Levine that the defendants were offering apartments in both 59 FIFTH AVENUE and 5 WEST 31st STREET for short-term rental, and based on our actual booking of short-term rental accommodations at both Buildings despite the fact that such accommodations are not lawfully permitted by the relevant provisions

of the applicable statutes and codes, I issued two ECB Notices of Violation: ECB NOV # 35096468M [to respondent/defendant WILSHIRE LIMITED, for 59 FIFTH AVENUE] and ECB NOV # 35096469Y [to respondent/defendant RAHMAN NY INC., for 5 WEST 31ST STREET]. Both NOV's cited the respondents/defendants for their violations of NYC Building Code [Admin. Code] § 28-210.3 [Illegal conversions of dwelling units from permanent residences.] which states, in pertinent part, that "It shall be unlawful for any person or entity who owns or occupies a multiple dwelling or dwelling unit classified for permanent residence purposes to use or occupy, offer or permit the use or occupancy or to convert for use or occupancy such multiple dwelling or dwelling unit for other than permanent residence purposes." Copies of the two NOV's are annexed hereto , collectively, as Exhibit "O".


VLADIMIR PUGACH

Sworn to before me on the
25th day of August, 2014


Notary Public

JOHN P. BIGOLSKI
Notary Public, State of New York
No. 01815023114
Qualified in Kings County
Commission Expires Jan. 31, 2018-JB

APPENDIX C: SELECTION OF ANONYMOUS COMPLAINTS

During the Review Period, thousands of New Yorkers submitted complaints to state and city agencies complaining about the proliferation of short-term rentals, primarily in New York City. These complaints raise a host of grievances with short-term rentals, including safety, noise, and a failure to abide by building rules. The excerpts below—which are anonymized to protect the complainants—highlight a few of the broad themes found in these complaints.

Complaint Submitted October 13, 2013 (NYAG):

[I live in] a Class A, partly rent-stabilized, partly market-rent four-flight walk-up tenement building of a lower Manhattan neighborhood. The apartment on the 1st floor being rented out as a hotel suite... The [temporary renters] apparently [do not] have key to side yard to dispose of garbage so was dumping it on street in front. After we complained by leaving notes a maid service began to appear every few days to clean the apartment... We urged management to put an end to illegal hotel rental. In July, 2012 [an apartment in the building] was burglarized of all her grandmother's jewelry in what appeared to be an inside job. Meanwhile, I began to notice a revolving door in the apartment beneath mine. This morning, another neighbor concerned about the erosion of Class A apartments found on line [the apartment in question] being [listed] on Airbnb. It appears that [numerous other apartments my block have also been] listed on Airbnb... Safety, building security, quiet enjoyment of our homes, any sense of community are under assault: please investigate.

Complaint Submitted October 14, 2013 (NYAG):

I write to ask you to take the strongest enforcement action possible against the proliferation of illegal hotels in our neighborhoods facilitated openly by the website Airbnb. I live in a middle class, northern Brooklyn neighborhood and about one and a half years ago I spent almost one entire hellish year battling an illegal hotel operating in the apartment below me. I called countless [City agencies] but to no avail. The person who operated that site had numerous others throughout the city. It was a health and safety risk and the proprietor threatened me with physical force for reporting her and the landlord at the time (the building has since been sold) was a willing accomplice as he hoped to get higher rent from a hotel than from legal tenants. Rent in our neighborhood has become near unaffordable for us and it is partly because people can charge such high rents to illegal hotels.

Complaint Submitted March 11, 2014 (NYAG):

I am writing to bring your attention to a business that is using Airbnb to illegally rent out its apartments via Airbnb, essentially operating as a hotel chain masquerading as individuals renting apartments. The company in question is [presents itself as a legitimate short-term rental service] using several pseudonyms. From what I can tell, they are buying NY tenement apartments and

renting them out to tourists. Among many other problems, this has the effect of forcing long-standing residents out of their apartments to serve tourists.

Complaint Submitted March 12, 2014
(Office of New York Senator Elizabeth Kruger):

I am 41 year old resident of New York City [and hold a lease in a] building with three apartments in Northern Brooklyn... Since October of 2010 I have confronted the problem of [the tenant in the unit above mine] renting the apartment for tourists. They use the Airbnb [website]. At first I got really frightened of having transient strangers entering and exiting the building with so much frequency, then I kind of got used to it, but never felt comfortable with the circumstances. Besides, my life and the life of my roommates is constantly disrupted with the noise from upstairs neighbor with groups of people making heavy noise, especially during the night. We have had property stolen from the basement, lost deliveries left inside the building, the front door was once vandalized and the list of incidents goes on... The host accommodates up to four people in each room (for a total of 12 people at the same time). [For] at least one year the host has [been offering short-term rentals and does] not live in the building but with his girlfriend somewhere else in the neighborhood. To rent the rooms he comes to meet his clients, gives them the keys to the building, and then leaves...

Complaint Submitted March 21, 2014
(New York City Office of Special Enforcement):

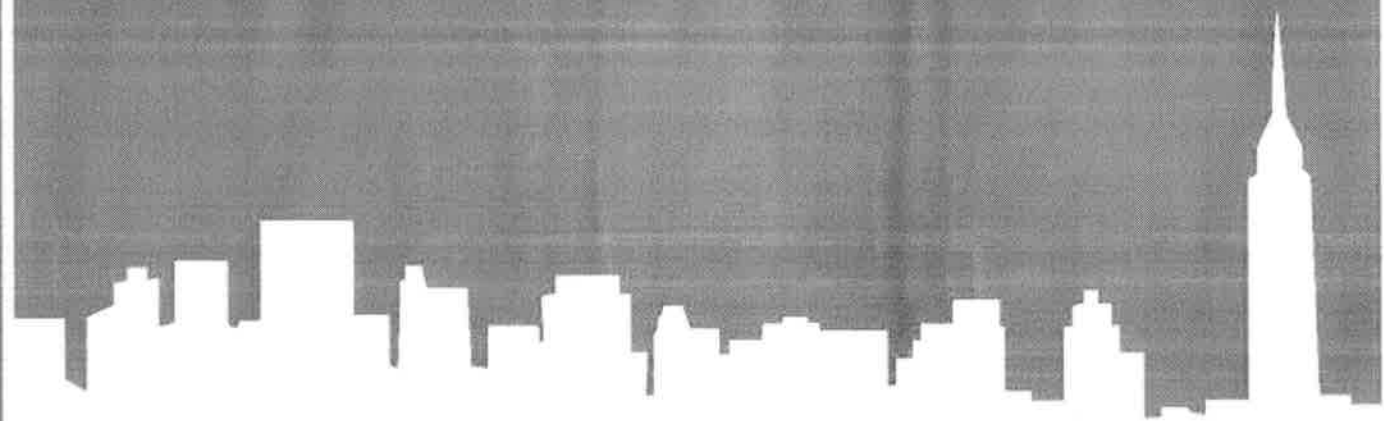
[I just wanted to give you] an update on two apartments [being used as illegal hotels]. Both apartments are owned by the same landlord... and both apartments are almost continuously occupied [for short periods by groups of tourists from all over the world]... We also see a cleaning person and the Airbnb hostess visiting both apartments with supplies. I have met every family so far (except the one that moved in today) to let them know about the situation. I am hoping that some of them mention the fact of this being an illegal rental on the Airbnb website, or to the hostess... All of the felt something was amiss when the hostess failed to meet them in person and had them pick up the keys from someone else... Our lives have been seriously affected by these illegal activities



NEW YORK STATE OFFICE

of the

ATTORNEY
GENERAL



C. Reports

Part 2



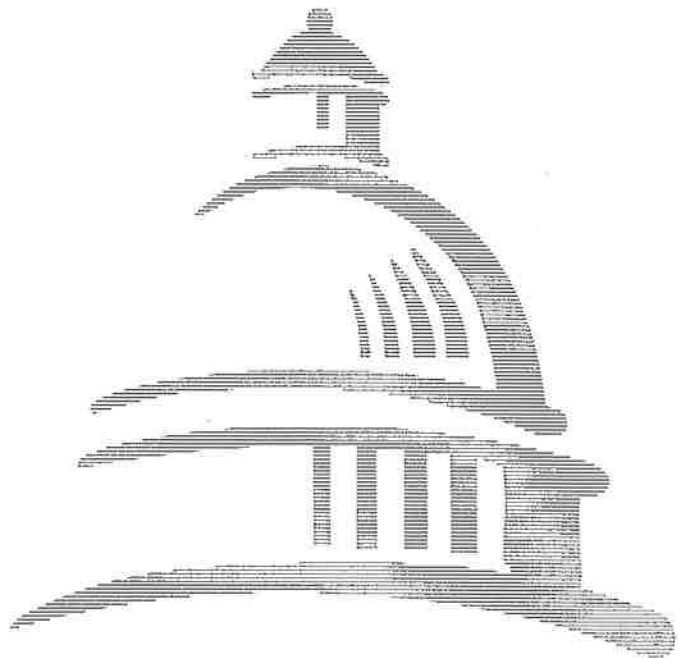
March 18, 2015

Overview of Sharing Economy and Short-Term Rentals

LEGISLATIVE ANALYST'S OFFICE

Prepared for:
Committee on Local Government
Hon. Brian Maienschein, Chair

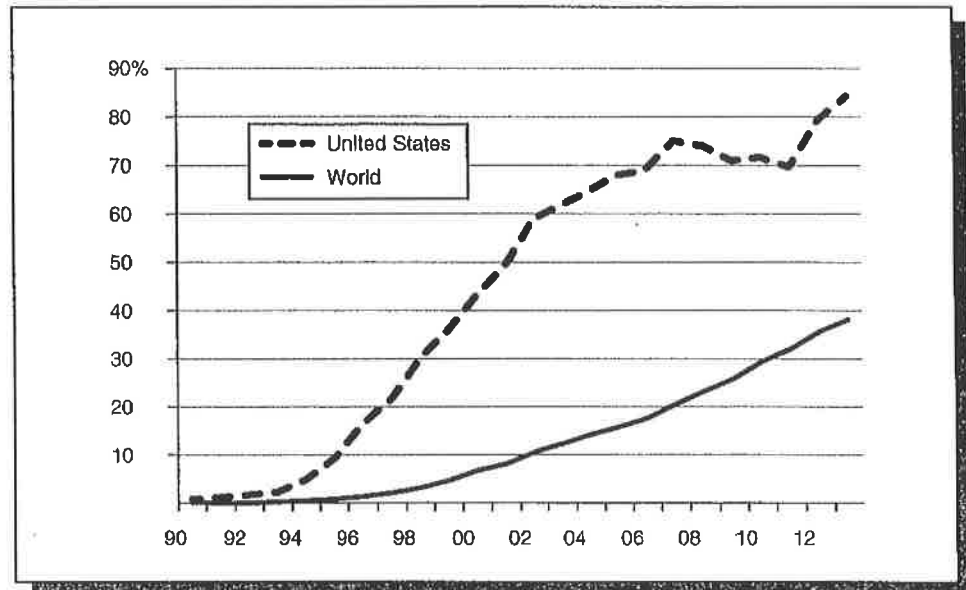
Assembly Revenue and Taxation Committee
Hon. Phil Ting, Chair





Internet Use Drives Societal and Economic Change

Percent of Population Using the Internet



First Wave of Change

- Most of the Internet-driven societal and economic change between 1990 and early 2000s pertained to how people and organizations shared information and bought things.
- Wave examples: Facebook, Amazon, Ebay, and email.



Recent Wave of Change

- Beginning a decade ago, a new wave of change started called the "sharing economy" or "peer-to-peer" (P2P) market.
- This wave relies on the strengths of the Internet to allow consumers and suppliers to complete transactions easily.
- Wave examples: Airbnb, HomeAway, and FlipKey (lodging); Uber and Lyft (transportation); and Kickstarter, Prosper, and Lending Club (financial services).



A Look at the Sharing Economy



Key Characteristics. Renting goods and contracting for short term services is nothing new. In the past, however, some desired transactions did not occur due to information limits or other barriers. Sharing economy businesses use the strengths of the Internet so that:

- Consumers can quickly search among myriad suppliers, compare information and reviews on suppliers, and complete transactions efficiently.
- Suppliers have wide access to consumers interested in using underutilized assets such as vacation homes and vehicles.
- The focus shifts from ownership of physical and human assets (like time, space, and skills) to access to these assets.



Technological Change Frequently Triggers Public Policy Questions

- The first wave of Internet changes prompted government to examine regulatory structures about data privacy and tax laws related to purchases of retail goods from businesses outside of California.
- Sharing economy changes are prompting policy debate in part because many of the affected businesses are in industries where government (1) has established a significant regulatory framework, including land use, business, and consumer protection regulations, and/or (2) collects taxes, such as transient occupancy taxes and business license taxes, that pay for government programs.



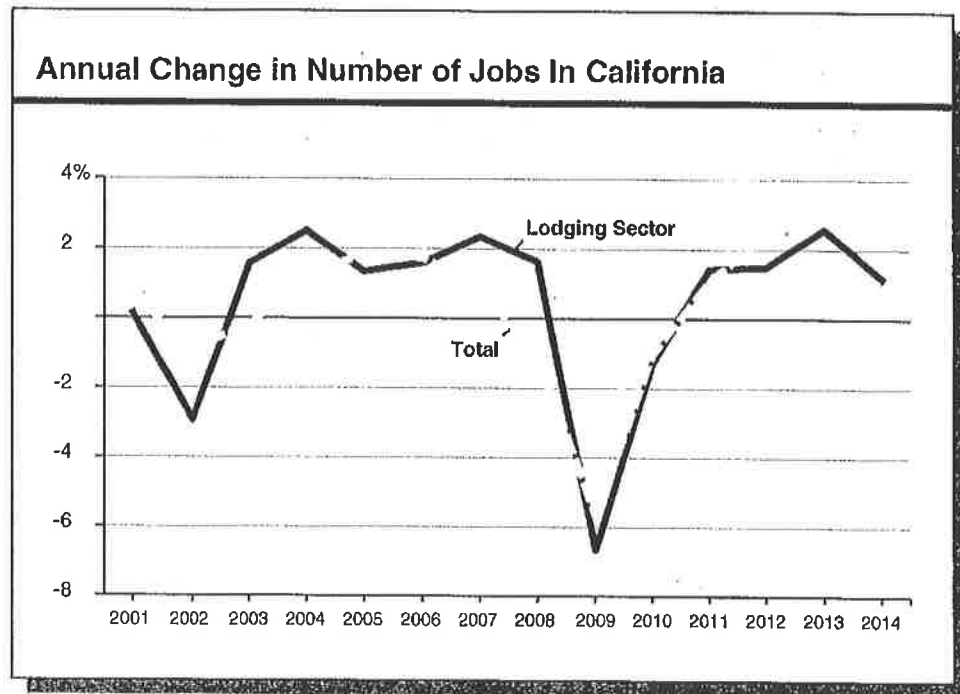
Lodging: Part of the Leisure and Hospitality Industry

Share of Wages and Business Income by Major Industry		
2013		
Sector	California	United States
Finance, Insurance, and Real Estate	8.8%	9.2%
Government	17.4	17.1
Health Care and Social Assistance	9.5	10.9
Manufacturing	9.5	9.7
Professional and Technical Services	12.0	9.8
Wholesale and Retail Trade	10.5	11.0
Leisure and Hospitality	4.7	4.2
Food service	2.4	2.4
Arts, entertainment, and recreation	1.6	1.1
Lodging	0.7	0.7

- **Many Visitors.** Industry experts estimate California had about 230 million “person-trips” in 2013. About 80 percent of these trips were for leisure.
- **California Residents Accounted for About Three-Quarters of These Trips.** Residents of other states accounted for about one-fifth of these trips and visitors from other countries accounted for about 7 percent. Travelers from Mexico and Canada accounted for more than half of the international trips.
- **Tourism Spending.** Visitors are estimated to have spent over \$110 billion in 2013. This includes spending for lodging, food services, recreation, transportation, and retail businesses. Foreign visitors accounted for about 20 percent of this spending.



Employment Growth in State's Lodging Industry



Lodging Industry Employment Growth Generally Tracks State Employment. Nearly 210,000 people worked in the lodging industry in 2014, up from about 197,000 in 2000. (The employment data in this figure is drawn from employer surveys and likely excludes many people offering lodging through Internet sites.) While employment in the lodging industry generally tracks growth in overall state jobs, growth in total state employment has outpaced job growth in the lodging industry



Industry Wages Are Below the State's Average. In 2012, the average earnings for a private sector worker in California was about \$54,000. The average pay for a person in the lodging industry was almost \$28,000. Part of this difference in annual wages may reflect a greater likelihood that lodging industry employees work part-time.



Changes to Lodging Industry: Short-Term Rentals

- ☑ ***Historically, Many Alternatives to Hotels.*** California has long had vacation home rentals, time-shares, bed and breakfasts, hostels, boarding homes, extended stay facilities, and campgrounds. In addition, many travelers stay with relatives and friends.
- ☑ ***The Internet Has Made it Easy to Rent Residential Lodging for a Short Stay.*** It has allowed for the creation of a two-sided marketplace that matches people who rent out their homes ("hosts") with people looking for a place to stay ("guests"). Searching, information gathering, and contract completion is simple.
- ☑ ***How it Works.*** Host creates a listing that describes the room or residence offered, price, location, and house rules. The host usually posts photographs.
 - Potential guests message hosts directly. When a potential guest puts in a reservation request, the host has a day or so to accept or decline it.
 - If a host accepts a reservation, the host and guest coordinate meeting times. After the visit, users (and, sometimes, the hosts) post reviews of one another. Reviews provide references for other guests and hosts. The site also may examine reviews to assess whether to bar a host or guest from using the site in the future.



Growth in Short-Term Rental Sector

- ☑ **Airbnb.** Started in 2008, this privately held company reports that it has over 1 million listings in 190 countries, including room rentals and rentals of entire homes. Airbnb states that it made its millionth booking in 2011 and its 25 millionth booking in 2014. Various media accounts estimate Airbnb's 2013 revenue at \$250 million.
- ☑ **HomeAway.** Started in 2004, this company held its initial public offering in 2011. Like Airbnb, HomeAway reports that it has over 1 million listings in 190 countries. HomeAway's listings are primarily entire homes, not rooms. Total revenues grew by 23 percent in 2014 to over \$119 million. HomeAway acquired and operates many other short-term rental sites, including VRBO.com, VacationRentals.com, and BedandBreakfast.com.
- ☑ **Major Traditional Lodging Providers.** In 2014, Marriot had more than 3,900 properties, with over 700,000 rooms in 79 countries, and reported revenues of nearly \$14 billion. In 2014, Hyatt reported having nearly 600 hotels, over 150,000 rooms, and revenues of over \$4 billion.



Short-Term Rentals From a Public Policy Standpoint: Attributes



Generates Income for Providers

- ***Most Rental Income Remains With Hosts.*** Combined administrative fees (paid by host and guest) typically are in range of up to 10 percent to 15 percent of rental costs.
- ***Provides Supplemental Income for Many Households.*** Two studies of Airbnb usage—one of a four-year period in New York City and one of single day in San Francisco—found that roughly 90 percent of hosts had two or fewer properties. Households typically rented out their own residence (in part or in full) or a second property. There is some evidence that these households have lower than median income.
- ***Ongoing Business Income for Other Hosts.*** Some property owners rent many properties year round and are using these sites to facilitate their property management business operations. The New York City study estimated that these hosts received about a third of Airbnb rental income in the city.



Visitors Save Money

- Short-term renters may save 20 percent or more, relative to the cost of a hotel. These savings can allow visitors to stay longer, or spend more on other leisure and tourism activities.



Community's Lodging Infrastructure Expands

- Repurposing idle capacity in a community expands the community's lodging infrastructure without new construction.
- This can be particularly advantageous if a community experiences unusually high demand for lodging (such as during a major sporting event), or is located in an area where new construction poses environmental concerns.



Short-Term Rentals From a Public Policy Standpoint: Concerns



Despite Prevalence of Short-Term Rentals, Their Legal Status Is Murky

- Short-term rentals have been called “illegal hotels” because some are inconsistent with local land use or business regulatory policies.
 - While many California communities have land use policies that limit or bar rentals of less than 30 days, short-term rental companies show listings throughout the state.
 - The New York State Attorney General estimated that over 70 percent of the Airbnb properties rented in New York City violated one or more local planning or business regulations.
 - The New Orleans Times-Picayune reported finding hundreds of short-term rentals listed for the French Quarter, despite a local law banning rentals of fewer than 60 days in the neighborhood.
- Governments worldwide are reconsidering their policies to more clearly allow, regulate, or prohibit short-term rentals.
 - France legalized short-term rentals of primary residences throughout the country.
 - Amsterdam adopted a law allowing residents to rent their homes for up to two months of the year to up to four people at a time, provided they pay the relevant taxes.
 - San Francisco's new ordinance allows permanent residents to rent rooms if they register with the city, carry liability insurance, pay the city's 14 percent hotel tax, and satisfy other criteria.
 - Burbank enacted rules banning short-term vacation rentals in residential zones.



Short-Term Rentals From a Public Policy Standpoint: Concerns *(Continued)*



Short-Term Rentals Can Disrupt Community Expectations About Residential Neighborhoods

- Many land use policies aim to separate residential properties from areas used for transient lodging. As a result, neighbors may be surprised if a residential property is used for business purposes.
- Although a host may screen prospective guests, neighbors may not have access to this information or know where to complain if problems arise on the property.



Hosts May Not Pay Business and Tourism Taxes

- Short-term rental companies typically advise hosts that they need to comply with local tax laws, but actual practices vary.
 - A study by the San Diego City Treasurer's Office in September 2014 found that 50 percent of short-term rental owners did not pay hotel occupancy taxes.
 - Some companies collect transient occupancy taxes directly from the customer. Airbnb collects these taxes only in six cities: San Francisco, San Jose, Amsterdam, Portland, Chicago, and the District of Columbia.
- Because California cities charge relatively high transient occupancy taxes, noncompliance can result in significantly reduced tax revenues.
- Resolving taxation issues related to short-term rentals is difficult without resolving the related regulatory issues. It is difficult to collect taxes from an industry sector that a city does not permit to operate.



Potential Changes to Economy



Growth in Short-Term Rentals Might Affect Traditional Lodging Sector

- Economic theory suggests that prices fall when supply increases or substitutes become available. While research is limited, there are some signs that growth in the short-term rental sector has placed downward pressure on the traditional lodging sector's prices and gross revenues.
- A recent Boston University study found that every 10 percent increase in the number of Airbnb rentals in Texas resulted in a 0.35 percent reduction in monthly hotel revenue. In the City of Austin, where Airbnb supply is large, the study concluded that this was equivalent to a 13 percent reduction in hotel revenue, with the effect concentrated among lower-cost hotels and hotels not catering to business travel.



Changes to Employment Patterns and Tax Revenues Possible

- ***Employment Patterns May Change.*** If more tourists stay in short-term rentals and fewer in traditional hotels, jobs in the traditional lodging sector might be negatively affected. At the same time, however, tourists and hosts involved in the short-term rental sector might spend their savings/earning on other goods and services, leading to increased jobs in these other sectors.
- ***Tax Revenues May Change.*** If a greater percentage of travelers stay in short-term rentals, tourism taxes might decline because these rentals typically cost less and some hosts currently do not pay taxes as required. The net effect on state and local tax revenues, however, would depend on the extent to which (1) visitors travel more or stay longer in response to these cost savings, (2) travelers and hosts spend their savings on items subject to other taxes, and (3) hosts' personal income tax liabilities increase due to their rental income earnings.

What the Sharing Economy Means to the Future of Travel

SKIFT REPORT #7

2013

Collaborative consumption, once an idealist niche for hitchhikers and backpackers, has grown into a multi-billion dollar industry thanks to the economic, social and technological changes of the past decade. How can incumbent companies learn from this fast-growing segment of the travel industry?

By Vincent Trivett and Skift Staff

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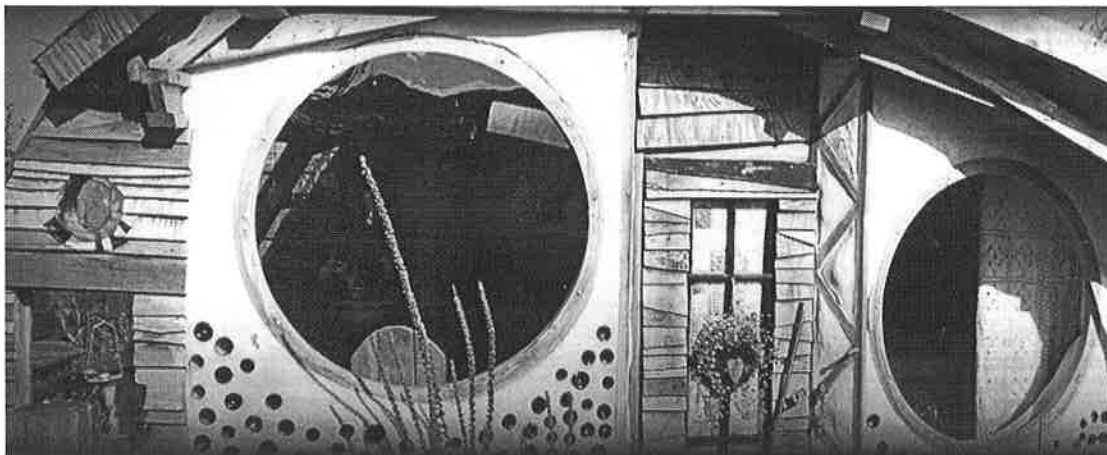
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Executive summary



< Not your everyday hotel room

Courtesy Airbnb

With the global economic downturn and increasing trust of the Internet and online payments, there has been a major shift towards access of goods over ownership of them. The travel industry is the sector most affected by the meteoric growth of sharing and collaborative consumption.

The sharing economy is not new, but it has exploded in recent years thanks to consumers' increased awareness of idle assets. Consumer-to-consumer vacation rentals and ride share bulletin boards have been around for years, but efficient online payments and trust in e-commerce have made sharing into a viable alternative for the mainstream. Startups like Airbnb, Carpooling and Lyft have enjoyed tremendous growth. They now operate on such a scale that they are matching mainstream hotels and transportation companies in convenience, and usually beating them on price.

The growth of collaborative consumption is not just about cash-strapped travelers settling for a less luxurious option, however. In fact, it is growing in popularity for high-end consumers. Trust in strangers, and a desire to travel like a local rather than a tourist are also on the rise. Sharing and communing with locals is the best part of participating in collaborative consumption.

This trend has serious implications for hoteliers, rail, short-haul airlines, tour guides and destination marketers, but this doesn't mean that they can't incorporate the best of the sharing economy and stay relevant.

This trends report will look at the economic, social, and technological changes that drives customers toward the sharing economy, especially for accommodation and ground transport. Through an examination of the advantages of new sharing businesses, we will make recommendations for incumbent players in the travel industry to avoid disintermediation.

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About Skift

Skift is a travel intelligence company that offers news, data, and services to professionals in travel and professional travelers, to help them make smart decisions about travel.

Skift is the business of travel.

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Behind the trend



< A happy Airbnb user

Source: Jennifer Morrow on Flickr

The shift from ownership to access is transforming almost every industry, and travel is one of the most affected. Traditional travel providers should take heed and understand the market to remain relevant.

There are several names for the phenomenon of the sharing economy that are used interchangeably, including collaborative consumption and the peer-to-peer economy. Rachel Botsman, co-author of *What's Mine is Yours: How Collaborative Consumption Is Changing The Way We Live* defines the phenomenon thusly: "Collaborative Consumption describes the rapid explosion in swapping, sharing, bartering, trading and renting being reinvented through the latest technologies and peer-to-peer marketplaces in ways and on a scale never possible before."

Sharing and collaborative consumption in travel is nothing new, but a bevy of technological, economic and social developments have turned it from a counter-cultural, backpacker's niche to a massive business.

Before the buzzword

Sharing unused resources or trading accessibility for money or in-kind is ageless. In travel, it is nothing new. Before buzz-worthy startups like peer-to-peer accommodation broker Airbnb appeared in the space, Couchsurfing, an early online social network, connected travelers with hosts willing to put them up free of charge in spare bedrooms or on couches. Couchsurfing still has 6 million members, but for the most part it mostly served a skint young crowd. Long before the web, Servas International, a non-profit founded in 1949 by a peace activist, did the same. Subscribers to Servas paid a nominal fee for membership and agreed to open their doors to other travelers in the network.

The modern sharing economy is for profit

"'Commercialization' of the sharing economy didn't begin in 2007, if viewed as part of an evolution that began (for modern purposes) with the establishment of the



< The old ways

Source: Payton Chung on Flickr

Internet and, later, social and mobile technologies," says April Rinne, Chief Strategy Officer at Collaborative Lab, who also leads the sharing economy working group at the World Economic Forum. "We began to share more, and different, kinds of things -- often for money. First we shared bits of data, then email, then things like photos and movies and music, and -- more recently -- physical assets and experiences. So Airbnb today is, in some ways, a successor to photo-sharing and music-sharing sites of years ago, many of which were commercial as well."

The European Commission report "The Sharing Economy: Accessibility Based Business Models for Peer-to-Peer Markets" says that an estimated \$3.5 billion of revenue will flow through the sharing economy directly into users' wallets, not counting the revenue generated by companies that facilitate the transactions. High-cost and low-use goods are the most likely things to be rented out, making accommodation and transportation prime candidates for

disruption by this new model. Tuck Analysis found that of those who use one sharing category, 71 percent shared transportation and 20 percent shared travel accommodation. The value of private travel accommodation in Europe alone is projected to reach \$15.4 billion by 2017.

Sharing unused resources or trading accessibility for money or in-kind is ageless. In travel, it is nothing new. Before buzz-worthy startups like peer-to-peer accommodation broker Airbnb appeared in the space, Couchsurfing, an early online social network, connected travelers with hosts willing to put them up free of charge in spare bedrooms or on couches. Couchsurfing still has 6 million members, but for the most part it mostly served a skint young crowd. Long before the web, Servas International, a non-profit founded in 1949 by a peace activist, did the same. Subscribers to Servas paid a nominal fee for membership and agreed to open their doors to other travelers in the network.

Drivers for growth of the sharing economy

In their 2011 book, Rachel Botsman and Roo Rogers identified technology, cost consciousness, environmental concerns, and a resurgence of community as the main drivers of the sharing economy. Dutch academic Pieter van de Glind confirmed this in a survey.

"Practical need, financial gains and receiving praise from others are the main extrinsic motives. The main intrinsic motives are social and environmental. Besides motivational factors, networks, (social) media and recommendation prove to be explanatory factors for the willingness to take part in collaborative consumption," he writes.

Several major economic, social and technological changes that came about in the later part of the last decade made the sharing economy grow into a significant part of the travel industry.

Economic factors

Americans and Europeans know that relatives who lived through the Great Depression had a skill for thrift. People who deal with lean times tend to waste as little as possible, and reuse disposable items that others may throw away without a thought. This current generation of travelers who experienced the late 2000s economic collapse and subsequent fiscal austerity are similarly price and efficiency-conscious — but they have the tools to connect owners of transportation and space to those who need it.

"Renting and sharing allow us to live the life we want without spending beyond our

means. Not all of it is intentional, mind you: low cash flow (or none at all) is most certainly driving many customers to rent rather than buy," says Sarah Millar at Convergex Group, a brokerage. "Many of the sharing and rental services you can find on the Internet, for example, were founded between 2008 and 2010 — that's not a coincidence."

Academic studies of attitudes and motivations for participating in collaborative consumption point to economic benefits as the main driver. Juho Hamari and Antti Ukkonen of the Helsinki Institute for Information Technology found that money-saving is more prevalent for motivating people to participate.

"[Collaborative consumption] has been regarded as a mode of consumption that engages especially environmentally and ecologically conscious consumers. Our results, however, suggest that these aspirations might not translate so much into behavior as they do into attitudes," they write.

Even those who aren't directly affected by the rise in unemployment in rich countries since 2007 are eager to find ways to save on travel. While incomes stagnated, households had extra pressures such as mortgage debt, while the younger population in America struggles to pay off student debt. Meanwhile, gas prices, and therefore, airfare increased and hotel rates stayed the same. The growth of the sharing economy took place alongside declining rates of home and car ownership in the United States and Europe. The generation that

came of age indebted may aspire to ownership, but it is willing to settle for access to such things instead.

Such travelers are more aware of idle or excess assets. Sharing allows owners to make money from their idle cars, reducing the cost of ownership, and gives potential car renters another option that is usually cheaper than a mainstream car rental. Thus, sharing expands options and helps people save money. A study sponsored by Airbnb found that 60 percent of adults agree that "being able to borrow or rent someone's property or belongings online is a great way to save money."

Another economic trend that contributed to the growth of the sharing economy is the prevalence of venture capital to fund the startups that champion the concept. According to a study of 200 collaborative consumption startups by Jerimiah Owyang at Altimeter Group found that they have enjoyed a collective \$2 billion influx of funding. The average funding per company was \$29 million. This enabled these new companies with novel business models reach a wide audience and grow very quickly.

Technological factors

Peer-to-peer transactions were once limited to one's friends, family and immediate neighborhood. Mobile technology and social media make it possible to match supply and demand among a much wider network, and with a reasonable level of trust.

In the earlier days of the web, users mistrusted the people they met through it and it took some years before they were comfortable using the Internet to make monetary transactions. Movies involving computers from the mid-1990s painted new technology as a sinister world full of antisocial serial killers. Being able to trust a potential host is a big hurdle to getting into a car with or sleeping in the home of a stranger. Almost all sharing sites involve some sort of social networking feature to



< Source: Phillip Campbell on Flickr

show users that those supplying the transport and accommodation are who they say they are.

Social networking takes the anonymity out of the transaction. In some ways, the sharing option is inherently safer than the traditional one. A case in point is the mobile peer-to-peer ride sharing service Lyft, which allows both drivers and those who they pick up to rate one another.

"People who use Lyft appreciate the ability to provide immediate feedback. It also takes the anonymity of it and holds everyone to a higher standard. It adds an extra layer of safety and trust because there is that accountability," says Erin Simpson, a spokesperson for Lyft. "If you have a negative experience you can let the customer service team know in minutes. With a taxi, if you leave your phone behind, you know who you rode with and you can find that person."

As sharing becomes more prevalent we should watch how users' biases affect access to the services. The old economy has rules in place to protect access to hotels and ground transportation, no matter what the operators' preferences or bigotries may

be. But the new economy has no system in place to prevent racial or other forms of bias that would keep an Airbnb host from discriminating against certain users or a Uber driver from driving to certain neighborhoods.

Lyft is an example of collaborative consumption made possible by location-aware mobile technology. The program, which only works on a user's smartphone, shows where ready, willing and able drivers can be found.

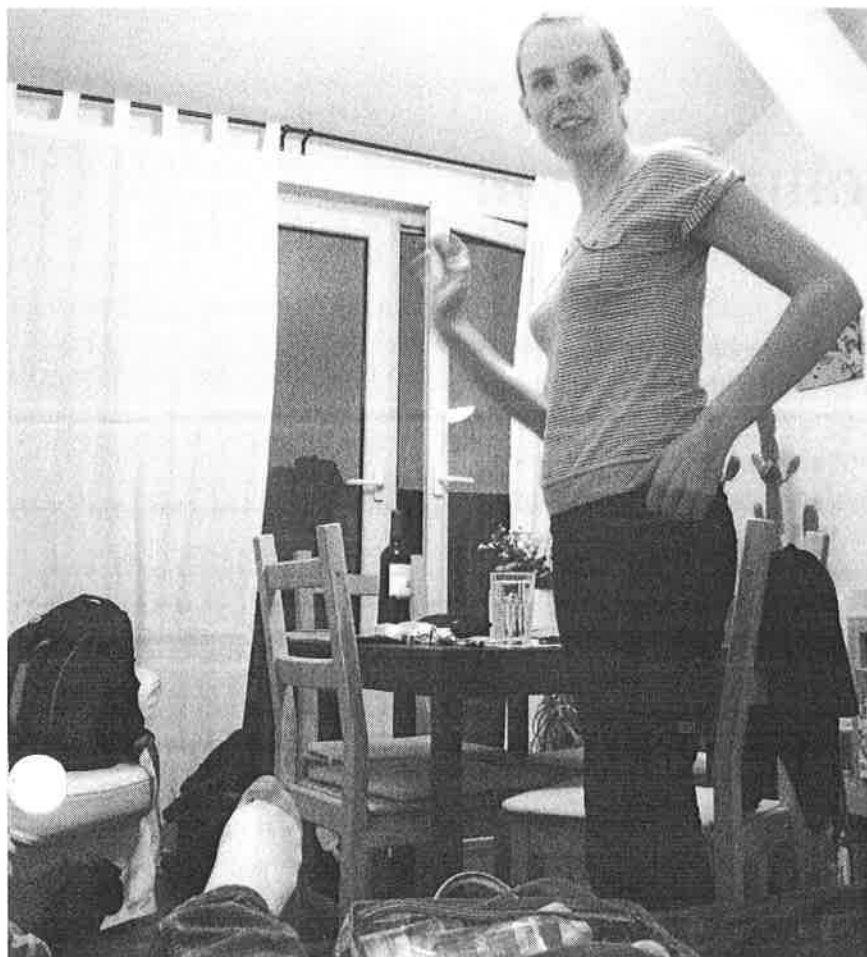
Online payment systems also took away opportunities for fraud. Newer sharing companies like Airbnb act as middlemen for the two parties. Older peer-to-peer models for vacation rentals and the like required the renter to wire money directly to the owner, which is perceived as riskier than going through an intermediary with a decent online reputation. Trustworthy online payments made sharing rooms more

of a mainstream money saver compared to free couchsurfing.

Social networking also establishes trust with people who might be friends of friends (or acquaintances). Airbnb uses Facebook integration so renters and property owners could see what their actual friends say about one another and whether they have friends in common. London-based startup FoF Travel is exclusively based on helping travelers meet up with friends of friends while they adventure abroad. Right now, the site requires users to add only their most trusted friends rather than pull in the hundreds of tenuous connections that many have on Facebook, but they are considering leveraging users' preexisting connections on the social network.

Social factors

Changing norms and consumer taste are also major drivers of the growth of the



sharing company that traditional travel companies also need to track.

In contrast to the findings of Hamari and Ukkonen, a 2013 study by Ipsos Public Affairs commissioned by Airbnb found that the top motivation for a plurality of U.S. adults (36 percent) was philosophical beliefs associated with sharing. However, other studies demonstrate that the most likely motivator for those who have never used collaborative consumption was the money-saving aspect.

"Often people begin sharing as a way to make money, but we're seeing that philosophical benefits and social connections are the reasons people come back time and time again," said personal finance expert Farnoosh Torabi, in the press release for study. The bridge between online and offline communities are creating the virality and stickiness that is propelling the 'Sharing Economy' forward."

Through the shared pain of the hard economy, coupled with a greater desire for environmentally sustainable consumption, and a desire to connect with other people — even strangers offline are important points for incumbent brands to recognize when appealing to this market.

"I think another reason why sharing is becoming so popular is because there has been this shift in people's mindsets. Information is so much more accessible. People are a lot smarter now and more informed than ever before. There seems to be a strong and palpable backlash against big corporations and excessive capitalism and consumerism. More and more people are searching for ways to find meaning and balance out their lives," says Krista Curran, CEO and founder of FoF Travel. "People seem to be realising and comfortably accepting that at the end of the day, people — your relationships and community — are what matter. And instead of hoarding and acting selfishly, why not share and help each other out?"

Sharing and travel accommodation

Vacation rentals and peer-to-peer accommodation are among the most prominent examples of the sharing economy in travel, but it does not yet represent a real threat to traditional hotels. Some hoteliers are proactively evolving to fit into this trend.

Differences between vacation rentals and peer-to-peer hotels

Renting out another person's home is nothing new. Prior to the Internet, classified ads and listing services compiled rentals based on destination. Vacation Rentals By Owner (VRBO) has facilitated such transactions online since 1995. For a yearly subscription to the service, homeowners could meet

potential renters and negotiate directly through the site. HomeAway, which was founded in 2004, consolidated several companies including VRBO that offer vacation rental classifieds. When buyer and seller agree, the former sends the latter a direct payment.

Jon Gray, Vice President of HomeAway North America says that a major difference between the vacation rental market and sites such as Airbnb is the type of owners that use it.

"HomeAway allows people to do something with a second asset. Some people buy homes before retirement and rent them

until they reach retirement age," he says. "The overwhelming majority is second homes that are rented most of the year, while the owner is there a few weeks a year. Most inventory is located in vacation markets near beaches and mountains."

Airbnb, by contrast, is more popular with travelers and hosts in big cities. The founding story is that when a major design convention sold out San Francisco's hotel rooms in 2007, two young designers decided to rent out three air beds on their living room floor. Those designers launched Airbnb in 2008 and it has since booked 10 million nights in 192 countries. It's so popular that other startups in the sharing economy informally bill themselves as "the Airbnb of X." Emily Joffrion, Airbnb's Director of Consumer Strategy, says that as the business matures, less private couchsurfing-style deals are becoming less common. Most rentals are either entire apartments (which is illegal in the short-term in New York City) or a private room in an owner-occupied home.

Airbnb acts as more than a bulletin board for buyers and sellers to meet. Instead of charging owners or hosts to list avail-

able space, the company gets a portion of all transactions. Renters and hosts don't exchange money directly, rather the renter pays Airbnb. The payment is debited 24 hours after check-in to ensure that the traveler isn't charged for a room that isn't as advertised. In lieu of a subscription fee, Airbnb takes 6-12 percent of the room charge, depending on the type of space and a 3 percent processing fee. In response to the success of this arrangement, Home-Away has begun offering a pay-per-booking model, too.

On the bright side, the company's handling of the financial transaction takes some of the awkwardness away, and makes fraud less likely. If the traveler cancels at the last minute, Airbnb can hold them accountable. This also makes Airbnb the merchant of record for the transaction, much the same as a Hilton or Marriott is when you book a room. This draws scrutiny from tax authorities because they are responsible for covering taxes, but not all Airbnb hosts actually pay them. Airbnb directs users that earn a significant amount from renting rooms to fill out a 1099 form and pay the appropriate taxes.



Both allow guests and hosts to rate one another, but Airbnb only allows reviews from people who did business with each other.

Both vacation rentals and Airbnb-style peer-to-peer stays are on the rise. According to the MMGY Global/Harrison Group 2012 Portrait of American Travelers, in 2012 some 47 percent of American leisure travelers were interested in staying in a vacation rental home (46 percent in a condo) over the next two years, up from 44 percent and 46 percent, respectively, in 2010. The 2013 Vacation Collaborative Economy Report by Demeure says that 80 percent of U.S. travelers are comfortable with the idea of renting someone else's vacation home on a trip.

Advantages of sharing for accommodation

Accommodation aptly demonstrates the economic and social advantages of the sharing economy.

Firstly, sharing is considerably cheaper on average than a non-discounted hotel room. In June 2013, Priceonomics, a company that helps companies crawl the web for data, found that Airbnb apartments cost 21.2 percent less than a hotel. Individual rooms are 49.5 percent cheaper.

Such a price advantage is attractive when the economy is still in recovery mode.

Customers are hesitant to splurge when they are uncertain about future employment. Likewise, homeowners (and apartment renters) struggling to keep up with mortgage and rent payments are more willing to rent out their space to a stranger. According to Euromonitor, vacation rentals weathered the downturn better than hotels. In 2009, global vacation rentals declined 8 percent while the hotel industry fell 12 percent.

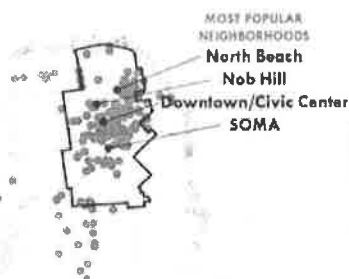
This could be a temporary change due to economic conditions, but younger people especially are becoming used to having access to more things than they could ever own.

"There are cycles in this business. We might be entering the cycle of doing things like locals right now but maybe five to seven years down the road, travelers might go back to wanting to be pampered," says Frederic Gonzalo, a web marketing consultant for travel and hospitality brands. "Both can live in parallel. You can save on your own travel, but then opt to get pampered on the next trip with the family."

Users of peer-to-peer travel tend to stay in a destination longer. In tan economic

26%

OF HOTELS ARE LOCATED OUTSIDE OF
6 CENTRAL ZIP CODES



72%

OF AIRBNB PROPERTIES ARE OUTSIDE OF THESE
6 HOTEL ZIP CODES



impact study, Airbnb found that visitors stayed in New York City for an average of 6.4 nights, compared to 3.9 nights for hotel guests. There is a similar case with Roomorama, which started out as a peer-to-peer network, but now specializes in high quality short-term rentals as a less expensive alternative to hotels. Jia En Teo, co-founder of Roomorama says that the average length of stay users is about three to four times that of a hotel guest.

Home away from home

Sharing economy customers appreciate the value of a more home-like environment, more space, and the relative lack of ancillary fees that come with sharing. Market research by HomeAway says that access to a kitchen, laundry and other home amenities are the number one reason that travelers choose not to stay in a traditional hotel. Being able to cook if so desired was the second-biggest reason. However, they found that a fifth of respondents say that wanting to get away from the routines of home life such as cooking and cleaning were reasons not to choose a vacation rental.

Such amenities go along with the absence of ancillary fees that hotels have come to rely on.

"Hoteliers are having a hard time, they have to reinvest in making their product up to par. They can't increase rates, which have been more or less flat for over a decade and margins are shrinking," says Gonzalo, the Internet marketing consultant. "In the traditional system, they might charge four bucks for a local call or wireless Internet access that only works in the room, but those fees are very frustrating."

With more families traveling together for leisure, avoiding such fees becomes more important. Eurocamp, an upmarket camping and chalet company, reported that extended family bookings grew by 325 percent between 2009 and 2011. Brazilian tourists are known to take out entire hotel

floors for a big family vacation. Renting a house or apartment saves money and allows different generations to have privacy and stay together.

Diversity and local flavor

The idea of sharing a local stranger's apartment is very different from the old stereotype of the ignorant tourist that just snaps some pictures and leaves. This reflects travelers' desire to live like a local for a short time. As a young traveler told Amadeus, travelers want to "go where we can meet the people and get to know the culture."

"In the past, travel was about making people feel comfortable. In the show *Mad Men*, when Don Draper pitched a campaign for Hilton he offered slogans such as, 'How do you say hamburger in Japanese? Hilton.' Modern consumers want different authentic local experiences. They want to meet other people and make connections," says Airbnb's Joffrion. "This is a really big shift in the psyche of the consumer. I think that Airbnb is incredibly successful because we tap into what consumers want right now. I would say that more hotels and travel in general is going in this direction, offering more options around the lobby to connect with people staying there and programming around that."

One way that sharing helps travelers connect with the lived culture of the destination is by expanding the stock of possible rooms outside of high-traffic tourist areas, giving them an option to get out of the tourist ghetto. Airbnb likes to state that 90 percent of its visitors stay in non-tourist neighborhoods, but this has never been independently verified nor broken down by market.

"People are spending a lot more time in a neighborhood and destination than they would at a hotel. They are contributing to the local economy, learning about their surroundings, traveling a bit differently than

their parents' generation," says Roomorama's Teo. "Even if as a guest you don't necessarily want that sense of intrusion and living with locals for two weeks, when you rent a private apartment you still get that sense of being a local because you don't have a concierge downstairs. You need to get to know the neighborhood yourself."

The sharing economy also offers a better variety of types of accommodation. Castles, luxury treehouses, houseboats and private islands are among the structures that are in the reach of a sharing economy user.

A much better "concierge"

A major advantage that some peer-to-peer options have over hotels, is that the person who greets you at the door of her own home might not be a tourism professional, but she is definitely someone who knows the area well.

"I recently rented a houseboat in Amsterdam through Airbnb. There was a lovely young lady at the door, she told us about the area and recommended a fantastic traditional Dutch kitchen up the street," says Troy Thompson of Travel2dot0, a travel marketing consultant. "The Airbnb host is a frontline worker in the tourism industry,

just like a concierge."

Guests get to know their hosts to some extent, and sometimes owe them some of their fondest travel memories.

"Airbnb has absolutely transformed my travel experiences – for the better – and is playing a key role in redefining travel writ large," wrote April Rinne of the Collaborative Lab. "This crystallized brilliantly for me this holiday season. I spent Thanksgiving as an Airbnb guest in Kigali, Rwanda, and I hosted a family from Florida during Christmas week at my home in San Francisco, California. Both experiences were extraordinary."

The challenge for hotels is approaching the same high level relationship with the actual concierge. As travel industry consultant Vikram Singh recently wrote in a blog post, "Expectations, questions and answers are exchanged between host and guest long before the check-in ever happens. This is how they make meaningful connections. Do I remember the guy who checked me into my last hotel room? Nope. Do I remember my last Airbnb host? You bet I do."

But this does not represent all types of rentals on these services. The more popular listings in major destinations like



< **Cookening is one platform for meeting locals and sharing a meal**

Source: Cookening on YouTube



< A gathering at the pool at the Phoenix Hotel in San Francisco

Source: Steven Damron on Flickr

New York and San Francisco are for rentals where the owner or host is not present. These are usually managed by a person who has multiple listings and makes a significant portion of his or her income from the rentals. In these cases the transaction and interaction is much more similar to a traditional hotel than an owner-operated bed and breakfast.

Key takeaways for hoteliers

First, the sharing economy should not be viewed as a threat to the hotel industry. The meteoric rise of sharing startups notwithstanding, they still make up just a small fraction of the one billion yearly U.S. room nights.

"The meteoric rise of Airbnb.com, booking more than 10 million nights since its inception in 2007, should not cause the hotel industry to worry about the vacation rental market. Both business models have co-existed for a significant amount of time without infringing on each other's growth," says Michelle Grant, Travel and Tourism Manager at Euromonitor International. "There may be a bit of a substitution effect with leisure travelers seeking out less

expensive accommodation options during times of economic distress—which may be something hotels need to keep an eye on.

The much older vacation rental market is less of a competitor than a completely different service. IT is an example to learn from, not a threat. Grant points out that self-catering and private accommodation, the bulk of vacation rentals, accounted for \$77 billion in revenue in 2011, up 98 percent since 1999. Total global hotel room revenue was \$429 billion in 2011, up 83 percent over the same period.

Also, sharing sites work best in cities with already high hotel occupancy rates. For the most part, business travelers that adhere to corporate travel policies aren't likely to have the choice of using a stranger's guest bedroom.

Amenities: One place to start is to reconsider ancillary fees for Internet use and telephone calls. Guests are increasingly expecting connection free of charge. An obviously high markup for essentials like Internet use feel like even more of a ripoff after enjoying them for free on your last peer-to-peer rental stay.

Some hotels are coming around, says Gonzalo, the Internet marketing expert. He points to Kimpton Hotels' loyalty program as a fine example. It gives you a minibar allowance, free WiFi, and complimentary use of items such as hairdryers and computer chargers and complimentary toiletries such as toothbrushes.

Another perk that could make hotels more attractive, especially for families, is a kitchen. Gonzalo says that the Hilton Garden Inn's suites with kitchen amenities are more consistently booked, and guests tend to stay longer.

Unique local experience: Staying in a hotel isn't quite the same as living like a local and sharing their bathrooms, but hotels can still deliver a unique experience. Many hotels such as the Park Hyatt are offering one-of-a-kind local tours to guests. Some higher-end hotels such as the Ace are seeing success in attracting guests and locals to their lobby and restaurant. Inviting local musical acts to play in the lobby is one way to make the hotel stand out. Another possibility is inviting local chefs to give guests cooking classes.

In the past few years, there has been an explosion of sharing startups that allow residents in a destination to act as tour guides. If hotels partner with them hotel visitors could get a taste of the sharing economy and meet locals. Sharing startups such as Cookening, Bienvenue a Ma Table, and EatWithALocal that could give tourists an authentic experience that they might have with an Airbnb host.

Above all, hotels with a cookie-cutter experience will have a harder time appealing to the customers most likely to try sharing.

Personal connections: Not everyone wants a single-serve friend, but community is a strength of the sharing economy that could also work for hotels.

Extensive training for staff is more necessary than ever. Most guests come equipped with devices with access to almost all human knowledge. Staff should be at least as helpful with local knowledge. Boutique hotels have a huge advantage here. Joie de Vivre Hotels, one of the biggest boutique chains in the United States, is a fine example. Each JDV is unlike the others, and the concierge staff have detailed profiles and are encouraged to give guests personal advice. JDV's founder and former CEO, Chip Conley, recently joined Airbnb as its head of global hospitality.

Hotels have inherent advantages: Hotels offer standardized service that make it appear safer than the sharing competition. Peer-to-peer accommodation rarely offers reliable instant booking. Many potential guests are put off by negative publicity about services like Airbnb, and don't want to run the risk of having a bad experience with a property owner. In some cases, peer-to-peer accommodation is technically illegal. Older travelers are coming around to sharing, but are especially leery of interacting with strangers met over the Internet. With a hotel, there is an expectation of predictably good service and there is a clear answer for who can fix problems. Hotels must continue to leverage loyalty programs and branding while they incorporate some of the economic and social advantages of the sharing economy.

Sharing ground transport

As mentioned earlier, expensive items that are used very infrequently are the low-hanging fruit for the sharing economy.

According to RelayRides, a car-sharing startup, the average automobile is only in use for an hour a day, but costs as much as \$715 per month. Assured Research says that the more than 200 million cars in the United States sit idle for 90 percent of their useable capacity. It is no wonder that environmentally conscious and cash-starved riders and car owners are eager to share ground transport.

The advantages of sharing transportation

Car ownership, even in America, is on the decline, especially among the younger set. The University of Michigan's Transportation Research Institute found that in 2010, 69.5 percent of 19-year-olds had a driving license. This is down from 87.3 percent in 1983. In 2012, only 27 percent of new cars were purchased by 21-34 year olds. In 1985, that same age group bought 38 percent of new cars. Gartner, the research firm, found that 46 percent of 18 to 24-year-olds would chose Internet access over owning a vehicle.

A study by Paul Mang of Avarie Capital and William Wilt of Assured Research found that more than half of 18 to 34-year-olds are likely to participate in a car share program, compared to 45 percent of those between 35 and 44. Only a fifth of the 45 to 54 cohort are likely to do so. Consulting firm Frost & Sullivan estimates that by 2016, about 4.4 million North Americans will use some sort of car sharing network.

Car and ride sharing are very appealing to those who are concerned about the environment. For long distance trips, it takes the empty seats that would be moving

down the highway anyway and puts them to use.

Ridesharing

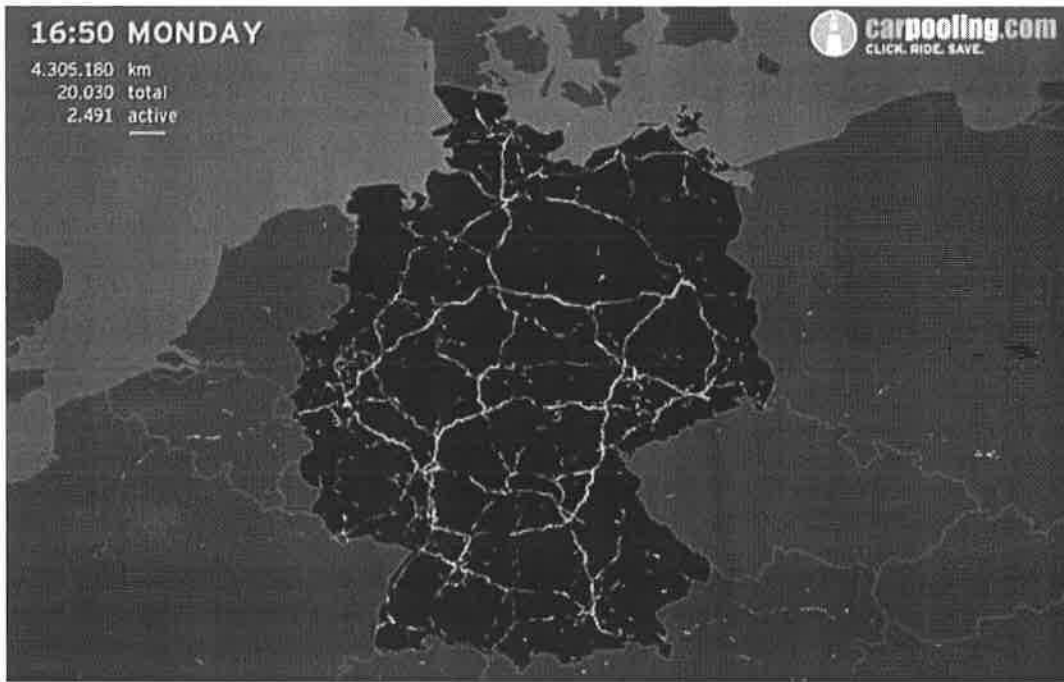
There are a number of startups that specialize in ridesharing, which is not unlike legitimized hitch hiking. Some are best for long-haul travel, and others operate more like peer-to-peer taxis.

Longer trips

Intercity rideshares are already very popular in Europe. One leading site, Paris-based Blablacar, boasts 5 million members. Alec Dent, a spokesman for Blablacar in the U.K. says that 1 million people travel using the site every month, compared to 850,000 monthly passengers for the Eurostar train. Germany-based Carpooling.com also has more than 5 million members. In 2012, Carpooling.com transported 15 million people, almost half of Amtrak's 31 million.

Blablacar and Carpooling allow travelers to pick up a ride to another city at a moment's notice. Prices are dramatically cheaper than trains. Carpooling has a mobile app that shows you rides departing nearby, which removes the need to travel to a train station or airport rental car lot. You can book through the app very quickly and never have to exchange money in person. Blablacar's prices are capped to ensure that drivers do not make a profit. For example, driving from London to Manchester costs about £45. If the driver fills the three empty seats in the car for the suggested price of £15, the trip is free for him. Both services are so popular that on big routes such as Berlin to Hamburg, you can find a ride departing every few minutes.

As with peer-to-peer accommodation, there is a social element as well. Spending



< A visualization of traffic made possible by Carpooling in Germany

Source: YouTube

time with a stranger in a small car might sound like a special type of hell for some people, but you can at least choose the stranger you ride with. Riders and drivers choose one another according to their ratings, the type of car, their driving style, and social networking profiles. Finding rides from friends of friends is a key feature of ridesharing.

"Carpooling gives you more price options, and a wide variety of cars to ride. Sharing a ride with another person to a business meeting, you can sit in the back seat of a BMW and work, and on the way back you can pick up a few snowboarders and listen to cool music," says Odile Beniflah, who is a part of Carpooling's expansion into the United States.

Beniflah says that despite ridesharing's roots as a money-saving tactic for students and young people, 25 percent of their users are over 40 years old. The frequent strikes that disable French trains helped drive its popularity for all age groups.

Despite the success of ridesharing in Europe, it isn't catching on at the same scale in the United States. For one thing, European cities aren't as spread out as they

are in America. Gas prices and the cost of train tickets are also higher in Europe. Zimride, which began as a Facebook app, has about 350,000 users, mostly on U.S. university and corporate campuses. Zimride was acquired by Enterprise, the car rental company.

Blablacar is leaving America alone for now, but Carpooling is preparing to launch Stateside next year. They believe that America's car culture and the unlikelihood of national high-speed rail will make it a popular import. They point to a 2001 National Household Travel Survey which found that Americans take 2.6 billion trips of 50 miles or more every year. Nine out of 10 of these long-distance trips are by car.

Peer-to-peer taxis

The founders of Zimride also started Lyft, which allows car owners to operate like independent taxi drivers. Drivers with clean records can attach a furry pink moustache to the front of their vehicles and go to work whenever they like. Through a mobile app, riders can see nearby drivers, read ratings, and request a ride. Payment goes through the app, so no cash needs to change hands.

Immediately after launching in San Francisco, Lyft received a cease and desist order from the city.

"Their primary concern was public safety which has also been our priority to from the beginning," spokesperson Erin Simpson said. Following a ruling in California this summer Lyft and others were forced to institute stricter guidelines for its drivers. "Lyft drivers must pass a criminal background check," Simpson said.

Insurance and ridesharing

As long as you don't make a profit, there is no issue with insurance and sharing your vehicle. Passengers are covered by the drivers' insurance. In September, California regulated and legitimized the peer-to-peer taxi market. The California Public Utilities Commission (CPUC) created the category of Transportation Network Company (TNC) to apply to companies like Lyft, Sidecar, and UberX, requiring them to follow 28 rules and regulations.

TNCs must require drivers to undergo a criminal background check and training, complete a 19-point inspection, and hold a minimum of \$1 million in liability coverage. This is more than the traditional limousine industry is required to have.

Lyft riders originally paid a "suggested

donation" of which 80 percent went to the driver, but recently moved to a mandatory fare model.

Peer-to-peer rental cars

Sharing companies are also disrupting the car rental industry.

RelayRides makes it possible to rent out another person's car rather than patronize a traditional car rental. When you sign up, it does a check on your driving history to weed out bad drivers. On the website or mobile app, you can then choose based on price, proximity and the type of car. Vehicles listed on the site must have less than 100,000 miles and 10 years on them. After you find one that you like, and the owner decides to allow you to borrow it based on previous reviews of your punctuality and cleanliness, you book and pick up the car from the owner. The owner can rest easy because he enjoys \$1 million in liability coverage through RelayRides.

"I think that what we have learned is that the transport side of the travel industry, especially for rental cars, has remained unchanged since inception," says Steve Webb, a spokesperson for RelayRides. "By applying the efficiencies of the peer-to-peer marketplaces, we feel we are offering a superior product and making it possible to travel more inexpensively."



< A visualization of traffic made possible by Car-pooling in Germany

Source: YouTube

Webb says that since RelayRides doesn't pay for fleets and their management, RelayRides is usually 25 percent cheaper than the competition. RelayRides has cars available in all 50 U.S. states with the exception of New York, where the state Department of Financial Services says that it is not compliant with local insurance laws. The company hopes to address this when the state legislature reconvenes in January 2014.

FlightCar, another start-up, lets people get paid to park at the airport. The service, which is available in San Francisco, Boston, and Los Angeles, pays car owners for the right to rent out the car while they are out of town. Travelers who arrive typically pay about half the rate for rental cars from a mainstream provider. Their lot is located a few minutes outside of the airport, and FlightCar provides black car service between the airport and the lot.

There is also a monthly rental option for car owners who rarely drive. In return for agreeing to let FlightCar try to rent their car for at least 26 days per month, car owners get a check for up to \$400.

Last month, RelayRides officially received permission to operate in much the same way at San Francisco's airport. Like other car rental companies, RelayRides will pay 10

percent of gross profits and \$20 per transaction to the airport. In June, the same airport filed a lawsuit against FlightCar for operating as a de-facto car rental company and refusing to pay those fees.

"I think that just like all the other peer-to-peer companies there are legal and regulatory headwinds blowing in our direction," says Kevin Petrovic, FlightCar's co-founder. "It's a natural thing. If you institute a brand new model, it has a disruptive effect, you are going to encounter that."

Mainstream car rental companies also have a toehold in the peer-to-peer space. Zipcar had invested \$13.7 million in Wheelz, another car-sharing startup in 2012. This provides Zipcar's parent company, Avis, with a stake in the sharing economy. General Motors also led a \$3 million round of funding for RelayRides.

What traditional transport companies could learn from ridesharing and peer-to-peer rentals

Vehicle variety: By renting out the cars that people actually drive, sharing companies offer the same level of variety as the actual road. This is how the sharing economy allows renters to affordably access luxury that would otherwise be out of their reach. If you are in the market for Mercedes

Price ▾ Vehicle types ▾ Features ▾ Vehicle makes ▾



Infiniti G37 2008
Hamon's Infiniti

\$50/day

0.9 mi

30% RESPONSE
4 HOUR



Volkswagen New Beetle 2000
Fun to drive (1st Owner)

\$30/day

0.4 mi

30% RESPONSE
1 HOUR



Toyota Highlander 2010
New 4X4 V6 Premium SUV / Sent 7

\$65/day

0.5 mi

30% RESPONSE
1 HOUR



Mitsubishi Galant 2003
Mitsubishi ES V4 Reliable Car

\$34/day

0.4 mi

30% RESPONSE
1 HOUR



Plenty of cars to choose from on RelayRides

or a cheap ride, you can find something that fits your style.

Convenience: It is possible to find a car or ride nearby rather than having to go all the way to the train station or airport to get a train or rent a car. This is one major advantage for Avis' Zipcar, which has cars ready in multiple locations throughout cities where it operates.

Low price: The biggest advantage that the ridesharing option offers is a lower price than other options. Users are price conscious, and mainstream players could target those users for discounts. Carpooling.com gets a major revenue stream from making referrals to Deutsche Bahn, the national rail line. Deutsche Bahn targets

Carpooling customers with options that might suit their needs better. The same could go for ground transport, low cost air carriers, and bus companies.

Social element: Some people are attracted to the personal side of the vehicle-sharing business, just as they are with peer-to-peer accommodation. Carpooling even claims responsibility for 16 marriages. When Zimride asked Cornell University students whether they would like to take a trip with a complete stranger, most said no. If that stranger was a fellow student at Cornell, they were much more willing to ride with them. However, we ride alongside strangers and share cramped spaces with them every time we travel.



< KLM's Meet and Seat

Airbnb Vs. New York City:

The Defining Fight of the Sharing Economy

The sharing economy, or as some call it the collaborative consumption economy, is still in its early infancy and companies like Airbnb, Lyft, RelayRides and their peers are the hottest topic in the startup world right now.

The legality of these startups has been in the grey from the start, as they push against the incumbent laws and regulations, and New York City, by being a dense urban environment where sharing comes naturally, has become a very high profile platform for some of these fights.

Airbnb is the biggest fight of them all, with rentals being a war game in our teeming city. Every generation that moves into New York City has its own rental stories, and ours is Airbnb vs NYC.

Skift has covered all aspects of this fight, starting with our long investigative piece in January this year about the Airbnb and all the issues it has in NYC. Since then, that story has been cited everywhere and the headline number that half of its listings in the city are illegal has become the lingo among city and state lawmakers. Airbnb has fought back in some high profile cases, and is now girding for the long fight.

However New York City's regulations shake out in this high-profile case, so will the rest of the nation and possibly the world over, at least in large cities.

We have kept a harsh light on all the sides and issues involved, and have done about 20 stories since.

The history of those issues, in links, in chronological order:

[Airbnb's Growing Pains Mirrored in New York City, Where Half Its Listings Are Illegal Rentals](#)

[Airbnb CEO Responds To Illegal Rentals Story: "First Of All, It's Not Illegal Everywhere"](#)

[HomeAway CEO Sees Tough Short-Term Rental Laws As A "Nuisance"](#)

[Airbnb Host Will Have To Pay \\$2,400 Fine From New York City](#)

[Is Airbnb Illegal In New York? Definitely Not, But Many Of Its Hosts Break The Law](#)

[New York State Senator Says Airbnb's Actions "Pathologically Irresponsible"](#)

[Can Airbnb Really Hide Behind Its Murky Understanding Of The Law Until Its IPO?](#)

[Airbnb Gears Up For Big Legal And Legislative Battles in New York](#)

[What Is A Short-Term Rental? Leading Advocacy Group Isn't Quite Sure](#)

[Airbnb Could Face Hotel Industry Class-Action Lawsuit as NYC Cracks Down](#)

[NYC Rules Airbnb Rentals Legal if at Least One Tenant Present](#)

[Airbnb Is Not off the Hook in New York City, Says Chief Legislative Critic](#)

[Airbnb CEO Gives New York His Three-Step Plan For Going Legit](#)

[New York State Attorney General Subpoenas Airbnb User Records](#)

[Airbnb Vs. New York City: Hosts and Users React](#)

[Airbnb Files Petition to Block NY Subpoena, Cites Burden to Compile Data](#)

[What HomeAway Can Teach Airbnb About Getting Along With Cities](#)

[1% of NYC Visitors Stayed in an Airbnb Rental Last Year](#)

[Airbnb's Most Notorious Landlord Settles with New York City](#)

Further reading

"The Sharing Economy: Accessibility Based Business Models for Peer-to-Peer Markets," European Commission Business Innovation Observatory

http://ec.europa.eu/enterprise/policies/innovation/policy/business-innovation-observatory/files/case-studies/12-she-accessibility-based-business-models-for-peer-to-peer-markets_en.pdf

"The Collaborative Economy: Products, services, and market relationships have changed as sharing startups impact business models. To avoid disruption, companies must adopt the Collaborative Economy Value Chain," Jeremiah Owyang of Altimeter Group.

<http://www.altimetergroup.com/research/reports/collaborative-economy>

"From chaos to collaboration: How transformative technologies will herald a new era in travel," Amadeus.
http://new.amadeusblog.com/wp-content/uploads/2012/01/From_chaos_to_collaboration.pdf

"Insurance in the Sharing Economy," Paul Y. Mang, Avarie Capital and William M. Wilt, Assured Research.

http://www.assuredresearch.com/Insurance_in_the_Sharing_Economy.pdf

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http://www.slideshare.net/Pieter1987/master-thesis-sdeg-pieter-van-de-glind-3845494-the-consumer-potential-of-collaborative-consumption-august-2013?from_search=1

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<http://www.slideshare.net/Chyan/amadeus-trending-with-nextgen-travelers>

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"Young Global Leaders Sharing Economy Working Group Position paper, 2013," World Economic Forum Young Global Leaders Taskforce.

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"Collaborative Consumption,"

<http://www.collaborativeconsumption.com/>

About Skift

Skift is a business information company focused on travel intelligence and offers news+data+services to professionals in travel and professional travelers, to help them make smart decisions about travel.

Founded in 2012 by media entrepreneur Rafat Ali, Skift is based in New York City and backed by Lerer Ventures, Advancit Capital and other marquee media-tech investors.

Connect with Skift

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AIRBNB/VRBO ANALYSIS
THE MORRISON APARTMENTS
APN# 4226-006-005

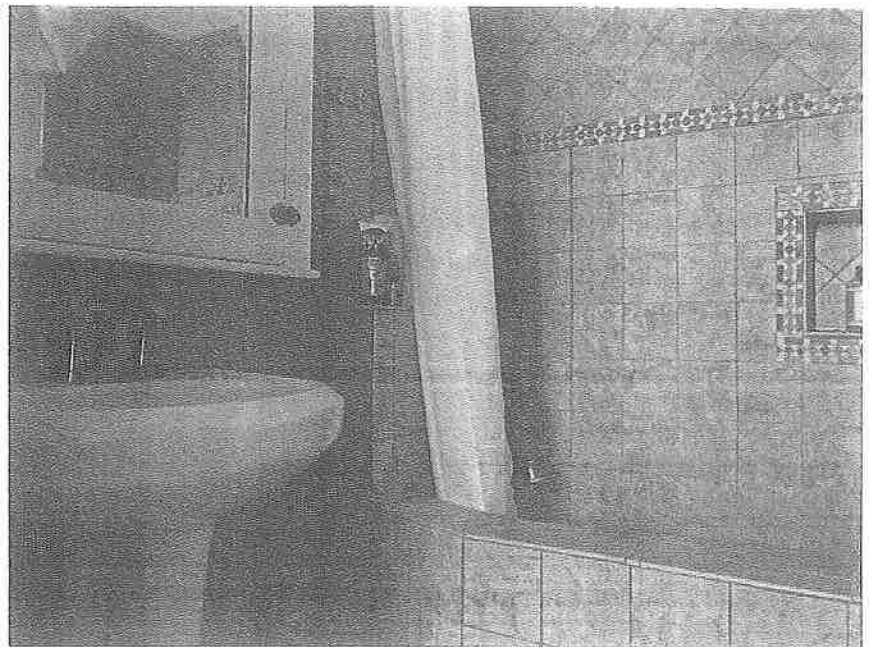
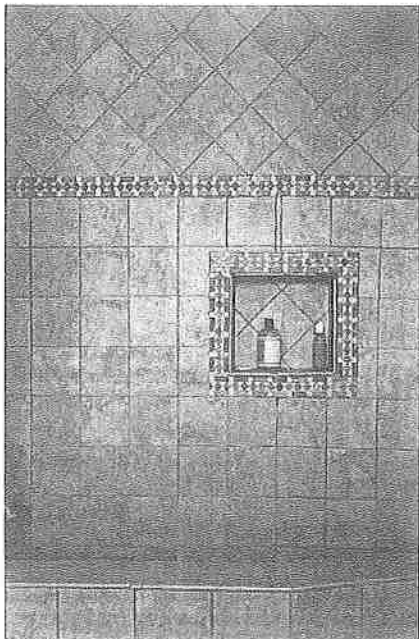
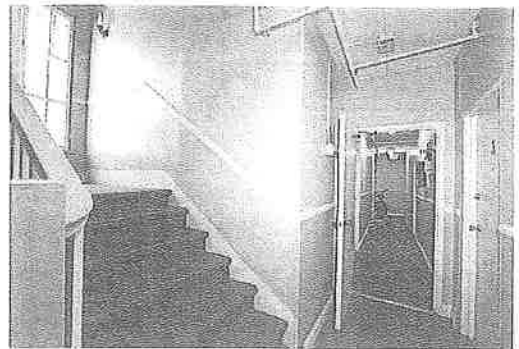


AIRBNB/VRBO PRO FORMA INTRODUCTION

The Morrison Apartments - 14 Westminster Ave, Venice, CA 90291

PRO FORMA ASSUMPTIONS

- It is estimated that an investment of approximately \$4,000 per unit will be required for upgrades and furnishing of the units.
- It is assumed that the units will be occupied 67% of the time and, thus, in our analysis, we took a 33% vacancy factor to reflect market vacancy.
- Current average asking rates for Airbnb single units in the area are approximately \$138/night and \$144/night for one-bedroom units. The Morrison Apartments is in an above average location so it is likely that it will over-perform the market as a whole .
- We also increased expenses to almost \$25/foot. Using these assumptions, a 100% conversion can result in \$1,167,000 of Scheduled Gross Income and \$791,790 of Effective Gross Income.



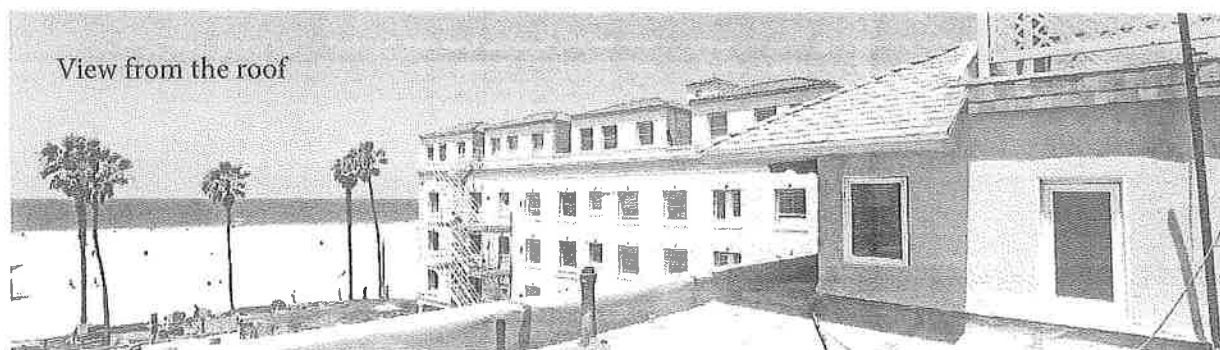
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AIRBNB/VRBO COMPARABLES

The Morrison Apartments - 14 Westminster Ave, Venice, CA 90291

Average Daily Rate for AirBnB & VRBO Units in Immediate Area

Street	Sub-Market	Zip	Unit Type	Daily Rate	
28th Ave	Venice	90291	1-Bedroom/1-Bath	\$ 199	} \$ 144 Avg. Daily Rate
Brooks Ave	Venice	90291	1-Bedroom/1-Bath	\$ 145	
Innes Pl	Venice	90291	1-Bedroom/1-Bath	\$ 130	
17th Ave	Venice	90291	1-Bedroom/1-Bath	\$ 115	
S. Venice Blvd	Venice	90291	1-Bedroom/1-Bath	\$ 145	
30th Ave	Venice	90291	1-Bedroom/1-Bath	\$ 114	
Breeze Ave	Venice	90291	1-Bedroom/1-Bath	\$ 160	
Park Ave	Venice	90291	1-Bedroom/1-Bath	\$ 150	
Paloma Ave	Venice	90291	1-Bedroom/1-Bath	\$ 125	
Sunset Ave	Venice	90291	1-Bedroom/1-Bath	\$ 127	
Pacific Ave	Venice	90291	1-Bedroom/1-Bath	\$ 150	
Rose Ave	Venice	90291	1-Bedroom/1-Bath	\$ 145	
Navy St	Venice	90291	1-Bedroom/1-Bath	\$ 140	
Clubhouse Ave	Venice	90291	1-Bedroom/1-Bath	\$ 125	
San Juan Ave	Venice	90291	1-Bedroom/1-Bath	\$ 155	
Clubhouse Ave	Venice	90291	1-Bedroom/1-Bath	\$ 155	
Thornton Ave	Venice	90291	1-Bedroom/1-Bath	\$ 160	
Breeze Ave	Venice	90291	0-Bedroom/1-Bath	\$ 140	} \$ 138 Avg. Daily Rate
North Venice Blvd	Venice	90291	0-Bedroom/1-Bath	\$ 150	
Pacific Ave	Venice	90291	0-Bedroom/1-Bath	\$ 125	
20th Ave	Venice	90291	0-Bedroom/1-Bath	\$ 119	
Dudley Court	Venice	90291	0-Bedroom/1-Bath	\$ 155	



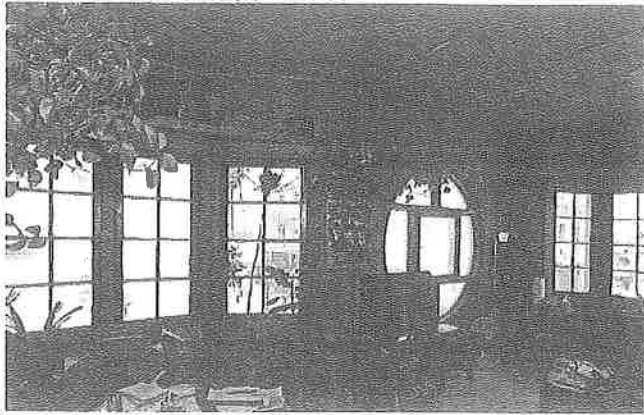
AIRBNB/VRBO PRO FORMA RENT ROLL

The Morrison Apartments - 14 Westminster Ave, Venice, CA 90291

Unit	Description	Approx. Sq. Ft.	Market Rent	Comments
1	1+1	500	\$5,250	1st Floor
2	1+1	500	\$5,250	1st Floor
3	Single	300	\$3,750	1st Floor
4	Single	300	\$3,750	1st Floor
5	Single	300	\$3,750	1st Floor
6	1+1	500	\$5,250	1st Floor
7	Single	300	\$3,750	1st Floor
21	2+1	1,000	\$6,000	2nd Floor / Ocean View (Manager)
23	Single	300	\$3,750	2nd Floor / Ocean View
24	Single	300	\$3,750	2nd Floor
25	Single	300	\$3,750	2nd Floor / Ocean View
26	1+1	500	\$5,250	2nd Floor
27	Single	300	\$3,750	2nd Floor / Ocean View
31	1+1	500	\$5,250	3rd Floor / Ocean View (Manager)
32	1+1	500	\$5,250	3rd Floor
33	Single	300	\$3,750	3rd Floor / Ocean View
34	Single	300	\$3,750	3rd Floor
35	Single	300	\$3,750	3rd Floor / Ocean View
36	1+1	500	\$5,250	3rd Floor
37	Single	300	\$3,750	3rd Floor / Ocean View
PH	2+1	600	\$7,000	PH / Ocean View

Misc. Income

Storage	\$700	Storage Unit A
Storage	\$1,000	Storage Unit B/C
Storage	\$700	Storage Unit D
Laundry (Estimate)	\$100	Laundry



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AIRBNB/VRBO PRO FORMA FINANCIAL OVERVIEW

The Morrison Apartments - 14 Westminster Ave, Venice, CA 90291

INVESTMENT SUMMARY

Price:	\$6,100,000
Year Built:	1912
Units:	21
Price/Unit:	\$290,476
RSF:	9,350
Price/RSF:	\$652.41
Lot Size:	3,148 sf
Floors:	4
Cap Rate:	9.21%
GRM:	5.23

FINANCING SUMMARY

Loan Amount:	\$2,440,000
Down Payment:	\$3,660,000
Loan Type:	Fixed
Interest Rate:	3.5%
Term:	5 years
Monthly Payment:	\$10,957
DCR:	4.27



UNIT MIX & ANNUAL SCHEDULED INCOME

Type	Units	Market	Market
Single	12	\$45,000	\$540,000
1+1	7	\$63,000	\$441,000
2+1	1	\$72,000	\$72,000
2+1	1	\$84,000	\$84,000
TOTALS	21		\$1,137,000

ANNUALIZED INCOME

	Market
Gross Potential Rent	\$1,137,000
Less: Vacancy	(\$375,210) (33.0%)
Misc. Income	\$30,000
Effective Gross Income	\$791,790
Less: Expenses	(\$229,907) (19.7%)
Net Operating Income	\$561,883
Debt Service	(\$131,480)
Net Cash Flow after Debt Service	\$430,403 (11.8%)
Principal Reduction	\$46,827
Total Return	\$477,230 (13.0%)

ANNUALIZED EXPENSES

	Market
Property Management Fee	\$31,672
Taxes	\$76,250
City Taxes	\$5,760
State Taxes	\$1,720
Insurance	\$5,191
Laundry	\$1,314
Repairs & MTN	\$50,000
Utilities	\$28,000
Marketing/Ad	\$20,000
Misc. Expense	\$10,000
Total Expenses	\$229,907
Expenses Per RSF	\$24.59
Expenses Per Unit	\$10,948



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City / County	Vacation Rentals Allowed*	Home Sharing Allowed**	Annual Limits	Limits on Occupancy	Landlord Notification	Neighbor Notification	Permit Required	Insp.
San Francisco 2014	No	Yes May be owner or tenant. Must be primary residence. May rent entire unit for up to 90 days per year.	90 Limit only when occupant is not present for the stay.	No...but must disclose	Yes	No	Yes, and Business License	No – resic
San Louis Obispo 2015	No	Yes Must be owner occupied dwelling unit. Renters prohibited.	No	No more than 4 adults. Bedrooms must meet minimum size requirements as defined in the Building Code	n/a	Yes – Must also provide contact information	Yes, and Business License. Must verify owner occupancy annually.	No – site p one park gues to co stan for b brea Must and regu

City / County	Vacation Rentals Allowed*	Home Sharing Allowed**	Annual Limits	Limits on Occupancy	Landlord Notification	Neighbor Notification	Permit Required	Insp.
Palm Springs Updated 2014	Yes Must be property owner.	Law is not specific, however, it appears that this type of rental would be allowed.	No	Two persons per bedroom, plus two additional guests.	n/a	No	Yes, and Business License	Not 1 City auth need Law "reas busi ensu with and l laws
Napa 2009	Yes Must be property owner. Cap of 44 for the City – Council may increase	Law is not specific, however, it appears that this type of rental would be allowed.	No	Two persons per bedroom, plus two additional guests with no more than 10. Limits disclosed as part of permit, in compliance with building and fire code.	n/a	Yes – Public mailing to neighbors within 300 feet, and annual notification.	Yes, and Business License	Fire dete keye port: extir elect BBQ eme infor exit. docu estal desig meet and : requ

City / County	Vacation Rentals Allowed*	Home Sharing Allowed**	Annual Limits	Limits on Occupancy	Landlord Notification	Neighbor Notification	Permit Required	Insp
Arroyo Grande 2014	Yes	Yes Must be owner occupied.	Home sharing rentals are limited to 14 days with a 7 day period between stays.	Two persons per bedroom, plus two additional guests. Maximum of 2 rooms can be rented.	n/a	Yes for vacation rentals – issued by the City to neighbors within 300 feet No for home sharing	Yes, and Business License	No, but requires compliance with the building code level the v

ORDINANCE NUMBER _____ (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA ADDING CHAPTER 6.20 TO THE SANTA MONICA
MUNICIPAL CODE CLARIFYING PROHIBITIONS AGAINST VACATION RENTALS
AND IMPOSING REGULATIONS ON HOME SHARING

WHEREAS, the City consists of just eight square miles of coastal land which is home to 90,000 residents, the job site of 300,000 workers, and a destination for as many as 500,000 visitors on weekends and holidays; and

WHEREAS, Santa Monica's primary housing goals include preserving its housing stock and preserving the quality and character of its existing single and multi-family residential neighborhoods. Santa Monica's prosperity has always been fueled by the area's many attractive features including its cohesive and active residential neighborhoods and the diverse population which resides therein. In order to continue to flourish, the City must preserve its available housing stock and the character and charm which result, in part, from cultural, ethnic, and economic diversity of its resident population; and

WHEREAS, the City must also preserve its unique sense of community which derives, in large part, from residents' active participation in civic affairs, including local government, cultural events, and educational endeavors; and

WHEREAS, Santa Monica's natural beauty, its charming residential communities, its vibrant commercial quarters and its world class visitor serving amenities have drawn visitors from around the United States and around the world; and

WHEREAS, the City affords a diverse array of visitor-serving short term rentals, including, hotels, motels, bed and breakfasts, vacation rentals and home sharing, not all of which are currently authorized by local law; and

WHEREAS, operations of vacation rentals, where residents rent-out entire units to visitors and are not present during the visitors' stays are detrimental to the community's welfare and are prohibited by local law, because occupants of such vacation rentals, when not hosted, do not have any connections to the Santa Monica community and to the residential neighborhoods in which they are visiting; and

WHEREAS, the presence of such visitors within the City's residential neighborhoods can sometimes disrupt the quietude and residential character of the neighborhoods and adversely impact the community; and

WHEREAS, judicial decisions have upheld local governments' authority to prohibit vacation rentals; and

WHEREAS, with the recent advent of the so called "sharing economy," there is growing acceptance of the longstanding practice of "home-sharing," whereby residents host visitors in their homes for short periods of stay, for compensation, while the resident host remains present throughout the visitors' stay; and

WHEREAS, long before the advent of the sharing economy, home-sharing

activities were already commonly undertaken throughout Santa Monica and throughout the United States; and

WHEREAS, history has shown that home-sharing activities spread the good-will of Santa Monica worldwide and have enhanced Santa Monica's image throughout the world; and

WHEREAS, home-sharing does not create the same adverse impacts as unsupervised vacation rentals because, among other things, the resident hosts are present to introduce their guests to the City's neighborhoods and regulate their guests' behavior; and

WHEREAS, history has shown that home-sharing activities are relatively very small in number, when compared to the number of persons utilizing vacation rentals or the City's hotels and motels; and

WHEREAS, while the City recognizes that home-sharing activities can be conducted in harmony with surrounding uses, those activities must be regulated to ensure that the small number of home-sharers stay in safe structures and do not threaten or harm the public health or welfare; and

WHEREAS, any monetary compensation paid to the resident hosts for their hospitality and hosting efforts rightfully belong to such hosts and existing law authorizes the City to collect Transient Occupancy Taxes ("TOTs") for vacation rentals and home-sharing activities; and

WHEREAS, existing law obligates both the hosts and rental agencies or hosting

platforms to collect and remit TOTs to the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA
DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 6.20 of the Santa Monica Municipal Code is hereby added
to read as follows:

Chapter 6.20 HOME SHARING AND VACATION RENTALS

6.20.010 Definitions

For purposes of this Chapter, the following words or phrases shall have the
following meanings:

(a) Home-Sharing. An activity whereby the residents host visitors in their
homes, for compensation, for periods of 30 consecutive days or less, while at least one
of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout the
visitors' stay.

(b) Hosting Platform. A marketplace in whatever form or format which
facilitates the Home-Sharing or Vacation Rental, through advertising, match-making or
any other means, using any medium of facilitation, and from which the operator of the
hosting platform derives revenues, including booking fees or advertising revenues, from
providing or maintaining the marketplace.

(c) Vacation Rental. Rental of any dwelling unit, in whole or in part, within the
City of Santa Monica, to any person(s) for exclusive transient use of 30 consecutive
days or less, whereby the unit is only approved for permanent residential occupancy
and not approved for transient occupancy or Home-Sharing as authorized by this

Chapter. Rental of units within City approved hotels, motels and bed and breakfasts shall not be considered Vacation Rental.

6.20.020 Home-Sharing Authorization

(a) Notwithstanding any provision of this Code to the contrary, Home-Sharing shall be authorized in the City, provided that the Home-Sharing host complies with each of the following requirements:

(1) Obtains and maintains at all times a City Business License authorizing Home-Sharing activity.

(2) Operates the Home-Sharing activity in compliance with all Business License permit conditions, which may be imposed by the City to effectuate the purpose of this Chapter.

(3) Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any Hosting Platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 6.68 of this Code.

(4) Takes responsibility for and actively prevents any nuisance activities that may take place as a result of Home-Sharing activities.

(5) Complies with all applicable laws, including all health, safety, building, fire protection, and rent control laws.

(6) Complies with the regulations promulgated pursuant to this Chapter.

(b) If any provision of this Chapter conflicts with any provision of the Zoning Ordinance codified in Article IX of this Code, the terms of this Chapter shall prevail.

6.20.030 Prohibitions

(a) No person, including any Hosting Platform operator, shall undertake, maintain, authorize, aid, facilitate or advertise any Home-Sharing activity that does not comply with Section 6.20.020 of this Code or any Vacation Rental activity.

6.20.050 Hosting Platform Responsibilities

The operator / owner of any Hosting Platform shall:

(a) be responsible for collecting all applicable TOTs and remitting the same to the City. The Hosting Platform shall be considered an agent of the host for purposes of TOT collections and remittance responsibilities as set forth in Chapter 6.68 of this Code.

(b) disclose to the City on a regular basis each Home Sharing and Vacation Rental listing located in the City, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

6.20.080 Regulations

The City Manager or his or her designee may promulgate regulations, which may include but are not limited to permit conditions, reporting requirements, inspection frequencies, enforcement procedures or insurance requirements, to implement the provisions of this Chapter.

6.20.090 Fees

The City Council may establish and set by Resolution all fees and charges as may be necessary to effectuate the purpose of this Chapter.

6.20.100 Enforcement.

(a) Any person violating any provision of this Chapter shall be guilty of an infraction, which shall be punishable by a fine not exceeding two hundred fifty dollars, or a misdemeanor, which shall be punishable by a fine not exceeding five hundred dollars, or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment.

(b) Any person convicted of violating any provision of this Chapter in a criminal case or found to be in violation of this Chapter in a civil case brought by a law enforcement agency shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs, pay all back TOTs, and remit all illegally obtained rental revenue to the City so that it may be returned to the Home-Sharing visitors or used to compensate victims of illegal short term rental activities.

(c) Any person who violates any provision of this Chapter shall be subject to administrative fines and administrative penalties pursuant to Chapter 1.09 and Chapter 1.10 of this Code.

(d) Any interested person may bring a private civil action to enforce this Chapter against any violator. The prevailing party in such an action shall be entitled to recover reasonable costs and attorney's fees.

(e) The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties or procedures established by law.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:

MARSHA JONES MOUTRIE
City Attorney



PLANNING COMMISSION AGENDA REPORT

SUBJECT: Review of amendments to Title 17 (Zoning Regulations) of the Municipal Code to add provisions to allow homestays rentals.

PROJECT ADDRESS: Citywide

BY: Greg Hermann, Special
Projects Manager *gh*
Phone Number: 781-7194
E-mail: ghermann@slocity.org

FILE NUMBER: CODE 0058-2014

FROM: Kim Murry, Community *KM*
Development Deputy Director

RECOMMENDATION: Adopt a resolution recommending that the City Council approve a Negative Declaration of Environmental Impact and adopt the proposed amendments to Title 17 (Zoning Regulations – Homestay Ordinance) of the Municipal Code.

SITE DATA

Applicant	City of San Luis Obispo	
Representative	Greg Hermann, Special Projects Manager	
Zoning	Multiple	
General Plan	Multiple	
Site Area	~13 square miles	
Application Complete	n/a	
Environmental Status	Proposed Negative Declaration	

1.0 BACKGROUND

Until 2006, the City's Zoning Ordinance was silent on vacation rentals as a land use, which meant that the use was not allowed. To clarify this intent, in 2006, the City Council amended the Zoning Regulations to include an express prohibition on vacation rentals in all zones in the City. A vacation rental was defined as a residence or part of a dwelling that is furnished and rented for fewer than 30 consecutive days.

CODE 0058-2014
Draft Homestay Ordinance

In 2013, City staff began receiving complaints from neighbors and other interested parties regarding short-term, homestay and vacation rentals and began pro-active enforcement efforts in March 2013. Three Administrative Citations and 11 Notices to Correct were issued to operators of homestay and vacation rentals. At the same time, staff and the City Council received letters and testimony from many supporters and operators of homestay and vacation rentals encouraging amendments to Municipal Code 17.22.010G to allow such uses.

On November 12, 2013, the City Council held a study session to review the existing regulations prohibiting vacation rentals in the City. City staff presented information on both complaints and support from the community regarding homestays and vacation rentals, existing policies and regulations, current enforcement efforts, best practices from other cities, legal concerns, and fees.

Following discussion and public testimony, the City Council directed staff to temporarily suspend enforcement of the vacation rental prohibition, and to create an ordinance permitting owner occupied homestays. This direction included a robust discussion of the distinction between homestays and vacation rentals. In addition, the City Council directed staff to process the text amendment in a streamlined process, explore options related to implementing a permit process for homestays in the R-1 Zone, implement methods of collecting Transient Occupancy Tax (TOT), provide amnesty for unpaid TOT and evaluate the use of secondary dwelling units in relation to the proposed ordinance.

2.0 COMMISSION'S PURVIEW

The Planning Commission's bylaws include responsibility to review zoning regulations and provide recommendations to City Council. City Council directed creation of an ordinance, but relies on Planning Commission review and input prior to making a decision. The purpose of the meeting with the Planning Commission is to provide an opportunity for review of the draft ordinance and to garner Commission input and recommendation for City Council consideration.

3.0 PROJECT INFORMATION

The City's Municipal Code currently prohibits short-term dwelling rental (less than 30 days) uses in the City, with the exception of Bed and Breakfast establishments which are allowed in R-3 and R-4 zones subject to a Planning Commission Use Permit. The proposed amendments would create a distinction between owner-occupied short-term rentals, known as homestays, non-owner occupied short-term rentals known as vacation rentals, and more commercial transient lodging in dwellings known as bed and breakfast establishments. This distinction allows for the creation of a separate program to allow for homestay rentals while continuing to prohibit vacation rentals and regulate bed and breakfast uses. The proposed ordinance allows homestay rentals in all zones subject to performance standards and permit requirements (Attachment 1).

In order to develop the draft ordinance, staff sought guidance from public input, existing General Plan policies, and regulations from other jurisdictions, as well as reviewed current statistics for context. Each is discussed below.

CODE 0058-2014
Draft Homestay Ordinance

Public Outreach

Staff identified key audiences for generating input in drafting the ordinance. As part of the outreach, staff sought to:

- 1) Actively engage the diverse populations of the City in the discussions about a Homestay Ordinance to gather input regarding how homestay rentals should be operated, located and managed; and
- 2) Ensure that those affected, including those representing homestay operators, businesses, property owners and general members of the public, are actively involved in the process.

Over the past several months, staff facilitated meetings on homestay rentals with SLO Hosts, the San Luis Obispo Realtors Association, and Residents for Quality Neighborhoods. Staff also contacted the San Luis Obispo Property and Business Owners Association, but that group elected not to receive a presentation at this time. Staff also had several conversations with representatives of the San Luis Obispo Chamber of Commerce and members of the general public on the issue. In total, staff consulted with over 100 community members on homestay rentals. Outreach efforts will continue beyond the Planning Commission hearing.

Outreach Results

The following overview of feedback and comments points to the diversity of opinions regarding issues to be addressed as part of the draft ordinance.

Support of homestay rentals:

- Regulations should be limited, fees low and equivalent for all zones to encourage participation and limit the need for enforcement
- Regulations should be similar to the requirements placed on long-term rentals
- Maximum occupancy should allow for at least 2 adults per bedroom as well as additional guests for other rooms or bedrooms with multiple beds
- Homestays should be allowed in guest quarters and second-dwelling units
- A responsible party requirement should be revisited and required only if complaints occur
- Inspection requirements should be revisited and required only if complaints occur
- Parking requirements should be revisited and required only if complaints occur

Concern with homestay rentals:

- Owner occupancy should be verified through the Homeowner's Property Tax Exemption
- An administrative use permit or equivalent process should be required for homestays in all zones
- Notification should go beyond adjacent property owners to 300 ft.
- There should be a limit placed on the maximum number of guests and number of bedrooms allowed for rentals
- Limits on concentration and distance between homestay rentals should be considered
- The property owner should be required to be the responsible party during rentals
- The property owner should have hours of presence required around times of check in and check out
- The permit should be subject to an annual review

General Plan Policies

The General Plan does not currently contain policies that directly address homestay rentals. However, there are Land Use Element policies that address Tourist Commercial uses (Policy 3.5.1) says:

“The City should be an attractive place for short-term stays, as well as an attractive destination for long-term visitors. The City should base its attraction on the character of the community, its natural qualities, and its educational and cultural facilities. The City should emphasize conference and visitor-serving facilities which have a low impact upon the environment and upon existing land forms and landscapes, and which provide low-impact visitor activities and low-impact means of transportation.”

This policy recognizes that visitor-serving uses are an important component of the city’s economic profile, but also seeks to minimize the impacts created by those uses. Implementation of this concept is seen in the regulations for Bed & Breakfasts and other transient uses.

The Land Use Element also contains policies intended to provide neighborhood protection and enhancement. Specifically, Policy 2.2.13 says:

“Residential areas may accommodate limited non-residential activities which generally have been compatible, such as child day care, elementary schools, churches, and home businesses meeting established criteria.”

Policy 2.1.3 indicates that neighborhoods should be protected from intrusive traffic. Finally, Housing Element Goal 7, Neighborhood Quality, says:

“Maintain, preserve and enhance the quality of neighborhoods, encourage neighborhood stability and owner occupancy, and improve neighborhood appearance, function, and sense of community.”

The City Council and staff have received many comments from operators of homestays that the additional income allows them to retain home ownership and occupancy instead of needing to sell or rent their home.

Other Jurisdictions

The concept of homestay rentals is relatively new and consequently there are very few cities with ordinances to address the specific type of use. Typically, when addressed, the regulations for homestay type uses are included with those for vacation rentals or bed and breakfasts. Staff was unable to locate a standalone ordinance for homestay rentals. Recently, the City of Arroyo Grande approved an ordinance to allow for both homestay and vacation rentals (Attachment 4). Also, the City of Sebastopol has recently developed guidelines for the operation of homestays (Attachment 5), although they have not yet enacted any legislation. Staff contacted both of these cities to solicit input on what to consider in a local ordinance and how to best craft effective regulations.

Using these examples, as well as the previous research on vacation rentals presented at the study session, staff identified several key elements to successful regulations of short-term

rentals. These elements are described below including how they are represented in the draft ordinance.

Currents Statistics

As of October 1st, 2014, there were approximately 90 short-term rentals listed on Airbnb. On another popular short-term rental website, VRBO, 70 residences were listed. There is likely overlap between these two sites. Short-term rentals can also be found on Craigslist although that site lacks the vetting process for hosts and guests found on Airbnb and VRBO, and is consequently used less for these types of activities.

The City has been collecting the required TOT tax for homestay rentals since February 2014. Since then, 33 hosts have signed up and the City has collected a total of \$21,284.

Since the City Council study session in November 2013 and subsequent direction to temporarily suspend enforcement of the vacation rental prohibition, the Community Development Department has received six complaints from residents. Four were generally related to the legality of operating a short-term rental and two were regarding noise.

4.0 PROJECT ANALYSIS

The draft Ordinance seeks to balance community input with the City Council direction to allow for owner occupied homestay rental while preserving neighborhood character and quality of life. Issues that appeared to influence compatibility with the neighborhood include:

- Owner occupancy
- Permit level required
- Maximum # Guests
- Parking
- Responsible Party
- Inspection
- Accessory uses for Homestay

The ordinance incorporates community input by establishing specific permit requirements, performance standards and use permit considerations to ensure that homestay rentals will be compatible with surrounding uses. Each topic is discussed in further detail below.

Owner Occupancy

Owner occupancy is one of the key differentiators between a vacation rental and a homestay rental. The intent of requiring owner occupancy is to increase the potential success that a homestay rental will not have an impact to the surrounding neighborhood because a resident owner is invested and engaged in neighborhood relationships and will moderate issues resulting from rentals. The cities of Arroyo Grande and Sebastopol both indicate that homestay rentals must occur at the primary residence of the property owner. The draft ordinance includes a requirement that the dwelling be owner occupied. Owner occupation is a different standard than "owner presence." While owner presence is encouraged, it is not included in the City's draft ordinance (or in examples from other cities) due to difficulties in practicality and enforcement. However, there is a key requirement for the owner or a responsible party to be available 24 hours a day, 7 days a week during the time the home is used for a homestay rental. This requirement is described in greater detail below.

The draft ordinance includes methods by which applicants verify owner occupancy, including evidence that the Homeowner's Property Tax Exemption is taken at the subject property. Evidence of this will need to be presented for a Homestay Permit to be approved.

Permit Requirements

The draft ordinance includes a Homestay Permit for all homestay rentals. The permit would consist of an administrative approval process and cost \$305. The application for the permit would consist of:

- A business license
- Evidence of enrollment to pay TOT and TBID taxes
- Verification of owner occupancy through the Homeowner's Property Tax Exemption or other appropriate information (e.g. driver's license, utility billing, auto registration, etc.)
- A site plan indicating location of one additional on-site parking space

The administrative approval process also includes posting at the property and notification to adjacent property owners (owners with property lines adjoining the subject property or across the street). A public review hearing may be held at the Community Development Director's discretion, or if protests are received. Any request to waive or modify standards of the draft ordinance will require an administrative use permit.

The City Council originally indicated their interest in an administrative use permit for R-1 zones and an over the counter permit for other zones. In further evaluating the standards, staff is recommending the homestay permit and administrative approval process be used in all zones. It provides an affordable permit process with provisions to address neighborhood issues and concerns consistently throughout the city.

Maximum Number of Guests

The City has existing regulations regarding maximum occupancy for residents, but these limitations do not apply to short-term, transient uses. The intent behind setting a threshold is to limit the potential impact of noise and parking concerns associated with the rental use on neighborhoods. The draft ordinance limits the number of overnight guests to four adults.

Parking

Parking is a significant concern in the City and homestay rentals should be conducted in such a way as to not have an effect on the availability of parking in residential neighborhoods. To accomplish this, the draft ordinance proposes that the operator provide at least one (1) on-site parking space in addition to their required residential parking. Parking in a driveway that has a minimum depth of 20 feet from the back of sidewalk and is made available during rentals would meet the definition of a parking space. This requirement is identical to that which is required for a Home Occupation Permit.

Responsible Party

A responsible party requirement is a common requirement of short-term rentals and is intended to provide a point of contact for the homestay rental in the event the property owner is not at the property at all times during the rental. The draft ordinance requires that at all times when a homestay is occurring, a responsible party (which may be the property owner) must be within a fifteen (15) minute drive of the property. The responsible party must be available via telephone

twenty-four (24) hours a day, seven (7) days a week, to respond to complaints regarding the homestay. Contact information for the property owner and responsible party must be provided to adjacent property owners as a part of the Homestay Permit process.

Inspections

Inspections are another common requirement of short-term rentals. Inspections are desirable to ensure housing and building code compliance as well as safety for transient occupancy tenants of homestay rentals. A requirement for an inspection for a Homestay Permit is not currently included in the draft ordinance. The City Council has expressed an interest in a general residential rental inspection program and will be hosting a study session on the topic at the December 2nd, 2014 City Council meeting. At that meeting the City Council will be presented with a number of options for residential rental inspection programs which will include inspections for homestay rentals. Should the City Council provide direction to create a residential inspection program, staff will be recommending that Homestays be included as part of the program.

Second-dwelling units, Guest quarters and Multi-family properties

Secondary dwellings: The draft ordinance specifies that the homestay rental shall be limited to only the owner occupied dwelling unit on a given property. The intent of this requirement is to ensure that additional dwellings on a property, such as a second dwelling unit, do not become an on-going homestay rental, thereby reducing the stock of rental housing available in the City.

Guest quarters (formerly referred to as guesthouses) are not allowed for homestay rentals. Guest houses are not intended to create opportunities for rental housing. This is reflected in the recent City Council action which states that guest quarters permitted on or after August 14th, 2014 may not be rented. Staff proposes that the Homestay Ordinance align and expand on that direction by prohibiting current or future guest quarters from being used as a homestay rental.

Multi-family properties: The draft ordinance indicates that homestay rentals are allowed in owner-occupied units of multi-family properties. Standards for parking, contact information and other requirements would be applied. Properties with private restrictions such as Conditions, Covenants and Restrictions may be more restrictive than City ordinances including prohibiting business activities at residences. Individuals with properties with private restrictions should consult with the homeowner's association for more information.

5.0 OTHER DEPARTMENT COMMENTS

A staff team consisting of the Community Development Director, Community Development Deputy Director, Chief Building Official, Fire Chief, Economic Development Manager, Assistant City Attorney, Assistant City Manager and Finance staff participated in the development and review of the draft ordinance.

6.0 ENVIRONMENTAL REVIEW

Staff has completed an initial study to assess the potential environmental effects of the project (Attachment 6). No potentially significant environmental impacts were identified. A Negative Declaration is recommended for adoption.

7.0 ALTERNATIVES

1. The Commission may modify the proposed amendments to the Municipal Code. Specific direction should be given to staff regarding any modifications.
2. The Commission may continue action, if more information is needed. Direction should be given to staff regarding additional information needed to make a decision.

8.0 ATTACHMENTS

1. Planning Commission Resolution with Exhibit A, Legislative Draft
 2. November 12, 2013, Vacation Rental Study Session Staff Report
 3. November 12, 2013, City Council meeting minutes
 4. City of Arroyo Grande Vacation Rental and Homestay Ordinance
 5. City of Sebastopol Homestay Guidelines
 6. Initial Study
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RESOLUTION NO. XXXX-14

A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND AMENDMENTS TO TITLE 17 (ZONING REGULATIONS) OF THE MUNICIPAL CODE TO ADD PROVISIONS TO ALLOW HOMESTAY RENTALS (CODE 0058-2014)

WHEREAS, the City Council of the City of San Luis Obispo conducted a study session in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on November 12, 2013, and directed staff to temporarily suspend enforcement of Municipal Code §17.22.010(G) related to the prohibition of vacation rentals, pending adoption of an ordinance which provides for homestay rentals; and

WHEREAS, the Planning Commission of the City of San Luis Obispo conducted a public hearing in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on October 8, 2014, for the purpose of considering the Negative Declaration of environmental impact and amendments to Title 17 (Zoning Regulations) of the Municipal Code to add provisions to allow homestay rentals; and

WHEREAS, the City of "San Luis Obispo" ("City") does not currently regulate homestay rentals; and

WHEREAS, the City does regulate similar transient uses with similar impacts such as bed and breakfast establishments; and

WHEREAS, the City finds that, unless properly regulated, homestays could result in impacts to adjacent properties; and

WHEREAS, the purpose of these regulations is to ensure that homestays conform to the existing character of the neighborhood in which they are located and do not create impacts to adjacent properties; and

WHEREAS, staff facilitated meetings with the public and community organizations to gather community input on how homestay rentals should be operated, located and managed; and

WHEREAS, said public hearing was for the purpose of formulating and forwarding recommendations to the City Council of the City of San Luis Obispo regarding the program; and

WHEREAS, notices of said public hearing were made at the time and in the manner required by law; and

WHEREAS, the Planning Commission has duly considered all evidence, including the testimony of the applicant, interested parties, and the evaluation and recommendations by staff, presented at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Luis Obispo as follows:

Section 1. Findings. Based upon all the evidence, the Commission makes the following findings:

1. The increasing popularity of homestay rentals in the City require the implementation of appropriate regulations to ensure that impacts are addressed and the character of existing neighborhoods is maintained, while providing an expanded type of lodging facility available within the City.
2. The Homestay Ordinance is consistent with General Plan policies, which directs the City to provide for visitor uses and protect neighborhoods through the establishment of requirements and standards for operation and management of homestay rentals.
3. Current zoning regulations do not address homestay rentals.

Section 2. Environmental. The Planning Commission does hereby recommend the City Council adopt a Negative Declaration of Environmental Impact.

Section 3. Recommendation. The Planning Commission does hereby recommend the City Council adopt the proposed amendments to Title 17 (Zoning Regulations) of the Municipal Code to add provisions to allow homestay rentals, included as Exhibit A.

On motion of _____, seconded by _____, and on the following roll call vote:

AYES:
NOES:
REFRAIN:
ABSENT:

The foregoing resolution was passed and adopted this 8th day of October, 2014.

Doug Davidson, Secretary
Planning Commission by:

Chapter 17.08: Uses Allowed In Several Zones

Sections:

- 17.08.010 Temporary uses.**
- 17.08.020 Outdoor sales on commercial and residential lots.**
- 17.08.030 Service stations.**
- 17.08.040 Concurrent sales of motor fuel and alcoholic beverages.**
- 17.08.050 Vending machines.**
- 17.08.060 Electronic game amusement centers.**
- 17.08.072 Mixed Use projects.**
- 17.08.080 Public utilities.**
- 17.08.090 Home occupations.**
- 17.08.095 Neighborhood grocery markets.**
- 17.08.100 Child and adult day care.**
- 17.08.110 Homeless shelters.**
- 17.08.120 Location of pools and pool equipment.**
- 17.08.130 Live/work and work/live units**
- 17.08.140 Homestay rentals**

17.08.010 Temporary and Intermittent Uses.

- A. Purpose and Intent.** The provisions codified in this chapter provide for certain temporary and intermittent uses. It establishes standards and procedures to assure that such uses are compatible with their surroundings and the intent of these regulations.

In approving a temporary or intermittent use, the Director may establish requirements related to, but not limited to, days and hours of operation, parking, temporary structures, and site planning, in addition to performance standards specified below. The Director shall determine the extent to which any permanent on-site parking and other facilities may satisfy the requirements for the proposed use. A temporary use approval is not intended to allow a land use that is not allowed in the primary zoning district, other than in the specific cases listed in Section C.

The Director may refer any proposed temporary or intermittent use to an administrative hearing or to the Planning Commission for action.

- B. Definitions.** A temporary use is one which is established at a particular location for less than one year. An intermittent use is one which occurs no more than 90 days in a year, but which may continue from year-to-year. Temporary and intermittent uses for businesses shall consist of activities that represent a variation from the normal business operations, e.g. parking lot sales, benefits, and special events. Temporary and Intermittent Uses are not intended to serve the primary purpose of allowing flexibility from Sign Regulations or other City Codes.

Attachment 1

Exhibit A

SECTION 17.08.140 – Homestay Rentals

- A. **Purpose and Intent.** The purpose of these regulations is to allow owner occupied homestay rentals in the City with reasonable standards to preserve neighborhood character and quality of life.
- B. **Definitions.**
1. **Bed and Breakfast Inn.** A building or group of buildings providing less than 15 bedrooms or suites that are rented for overnight lodging, with a common eating area for guests.
 2. **Homestay.** An owner-occupied dwelling unit where bedrooms are provided for short term rental use with a maximum of four adult overnight guests.
 3. **Vacation Rental.** A dwelling or part of a dwelling where lodging is furnished for compensation for fewer than thirty consecutive days without concurrently being occupied by the owner/operator. Vacation rentals are not allowed in the City of San Luis Obispo.
- C. **Permit Required.** The operation of a homestay requires a homestay permit through an administrative approval by the Community Development Director, who may add, delete, or modify conditions to further the intent of the ordinance. Any request to waive or modify standards of this ordinance shall require an administrative use permit.
- D. **Application Requirements.**
1. Operators of homestays in all zones are required to obtain a homestay permit and a business license.
 2. The operator of the homestay shall pay Transient Occupancy Tax and Tourism Business Improvement District tax as required by San Luis Obispo Municipal Code.
 3. The operator must provide verification of primary residence through the Homeowner's Property Tax Exemption or other appropriate documentation.
 4. The operator must provide a site plan with at least one (1) on-site parking space in addition to their required residential parking. Parking in a driveway that has a minimum depth of 20 feet from the back of sidewalk and is made available during rentals shall meet the definition of a parking space.
- E. **Performance Standards.**
1. Homestays shall comply with the property development and performance standards listed in Section 17.18 and 17.19.
 2. All Building and Fire Code and regulations shall be met.
 3. The number of overnight guests shall be limited to four adults. Bedrooms shall meet the minimum size requirements as defined in the Building Code.
 4. At all times when a homestay rental is occurring, a responsible party must be within a fifteen (15) minute drive of the property. The responsible party must be available via telephone twenty-four (24) hours a day, seven (7) days a week, to respond to complaints regarding the homestay. Contact information for the responsible party must be provided to adjacent property owners.

Attachment 1

Exhibit A

5. The homestay shall be limited to only the owner occupied dwelling unit on the property.
6. Homestays are not allowed in guest houses or guest quarters.
7. Any advertisements for the homestay shall include the Business License number. On-site advertising of the homestay is prohibited.

F. Revocation of a Permit.

1. Violation of these requirements and standards shall constitute grounds for revocation of the Homestay Permit.
2. At any time, the permit can be referred to an Administrative Review Hearing if determined by the Community Development Director upon receipt of substantiated written complaints from any citizen, Code Enforcement Officer, or Police Department Officer, which includes information and/or evidence supporting a conclusion that a violation of the permit, or of City ordinances or regulations applicable to the property or operation of the homestay, has occurred. At the time of the Permit review, to ensure compliance with applicable laws and conditions of permit, conditions of approval may be added, deleted, modified, or the permit may be revoked.

G. Appeal. Appeal procedures for this section shall be as provided by Chapter 17.66 (Appeals).

Chapter 17.22: Use Regulation

Section:

17.22.010 Uses allowed by zones.

17.22.010 Uses allowed by zones.

A. Status of Uses. Uses within zones shall be as provided in Table 9, subject to parts B through I below. In Table 9, symbols shall have these meanings:

- A The use is allowed;
- D If the director approves an administrative use permit as provided in Sections 17.58.020 through 17.58.080, the use may be established;
- PC If the planning commission approves a use permit as provided in Sections 17.58.020 through 17.58.080, the use may be established;
- A/D The use is allowed above the ground floor. If the director approves an administrative use permit, it may be established on the ground floor.

Special notes affecting the status of uses, indicated by number in Table 9, may be found at the end of the table.

B. Interpretation of Use Listing. These regulations are intended to permit similar types of uses within each zone. The director, subject to the appeal procedures of Chapter 17.66, shall determine whether uses which are not listed shall be deemed allowed or allowed subject to use permit approval in a certain zone. This interpretation procedure shall not be used as a substitute for the amendment procedure as a means of adding new types of uses to a zone.

C. Principal and Accessory Uses. Listed uses are principal uses. Accessory uses are allowed with principal uses.

D. Production and Sales. Where manufacturing is allowed, incidental sale of items made on the premises is allowed. When sale of a particular type of item is allowed, craftsman-type production of such an item for sale on the premises is allowed.

E. Public School Uses. See Section 17.36.030 concerning uses which may be established within public schools.

F. Prohibition of Drive-through Facilities. Drive-through facilities are not allowed in any zone.

G. Prohibition of Vacation Rentals. Vacation rentals are not allowed in any zone. Homestay rentals are separately defined and regulated under Section 17.08.140.

H. Prohibition of Mineral Extraction. Commercial mining is prohibited in City limits. (Ord. 1365 (2000 series)(part)

I. Specific Plan Consistency. Some land subject to City zoning is also subject to one of several Specific Plans, which are intended to provide additional direction for the development of those areas. Land within Specific Plans, designated by the SP zoning, may be subject to further restrictions. The list of uses and permit requirements in the Specific Plan shall prevail.

J. Airport Land Use Plan Consistency. Some land subject to City zoning is also subject to the Airport Land Use Plan, which is adopted and amended from time to time by the San Luis Obispo County Airport Land Use Commission. The Airport Land Use Plan establishes additional limitations on uses, which do not apply to City-adopted

Attachment 1

Exhibit A

H. Definitions, "H."

Homestay. An owner-occupied dwelling unit where bedrooms are provided for short term rental use with a maximum of four adult overnight guests. Vacation rentals are defined separately see 17.100 V.

V. Definitions, "V."

Vacation Rental. A dwelling or part of a dwelling where lodging is furnished for compensation for fewer than thirty consecutive days without concurrently being occupied by the owner/operator. Does not include homestays, fraternities, sororities, convents, monasteries, hostels, bed & breakfast inns, hotels, motels, or boarding/rooming houses, which are separately defined.



council agenda report

Meeting Date
November 12, 2013
Item Number

CITY OF SAN LUIS OBISPO

FROM: Derek Johnson, Community Development Director
Prepared By: Doug Davidson, Deputy Community Development Director

SUBJECT: STUDY SESSION TO REVIEW EXISTING REGULATIONS PROHIBITING VACATION RENTALS IN THE CITY

RECOMMENDATION

1. Receive a presentation and overview about vacation/homestay rentals: existing regulations, the pros/cons, and the impacts on staff workload/priorities if any proposed Ordinance amendments should be initiated to allow vacation rentals in the City.
2. If Council desires to amend existing regulations, review and provide direction to initiate Ordinance amendments and general parameters within which to allow vacation/homestay rentals according to the Council Direction "Yes/No" chart on pages 13-14 of the agenda report and the priority of such an endeavor if desired by Council. Additionally, staff requests clarity on the following :
 - a. Whether to require SLO Hosts to submit an application to cover the costs to prepare Ordinance text amendments to Title 17: Zoning, and
 - b. Whether to direct staff to enforce only complaint-based reports with actual addresses in the interim until Council adopts Ordinance amendments, and
 - c. Whether to re-organize existing workload to accommodate this project or supplement staff.

If Council desires to amend existing regulations, staff would return as early as possible with a Resolution of Intent and any necessary budget adjustments necessary to implement Council direction.

REPORT-IN-BRIEF

A vacation rental is defined "as a dwelling or part thereof where lodging is furnished for compensation for fewer than thirty consecutive days. This does not include fraternities, sororities, convents, monasteries, hostels, bed and breakfast inns, hotels, motels, or boarding/rooming houses, which are separately defined¹."

In 2006, the City Council amended the Zoning Regulations to include an express prohibition on vacation rentals in all zones in the City². The prohibition was enacted until such time as an ordinance could be adopted specifically addressing the potential impacts that vacation rentals could

¹ Municipal Code Section 17.100

² Municipal Code Section 17.22.010G

have on adjacent residential uses³(Attachment 1). No subsequent Council action has been taken to repeal or modify the prohibition. Prior to 2006, the Municipal Code was “silent” on vacation rentals, in effect, precluding this use. A land use not listed in Land Use Table 9 of the Zoning Regulations is not allowed, unless Ordinance amendments are adopted to explicitly permit such a use⁴.

City staff received complaints from neighbors and other interested parties regarding vacation rentals and began pro-active enforcement efforts in March 2013. Pro-active enforcement is consistent with the Neighborhood Wellness Major City Goal adopted by the City Council. Three Administrative Citations and 11 Notices to Correct were issued to operators of vacation rentals. Staff and the Council received letters and testimony from many supporters and operators of vacation rentals encouraging amendments to Municipal Code 17.22.010G to allow such uses. On September 3, 2013, after receiving public comments, the Council directed staff to agendize the topic of vacation rentals at a future meeting as a study session.

This format provides the Council with the ability to receive information on the issue and consider the pros and cons of any Municipal Code changes and an opportunity for the Council to provide direction to staff for any code amendments, enforcement changes, and to evaluate the public process to seek input on any Municipal Code changes desired by a majority of the Council.

Planning Commission Appeal

The property owner of 1265 Mill Street received a Notice to Correct on May 15, 2013 and a timely appeal was filed on May 29, 2013. The appeal was denied by the Community Development Director on July 24, 2013. A timely appeal of this action was received on August 1, 2013. On October 9, 2013 the Planning Commission denied the appeal based on findings that the business operation at 1265 Mill Street was a vacation rental, which is not allowed under the adopted Zoning Regulations. The Planning Commission’s decision was not appealed.

Vacation Rentals, Homestays, and Other Similar Land Use Terms

In addition to vacation rentals, the terms “short-term rentals”, “transient rentals”, and “resort dwelling units” are used to describe this type of land use. All of these terms describe a dwelling unit (or part of) that is rented for a period of less than 30 consecutive days. A distinguishing feature of these types of vacation rentals is that the property owner/operator may or may not reside on the site or occupy a portion of the residential unit concurrently with guests.

The term “homestay” is also becoming a commonly used term for vacation rentals. In a homestay dwelling, the owner permanently resides in the residence and rents out portions of the dwelling, either at the same time as the owner occupies the unit or during time periods when the owner may be vacationing or occupying another property.

Bed and breakfast inn (B&B) means a building or group of buildings providing fifteen or fewer bedrooms or suites that are rented for overnight lodging, with a common eating area for guests. The definition does not include room rental, which is separately defined (see “boarding/rooming

³ Excerpt from City Council staff report dated December 5, 2006 adopting the 2007 Zoning Regulations Amendments

⁴ Municipal Code Section 17.22.010B

house”). Chapter 17.19 (Attachment 2) of the City’s Municipal Code contains the standards for Bed and Breakfast establishments.

“Boarding” or “Rooming Houses” differ from vacation rentals by having multiple rooms for rent and a common shared dining facility. Also, rooming or boarding houses typically have longer stays than vacation rentals and are not defined by the 30-day time threshold.

Lastly, “hotels” and “motels” are distinguished from vacation rentals by being a stand-alone commercial use with separate room entrances and an on-site manager.

General Plan Policies

The General Plan does not currently contain policies that directly address vacation rentals. However, there are Land Use Element policies that address Tourist Commercial uses (Policy 3.5.2) says:

“Visitor-serving uses should be integrated with other types of uses, including overnight accommodations downtown, near the airport and near the train station; small-scale facilities (such as hostels or bed-and-breakfast places) may be located in Medium-High Density Residential and High-Density Residential Districts, where compatible. Visitor-serving uses are especially appropriate where such uses have already concentrated: along upper Monterey Street; at the Madonna Road area; at certain freeway interchanges; and in the downtown.”

Land Use Policy 3.5.4 states that:

“Site planning, building design, and types of activities for new tourist-commercial development adjacent to residential areas should be carefully reviewed by the Architectural Review Commission, the Planning Commission, or both, to assure compatibility.”

These two above policies recognize that visitor-serving uses are an important component of the city’s economic profile, but also reflect that the community has identified places where these uses are typically located: in commercial areas and in higher density residential areas if provided at a smaller scale. These policies do not address the appropriateness of vacation/homestay rentals in lower density residential areas.

The Land Use Element also contains policies intended to provide neighborhood protection and enhancement. Specifically, Policy 2.2.13 says:

“Residential areas may accommodate limited non-residential activities which generally have been compatible, such as child day care, elementary schools, churches, and home businesses meeting established criteria.”

Policy 2.1.3 indicates that neighborhoods should be protected from intrusive traffic. Finally, Housing Element Goal 7, Neighborhood Quality, says:

“Maintain, preserve and enhance the quality of neighborhoods, encourage neighborhood stability and owner occupancy, and improve neighborhood appearance, function, and sense of community.”

Some testimony provided over the last few months to Council indicates that owners who rent out rooms or houses do so to support their financial ability to retain ownership of their houses which might otherwise become student rentals. Since neighborhood wellness was identified as a Major City Goal, the Community Development Department has focused on enforcing standards in neighborhoods to preserve safety, neighborhood character and attractiveness. Allowing vacation/homestay rentals in neighborhoods would require that the City evaluate and determine whether the nature of these uses impact neighborhoods and if so, what those impacts are and what mitigations would be required to address such issues as noise, parking, and traffic. The Council will need to balance the notion of introducing visitor serving uses in residential areas with policies that address neighborhood protection. The Council may also wish to consider whether any measures are necessary or desirable to ensure housing and building code compliance and safety for transient occupancy tenants of residential structures held out for such uses.

Enforcement Efforts

At the beginning of 2013, the City started receiving complaints regarding vacation rentals operating in residential areas. Complaints received have been both general and specific in nature. Complaints of a general nature have been received from three individuals. These complaints did not identify any specific address, but rather objected that there were many illegal vacation rentals advertised on various websites. One complaint was received from an operator of a local Bed and Breakfast and complained of unfair competition. The two other general complaints were concerned with the potential negative impacts on residential neighborhoods, the lack of enforcement by the City, and the lack of compliance with Business Tax and Transient Occupancy Tax (TOT) requirements.

Complaints of a specific nature have been filed by neighbors in the vicinity of some vacation rentals and the concerns expressed have included excessive noise, parking and increased traffic at the site. Five such complaints were received regarding specific addresses. The issues raised at these addresses included parking, noise, strangers, parties, and RV use for accommodations parked on a public street.

As a result of these complaints active enforcement of vacation rentals began in March 2013. Given other code enforcement priorities and limited resources, the Community Development Department allotted four hours per week to devote to enforcement efforts related to vacation rentals. By some accounts, the City's enforcement efforts have not been adequate as the number of vacation rental listings has actually increased since enforcement efforts started. While some have ceased operations, other vacation rentals have been identified. A more effective effort to enforce the prohibition would likely require devoting additional resources in Community Development, City Attorney's Office, and the Finance Department.

To date 13 properties have received Notices to Correct for operating illegal vacation rentals and three properties also were issued administrative citations. Twelve properties have complied and removed or modified their listings on the various websites to be in compliance with the ordinance (i.e. renting for periods of 30 days or more).

One property has a business license specifying the property as a vacation rental. As such the business has been classified as an existing nonconforming use. The business license was issued in 2006; however the business has not paid TOT.

As of mid-October, there are currently 40 other listings that appear to be within the City, but further investigation is required to positively identify the addresses of the properties. Some of the listings give a general area with exterior photos, while others only have interior photos. Staff has noted that since enforcement efforts began, many listings have removed the owner's names, addresses and exterior photos of the residences in an attempt to evade enforcement. This makes identification of the property using the listing information difficult and time consuming. Additional enforcement techniques could be pursued, but would require additional resources.

Research on Other Cities and County

A number of comparable cities were surveyed to evaluate the range of approaches and policies related to vacation rentals and enforcement activity was found to vary significantly. The demand for vacation rentals seems to determine what level and type of enforcement, if any, is utilized. For example, the City of Monterey, where demand is high, prohibits vacation rentals and code enforcement is utilized to enforce regulations. The city utilizes misdemeanor criminal citations to obtain compliance. In contrast, there is very little demand for vacation rentals in the City of Santa Maria so enforcement is not an issue.

The City of Davis does not have the demand for vacation rentals and has taken no steps to regulate them. The City of Santa Barbara does not allow vacation rentals by ordinance, but collects the TOT. They utilize an outside consultant to monitor the various rental websites to ensure payment of the TOT. The cities of Paso Robles, Arroyo Grande, and Grover Beach all collect TOT and require business licenses, but do not otherwise regulate vacation rentals. The City of Santa Cruz collects TOT, but does not require a business license if the rental is fewer than three units.

The City of Morro Bay allows vacation rentals, collects TOT and requires vacation rental permits to operate. Enforcement action is complaint based.

The County of San Luis Obispo allows vacation rentals in Cambria and Cayucos and must comply with certain standards, such as linear distance separation requirements, maximum occupancy allowed, and time limits. Moreover, owners are required to provide notice of contact information to surrounding residents within 200 feet. Zoning clearance and business license are required and TOT is collected. Code enforcement responds to complaints and works in conjunction with the Sheriff's Department on enforcement cases.

The City of Pismo Beach allows vacation rentals in the downtown area by right and prohibits them in residential zones. TOT is collected and enforcement actions are taken when complaints are received.

The City of Napa requires a vacation rental permit, business license and collects TOT. Similar to the County of San Luis Obispo, there are a number of requirements, ranging from maximum number of occupants to annual inspections by the Fire Department. Enforcement is based on complaints.

Pros and Cons of Vacation Rentals

The Council has received correspondence and testimony from the community citing the benefits of vacation rentals, as well as concerns of neighborhood compatibility. Providing an alternative visitor

experience and adding City tax revenues are potential benefits associated with vacation rentals. Protection of neighborhood character is the most cited concern about vacation rentals. Land use and housing supply issues are also noted as concerns.

The pros and cons listed below are not comprehensive. The list developed by staff is a partial list and both advocates and opponents of any ordinance changes may have additional issues. The side-by-side tables below compare the pros and cons of homestays (owner-occupancy required) and vacation rentals (owner-occupancy not required). Homestays have potentially less impacts on a neighborhood since the property owner is typically living in and caring for their home when hosting visitors. Vacation rentals have potential for greater impacts to the surrounding properties because the owner is not living on the premises to manage the property.

SLO Hosts has prepared a recommended ordinance for Council consideration (Attachment 3). Although, this is not a complete ordinance it provides some perspective from the operators. Attachment 4 is issue paper prepared by SLO Hosts which contains a pros/cons discussion.

Some of the pros and cons of allowing vacation rentals and homestays include:

Vacation Rentals		Homestays	
Pros	Cons	Pros	Cons
Visitors from other areas can experience SLO neighborhoods	Potential noise, parties, trespassing, traffic and other nonresidential activities	Visitors from other areas can experience living in SLO neighborhoods	Potential noise, parties, trespassing, traffic and increased transient/non-resident presence in residential neighborhoods
They provide alternative visitor accommodations	Deterioration of neighborhood cohesiveness in terms of keeping housing filled with occupants that have more permanent ties to the community	They provide alternative visitor accommodations	Unfair competition with traditional transient occupancy uses such as hotels, motels, and bed and breakfast establishments (how is it unfair if they have to get permits, pay taxes, comply with codes, and participate in the TBID in the same manner as hotels?)
Rental income helps buoy real estate market and keep owners in their homes	Unfair competition with traditional transient occupancy uses such as hotels, motels, and bed and breakfast establishments	Rental income helps buoy real estate market and keep owners in their homes	Increases commercial uses in residential areas
Revenue to the City in the form of Transient Occupancy Tax and Business Licenses	Limits ability to maintaining commercial uses in commercial areas	Revenue to the City in the form of Transient Occupancy Tax and Business Licenses	Renter safety and owner liability issues
	Some vacation rentals are not owner-occupied and therefore are less likely to be cared for to the same degree as permanent residences	The home is a primary residence and the owner will be available to manage the property and address any neighborhood conflicts	Impacts to rental housing and impacts to real estate market.
	Renter safety and owner liability issues		Establishing and monitoring primary residence requirements to ensure

			neighborhood compatibility is difficult to monitor and enforce.
	If vacation rentals proliferate there will be fewer families and owner occupied dwellings in the City. Currently about 62% of all housing units in the City are rentals		
	Impacts to rental housing and impacts to real estate market.		

Staff will evaluate these pros and cons, as well as other possible benefits and concerns of vacation rentals identified through the public process, if Council directs Ordinance amendments. Staff will recommend incorporation of regulations to mitigate against potential adverse impacts.

Examples of Vacation Rental Regulations

As stated above, protection of the neighborhood character and segregating this commercial activity into commercial zones is the fundamental basis of vacation rentals regulations. A related concern is the protection and maintenance of physical property as property owners are perceived to be more diligent than short-term renters in property upkeep⁵. Many communities authorize the collection of TOT and licensing fees for vacation rentals. Some of the other possible regulations are included in the table below; they could potentially apply to either vacation or homestay rentals:

	Possible Regulations	Examples
1	Geographically based restrictions	Allowed in certain zones only
2	Quantitative and operational restrictions	Linear separation requirements and numerical caps
3	Max Occupancy Limits	Based on number of bedrooms and/or available parking
4	Rental Time Periods	Maximum times per year
5	Parking Requirements	Require additional off-street parking
6	Postings	Require property posting of operational restrictions and owner information
7	Mandatory Designated Representatives	Provide 24-hour contact info
8	Trash and Recycling	City Ordinance or specific standards (only if identified impacts are different)
9	Property Maintenance Standards	City Ordinance or specific standards (only if identified impacts are different)

⁵ Data collected and reported to the City Council in May 2013 appears to show a greater correlation of property maintenance violations to rental properties.

	Possible Regulations	Examples
10	Licensing/Approval Process	Business License, Use Permits
11	Inspections	Annual or some other time period
12	Tax Revenue	Transient Occupancy Tax, Business License Fees, Inspection Permit Fees

Should Council initiate zoning amendments, staff would research these and other standards and incorporate, as appropriate, into an ordinance for review. The Council should provide direction on any other regulations than those listed in the table above that it would like to have considered or any identified approaches that should not be included in an ordinance.

Some cities require a use permit for vacation rentals, either at the Planning Commission level or at a lower administrative level. Others issue vacation rental permits through the business license process. The adopted City Business license and Business Tax would apply to either vacation or homestay rentals. However, the business license process in the City is revenue focused and does not have a regulatory component directed at addressing operational impacts of businesses.

A question has been raised as to whether the Americans with Disabilities Act (ADA) is applicable to single-family dwellings used as vacation rentals. The ADA regulates places of public accommodation and provides that:

A place of public accommodation means a facility operated by a private entity whose operations affect commerce and fall within at least one of the following categories:

(1) Place of lodging, except for an establishment located within a facility that contains not more than five rooms for rent or hire and that actually is occupied by the proprietor of the establishment as the residence of the proprietor. For purposes of this part, a facility is a "place of lodging" if it is –

(i) An inn, hotel, or motel; or

(ii) A facility that –

(A) Provides guest rooms for sleeping for stays that primarily are short-term in nature (generally 30 days or less) where the occupant does not have the right to return to a specific room or unit after the conclusion of his or her stay; **and**

(B) Provides guest rooms under conditions and with amenities similar to a hotel, motel, or inn, including the following;

(1) On- or off-site management and reservations service;

(2) Rooms available on a walk-up or call-in basis;

(3) Availability of housekeeping or linen service; and

(4) Acceptance of reservations for a guest room type without guaranteeing a particular unit or room until check in, and without a prior lease or security deposit.

Based on this definition an owner-occupied homestay would clearly not be considered a place of public accommodation as noted in the definition above and would not be regulated by ADA unless there were more than five rooms for rent. In the case of a non-owner occupied vacation rental, ADA requirements would only be applicable if the residence was operated with all the amenities typical of a hotel and that are identified in section (1)(ii)B above. Most vacation rentals do not

provide all of these listed amenities typical of a hotel or motel, and thus would not be classified as places of public accommodation and are not subject to the provisions of ADA.

Ordinances from Other Jurisdictions - Best Practices

Many communities throughout the country have (or are) addressed the issues involved in regulating vacation rentals. There are many good sources and best practice ordinances for staff to use as a starting point in preparing vacation/homestay rental regulations. One informational source is a White Paper, by Robinson & Cole, LLP, published for the National Association of Realtors in 2011 (White Paper, Attachment 5)⁶. While obviously prepared from the vacation rental landlords perspective, this White Paper presents comprehensive information and was referenced in preparing this study session. It has many examples of Best Practice communities for staff to explore if Council deems such a study a high priority. Staff also contacted numerous jurisdictions as shown in the table below.

The table below shows how San Luis Obispo's comparable cities and other cities in the County address vacation rentals:

Vacation Rental Ordinances			
Comparable Cities			
Cities	Vacation Rental Ordinance		Regulations
	Yes	No	
Davis		X	No Ordinance, hasn't become a local issue
Monterey		X	No Ordinance, hasn't become a local issue
Napa	X		Permit, Annual Fire inspection, House Rules Max occupancy, on-site parking required
Paso Robles		X	No separate ordinance, allowed along with other visitor-serving uses, collects TOT
Santa Barbara		X	No Ordinance, but collects TOT
Santa Cruz		X	No Ordinance, but collects TOT
Santa Maria		X	No Ordinance, hasn't become a local issue
Arroyo Grande		X	No Ordinance, hasn't become a local issue
Grover Beach		X	No Ordinance, but collects TOT on 2 existing rentals
Pismo Beach	X		Allowed in visitor serving areas downtown Prohibited in Residential districts On-site parking required, Inspection prior to certificate
Morro Bay	X		Annual permit/license, max occupancy, operational standards
SLO County	X		Zoning Clearance/Minor Use Permit Specific criteria for Cambria and Cayucos, including a 200' separation from another visitor serving use Max occupancy, no signs, on-site parking required

⁶ "Short-Term Rental Housing Restrictions" by Robinson & Cole, LLP, ©National Association of Realtors, 2011

All of the comparable cities with Ordinances (and two without) collect TOT on vacation rentals. The City's TOT ordinance would apply to either vacation rentals or homestays as they meet the applicable definitions⁷. While not permitted, unpermitted vacation rentals and homestays that have operated in the City are subject to the City's TOT ordinance. Violations for failing to collect and remit TOT to the City are subject to penalties as specified in Section 3.04.140⁸. An amnesty program for overdue and unpaid TOT, business license and taxes from unpermitted vacation rentals and homestays has been used in other jurisdictions as a tool to encourage unpermitted operators to obtain the necessary permits and prospectively pay TOT and any other license and taxes fees. Should Council initiate any amendments, staff will seek direction as whether an amnesty provision should be incorporated into any ordinance and whether any efforts should be directed toward collecting past TOT.

Many cities operate in a gray area. Some cities like Davis and Santa Maria are completely silent and don't address whether vacation/homestay rentals are allowed or not allowed. Others without an ordinance, such as Santa Cruz and Santa Barbara, recognize that such uses are technically not allowed, but have been directed by their Councils to collect TOT. As Santa Barbara City

⁷ 3.04.020 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

- A. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.

3.04.030 Imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator. (Ord. 1232 § 1, 1993; Ord. 1184 § 1, 1991; prior code § 2552)

⁸ 3.04.140 Violation—Penalty.

- A. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punishable therefor by a fine of not more than five hundred dollars or by imprisonment in the city or county jail for a period of not more than six months, or by both such fine and imprisonment.
- B. Any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or fails or refuses to furnish a supplemental return or other data required by the tax administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as set forth in subsection A of this section. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid. (Prior code § 2563)

Administrator Jim Armstrong said in a recent news article, “we realize we’re kind of talking out of both sides of our mouth, but at least we’re getting people to pay their share of TOT.”⁹

None of the cities surveyed that allow vacation rentals by ordinance draw a distinction with homestays. Owner-occupancy of the home being rented was not a requirement in any of the comparable cities. All required a contact person be readily available and either live in the community or within a certain distance (e.g. 25 miles) from the vacation/homestay rentals.

Other Best Practice communities include the cities of Encinitas, CA, Palm Desert, CA, Palm Springs, CA, Cannon Beach, OR, and Mendocino County. Further research with these and other jurisdictions would be conducted as part of preparing a vacation/homestay rental ordinance.

Enforcement/Administration Costs v. Tax Revenue

Based on the recent experience, it is estimated that up to .25 FTE would be necessary to adequately enforce any changes to allow vacation/homestay rentals. The cost of a .25 FTE Code Enforcement Officer 1 position is approximately \$25,000 per year. The City has estimated that the annual tax revenues associated with vacation rentals is \$45,000, not including business license fees.¹⁰ TOT estimates vary with different factors for the number, occupancy, and rates for vacation rentals.

Should Council initiate any code amendments, staff’s recommendation would be to adjust enforcement so that it is complaint based and only for specific locations identified by the reporting party until such time as an ordinance is developed.

Legal Issues

Regulating vacation rentals falls under the police powers of the City to protect the public health, safety, and welfare. The White Paper cites case law upholding zoning regulations for short-term rentals, as well as restrictions and/or prohibitions in single-family neighborhoods. The White Paper also discusses “takings”, “due process”, and “equal protection” challenges to laws relating to vacation rentals. Proponents of modifying the ban on rentals have also provided one case to Council, which they believe raises legal barriers to the current ban related to illegal intrusion upon protected privacy rights (see *Coalition Advocating Legal Housing Options v. City of Santa Monica*). Staff has considered that case and has provided the Council with another case, which directly addressed some of the concerns raised and concluded that short term rental prohibitions are valid against challenge based on concerns, including but not limited to privacy, raised in the Santa Monica case (see *Ewing v. Carmel*). The primary distinction between the cases is that the regulatory approach in Santa Monica sought to regulate based on relationship status of residential residents, which has long been held impermissible. The Carmel case involved regulations, like those currently in place in San Luis Obispo, that are directed at land uses and impacts on residential neighborhoods. If any amendments are directed, Community Development staff will work closely with the City Attorney’s to ensure that any recommended regulations align with legal requirements.

⁹ Pacific Coast Business Times September 20-26, 2013

¹⁰ Number of rentals 75 – Average nights per year (occupancy) 50 – Average daily rate \$100 = Total Revenue \$375,000
x .10 = \$37,500 (TOT) + \$37,500 (TBID Assessment) = \$45,000

Connectivity to Land Use and Circulation Element (LUCE) Update

The current Land Use and Circulation Elements place a strong focus on neighborhood protection and enhancement. The LUCE update is a focused and intended to address changes in community needs, changes in legislation, Strategic Growth Council grant objectives, and Council-directed efforts. Vacation/homestay rentals was not identified by the community during the “Issues and Opportunities” phase of the work effort and is outside the current scope of the consultant contract and would need to be augmented to address this issue should Council want to integrate the work into the update. Staff does have some concerns that there may not be adequate time to integrate a well-considered proposal into LUCE update within the grant deadline and other complex issues being addressed in that update.

If Council is inclined to incorporate this work into the LUCE update, staff will work with the Task Force and Planning Commission to provide input on policy direction for vacation rentals, the contract scope for the consultant would need to be modified and additional resources would need to be allocated to cover this effort. Staff estimates that adding this effort would require the allocation of an additional \$25,000.

Time Frame and Impacts to Workload

The research and public outreach involved to prepare Ordinance amendments allowing vacation/homestay rentals would be a significant undertaking and demand substantial staff time and resources. Staff’s direct experience is that developing policy in this area generates a high degree of charged opinions on both sides of the issue. Given staff’s experience, it is estimated that approximately 1000 hours of staff time would need to be allocated to the effort. This estimate is based on the time to follow the typical policy development process that the City has used for years. This process would include outreach to residents, business groups, TBID, and other community organizations. Additionally, it would include the time to craft an ordinance and prepare the necessary environmental review for any ordinance revisions.

Staff’s recent experience in preparing other Ordinance amendments, such as the Mobile Vendor Ordinance were substantial as they involved the intersection of public policy, case law and the input from the public and interest groups. Adopting vacation/homestay rental policies and standards could be more time consuming than this effort and would likely take approximately one year to develop.

The Council may recall that the Community Development Department delivered a General Plan Annual Report to the City Council in March 2013. Appendix A of this report indicated that the current planning projects and long range policy initiatives left no available resources to tackle any new policy initiatives. While additional resources were provided to the City Departments in September to address workload related to current permit applications, these resources are not available to tackle new policy initiatives such as vacation rentals, medical marijuana, Cal Poly Master Planning, or revising the Municipal Code to change the City’s street naming process. These four efforts would require a minimum of a 1.0 Planner to adequately address all of these discrete policy issues.

Absent new resources, if the Council directs amendments to address vacation/homestay rentals, it would significantly delay existing projects, including the continued update of the Zoning

Regulations (bedrooms/guesthouses), as well as updates of the Subdivision Regulations and Sign Regulations. Moreover, preparing a vacation/homestay rental ordinance could affect implementation of the Community Development Department's Organizational Assessment and the Economic Development Strategic Plan. These two projects are components of Major City Goals.

Alternatively, if Council is inclined to initiate zone changes and desires that any amendments be processed within a shorter time frame, direction could be provided to develop such amendments and route any amendments straight through the Planning Commission and then straight to the City Council. This process could be completed in six months, but would require an additional 520 staff hours. Again, additional temporary staff resources would need to be allocated or existing work program efforts would be stalled until such time that any ordinance is adopted and implemented.

Whether or not Council directs any amendments, direction to increase enforcement of the existing prohibitions will also require the re-direction of resources from current programs and priorities for code enforcement staff, finance staff (if TOT collection is desired) and city attorney staff. This would result in diminished resources directed at other neighborhood wellness and code enforcement efforts or delays to study or implementation of current priorities and identified major City goal work programs, such as residential rental inspection administrative appeal process development (which the City Attorney's office strongly recommends is a necessary priority action to support increased City wide administrative code enforcement consistent with Council direction).

City application fees

Per the City's adopted fee schedule, the application fees for a Zone Text Change and the mandatory environmental review are \$11,795 (\$9,239 Zoning + \$2,556 Environmental). Consistent with Council policy on collection of fees, staff recommends that should the Council initiate amendments that SLO Hosts be the applicant and pay the fees to process any amendments. This recommendation is consistent with Budget and Fiscal Policies adopted with the FY 2013-15 Financial Plan. Specifically the section on User Fee Cost Recovery Goals discusses that fee recovery levels are set based on several factors but the two that apply in this case are as follows:

1. **Community-Wide Versus Special Benefit.** "...The use of general-purpose revenues is appropriate for community-wide services, while user fees are appropriate for service that are special benefit to easily identified individuals or groups."
2. **Service Recipient Versus Service Drivers.** After considering community-wide versus special benefit of the service, the concept of service recipient versus service driver should be considered. For example, it could be argued that the applicant is not the beneficiary of the city's development review efforts: the community is the primary beneficiary. However the applicant is the driver of the development review costs, and as such, cost recovery from the applicant is appropriate.

Because there is a special benefit to be accrued to those who will be allowed to use their residential properties as vacation rentals/homestays there is a special benefit associated with this potential change in the zoning code. Moreover these property owners while not developers in the traditional sense are driving the need to incur this cost. As a result, staff is recommending that the costs of services necessary to prepare and adopt a vacation/homestay rental ordinance be borne by SLO Hosts. Although, SLO Hosts is an informal association of interested parties, requiring them to pay the fee is the only way to equitably apply the Council's fee policy. Alternatively, if the Council

determines that the community is the primary beneficiary of this program it would not be appropriate to charge SLO Hosts.

Focus Questions for Council Direction

In conclusion, staff has provided the following table with focused questions to facilitate Council direction:

Questions for Council Direction		
	Yes	No
Vacation Rentals (Owner occupancy not required)		
Homestays (Owner occupancy required)		
Geographically based restrictions (certain zones only)		
Quantitative and operational restrictions (linear distance separation, numerical cap)		
Max Occupancy Limits (number of bedrooms or available parking)		
Rental Time Periods (max times per year or within a certain time frame)		
Off-Street Parking Requirements		
Property Postings		
Mandatory Designated Representatives		
Trash and Recycling (City Ordinance or specific)		
Property Maintenance Standards (City Ordinance or specific)		
Use Permit – Planning Commission or Administrative		
Annual or Periodic Inspections		
Collect TOT ¹¹		
Amnesty on Unpaid TOT		
Applicant (SLO Hosts) Pay Application Fees		
Adjust Enforcement		
Truncated Process (without public outreach)		

The staff presentation on November 12, 2013, will include a similar decision matrix to help focus Council direction.

FISCAL IMPACT

It is estimated that the work to prepare Ordinance amendments using the traditional outreach and public engagement approach would be approximately 1,000 hours or \$50,000 in staff costs (\$42,000 for staffing + \$8,000 in public outreach costs).

ALTERNATIVES

1. Continue the study session if more information is necessary in order to provide direction to staff on preparing a vacation/homestay rentals ordinance.

¹¹ Exempting vacation rentals or homestays would require an amendment to the City's Transient Occupancy Tax Ordinance and is not recommended.

Attachment 2

2. Bring an ordinance back to the Council with a Planning Commission recommendation as soon as possible and limit public outreach efforts. This is not recommended because the City's public outreach efforts have brought valuable input into the Ordinance preparation process and have become an integral and expected component of any such effort.
3. Direct that the City initiate the Ordinance amendment application and absorb the costs associated with such an effort. This is not recommended because SLO Hosts is the initiator and proponent of the process and should bear the costs of preparing the Amendments.

ATTACHMENTS

1. Attachment 1 – Excerpt from City Council Report December 5, 2006
2. Attachment 2 – Chapter 17.91 Bed and Breakfasts
3. Attachment 3 – SLO Hosts Recommended Ordinance
4. Attachment 4 – SLO Hosts Issue Paper
5. Attachment 5 – White Paper “Short-Term Rental Housing Restrictions”

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**minutes
city of san luis obispo**

SPECIAL MEETING OF THE CITY COUNCIL

**Tuesday, November 12, 2013
Special Meeting – 6:30 P.M.
Council Chamber, 990 Palm Street
San Luis Obispo, California**

CALL TO ORDER

A Special Meeting of the San Luis Obispo City Council was called to order on Tuesday, November 12, 2013 at 6:00 p.m. in the City Council Conference Room, located at 990 Palm Street, San Luis Obispo, California, by Vice Mayor Smith.

ROLL CALL

Council Members

Present: Council Members John Ashbaugh, Dan Carpenter, Carlyn Christianson, Vice Mayor Kathy Smith

Council Member

Absent: Mayor Jan Marx

City Staff

Present: Michael Codron, Acting City Manager, Christine Dietrick, City Attorney, and Anthony Mejia, City Clerk were present at Roll Call. Other staff members presented reports or responded to questions as indicated in the minutes.

PLEDGE OF ALLEGIANCE

Council Member Carpenter led the Pledge of Allegiance.

MOMENT OF SILENCE

Vice Mayor Smith called for a moment of silence for those impacted by the tragedies in the Philippines.

PUBLIC COMMENT

Rebecca Keisler, San Luis Obispo, requested that Council agendaize the Cal Poly student housing project; voiced objection to the proposed student housing project, citing impacts to parking, fire and police protection, noise, view shed, and proximity to neighborhoods.

Community Development Director Johnson advised that Cal Poly has issued a notice of preparation for a student housing project; noted that the City submitted comprehensive comments on issues to be analyzed in the Environmental Impact Report (EIR); stated that upon release of the draft EIR or subsequent phases of the project, it would be appropriate for the University to make a presentation to the Council.

Karen Hale, San Luis Obispo, voiced concern that the City released a report of alleged rental violations against her; stated that the complainant was false and defamatory; asserted that the City has an obligation to ensure that such claims are substantiated prior to releasing said information.

City Attorney Dietrick advised that the Public Records Act requires that the City release such information when requested; noting that the City has an obligation to redact complainant information.

Justin Wellner, representing Cal Poly, advised that Cal Poly will be hosting a community forum on the proposed student housing project on December 2, 2013 at 6:00 p.m. in the University Union; noted that the draft EIR is expected to be released in mid-November; encouraged Council and the community to provide input of the proposed project.

Steve Barasch, San Luis Obispo, voiced concern relative to the maintenance of creeks and open space areas, urging that the City take appropriate actions to prevent flooding.

---end of public comments---

STUDY SESSION ITEMS**SS1. REVIEW EXISTING REGULATIONS PROHIBITING VACATION RENTALS IN THE CITY**

Vice Mayor Smith read an email from the Mayor Marx requesting that Council receive testimony from the public, but continue Council deliberations on the matter to a future date, due to her recovering from surgery.

Council agreed that it would be appropriate to receive public testimony and to deliberate the matter, understanding that if they become deadlocked it would be necessary to continue the matter to a future meeting.

Community Development Director Johnson, Community Development Deputy Director Davidson, and Chief Building Official Lease presented a PowerPoint presentation entitled "Vacation Rentals – Council Study Session" and responded to Council inquiries.

John Seman, representing SLO Hosts, suggested that the concepts of homestays and vacation rentals be segregated; urged Council to amend the code to allow homestay operations; stated that homestay hosts are willing to obtain business licenses and pay taxes; expressed support for suspending enforcement of the existing code and granting amnesty for unpaid taxes.

Jeff Eidelman, San Luis Obispo, voiced support for amending the code to allow homestays, pointing out that he has operated a homestay for over 30 years.

Michael Sheffer, San Luis Obispo, opined that homestays have minimal impacts on long term rental inventory; urged Council approval of allowing homestays.

Chris Knauer, San Luis Obispo, spoke on his experiences as a guest of homestays and encouraged Council approval of allowing homestays.

Allan Cooper, San Luis Obispo, stated that his neighbor has a homestay which has not impacted his neighborhood; suggested that new tax revenues be designated for additional police services in the city's core area; conveyed support for eliminating the ban on short term rentals, citing that it provides supplemental income to retirees.

Scott Potter, San Luis Obispo, voiced support of allowing homestays, citing his past experiences as a guest in homestays.

David Mena, San Luis Obispo, expressed support for allowing homestays and suspending enforcement of the prohibition; related his experiences as a homestay guest while traveling for work.

Peggy Thayer, San Luis Obispo, spoke on the potential tax revenues generated by short term rentals.

Catherine Doyle, San Luis Obispo, questioned the rationale that SLO Host should pay the fees associated with text amendments to the Zoning Code.

Pat Harris, San Luis Obispo, voiced support for allowing homestays and urged Council to suspend enforcement of the existing Code.

Anne Cruikshanks, San Luis Obispo, spoke on the importance of allowing retirees to generate supplemental income through homestays.

Jaime Walker, San Luis Obispo, urged Council to pass reasonable regulations to allow short term rentals and submitted a petition entitled SLO Hosts Welcome. A hard copy of the petition is on file with the City Clerk.

Barbara Radovich, San Luis Obispo, voiced support of allowing homestays; spoke on the shortage of long term rentals, opining that short term rentals will have minimal impacts.

Rosh Wright, San Luis Obispo, opined that the majority of residents support short term rentals and urged Council approval.

Odile Ayrat, representing Residents for Quality Neighborhoods (RQN), voiced concern that regulations for short term rentals would be unenforceable; opined that commercial enterprises are not appropriate for residential neighborhoods; urged Council to retain the prohibition on vacation rentals.

Pete Evans, San Luis Obispo, voiced objection to the existing ban on vacation rentals; asserted that recent complains on homestays are unfounded.

Jim Culver, San Luis Obispo, opined that homestays do not impact public safety.

Steve Barasch, San Luis Obispo, spoke on the difficulty of enforcing regulations on short term rentals; suggested the implementation of a limit use permit program.

Bart Todham, San Luis Obispo, voiced support for allowing homestays, while maintaining a prohibition on vacation rentals.

Charlene Rosales, representing the Chamber of Commerce, spoke on the importance of balancing the economic value of homestays and the concerns of residents; noted that the Chamber frequently receives inquiries related to homestays.

Carolyn Smith, San Luis Obispo, stated that residents do not expect hotel-like businesses to be located in residential neighborhoods; opined that such activities disturb the quiet enjoyment of private residences; cautioned Council on removing bans on short term rentals.

Bob Shanbrom, San Luis Obispo, asserted that allowing short term rentals in residential neighborhoods equates to a taking of property interests; opined that allowing short term rentals would negatively impact neighborhood security and workforce housing.

Gordon Mullin, San Luis Obispo, noted that owners and guests of homestays are rated and such information is shared online; pointed out that current regulations allow property owners to rent to up to four university students.

John Aspinall, Costa Rica, urged Council to allow vacation rentals; noted that he resides in Costa Rica and owns a home in San Luis Obispo, which he would like to use as a vacation rental.

Gordon Edmonds, San Luis Obispo, conveyed support for allowing homestays; opined that bed and breakfasts are overly regulated and encouraged Council to re-examine all types of rentals.

Sandra Rowley, representing RQN, opined that homestay guests negatively impact the quality of neighborhoods; asserted that economic benefits to property owners and the City are at the expense of residents; requested that Council continue the matter to allow RQN to further evaluate the matter.

MEETING RECESSED AND RECONVENED

Council recessed at 8:07 p.m. and reconvened at 8:22 p.m. with all members present, with the exception of Mayor Marx.

Following discussion, Council provided direction to staff to temporarily suspend enforcement of the vacation rental prohibition, process the text amendment in a streamlined process, explore options related to implementing a permit process for homestays in the R1 Zone, implement methods of collecting Transient Occupancy Tax (TOT), provide amnesty for unpaid TOT, and evaluate secondary dwelling units in relation to the proposed ordinance.

Motion by Council Member Ashbaugh, Second by Council Member Carpenter, Carried 4-0, to temporarily suspend enforcement of the entire vacation rental prohibition, pending addition of an ordinance for homestays.

Motion by Council Member Ashbaugh, Second by Council Member Christianson, Carried 3-1 (Council Member Carpenter Voting No), to direct staff to return with a draft ordinance to allow owner occupied homestays at the earliest possible time and to address funding for the text amendment at the mid-year budget review.

Council Member Carpenter noted for the record that he voted no because the motion does not address allowing non-owner occupied (vacation rentals).

City Attorney Dietrick advised that staff may return to Council to address the matter of issuing business licenses and collecting TOT prospectively.

B1. CITYWIDE HISTORIC CONTEXT STATEMENT - RESOLUTION

Community Development Director Johnson, Senior Planner Dunsmore, Christine Lazzaretto, of Historic Design Group, narrated a PowerPoint presentation entitled "Citywide Historic Context Statement" and responded to Council inquiries.

Following discussion, Motion by Council Member Carpenter, Second by Council Member Christianson, Carried 4-0, to: 1) adopt Resolution No. 10474 (2013 Series) entitled "A Resolution of the City Council of the City of San Luis Obispo, California, approving the citywide Historic Context Statement"; and 2) find that the project is exempt from California Environmental Quality Act (CEQA) in accordance with Public Resources Code 15306.

COUNCIL LIAISON REPORTS AND COMMUNICATIONS**Liaison Reports:**

None.

Communications:

None.

There being no further business to come before the City Council, Vice Mayor Smith adjourned the meeting at 9:40 p.m.

Anthony J. Mejia, CMC
City Clerk

APPROVED BY COUNCIL: 12/3/13

ORDINANCE NO. 663

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING TITLE 16 OF THE ARROYO GRANDE MUNICIPAL CODE REGARDING VACATION RENTALS AND HOMESTAYS

WHEREAS, the City of Arroyo Grande ("City") currently does not regulate vacation rentals or homestays; and

WHEREAS, the City does regulate similar transient uses with similar impacts such as bed and breakfast inns; and

WHEREAS, the City Council finds that, unless properly regulated, vacation rentals and homestays can result in adverse impacts to adjacent properties; and

WHEREAS, the purpose of these regulations is to ensure that vacation rentals and homestays conform to the existing character of the neighborhood in which they are located and do not create an adverse impact on adjacent properties; and

WHEREAS, the increasing popularity of vacation rentals and homestays in the City the implementation of appropriate regulations to ensure that impacts are addressed and the character of existing neighborhoods is maintained, while providing an expanded type of lodging facility available within the City; and

WHEREAS, it is the purpose of this Ordinance to protect the public health, safety, and welfare within the City by establishing rules and requirements for vacation rentals and homestays; and

WHEREAS, after consideration of all testimony and all relevant evidence, the City Council has determined that the following Development Code Amendment findings can be made in an affirmative manner:

- A. The proposed revisions to Title 16 are required to ensure consistency with the objectives, policies and implementation measures of the General Plan, particularly the Land Use Element, and is therefore desirable to implement the provisions of the General Plan.
- B. The proposed revisions to Title 16 will not adversely affect the public health, safety, and welfare or result in an illogical land use pattern.
- C. The proposed revisions are consistent with the purpose and intent of Title 16 and satisfy the intent of Chapter 16.08 of the Municipal Code and provide for internal consistency.
- D. The proposed revisions to Title 16 are exempt under per Sections 15061(b)(3) and 15308 of the California Environmental Quality Act (CEQA) Guidelines.

ORDINANCE NO. 663
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NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Arroyo Grande as follows:

SECTION 1: The above recitals and findings are true and correct and incorporated herein by this reference.

SECTION 2: Arroyo Grande Municipal Code Section 16.52.230 is hereby added as follows:

SECTION 16.52.230 – VACATION RENTALS

- A. Purpose and intent. The purpose of these regulations is to ensure that vacation rentals located in the city conform to the existing character of the neighborhood in which they are located and do not create an adverse impact on adjacent properties.
- B. Applicability. Vacation rentals may be permitted only with approval of a minor use permit. Vacation rentals shall comply with the property development standards of the underlying district and the performance standards and special conditions listed in Section 16.52.230.C.
- C. Performance standards and conditions for vacation rentals.
 - 1. Operators of vacation rentals are required to obtain a minor use permit-plot plan review (Section 16.16.080) and a business license.
 - 2. Any proposed vacation rental shall be compatible with the neighborhood in which it is located in terms of landscaping, scale and architectural character. The use shall be harmonious and compatible with the existing uses with the neighborhood
 - 3. All Building Code and Fire Code requirements for the level of occupancy of the vacation rental shall be met.
 - 4. All environmental health regulations shall be met.
 - 5. The operator of the vacation rental shall, at all times while the property is being used as a vacation rental, maintain a contact person/entity within a fifteen (15) minute drive of the property. The contact person or entity must be available via telephone twenty-four (24) hours a day, seven (7) days a week, to respond to complaints regarding the use of the vacation rental. The contact person or entity shall respond, either in person or by return telephone call, with a proposed resolution to the complaint within three (3) hours between 7:00 am and 9:00 pm, and within thirty (30) minutes between 9:00 pm and 7:00 am.

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6. The operator of the vacation rental shall annually, at the time of renewal of the business license, notify the Community Development Department of the name, address and telephone number of the contact person required in subsection 16.52.230.C.6.
7. A written notice shall be conspicuously posted inside each vacation rental unit setting forth the name, address and telephone number of the contact person required in subsection 16.52.230.C.6. The notice shall also set forth the address of the vacation rental, the maximum number of occupants permitted to stay overnight in the unit, the maximum number of vehicles allowed to be parked on-site, and the day(s) established for garbage collection. The notice shall also provide the non-emergency number of the Arroyo Grande Police Department.
8. On-site advertising of the vacation rental is prohibited.
9. The number of overnight occupants shall be limited to two persons per bedroom and two additional persons. A bedroom shall meet the minimum size requirements as defined in the Building Code.
10. All refuse shall be stored in appropriate containers and placed at the curb for collection every week.
11. The operator of the vacation rental shall pay Transient Occupancy Tax as required by Arroyo Grande Municipal Code Section 3.24.030.
12. Establishment of a vacation rental within 300 feet of an existing vacation rental on the same street shall not be permitted.
13. Violations – violation of these requirements shall constitute grounds for revocation of the minor use permit pursuant to Section 16.16.220.

SECTION 3: Arroyo Grande Municipal Code Section 16.52.240 is hereby added as follows:

SECTION 16.52.240 – HOMESTAYS

- A. Purpose and intent. The purpose of these regulations is to ensure that homestays located in the city conform to the existing character of the neighborhood in which they are located and do not create an adverse impact on adjacent properties.
- B. Applicability. Homestays may be permitted only with approval of a minor use permit. Homestays shall comply with the property development standards of the

ORDINANCE NO. 663
PAGE 4

underlying district and the performance standards and special conditions listed in Section 16.52.240.C.

C. Performance standards and conditions for homestays.

1. Operators of homestays are required to obtain a minor use permit-plot plan review (Section 16.16.080) and a business license.
2. Any proposed homestay shall be compatible with the neighborhood in which it is located in terms of landscaping, scale and architectural character. The use shall be harmonious and compatible with the existing uses with the neighborhood
3. All Building Code and Fire Code requirements for the level of occupancy of the homestay shall be met.
4. All environmental health regulations shall be met.
5. The operator shall reside on the premises.
6. Individual guest stays shall be limited to fourteen (14) days, with a seven-day period between stays.
7. On-site advertising of the homestay is prohibited.
8. A bedroom shall meet the minimum size requirements as defined in the Building Code.
9. The operator of the homestay shall pay Transient Occupancy Tax as required by Arroyo Grande Municipal Code Section 3.24.030.
10. Establishment of a homestay within 300 feet of an existing homestay on the same street shall not be permitted.
11. Violations – violation of these requirements shall constitute grounds for revocation of the minor use permit pursuant to Section 16.16.220.

SECTION 4: The following definitions in Arroyo Grande Municipal Code Subsection 16.04.070.C. are hereby amended or added as follows:

16.04.070.C. Definitions

"Bed and breakfast inn" means an owner-occupied dwelling unit where three (3) or more short-term lodging rooms and meals are provided for compensation or onsite signage is desired.

ORDINANCE NO. 663**PAGE 5**

"Homestay" means an owner-occupied dwelling unit where a maximum of two (2) short-term lodging rooms are provided for compensation.

"Vacation rental" means a structure being rented for less than thirty (30) days without concurrently being occupied by the owner/operator where the short-term lodging is provided for compensation.

SECTION 5: Arroyo Grande Municipal Code Section 16.16.080 is hereby amended to add Subsection B.10 and Subsection C.6 as follows:

16.16.080.B.10. Establishment of vacation rentals or homestays in applicable zoning districts identified in Table 16.32.040-A and Table 16.36.030(A).

16.16.080.C.6. For plot plan reviews establishing the use of property for vacation rental purposes, the decision of the community development director shall also be mailed to all property owners of parcels within three hundred (300) feet of the property for which the plot plan review has been requested, in addition to the requirements of Section 16.16.080.C.5. The notice shall indicate the appeal provisions of Section 16.12.150.

SECTION 6: Arroyo Grande Municipal Code Table 16.32.040-A, entitled "Uses Permitted Within Residential Districts", Section A. Residential Uses is hereby amended to add Subsection A.17. as follows:

USE	RE	RH	RR	RS	SF	VR D-2.4	MF	MFA	MFVH	MHP
A. Residential Uses										
17. Vacation Rentals and Homestays	MUP	MUP	MUP	MUP	MUP	MUP	MUP	MUP	NP	NP

SECTION 7: Arroyo Grande Municipal Code Table 16.36.030(A), entitled "Uses Permitted Within Mixed Use and Commercial Districts", Section B. Services - General is hereby amended to add the following use:

USE	IMU	TMU D-2.11	VCD HCO D- 2.4	VMU D-2.11 HCO D-2.4	GMU	FOMU	HMU	OMU ¹ D- 2.20	RC ²	Specific Use Stds
B. Services - General										
Vacation Rentals and Homestays	NP	MUP	MUP	MUP	MUP	MUP	MUP	MUP	NP	16.52.230 16.52.240

SECTION 8: If any section, subsection, subdivision, paragraph, sentence, or clause of this Ordinance or any part thereof is for any reason held to be unlawful, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, or clause thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, or clause be declared unconstitutional.

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SECTION 9: Upon adoption of this Ordinance, the City Clerk shall file a Notice of Exemption pursuant to 14 CCR § 15062.

SECTION 10: A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council Members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

SECTION 11: This Ordinance shall take effect thirty (30) days from the date of adoption.

On motion of Council Member Barneich, seconded by Council Member Brown, and on the following roll call vote to wit:

AYES: Council Members Barneich, Brown, Costello, Guthrie, and Mayor Ferrara

NOES: None

ABSENT: None

the foregoing Ordinance was adopted this 10th day of June, 2014.

ORDINANCE NO. 663
PAGE 7


TONY FERRARA, MAYOR

ATTEST:


KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:


STEVEN ADAMS, CITY MANAGER

APPROVED AS TO FORM:


TIMOTHY J. CARMEL, CITY ATTORNEY

OFFICIAL CERTIFICATION

I, **KELLY WETMORE**, City Clerk of the City of Arroyo Grande, County of San Luis Obispo, State of California, do hereby certify under penalty of perjury, that the attached is a true, full, and correct copy of Ordinance No. 663 which was introduced at a regular meeting of the City Council on May 27, 2014; was passed and adopted at a regular meeting of the City Council on the 10th day of June 2014; and was duly published in accordance with State law (G.C. 40806).

WITNESS my hand and the Seal of the City of Arroyo Grande affixed this 12th day of June 2014.



KELLY WETMORE, CITY CLERK



SEBASTOPOL
Local Flavor. Global Vision.

City of Sebastopol INFORMATION

Mayor
Robert Jacob
City Council
Patrick Slayter, Vice
Mayor
John Eder
Sarah Glade Gurney
Michael Kyes

City Manager/City
Attorney
Larry McLaughlin
City Clerk
Mary Gourley

Date: March 2014
To: Interested Persons
From: Kenyon Webster, Planning Director
Subject: Zoning and Other Standards for Home-Stay
Businesses

Introduction

If you are considering establishing a 'home-stay' business, a bed & breakfast establishment, or an inn or hotel in the City of Sebastopol, there are regulations of which you should be aware.

The City's rules are intended to promote visitor-serving businesses while preserving the character of residential neighborhoods, preserving the supply of permanent housing, limiting adverse impacts, and applying tax requirements equally for different types of overnight visitor accommodations.

Jurisdiction

If the property is in *unincorporated* territory, you are in the jurisdiction of the County of Sonoma, and should contact the Permit and Resource Management Agency (PRMD) at 707-565-1900 regarding all requirements. <http://sonomacounty.ca.gov/Departments-Agencies/Permit-and-Resource-Management/>

Permissions

In the City limits of the City of Sebastopol, the following considerations apply:

- **Property owner permission.** For all types of these uses, if you do not own the property where the business would be conducted, the property owner's permission to operate the use is *required*. In some situations, while City regulations may allow an activity, be advised that some leases may prohibit the activity, and property owners may not approve it.
- **Consider your neighbors.** As you consider your options, think about your neighbors. What might be the concerns or impacts of the use on your neighbors? Where will visitors park? How will you address behavioral, noise, or other concerns? Are there privacy concerns you should address (like a window that looks into your neighbor's bedroom)?
- **Private restrictions.** Some properties (typically condominiums, but sometimes single-family home developments) have private restrictions (usually Conditions, Covenants and Restrictions, commonly known as CC & R's) that may affect your ability to operate the use or other types of businesses. Some CC & R's prohibit business activities. You should determine

Attachment 5

if the property in question is regulated by any such restrictions so that you do not run afoul of your homeowners' association or another applicable private restrictions.

Physical Improvements

- **Fixing up the property.** Are there physical improvements you should consider or will make to accommodate the use? Are walkways level? Is outdoor night lighting adequate? Will you add new electrical plugs or plumbing? Do you plan on other remodeling? Check with the Building Department at 707-823-8597 to determine if you require a Building Permit. <http://ci.sebastopol.ca.us/page/about-building-and-safety>

Business License

- **Business license.** For all types of businesses, a Business License is *required*. For a one- or two-room 'home-stay' business, a Home Occupation Business License is required. See attached handout regarding how to open a business, and attached Home Occupation Business License application form. If you have questions about these forms, contact the City Administrative Services Department at 707-823-7863. <http://ci.sebastopol.ca.us/sites/default/files/kcano/homocccchecklist.pdf> http://ci.sebastopol.ca.us/sites/default/files/kcano/homeoccapp_01-2010.pdf
- **Home Occupation Business requirements.** The City's standard Home Occupation business standards are designed to maintain the harmony of residential neighborhoods. See the attached handout for basic standards.

Local Taxes

- **Special taxes.** For all types of overnight visitor accommodations, payment of Transient Occupancy Tax (10% of the room charge) and a Tourism business tax (2% of the room charge) are *required*. See attached forms. http://ci.sebastopol.ca.us/sites/default/files/kcano/hotel_tot_form.pdf http://ci.sebastopol.ca.us/sites/default/files/kcano/hotel_bia_form.pdf

Home-Stay = Residential Use Maintained

- **Fundamental residential use must be maintained.** Under the City's Zoning Ordinance, 'home-stay' businesses are considered a form of bed & breakfast establishment. Under these allowances, a person may rent out up to two rooms in their residence (home, condominium or apartment) for overnight visitor accommodations without needing to obtain a Use Permit or other major land use permit approval. However, *the primary residential use must be maintained*, meaning you or someone else actually *lives at the residence* for a continuous period of 30 days or longer. You cannot operate the home, apartment, condominium, or second dwelling unit solely as an overnight visitor accommodation use. This applies to single family homes, apartments, condominiums, and second dwelling units ('granny' units).
- **Maintaining residential use.** How you operate a home-stay business is up to you. While you need to maintain the fundamental residential use (in other words, you or someone else lives there), that doesn't mean you have to be present at all times when there are guests in the residence. You can also decide if you want to provide meals or kitchen privileges.

Safety and Operation

- **Fire safety.** Home-stay rooms must have approved smoke detectors and a posted evacuation diagram in each room. A hallway smoke detector is also required for each floor of the residence. The residence should also have at least one approved fire extinguisher. These elements may be subject to Fire Department inspection when you apply for a Business License.

Attachment 5

- **Appropriate operation.** Having a home-stay business approved by the City does *not* constitute approval for rental of the premises for events, live music performances, and the like. These kinds of activities may disrupt residential neighborhoods and either may not be allowed, or may require a special Temporary Use Permit approval.

Other Regulators

- **Other regulators.** If you wish to serve prepared food to your guests, a permit from the Sonoma County Department of Health Services may be required. Contact them at 707-565-6565. <http://sonomacounty.ca.gov/Departments-Agencies/Health-Services/> If you plan to serve alcohol, you will need approval from the State Alcohol Beverage Control department (ABC) 707-576-2165 <http://www.abc.ca.gov/index.html> ABC issues for B & B's: type 67 for B & B for wine only, or type 80 for beer/wine and distilled spirits.

• Other Types of Overnight Accommodations

- **Larger B & B's.** Most City of Sebastopol residential zoning districts allow Bed & Breakfast Inns with three to five visitor rooms with a Use Permit. B & B's with up to ten rooms are allowed in some commercial districts. A Use Permit is a discretionary permit that requires a public hearing by the Planning Commission where the Commission. See attached key requirements. In addition, such Inns typically require more parking than a single family residence: one space, plus one space for each Inn bedroom.
- **Hotels.** Some City of Sebastopol zoning districts allow hotels, motels, and hostels. Contact the Planning Department for more information. 707-823-6167. <http://ci.sebastopol.ca.us/page/about-planning-department>

Policy May Change

- **Future regulations.** In addition to the fact that the Internet and businesses like Airbnb are changing the visitor accommodations industry, some jurisdictions have experienced problems with home-stay and other types of overnight visitor accommodations. Residents sometimes feel that these types of uses adversely affect the character of residential neighborhoods or create parking, safety, or noise problems, and some jurisdictions have created detailed regulations or allowances. This is an evolving regulatory area. If concerns or problems develop in Sebastopol, the City may adopt new regulations that alter the existing allowances.

City and Community Information

- **City of Sebastopol web site.** The City's web site includes information about Sebastopol as well as regulations and application forms. Check it out at: <http://ci.sebastopol.ca.us>

Visitor-Related Local Websites

- Visit Sebastopol <http://www.visitsebastopol.org>
- Visitor's Bureau <http://www.sonomacounty.com>

Attachments:

How to Open a New Business handout
Home Occupation regulations
Fire extinguisher standards handout
Business license rate information handout
Home Occupation Business License application
Transient Occupancy Tax form
Tourism Business Tax form
Bed & Breakfast Use Permit standards (for three or more rooms)
ABC information

city of san luis obispo

INITIAL STUDY ENVIRONMENTAL CHECKLIST FORM For ER # CODE 0058-2014

1. **Project Title:**

Homestay Ordinance – addition to Title 17 of the Municipal Code (Zoning Regulations)

2. **Lead Agency Name and Address:**

City of San Luis Obispo
Community Development Department
919 Palm Street
San Luis Obispo, CA 93401

3. **Contact Person and Phone Number:**

Greg Hermann
(805) 781-7194

4. **Project Location:**

Citywide, City of San Luis Obispo

5. **Project Sponsor's Name and Address:**

City of San Luis Obispo
Community Development Department
919 Palm Street
San Luis Obispo, CA 93401

6. **General Plan Designation:**

N/A

7. **Zoning:**

All zones

8. **Description of the Project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)**

In recent years, the use of private homes for short-term rental use has gained popularity. This use of an owner-occupied dwelling being used for short-term rental purposes is known as a homestay rental. The City of San Luis Obispo does not currently regulate homestays. The increasing popularity of homestays in the City require the implementation of appropriate regulations to ensure that impacts are addressed and the character of existing neighborhoods is maintained, while providing an expanded type of lodging facility available within the City. The purpose of this Title 17 Amendment is to ensure that homestay rentals conform to the existing character of the neighborhood in which they are located and do not create impacts to adjacent properties.

Proposed ordinance provisions include: The operation of a homestay requires a homestay permit/administrative approval by the Community Development Director. The operator of the homestay shall: pay Transient Occupancy Tax and Tourism Business Improvement District tax as required by San Luis Obispo Municipal Code, provide verification of owner occupancy through Homeowner's Property Tax Exemption and provide one additional parking space in addition to their required residential parking. The number of overnight guests shall be limited to four adults. Bedrooms shall meet the minimum size requirements as defined in the Building Code. During time of homestay, a responsible party must be within a fifteen (15) minute drive and be available via telephone at all times.

A copy of the ordinance and related text amendments are included as attachment 1.

9. **Surrounding Land Uses and Settings (Briefly describe the project's surroundings):**

Existing owner-occupied dwelling units Citywide in a variety of zoning categories.

10. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):**

N/A

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

	Aesthetics		Greenhouse Gas Emissions		Population / Housing
	Agriculture Resources		Hazards & Hazardous Materials		Public Services
	Air Quality		Hydrology / Water Quality		Recreation
	Biological Resources		Land Use / Planning		Transportation / Traffic
	Cultural Resources		Mineral Resources		Utilities / Service Systems
	Geology / Soils		Noise		Mandatory Findings of Significance

FISH AND GAME FEES

X	The Department of Fish and Wildlife has reviewed the CEQA document and written no effect determination request and has determined that the project will not have a potential effect on fish, wildlife, or habitat (see attached determination).
	The project has potential to impact fish and wildlife resources and shall be subject to the payment of Fish and Wildlife fees pursuant to Section 711.4 of the California Fish and Wildlife Code. This initial study has been circulated to the California Department of Fish and Wildlife for review and comment.

STATE CLEARINGHOUSE

X	This environmental document must be submitted to the State Clearinghouse for review by one or more State agencies (e.g. Cal Trans, California Department of Fish and Game, Department of Housing and Community Development). The public review period shall not be less than 30 days (CEQA Guidelines 15073(a)).
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DETERMINATION (To be completed by the Lead Agency):

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	X
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made, by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	
I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.	
I find that the proposed project MAY have a "potentially significant" impact(s) or "potentially significant unless mitigated" impact(s) on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed	
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (1) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (2) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	

Signature_____
Date_____
Printed Name_____
Kim Murry
Deputy Community Development Director

EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 19, "Earlier Analysis," as described in (5) below, may be cross-referenced).
5. Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration (Section 15063 (c) (3) (D)). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they addressed site-specific conditions for the project.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
8. The explanation of each issue should identify:
 - a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance,

1. AESTHETICS. Would the project:					
a) Have a substantial adverse effect on a scenic vista?	1				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, open space, and historic buildings within a local or state scenic highway?					X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?					X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?					X
<u>Evaluation</u> a)b)c)d) The project would not impact scenic vistas or damage scenic resources as the project would use existing owner-occupied housing units. The project would allow homestay rentals in existing owner-occupied housing units as permitted by the ordinance. The ordinance would require that homestays receive approval of a permit to ensure compatibility with surrounding uses and that specific performance standards are adequately met. Any additional required lighting would be subject to the City's Night Sky Ordinance, which includes operational and development standards that mitigate light or glare impacts to a less than significant level. Conclusion: No impact.					
2. AGRICULTURE RESOURCES. Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	1,2				X
b) Conflict with existing zoning for agricultural use or a Williamson Act contract?					X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?					X
<u>Evaluation</u> a)b)c) No impacts to agricultural resources would occur as no specific site is under consideration. Homestay rentals would be located within existing owner-occupied dwelling units in urban areas. No additional construction is anticipated as a result of this ordinance. Conclusion: No impact.					
3. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	1,9,10				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?					X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?					X
d) Expose sensitive receptors to substantial pollutant concentrations?					X
e) Create objectionable odors affecting a substantial number of people?					X
<u>Evaluation</u>					

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a)b)c)d)e) The project would not impact air quality as it does not involve any amendments to City policy on air quality, nor would it generate additional sources of air pollution. Homestay rentals would be located within existing owner-occupied dwelling units. No new construction is anticipated as a result of this ordinance.

Conclusion: No Impact.

4. BIOLOGICAL RESOURCES. Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	I				X
b) Have a substantial adverse effect, on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?					X
c) Have a substantial adverse effect on federally protected wetlands as defined in Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?					X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?					X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?					X
f) Conflict with the provisions of an adopted habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?					X

Evaluation

a)b)c)d)e)f) No biological impacts would occur as no specific site is under consideration. Homestay rentals would be located within existing owner-occupied dwelling units in existing urban areas.

Conclusion: No Impact.

5. CULTURAL RESOURCES. Would the project:

a) Cause a substantial adverse change in the significance of a historic resource as defined in §15064.5.	1,2				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5)					X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?					X
d) Disturb any human remains, including those interred outside of formal cemeteries?					X

Evaluation

a)b)c)d) No cultural resource impacts would occur as no specific site is under consideration. Homestay rentals would be located within existing owner-occupied dwelling units in urban areas.

Conclusion: No Impact.

6. GEOLOGY AND SOILS. Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:	3				X
I. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.					X
II. Strong seismic ground shaking?					X
III. Seismic-related ground failure, including liquefaction?					X
IV. Landslides?					X
b) Result in substantial soil erosion or the loss of topsoil?					X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off site landslide, lateral spreading, subsidence, liquefaction or collapse?					X
d) Be located on expansive soil, as defined in Table 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?					X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?					X

Evaluation

a)b)c)d)e) The project would not expose people or structures to geologic hazards as Homestay rentals would be located within existing owner-occupied dwelling units within urban areas of San Luis Obispo.

Conclusion: No impact.

7. GREENHOUSE GAS EMISSIONS. Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	12			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?					X

Evaluation:

a)b) The State of California passed Assembly Bill 32, the California Global Warming Solution Act of 2006 and California Governor Schwarzenegger Executive Order S-3-05 (June 1, 2005), which require reductions of greenhouse gases in the State of California. The Homestay Ordinance involves previously existing owner-occupied housing units and is consistent with the City's adopted Climate Action Plan. No new construction is anticipated as a result of this ordinance and trip generation by visitors in Homestays is consistent with that associated with the residential use.

Conclusion: Less than Significant Impact.

8. HAZARDS AND HAZARDOUS MATERIALS. Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	3,10, 11				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?					X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?					X
d) Be located on a site which is included on a list of hazardous					X

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materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?					
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?					X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?					X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?					X
h) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?					X
<u>Evaluation</u>					
a)b)c)d)e)f)g)h) No hazardous impacts would occur as no specific site is under consideration and Homestay rentals would be located within existing owner-occupied dwelling units in urbanized areas of San Luis Obispo.					
<u>Conclusion:</u> No Impact.					
9. HYDROLOGY AND WATER QUALITY. Would the project:					
a) Violate any water quality standards or waste discharge requirements?	1,4				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g. the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?					X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site?					X
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site?					X
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?					X
f) Otherwise substantially degrade water quality?					X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?					X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?					X
i) Expose people or structures to significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?					X

j) Inundation by seiche, tsunami, or mudflow?					X
<u>Evaluation</u> a)b)c)d)e)f)j) No impacts to water resources will occur as the project does not involve modifications to the City's policies on water and drainage and Homestay rentals are located in existing owner-occupied dwelling units. No new construction is anticipated as a result of this ordinance. g)h)i) Owner-occupied dwelling units may exist within flood zones that could be considered for homestays rentals. Homestays in existing dwellings will not change or increase flood risk as no change to the building footprint would occur. <u>Conclusion:</u> No Impact.					
10. LAND USE AND PLANNING. Would the project:					
a) Physically divide an established community?	1-7				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?					X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?					X
<u>Evaluation</u> a)b)c) No land use and planning impacts would occur as no specific site is under consideration. Homestay rentals would be located within existing owner-occupied dwelling units in existing urbanized areas. No new construction is anticipated as a result of this ordinance. <u>Conclusion:</u> No Impact.					
11. MINERAL RESOURCES. Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	1				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?					X
<u>Evaluation</u> a)b)c) No impacts to mineral resources would occur as the program does not involve modifications to the City's policies on mineral resources and no specific site is under consideration. Homestay rentals would be located within existing owner-occupied dwelling units in urbanized area of San Luis Obispo. <u>Conclusion:</u> No impact.					
12. NOISE. Would the project result in:					
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	7			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?					X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X	

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e) For a project located within an airport land use plan, or where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?					X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?					X

Evaluation

a)b)c)d)e)f) Homestay facilities are subject to the City's Noise Ordinance and must comply with established thresholds. While the Homestay facilities may see increased noise levels during times of short-term rentals, the Homestay ordinance requires the applicant to obtain a homestay permit/administrative approval and a business license to ensure Homestay facilities operate in compliance with City ordinances and are compatible with surrounding uses. Implementation of the Homestay Ordinance would not conflict with the City's Noise Element or Noise Ordinance as no specific site is under consideration. Homestay rentals would be located within existing owner-occupied dwelling units.

Conclusion: Less Than Significant Impact.

13. POPULATION AND HOUSING. Would the project:

c) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	2,6				X
d) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?					X
e) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?					X

Evaluation

a)b)c) No impacts to population and housing would occur as the Homestay program does not involve modifications to the City's policies on residential densities. All homestays will occur in existing owner-occupied dwelling units and no construction of housing is anticipated as a result of this ordinance.

Conclusion: No Impact.

14. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

a) Fire protection?	3			X	
b) Police protection?				X	
c) Schools?					X
d) Parks?	8			X	
e) Other public facilities?					X

Evaluation

a)b) Homestay rentals would be located within existing owner-occupied dwelling units and therefore no additional construction will result from this program. During times of short-term rentals, infrequent additional city services may be in need.

c)d)e)f) No new construction is anticipated as a result of the Homestay program and travelers staying in approved Homestay residences will not be permanent residents with long term public service needs such as schools. Homestay rentals would be located within existing owner-occupied dwelling units.

<u>Conclusion:</u> No Impact.					
15. RECREATION.					
a) Would the project increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	8			X	
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?					X
<u>Evaluation</u>					
a)b) The proposed Homestay ordinance would not include or require the construction or expansion of recreational facilities as homestay rentals would be located within existing owner-occupied dwelling units in existing urban areas and not change City population. No new construction is anticipated as a result of the ordinance.					
<u>Conclusion:</u> No Impact.					
16. TRANSPORTATION/TRAFFIC. Would the project:					
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	2,5				X
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?					X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?					X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?					X
e) Result in inadequate emergency access?					X
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?					X
<u>Evaluation</u>					
a)b)c)d)f)e) No impacts to transportation and circulation would occur as homestay rentals would be located within existing owner-occupied dwelling units. No new construction is anticipated as a result of this ordinance.					
<u>Conclusion:</u> No Impact.					
17. UTILITIES AND SERVICE SYSTEMS. Would the project:					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	4				X
b) Require or result in the construction or expansion of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?					X
c) Require or result in the construction of new storm water					X

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drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?					
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new and expanded entitlements needed?					X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?					X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?					X
g) Comply with federal, state, and local statutes and regulations related to solid waste?					X
<u>Evaluation</u> a)b)c)d)e)f)g) No impacts to utilities and service systems will occur as homestay rentals would be located within existing owner-occupied dwellings units and will not create an increase in demand for City utilities. No new construction is anticipated as a result of this ordinance.					
<u>Conclusion:</u> No Impact.					
18. MANDATORY FINDINGS OF SIGNIFICANCE.					
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?					X
Implementation of the Homestay Ordinance would not degrade the quality of the environment.					
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects)?					X
No cumulative impacts are expected to occur from implementation of the Homestay Ordinance.					
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?					X
Implementation of the Homestay Ordinance would not create environmental effects that will have an adverse impact on human beings.					

19. EARLIER ANALYSES.
Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or Negative Declaration. Section 15063 (c) (3) (D). In this case a discussion should identify the following items:
a) Earlier analysis used. Identify earlier analyses and state where they are available for review.
N/A
b) Impacts adequately addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were

addressed by mitigation measures based on the earlier analysis.	
N/A	
c) Mitigation measures. For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions of the project.	
N/A	

20. SOURCE REFERENCES.	
1.	City of SLO General Plan Conservation and Open Space Element, April 2006
2.	City of SLO General Plan Land Use Element, April 2010
3.	City of SLO General Plan Safety Element, July 2012
4.	City of San Luis Obispo Water and Wastewater Management Element, April 2010
5.	City of San Luis Obispo Circulation Element, April 2006
6.	City of San Luis Obispo Housing Element, April 2010
7.	City of San Luis Obispo Noise Element and Noise Guidebook, May 1996
8.	City of San Luis Obispo Parks and Recreation Element, April 2001
9.	City of San Luis Obispo Zoning Regulations, August 2012
10.	CEQA Air Quality Handbook, Air Pollution Control District, April 2012
11.	City of San Luis Obispo Land Use Inventory and Geographic Information System, current database
12.	City of San Luis Obispo Climate Action Plan, August 2012

Attachments:

Draft Homestay Ordinance



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: April 17, 2015

IBA Report Number: 15-15

Smart Growth and Land Use Committee Date: April 22, 2015

Item Number: 3

Comparative Information on Short-Term Rentals

BACKGROUND

As an informational item at the February 4, 2015 Smart Growth and Land Use (SG&LU) Committee meeting, SG&LU Committee Chair Lorie Zapf presented the 2015 SG&LU Committee priorities. Listed in the priorities for future SG&LU Committee discussion was a review of the City's vacation rental regulations and permitting, and the remittance of Transient Occupancy Tax (TOT) and Tourism Marketing Districts (TMD) assessments from vacation rentals.

On March 30, 2015, SG&LU Committee Chair Zapf issued a memorandum outlining concerns related to short-term vacation rentals. The memorandum noted that Committee Chair Zapf requested City staff to revise language in the current municipal code to address specific goals; and requested the Office of the Independent Budget Analyst (IBA) to research how other coastal California cities and conference/destination cities address the issue of short-term vacation rentals within their respective municipal regulations. The IBA was asked to provide comparative information from selected cities for the scheduled discussion of short-term vacation rentals at the April 22, 2015 SG&LU Committee meeting.

This report responds to Committee Chair Zapf's request and provides information from other municipalities on their respective short-term vacation rental regulations. Additionally, this report provides an overview of the current City of San Diego requirements and regulations related to short-term vacation rentals to highlight the differences in regulations amongst cities.

In developing the comparative information, our office reviewed two local municipalities and four other comparable conference/destination cities from across the nation. While local municipalities share similar geographic features, such as miles of coastline, these municipalities do not directly compare to the City of San Diego in population or the

Comparison Cities

Local

City of Solana Beach

City of Encinitas

National

City of San Jose, CA

City of San Francisco, CA

City of Austin, TX

City of Portland, OR

number of short-term vacation rental listings. Considering this point, our office additionally selected four cities that have a combination of large populations, high number of vacation rental listings, and/or special criteria within their respective short-term (stays for less than thirty days) vacation rental regulations. The reviewed cities include Encinitas, Solana Beach, San Francisco, San Jose, Austin, and Portland. The cities of Los Angeles, New York, and Coronado were also considered, however, these cities currently do not allow short-term rentals of residential dwellings within their jurisdictions. Although the terms “vacation rentals” and “short-term rentals” are commonly used interchangeably within the reviewed municipal regulations, this report will refer to these types of rentals collectively as Short-Term Rentals (STRs).

FISCAL/POLICY DISCUSSION

Councilmember Zapf’s March 30, 2015 memorandum listed several factors for considering revised requirements related to STRs. Similarly, the reviewed cities drafted their respective STR regulations to address concerns related to STRs. These concerns span a variety of topics including:

- Protection of housing stock- Property owners are opting to use existing residential dwellings as short-term rental options versus searching for long-term tenants.
- Preserving neighborhood character – Concerns include familiarity of neighbors and a commitment to the well-being of the neighborhood.
- Guest behavior/Noise/Parking – Ensuring STR guests follow good neighbor etiquette.
- Protecting homeowner rights – Allowing property owners to use their property as they see fit.
- Addressing emerging businesses – Evolving online rental business provides more opportunities for property owners.
- Balancing playing field with commercial businesses – Commercial businesses, such as hotels, are required to comply with health and safety regulations.
- Collections of appropriate taxes – Cities desire to provide guidelines for collection of the appropriate taxes to support city services.

Based upon our review of the regulations of the cities we researched, each establishes a definition or use category for STRs; and creates new or modified regulations to provide criteria for allowing and monitoring STRs. The STR regulations focus on two distinct areas: (1) registration and administration of the STRs; and (2) collection of the appropriate taxes (commonly the Transient Occupancy/Hotel tax and various assessments). While each municipality’s definition of a STR varies slightly, the definitions consistently describe a STR as: “the rental of a residential dwelling unit (single family or multi-family) by a transient guest (not part of the family unit) for a stay of less than thirty (30) days.”

Regulations related to the registration and administration of STR programs typically involve the following:

- Establishment of a participant registration process
- Development of a registry or database of information of those participating in the STR program
- Identification of specific fees for the STR program
- Identifying specific criteria for participation in the STR program

These regulations and permitting requirements attempt to hold STR program participants accountable for their guests and provide safety standards for the guests. The regulations related to the collection of the appropriate occupancy taxes/assessments identify which taxes apply to participants of the STR program; assist in enforcing tax compliance; and establish agreements with Hosting Platforms (online travel/advertising websites) for the collection of occupancy taxes.

As the developed regulations support specific goals, the regulations are commonly administered by two separate city departments. The registration and administration of the STR program is typically managed by a city's Development Services or Planning Department; while the collection of the appropriate occupancy taxes is overseen by the City Treasurer or Revenue Department.

Enforcement and penalties for violations of the STR regulations and payment of the appropriate taxes are commonly addressed within the existing code enforcement regulations and penalties of the respective cities. Enforcement of noise or nuisance is addressed through the land/neighborhood codes and citations; and the collection of taxes is addressed through tax codes and penalties. Citation fees are commonly determined by multiplying an established administrative fee by a multiplier. Repeat violations result in usage of a higher multiplier, resulting in a higher citation fee amount. For cities with an established permit program, revoking the permit after multiple violations has been implemented by several of the cities. Penalties related to tax collection are commonly set as a percentage of the amount of taxes owed, in addition to the principal amount due. The established citation fees and penalties hold the Operators and property owners financially accountable for the STRs.

A summary of the STR regulations for each reviewed city is provided in Attachment 1. Attachment 2 provides additional information for each city. The information focuses on the licenses/permits required for STRs including costs and the regulations for allowing and monitoring the respective STR programs. Additional information on the enforcement protocol and penalties of the cities is not provided in this report.

A summary of the current land use codes and requirements for STRs for the City of San Diego is provided below, followed by several highlighted permitting criteria and STR regulations from the reviewed cities.

City of San Diego

Estimated number of STR listings¹: 3,100

Currently, the City of San Diego's Municipal Code (SDMC) does not establish Vacation Rental or Short-term Rental as a defined term or as a Use Category for land use. Use Categories and Use Subcategories are used to classify specific types of allowable uses for land (Open Space, Industrial, Residential, etc.) and for determining the applicable use regulations.

In order to use a residential property for short-term rentals, the Operator² of the property must receive a Transient Occupancy Registration Certificate for the property, and use of the property is subject to the Rental Unit Business Tax (RUBT).

¹ The number of available listings will vary from day-to-day and the same listing may be shown on multiple hosting platforms at the same time. Estimates may vary based on the source of information.

² An Operator of a property may be the property owner or anyone with permission from the property owner to occupy or manage the dwelling or the room being rented.

Transient Occupancy Registration Certificate: Each Operator renting to Transients needs to register with the City Treasurer and obtain a Transient Occupancy Registration Certificate³. The certificate states that the Operator of the property is required to collect TOT and remit to the City Treasurer. The certificate needs to be posted at the rental property at all times. Revenue generated from this tax is deposited into the TOT Fund and is to be used in accordance with the City's Municipal Code regulations.

Rental Unit Business Tax (RUBT): The RUBT is imposed annually upon anyone who owns, operates, or manages the rental of any residential real estate within the City of San Diego. Property advertised or otherwise held out for lease or rent during the calendar year is subject to the rental tax. The RUBT fee⁴ for a Single Family Residence is \$50.00 per parcel + \$5.00 per unit; Multi-family Residence is \$50.00 per parcel + \$5.00 per unit (2 – 10 units)⁵.

The following are features of the current City regulations.

Residential Use Category and Use Subcategories – Short-term rental of a dwelling unit is regulated by the Residential Use Category (uses that provide living accommodations for one or more persons). The Residential Use Subcategories determine the appropriate use regulations to be applied to each accommodation situation. The Use Subcategories considered potentially applicable for this discussion are: Dwelling Unit (Single or Multi-family), Boarder/Lodger, Rooming House, and Bed and Breakfast.

- Dwelling Unit (Single or Multi-family) - The owner can occupy the unit and/or rent the unit as a whole to tenants (short-term/long-term) as a residential use for living or sleeping purposes. No minimum stay is specified in single dwelling unit zones. Multiple dwelling unit zones (with the exception of Residential-Multiple Unit Zone 5-12[RM-5-12⁶]) require that non-owner occupants reside on the premises for a minimum of seven (7) consecutive calendar days.
- Boarder/Lodger – Owner of primary dwelling unit resides on the premises and provides sleeping accommodations and/or rental of a room for a total maximum of two (2) individuals as an accessory residential use. Boarders and lodgers must occupy the premises for a minimum of seven (7) consecutive calendar days in multiple dwelling unit zones and commercial zones, and a minimum of thirty (30) consecutive calendar days in single dwelling unit zones.
- Rooming House – Residential use applies where an owner/operator rents out a dwelling unit with three (3) or more bedrooms on a per room basis and rooms are rented separately to different individuals/parties. No minimum stay is specified in the code.
- Bed and Breakfast – A type of visitor accommodations (lodging for visitors and tourists in rented guest rooms) that is classified as a commercial use (similar to hotel use), but where the commercial service (guest room rentals) is offered in a residential structure. Requires a use permit within some residential zones based on the number of guest rooms rented. In single dwelling unit zones, the owner/Operator must reside on the premises.

³ Transient Occupancy Registration Certificate allows for the collection of TOT and the appropriate TMD Assessments.

⁴ Fee schedule for RUBT includes additional classifications not shown.

⁵ Additional fees apply for Bed and Breakfasts and Multi-family properties with more than 10 units.

⁶ RM-5-12 permits visitor accommodations or medium *density multiple dwelling units* at a maximum *density* of 1 dwelling unit for each 1,000 square feet of lot area.

Occupancy limits – The limit for the number of occupants per unit is based upon the 2013 California Building Code (“Code”). Per the Code, the maximum floor area allowance per occupant for residential buildings is 200 square feet per occupant⁷.

Administrative Citation – The City has an existing administrative citation program in place to address nuisance noise in violation of the noise ordinance that is associated with loud music and parties at houses. At the discretion of the San Diego Police Department, separate \$1,000 citations may be issued to any individuals responsible for the nuisance noise including rentals tenants (guests) and the property owner.

Recordkeeping requirement – Every Operator that is liable for collection and remittal of TOT to the City is required to keep and preserve all business records for three (3) years. The City shall have the right to inspect and audit the records at all reasonable times.

Regulations from other Municipalities

Summaries of the permitting criteria and regulations related to STRs for each of the reviewed municipalities are provided in the attachment to this report. The following are several selected permitting criteria or regulations from the reviewed municipalities.

Permit fees

Permit fees associated with the STR programs are set to generate revenue to cover the cost of implementation and monitoring of the program by city staff. The fees are based upon existing fee schedules or cost estimates developed by the respective city departments. Additional costs for participants, such as fees for obtaining a required business license or application notification to adjacent properties, may also apply based upon each specific municipality. The STR permit fees range from a low of \$0 (San Jose)⁸ to a high of \$235 (Austin)⁹.

City	STR Permit
San Diego	N/A
Solana Beach	\$110
Encinitas	\$150
San Francisco	\$50
Austin	\$235
Portland*	\$178
San Jose	\$0

*Fee for Single Family Dwelling

The established fees for the STR programs are designed to balance the cost of participating in the STR program and recovering the city cost for performing certain tasks, such as property inspections, directly related to administering the STR program. Several cities noted the concern of high fees prohibiting participants from registration with the city while continuing to offer their residential dwellings as short term rentals. Minimal additional staff, if any, has been added by the researched cities to implement and enforce the STR programs. The increase in permit applications is commonly addressed by the Treasurer/Revenue department through the hiring of temporary staff or reallocation of existing resources. Additional neighborhood code enforcement responsibilities are typically assigned to existing Code Enforcement Department staff.

Permitting criteria and regulations

Limited number of non-owner occupied rentals – The Operator of the rental unit must occupy the unit for a minimum number of days during the calendar year, thereby limiting the number of days the unit is available for non-owner occupied (owner not present) rentals during the calendar year. The City of San Francisco requires the primary resident of the rental unit to occupy the unit for a minimum of 275 days during the calendar year. As such, the rental unit is limited to 90 days of non-owner occupied rentals. If

⁷ Occupancy limits defined in Section 1004 of the 2013 California Building Code.

⁸ City of San Jose does not require a permit.

⁹ Fee for Austin includes required inspection of bedrooms for single family dwelling.

the primary resident is present at the rental unit during the rental period, there is no limit to the number of days or frequency that the unit may be rented.

Exterior posting of Rental Unit Information – The cities of Solana Beach and Encinitas require the Operator to place a 24-hour, seven-day a week phone number for a party responsible for the rental unit on the exterior of the rental unit in plain view of the general public. The notice is also to include the number of bedrooms, the maximum number of overnight occupants permitted in the unit, and the maximum number of vehicles for overnight parking.

Notification to Adjacent Properties – Multiple cities require that contact information (party responsible for addressing complaints) for the rental unit be provided to all the adjacent property owners or property owners within a specific distance (100 to 300 feet) from the rental unit.

Liability Insurance – Several cities require the property owner to carry or show proof of liability insurance. The City of San Francisco requires the Operator of the unit to maintain liability insurance to cover the rental unit in the aggregate amount of not less than \$500,000; or maintain that any transaction through a Hosting Platform will provide equal or greater amounts of coverage.

Locations of fire extinguishers and fire exits – Several cities require the Operator to post a clearly printed sign inside the rental unit that provides information regarding the location of all fire extinguishers, gas shut off valves, fire exits, and fire alarms in the unit/building.

Limits on number of occupants – Several cities limit the number of occupants per rental unit. Limits on the number of occupants are determined by the type of rental unit (dwelling), the type of permit obtained, and/or the presence of the Operator.

Response to complaints/code violations – All of the reviewed cities have regulations to address code violations such as loud noise, nuisance, or parking. However, several cities, such as Solana Beach and Encinitas, include required response times from the identified contact for the rental unit. Failure to respond to the complaint/violations within the identified time period and failure to use best efforts to prevent reoccurrence of such conduct, by the rental unit occupants, would lead to a penalty or fine, and possibly the revocation of the ability to use the dwelling as a STR.

Establishment of agreement with Hosting Platform(s)¹⁰ – Several cities have established agreements with a Hosting Platform (e.g., Airbnb) to facilitate the reporting, collection, and remittance of applicable taxes (TOT) on behalf of the Operators of the STRs. Airbnb has agreements with the reviewed cities of San Francisco, San Jose, and Portland. The agreements are designed to assist the Operator in fulfilling their obligations while ensuring the cities receive the appropriate taxes from transactions booked through their website.

CONCLUSION

Each municipality has crafted their short-term rental permitting criteria, fees, and regulations specifically to address local concerns. The municipalities made considerable efforts to identify their concerns related to STRs, and set regulations to achieve certain goals. As the SG&LU Committee discusses the topic of STRs, and potentially the addition or modification of current regulations to address concerns related to STRs, our office recommends developing a definition or new use subcategory within the SDMC for short-

¹⁰ A Hosting Platform is an online booking service that allows Operators of residential dwelling units to be matched with those desiring accommodations. Services offered to the Hosts by the Hosting Platforms vary.

term rentals. While all of the reviewed regulations varied, the one consistent component of the regulations was a defined term for short-term rentals. This action would provide guidance for City staff and the public as to the classification of specific dwellings and the appropriate regulations to be applied to these dwellings.

Should the SG&LU Committee desire to propose new registration requirements or regulations for STRs, our office recommends considering the potential unintended impacts of the regulations. An example of this would be establishing a requirement for an exterior posting of contact information for a rental unit. While this may provide an avenue to address complaints, the exterior posting of information can also become a public advertisement of the dwelling as a short term rental. The identification of the dwelling as a rental unit may not have the intended positive impact that is desired. Achieving the goal of providing access to the rental unit's contact information might alternatively be accomplished by providing adjacent property owners with the contact information or by using other informational methods.

Additionally, the City will need to consider the desired level of enforcement for any new STR regulations. The reviewed cities have absorbed the responsibilities of enforcing the additional regulations into their existing code enforcement programs (normally investigate complaints on a reactive basis). However, the City, due to the density of the coastal communities and the overall large area of the City, may want to consider the necessary staffing levels to successfully enforce any new regulations.

It should be noted that the time required for each city to garner input from public and commercial stakeholders, draft the regulations, and allow for public discussion of the proposed regulations ranged from 12 to 24 months. Should the City follow a similar process for the discussion of potential STR regulations, it would be reasonable to expect a similar length of time before the City Council could implement new STR regulations.

Lastly, the City should anticipate a review of any proposed land use modifications in the coastal areas from the California Coastal Commission (Coastal Commission). The Coastal Commission has reviewed the proposed STR regulations from several other local municipalities including the City of Encinitas and the City of Solana Beach, and provided findings based upon the specific information from each city. Findings ranged from supporting the respective cities proposed regulations to recommending modifications resulting in partial implementation of the originally proposed regulations. Information related to the Coastal Commission's findings can be found on the Coastal Commission's website.



Chris Ojeda
Fiscal & Policy Analyst



APPROVED: Andrea Tevlin
Independent Budget Analyst

Attachments: 1.Summary of Comparative Information on Short-term Rentals
2.Comparative Information on Short-term Rentals

SUMMARY OF COMPARATIVE INFORMATION ON SHORT TERM RENTALS

Attachment 1

CITIES	Estimated number of STR listings	Business Tax Certificate / License required	Fee Amount	Restrictions	Occupancy Tax Certificate required	Occupancy Tax Rate	Short-Term Rental Permit	Fee Amount	Criteria for STR Permit	STR Regulations
San Diego	3,100	No	N/A	N/A	Yes	TOT - 10.5%	No	N/A	N/A	Use Categories and Use Subcategories to identify appropriate uses and regulations
						TMD Assessments:				Administrative penalties may apply to the guest and property owner
						Category A (30 or more units) - 1.45% Category B (all lodgings)- 0.55%				Owner required to maintain TOT payment records to the City for three (3) years
Solana Beach	200	No	N/A	N/A	Yes	TOT - 13.0%	Yes	\$110	Applicant can be owner or owner's agent	Seven day minimum stay required
									Valid for calendar year	Posting of contact information on exterior of rental unit
									Permit to be placed inside rental unit	Contact information to be provided to adjacent property owners
										Contact person required to response to complaints within 24 hours
Encinitas	200	No	N/A	N/A	Yes	TOT - 10.0%	Yes	\$150	Applicant can be owner or owner's agent	Single Family and Duplex dwellings only
									Owner responsible for complying with STR regulations	Number of occupants is limited
									Application to include floor plan of rental unit	Posting of contact information on exterior of rental unit
										Contact information to be provided to adjacent property owners
									Valid for twelve (12) months	Packet of STR and city regulations to be provided to guests
										Contact person required to response to complaints within two hours

SUMMARY OF COMPARATIVE INFORMATION ON SHORT TERM RENTALS

Attachment 1

CITIES	Estimated number of STR listings	Business Tax Certificate / License required	Fee Amount	Restrictions	Occupancy Tax Certificate required	Occupancy Tax Rate	Short-Term Rental Permit	Fee Amount	Criteria for STR Permit	STR Regulations
San Francisco	6,960	Yes	\$76.00	Valid for one (1) year	Yes	TOT - 14.0%	Yes	\$50	Registration number to be placed on all advertisements for rental unit	Primary Resident must occupy rental unit for no less than 275 days of the calendar year
						Resident required to provide documentation of residency			Primary Resident required to maintain minimum amount of \$500,000 in liability insurance	
						Valid for two (2) years			Record of number of days owner present and days unit rented must be kept for two (2) years	
						Property owner may only register one property			Location of fire extinguishers and exits must be posted	
						Moscone Expansion District Assessment not charged to STR hosts			Controller to review revenue and costs after six (6) months to determine if fee is cost recoverable	Hosting Platforms are required to provide city information to all potential hosts
Austin	1,500	No	N/A	N/A	Yes	HOT - 7.0%	Yes	\$235 (includes inspection fee)	Owner of property to obtain permit	Identifies three (3) dwelling categories for STRs
						Requires Certificate of Occupancy or inspection				
						Valid for twelve (12) months				
						Venue Project Tax - 2.0%	Yes	\$50 for notifying adjacent property owners of filing of STR application	City to provide owner with information packet of city regulations related to STR	Limits non-owner occupied rental units to three (3) percent of dwelling units within each census tract
									Owner to provide all guest with copy of information packet from City	City's Code Department developed database to monitor number of STRs per census track
City will notify property owners within 100 ft. of property applying for STR permit										

SUMMARY OF COMPARATIVE INFORMATION ON SHORT TERM RENTALS

Attachment 1

CITIES	Estimated number of STR listings	Business Tax Certificate / License required	Fee Amount	Restrictions	Occupancy Tax Certificate required	Occupancy Tax Rate	Short-Term Rental Permit	Fee Amount	Criteria for STR Permit	STR Regulations
Portland	1,600	Yes	2.2% of net income or a minimum of \$100	Valid for one (1) year	Yes	TOT - 11.5%	Yes	\$178 - Single Family Dwelling	Owner or person with permission from owner may obtain permit	Rental stays without owner present are limited to 95 days per year
			Two types of permits - Type A for up to two bedrooms; Type B for three to five bedrooms							
			Inspection required for Single Family dwellings						Number of occupants per rental unit limited by type of permit (A or B)	
			\$100 - Multi-family Dwelling					Notification letter with contact information to be sent to all properties across or abutting rental unit	Food and alcohol may be served	
								Registration number to be placed on all advertisements for rental unit	A guest log book must be maintained and made available for inspection by city staff upon request	
								Valid for two (2) years		
San Jose	300	Yes	\$150	Valid for one (1) year	Yes	TOT - 10.0%	No	N/A	N/A	If host present, unit can be rented 365 days per year; If host not present, unit can only be rented 180 days per year
										Number of occupants limited by presence or lack of presence of host, and type of dwelling
										Contact information to be provided to rental guests and all occupants of all adjacent properties
										Host to maintain payment records of TOT to city for three (3) years

The following summaries are to provide information on STR programs and regulations. The noted criteria cited in the summaries are extracts from the full set of regulations for each municipality.

City of Solana Beach

Estimated number of STR¹ listings: 200

On May 20, 2003, the Solana Beach City Council adopted an ordinance to allow short-term rentals to regulate the activity of renting a dwelling unit in a residential zoning district; and to safeguard the peace, safety, and general welfare of the residents, visitors, and rental guests. On February 3, 2004, the City Council adopted amendments to the short-term rental program.

In order to use a residential property as a STR, the owner or the owner's agent must obtain a Short-Term Vacation Rental Permit in lieu of a Business Certificate.

Short-Term Vacation Rental Permit: The applicant for the permit may be the owner or owner's agent. The applicant will be responsible for compliance with all the short term vacation rental regulations. The short-term vacation rental permit is required to be placed inside of the main entry door of each rental unit. Permit fee is \$110 and is valid for the calendar year. Annual renewal fee is \$17.

The following are noted features of the STR regulation.

- Seven (7) day stay requirement – Rental for less than seven consecutive calendar days in duration is prohibited within all residential zoning districts.
- Exterior posting of Contact Information – The applicant is required to place a 24-hour, seven-day a week phone number for a party responsible for the rental unit on the exterior of the rental unit in plain view of the general public.
- Notification to Adjacent Properties – The contact information for the rental unit is to be provided by the applicant to all the adjacent property owners.
- Response to complaints within 24 hours – Upon receiving notification that the guests or tenants of the rental unit are violating city regulations (noise, disorderly conduct, etc.), the applicant shall respond and abate the violation within 24 hours. Failure to respond or abate the tenant violation shall be considered a failure to respond to a complaint. Failure to respond to two or more complaints is grounds for penalties. A third violation related to the rental unit within any 12-month period will result in an administrative hearing and potentially revocation of the permit for a period of one year.

¹ For the City of Solana Beach, the definition of a STR is the rental of any structure for occupancy for more than seven days, but no more than thirty (30) consecutive days in a residential zoning district.

City of Encinitas

Estimated number of STR listings: 200

On June 15, 2005, the Encinitas City Council adopted an ordinance to allow short-term rentals in residential zones. The ordinance established regulations to address and mitigate impacts to neighborhoods such as excessive noise, disorderly conduct, and overcrowding. Subsequent amendments modified the regulations to include additional noticing requirements.

In order to use a residential property as a STR, the owner or the owner's agent must obtain a Short-Term Rental Permit from the City Clerk's Office and register with the Finance Department for the collection of TOT.

Short-Term Rental Permit – The owner or owner's agent may obtain the permit; however the owner is responsible for complying with the short-term rental regulations. The permit application includes the applicant's contact information, the owner's contact information, and information for the identified contact person. In addition to the contact information, the application is to include a description of the dwelling with an illustrated floor plan; and a copy of the proposed guest rental agreement. The fee for the Short-Term Rental Permit is \$150 and is valid for twelve (12) months.

The following are noted features of the STR regulation.

- Allowable Dwelling Units - Short-term rentals are only allowed for single-family and duplex dwellings in residential zones. Multi-family dwellings and condominiums are prohibited from usage as short-term rentals in residential zones. Commercial activities, such as weddings or corporation parties, are not an allowed use within short-term rentals.
- Limited number of occupants – Occupancy of short-term rental units is limited to two (2) persons per bedroom plus one additional person per dwelling.
- Exterior posting of Rental Unit Information – The applicant is required to place a 24-hour, seven-day a week phone number for a party responsible for the rental unit on the exterior of the rental unit in plain view of the general public. The displayed notice is also to include the number of bedrooms, the maximum number of overnight occupants permitted in the unit, and the maximum number of vehicles for overnight parking.
- Notification to Adjacent Properties – The contact information for the rental unit is to be provided by the applicant to all the adjacent property owners.
- Rental Agreement – The applicant shall provide a packet of information to prospective renters which will include the permitted occupancy of the unit, parking capacity for the unit, and trash disposal requirements prior to their occupancy of the unit.
- Response to complaints – The applicant shall, upon receiving notification of a disturbance or violation occurring at the rental unit, respond to the complaint within two hours of the time the initial complaint was made; and within 24 hours of the initial call use best efforts to prevent a recurrence of such conduct by the rental unit occupants.

City of San Francisco

Estimated number of STR listings: 6,960

On October 27th, 2014 Mayor Ed Lee signed an ordinance to allow permanent residents of residential properties to conduct short-term rentals under certain circumstances. In developing the STR regulations, the City was concerned about protecting the housing affordability and housing stock, protecting neighborhood character, and stemming complaints about the hours of guests. The law became effective February 1, 2015.

In order to use a residential property as a STR, the Operator of the property must obtain a Business Registration Certificate (business license), file a Certificate of Authority (to collect TOT), and enroll in the Short-Term Residential Rental Registration.

Business Registration Certificate: All hosts in San Francisco are required to obtain a Business Registration Certificate from the City Treasurer's Office. The Business Registration Certificate is valid for the City's fiscal year (July 1 – June 30). The fee amounts vary based upon the type of business and prior year payroll expenses. The fees start at \$76.00 per year and increase based upon a fixed schedule.

Certificate of Authority: Operators of STRs are required to obtain and hold a valid Certificate of Authority to collect TOT². The City will allow a qualified website company to enter into an agreement with a host to act as the host's agent for the collection of TOT. Under the agreement, the website company undertakes the obligation to collect and remit the entirety of TOT on each transaction and remit TOT and tax filings to the Office of the Treasurer & Tax Collector. The host will not be required to submit TOT filings or to obtain a Certificate of Authority.

Short-Term Residential Rental Registry: A Permanent Resident³ is required to register the rental unit with the Short-Term Residential Rental Registry (administered by the Planning Department). The registration number is required to be placed on all listings/advertisements for the property. Lack of a registration number on listings is grounds as evidence for a violation/citation. The Permanent Resident may only register one property and the property may not have any outstanding code violations. The registration fee is \$50 and valid for two years. After six months, the Controller will review the revenues and expense related to establishing and maintaining the registry and enforcement of the regulations. Based upon the review by the Controller, the Controller will determine if an adjustment in the fee is necessary to recover the cost of the program.

The following are noted features of the STR regulation.

- Primary Residency Requirement – The Primary Resident must occupy the rental unit for no less than 275 days out of the calendar year. As such, the rental unit is limited to 90 days of non-owner occupied rentals. If the Primary Resident is present at the rental unit during the rental period, there is no limit to the number of days or frequency as to the unit may be rented.

² The Moscone Expansion District Assessment is not charged to Hosts renting out private residences.

³ A person who occupies the residential unit for at least sixty consecutive days with intent to establish that unit as his or her primary residence.

- Liability Insurance in the amount of \$500,000 – The Primary Resident will maintain liability insurance to cover the rental unit in the aggregate amount of not less than \$500,000; or maintain that any transaction through a Hosting Platform will provide equal or greater amounts of coverage.
- Recordkeeping – The Primary Resident will maintain a record of the number of days per calendar year he or she has occupied the rental unit and the number of days the unit has been rented as a STR. The records will be maintained for two years.
- Locations of fire extinguishers and fire exits – The Primary Resident will post a clearly printed sign inside the rental unit on the inside of the front door that provides information regarding the location of all fire extinguishers, gas shut off valves, fire exits, and fire alarms in the unit/building.
- Hosting Platforms notice to potential hosts – Prior to listing the rental unit, the Hosting Platforms are required to provide potential hosts the following information: the City's Administrative codes related to STRs, the requirements for registering the unit with the City, and the obligation of the transient occupancy tax.
- Establishment of agreement with Airbnb (Hosting Platform) – The City and Airbnb have established an agreement in which Airbnb is to collect the appropriate transient occupancy tax from rental guests when Airbnb is commissioned by the Host of the property for the rental transaction. Collection of the transient occupancy tax will be enforced by the City Treasurer/Tax Collector.
- Establishment of Department (Planning) Contact and Reporting Requirements – The department will designate a contact person for members of the public to contact for complaints or seek information related to STRs. Additionally, within one year of the effective date and annually thereafter, the department will report to the Board of Supervisors regarding the administration and enforcement of the program.

City of Austin

Estimated number of STR listings: 1,500

On October 1, 2012, the Austin City Council passed an ordinance requiring the registration of vacation rentals properties with the city. The City of Austin acknowledged the growing popularity of renting a residential dwelling as a vacation option; and developed regulations to provide a flexible, more authentic Austin experience to visitors, and allow a source of income for property owners. On September 26, 2013 the Austin City Council adopted an ordinance to amend certain city codes which provide for the regulation, monitoring, and licensing of STRs.

To operate a STR, the owner of the rental unit must obtain a Short-Term Rental license.

Short-Term Rental License: An owner of the property needs to apply in person for a Short-Term Rental License from the City Controller's Office. The application will include information for the owner and a local responsible contact for the property; proof of property insurance, and proof of payment of hotel occupancy taxes due (unless the initiation of a new business). The application requires a Certificate of Occupancy⁴ from the Planning Department or an inspection of the property by a third party. The license fee is \$235. The license is valid for twelve (12) months from issuance and is non-transferable. The license number must be included in all advertisement for the rental unit and displayed within the unit. Non-compliant advertising of the availability of a unit is grounds for denial, suspension, or revocation of a license.

An additional \$50.00 notification fee is required. The city is required to provide the owner of the STR with an informational packet summarizing: the local contact information designated in the application; occupancy limits for the type of rental unit; noise and parking restrictions; trash schedules; information on water restrictions; and information on applicable requirements of the Americans with Disabilities Act. The owner must provide all renters with a copy of this information packet and place a packet in a visible location within the rental unit. The city will mail the contact information to all the property owners within 100 feet of the STR.

Every person owning, operating, managing, controlling, or collecting payment for occupancy in any hotel or short-term rental is required to collect the Hotel Occupancy Tax from their guests for the City.

The following are noted features of the STR regulation.

- Three Categories of Rental Units – Type 1, Type 2, Type 3
 - Type 1 – All residential homes that are owner occupied or associated with an owner-occupied principal residence. Rental could be for part or the entire unit, rental is limited to single party of individuals, and the owner is generally present during the rental.
 - Type 2 – Single-family or Duplex residential homes that are non-owner occupied or not associated with an owner-occupied principal residence. Rental is for entire unit, and the total number of rental units must not be more than three (3) percent of the single-family detached residential units within the census tract.

⁴ Certificate of Occupancy provide at the completion of construction and reviewed to ensure compliance with all appropriate building codes.

- Type 3 – Units located within a Multi-family Building (Multi-family units) or Commercial zone. Units are not owner-occupied, rental is for the entire unit, and the unit is part of a multi-family use (condo, apartment, etc.). If the rental unit is in a residential zone, no more than three (3) percent of the total numbers of units at the property or units within any building at the property are allowed to be used as STRs. If the rental unit is located within a Commercial zone, no more that 25% of the total units at the property or units within any building at the property are allowed to be used as STRs.
- Development of STR database – The Code Department has developed and monitors a database to track the number of licenses issued to monitor the availability of Type 2 licenses within the City's census tracks. A map and list of available licenses is accessible by the public.

City of Portland

Estimated number of STR listings: 1,600

In July 2014, the Portland City Council passed an ordinance to permit short-term rentals in residential zones when the rental unit is also the proprietor's primary residence. This ordinance was to address the dramatic increase in the number of residences being rented informally on a short-term basis through internet sites and allow for more efficient use of residential structures, without detracting from neighborhood character. In October 2014, an additional ordinance was passed by the City Council to allow multi-family dwellings to be made available as short-term rentals.

In order to use a residential property as a STR, a resident of the property must obtain a business license, enroll in the Transient Lodging Tax Program, and receive the appropriate registration permit.

Business License Tax: The City requires any person doing business in the City to apply for a business license. The Business License Tax is 2.2% of net income or a minimum of \$100, whichever amount is less. If a business gross income is less than \$50,000, no tax amount is due; however business still must register with the City.

Transient Lodging Tax Program: The Transient Lodging Tax Program identifies which properties are to remit the collected transient occupancy tax. Operators or Host Platforms are to remit tax amount collected on a monthly basis.

Accessory Short-Term Rental Permit: The term "accessory" in the title emphasizes that the *primary* use of the residential dwelling is long term occupancy, and only a part of the dwelling unit is used for short-term rental purposes. The resident of the dwelling must obtain a permit from the Bureau of Development Services (BDS). There are two types of permits: Type A permit (allows for up to two bedrooms to be rented) and Type B permit (allows for three to five bedrooms to be rented). Permits are valid for two years. Renters may participate in short-term rental program with notarized approval from property owners.

For Type A permits, the resident must provide a notification letter to all residents and owners of property abutting or across the street from the short-term rental. For multi-family units, residents and/or owners across the hall, abutting, and above/below the rental unit need to receive the notification letter. The notification letter will include contact information for the resident or operator of the rental unit.

The bedrooms proposed to be rented in single family structures (both Type A and B permits) require an initial inspection from the BDS. The inspection will verify that each bedroom being proposed to be rented meets the building code requirement for a bedroom at the time the room was created; that each rented bedroom has a smoke detector that is interconnected with a smoke detector in an adjacent hallway; and that there is a functioning carbon monoxide alarm on the floor of the rented bedroom. Multi-family units are exempt from this inspection requirement as these homes are inspected as part of the Portland Fire & Rescue Safety Inspection program.

Type B permits must be approved through a discretionary Type II or Type III Conditional Use land use review. A review is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. Impacts could include noise, late-night operations, privacy and safety

issues, and capacity of the site to address on-street parking. The conditional use review provides an opportunity to allow the use when there are minimal impacts; allow the use but impose mitigation measures to address identified concerns; or deny the use if the concerns cannot be resolved. The number of occupants may be limited as part of the conditional review.

The registration number is required to be placed on all listings/advertisements for property. Lack of registration number on listings is grounds for citation/violation. The initial fee for both types of permits for Single Family dwellings is \$178.00 with an annual renewal fee of \$62.00. For Multi-family dwellings, the initial fee is \$100.00 with an annual renewal fee of \$62.00.

The following are noted features of the STR regulation.

- Residency Requirement - The resident of the short-term rental must reside in the dwelling unit where the bedrooms are rented at least nine months each year. There is no limitation to the number of nights the bedrooms may be used as short-term rentals. However, there is a maximum of 95 days per year when the resident does not need to be present with the overnight guests. The number of units in a multi-dwelling structure or a triplex that can be used as a short term rental is limited to one unit or twenty five percent of the total number of units in the structure, whichever is greater.
- Limited number of occupants - For Type A permits, the number of occupants is limited by the Portland Zoning Code. Per the Portland Zoning Code, occupancy is limited to: "one or more persons related by blood, marriage, domestic partnership, legal adoption or guardianship, plus not more than five additional persons". For a Type B permit, the number of occupants may be determined as part of the conditional use approval.
- Food and Alcohol - Guests may be served food and alcohol subject to County and State requirements, but an employee may not be hired to come to the site to prepare/serve food or beverages to the guests.
- Guest Log - All STRs must maintain a guest log book. The log book will include the name of the guest, the home address of the guest, the room assigned to the guest, the length of stay by the guest, and vehicle information of the guest, if traveling by car. The log book will be available for inspection by City staff upon request.
- Establishment of agreement with Airbnb (Hosting Platform) - The City and Airbnb have established an agreement in which Airbnb is to collect the appropriate transient occupancy tax from rental guests when Airbnb is commissioned by the Host of the property for the rental transaction.

City of San Jose

Estimated number of STR listings: 300

On December 16, 2014, the San Jose City Council approved an ordinance to allow incidental transient occupancy (rental by a transient for a stay of less than thirty days) as a permitted use for the purpose of obtaining TOT revenue for the City; and establishing performance standards for rental units in order to maintain compatibility with surrounding land uses. The ordinance became effective January 16, 2015.

In order to use a residential property as a STR, a resident⁵ of the property must obtain a business license and pay the appropriate TOT to the City. TOT is the responsibility of the host but may be paid by a Hosting Platform on behalf of the host if the Hosting Platform has an agreement with the city for collection and payment of the TOT.

Business License Tax: The City requires any person doing business in the City to apply for a business license. The Business License Tax fee is \$150.00 for San Jose businesses with up to eight employees and renewed annually.

The following are noted features of the STR regulation.

- Availability determined by residency – The annual number of days the rental unit can be made available for incidental transient occupancy is determined by the presence of the host. If the host is present, the unit can be rented 365 days per calendar year. If the host is not present, the unit is limited to 180 days of rental availability.
- Limited number of occupants – The number of occupants allowed for stay in the rental unit is determined by the type of home and the presence of the host.
 - Single family dwelling/mobile home (host present) – Occupancy by up to three transients.
 - Multi-family dwelling (host present) – Occupancy by up to two transients in each dwelling unit.
 - Studio unit (no host present) – Occupancy by up to two people.
 - One bedroom unit (no host present) – Occupancy by up to three people.
 - Multi-bedroom unit (no host present) – Occupancy by up to three people in first bedroom and up to two people for each additional bedroom, but not to exceed ten persons total.
- Contact Information – If host not present during rental period, the host will provide written notice of the name and phone number of the local contact person to all transient users and to all occupants of all adjacent properties.
- Recordkeeping – The host is required to maintain records documenting compliance with the requirements related to incidental transient occupancy, including payment of the appropriate TOT to the city (by the host or hosting platform), for three (3) years.
- Establishment of agreement with Airbnb (Hosting Platform) – The City and Airbnb have established an agreement in which Airbnb is to collect the appropriate transient occupancy tax from rental guests when Airbnb is commissioned by the Host of the property for the rental transaction.

⁵ Incidental transient occupancy is only permitted if the host is a person who occupies the unit that is being used for incidental transient occupancy for at least 60 consecutive days, with the intent to establish that dwelling as the host's primary residence.

City of Laguna Beach
AGENDA BILL

No. **15**

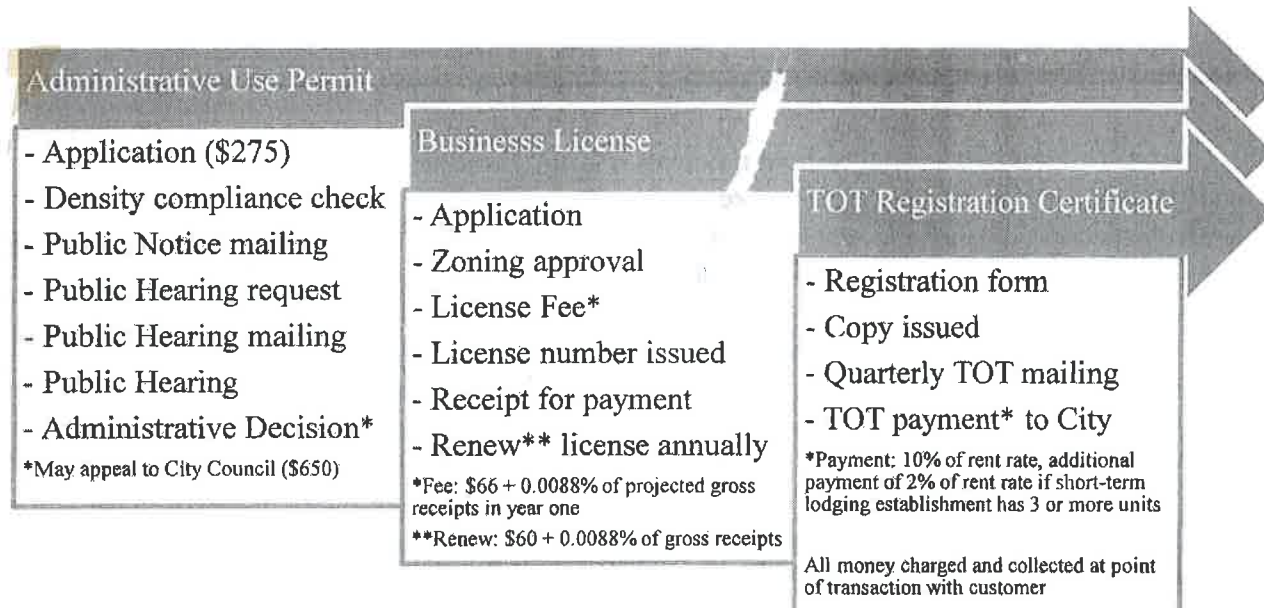
Meeting Date: 5/19/15

SUBJECT: SHORT-TERM LODGING

Background:

Short-term lodging has become a major topic of discussion in California cities. This agenda bill is written to provide information regarding the City's existing short-term lodging permitting process, how other cities regulate short-term lodging in the region, and options the City Council may want to consider to change the program.

The City's short-term lodging permitting process includes the following: the Administrative Use Permit (AUP) application, business license application, and Transient Occupancy Tax (TOT) registration certificate. An exhibit of the current permitting process is shown below:



RECOMMENDATION: It is recommended that the City Council:

Consider information provided in the Agenda Bill and provide direction to the City Manager regarding potential changes to the City's existing short-term lodging program.

Appropriations Requested: \$0

Submitted by: Christa Johnson
Christa Johnson, Assistant City Manager

Fund: _____

Coordinated with: Gavin Curran
Gavin Curran, Director of Finance & I.T

Attachments: 1) Excerpt from Municipal Code 2) Info

Coordinated with: Ann Larson
Ann Larson, Planning Manager

Guide 3) Municipal Code excerpt 4) Sample AUP

Coordinated with Phil Kohn, City Attorney

Approved: John Pietig
John Pietig, City Manager

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Implemented in 1999, Laguna Beach has one of the more established processes in California for regulating short-term lodging. Short-term lodging is addressed in Municipal Code Chapter 25.23 (Attachment 1). This Chapter provides the framework for the Information Guide regarding the short-term lodging permitting process that is available to the public at City Hall and on the City's website (Attachment 2).

A summary of the information guide is as follows:

1. Applicant requests a density compliance check of the proposed location. This is required because the density can be no greater than the density otherwise allowed in the underlying zone. If the density is exceeded, the application would necessitate the submission of a variance application.
2. Applicant completes an AUP application. The cost of application submittal is \$275.
3. The Planning Manager prepares and mails a Public Notice to surrounding property owners and residents/tenants of the proposed location regarding the intent to obtain an AUP for short-term lodging.
4. Surrounding owner/resident/tenant may submit a written request for a Public Hearing to be held on the issue of approving the AUP. If no request is received, the AUP will be approved by the Planning Manager with reasonable conditions appropriate to the site including a requirement to obtain a business license and remit TOT. A sample AUP is attached (Attachment 4).
5. If a request for Public Hearing is received, the Planning Manager sends a second notice informing surrounding property owners and tenants/residents of details regarding the upcoming Public Hearing.
6. At the end of the Public Hearing, the Planning Manager makes an administrative decision on whether an AUP should be approved. All administrative decisions are appealable to the City Council within 14 calendar days of the decision. The cost of an appeal is \$650.

Since 1999, over 100 short-term lodging AUP applications have been submitted. Of these, 64 have been approved, equating to an approval rate of approximately 60%. The number of applications has increased in recent years. The 60% approval rate can be attributed to the long-standing City Council policy direction to consider the compatibility of the proposed use in the neighborhood when making Administrative Use Permit decisions. Any neighborhood concerns identified during an AUP public hearing that cannot be addressed with the placement of conditions in the AUP will usually result in an administrative decision to deny the application.

For those who obtain an AUP approval, their next step is to obtain a valid business license and TOT registration certificate. The AUP holder submits a business license application and TOT registration certificate to the Finance Division. The approved AUP acts as the Zoning Division's approval on the business license application. The AUP holder pays their new business license fee and receives a business license number and receipt of payment. The new business is then mailed a certificate and is required to renew their license annually. The business will also be required to pay TOT per Municipal Code Chapter 5.05 (Attachment 3). TOT will be charged and collected at the point of transaction with a customer. The short-term lodging establishment will charge their customers a 10% TOT based on their rental rate. The money collected for TOT will then be remitted to the City on a quarterly basis. The amount of short-term lodging TOT revenue collected in FY 13-14 was \$310,000.

Short-Term Lodging

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Discussion:

The short-term lodging AUP process predates the rapid rise of online marketing and booking sites for short-term lodgings (hosting platforms). Websites such as Airbnb, VRBO, Homeaway, and several others are making the short-term lodging industry more accessible to vacationers. Property owners can now easily place a property profile on these websites and receive hundreds of views a day by potential online customers. For a small fee to the website, the property owner is advertising and communicating to a large potential customer base. While this technological advancement is a benefit to the short-term lodging industry as a whole, it facilitates the viability of short-term rentals, both permitted and unpermitted. Currently, there are hundreds of short-term lodging listings within the City listed on these hosting platforms. This is in great disparity to the 64 permitted short-term lodging businesses. The existence of these unpermitted short-term lodging businesses led to 56 related citizen complaints to the Code Enforcement Division during 2014 and 19 new complaints in the month of April 2015. The rise of unpermitted short-term lodgings are potentially impacting the residential character of several neighborhoods and shorting the City of TOT revenue owed by visitors for their use and demand of city services. The vast majority of the complaints concern entire units that are used as vacation rentals. This is in contrast to the scenario whereby a single room is rented out and the primary occupant remains on the property.

Commercialization of rental housing drives up rents by reducing the stock of affordable housing. Policy 1.6 of the City's Housing Element states: "Encourage the preservation of rental housing opportunities in the City." Action 1.6.5 of the Housing Element states: "Review the Short-term Lodging Ordinance for potential conflicts with rental housing preservation policies, and amend if determined necessary." The stated objectives of this policy and action are "to ensure that the City's limited rental housing supply is not negatively impacted by the potential conversion to short-term lodging."

Another area of concern is the City's ability to investigate cases of unpermitted short-term lodging units. Many owners of unpermitted units have become adept at avoiding detection through the use of several strategies including encouraging their renters to inform investigating code enforcement staff that they are related to the property owner and not paying to stay in the unit and not providing addresses or recognizable photos of their units when advertising them on the online rental platforms such as Airbnb. Successful code enforcement actions often result in the property owner applying for an AUP.

In addition to the land use issues related to short-term lodging, the City's collection of TOT on the permitted units is an "on your honor" system. New AUP holders are informed of their obligation to send the City quarterly reports of their short term lodging activity and remit a TOT revenue collected. However, the AUP holders may remit TOT sporadically or sometimes not at all. In FY 13-14, 26 of 64 short-term lodging AUP holders remitted TOT. Due to the challenges associated with obtaining information regarding the operation of short-term lodging units, it is not possible to state that the correct amount of TOT is being collected from permitted units.

City staff has met with Visit Laguna Beach Board members and staff to discuss their concerns regarding short-term lodging. Representatives of the organization and the Chamber of Commerce will attend the May 19, 2015 City Council meeting to express their views on the topic. Several residents have also written staff and Councilmembers to express their views related to short-term lodging. A media release

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was published on May 14, 2015 to inform the community that the topic will be discussed by the City Council during their regular meeting of May 19, 2015.

City Response:

Staff is taking the following actions to address the increase of unpermitted short-term lodgings due to hosting platforms.

- A list of permitted short-term lodging properties will be maintained on the City's website to assist prospective renters and local residents.
- Currently, code enforcement of unpermitted short-term lodging units is reactive to complaints received. Staff is in the process of ramping up their proactive enforcement efforts to investigate five cases weekly.
- A letter will be sent annually to each short-term lodging AUP holder, reminding the owner of his/her obligation to renew their business license and remit quarterly reports including the TOT.
- Staff is working with the City's lobbyist, Townsend Public Affairs, and the League of California Cities to support proposed state legislation that assists cities in their regulation of short-term lodging businesses and the collection of TOT from this business activity. California State Senator Mike McGuire introduced Senate Bill 593 (SB 593) that aims to increase local control over the industry of short-term vacation rentals. Among other requirements, this bill would require an operator of a hosting platform to report rental information such as property address, amount of rental revenue, etc. quarterly to the local jurisdiction. The bill would authorize the jurisdiction to impose a fine or penalty on an operator that fails to provide the report, as specified.

Other options for City Council consideration:

- A. **Hire an outside consultant to proactively monitor online marketing sites to identify unpermitted short-term lodgings.** The City of San Clemente has taken a proactive stance in monitoring the illegal short-term lodging listings on the hosting platforms. At an annual cost of approximately \$5,000, the City hires a consultant to conduct an annual review of numerous websites with the goal of identifying property addresses where short-term lodging is taking place. The consultant provides the addresses to city staff that use the information to begin a campaign to convince those property owners to register their short term rentals units and submit TOT. The campaign starts off with an information letter and progresses into \$100 per day and then \$200 per day administrative citations. The program has increased the TOT collection in San Clemente to over \$300,000 annually. The program focuses on vacation rentals because they are usually one week and longer rentals. They do not review listings on Airbnb because that website focuses more on single night rentals. It is important to note that in San Clemente the goal is to obtain compliance for the purpose of increasing TOT collection. No land use permits are required nor are the neighbors given an opportunity to influence the permit process. In Laguna Beach, such proactive monitoring will result in an increase in code enforcement activity and submission of AUP permit applications that must be processed by staff.

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- B. Add resources to the Code Enforcement Division to accelerate proactive enforcement of unpermitted short-term lodging units and bring them into compliance.** In Dana Point, zoning allows short term rentals by right and does not require a public hearing process. The City does notify the neighbors of the use, and of the rules under which the permittee is required to operate. The City of Dana Point hired a new full-time Code Enforcement staff member to monitor the hosting platforms for listings that are unpermitted and take enforcement action as needed. The full cost of hiring an additional code enforcement officer is \$95,000 annually.
- C. Direct staff to work with hosting platforms with the goal of obtaining data related to current and prospective hosting addresses and establishes a transient occupancy tax collection (TOT) and remittance system.** Malibu and the City of Portland, Oregon have made strides in bridging the gap between the hosting platforms and municipalities. Both cities are working with the hosting platforms to seek responsible hosting. The hosting platforms now link prospective and current hosts to the individual city's web content regarding regulations concerning short-term lodgings and strongly recommend the host be in compliance. Some hosting platforms also have a remittance system in place with the municipalities to collect the required TOT from each short-term lodging transaction. Initially the hosting platforms were used purely as marketing and communication tools, now the platforms are vehicles of e-commerce. The hosting platforms are processing the actual transactions between establishment and patron, providing the opportunity to easily collect the TOT due. Municipalities can then be in communication and agreement to receive the remittance of TOT in a scheduled timely manner. Currently, the City of Laguna Beach does not have any communication with the hosting platforms and receives no TOT remittance from them. Collection of TOT is performed by the business owner.
- D. Direct staff to draft a new ordinance to ban all future short-term lodgings.** The City of West Hollywood recently reaffirmed its ban of short-term lodging. The City of Aliso Viejo adopted a new ordinance in April 2015 that bans all short-term lodging in residential areas. The resolution to adopt the ordinance cited the creation of excessive noise, parking problems, trash, and degradation of the residential character in neighborhoods as reasons to ban short-term lodgings all together. Aliso Viejo did not previously expressly permit short-term lodgings and, therefore, did not have to concern themselves over the termination of legally existing establishments. The new ordinance provides Aliso Viejo with grounds to pursue and prosecute those in violation of code. Currently, the City of Laguna Beach does expressly permit short-term lodgings and would have to consider how to handle the 64 permitted short-term lodging units.
- E. Direct staff to amend the AUP process so that short-term lodging is explicitly prohibited unless the primary occupant of the home or apartment is currently residing in the home and are present during vacation rentals.** This prohibition is being considered by the City of Santa Monica, which believes it would remove 1,400 of 1,700 vacation rentals currently advertised on the major short-term lodging websites. Santa Monica's ordinance would allow "home-sharing" in which the host stays in the house and rents out a spare bedroom, couch space or other quarters, but only if the occupant filed for a city business license and pays Santa Monica's 14% TOT. The proposed ordinance would require rental sites such as Airbnb and VRBO to report to the city who is hosting, where and how much they charge.

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F. Direct staff to research potential amendments to the municipal code to change the AUP from an ongoing entitlement on the property to one that must be renewed. During that renewal process, staff would be able to make sure the use is still compatible with the neighborhood and that appropriate TOT is being remitted to the City. The City of Newport Beach has a permit program that enables staff to revoke the permit if the operator is not adhering to the permit's conditions. Pursuant to Laguna Beach Municipal Code section 25.05.075(b)(1), an AUP may be revoked or modified only upon specified findings including that the approval was obtained by negligent or intentional misrepresentations; that one or more of the conditions have not been met or are not in compliance; the use is in violation of a statute, ordinance, law or regulation; or the use is detrimental to the public health, safety or welfare or constitutes a public nuisance. Normally to make such findings, repeated violations would be necessary to establish a pattern of noncompliance with severe problems occurring in the neighborhood.

Conclusion:

The City regulates short-term lodging through an AUP established in 1999. Changes in technology and a significant increase in the number of complaints related to unpermitted short-term lodging units necessitate an evaluation of the existing program. It is recommended that the City Council, after receiving public comment and reviewing information provided in this agenda bill, provide direction to the City Manager regarding potential changes to the City's regulation of short-term lodging.

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Chapter 25.23 SHORT-TERM LODGING

25.23.010 Purpose and findings.

The city council of the city of Laguna Beach finds and declares as follows:

- (A) Tourists, who rent short-term lodging units, can escalate the demand for city services and create adverse impacts in zoning districts that allow residential uses.
- (B) Incidents involving excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking and accumulation of refuse can be directly related to short-term lodging units which require response from police, fire, paramedic and other city services.
- (C) Agents and/or absentee owners operate many short-term lodgings.
- (D) The restrictions of this chapter are necessary to prevent the burden on city services and adverse impacts on residential neighborhoods posed by short-term lodgings. (Ord. 1353 § 1, 1999).

25.23.020 Definitions.

For the purpose of this chapter, the following definitions shall apply:

- (A) "District" means the zones of the city designated by this title.
- (B) "Lodging unit" or "unit" means the same as a "dwelling unit," which is a room or suite of rooms with a single kitchen used for the residential use and occupancy of one family, and which is rented to person(s) other than the owner. (The density standards applicable to short-term lodging units shall be no greater than the density otherwise allowed in the underlying zone.)
- (C) "Owner" means the person(s) or entity(ies) that hold(s) legal and/or equitable title to the lodging unit.
- (D) "Short-term" means occupancy of a lodging unit for a period of thirty consecutive calendar days or less. (Ord. 1353 § 1, 1999).

25.23.030 Administrative use permit or conditional use permit.

Short-term lodging units shall only be allowed within the R-1, R-2, R-3, LB/P, C-N, C-1, CH-M, and VC zoning districts subject to the approval of an administrative use permit as provided for in Section 25.05.020 of this title and SLV zoning district subject to the approval of a CUP as provided in Section 25.05.030, issued pursuant to this chapter. No owner of a dwelling unit or units located outside of those zoning districts shall rent that unit or units for a short-term without a valid administrative use permit or conditional use permit, as applicable, issued pursuant to this chapter. (Ord. 1575 § 20, 2013; Ord. 1353 § 1, 1999).

25.23.040 Conditions.

All administrative use permits issued pursuant to this chapter shall be subject to the following standard conditions. As a result of issues identified during the administrative use permit review process, other conditions may be imposed to ensure that the proposed use does not adversely effect the health, safety and

general welfare of the occupants of adjacent property and the neighborhood. Failure to comply with any of the imposed conditions may be grounds for possible revocation of the administrative use permit for short-term lodging as provided for in Section 25.05.075 of this title.

(A) Overnight occupancy of short-term lodging unit(s) shall be limited to a specific number of occupants, and the number of occupants shall not exceed that permitted by the provisions of Titles 14 (Building and Construction) and 15 (Fire) of this code;

(B) Occupants and/or guests of short-term lodging unit(s) shall not create unreasonable noise or disturbances, engage in disorderly conduct or violate provisions of this code or any state law pertaining to noise, collection and disposal of refuse, disorderly conduct, the consumption of alcohol or the use of illegal drugs;

(C) A valid business license issued by the city for the separate business of operating short-term lodging unit(s) shall be obtained prior to renting short-term lodging; and

(D) A valid transient occupancy registration certificate issued by the city for the lodging unit(s) per Chapter 5.05 of this code (Hotel-Motel Room Tax) shall be obtained prior to renting short-term lodging, and the transient occupancy tax shall be paid as required by that chapter. (Ord. 1353 § 1, 1999).

25.23.050 Amortization.

The operation of any legal, nonconforming short-term lodging unit(s) in existence as of the effective date of the ordinance codified in this chapter shall cease and be discontinued within two years from the effective date of the ordinance codified in this chapter unless the owner(s) of such units obtain an administrative use permit in accordance with the provisions of this title. Owners of short-term lodging units which paid transient occupancy taxes prior to the effective date of the ordinance codified in this chapter shall be issued an administrative use permit upon application, and the provisions of Section 25.05.020(B), (C) and (D) of this title regarding filing fee, public notice and public hearing shall not be required. This section does not in any way preclude the requirements of Chapter 5.05 of this code, which requires the collection of a transient occupancy tax for any person renting a space in a hotel (as defined in Section 5.05.020 of this code) containing three or more units for thirty consecutive calendar days or less. (Ord. 1353 § 1, 1999).

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City of Laguna Beach

Community Development
Department

INFORMATION GUIDE FOR:

SHORT-TERM LODGING

Short-Term Lodging Ordinance

On January 19, 1999, the City Council adopted the Short-Term Lodging Ordinance (Municipal Code Chapter 25.23). The purpose of this Ordinance is to prevent adverse impacts on residential neighborhoods and the burden on City services posed by Short-term Lodging Units.

Definitions

"Lodging Unit" or "Unit" means a room or suite of rooms used for the residential use and occupancy of one family rented to person(s) other than the owner.

"Short-Term" means the leasing or occupancy of a lodging unit for a period of thirty (30) consecutive calendar days or less.

Where are Short-Term Lodging Units allowed within the City?

Short-Term Lodging Units are allowed in the R-1, R-2, R-3, LB/P, C-N, C-1, CH-M and VC Zoning Districts, subject to the following: 1) the density of the short-term lodging units shall be no greater than the density otherwise allowed in the underlying zone and 2) the approval of an Administrative Use Permit.

Administrative Use Permit

Municipal Code Section 25.05.020 outlines the procedure for an Administrative Use Permit. The first step is to submit an application for an Administrative Use Permit. The application must be signed by the property owner or authorized agent. The filing fee is \$275. Once the application is deemed complete by the Community Development Director, submit a mailing list with two (2) sets of addressed envelopes of the property **owners** within 300 feet and the **tenants or residents** within 100 feet of the perimeter boundary of the parcel containing the proposed Short-Term Lodging Unit. The mailing list of labels must be in a 3-across by 10-down format on 8-½" x 11" paper, and the two (2) sets of self-addressed, stamped envelopes (with the City of Laguna Beach return address) must be supplied for the entire number of property **owners/residents/tenants**. The list must be compiled by a professional listing service utilizing the latest equalized tax assessment rolls, and submitted independently of the Administrative Use Permit application.

A public notice will be mailed to the aforementioned property **owners/residents/tenants** informing them of the proposed Short-Term Lodging Unit. **The owner/resident/tenant** may request, in writing, that a public hearing be held on the matter. The notice will provide the request deadline date. If a written request for public hearing is not received, an Administrative Use Permit will be issued subject to the standard conditions specified in the Short-Term Lodging Ordinance.

In the event a public hearing is requested, a second notice will be sent out notifying property **owners** within 300 feet and the **tenants or residents** within 100 feet of the subject property of a public hearing and its time, date and location. At the public hearing, all public comments concerning the proposed use will be heard by the Director of Community Development Department. The Director will then make an administrative decision regarding the proposed use. The Director's decision is appealable to City Council by the applicant or the property **owners** within 300 feet or the **tenants or residents** within 100 feet of the subject property. The appeal must be filed with the City Clerk within 14 calendar days and the appeal fee is \$650.

Neighborhood Support/Compatibility

At the end of the requested administrative public hearing, the Director of Community Development considers all information, testimony and submitted materials in making a decision to either conditionally approve or deny the application for Short-Term Lodging. It is important to note that any neighborhood opposition will usually result in the Director of Community Development making a denial decision. The reason for this is City Council policy direction to be conservative in order to not have a substantial adverse effect upon nearby properties in single-family neighborhoods.

Short-Term Lodging Units Conditions of Approval

All Administrative Use Permits issued for Short-Term Lodging will be subject to the following standard conditions:

1. Overnight occupancy of Short-Term Lodging Units shall be limited to a specific number of occupants, and the number of occupants shall not exceed that permitted by the Building and Fire Codes.
2. Occupants and guests of Short-Term Lodging Units shall not create unreasonable noise or disturbance, engage in disorderly conduct or violate any laws, including those laws pertaining to collection and disposal of refuse, the consumption of alcohol or the use of illegal drugs.
3. A valid Business License issued by the City shall be required for Short-Term Lodging Units.
4. A valid Transient Occupancy Registration Certificate issued by the City shall be required, and the Transient Occupancy Tax shall be paid to the City for Short-Term Lodging Units.
5. Short-Term Lodging structures containing three or more units shall also pay a Business Improvement Assessment to the City.

The Director of Community Development or the City Council can impose additional conditions or mitigation measures pertaining to the operation and management of the Short-Term Lodging, including on-street parking restrictions. Failure to comply with any imposed conditions of approval may be grounds for the possible revocation of Short-Term Lodging Administrative Use Permits as provided in Municipal Code Section 25.05.075.

**For more information contact:
Department of Community Development
505 Forest Avenue**

**Laguna Beach, California 92651
(949) 497-0713
www.lagunabeachcity.net**

Laguna Beach Municipal Code

[Up](#)[Previous](#)[Next](#)[Main](#)[Collapse](#)[Search](#)[Print](#)[No Frames](#)[Title 5 BUSINESS—TAXATION, LICENSING](#)**Chapter 5.05 HOTEL-MOTEL ROOM TAX****5.05.010 Short title.**

This chapter shall be known as the uniform transient occupancy tax law of the city. (Ord. 533 § 1, 1964).

5.05.020 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

(a) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(b) "Hotel" means any structure, or any portion of any structure, containing three or more units, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, time-share project, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.

(c) "Occupancy" means the use or possession of, or the right or entitlement to the use or possession of, any room or rooms, or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

(d) "Transient" means any person who exercises occupancy, or is entitled to occupancy by reason of concession, permit, right of access, license, ownership of a time-share unit, time-share use agreement or other agreement for a period of thirty consecutive calendar days or less. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy.

(e) "Rent" means the consideration charged, and received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. "Rent" may have been, or may be, payable or paid prior to or following the occupancy to which it is attributable, and may have been paid in whole or in part in advance on a long term basis such as in the purchase of a time-share unit or similar arrangement. "Rent" includes the purchase price of a time-share unit.

(f) "Operator" means the person who is the proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, time-share project or facility manager or operator or any other capacity. Where the operator performs his or its functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

(g) "Tax administrator" means the finance officer of the city. (Ord. 1016 § 1, 1982; Ord. 842 § 1, 1975; Ord. 540, 1965; Ord. 533 § 1, 1964).

5.05.030 Tax imposed.

For the privilege of occupancy in any hotel, each transient as defined herein, except for those residents who are time-share unit owners, is subject to and shall pay a tax in the amount of ten percent of the rent charged by the operator or in the case of a time-share in the amount payable by the transient as defined below. Transients who are time-share unit owners, or guests of owners using the owner's annual right to occupancy on a non-fee paying basis, are specifically exempted from the tax herein imposed. All other transient users of a time-share unit, including but not limited to exchange users, rental users, complimentary users and other non-owner users, are subject to the tax. This tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid, except that in the case of a time-share unit said tax shall be paid to the operator prior to the close of each calendar quarter. If the rent is paid in installments, a proportionate share of the tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax be paid directly to the tax administrator. For purposes of this section, the rental value of a daily occupancy in a time-share unit is determined to be eighty-one dollars and twenty-five cents for the base year of 1990, for which the tax is in the amount of ten percent thereof; and this rental value shall be adjusted annually, beginning January 1, 1992, in accordance with the Consumer Price Index for all urban consumers published for the Los Angeles- Anaheim-Riverside area, or any successor index. (Ord. 1251 § 1, 1992; Ord. 1222 § 1, 1991; Ord. 1016 § 2, 1982; Ord. 937 § 1, 1978; Ord. 699 § 1, 1972; Ord. 598 § 1, 1967; Ord. 533 § 1, 1964).

5.05.040 Exemptions.

No tax shall be imposed upon:

- (a) Any person as to whom, or any occupancy as to which, it is beyond the power of the city to impose the tax herein provided;
- (b) Any federal or state of California officer or employee when on official business;
- (c) Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty. No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator. (Ord. 533 § 1, 1964).

5.05.050 Operator's duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator, whenever such receipt is requested. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided. (Ord. 533 § 1, 1964).

5.05.060 Registration of hotel.

Within thirty days after November 15, 1964, or within thirty days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register the hotel with the

tax administrator and obtain from him a transient occupancy registration certificate to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

- (a) The name of the operator;
- (b) The address of the hotel;
- (c) The date upon which the certificate was issued;
- (d) The following statement: "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Law by registering with the tax administrator for the purpose of collecting from transients the transient occupancy tax and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this city. This certificate does not constitute a permit." (Ord. 533 § 1, 1964).

5.05.070 Reporting and remitting.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. The tax administrator may establish shorter reporting periods for any certificate holder if he deems it necessary in order to insure collection of the tax and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the tax administrator. All returns and payments submitted by each operator shall be treated as confidential by the finance officer and shall not be released by him except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the state of California, the county of Orange, or the city of Laguna Beach for official use only. (Ord. 533 § 1, as amended by Ord. 540; April 21, 1965).

5.05.080 Tax withholding by successor or assignee.

If any person liable for any amount under this chapter sells out his business or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the finance officer showing that all taxes due from the person quitting, selling or assigning his business have been paid or a certificate stating that no amount is due. (Ord. 540 § 2; April 21, 1965).

5.05.090 Tax liability of successor or assignee.

If the purchaser of a business fails to withhold purchase price as required in Section 5.05.080 of this code, he shall be personally liable for the payment of the amount requested to be withheld by him to the extent of the purchase price, valued in money. Within sixty days after receiving a written request from the purchaser for a certificate, or within sixty days from the date the former owner's records were made available for audit, whichever period expires the later, but in any event not later than ninety days after receiving the request, the finance officer shall either issue the certificate or mail notice to the purchaser at his address as it appears in the

records of the finance officer of the amount that must be paid as a condition of issuing the certificate. (Ord. 540 § 2; April 21, 1965).

5.05.100 Penalties and interest.

A. ORIGINAL DELINQUENCY. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.

B. CONTINUED DELINQUENCY. Any operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.

C. FRAUD. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs (a) and (b) of this section.

D. INTEREST. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. PENALTIES MERGED WITH TAX. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid. (Ord. 533 § 1 (part); September 16, 1964).

5.05.110 Failure to collect and report tax—Assessment by tax administrator.

If any operator shall fail or refuse to collect said tax and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the tax administrator shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may within ten days after the serving or mailing of such notice make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why the amount specified therein should be not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing, the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 5.05.120. (Ord. 533 § 1, 1964).

5.05.120 Appeal.

Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the council by filing a notice of appeal with the city clerk within fifteen days of the serving or mailing of the determination of tax due. The council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to such operator at his last known place of address. The findings of the council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice. (Ord. 533 § 1, 1964).

5.05.130 Records—Right of inspection.

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the city, which records the tax administrator shall have the right to inspect at all reasonable times. (Ord. 533 § 1, 1964).

5.05.140 Refunds.

(a) Claim. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsections (b) and (c) of this section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within three years of the date of payment. The claim shall be on forms furnished by the tax administrator.

(b) Claim by Operator. An operator may claim a refund or take as a credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

(c) Claim by Transients. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection (a) of this section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

(d) Records Required. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto. (Ord. 533 § 1, 1964).

5.05.150 Actions to collect.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the operator to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount. (Ord. 842 § 2, 1975; Ord. 533 § 1, 1964).

5.05.160 Violation a misdemeanor.

Any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made is guilty of a misdemeanor. (Ord. 533 § 1, 1964).

View the [mobile version](#).

RECORDING REQUESTED BY
CITY OF LAGUNA BEACH
AND WHEN RECORDED MAIL TO:

CITY CLERK
CITY OF LAGUNA BEACH
505 FOREST AVENUE
LAGUNA BEACH, CA 92651

(Fee Exempt per Govt. Code 6103

THIS SPACE RESERVED FOR RECORDING

RESOLUTION NO. _____

A RESOLUTION OF THE DIRECTOR
OF THE COMMUNITY DEVELOPMENT DEPARTMENT
OF THE CITY OF LAGUNA BEACH
APPROVING AN **ADMINISTRATIVE USE PERMIT** _____
FOR PROPERTY AT _____ (APN: _____)

WHEREAS, an application has been filed by the owner of property located at _____
requesting an Administrative Use Permit in accordance with the provisions of Municipal Code Section
25.05.020 to establish one (1) Short-Term Lodging Unit;

WHEREAS, in accordance with the provisions of Municipal Code Section 25.05.02 there was
legal notice of a pending application and approval;

WHEREAS, no request for a public hearing was received;

WHEREAS, the Director carefully reviewed and considered all application materials;

WHEREAS, the proposed project is exempt from the provisions of the California
Environmental Quality Act, Categorical Exemption, Class 1; and

WHEREAS, the Director has made the following findings:

1. The site for the proposed use, which is located in the _____ Zone, is adequate in size to
accommodate the proposed use.
2. The site has adequate parking to accommodate the proposed use.

3. The site for the proposed use has access to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
4. The proposed use will have no substantial adverse effect upon abutting property in that conditions have been imposed to mitigate any such effect.
5. The Conditions stated in the decision are deemed necessary to protect the public health, safety and general welfare in that provisions have been included to ensure continued land use compatibility.

NOW, THEREFORE, BE IT RESOLVED that Administrative Use Permit _____ is hereby granted to the following extent:

Approval to establish one (1) Short-Term Lodging Unit in the dwelling unit at

_____.

BE IT FURTHER RESOLVED, that the following condition(s) are set forth to protect the health, safety and welfare of the community and to assure the intent and purpose of the regulations:

1. The Administrative Use Permit shall be subject to review if written complaints are received. These reviews may result in a formal noticed public hearing before the Director. After the public hearing on the matter, the Director may require immediate condition compliance, amend the conditions of approval or proceed with revocation of the Administrative Use Permit as specified in Municipal Code Section 25.05.075.
2. It is understood that the conditions of approval apply herein to any future owners or lessees operating under this Administrative Use Permit. This means in legal terms that the conditions of approval for the Administrative Use Permit shall be and hereby are obligations of and binding upon the applicant and his/her heirs, successors, assigns, agents and representatives. The conditions shall constitute a covenant running with and binding the land in accordance with the provisions of

California Civil Code Section 1468. Failure to comply with such conditions, and each of them, and any other related federal, state and local regulations may be grounds for revocation of the Administrative Use Permit, in addition to other remedies that may be available to the City.

3. If the use authorized under this Resolution and Administrative Use Permit is abandoned or terminated for any reason for a period of at least one year, the Administrative Use Permit shall automatically expire and become void.
4. In the absence of specific provisions or conditions herein to the contrary, the application and all plans or exhibits attached to the application are relied upon, incorporated and made a part of this resolution. It is required that such plans or exhibits be complied with and implemented in a consistent manner with the approved use and other conditions of approval. Such plans and exhibits for which this Administrative Use Permit has been granted shall not be changed or amended except pursuant to a subsequent Administrative Use Permit as might otherwise be required or granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.
5. No proposed change or modification to the specifically permitted use of the Short-Term Lodging Unit shall be allowed except pursuant to a subsequent or amended Administrative Use Permit granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.
6. This Administrative Use Permit shall not become effective until the applicant executes a recordable agreement in a form satisfactory to the City Attorney under which the applicant defends, indemnifies and holds harmless the City and its officers, employees and agents from any claim, action, proceeding, demand, damage, loss or liability arising out of or resulting from the use and occupancy of the subject property in accordance with the project approval.
7. A valid business license issued by the City for the separate business of operating the Short-Term

Lodging Unit shall be obtained prior to operation of the facility.

8. A valid transient occupancy registration certificate issued by the City per Chapter 5.05 of the Municipal Code (Hotel-Motel Room Tax) shall be obtained prior to operating the Short-Term Lodging Unit, and the transient occupancy tax shall be paid to the City as required by that Chapter.

9. A minimum of ____ () on-site parking spaces in the driveway shall be made available for the exclusive use of guests of the approved Short-Term Lodging Unit.

10. Overnight occupancy of the approved Short-Term Lodging Unit shall be a ____-day minimum and limited to four () occupants in the front unit only.

11. Occupants and/or guests of the Short-term Lodging Unit shall not create unreasonable noise or disturbances, engage in disorderly conduct or violate provisions of the Municipal Code or any state law pertaining to noise, collection and disposal of refuse, disorderly conduct, the consumption of alcohol or the use of illegal drugs.

12. The name and contact information of a local management company or person for the one (1) Short-Term Lodging Unit at _____ shall be submitted to the City on a yearly basis for the purpose of neighbor complaint resolution.

NOW THEREFORE BE IT RESOLVED that the above decision was rendered on _____,
2015.

Administrative Use Permit _____

Date _____

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ADOPTED this ____ day of _____, 2015.

Ann Larson, Planning Manager
Community Development
City of Laguna Beach, California

Gregory Pfost, Director
Community Development
City of Laguna Beach, California

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

CONSENT AFFIDAVIT

The owners of the above described property, and the owners of all interests therein, do hereby consent to the imposition of the above stated conditions, and agree that said conditions shall constitute restrictions running with the land and shall be binding on said owners, their heirs, successors and assigns.

Signed this _____ day of _____, _____, by

Signature of Owner

Signature of Owner

Name (Print or Type)

Name (Print or Type)

State of California
County of Orange } SS.

On _____, before me _____, a

Notary Public, personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Signature of Notary Public

Place NOTARY SEAL OR STAMP above

ORDINANCE NO. 15-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, ADDING CHAPTER 5.08 OF TITLE 5 TO THE GOLETA MUNICIPAL CODE ESTABLISHING REGULATIONS FOR SHORT-TERM VACATION RENTALS.

THE CITY COUNCIL OF THE CITY OF GOLETA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Code Amendment.

Title 5, Chapter 5.08 is hereby added to the Goleta Municipal Code as set forth below:

Chapter 5.08 Short-Term Vacation Rentals

- Sec. 5.08.010. Authority and purpose.
- Sec. 5.08.020. Definitions.
- Sec. 5.08.030. Permit Required.
- Sec. 5.08.040. Permit Applications.
- Sec. 5.08.050. Permit Fees.
- Sec. 5.08.060. Nuisance Response Plans.
- Sec. 5.08.070. Notice of Nuisance Response Plans.
- Sec. 5.08.080. Grounds for Denial of Permit.
- Sec. 5.08.090. Performance Standards.
- Sec. 5.08.100. Surety Bonds.
- Sec. 5.08.110. Cessation of Use of a Property as Short-Term Vacation Rental.
- Sec. 5.08.120. Violations.
- Sec. 5.08.130. Permit Suspension, Modification or Revocation.

Sec. 5.08.010. Authority and purpose.

This chapter is adopted pursuant to the police powers of the city for the purpose of requiring the owner or owners of a residential dwelling unit that is used as a short-term vacation rental, as defined herein, to apply for and secure a permit authorizing such use in the manner provided for by this chapter.

Sec. 5.08.020. Definitions.

The definitions set forth in this section shall govern the meaning and construction of the words and phrases used in this chapter, except

where the context of such words and phrases clearly indicates a different meaning or construction:

Short-term vacation rental means a "dwelling unit" other than a dwelling unit located in a "hotel", as those terms are defined in this code, that is rented to a tenant for a period of not more than 30 consecutive days.

Owner of a short-term vacation rental means the person or persons holding fee title to a dwelling unit operated and used as a short-term vacation rental, or a person or persons holding the lease estate to a dwelling unit and operating and using the leased dwelling unit as short-term vacation rental, or the agents of any such persons.

Permit Administrator means the City Finance Director or such other city employee as may be designated by the City Manager to administer the provisions of this chapter. The permit administrator shall have the authority to make interpretations and to promulgate guidelines in order to facilitate orderly administration of this chapter.

Sec. 5.08.030. Permit Required.

No owner or owners of a short-term vacation rental shall rent, offer to rent, or advertise for rent the short-term vacation rental to another person without a permit approved and issued in the manner provided for by this chapter.

Sec. 5.08.040. Permit Applications.

Applications for a permit required by this chapter shall be in a form and contain the information required by the permit administrator, and shall be accompanied by the following:

1. A nuisance response plan containing the information required by this chapter;
2. A transient occupancy registration certificate issued by the City Finance Director pursuant to Chapter 6 of Title 3 of the Goleta Municipal Code;
3. A surety bond in the amount of \$1,500.00 issued by a responsible surety company and in the form required by this chapter;
4. A permit application fee in an amount established in the manner provided for by this chapter; and

5. A written declaration affirming that, at least 30 days prior to issuance of the permit, occupants of all residences and businesses located within 200 feet from the proposed short term vacation rental have been notified of the proposed permit and have been informed in writing in a form acceptable to the City of the proposed use and the contact information with the City to seek additional information or register concerns or objections.

Sec. 5.08.050. Permit Fees.

All permit application fees and the fees charged incident to the amendment of a nuisance response plan shall be established by the City Council.

Sec. 5.08.070. Nuisance Response Plans.

1. Each nuisance response plan accompanying an application for a permit required by this chapter shall contain the following information and otherwise be in a form required by the permit administrator.
 - A. The mailing address and telephone number of the owner or owners of the residential dwelling unit or units to be used as a short-term vacation rental pursuant to the permit;
 - B. The name, address and telephone number of the person or persons who will be available by telephone, and who will be responsible for promptly responding to or causing a prompt response to a nuisance complaint arising out of the occupancy or use of the short-term rental(s) by tenants, their visitors and/or their guests. For the purposes of this chapter, a return telephone call to a complainant within 30 minutes of the initial complaint shall be deemed "prompt".
 - (i) No more than a total of three persons shall be designated in the response plan as a person responsible for responding to or causing a response to a nuisance complaint; and
 - (ii) Only one such person shall be designated as the person responsible for responding to a nuisance complaint during any particular hours of the day, different days in a week, and/or different weeks of the year.
 - C. The manner of responding to or causing a response to a nuisance complaint, including but not limited to the

manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.

- D. The manner of assuring timely corrective action to remedy the conditions that caused the nuisance complaint. For the purposes of this chapter, "timely corrective action" shall include, at a minimum, a telephone call to the primary adult occupant of the short-term vacation rental within 30 minutes of the initial nuisance complaint.
 - E. The proposed maximum number of overnight occupants, with supporting documentation identifying unusual size, interior layout, parking or other physical characteristics, if any, that support a request for occupancy greater than two persons plus two persons per bedroom.
 - F. The number of off-street parking spaces and number of bedrooms available at the short-term vacation rental.
2. At any time, the owner or owners of a short-term vacation rental may change the content of the nuisance response plan approved incident to the issuance of the permit by filing an amended response plan with the permit administrator. Such amended response plan shall contain all of the information and be in the form required by Section 5.08.060 of this chapter, and shall be accompanied by an amended response plan fee in an amount established in the manner provided for by this chapter.

Sec. 5.08.070. Notice of Nuisance Response Plans.

Promptly following the approval and issuance of a permit required by this chapter, or the approval of an amended nuisance response plan in the manner provided for by this chapter, the permit administrator shall require the applicant to provide proof that the nuisance response plan has been mailed by first class mail addressed to the owner or occupant of every property, any part of which is located within a 200-foot radius of the property that is to be used and occupied as a short-term vacation rental, pursuant to such permit.

Sec. 5.08.080. Grounds for Denial or Revocation of Permit.

- 1. Upon receipt of an application for a permit required by this chapter, the permit administrator will review the application and supporting documents, and will approve and issue a

permit to the owner or owners of the property or properties that are the subject(s) of the application that authorizes the use and occupancy of such property as a short-term vacation rental if the permit administrator finds that the required application fee has been paid, and that the nuisance response plan and surety bond submitted with the application conforms to the requirements of this chapter. A permit may be denied if a short term vacation rental permit issued to the applicant or for the property has been suspended or revoked in the prior twenty-four months.

2. Every permit shall specify the maximum number of overnight occupants allowed at the short term vacation rental and the maximum number of vehicles associated with the overnight occupancy of the short-term vacation rental which can be parked at the property. Notice of issuance of the Permit shall be provided to everyone who files a written request for such notice.
3. Any party may file a written request for a hearing before the City Manager within 10 days following a decision by the City to grant a short term vacation rental permit. The public shall be provided notice of the hearing in compliance with State law. The hearing shall be opened no more than 45 days following the request for hearing being received by the City. A decision shall be made by the City Manager or their designee within 10 days of the hearing. The decision of the City Manager shall be final.
3. This chapter shall not be interpreted to create a property interest in potential increased occupancy.

Sec. 5.08.090. Performance Standards.

Each owner, and each tenant or occupant of a short-term vacation rental, shall at all times comply with or cause compliance with the performance standards applicable to short-term vacation rentals they own, lease or occupy, as established by this section.

1. The owner shall ensure that the short-term vacation rental complies with all applicable codes regarding fire, building and safety, and all other relevant laws and ordinances.
2. No person shall offer to rent or advertise for rent a short-term vacation rental without including in the offer or advertisement the city permit number applicable to the property in the form "Goleta Permit No. _____." The permit number shall be printed in the same size type as the largest type used in the main body of the offer or advertisement.

3. The owner shall require the primary overnight and daytime occupant of the short-term vacation rental to be an adult 18 years of age or older. This adult shall provide a telephone number to the owner and shall be accessible to the owner by telephone at all times.
4. Prior to occupancy, the owner shall obtain the name, address, and driver's license number or a copy of the passport of the primary adult occupant of the short-term vacation rental. The owner shall require that adult to sign a formal acknowledgement that he or she is legally responsible for compliance of all occupants of the short-term vacation rental or their guests with all provisions of this chapter. This information shall be provided by the responsible party identified in the nuisance response plan upon request of any police officer or employee of the city authorized to enforce this chapter or state law.
5. The owner shall limit overnight occupancy of the short-term vacation rental to a specific number of occupants, with the maximum number of overnight occupants being two persons within each short-term vacation rental plus a number that will not exceed two persons per bedroom within each short-term rental.
6. The owner shall limit the number of vehicles associated with the overnight occupancy of the short-term rental to a specific number of vehicles, with the maximum number of vehicles being the number of off-street parking spaces available at the property.
7. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection on scheduled trash collection days. The owner of the short-term vacation rental shall provide sufficient trash collection containers and service to meet the demand of the occupants.
8. Each lease or rental agreement for a short-term vacation rental shall include the following terms, notifications and disclosures, which terms shall also be posted in a conspicuous location inside the unit:
 - (a) The maximum number of overnight occupants and day use visitors that are permitted.
 - (b) The maximum number of vehicles that overnight occupants may park at the short-term rental.
 - (c) Notification that on-street parking is extremely limited in some areas of the city.

- (d) The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or refuse on the exterior of the property.
 - (e) Notification that the occupant may be cited or fined by the city and/or immediately evicted by the owner pursuant to state law, in addition to any other remedies available at law, for violating any other provisions of this chapter.
 - (f) Notification that failure to conform to the occupancy requirements of the short-term vacation rental is a violation of this chapter.
 - (g) Notification that amplified sound, including radios, televisions and other electronic devices are subject to the City's Noise Ordinance as set forth in Goleta Municipal Code section 9.09.020.
 - (h) A prohibition on illegal loud parties, along with notification of the City's right to recover the costs of special enforcement needed to address certain loud parties.
 - (i) The name of the managing agency, agent, rental manager, local contact person, or owner of the unit, and a telephone number at which that party may be reached at all times.
 - (j) A copy of the "Good Neighbor Guidelines" which may from time to time be prepared by the permit administrator. These guidelines may include location-specific information, such as neighborhood quiet hours, local speed limits and the prohibition of fires and fireworks in beach areas.
 - (k) Notification that the property is part of the City of Goleta's Short-Term Vacation Rental Program.
 - (l) A copy of this chapter of the Goleta Municipal Code, as it may be amended from time to time.
9. Upon receipt of a nuisance complaint or upon notification of an allegation that any occupant and/or guest of the short-term vacation rental has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the Goleta Municipal Code or any state law, the owner shall promptly respond and take timely corrective action to prevent a recurrence of such conduct by those occupants or guests. Failure of the owner to respond promptly and/or to take timely corrective action regarding the condition, operation, or conduct of occupants of the short-term vacation rental shall be a

violation of this chapter. An owner is not required or authorized to act as a peace officer or to intervene in situations that pose a risk to personal safety. The owner, or his or her agent, shall maintain records of the name, violation, date, and time of each complaint, disturbance, response and corrective action.

10. The owner shall cause a copy of the nuisance response plan to be posted in a conspicuous place within the property.
11. The owner shall annually provide to permit administrator written confirmation of compliance with all elements of the performance standards and the approved nuisance response plan and confirming that the nuisance response plan is current and accurate.
12. The performance standards may be modified by the permit administrator upon request of the owner based upon site-specific circumstances for the purpose of allowing reasonable accommodation of a short-term vacation rental occupant as may be required by state or federal disability laws. All requests must be in writing and shall identify how the strict application of the standard conditions creates an unreasonable hardship to a property such that, if the requirement is not modified, reasonable use of the property for a short-term vacation rental would not be allowed.

Sec. 5.08.100. Surety bonds.

1. Each surety bond accompanying an application for a permit required by this chapter shall be issued by a surety licensed to do business in the State of California that has an A.M. Best Financial Strength Rating of at least "A-", shall name the city as the bond obligee, and shall be conditioned on the payment of any administrative fine assessed in the manner provided for by Chapter 1.02 of this Code within the time provided for therein if:
 - A. The administrative fine was assessed either against the permittee or against any tenant or other person occupying or using the short-term vacation rental operated pursuant to such permit; and
 - B. Arose out of a violation of this chapter, or the occupancy or use of such short-term vacation rental in a manner that violated any provision of this Code.
2. At any time following the issuance of a permit required by this chapter, the permittee may file a substitute surety bond with

the permit administrator issued by a surety that meets the requirements of this section. Upon determining that such substitute bond conforms to such requirements, the permit administrator shall return the bond being replaced by the substitute surety bond to the permittee.

Sec. 5.08.110. Cessation of Use of a Property as Short-Term Vacation Rental.

Where the owner of property used and occupied as a short-term vacation rental pursuant to a permit approved and issued in the manner provided for by this chapter determines to cease such use, the property owner shall promptly cause a notice of such determination to be filed with the permit administrator. Within thirty (30) days following confirmation that there are no pending enforcement actions arising from violations of this Chapter, Permit Administrator shall return the surety bond provided to the City to the permittee.

Sec. 5.08.120. Violations.

Any of the following acts or omissions arising out of the operation and use of a short-term vacation rental are unlawful and constitute a misdemeanor punishable in the manner provided for by Section 1.01.190 of this Code:

1. Rental, offering for rental, or advertising for rental of a dwelling unit located on any property within the City by the owner of the property as a short-term vacation rental without a permit authorizing such use that has been approved and issued in the manner required by this chapter;
2. Failure of the owner of a short-term vacation rental issued a permit in the manner required by this chapter or the owner's designated agent to respond to a nuisance complaint arising out of the occupancy and use of the short-term rental by a tenant, or the tenant's visitors or guests in the manner and within the time required by a nuisance response plan approved by the permit administrator incident to the issuance of such permit; or
3. Failure of the owner of a short-term vacation rental issued a permit in the manner required by this chapter to keep a response plan required by the chapter on file with the permit administrator containing the name of the current person or persons responsible for

- responding to a nuisance complaint within the time required by this chapter.
4. Failure of the owner of a short-term vacation rental issued a permit in the manner required by this chapter to keep a valid surety bond required by this chapter on file with the permit administrator at all times such permit remains in effect.
 5. Offering to rent or advertising for rent a short-term vacation rental without including in the offer or advertisement the city permit number applicable to the property in the form "Goleta Permit No. _____" with the permit number printed in the same size type as the largest type used in the offer or advertisement.
 6. Failure to comply with or cause compliance with any performance standard listed in this chapter.

Sec. 5.08.130. Permit Suspension, Modification or Revocation.

In addition to any other remedy provided by this chapter, a permit issued pursuant to this chapter may be suspended, modified or revoked for violations of this chapter, for violation of any other law on the premises of the short-term vacation rental, or for the maintenance of such other conditions as may be shown to be injurious to the public health and safety. Revocation proceedings may be initiated by the City Manager or City Attorney and shall be conducted pursuant to the procedures set forth in Section 1.02.110 of this code.

SECTION 2. SEVERABILITY.

Should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance shall remain in full force and effect.

SECTION 3. CONSTRUCTION.

The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect on the 31st day following the date of its final adoption.

Ordinance No.15- An Ordinance Of The City Council Of The City Of Goleta, California, Adding Chapter 5.08 Of Title 5 To The Goleta Municipal Code Establishing Regulations For Short-Term Vacation Rentals

SECTION 5. CERTIFICATION.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

INTRODUCED ON the 3rd day of February, 2015.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2015.

PAULA PEROTTE, MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

TIM W. GILES
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, Deborah S. Lopez, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 15-__ was introduced on February 3, 2015, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the _____, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK

ATTACHMENT 2:

Fee Analysis

PERMIT APPLICATION COST JUSTIFICATION

	Annual Salary	Workable Hours	Hourly Rate
Accountant	\$ 96,680	1800	\$ 53.71
Finance Director	\$ 206,760	1800	\$ 114.87
Admin Assistant (Monique Perez)	\$ 94,270	1800	\$ 52.37

Application Intake: 15 minutes

- 1) Review application for completeness
- 2) Answer questions

Position	Time Spent	Hourly Rate		
Accountant	0.250	\$ 53.71	\$ 13.43	
TOTAL			\$ 13.43	\$ 13.43

Processing Application: 30 minutes

- 1) Input application in Incode
- 2) Check surety bond rating online
- 3) Process payment

Position	Time Spent	Hourly Rate		
Accountant	0.500	\$ 53.71	\$ 26.86	
TOTAL			\$ 26.86	\$ 26.86

Reviewing/Approving: 5/5 minutes

- 1) Review notice after issuance - Accountant
- 2) Finance Director reviews for final approval

Position	Time Spent	Hourly Rate		
Accountant	0.083	\$ 53.71	\$ 4.48	
Finance Director	0.083	\$ 114.87	\$ 9.57	
TOTAL			\$ 14.05	\$ 14.05

Website Maintenance: 15 minutes

- 1) Post nuisance report to City website

Position	Time Spent	Hourly Rate		
Administrative Asst	0.250	\$ 52.37	\$ 13.09	
TOTAL			\$ 13.09	\$ 13.09

Annual Compliance Statement: 10 minutes

- 1) Generate & mail annual reminder notice with form
- 2) Review completed annual form for completeness

Position	Time Spent	Hourly Rate		
Accountant	0.167	\$ 53.71	\$ 8.95	
TOTAL			\$ 8.95	\$ 8.95

\$ 76.38

ATTACHMENT 3:

Resolution No. 15-__ "A Resolution of the City Council of the City of Goleta Establishing an Administrative Application Fee for a Short-Term Vacation Rental Permit."

RESOLUTION NO. 15-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
GOLETA, CALIFORNIA ESTABLISHING AN APPLICATION
FEE FOR A SHORT TERM VACATION RENTAL PERMIT**

WHEREAS, On February 17, 2015, the Goleta City Council adopted Ordinance No. 15-__ establishing regulations for Short Term Vacation Rentals;

WHEREAS, Ordinance No. 15-__ authorizes the City Council to establish an application fee for a Short Term Vacation Rental permit;

WHEREAS, the City Council has considered such Short Term Vacation Rental application fee at a public meeting on February 17, 2015;

WHEREAS, the City Council desires to establish an application fee for a Short Term Vacation Rental permit;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF GOLETA AS FOLLOWS:**

SECTION 1. ESTABLISHMENT OF FEE

Pursuant to Ordinance 15-__, an application fee for a Short Term Vacation Rental is hereby set at the amount of \$75.00 and shall be collected by the City.

SECTION 2. FINDINGS

The City Council finds that the fee set forth herein does not exceed the actual cost of services provided by the City under the subject regulation. The City Council finds that the purpose of this fee is solely to maintain the Short Term Vacation Rental regulatory program and restricts the use of funds collected to maintaining such services.

SECTION 3. CERTIFICATION

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 17th day of February, 2015.

PAULA PEROTTE, MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH LOPEZ
CITY CLERK



TIM W. GILES
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH LOPEZ, City Clerk of the City of Goleta, California, DO
HEREBY CERTIFY that the foregoing Resolution No. 15-__ was duly adopted
by the City Council of the City of Goleta at a regular meeting held on the __th
day of _____, 2015, by the following vote of the Council:

AYES:

NOES:

ABSENT:

(SEAL)

DEBORAH LOPEZ
CITY CLERK

ORDINANCE NUMBER 1624

**AN ORDINANCE OF THE CITY OF SEAL BEACH APPROVING
ZONE TEXT AMENDMENT 12-3 PROHIBITING RENTAL OF
RESIDENTIAL PROPERTY ON A SHORT-TERM BASIS**

THE CITY COUNCIL OF THE CITY OF SEAL BEACH DOES ORDAIN AS
FOLLOWS:

Section 1. On October 3, 2012, the Planning Commission conducted a duly noticed public hearing to consider prohibiting the short-term rental of residential properties (Zone Text Amendment 12-3). After receiving public testimony, the Commission adopted Planning Commission Resolution No. 12-32, recommending that the Council prohibit renting residential property for periods of less than 30 days.

Section 2. On October 22, 2012, the City Council conducted a duly noticed public hearing on Zone Text Amendment 12-3. Persons spoke in favor of and against short-term rentals.

Section 3. The City Council hereby finds:

A. Approval of Zone Text Amendment 12-3 is categorically exempt from review pursuant to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations), because it consists of minor alterations in land use limitations in areas with an average slope of less than 20% and does not result in any changes in land use or density; and Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the approval may have a significant effect on the environment; and

B. Zone Text Amendment 12-3 is consistent with the City's General Plan.

Section 4. The establishment of any new vacation rental is prohibited. The City shall not accept any conditional use permit application for a vacation rental after October 22, 2012. Applications submitted on or before October 22, 2012 shall be processed and may be approved in accordance with the provisions of the Municipal Code and Ordinance No. 1619-U. Ordinance No. 1619-U is superseded by this Ordinance and shall have no further effect except for the limited purpose of processing and reviewing conditional use permit applications for vacation rentals filed on or before October 22, 2012.

Section 5. The Municipal Code, including but not limited to Table 11.2.05.010, is amended to delete any reference to "vacation rentals." Table 11.2.05.010 of the Municipal Code is further amended to indicate that "Short Term Rental of Residentially Zoned Property" is neither permitted nor conditionally permitted in any zoning district of the City and to cross-reference Section 11.4.05.135.

Section 6. Section 11.4.05.135 of the Municipal Code is amended to read as follows:

"Short-Term Rental of Residentially Zoned Property.

A. Prohibited. No residentially zoned property, or any portion thereof, shall be leased or rented for a term of 29 days or less for any purpose, including but not limited to any residential or commercial purpose such as vacation rentals, weddings, or other event rentals.

- B. Legal Nonconforming Vacation Rentals. Any vacation rental granted a conditional use permit pursuant to Ordinance No. 1619-U shall be a legal nonconforming use permitted to continue subject to its conditions of approval and Chapter 11.4.40 of the Zoning Code."

Section 7. Pursuant to Ordinance No. 1619-U, the City issued conditional use permits ("CUPs") for a number of vacation rentals. One of the conditions of approval attached to each CUP is the requirement that the property owner comply with the permit and operational requirements set forth in Ordinance No. 1619-U. In that Ordinance No. 1619-U will be superseded upon the effective date of this Ordinance, such standards are restated below. Each property owner who has a CUP for a vacation rental must comply with the following permit and operational requirements:

A. Business License Required. The property owner must obtain a business license prior to operating or establishing a vacation rental.

B. Transient Occupancy Tax. The property owner must complete the Transient Occupancy Tax Remittance form prior to operating or establishing a vacation rental and shall pay the Transient Occupancy Tax in accordance with the Seal Beach Municipal Code.

C. Maximum Length of Stay. Visitor occupancy shall be limited to a maximum of 29 consecutive days.

D. Fire and Life Safety. Fire and life safety requirements as required by the Fire Authority and the Building Department shall be implemented. These requirements include, but are not limited to approved smoke detectors in each lodging room, installation of an approved fire extinguisher in the structure, and the inclusion of an evacuation plan posted in each lodging room.

E. Annual Inspection. Each vacation rental shall comply with the annual fire and life safety certification procedures of the Orange County Fire Authority.

F. Check-in Time. First-day arrival at a vacation rental is prohibited after 9:30 p.m. All lease or rental agreements must include this prohibition.

G. Check-out Time. Vacation renters must vacate the unit before noon on the final day of their tenancy.

H. Renter Information and Acknowledgement. Prior to occupancy of a short-term vacation rental unit, the owner shall: (i) obtain the name, address, and a copy of a valid government identification of the primary adult occupant of the short-term vacation rental; and (ii) require the primary adult occupant to execute a formal acknowledgement that he or she is legally responsible for compliance of all occupants of the short-term vacation rental or their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term vacation rental. The acknowledgement must include the text of Section 7.45.010 of the Municipal Code, which provides as follows:

"Upon the initial response of the police department to any disturbance involving loud, unnecessary and unusual noise, the chief of police may, in lieu of or in addition to taking other action authorized by law, give notice to the person or persons in actual or apparent control of the activity creating the disturbance, or to the person or persons in actual or apparent control of the property or premises wherein the disturbance has occurred, or both, that liability may be imposed upon the person or persons receiving such notice for the costs to the city of any subsequent response by the police department in connection with any continuation or

resumption of such disturbance. Such notification shall be in such form as may be approved by the chief of police. The costs of any subsequent response shall be assessed to the person or persons receiving such notice and shall include all costs reasonably incurred by the city in providing law enforcement services and equipment at the scene of the disturbance, including the cost or value of the time expended by police department personnel in making any subsequent response. The method of computing such costs shall be established by the chief of police and approved by the city council. The finance department shall invoice such costs to the person or persons liable therefor under this chapter, and such costs shall constitute a debt to the city and be collectible by the city in the same manner as in the case of an obligation under a contract; provided, however, that in no event shall a person's liability hereunder exceed \$1,000 for any single subsequent response."

This information and acknowledgment shall be maintained by the owner for a period of three years and shall be readily available upon request of any police officer or employee of the City authorized to enforce this Ordinance or any applicable law, rule or regulation pertaining to the use and occupancy of the short-term vacation rental.

I. Trash. Trash and refuse must not be left stored within public view, except in proper containers for the purpose of collection by the City's authorized waste hauler on scheduled trash collection days. The owner or property manager must provide sufficient trash collection containers and service to meet the demand of the occupants.

J. Lease Terms. Each new lease or rental agreement for a short-term vacation rental must have a copy of the Permit and Operational Requirements attached to it and must include the following terms, notifications and disclosures, which shall also be posted in a conspicuous location inside the unit:

1. The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or refuse on the exterior of the property.

2. Notification that the occupant may be cited or fined by the City for violation of any provision of the Municipal Code, including but not limited to amplified sound, including radios, televisions and other electronic devices, that creates a noise disturbance in violation of Chapter 7.45 of the Seal Beach Municipal Code.

3. A recommendation that the occupant participate voluntarily in neighborhood quiet hours by avoiding parties and loud social events between the hours of 10:00 p.m. and 7:00 a.m.

4. The name of the owner or property manager and a telephone number at which that party may be reached at all times.

K. Response to Complaints. The property owner or manager must provide the City with a phone number at which he or she can be contacted on a 24-hour basis regarding nuisance complaints arising at or from the use of the property as a vacation rental. Upon receipt of a nuisance complaint or upon notification that any occupant or guest of the short-term vacation rental has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the Municipal Code or any state law, the owner or property manager must respond within 45 minutes of receiving such notification and must promptly take corrective action to immediately prevent a recurrence of such conduct by those occupants or guests. Failure to timely respond to calls or complaints as required or take timely corrective action regarding the condition, operation, or conduct of occupants of the short-term vacation rental shall be a

violation of this Ordinance. Nothing in this Ordinance shall be construed to require or authorize an owner or property manager to act as a peace officer or to intervene in situations that pose a risk to personal safety. The owner or property manager must maintain records of the name, violation, date, and time of each complaint, disturbance, and response and corrective action by owner. Such records must be maintained for at least three years.

Section 8. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance or any part hereof. The City Council of the City of Seal Beach hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

Section 9. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

PASSED, APPROVED AND ADOPTED by the Seal Beach City Council at a regular meeting held on the 13th day of November, 2012.




Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS
CITY OF SEAL BEACH }

I, Linda Devine, City Clerk of the City of Seal Beach, do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting held on the 22nd day of October, 2012 and was passed, approved and adopted by the City Council at a regular meeting held on the 13th day of November, 2012 by the following vote:

AYES: Council Members: Winton Smith, Miller, Shanks, Sherr

NOES: Council Members: None

ABSENT: Council Members: None

ABSTAIN: Council Members: None

And do hereby further certify that Ordinance Number 1624 has been published pursuant to the Seal Beach City Charter and Resolution Number 2836.


City Clerk

PROOF OF PUBLICATION
(2015.5 C.C.P.)

STATE OF CALIFORNIA,
County of Orange

I am a citizen of the United States and a resident of the county afore-said; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the SEAL BEACH SUN, a newspaper of general circulation, printed and published weekly in the City of Seal Beach, County of Orange and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Orange, State of California, under the date of 2/24/75. Case Number A82583; that the notice of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

November 29

all in the year 2012.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Seal Beach, CA,
this 29 day of November, 2012.

Lorrie M. Healy
Signature

PUBLICATION PROCESSED BY:
THE SEAL BEACH SUN
216 Main Street
Seal Beach, CA 90740
(562) 430-7555

This space is for the County
Clerk's Filing Stamp

Proof of Publication of

S. U. M. M. A. R. Y
ORDINANCE NUMBER
1624

AN ORDINANCE OF THE
CITY OF SEAL BEACH
APPROVING ZONE
TEXT AMENDMENT 12-3
PROHIBITING RENTAL OF
RESIDENTIAL PROPERTY
ON: A. SHORT TERM
BASIS

The establishment of any new vacation rental is prohibited. The City shall not accept any conditional use permit application for a vacation rental after October 22, 2012. Applications submitted on or before October 22, 2012 shall be processed and may be approved in accordance with the provisions of the Municipal Code and Ordinance No. 1619-U. Ordinance No. 1619-U is superseded by this Ordinance and shall have no further effect except for the limited purpose of processing and reviewing conditional use permit applications for vacation rentals filed on or before October 22, 2012.

The Municipal Code, including but not limited to Table 11.2.05.010 is amended to delete any reference to "vacation rentals." Table 11.2.05.010 of the Municipal Code is further amended to indicate that "Short Term Rental of Residentially Zoned Property" is neither permitted nor conditionally permitted in any zoning district of the City and to cross-reference Section 11.4.05.135 to read as follows:

"Short Term Rental of Residentially Zoned Property:

A. Prohibited. No residentially zoned property, or any portion thereof, shall be leased or rented for a term of 29 days or less for any

purpose, including but not limited to any residential or commercial purpose such as vacation rentals, weddings, or other event rentals.

B. Legal Nonconforming Vacation Rentals. Any vacation rental granted a conditional use permit pursuant to Ordinance No. 1619-U shall be a legal nonconforming use permitted to continue subject to its conditions of approval and Chapter 11.4.40 of the Zoning Code.

All the CUP's approved to date incorporate by reference the permitting and operational requirements set forth in Ordinance No. 1619-U, the non-codified portions of the draft Ordinances provided to the Council, restate those requirements and require the approved vacation rentals to continue to comply with the requirements.

Ordinance Number 1624 was adopted at a regular City Council meeting of November 13, 2012 by the following vote:

AYES: Deaton, Levitt, Miller, Shanks, Sloan

NOES: None

Motion carried

A copy of Ordinance Number 1624 is available on the City's website (www.sealbeach.ca.gov) or from the office of the City Clerk, City Hall, 211 - 8th Street, Seal Beach; telephone (562) 431-2527.

DATED THIS 21st day of November, 2012

Linda Devine, City Clerk

City of Seal Beach
SB-684

Published in the Seal Beach Sun 11/29/2012

ORDINANCE NO. 1599

**AN INTERIM ORDINANCE OF THE CITY OF LAGUNA BEACH,
CALIFORNIA ESTABLISHING A 45-DAY MORATORIUM ON
APPROVAL OF SHORT-TERM LODGING UNITS WITHIN THE CITY
OF LAGUNA BEACH TO ALLOW THE CITY TIME TO STUDY AND
CONSIDER ENACTMENT OF REVISIONS TO OR A REPEAL OF
LAGUNA BEACH MUNICIPAL CODE CHAPTER 25.23, AND
DECLARING THE URGENCY THEREOF.**

WHEREAS, Chapter 25.23 of the Laguna Beach Municipal Code (“Chapter 25.23”) allows for the establishment of short-term lodging units, as defined therein, within certain zones of the City of Laguna Beach (“City”); and

WHEREAS, development applications for short term lodging units are subject to the approval of an administrative use permit or, in the SLV, South Laguna Village Zone, a conditional use permit as provided in Laguna Beach Municipal Code Sections 25.23.030, 25.05.020 and 25.05.030; and

WHEREAS, the City is currently considering revisions to or a repeal of Chapter 25.23; and

WHEREAS, there has been a recent proliferation of online host sites advertising homes for short-term lodging purposes, a substantial increase in the number of unpermitted short-term lodging units throughout the City, a substantial increase in complaints relating to the use of short-term lodging units, difficulties in achieving effective enforcement of existing regulations governing short-term lodging units, and an increase in applications filed to allow short-term lodging units; and

WHEREAS, the City Council has reviewed Chapter 25.23 and believes that Chapter 25.23 as currently enacted may not meet the stated intent and purpose of the General Plan, the

Housing Element of the General Plan and the Zoning Ordinance with regard to allowable uses of dwellings, especially within residential neighborhoods; and

WHEREAS, in order to allow time for the City to consider and study the possible enactment of revisions to Chapter 25.23 and development standards therein, or alternatively a repeal of Chapter 25.23, it is necessary to suspend the approval of any incomplete or new development applications for short-term lodging because they may conflict with the revisions and development standards, or the repeal, that the Community Development Department, Planning Commission and, ultimately, the City Council may consider and approve; and

WHEREAS, Government Code Section 65858 allows the City Council to adopt as an urgency measure an interim ordinance prohibiting any uses that may frustrate or be in conflict with a contemplated zoning proposal that the Community Development Department, the Planning Commission and the City Council intend to study within a reasonable time;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH HEREBY ORDAINS AS FOLLOWS:

SECTION 1: The City Council finds and determines as follows:

- a) The above recitals are incorporated herein by reference and are each relied upon independently by the City Council for its adoption of this Ordinance on an urgency basis; and
- b) The adoption of this Ordinance is exempt from the application of the California Environmental Quality Act (Public Resources Code Section 21000 *et. seq.*) pursuant to Sections 15061(b)(3), 15262 and 15306 of the State CEQA Guidelines (14 California Code of Regulations Section 15000 *et. seq.*); and

- c) The City Council desires to protect the character of residential neighborhoods and promote and encourage commercial economic diversity, including without limitation the maintenance of rental housing opportunities; and
- d) The City Council cannot ensure that the City's objectives and policies will be implemented properly without more specific development standards, or alternatively a repeal, being adopted; and
- e) There exists a current and immediate threat to the public health, safety and welfare, and Government Code Section 65858 authorizes the City Council to adopt as an urgency measure an interim ordinance prohibiting any uses that may frustrate or be in conflict with the contemplated zoning implementing regulations and development standard proposals that the City is considering or intends to study within a reasonable time; and
- f) There is no feasible alternative to enactment of this interim moratorium that will satisfactorily mitigate or avoid the previously identified impacts to the public health, safety and general welfare with a less burdensome or restrictive effect; and
- g) In order to ensure the effective implementation of the City's land use objectives and policies, a temporary moratorium on approval of short-term lodging units is necessary.

SECTION 2: Imposition of Moratorium.

- a) From the date of adoption of this Ordinance, and for a period of 45 days thereafter, no use permit, variance, building permit or any other entitlement for

use including, but not limited to, the issuance of a business license, shall be approved or issued for the establishment or operation of any short-term lodging unit.

- b) For purposes of this Ordinance, “lodging unit” means a room or suite of rooms for the residential use and occupancy of one family or a single housekeeping unit rented to persons(s) other than the owner. “Short-term” means the leasing or occupancy of a lodging unit for a period of thirty (30) consecutive calendar days or less.
- c) The approval of any new or incomplete application for any additional entitlement for use of short-term lodging units based on Chapter 25.23 as currently enacted would result in a threat to public health, safety, or welfare for the reasons described above, including but not limited to a reduction in the City’s rental housing stock and incidents involving excessive noise, disorderly conduct, vandalism, traffic congestion, illegal vehicle parking and accumulation of refuse, each of which requires response from police, fire, paramedic and other City services.

SECTION 3: All ordinances and provisions of the Laguna Beach Municipal Code and sections thereof inconsistent herewith shall be hereby suspended to the extent of such inconsistency and no further.

SECTION 4: Effective Date and Term. This Ordinance shall take effect immediately upon its adoption and shall be in effect for a period of forty-five (45) days (that is, until July 3, 2015), unless repealed, amended or extended by further action of the City Council as provided in Government Code Section 65858.

ADOPTED this 19th day of May, 2015.

Bob Whalen, Mayor

ATTEST:

City Clerk

I, Lisette Chel-Walker, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing Urgency Ordinance No. 1599 was introduced, passed and adopted at a regular meeting of the City Council on May 19, 2015, by the following vote:

AYES: COUNCILMEMBER(S): Boyd, Iseman, Zur Schmiede, Dieterow,
Whalen

NOES: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): None

City Clerk, of the City of Laguna Beach, CA

ORDINANCE NUMBER _____ (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA ADDING CHAPTER 8.20 TO THE SANTA MONICA
MUNICIPAL CODE CLARIFYING PROHIBITIONS AGAINST VACATION RENTALS
AND IMPOSING REGULATIONS ON HOME SHARING

WHEREAS, the City consists of just eight square miles of coastal land which is home to 90,000 residents, the job site of 300,000 workers, and a destination for as many as 500,000 visitors on weekends and holidays; and

WHEREAS, Santa Monica's primary housing goals include preserving its housing stock and preserving the quality and character of its existing single and multi-family residential neighborhoods. Santa Monica's prosperity has always been fueled by the area's many attractive features including its cohesive and active residential neighborhoods and the diverse population which resides therein. In order to continue to flourish, the City must preserve its available housing stock and the character and charm which result, in part, from cultural, ethnic, and economic diversity of its resident population; and

WHEREAS, the City must also preserve its unique sense of community which derives, in large part, from residents' active participation in civic affairs, including local government, cultural events, and educational endeavors; and

WHEREAS, Santa Monica's natural beauty, its charming residential communities, its vibrant commercial quarters and its world class visitor serving amenities have drawn visitors from around the United States and around the world; and

WHEREAS, the City affords a diverse array of visitor-serving short term rentals, including, hotels, motels, bed and breakfasts, vacation rentals and home sharing, not all of which are currently authorized by local law; and

WHEREAS, operations of vacation rentals, where residents rent-out entire units to visitors and are not present during the visitors' stays are detrimental to the community's welfare and are prohibited by local law, because occupants of such vacation rentals, when not hosted, do not have any connections to the Santa Monica community and to the residential neighborhoods in which they are visiting; and

WHEREAS, the presence of such visitors within the City's residential neighborhoods can sometimes disrupt the quietude and residential character of the neighborhoods and adversely impact the community; and

WHEREAS, judicial decisions have upheld local governments' authority to prohibit vacation rentals; and

WHEREAS, with the recent advent of the so called "sharing economy," there is growing acceptance of the longstanding practice of "home-sharing," whereby residents host visitors in their homes for short periods of stay, for compensation, while the resident host remains present throughout the visitors' stay; and

WHEREAS, long before the advent of the sharing economy, home-sharing

activities were already commonly undertaken throughout Santa Monica and throughout the United States; and

WHEREAS, history has shown that home-sharing activities spread the good-will of Santa Monica worldwide and have enhanced Santa Monica's image throughout the world; and

WHEREAS, home-sharing does not create the same adverse impacts as unsupervised vacation rentals because, among other things, the resident hosts are present to introduce their guests to the City's neighborhoods and regulate their guests' behavior; and

WHEREAS, history has shown that home-sharing activities are relatively very small in number, when compared to the number of persons utilizing vacation rentals or the City's hotels and motels; and

WHEREAS, while the City recognizes that home-sharing activities can be conducted in harmony with surrounding uses, those activities must be regulated to ensure that the small number of home-sharers stay in safe structures and do not threaten or harm the public health or welfare; and

WHEREAS, any monetary compensation paid to the resident hosts for their hospitality and hosting efforts rightfully belong to such hosts and existing law authorizes the City to collect Transient Occupancy Taxes ("TOTs") for vacation rentals and home-sharing activities; and

WHEREAS, existing law obligates both the hosts and rental agencies or hosting

platforms to collect and remit TOTs to the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA
DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 6.20 of the Santa Monica Municipal Code is hereby added
to read as follows:

Chapter 6.20 HOME SHARING AND VACATION RENTALS

6.20.010 Definitions

For purposes of this Chapter, the following words or phrases shall have the
following meanings:

(a) Home-Sharing. An activity whereby the residents host visitors in their
homes, for compensation, for periods of 30 consecutive days or less, while at least one
of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout the
visitors' stay.

(b) Hosting Platform. A marketplace in whatever form or format which
facilitates the Home-Sharing or Vacation Rental, through advertising, match-making or
any other means, using any medium of facilitation, and from which the operator of the
hosting platform derives revenues, including booking fees or advertising revenues, from
providing or maintaining the marketplace.

(c) Vacation Rental. Rental of any dwelling unit, in whole or in part, within the
City of Santa Monica, to any person(s) for exclusive transient use of 30 consecutive
days or less, whereby the unit is only approved for permanent residential occupancy
and not approved for transient occupancy or Home-Sharing as authorized by this

Chapter. Rental of units within City approved hotels, motels and bed and breakfasts shall not be considered Vacation Rental.

6.20.020 Home-Sharing Authorization

(a) Notwithstanding any provision of this Code to the contrary, Home-Sharing shall be authorized in the City, provided that the Home-Sharing host complies with each of the following requirements:

(1) Obtains and maintains at all times a City Business License authorizing Home-Sharing activity.

(2) Operates the Home-Sharing activity in compliance with all Business License permit conditions, which may be imposed by the City to effectuate the purpose of this Chapter.

(3) Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any Hosting Platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 6.68 of this Code.

(4) Takes responsibility for and actively prevents any nuisance activities that may take place as a result of Home-Sharing activities.

(5) Complies with all applicable laws, including all health, safety, building, fire protection, and rent control laws.

(6) Complies with the regulations promulgated pursuant to this Chapter.

(b) If any provision of this Chapter conflicts with any provision of the Zoning Ordinance codified in Article IX of this Code, the terms of this Chapter shall prevail.

6.20.030 Prohibitions

(a) No person, including any Hosting Platform operator, shall undertake, maintain, authorize, aid, facilitate or advertise any Home-Sharing activity that does not comply with Section 6.20.020 of this Code or any Vacation Rental activity.

6.20.050 Hosting Platform Responsibilities

The operator / owner of any Hosting Platform shall:

(a) be responsible for collecting all applicable TOTs and remitting the same to the City. The Hosting Platform shall be considered an agent of the host for purposes of TOT collections and remittance responsibilities as set forth in Chapter 6.68 of this Code.

(b) disclose to the City on a regular basis each Home Sharing and Vacation Rental listing located in the City, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

6.20.080 Regulations

The City Manager or his or her designee may promulgate regulations, which may include but are not limited to permit conditions, reporting requirements, inspection frequencies, enforcement procedures or insurance requirements, to implement the provisions of this Chapter.

6.20.090 Fees

The City Council may establish and set by Resolution all fees and charges as may be necessary to effectuate the purpose of this Chapter.

6.20.100 Enforcement.

(a) Any person violating any provision of this Chapter shall be guilty of an infraction, which shall be punishable by a fine not exceeding two hundred fifty dollars, or a misdemeanor, which shall be punishable by a fine not exceeding five hundred dollars, or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment.

(b) Any person convicted of violating any provision of this Chapter in a criminal case or found to be in violation of this Chapter in a civil case brought by a law enforcement agency shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs, pay all back TOTs, and remit all illegally obtained rental revenue to the City so that it may be returned to the Home-Sharing visitors or used to compensate victims of illegal short term rental activities.

(c) Any person who violates any provision of this Chapter shall be subject to administrative fines and administrative penalties pursuant to Chapter 1.09 and Chapter 1.10 of this Code.

(d) Any interested person may bring a private civil action to enforce this Chapter against any violator. The prevailing party in such an action shall be entitled to recover reasonable costs and attorney's fees.

(e) The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties or procedures established by law.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:

MARSHA JONES MOUTRIE
City Attorney



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: June 23, 2015

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department
Administration Division, Finance Department

SUBJECT: Council Direction On Short-Term Vacation Rental Regulations

RECOMMENDATION:

That Council provide direction to staff regarding regulation and enforcement of short-term vacation rentals.

EXECUTIVE SUMMARY:

The trend of converting residential units into full- or part-time vacation rentals has become increasingly popular, especially in vacation destination communities such as Santa Barbara. The City Council and staff are aware that short-term vacation rentals exist throughout the City and that most are operating in residential areas where they are not currently allowed. To date, alleged violations have been investigated and code enforcement action taken only in response to neighborhood complaints.

At the same time, however, the City is collecting Transient Occupancy Tax (TOT) revenue from short-term vacation rental owners. In response to the growing concerns over the impacts of vacation rentals in neighborhoods and the potential for confusion created by the City's enforcement actions and simultaneous collection of TOT, the City Council recently directed staff to address this policy issue.

This report provides background and contextual information for the public and City Council discussion and includes options for the regulation and enforcement of vacation rentals in the City of Santa Barbara.

DISCUSSION

The rapid rise of short-term vacation rentals is posing unforeseen challenges and opportunities for cities across California and the country. The City Council and staff are aware that short-term vacation rentals exist throughout the City and that most are operating in residential areas where they are not allowed under the Zoning Ordinance.

Please see the attached map that illustrates the areas of the City where vacation rentals can be permitted through a discretionary review process and then operate legally under the City's Zoning Ordinance. Areas mapped in color show the zoning districts in which short-term vacation rentals are currently allowed, and the grey parts of the map illustrate areas of the City where short-term vacation rentals are not allowed. The yellow dots represent locations where short-term vacation rental operators that have registered with the Finance Department, have a business license and pay Transient Occupancy Tax (TOT). Not all short-term vacation rentals operating in the City have applied for a business license and pay TOT. Many more short-term rentals exist in the City than are represented on this map.

There is concern that short-term rentals negatively impact neighborhood character and contribute to other nuisances, including noise and on-street parking impacts. Further, the commercialization of rental housing contributes to an increase in rents by reducing the amount of housing stock available to longer-term tenants. The City's Housing Element has a long-standing policy to protect and preserve the City's rental housing stock.

On the other hand, some short-term rental owners earn income to supplement or cover housing costs. Short-term rentals also provide travelers and tourists with an alternative to traditional lodging and dining establishments and provide a unique view into life in Santa Barbara. Guests can select from a variety of housing options and have a unique experience of staying in a home in a neighborhood. Statements have been made that short-term rentals increase tourism and boost the local economy. In Fiscal Year 2015, TOT from vacation rentals is expected to generate an estimated \$1.19 million.

The purpose of this staff report is to provide some basic information to set the stage for Council's discussion of short-term vacation rentals. Establishing a clear definition of terms is important. A shared understanding of the City's Municipal Code, policies, registration and enforcement practices is important as well.

Definition of Terms Used in This Report

For the purposes of this Council Agenda Report and Council discussion, Staff recommends a common use of the following terms and definitions. These are not terms or definitions currently found in the City's Municipal Code.

"Home Sharing Rental" – A resident(s) hosts visitors in their home for short periods of time (less than 30 days) while at least one of the primary residents lives on-site throughout the stay. Guests pay a nightly fee and enjoy non-exclusive shared use of the unit with the person(s) who lives there. Typically, the primary resident actively hosts the guests during the visit.

"Vacation Rental" – The rental of any un-hosted dwelling unit to any person for exclusive transient use of less than 30 days. Guests pay a nightly fee and enjoy the exclusive private use of the unit.

“House Swapping” – The exchange of a house by one owner with another owner in a different city for short periods of time by agreement without compensation or fees. These are informal, non-commercial arrangements that are not subject to City Municipal Code regulations. As such, they are not referenced any further in this report.

Regulatory Approaches in Other Communities

In preparation for this Council discussion, Staff researched how other jurisdictions allow and regulate, or prohibit and enforce, vacation rentals and home sharing rentals.

In many jurisdictions, short-term rentals in residential neighborhoods are not allowed and considered illegal. Short-term rentals are usually viewed as a commercial activity and considered no different than a hotel. Some jurisdictions have moved to explicitly ban vacation rentals including West Hollywood, Aliso Viejo, Sonoma County and Saratoga. Other cities have recently developed a program or ordinance to register vacation rentals and collect the TOT, including Napa, Santa Cruz, Ventura, Malibu and Goleta.

Many cities have a long history of permitting and regulating short-term vacation rentals including most cities in the Palm Springs region, many coastal cities in San Diego, Orange, and Los Angeles Counties including Carlsbad, Encinitas, Newport Beach, and Manhattan Beach. In the South and Central Coast region, the cities of Ventura, Morro Bay, and the counties of San Luis Obispo and Santa Cruz have a history of permitting and regulating short-term vacation rentals.

A recent trend is to make a distinction between vacation rentals and home sharing rentals and regulate them separately. San Francisco, Santa Monica and the City of San Luis Obispo have recently moved to prohibit vacation rentals but allow home-sharing rentals, provided that the owner meet specified requirements and then remits TOT to the City.

Communities that allow and regulate vacation rentals or home sharing rentals use some or all of the following techniques to manage their impacts in residential neighborhoods:

- Permit(s) and license(s) required and grounds for denial
- Transit Occupancy Tax payment
- Performance Standards such as:
 - Minimum length of stay, maximum number of stays per dwelling unit
 - Limits on occupancy (# guests per bedroom or house)
 - Advance notification (neighbors, landlord, city)
 - Owner occupancy requirement; non-owners prohibited from renting
 - Inspection requirements for Building and Fire Code compliance
 - Minimum separation between vacation rentals
 - Minimum insurance requirements
 - Trash/recycling collection and receptacle location requirements

- Noise Ordinance compliance
- Parking standards
- Sign Code compliance
- Preparation of Nuisance Response Plans
- Designated emergency contact within 30 miles, available 24 hours/day for complaints
- Posting of permit and conditions in unit
- Require that a City issued registration number be disclosed when listing online
- Annual limits on number of permits issued
- Surety Bond (an alternate form of deposit the City could access to collect administrative fines not paid)
- Violations, noticing, permit modification or revocation procedures
- Enforcement and Citation Provisions

Many cities include these regulations in the business, revenue and taxation sections of their Municipal Codes, rather than the Zoning Ordinance. Failure to comply with vacation rental or home sharing regulations, or failure to pay the required TOT is typically grounds for business license revocation and rental operation closure.

Municipal Code Regulations

The Municipal Code contains regulations that cover all aspects of the City organization. Titles 4, 5, and 28 of the Code are of particular interest for this report.

Title 4: Revenue, Finance and Purchasing

Title 4 contains regulations for how City taxes are established and collected. For the purposes of collecting Transient Occupancy Tax (TOT) for overnight stays of less than 30 days, it includes a definition of hotel as follows:

“Any structure, any portion of any structure, or any property or portion thereof which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobilehome or recreational vehicle park (as defined in Title 28 of this Code), or other similar structure or portion thereof.” (§4.08.020.B).

Title 5: Business Taxes and Permits

This title contains a chapter on Business Taxes and includes a disclaimer that:

“No payment of tax under the provisions of this chapter shall be construed as permission to conduct or carry on a business at any place within the City where

the conducting or carrying on of such business is prohibited by the Zoning Ordinance of the City" (§5.04.020). As such, although many of the vacation rental units operating in the City have obtained the required business license and are paying TOT, they are not considered to be legally permitted without proper zoning or further discretionary review and approval.

Title 28: The Zoning Ordinance

The Zoning Ordinance contains regulations related to planning, zoning and development review in the City. For the purposes of zoning regulation and land development, it includes a definition for "hotel" and "residential unit" as follows:

Hotel: "A building, group of buildings or a portion of a building which is designed for or occupied as the temporary abiding place of individuals for less than thirty (30) consecutive days including, but not limited to, establishments held out to the public as auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses." (§28.04.395)

Residential Unit: "A building or portion thereof designed or occupied for residential purposes, containing not more than one (1) kitchen per residential unit, but not including hotels or boarding houses" (§28.04.590.A).

Due to the intensity of land use caused by the frequent turnover of guests, hotels are only allowed in the City's Commercial and R-4 (Hotel, Motel, and Multiple Residence) Zones. The City considers short-term vacation rentals and home sharing to be a commercial use and may only permit them with a change of use permit in any zone that allows hotel use.

City Enforcement Practices

The growing industry of online marketing sites such as Airbnb, VRBO, Homeaway, Vacasa and many others are making short-term rentals more accessible to vacationers and travelers than ever before. Currently, there are hundreds of short-term lodging listings within the City on these websites. For entire units or homes, the number of listings range from an estimated 500 to 600 units (May 2015). With the addition of listings for home shares (short-term rental of private and shared rooms), the total approaches 1,000.

All vacation rentals or home shares that are not zoned and permitted as hotels, motels, or bed and breakfasts are in violation of the Municipal Code. Enforcement is currently done on a complaint basis, similar to most other alleged land use violations.

The City has seen a slight rise in complaints about vacation rentals, and the majority involves cases where the entire housing unit is being rented out as a vacation rental. The City has received very few complaints to date where a single room is rented out

and the primary occupant remains on the property. Vacation rental complaints are extremely challenging enforcement cases, as the activity is not necessarily easily observed from the street or visible to the public. Since 2004, over 60 complaints regarding vacation rentals have been received. Zoning staff has been able to verify non-compliance and successfully abate most of those cases. The remaining cases were closed due to lack of evidence to confirm a violation. Currently, there are seven vacation rental complaints under investigation by zoning enforcement staff.

Legal Issues

Regulating vacation rentals under the Zoning Ordinance falls under the City's police powers to protect the public health, safety and welfare of its residents. The Council would need to amend the Zoning Ordinance in order to legalize vacation rentals in most residential zones.

The City Attorney's approach has been to enforce both the TOT and zoning ordinance concurrently when complaints are forwarded to the City Attorney's office. In other words, the City Attorney's policy is to enforce all violations of the municipal code concurrently.

Collection of Transient Occupancy Tax

In 2010, the City had just 52 registered vacation rentals paying TOT in accordance with the City's TOT Ordinance. In that year, the City initiated an effort to identify and bring into compliance other vacation rentals that were not paying TOT. This effort was primarily in response to concerns from the lodging industry of the competitive advantage afforded vacation rental operators who were not paying the 12% TOT applicable to daily room rates. As part of its audit effort, the City offered an amnesty program whereby owners of vacation rentals that responded to letters sent by Finance staff would be exempt from three years of back taxes that would normally be due if they came forward within a specified time period, registered with the City, and began remitting TOT in accordance with the City's TOT Ordinance. A similar program was offered in 2014.

As a direct result of the two amnesty programs, a total of 93 number of vacation rental owners registered with the City. However, an additional 204 vacation rental owners came forward outside of the two amnesty program periods and are now also in compliance. In total, there currently 349 vacation rentals registered with the City paying TOT.

Options for the City of Santa Barbara

Following public input, staff will seek Council direction on what, if any, adjustments should be made to the City's current regulations or procedures regarding vacation rentals and home sharing rentals. For discussion purposes, staff is providing four

options, beginning with the most restrictive option to the least restrictive option. Other variations could be pursued.

1. Prohibit vacation rentals and home sharing rentals in the City (including R-4 and commercial zones) and forego collection of TOT. Vacation rentals and home sharing rentals are not defined in the Municipal Code and are currently being viewed as a commercial hotel use and regulated as such. Presently, if a property owner sought the proper land use approvals, one could legalize a vacation rental or home share rental in a commercial or zoning district where hotels are conditionally allowed, although few have chosen to do that to-date. If Council decides to prohibit short-term rentals throughout the city, regardless of zoning designation, staff would develop definitions and explicitly prohibit them within City limits.

In this case, Community Development and Finance Department staff would work together to notify property owners currently operating short-term rentals and provide a deadline to allow ample time for most existing reservations to be honored, but no new listings or bookings would be allowed.

2. Allow vacation rentals and home sharing rentals only in hotel/motel/multiple residential unit (R-4) and commercial zoning districts, and continue collecting TOT. Under this scenario, vacation rentals and home sharing rentals could continue to be treated as commercial operations, subject to the Nonresidential Growth Management Ordinance and related provisions of the Municipal Code, or an alternate permitting process could be developed. All short-term rentals would continue to be prohibited in residential zones.

Similar to Option 1, Staff would attempt to notify property owners that currently operate short-term rentals and provide a deadline by which existing reservations could be honored, but no new listings would be allowed.

Staff would then proactively enforce existing zoning regulations on unpermitted short-term rentals. In the R-4 and commercial zones, staff would explore the creation of new regulations and processes to encourage operators to legalize their operations.

3. Allow home-sharing rentals, but not vacation rentals, wherever residential uses are allowed, require registration and collect TOT. Under this scenario, vacation rentals would be prohibited throughout the City and home-sharing rentals would be allowed in all zones where residential uses are currently allowed. Hosts of home sharing rentals would need to register the unit, meet performance standards and pay TOT. Similar to Option 1, staff would notify property owners currently operating vacation rentals and provide a deadline by which most existing reservations could be honored, but no new listings or bookings would be allowed.

4. Allow vacation rentals and home sharing rentals where residential uses are allowed and continue collecting TOT. This scenario would allow vacation rentals and

home sharing rentals throughout the City, subject to performance standards to minimize neighborhood impacts. In this scenario, staff resources would likely be redirected from complaint-based enforcement to a more proactive role in registering and monitoring short-term rentals for performance standard compliance.

BUDGET/FINANCIAL INFORMATION:

Transit Occupancy Tax

In Fiscal Year 2015, the City's General Fund expects to receive approximately \$1.19 million in TOT revenues from the 349 registered vacation rentals. This revenue source is forecast to grow to \$1.27 million in Fiscal Year 2016. These amounts exclude any back taxes paid in Fiscal Year 2015. This contrasts with the total TOT expected in Fiscal Year 2015 of \$19.5 million from all properties, including hotels, motels, and other lodging establishments. It is important to note that the City's Creek Restoration and Water Quality Improvement Fund receives 2% of the total 12% TOT collected pursuant to the Measure B approved by City voters in November of 2000. In Fiscal Year 2015, the amount of TOT expected from vacation rentals pursuant to Measure B is approximately \$204,000 and is in addition to the \$1.19 million expected in the General Fund.

Depending on Council's direction regarding the regulation of vacation rentals, the financial impact could range from no impact to a projected loss of nearly \$1.3 million in projected and ongoing TOT revenues. If Council decides to allow short-term rentals, it is difficult to predict the number of property owners, currently not registered with the City, that would elect to properly permit and operate their rental and pay the required TOT.

Staffing

Responding to requests to investigate short-term vacation rental complaints is time consuming, because zoning violations of this nature are often difficult to prove. Depending on direction from Council, additional staff resources may be necessary, either to proactively enforce a prohibition against short-term rentals or to administer a rental registration program and conduct a permit compliance program.

NEXT STEPS

After receiving initial direction from Council, staff anticipates additional research, public outreach and work sessions with the Planning Commission over the next three to four months. If amendments to the Municipal Code are required, the Planning Commission would make a recommendation to the Council. Applicable implementation measures, if any, will likely be subject to review by the Ordinance and/or Finance Committees prior to Council consideration

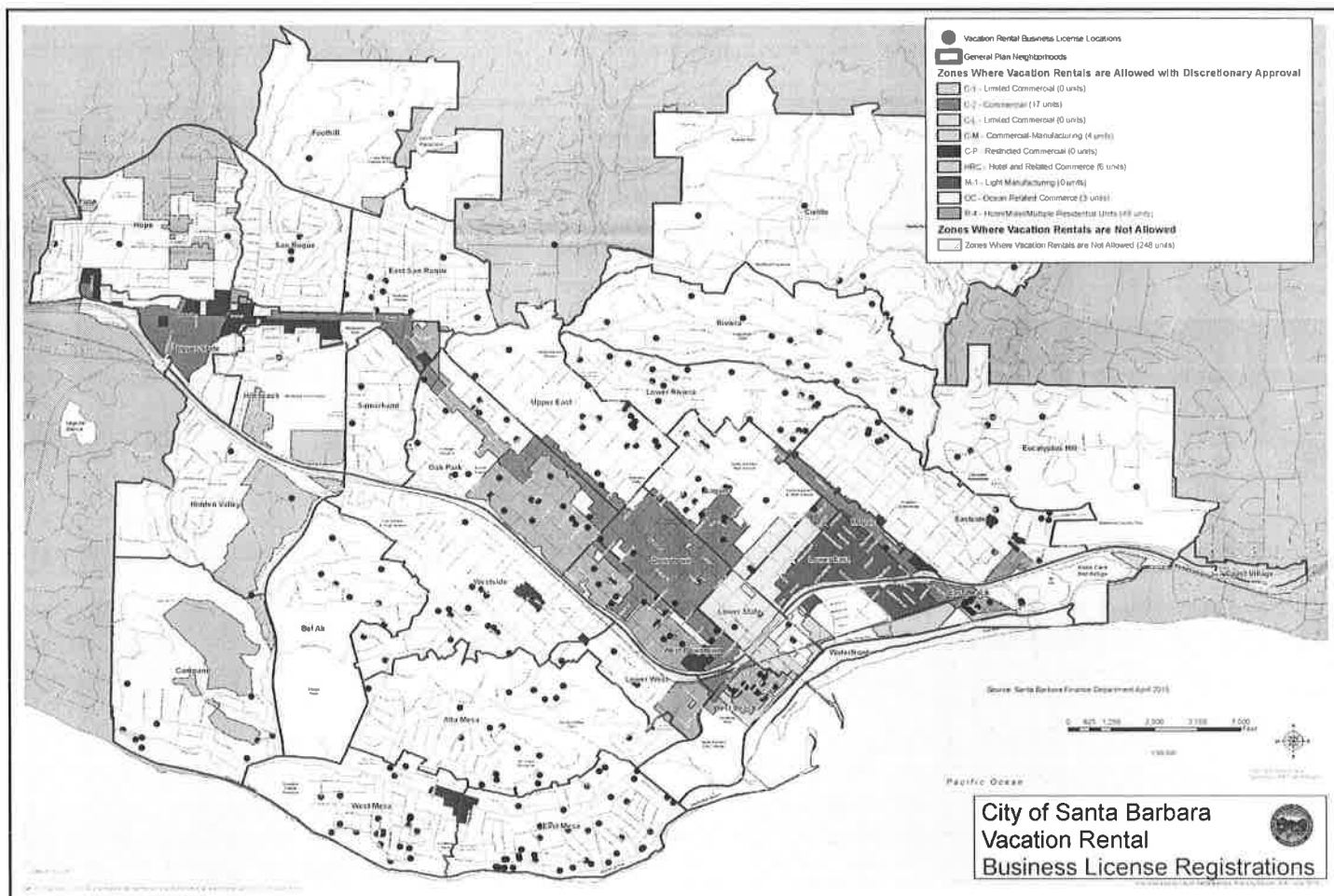
ATTACHMENT: City of Santa Barbara Vacation Rental Business License
Registrations Map

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PREPARED BY: Elizabeth Limón, Project Planner

SUBMITTED BY: George Buell, Community Development Director
Robert Samario, Finance Director/Acting Assistant City
Administrator

APPROVED BY: City Administrator's Office



AMENDED IN BOARD

10/7/14

FILE NO. 140381

ORDINANCE NO. 218-14

[Administrative, Planning Codes - Amending Regulation of Short-Term Residential Rentals and Establishing Fee]

Ordinance amending the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Planning Department, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; amending the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) General Plan and Planning Code Findings.

(1) On August 7, 2014, at a duly noticed public hearing, the Planning Commission in Resolution No. 19213 found that the proposed Planning Code amendments contained in this ordinance were consistent with the City's General Plan and with Planning Code Section 101.1(b) and recommended that the Board of Supervisors adopt the proposed Planning Code amendments. A copy of said Resolution is on file with the Clerk of the Board of

1 Supervisors in File No. 140381 and is incorporated herein by reference. The Board finds that
2 the proposed Planning Code amendments contained in this ordinance are on balance
3 consistent with the City's General Plan and with Planning Code Section 101.1(b) for the
4 reasons set forth in said Resolution.

5 (2) Pursuant to Planning Code Section 302, the Board finds that the
6 proposed ordinance will serve the public necessity, convenience and welfare for the reasons
7 set forth in Planning Commission Resolution No. 19213, which reasons are incorporated
8 herein by reference as though fully set forth.

9 (b) Environmental Findings. The Planning Department has determined that the
10 actions contemplated in this ordinance comply with the California Environmental Quality Act
11 (California Public Resources Code Section 21000 et seq.). Said determination is on file with
12 the Clerk of the Board of Supervisors in File No. 140381 and is incorporated herein by
13 reference. The Board affirms this determination.

14 (c) General Findings.

15 (1) The widespread conversion of residential housing to short-term rentals,
16 commonly referred to as hotelization, was prohibited by this Board because, when taken to
17 extremes, these conversions could result in the loss of housing for permanent residents. But,
18 with the advent of new technology, the rise of the sharing economy, and the economic and
19 social benefits to residents of sharing resources, short-term rental activity continued to
20 proliferate. This has not only led the City to strengthen enforcement of short-term rental laws,
21 but also prompted an examination of parameters to regulate short-term rentals and create a
22 pathway to legalize this activity. The goal of regulation is to ensure compliance with all
23 requirements of the Municipal Code, including but not limited to the Business and Tax
24 Regulations Code and the Residential Rent Stabilization and Arbitration Ordinance, and
25 accountability for neighborhood quality of life.

1 (2) The exception created here for permanent residents would allow for
2 reasonable flexibility in renting residential spaces on an occasional basis; however, this
3 exception is only intended for residents who meet the definition of permanent resident so that
4 these units remain truly residential in use. Thus, the exception is only for primary residences
5 in which permanent residents are present for a significant majority of the calendar year.

6 (3) The hosting platforms, as part of a new but growing industry, would also
7 benefit from regulation to ensure good business standards and practices. Such regulation
8 includes required notification to users of local short-term rental laws and transient occupancy
9 tax obligations to San Francisco.

10 (4) The Office of the Treasurer & Tax Collector retains all of its existing
11 authority under the Business & Tax Regulations Code with regard to the subject matter of this
12 ordinance.

13
14 Section 2. The Administrative Code is hereby amended by revising Sections 37.9(a),
15 41A.4, 41A.5, and 41A.6, to read as follows:

16
17 **SEC. 37.9. EVICTIONS.** Notwithstanding Section 37.3, this Section shall apply as of
18 August 24, 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

19 (a) A landlord shall not endeavor to recover possession of a rental unit unless:

20 (1) The tenant:

21 (A) Has failed to pay the rent to which the landlord is lawfully entitled
22 under the oral or written agreement between the tenant and landlord:

23 (i) Except that a tenant's nonpayment of a charge prohibited
24 by Section 919.1 of the Police Code shall not constitute a failure to pay rent; and
25

1 (ii) Except that, commencing August 10, 2001, to and including
2 February 10, 2003, a landlord shall not endeavor to recover or recover possession of a rental
3 unit for failure of a tenant to pay that portion of rent attributable to a capital improvement
4 passthrough certified pursuant to a decision issued after April 10, 2000, where the capital
5 improvement passthrough petition was filed prior to August 10, 2001, and a landlord shall not
6 impose any late fee(s) upon the tenant for such non-payment of capital improvements costs;
7 or

8 (B) Habitually pays the rent late; or

9 (C) Gives checks which are frequently returned because there are
10 insufficient funds in the checking account; or

11 (2) The tenant has violated a lawful obligation or covenant of tenancy other
12 than the obligation to surrender possession upon proper notice or other than an obligation to
13 pay a charge prohibited by Police Code Section 919.1, and failure to cure such violation after
14 having received written notice thereof from the landlord.

15 (A) Provided that notwithstanding any lease provision to the contrary,
16 a landlord shall not endeavor to recover possession of a rental unit as a result of subletting of
17 the rental unit by the tenant if the landlord has unreasonably withheld the right to sublet
18 following a written request by the tenant, so long as the tenant continues to reside in the rental
19 unit and the sublet constitutes a one-for-one replacement of the departing tenant(s). If the
20 landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the
21 tenant's written request, the tenant's request shall be deemed approved by the landlord.

22 (B) Provided further that where a rental agreement or lease provision
23 limits the number of occupants or limits or prohibits subletting or assignment, a landlord shall
24 not endeavor to recover possession of a rental unit as a result of the addition to the unit of a
25 tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic

1 partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as
2 a result of the addition of the spouse or domestic partner of a tenant, so long as the maximum
3 number of occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not exceeded, if the landlord
4 has unreasonably refused a written request by the tenant to add such occupant(s) to the unit.
5 If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the
6 tenant's written request, the tenant's request shall be deemed approved by the landlord. A
7 landlord's reasonable refusal of the tenant's written request may not be based on the
8 proposed additional occupant's lack of creditworthiness, if that person will not be legally
9 obligated to pay some or all of the rent to the landlord. A landlord's reasonable refusal of the
10 tenant's written request may be based on, but is not limited to, the ground that the total
11 number of occupants in a unit exceeds (or with the proposed additional occupant(s) would
12 exceed) the lesser of (i) or (ii):

13 (i) Two persons in a studio unit, three persons in a one-
14 bedroom unit, four persons in a two-bedroom unit, six persons in a three-bedroom unit, or
15 eight persons in a four-bedroom unit; or

16 (ii) The maximum number permitted in the unit under
17 state law and/or other local codes such as the Building, Fire, Housing and Planning Codes; or

18 (3) The tenant is committing or permitting to exist a nuisance in, or is causing
19 substantial damage to, the rental unit, or is creating a substantial interference with the
20 comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such
21 nuisance, damage or interference is specifically stated by the landlord in writing as required
22 by Section 37.9(c); or

23 (4) The tenant is using or permitting a rental unit to be used for any illegal
24 purpose, provided however that a landlord shall not endeavor to recover possession of a rental unit

1 solely as a result of a first violation of Chapter 41A that has been cured within 30 days written notice to
2 the tenant; or

3 (5) The tenant, who had an oral or written agreement with the landlord which
4 has terminated, has refused after written request or demand by the landlord to execute a
5 written extension or renewal thereof for a further term of like duration and under such terms
6 which are materially the same as in the previous agreement; provided, that such terms do not
7 conflict with any of the provisions of this Chapter; or

8 (6) The tenant has, after written notice to cease, refused the landlord access
9 to the rental unit as required by State or local law; or

10 (7) The tenant holding at the end of the term of the oral or written agreement
11 is a subtenant not approved by the landlord; or

12 (8) The landlord seeks to recover possession in good faith, without ulterior
13 reasons and with honest intent:

14 (i) For the landlord's use or occupancy as his or her principal
15 residence for a period of at least 36 continuous months;

16 (ii) For the use or occupancy of the landlord's grandparents,
17 grandchildren, parents, children, brother or sister, or the landlord's spouse, or the spouses of
18 such relations, as their principal place of residency for a period of at least 36 months, in the
19 same building in which the landlord resides as his or her principal place of residency, or in a
20 building in which the landlord is simultaneously seeking possession of a rental unit under
21 Section 37.9(a)(8)(i). For purposes of this Section 37.9(a)(8)(ii), the term spouse shall include
22 domestic partners as defined in San Francisco Administrative Code Sections 62.1 through
23 62.8.

24 (iii) For purposes of this Section 37.9(a)(8) only, as to landlords who
25 become owners of record of the rental unit on or before February 21, 1991, the term "landlord"

1 shall be defined as an owner of record of at least 10 percent interest in the property or, for
2 Section 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San
3 Francisco Administrative Code Sections 62.1 through 62.8 whose combined ownership of
4 record is at least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who
5 become owners of record of the rental unit after February 21, 1991, the term "landlord" shall
6 be defined as an owner of record of at least 25 percent interest in the property or, for Section
7 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco
8 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at
9 least 25 percent.

10 (iv) A landlord may not recover possession under this Section
11 37.9(a)(8) if a comparable unit owned by the landlord is already vacant and is available, or if
12 such a unit becomes vacant and available before the recovery of possession of the unit. If a
13 comparable unit does become vacant and available before the recovery of possession, the
14 landlord shall rescind the notice to vacate and dismiss any action filed to recover possession
15 of the premises. Provided further, if a noncomparable unit becomes available before the
16 recovery of possession, the landlord shall offer that unit to the tenant at a rent based on the
17 rent that the tenant is paying, with upward or downward adjustments allowed based upon the
18 condition, size, and other amenities of the replacement unit. Disputes concerning the initial
19 rent for the replacement unit shall be determined by the Rent Board. It shall be evidence of a
20 lack of good faith if a landlord times the service of the notice, or the filing of an action to
21 recover possession, so as to avoid moving into a comparable unit, or to avoid offering a
22 tenant a replacement unit.

23 (v) It shall be rebuttably presumed that the landlord has not acted in
24 good faith if the landlord or relative for whom the tenant was evicted does not move into the
25

1 rental unit within three months and occupy said unit as that person's principal residence for a
2 minimum of 36 continuous months.

3 (vi) Once a landlord has successfully recovered possession of a rental
4 unit pursuant to Section 37.9(a)(8)(i), then no other current or future landlords may recover
5 possession of any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention
6 of this Section that only one specific unit per building may be used for such occupancy under
7 Section 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies
8 under Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a
9 petition with the Rent Board, or at the landlord's option, commence eviction proceedings,
10 claiming that disability or other similar hardship prevents him or her from occupying a unit
11 which was previously occupied by the landlord.

12 (vii) If any provision or clause of this amendment to Section 37.9(a)(8)
13 or the application thereof to any person or circumstance is held to be unconstitutional or to be
14 otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other
15 chapter provisions, and clauses of this Chapter are held to be severable; or

16 (9) The landlord seeks to recover possession in good faith in order to sell the
17 unit in accordance with a condominium conversion approved under the San Francisco
18 subdivision ordinance and does so without ulterior reasons and with honest intent; or

19 (10) The landlord seeks to recover possession in good faith in order to
20 demolish or to otherwise permanently remove the rental unit from housing use and has
21 obtained all the necessary permits on or before the date upon which notice to vacate is given,
22 and does so without ulterior reasons and with honest intent; provided that a landlord who
23 seeks to recover possession under this Section 37.9(a)(10) shall pay relocation expenses as
24 provided in Section 37.9C except that a landlord who seeks to demolish an unreinforced
25 masonry building pursuant to Building Code Chapters 16B and 16C must provide the tenant

1 with the relocation assistance specified in Section 37.9A(f) below prior to the tenant's vacating
2 the premises; or

3 (11) The landlord seeks in good faith to remove temporarily the unit from
4 housing use in order to be able to carry out capital improvements or rehabilitation work and
5 has obtained all the necessary permits on or before the date upon which notice to vacate is
6 given, and does so without ulterior reasons and with honest intent. Any tenant who vacates
7 the unit under such circumstances shall have the right to reoccupy the unit at the prior rent
8 adjusted in accordance with the provisions of this Chapter. The tenant will vacate the unit only
9 for the minimum time required to do the work. On or before the date upon which notice to
10 vacate is given, the landlord shall advise the tenant in writing that the rehabilitation or capital
11 improvement plans are on file with the Central Permit Bureau of the Department of Building
12 Inspection and that arrangements for reviewing such plans can be made with the Central
13 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of
14 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as
15 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be
16 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;
17 provided, however, that such time period may be extended by the Board or its Administrative
18 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to
19 implement the application procedure. Any landlord who seeks to recover possession under
20 this Section 37.9(a)(11) shall pay relocation expenses as provided in Section 37.9C; or

21 (12) The landlord seeks to recover possession in good faith in order to carry
22 out substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary
23 permits on or before the date upon which notice to vacate is given, and does so without
24 ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor
25 to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this

1 Chapter except as provided in Section 32.69 of the San Francisco Administrative Code; Any
2 landlord who seeks to recover possession under this Section 37.9(a)(12) shall pay relocation
3 expenses as provided in Section 37.9C; or

4 (13) The landlord wishes to withdraw from rent or lease all rental units within
5 any detached physical structure and, in addition, in the case of any detached physical
6 structure containing three or fewer rental units, any other rental units on the same lot, and
7 complies in full with Section 37.9A with respect to each such unit; provided, however, that
8 guestrooms or efficiency units within a residential hotel, as defined in Section 50519 of the
9 Health and Safety Code, may not be withdrawn from rent or lease if the residential hotel has a
10 permit of occupancy issued prior to January 1, 1990, and if the residential hotel did not send a
11 notice of intent to withdraw the units from rent or lease (Administrative Code Section 37.9A(f),
12 Government Code Section 7060.4(a)) that was delivered to the Rent Board prior to January 1,
13 2004; or

14 (14) The landlord seeks in good faith to temporarily recover possession of the
15 unit solely for the purpose of effecting lead remediation or abatement work, as required by
16 San Francisco Health Code Articles 11 or 26. The tenant will vacate the unit only for the
17 minimum time required to do the work. The relocation rights and remedies, established by
18 San Francisco Administrative Code Chapter 72, including but not limited to, the payment of
19 financial relocation assistance, shall apply to evictions under this Section 37.9(a)(14).

20 (15) The landlord seeks to recover possession in good faith in order to
21 demolish or to otherwise permanently remove the rental unit from housing use in accordance
22 with the terms of a development agreement entered into by the City under Chapter 56 of the
23 San Francisco Administrative Code.

24 (16) The tenant's Good Samaritan Status (Section 37.2(a)(1)(D)) has expired,
25 and the landlord exercises the right to recover possession by serving a notice of termination of

1 tenancy under this Section 37.9(a)(16) within 60 days after expiration of the Original and any
2 Extended Good Samaritan Status Period.

3 * * * *

4
5 **SEC. 41A.4. DEFINITIONS.**

6 Whenever used in this Chapter 41A, the following words and phrases shall have the definitions
7 provided in this Section:

8 **Business Entity.** A corporation, partnership, or other legal entity that is not a natural
9 person that owns or leases one or more residential units.

10 **Complaint.** A complaint submitted to the Department by an interested party alleging
11 a violation of this Chapter 41A and that includes the rResidential uUnit's address, including unit
12 number, date(s) and nature of alleged violation(s), and any available contact information for the
13 oOwner and/or resident of the rResidential uUnit at issue.

14 **Conversion or Convert.** A change of use from rResidential uUse to tTourist or
15 tTransient uUse, including, but not limited to, renting a rResidential uUnit as a tTourist or tTransient
16 uUse.

17 **Department.** The Planning Department.

18 **Director.** The Director of the Planning Department.

19 **Hosting Platform.** A person or entity that provides a means through which an oOwner
20 may offer a rResidential uUnit for tTourist or tTransient uUse. This service is usually, though not
21 necessarily, provided through an online platform and generally allows an oOwner to advertise the
22 rResidential uUnit through a website provided by the hHosting pPlatform and provides a means for
23 potential tourist or transient users to arrange tTourist or tTransient uUse and payment, whether the
24 tourist or transient pays rent directly to the oOwner or to the hHosting pPlatform.

1 **Interested Party.** A ~~p~~Permanent ~~r~~Resident of the building in which the ~~t~~Tourist or
2 ~~t~~Transient ~~u~~Use is alleged to occur, any homeowner association ~~o~~f associated with the building
3 Residential Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the
4 Residential Unit in which the Tourist or Transient Use is alleged to occur, the City and County of
5 San Francisco, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501
6 of the United States Code, which has the preservation or improvement of housing as a stated purpose in
7 its articles of incorporation or bylaws.

8 **Owner.** Owner includes any person who is the owner of record of the real property. As
9 used in this Chapter 41A, the term "Owner" includes a lessee where the lessee is offering a
10 ~~r~~Residential ~~u~~Unit for ~~t~~Tourist or ~~t~~Transient use.

11 **Permanent Resident.** A person who occupies a ~~r~~Residential ~~u~~Unit for at least 60
12 consecutive days with intent to establish that unit as his or her primary residence. A ~~p~~Permanent
13 ~~r~~Resident may be an owner or a lessee.

14 **Primary Residence.** The ~~p~~Permanent ~~r~~Resident's usual place of return for housing as
15 documented by at least two of the following: motor vehicle registration; driver's license; voter
16 registration; tax documents showing the Residential Unit as the Permanent Resident's
17 residence for the purposes of a home owner's tax exemption; or other such evidence a utility bill.
18 A person may have only one Primary Residence.

19 (a) **Residential Unit.** Room or rooms, including a condominium or a room or
20 dwelling unit that forms part of a tenancy-in-common arrangement, in any building, or portion
21 thereof, which is designed, built, rented, leased, let or hired out to be occupied for ~~r~~Residential
22 ~~u~~Use, or which is occupied as the home or residence of four or more households living independently
23 of each other in dwelling units as defined in the San Francisco Housing Code, provided that the
24 residential unit was occupied by a permanent resident on or after February 8, 1981. It is presumed that
25

1 a residential unit was occupied by a permanent resident on or after February 8, 1981, and the owner
2 has the burden of proof to show that a residential unit is not subject to this Chapter.

3 (b) — **Residential Use.** Any use for occupancy of a dwelling ~~Residential~~ Unit by a
4 ~~Permanent Resident~~.

5 **Short-Term Residential Rental.** A ~~Tourist or Transient~~ Use where all of the
6 following conditions are met:

7 (a) the ~~Residential~~ Unit is offered for ~~Tourist or Transient~~ Use by the
8 ~~Permanent Resident of the Residential Unit~~;

9 (b) the ~~Permanent Resident~~ is a natural person;

10 (c) the ~~Permanent Resident~~ has registered the Residential Unit and maintains
11 good standing on the Department's Short-Term Residential Rental Registry; and

12 (d) the ~~Residential Unit~~ is not subject to the Inclusionary Affordable Housing
13 Program set forth in Planning Code Section 415 et seq.; is not a residential hotel unit as defined in
14 subject to the provisions of Chapter 41, unless such unit has been issued a Permit to Convert
15 under Section 41.12; is not otherwise designated as a below market rate or income-
16 restricted Residential Unit under City, state, or federal law; and no other requirement of federal or
17 state law, this Municipal Code, or any other applicable law or regulation prohibits the
18 permanent resident from subleasing, renting, or otherwise allowing Short-Term Residential Rental of
19 the ~~Residential Unit~~.

20 **Short-Term Residential Rental Registry or Registry.** A database of information
21 maintained by the Department that includes information regarding ~~Permanent Residents~~ who are
22 permitted to offer ~~Residential Units~~ for Short-Term Residential Rental. Only one Permanent
23 Resident per Residential Unit may be included on the Registry at any given time. The ~~Registry~~
24 shall be available for public review to the extent required by law, except that, to the extent permitted by
25

1 law, the Department shall redact any ~~p~~Permanent ~~r~~Resident names from the records available for
2 public review.

3 ~~(e)~~ — **Tourist or Transient Use.** Any Use of a ~~r~~Residential ~~u~~Unit for occupancy for
4 less than a 30-day term of tenancy, or occupancy for less than 30 days of a ~~r~~Residential ~~u~~Unit
5 leased or owned by a ~~b~~Business ~~e~~Entity, whether on a short-term or long-term basis,
6 including any occupancy by employees or guests of a ~~b~~Business ~~e~~Entity for less than 30 days
7 where payment for the ~~r~~Residential ~~u~~Unit is contracted for or paid by the ~~b~~Business ~~e~~Entity.

8 ~~(d)~~ — Permanent Resident. ~~A person who occupies a residential unit for at least 60~~
9 ~~consecutive days with intent to establish that unit as his or her principal place of residence.~~

10 ~~(e)~~ — Conversion or Convert. ~~The change of the use or to rent a residential unit from~~
11 ~~residential use to tourist or transient use.~~

12 ~~(f)~~ — Owner. ~~Owner includes any person who is the owner of record of the real property.~~
13 ~~Owner includes a lessee where an interested party alleges that a lessee is offering a residential unit for~~
14 ~~tourist or transient use.~~

15 ~~(g)~~ — Interested Party. ~~A permanent resident of the building in which the tourist or transient~~
16 ~~use is alleged to occur, the City and County of San Francisco, or any non-profit organization exempt~~
17 ~~from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation~~
18 ~~or improvement of housing as a stated purpose in its articles of incorporation or bylaws.~~

19 ~~(h)~~ — Director. ~~The Director of the Department of Building Inspection.~~

20 21 **SEC. 41A.5. UNLAWFUL CONVERSION; REMEDIES.**

22 (a) **Unlawful Actions.** Except as set forth in subsection 41A.5(g), it shall be unlawful
23 for

24 (1) any ~~O~~owner to offer an ~~a~~partment ~~R~~residential ~~U~~unit for rent for ~~T~~ourist or
25 ~~T~~ransient ~~U~~use;

1 (2) any Owner to offer a Residential Unit for rent to a Business Entity
2 that will allow the use of a Residential Unit for Tourist or Transient Use; or

3 (3) any Business Entity to allow the use of a Residential Unit for Tourist
4 or Transient Use.

5 (b) **Records Required.** The Owner and Business Entity, if any, shall retain and
6 make available to the Department ~~or Building Inspection occupancy~~ records to demonstrate
7 compliance with this Chapter 41A upon written request as provided herein. Any Permanent Resident
8 offering his or her Primary Residence as a Short-Term Residential Rental shall retain and make
9 available to the Department records to demonstrate compliance with this Chapter 41A, including but
10 not limited to records demonstrating Primary Residency, and the number of days per calendar year he
11 or she has occupied the Residential Unit, and the number of days per calendar year, with dates
12 and the duration of each stay, the Residential Unit has been rented for Short-Term Residential
13 Rental Use.

14 (c) **Determination of Violation.** Upon the filing of a written Complaint that an
15 Owner or Business Entity has engaged in an alleged unlawful eConversion has occurred or
16 that a Hosting Platform is not complying with the requirements of subsection (g)(54)(A), the
17 Director shall take reasonable steps necessary to determine the validity of the Complaint.
18 The Director may independently determine whether an Owner or Business Entity may be
19 renting a Residential Unit for Tourist or Transient Use ~~as defined in~~ violation of this Chapter
20 41A or whether a Hosting Platform has failed to comply with the requirements of subsection
21 (g)(54)(A). To determine if there is a violation of this Chapter 41A, the Director may initiate an
22 investigation of the subject property or Hosting Platform's allegedly unlawful activities. This
23 investigation may include, but is not limited to, an inspection of the subject property and/or a
24 request for any pertinent information from the Owner, ~~or Business Entity,~~ or Hosting Platform,
25 such as leases, business records, or other documents. The Director shall have discretion to

1 determine whether there is a potential violation of this Chapter 41A and whether to conduct an
2 administrative review hearing as set forth below. Notwithstanding any other provision of this
3 Chapter 41A, any alleged violation related to failure to comply with the requirements of the
4 Business and Tax Regulations Code shall be enforced by the Treasurer/Tax Collector under
5 the provisions of that Code.

6 (d) **Civil Action.** Following the filing of a Complaint and the determination of a
7 violation by the Director through an administrative review hearing as set forth in this Chapter
8 41A, the City and County of San Francisco may institute civil proceedings for injunctive and
9 monetary relief against a Hosting Platform for violation of subsection (g)(4)(A) or the City or
10 any other interested pParty may institute civil proceedings for injunctive and monetary relief
11 against an Owner or Business Entity. In addition, the an Owner, or, or Business Entity in
12 violation of this Chapter or a Hosting Platform in violation of subsection (g)(4)(A) may be liable
13 for civil penalties of not more than \$1,000 per day for the period of the unlawful ~~rental activity~~. If
14 the City or the interested party is the prevailing party, the City or the interested party shall
15 be entitled to the costs of enforcing this Chapter 41A, including reasonable attorneys' fees, ~~up~~
16 ~~to the amount of the monetary award,~~ pursuant to an order of the Court. Any monetary award
17 obtained by the City and County of San Francisco in such a civil action shall be deposited in
18 the Mayor's Office of Housing, Housing Affordability Fund less the reasonable costs incurred
19 by the City and County of San Francisco in pursuing the civil action Department to be used for
20 enforcement of Chapter 41A. The Department, through the use of these funds, shall
21 reimburse City departments and agencies, including the City Attorney's Office, for all costs
22 and fees incurred in the enforcement of this Chapter 41A.

23 (e) **Criminal Penalties.** Any Owner or Business Entity who rents a Residential
24 Unit for Tourist or Transient Use ~~as defined in violation of this Chapter 41A without correcting~~
25 ~~or remedying the violation as provided for in subsection 41A.6(b)(7)~~ shall be guilty of a

1 misdemeanor. Any person convicted of a misdemeanor hereunder shall be punishable by a
2 fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more
3 than six months, or by both. Each Residential Unit rented for Tourist or Transient Use
4 shall constitute a separate offense.

5 (f) **Method of Enforcement, Director.** The Director shall have the authority to
6 enforce this Chapter against violations thereof by any or all of the means provided for in this
7 Chapter 41A.

8 (g) **Exception for Short-Term Residential Rental.**

9 (1) Notwithstanding the restrictions set forth in this Section 41A.5, a Permanent
10 Resident may offer his or her Primary Residence as a Short-Term Residential Rental if he or she:

11 (A) occupies the Residential Unit ~~is occupied by the Permanent~~
12 Resident occupies the Residential Unit for no less than 275 days out of the preceding per out of
13 any given the calendar year in which the Residential Unit is rented as a Short-Term Residential
14 Rental or, proportional share thereof if he or she if the Permanent Resident has not rented or
15 owned the Residential Unit for the full preceding calendar year, for no less than 75% of the
16 days he or she has owned or rented the Residential Unit;

17 (B) The Permanent Resident maintains records for two years
18 demonstrating compliance with this Chapter, including but not limited to information demonstrating
19 Primary Residency, the number of days per calendar year he or she has occupied the Residential Unit,
20 the number of days per calendar year the Residential Unit has been rented as a Short-Term
21 Residential Rental, and compliance with the insurance requirement in Subsection (D). These records
22 shall be made available to the Department upon request;

23 (C) The Permanent Resident complies with any and all applicable
24 provisions of state and federal law and the San Francisco Municipal Code, including but not limited to
25 the requirements of the Business and Tax Regulations Code by, among any other applicable

1 requirements, collecting and remitting all required transient occupancy taxes, and the occupancy
2 requirements of the Housing Code;

3 (D) The Permanent Resident maintains homeowner's or renter's
4 property or casualty liability insurance appropriate to cover the Short-Term Residential Rental
5 Use in the aggregate of not less than \$150,000 \$500,000 or conducts each Short-Term Residential
6 Rental transaction through a Hosting Platform that provides a guarantee program relating to
7 property damage in an amount not less than \$150,000 to owners per incident equal or greater
8 coverage. Such coverage shall defend and indemnify the Owner(s), as named additional
9 insured, and any tenant(s) in the building for their bodily injury and property damage arising
10 from the Short-Term Residential Use;

11 (E) registers, and maintains registry of, the The Residential Unit is
12 registered on the Short-Term Residential Rental Registry prior to offering the Residential Unit for
13 use as a Short-Term Residential Rental. Offering a Residential Unit for Short-Term
14 Residential Rental while not maintaining good standing on the registry shall constitute a
15 violation of this Chapter 41A, and

16 (F) includes tThe Permanent Resident includes the Department-issued
17 registration number is included on any hHosting pPlatform listing or other listing offering the
18 Residential Unit for use as a Short-Term Residential Rental;

19 (G) fFor units subject to the rent control provisions of Section 37.3, the
20 Permanent Resident complies with the initial rent limitation for subtenants and charges no more rent
21 than the rent the primary-Permanent rResident is paying to any landlord per month; and

22 (H) The Permanent Resident can demonstrate to the satisfaction of the
23 Department that the Residential Unit and the property on which it is located is not subject to any
24 outstanding Building, Electrical, Plumbing, Mechanical, Fire, Health, Housing, Police, or Planning
25 Code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and

1 desist orders, or correction notices. The Department shall not include a property that is subject to any
2 such outstanding violations in the Registry. If such a violation occurs once a Residential Unit has
3 been included in the Registry, the Department shall suspend the Residential Unit's registration
4 and registration number until the violation has been cured.

5 (2) Additional Requirements.

6 (A) Offering a Residential Unit for Short-Term Residential Rental,
7 including but not limited to advertising the Residential Unit's availability, while not maintaining
8 good standing on the Registry shall constitute an unlawful conversion in violation of this
9 Chapter 41A and shall subject the person or entity offering the unit in such a manner to the
10 administrative penalties and enforcement procedures, including civil penalties, of this Chapter.

11 (B) Only one Permanent Resident may be associated with a
12 Residential Unit on the Registry, and it shall be unlawful for any other person, even if that
13 person meets the qualifications of a "Permanent Resident", to offer a Residential Unit for
14 Short-Term Residential Rental.

15 (C) A Permanent Resident offering a Residential Unit for Short-Term
16 Residential Rental shall maintain a valid business registration certificate.

17 (D) A Permanent Resident offering a Residential Unit for Short-Term
18 Residential Rental shall post a clearly printed sign inside his or her Residential Unit on the
19 inside of the front door that provides information regarding the location of all fire extinguishers
20 in the unit and building, gas shut off valves, fire exits, and pull fire alarms.

21 (23) Short-Term Residential Rental Registry Applications, and Fee, and Reporting
22 Requirement.

23 (A) Application. Registration shall be for a two-year term, which may be
24 renewed by the Permanent Resident by filing a completed renewal application. Initial and renewal
25 applications shall be in a form prescribed by the Department. The Department shall determine, in its

1 sole discretion, the completeness of an application. Upon receipt of a complete initial application,
2 the Department shall send mailed notice to the owner of record of the Residential Unit,
3 informing the owner that an application to the Registry for the unit has been received. If the
4 Residential Unit is in a RH-1(D) zoning district, the Department shall also send mailed notice
5 to any directly associated homeowner association that has previously requested such notice.

6 Both the initial application and any renewal application shall contain information sufficient to
7 show that the Residential Unit is the Primary Residence of the applicant, and that the applicant is the
8 unit's Permanent Resident, and that the applicant has the required insurance coverage and
9 business registration certificate. In addition to the information set forth here, the Department may
10 require any other additional information necessary to show the Permanent Resident's compliance with
11 this Chapter 41A. Primary Residency may shall be established by showing the Residential Unit is
12 listed as the applicant's residence on at least two of the following: any motor vehicle registration;
13 driver's license; or voter registration; or tax documents showing the Residential Unit as the
14 Permanent Resident's Primary Residence for home owner's tax exemption purposes, and; or any
15 other information as required by the Department utility bill. A renewal application shall contain
16 sufficient information to show that the applicant is the Permanent Resident and has occupied the unit
17 for at least 275 days of each of the two preceding calendar years. Upon the Department's
18 determination that an application is complete, the unit shall be entered into the Short-Term Residential
19 Rental Registry and assigned an individual registration number.

20 (B) Fee. The fee for the initial application and for each renewal shall be
21 \$50, payable to the Director. The application fee shall be due at the time of application. Beginning with
22 fiscal year 2014-2015, fees set forth in this Section may be adjusted each year, without further action
23 by the Board of Supervisors, as set forth in this Section. Not later than April 1 Within six months of
24 the effective operative date of this ordinance and after holding a duly noticed informational
25 hearing at the Planning Commission, the Director shall report to the Controller the revenues

1 generated by the fees for the prior fiscal year and the prior fiscal year's costs of establishing and
2 maintaining the registry and enforcing the requirements of this Chapter 41A, as well as any other
3 information that the Controller determines appropriate to the performance of the duties set forth in this
4 Chapter. After the hearing by the Planning Commission, but Nnot later than May 15August 1,
5 2015, the Controller shall determine whether the current fees have produced or are projected to
6 produce revenues sufficient to support the costs of establishing and maintaining the registry, enforcing
7 the requirements of this Chapter 41A and any other services set forth in this Chapter and that the
8 fees will not produce revenue that is significantly more than the costs of providing such services. The
9 Controller shall, if necessary, adjust the fees upward or downward for the upcoming fiscal year as
10 appropriate to ensure that the program recovers the costs of operation without producing revenue that
11 is significantly more than such costs. The adjusted rates shall become operative on July 1.

12 (C) Reporting Requirement. To maintain good standing on the
13 Registry, the Permanent Resident shall submit a report to the Department on January 1 of
14 each year regarding the number of days the Residential Unit or any portion thereof has been
15 rented as a Short-Term Residential Rental since either initial registration or the last report,
16 whichever is more recent, and any additional information the Department may require to
17 demonstrate compliance with this Chapter 41A.

18 (454) Requirements for Hosting Platforms.

19 (A) Notice to Users of Hosting Platform. All Hosting Platforms shall provide
20 the following information in a notice to any user listing a Residential Unit located within the City and
21 County of San Francisco through the Hosting Platform's service. The notice shall be provided prior to
22 the user listing the Residential Unit and shall include the following information: that Administrative
23 Code Chapters 37 and 41A regulate Short-Term Rental of Residential Units; the requirements for
24 Permanent Residency and registration of the unit with the Department; and the transient occupancy tax
25 obligations to the City.

1 (B) A Hosting Platform shall comply with the requirements of the Business
2 and Tax Regulations Code by, among any other applicable requirements, collecting and remitting all
3 required Transient Occupancy Taxes, and this provision shall not relieve a Hosting Platform of liability
4 related to an occupant's, resident's, Business Entity's, or Owner's failure to comply with the
5 requirements of the Business and Tax Regulations Code. A Hosting Platform shall maintain a record
6 demonstrating that the taxes have been remitted to the Tax Collector and shall make this
7 record available to the Department Tax Collector upon request. Additionally, a Hosting
8 Platform's failure to provide the required notice to users under subsection 41A.5(g)(4)(A) shall
9 be a violation of this Chapter.

10 (C) Any such violation of a Hosting Platform's responsibilities under this
11 subsection (g)(5)(A) shall subject the Hosting Platform to the administrative penalties and
12 enforcement provisions of this Chapter, including but not limited to payment of civil penalties a
13 fine payable to the Department of up to \$1,000 per day for the period of the failure to
14 comply provide notice or the failure to provide the required information to the Department, with
15 the exception that any violation related to failure to comply with the requirements of the
16 Business and Tax Regulations Code shall be enforced by the Treasurer/Tax Collector under
17 that Code.

18 (565) The exception set forth in this subsection (g) provides an exception only to the
19 requirements of this Chapter 41A. It does not confer a right to lease, sublease, or otherwise offer a
20 residential unit for Short-Term Residential Use where such use is not otherwise allowed by law, a
21 homeowners association agreement or requirements, any applicable covenant, condition, and
22 restriction, a rental agreement, or any other restriction, requirement, or enforceable agreement. All
23 Owners and residents are required to comply with the requirements of Administrative Code Chapter
24 37, the Residential Rent Stabilization and Arbitration Ordinance, including but not limited to the
25 requirements of Section 37.3(c).

1 ~~(676)~~ Department Contact Person. The Department shall designate a contact person
2 for members of the public who wish to file Complaints under this Chapter or who otherwise seek
3 information regarding this Chapter or Short-Term Residential Rentals. This contact person shall also
4 provide information to the public upon request regarding quality of life issues, including for example
5 noise violations, vandalism, or illegal dumping, and shall direct the member of the public and/or
6 forward any such Complaints to the appropriate City department.

7 ~~(787)~~ Notwithstanding any other provision of this Chapter, nothing in this Chapter
8 shall relieve an individual, Business Entity, or Hosting Platform of the obligations imposed by any and
9 all applicable provisions of state law and the San Francisco Municipal Code including but not limited
10 to those obligations imposed by the Business and Tax Regulations Code. Further, nothing in this
11 Chapter shall be construed to limit any remedies available under any and all applicable provisions of
12 state law and the San Francisco Municipal Code including but not limited to the Business and Tax
13 Regulations Code.

14 ~~(98)~~ Annual Department Reporting Requirement. Within one year of the
15 effective date of this ordinance and annually thereafter, the Department shall provide a report
16 to the Board of Supervisors regarding the Department's administration and enforcement of the
17 Short-Term Residential Rental program. The study shall make recommendations regarding
18 proposed amendments to this Chapter 41A necessary to reduce any adverse effects of the
19 Short-Term Residential Rental program.

20 **SEC. 41A.6. PROCEDURES FOR DETERMINING ADMINISTRATIVE PENALTIES.**

21 (a) **Notice of Complaint.** Within 1530 days of the filing of a Complaint and upon
22 the Director's independent finding that there may be a violation of this Chapter, the Director
23 shall notify the Owner by certified mail that the Owner's Residential Unit is the subject of
24 an investigation for an unlawful use and provide the date, time, and place of an administrative
25 review hearing in which the Owner can respond to the Complaint. If the Director finds there

1 is no violation of this Chapter or basis for an investigation for an unlawful activity, the Director
2 shall so inform the complainant within 30 days of the filing of the Complaint. If the Complaint
3 concerns the failure of a Hosting Platform to comply with the requirements of subsection
4 (g)(54)(A), within 1530 days of the filing of the Complaint and upon the Director's independent
5 finding that there may be a violation of this Chapter, the Director shall notify the Hosting
6 Platform by certified mail that the Hosting Platform is the subject of an investigation for failure
7 to comply with the requirements of this Chapter that subsection and provide the date, time,
8 and place of an administrative review hearing in which the Hosting Platform can respond to
9 the Complaint.

10 (b) **Administrative Review Hearings.** In the event the Director determines that an
11 administrative review hearing shall be conducted, the Director's appointed hearing officer will
12 hold an administrative review hearing within ~~60~~45 days of the filing of the ~~Complaint~~
13 Director's finding that there may be a violation of this Chapter 41A to review all information
14 provided by the Interested Party, members of the public, City staff, and the Owner or Hosting
15 Platform for the investigation and the hearing officer shall thereafter make a determination
16 whether the Owner or Hosting Platform has violated this Chapter.

17 (1) For hearings regarding alleged unlawful conversions, Notice of the
18 hearing shall be conspicuously posted on the building that is the subject of the hearing. The
19 ~~Owner shall state under oath at the hearing that the notice remained posted for at least~~
20 ~~seven calendar days prior the hearing.~~ The Director shall appoint a hearing officer to conduct
21 the hearing.

22 (2) Pre-hearing Submission. No less than ten ~~working~~ days prior to the
23 administrative review hearing, parties to the hearing shall submit written information to the
24 Director including, but not limited to, the issues to be determined by the hearing officer and
25

1 the evidence to be offered at the hearing. Such information shall be forwarded to the hearing
2 officer prior to the hearing along with any information compiled by the Director.

3 (3) Hearing Procedure. If more than one hearing is requested for Residential
4 Units located in the same building at or about the same time, the Director shall consolidate
5 all of the hearings into one hearing. The hearing shall be ~~tape~~ recorded. Any party to the
6 hearing may at his or her own expense cause the hearing to be recorded by a certified court
7 reporter. Parties may be represented by counsel and shall have the right to cross-examine
8 witnesses. All testimony shall be given under oath. Written decisions and findings shall be
9 rendered by the hearing officer within ~~20~~30 working days of the hearing. Copies of the findings
10 and decision shall be served upon the parties by certified mail. A notice that a copy of the
11 findings and decision is available for inspection between the hours of 9:00 a.m. and 5:00 p.m.
12 Monday through Friday shall be posted by the Owner or the Director in the building in the
13 same location in which the notice of the administrative review hearing was posted.

14 (4) Failure to Appear. In the event the Owner, authorized Hosting Platform
15 representative, or an interested party fails to appear at the hearing, the hearing officer may
16 nevertheless make a determination based on the evidence in the record and files at the time
17 of the hearing, and issue a written decision and findings.

18 (5) Finality of the Hearing Officer's Decision and Judicial Review. The
19 decision of the hearing officer shall be final. Within 20 days after service of the hearing
20 officer's decision, any party may seek judicial review of the hearing officer's decision.

21 (6) Hearing Officer Decision and Collection of Penalties. ~~If any imposed~~
22 ~~administrative penalties and costs have not been deposited at the time of the Hearing~~
23 ~~Officer's decision~~Upon the Hearing Officer's decision, the Director may proceed to collect the
24 penalties and costs pursuant to the lien procedures set forth in Subsection 41A.6(ed),
25 consistent with the Hearing Officer's decision.

1 (7) Remedy of Violation. If the Hearing Officer determines that a violation has
2 occurred, the Hearing Officer's Decision ~~should~~shall:

3 (A) Specify a reasonable period of time during which the Owner,
4 Business Entity, or Hosting Platform must correct or otherwise remedy the violation; ~~and~~

5 (B) ~~State that if the violation is not corrected or otherwise remedied~~
6 ~~within this period. Detail the amount of any administrative penalties the Owner or Hosting~~
7 ~~Platform shall be~~ may be required to pay the administrative penalties ~~as~~ set forth in Subsection
8 41A.6(c); ~~and.~~

9 (C) ~~For violations by Owners, State that if the violation is not corrected~~
10 ~~or otherwise remedied within this period, the Department shall remove or prohibit the registration~~
11 ~~of the Residential Unit from the Short-Term Residential Registry for one year even if the~~
12 ~~Residential Unit otherwise meets the requirements for Short-Term Residential Rental and may~~
13 ~~prohibit the offending Owner from including such Residential Unit on any Hosting Platform for~~
14 ~~a period of one year.~~

15 (8) If the Hearing Officer determines that no violation has occurred, the
16 determination is final.

17 (c) **Imposition of Administrative Penalties for Unabated Violations and**
18 **Enforcement Costs.**

19 (1) Administrative Penalties. ~~If the violation has continued unabated beyond~~
20 ~~the time specified in the notice required by the Hearing Officer determines that a violation has~~
21 ~~occurred, an administrative penalty of shall be assessed as follows:~~

22 (A) ~~for the initial violation, not more than four times the standard hourly~~
23 ~~administrative rate of \$104.00~~ 121.00 ~~shall be charged for each unlawfully converted unit, or for~~
24 ~~each identified failure of a Hosting Platform to comply with the requirements of subsection~~

1 (g)(54), per day from the day the unlawful use activity commenced notice of Complaint until
2 such time as the unlawful use activity terminates;

3 (B) for the second violation within six months of any hearing held
4 pursuant to this Chapter by the same Owner(s), Business Entity, or Hosting Platform, not more
5 than eight times the standard hourly administrative rate of \$121.00 for each unlawfully converted unit,
6 or for each identified failure of a Hosting Platform to comply with the requirements of
7 subsection (g)(54), per day from the day the unlawful use activity commenced until such time as the
8 unlawful use activity terminates; and

9 (C) for the third and any subsequent violation within 12 months of any
10 hearing held pursuant to this Chapter by the same Owner(s), Business Entity, or Hosting
11 Platform, not more than twelve times the standard hourly administrative rate of \$121.00 for each
12 unlawfully converted unit or for each identified failure of a Hosting Platform to comply with the
13 requirements of subsection (g)(54) per day from the day the unlawful use activity commenced
14 until such time as the unlawful use activity terminates.

15 (2) Enforcement Costs. The Owner or Hosting Platform shall reimburse the
16 City for the costs of enforcement of this Chapter, which shall include, but not be limited to,
17 reasonable attorneys' fees.

18 ——(3)—— Prohibition on Registration and Listing Unit(s) on Any Hosting Platform. If the
19 violation has continued unabated beyond the time specified in the notice required by the
20 Hearing Officer, in the event of multiple violations, the Department shall remove the Residential
21 Unit(s) from the Registry for one year and include the Residential Unit(s) on a list maintained by
22 the Department of Residential Units that may not be listed by any Permanent Resident on any
23 Hosting Platform until compliance. Any Owner or Business Entity who continues to list a Residential
24 Unit in violation of this section shall be liable for additional administrative penalties and civil
25 penalties of up to \$1,000 per day of unlawful inclusion.

1 (d) **Notice of Continuing Violation and Imposition of Penalties.** The Director shall
2 notify the Owner or Hosting Platform by certified mail that of the violation has continued
3 unabated and that administrative penalties shall be imposed pursuant to this Chapter 41A.
4 The notice shall state the time of the continued existence of the violation and the resulting
5 imposition of penalties. Payment of the administrative penalties and enforcement costs shall
6 be made within 30 days of the certified mailed notice to the Owner or Hosting Platform. If the
7 administrative penalties and enforcement costs are not paid, the Director shall refer the matter
8 to the Treasurer/Tax Collector and/or initiate lien procedures to secure the amount of the
9 penalties and costs against the real property that is subject to this Chapter, under Article XX
10 of Chapter 10 of the San Francisco Administrative Code to make the penalty, plus accrued
11 interest, a lien against the real property regulated under this Chapter. Except for the release of
12 the lien recording fee authorized by Administrative Code Section 10.237, all sums collected by
13 the Tax Collector pursuant to this ordinance shall be held in trust by the Treasurer and
14 distributed as provided in Section 41A.5(d) of this Chapter deposited as set forth in subsection
15 (e) below.

16 (e) **Deposit of Penalties.** Administrative penalties paid pursuant to this Chapter
17 shall be deposited in the Mayor's Office of Housing, Housing Affordability Fund less the
18 reasonable costs incurred by the City and County of San Francisco in pursuing enforcement
19 under this Chapter 41A. If enforcement costs were imposed, such funds shall be distributed
20 according to the purpose for which they were collected. Any fees and penalties collected
21 pursuant to this Chapter 41A shall be deposited in the Department, which shall reimburse City
22 departments and agencies, including the City Attorney's Office, for all costs and fees incurred
23 in the enforcement of this Chapter 41A.
24
25

1 Section 3. The Planning Code is hereby amended by revising Sections 102.7, 102.13,
2 790.88 and 890.88, to read as follows:

3
4 **SEC. 102.7. DWELLING UNIT.**

5 A room or suite of two or more rooms that is designed for, or is occupied by, one family
6 doing its own cooking therein and having only one kitchen. A housekeeping room as defined
7 in the Housing Code shall be a dwelling unit for purposes of this Code. For the purposes of
8 this Code, a live/work unit, as defined in Section 102.13 of this Code, shall not be considered
9 a dwelling unit. Notwithstanding the foregoing, use of a dwelling unit as a Short-Term Residential
10 Rental in compliance with Administrative Code Section 41A.5 shall not alter the use type as a
11 residential use.

12 * * * *

13
14 **SEC. 102.13. LIVE/WORK UNIT.**

15 A live/work unit is a structure or portion of a structure combining a residential living
16 space for a group of persons including not more than four adults in the same unit with an
17 integrated work space principally used by one or more of the residents of that unit; provided,
18 however, that no otherwise qualifying portion of a structure which contains a Group A
19 occupancy under the San Francisco Building Code shall be considered a live/work unit.
20 Notwithstanding the foregoing, use of a live/work unit as a Short-Term Residential Rental in
21 compliance with Administrative Code Section 41A.5 shall not alter the use type as a live/work unit.

22 * * * *

23
24 **SEC. 790.88. RESIDENTIAL USE.**
25

1 A use which provides housing for San Francisco residents, rather than visitors,
2 including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a
3 residential hotel, as defined in Section 790.47 of this Code and in Chapter 41 of the San
4 Francisco Administrative Code. Notwithstanding the foregoing, use of a dwelling unit as a Short-
5 Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use
6 type as a residential use.

7 (a) Dwelling Unit. A residential use which consists of a suite of two or more rooms
8 and includes sleeping, bathing, cooking, and eating facilities, but has only one kitchen.

9 (b) Group Housing. A residential use which provides lodging or both meals and
10 lodging without individual cooking facilities for a week or more at a time in a space not defined
11 as a dwelling unit. Group housing includes, but is not limited to, a rooming house, boarding
12 house, guest house, lodging house, residence club, commune, fraternity and sorority house,
13 monastery, nunnery, convent, and ashram. It also includes group housing operated by a
14 medical or educational institution when not located on the same lot as such institution.

15 * * * *

16
17 **SEC. 890.88. RESIDENTIAL USE.**

18 A use which provides housing for San Francisco residents, rather than visitors,
19 including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a
20 residential hotel, as defined in Section 890.47 of this Code and in Chapter 41 of the San
21 Francisco Administrative Code. Notwithstanding the foregoing, use of a dwelling unit as a Short-
22 Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use
23 type as a residential use.

24 (a) Dwelling Unit. A residential use which consists of a suite of two or more rooms
25 and includes sleeping, bathing, cooking, and eating facilities, and has only one kitchen.

1 (b) Group Housing. A residential use which provides lodging or both meals and
2 lodging without individual cooking facilities for a week or more at a time in a space not defined
3 as a dwelling unit. Group housing includes, but is not limited to, a roominghouse, boarding
4 house, guest house, lodging house, residence club, commune, fraternity and sorority house,
5 monastery, nunnery, convent, and ashram. It also includes group housing operated by a
6 medical or educational institution when not located on the same lot as such institution.

7 (c) Single Room Occupancy (SRO) Unit. A dwelling unit or group housing room
8 consisting of no more than one occupied room with a maximum gross floor area of 350 square
9 feet and meeting the Housing Code's minimum floor area standards. The unit may have a
10 bathroom in addition to the occupied room. As a dwelling unit, it would have a cooking facility
11 and bathroom. As a group housing room, it would share a kitchen with one or more other
12 single room occupancy unit/s in the same building and may also share a bathroom. A single
13 room occupancy building (or "SRO" building) is one that contains only SRO units and non
14 nonaccessory living space.

15
16 Section 4. Other Uncodified Provisions.

17 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
18 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
19 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
20 Supervisors overrides the Mayor's veto of the ordinance.

21 (b) Operative Date. This ordinance shall become operative on February 1, 2015.

22 (c) Undertaking for the General Welfare. In enacting and implementing this
23 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
24 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
25

1 would be liable in money damages to any person who claims that such breach proximately
2 caused injury.

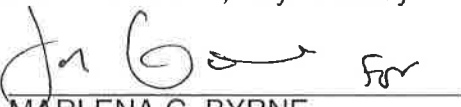
3 (ed) No Conflict with State or Federal Law. Nothing in this ordinance shall be
4 interpreted or applied so as to create any requirement, power, or duty in conflict with any
5 State or federal law.

6 (de) Severability. If any of section, subsection, sentence, clause, phrase or word of
7 this ordinance is for any reason held to be invalid or unconstitutional by a decision of any
8 court of competent jurisdiction, such decision shall not affect the validity of the remaining
9 portions of the ordinance. The Board of Supervisors hereby declares that it would have
10 passed this ordinance and each and every section, subsection, sentence, clause, phrase, and
11 word not declared invalid or unconstitutional without regard to whether any other portion of
12 this ordinance would be subsequently declared invalid or unconstitutional.

13 (ef) Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19
20 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

21
22 By:


MARLENA G. BYRNE
Deputy City Attorney

23
24 n:\egana\as2014\1200498\00963400.doc
25



City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 140381

Date Passed: October 21, 2014

Ordinance amending the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Planning Department, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; amending the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

September 15, 2014 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

September 15, 2014 Land Use and Economic Development Committee - CONTINUED AS AMENDED

September 29, 2014 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

September 29, 2014 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 07, 2014 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

Ayes: 7 - Breed, Chiu, Cohen, Farrell, Kim, Tang and Wiener

Noes: 4 - Avalos, Campos, Mar and Yee

October 07, 2014 Board of Supervisors - DUPLICATED AS AMENDED

October 21, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 21, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 21, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

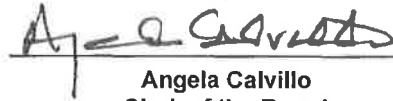
October 21, 2014 Board of Supervisors - FINALLY PASSED

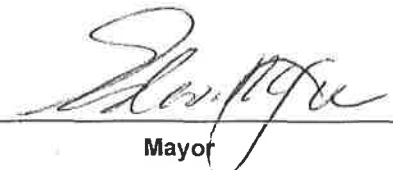
Ayes: 7 - Breed, Chiu, Cohen, Farrell, Kim, Tang and Wiener

Noes: 4 - Avalos, Campos, Mar and Yee

File No. 140381

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
10/21/2014 by the Board of Supervisors of
the City and County of San Francisco.


Angela Calvillo
Clerk of the Board


Mayor


Date Approved



City of Carpinteria

COUNCIL AGENDA STAFF REPORT August 10, 2015

ITEM FOR COUNCIL CONSIDERATION

Pavement Maintenance Project Street Selection Methodology and Authorization to Advertise Project No. 15078 – Citywide Pavement Maintenance Project

STAFF RECOMMENDATION

Action Item X ; Non-Action Item

Authorize Project No. 15068 – Citywide Pavement Maintenance Project with streets selected based on the refined approach (Approach 2) using the StreetSaver Pavement Management Program database and a newly completed field review by Pavement Engineering Incorporated.

Motion: I move to authorize the Department of Public Works to advertise Project No. 15078 – Citywide Pavement Maintenance Project with streets selected based on Approach 2, as discussed in the Staff Report.

BACKGROUND

The City of Carpinteria owns and maintains approximately 28 centerline miles of roadway with approximately 5,411,915 square feet of pavement. The roadway pavement alone (not including other infrastructure such as curb, gutter, and sidewalks) represents an asset with a replacement value of approximately \$70,000,000. A well maintained transportation infrastructure is important to the local economy as well as public safety.

Pavement Management Programs (PMPs) are a way of tracking past, present and future pavement conditions and maintenance projects in a database. All states and most local agencies now have some form of a PMP. To best track data and repair work, many agencies now also implement pavement maintenance plans. A maintenance plan ensures that a city, county or state is prioritizing roadway and street repairs to best serve the community with proposed pavement maintenance projects.

Typically, these projects consist of pothole repair, crack sealing, overlays and slurry seals and in extreme cases, roadway reconstructions.

Pavement Management Programs consist of performing Visual Condition Ratings (VCRs), non-destructive testing and core sampling on selected street segments. The collected data is then entered into a PMP database that will calculate a Pavement Condition Index (PCI) for each roadway segment and for the entire system.

Since 2010, the City of Carpinteria Department of Public Works has been performing visual and non-destructive testing approximately every two to three years. The information is then input into a proprietary subscription based online database software system called StreetSaver. The software database system not only tracks the condition of the City's pavement but it's also a maintenance and budgeting planning tool. As pavement maintenance projects are completed, the new pavement condition is added to the database and a new PCI is calculated by the system.

The Department has completed two major overlay projects and several smaller projects since 2010, overall the City's system-wide PCI has continued to decline from a "very good" starting point of 74 to a "fair" 65. Due to limited funding, the City has followed a strategy of keeping the main roadway arterials such as Carpinteria Avenue in good condition. However, this strategy has not addressed the larger system needs and so the PCI has continued to decline.

In an effort to address the City's larger pavement system maintenance needs, Public Works proposed to the City Council that a pavement rehabilitation project be included in the upcoming Fiscal Year 2015-2016 City of Carpinteria Annual Budget. On May 26, 2015 the City Council authorized the use of \$500,000 of the General Fund Available Fund Balance for a pavement rehabilitation project to be delivered by Public Works in the Fall of 2015. The City Council acknowledged that this was a special onetime allocation and that General Fund surpluses that would allow this type of expenditure are not expected to continue.

DISCUSSION

On April 14, 2014 the Department of Public Works presented the City Council with the results of the recent comprehensive Pavement Management System update. At the time, the Department reported that the overall citywide pavement index was 67 indicating that the pavement, as a whole, is in fair condition. Since that time, the PCI has decreased to 65. To address the City's larger pavement system maintenance needs, Public Works recently proposed adding a pavement maintenance project to the Fiscal Year 2015-2016 City Budget, as previously discussed, and has developed three methodologies for selecting streets to be included in the now budgeted \$500,000 pavement maintenance project. The methodologies are outlined below and a list of streets to receive maintenance and a map for each approach are included in

Attachment A. Please note that streets that will receive treatments are indicated on the maps in pink.

Approach 1 – StreetSaver Database Selection

The City of Carpinteria uses the StreetSaver database program to help manage the pavement system. One of the features of StreetSaver is the ability to select streets for rehabilitation treatments based on a user defined decision tree. The decision tree assigns expected treatment types and costs based on Pavement Condition Indexes ranges for individual street segments. The program uses the street segment's current PCI to assign an appropriate treatment and the associated cost. Once the treatment is assigned to each street, the program will compute a weighted effectiveness ratio based on the selected treatment, the associated cost and the expected service life extension the selected treatment is expected to yield. In other words, the program performs a life-cycle cost analysis for streets that are at the critical point of treatment effectiveness. The program then sorts the City's streets based on the weighted effectiveness ratio. The larger the ratio, the better candidate a street segment is for maintenance (crack seals and slurry seals) or rehabilitation (overlays and reconstructions). The program then selects streets in order until it reaches a determined budget.

Advantages:

- Analytical software based approach for selecting street segments
- Determines best treatment and timing by incorporating "critical-point" selection of streets
- Optimizes street selection and treatment to maximize service life

Disadvantages:

- Methodology tends to select maintenance treatments over rehabilitation treatments to efficiently use funding
- Does not factor in geographical location of streets it selects, which increases contractor mobilization costs

Approach 2 - StreetSaver Database Selection with Updated Visual Inspection

Using the list developed with the first approach above, engineers from Pavement Engineering Incorporated visually inspected all of the streets in Carpinteria. The engineers reviewed the StreetSaver recommendation to confirm the treatment type and they looked for opportunities to combine with other street segments to increase contractor efficiency and reduce mobilization costs. Many of the recommended streets were slightly lower in priority but were recommended because, as a group, the funding will be used as efficiently as possible.

Advantages:

- Incorporates advantages from Approach 1
- Confirms that the right treatment type is being applied at the right time
- Increases contractor efficiency and reduces costs

Disadvantages: - None

Approach 3 – Recent Past Practice

Over the last five years or so, the City has focused the limited available funding on rehabilitation of arterial roadways. This has included overlays and partial reconstructions of portions of Carpinteria Avenue, Santa Ynez Avenue and Casitas Pass Road.

Advantages:

- Keeps the most used streets in better condition and allows more residents and visitors to benefit from the project
- Arterials (major streets) tend to be selected

Disadvantages:

- Does not address streets at the critical point of need
- Does not address the larger system needs
- Tends to ignore local residential streets

The Department of Public Works recommends Approach 2 and proposes that the City Council authorize the Department of Public Works to complete preparation of the plans, specifications and engineer's estimate for Project No. 15078 – Citywide Pavement Maintenance Project and proceed with advertising for construction. All of proposed treatments for the streets discussed herein are either light maintenance or light rehabilitation. Light maintenance will be slurry seals and light rehabilitation will include, as needed, dig-outs areas and combination chip seals with a top slurry seal layers. Streets in Approach 2 are listed below:

Street Name	Begin Location	End Location	Treatment
La Manida St.	Ogan Rd.	North End	Light Rehab.
Mark Ave	Via Real	Cindy Ln.	Light Rehab.
Via Real	Santa Ynez Ave	Bridge	Light Rehab.
Alva St.	End	Shemara St.	Light Maint.
Anita St.	End	El Carro Ln.	Light Maint.
Azalea Dr.	End	El Carro Ln.	Light Maint.
Bailard Ave	Via Real	Bridgedeck (N)	Light Maint.

Bailard Ave	Bridgedeck (S)	Carpinteria Ave/End	Light Maint.
Camellia Cir.	Aragon Dr. (E)	Aragon Dr. (W)	Light Maint.
Carpinteria Ave	End	Rincon Rd.	Light Maint.
Carpinteria Ave	Rincon Rd.	Bailard Ave	Light Maint.
Chapparal Dr.	End	Santa Ynez Ave	Light Maint.
Dahlia Ct.	Aragon Dr.	South End	Light Maint.
Eucalyptus St.	North End	El Carro Ln.	Light Maint.
Haida St.	Shemara St.	North End	Light Maint.
June Ave	Eleanor Dr.	South End	Light Maint.
La Jolla Pl.	North End	El Carro Ln.	Light Maint.
La Paloma Dr.	North End	El Carro Ln.	Light Maint.
La Tierra Ln.	East End	Santa Ynez Ave	Light Maint.
La Tierra Ln.	Santa Ynez Ave	West End	Light Maint.
Manzanita St.	North End	El Carro Ln.	Light Maint.
Mesa Ln.	Santa Ynez Ave	West End	Light Maint.
Noma St.	North End	Shemara St.	Light Maint.
Post Ave	Eleanor Dr.	South End	Light Maint.
Shemara St.	Casitas Pass Rd.	Camino Trillado	Light Maint.
Theresa St.	North End	El Carro Ln.	Light Maint.

To start construction in the Fall of 2015, the Department is proposing the following schedule:

Street and Treatment Selection	August 10, 2015
Authorization to Advertise	August 10, 2015
Advertise for Bids	September 3, 2015
Open Bids	September 22, 2015
Award Contract (City Council)	September 28, 2015
First Working Day	October 5, 2015

The above schedule is highly compressed and aggressive. The project must be delivered prior to the typical cooling change in the weather that occurs at the end of October and into November.

POLICY CONSISTENCY

The Circulation Element of the City's General Plan discusses implementing a PMP to help establish baselines and improvement strategies to repair and replace aging street infrastructure over time. A Pavement Maintenance Project is also listed in the City's Annual Work Program.

FINANCIAL CONSIDERATIONS

The City of Carpinteria has over \$20 million in pavement maintenance needs. To continue to maintain the City's transportation infrastructure, additional funding will need to be identified. The Department of Public Works proposes, as a onetime use, to use \$500,000 of the General Fund Available Fund Balance.

LEGAL

There are no legal issues that pertain to this item.

OPTIONS

The City Council could choose not to authorize advertising of the project with streets selected using Approach 2 and give further direction to staff.

PRINCIPAL PARTIES EXPECTED AT MEETING

There are no principal parties expected at the meeting.

ATTACHMENTS

Attachment A – Street Lists and Maps for Approaches 1, 2 and 3

Staff contact: Charles W. Ebeling, P.E., T.E.
Director of Public Works


Signature

Reviewed by: Dave Durflinger, City Manager


Signature

ATTACHMENT A



City of Carpinteria
5775 Carpinteria Ave
Carpinteria, CA 93013
(805) 684-5405

Scenarios - Sections Selected for Treatment

Interest: .00%

Inflation: .00%

Printed: 08/01/2015

Scenario: APPROACH #1

Year	Budget	% PM	Year	Budget	% PM	Year	Budget	% PM
2015	\$500,000	6%	2016	\$0	0%	2017	\$0	0%
2018	\$0	0%	2019	\$0	0%			

Year: 2015

Street Name	Begin Location	End Location	Street ID	Section	Length	Width	Area	Last Inspected	FC	Surf Type	PCI	Cost	Rating	Treatment
MARK AVE	NORTH END	ROSE LN	MARKAVE	030	1,000	24	24,000	2/5/2013	A	AC	100	\$60,720	40,425	LIGHT REHABILITATION
Treatment Total												\$60,720		
8TH ST	END	OAK AVE	8ST	010	425	38	16,150	2/4/2013	C	AC	100	\$32,695	36,223	HEAVY MAINTENANCE
BAILARD AVE	BIRCH ST	VIA REAL	BAILAAVE	020	690	60	41,400	2/5/2013	A	AC	100	\$83,812	46,806	HEAVY MAINTENANCE
CARPINTERIA AVE	END	RINCON RD	CARPIAVE	010	700	31	21,700	2/5/2013	A	AC	100	\$43,931	50,520	HEAVY MAINTENANCE
CARPINTERIA AVE	ELM AVE	HOLLY AVE	CARPIAVE	100	533	45	23,985	2/5/2013	A	AC	100	\$48,557	43,632	HEAVY MAINTENANCE
LINDEN AVE	BRIDGEDECK (S)	CARPINTERIA AVE	LINDEAVE	050	925	46	42,550	2/4/2013	A	AC	100	\$86,141	43,639	HEAVY MAINTENANCE
MARK AVE	ROSE LN	CINDY LN	MARKAVE	020	620	60	37,200	2/5/2013	A	AC	100	\$75,310	47,802	HEAVY MAINTENANCE
VIA REAL	BRIDGE	SANTA MONICA RD	VIAREAL	020	446	40	17,840	2/4/2013	A	AC	100	\$36,117	46,813	HEAVY MAINTENANCE
Treatment Total												\$406,563		
BAILARD AVE	VIA REAL	BRIDGEDECK (N)	BAILAAVE	030	200	25	5,000	2/5/2013	A	AC	89	\$2,212	49,595	LIGHT MAINTENANCE
LINDEN AVE	EL CARRO LN	NIPOMO DR	LINDEAVE	030	750	46	34,500	2/4/2013	A	AC	88	\$15,257	50,876	LIGHT MAINTENANCE
MARK AVE	VIA REAL	CINDY LN	MARKAVE	010	435	60	26,100	2/5/2013	A	AC	87	\$11,542	51,889	LIGHT MAINTENANCE
WULLBRANDT WAY	LINDEN AVE	CACTUS LN	WULLBWA Y	010	125	50	6,250	2/5/2013	R	AC	85	\$2,764	39,908	LIGHT MAINTENANCE

** - Treatment from Project Selection

Scenarios Criteria:



City of Carpinteria
5775 Carpinteria Ave
Carpinteria, CA 93013
(805) 684-5405

Scenarios - Sections Selected for Treatment

Interest: .00%

Inflation: .00%

Printed: 08/01/2015

Scenario: APPROACH #1

Year 2015 Area Total	296,675
Total Section Area:	296,675

Treatment Total	\$31,775
Year 2015 Total	\$499,058
Grand Total	\$499,058



City of Carpinteria
5775 Carpinteria Ave
Carpinteria, CA 93013
(805) 684-5405

Scenario Years by Treatment

APPROACH #1 - All Treatments - Printed: 8/1/2015

Feature Legend

2015

0 0.1 0.2 0.3 0.4 0.5
Miles





City of Carpinteria
5775 Carpinteria Ave
Carpinteria, CA 93013
(805) 684-5405

Scenarios - Sections Selected for Treatment

Interest: .00%

Inflation: .00%

Printed: 08/01/2015

Scenario: APPROACH #2

Year	Budget	% PM	Year	Budget	% PM	Year	Budget	% PM
2015	\$532,375	0%	2016	\$0	0%	2017	\$0	0%
2018	\$0	0%	2019	\$0	0%			

Year: 2015

Street Name	Begin Location	End Location	Street ID	Section	Length	Width	Area	Last Inspected	FC	Surf Type	PCI	Cost	Rating	Treatment
**LA MANIDA ST	NORTH END	OGAN RD	LAMANST	010	443	32	14,176	2/6/2013	R	AC	100	\$71,731	17,646	LIGHT REHABILITATION
**MARK AVE	VIA REAL	CINDY LN	MARKAVE	010	435	60	26,100	2/5/2013	A	AC	100	\$132,066	12,352	LIGHT REHABILITATION
**VIA REAL	SANTA YNEZ AVE	BRIDGE	VIAREAL	010	611	40	24,440	2/4/2013	A	AC	100	\$123,667	25,352	LIGHT REHABILITATION
Treatment Total												\$327,464		
**ALVA ST	END	SHEMARA ST	ALVAST	010	98	32	3,136	2/6/2013	R	AC	90	\$1,380	33,700	LIGHT MAINTENANCE
**ANITA ST	END	EL CARRO LN	ANITAST	010	426	33	14,058	2/6/2013	R	AC	89	\$6,186	36,668	LIGHT MAINTENANCE
**AZALEA DR	END	EL CARRO LN	AZALEDR	010	500	33	16,500	2/6/2013	R	AC	90	\$7,260	33,700	LIGHT MAINTENANCE
**BAILARD AVE	VIA REAL	BRIDGEDECK (N)	BAILAAVE	030	200	25	5,000	2/5/2013	A	AC	89	\$2,200	49,846	LIGHT MAINTENANCE
**BAILARD AVE	BRIDGEDECK (S)	CARPINTERIA AVE/END	BAILAAVE	040	285	32	9,120	2/5/2013	A	AC	89	\$4,013	48,150	LIGHT MAINTENANCE
**CAMELLIA CIR	ARAGON DR (E)	ARAGON DR (W)	CAMELCIR	010	1,025	35	35,875	2/6/2013	R	AC	90	\$15,785	35,338	LIGHT MAINTENANCE
**CARPINTERIA AVE	END	RINCON RD	CARPIAVE	010	700	31	21,700	2/5/2013	A	AC	72	\$9,548	46,414	LIGHT MAINTENANCE
**CARPINTERIA AVE	RINCON AVE	BAILARD AVE	CARPIAVE	020	4,240	32	135,680	2/5/2013	A	AC	84	\$59,700	53,816	LIGHT MAINTENANCE
**CHAPPARAL DR	END	SANTA YNEZ AVE	CHAPPDR	010	894	37	33,078	2/6/2013	R	AC	92	\$14,555	29,793	LIGHT MAINTENANCE
**DAHLIA CT	ARAGON DR	SOUTH END	DAHLICT	010	244	33	8,052	2/6/2013	R	AC	92	\$3,543	29,793	LIGHT MAINTENANCE
**EUCALYPTUS ST	NORTH END	EL CARRO LN	EUCALST	010	675	37	24,975	2/6/2013	R	AC	92	\$10,989	29,793	LIGHT MAINTENANCE

** - Treatment from Project Selection

Scenarios Criteria:



City of Carpinteria
5775 Carpinteria Ave
Carpinteria, CA 93013
(805) 684-5405

Scenarios - Sections Selected for Treatment

Interest: .00%

Inflation: .00%

Printed: 08/01/2015

Scenario: APPROACH #2

Year: 2015

Street Name	Begin Location	End Location	Street ID	Section	Length	Width	Area	Last	Surf		Cost	Rating	Treatment	
								Inspected	FC	Type				PCI
**HAIDA ST	SHERMARA ST	NORTH END	HAIDAST	010	156	32	4,992	2/6/2013	R	AC	88	\$2,197	37,819	LIGHT MAINTENANCE
**JUNE AVE	ELEANOR DR	SOUTH END	JUNEAVE	010	245	32	7,840	2/6/2013	R	AC	89	\$3,450	36,668	LIGHT MAINTENANCE
**LA JOLLA PL	NORTH END	EL CARRO LN	LAJOLPL	010	233	33	7,689	2/6/2013	R	AC	90	\$3,384	33,700	LIGHT MAINTENANCE
**LA PALOMA DR	NORTH END	EL CARRO LN	LAPALDR	010	552	33	18,216	2/6/2013	R	AC	85	\$8,016	40,109	LIGHT MAINTENANCE
**LA TIERRA LN	EAST END	SANTA YNEZ AVE	LATERLN	010	172	33	5,676	2/6/2013	R	AC	92	\$2,498	29,793	LIGHT MAINTENANCE
**LA TIERRA LN	SANTA YNEZ AVE	WEST END	LATERLN	020	470	33	15,510	2/6/2013	R	AC	92	\$6,825	29,793	LIGHT MAINTENANCE
**MANZANITA ST	NORTH END	EL CARRO LN	MANZAST	010	575	37	21,275	2/6/2013	R	AC	91	\$9,361	31,858	LIGHT MAINTENANCE
**MESA LN	SANTA YNEZ AVE	WEST END	MESALN	010	337	33	11,121	2/6/2013	R	AC	92	\$4,894	29,793	LIGHT MAINTENANCE
**NOMA ST	NORTH END	SHEMARA ST	NOMAST	010	138	32	4,416	2/6/2013	R	AC	92	\$1,944	29,793	LIGHT MAINTENANCE
**POST AVE	ELEANOR DR	SOUTH END	POSTAVE	010	259	32	8,288	2/6/2013	R	AC	92	\$3,647	29,793	LIGHT MAINTENANCE
**SHEMARA ST	CASITAS PASS RD	CAMINO TILLADO	SHEMAST	010	1,080	37	39,960	2/6/2013	R	AC	89	\$17,583	36,668	LIGHT MAINTENANCE
**THERESA ST	NORTH END	EL CARRO LN	THERST	010	410	33	13,530	2/6/2013	R	AC	92	\$5,954	29,793	LIGHT MAINTENANCE
Treatment Total											\$204,912			
Year 2015 Area Total							530,403		Year 2015 Total			\$532,376		
Total Section Area:							530,403		Grand Total			\$532,376		

** - Treatment from Project Selection

Scenarios Criteria:



City of Carpinteria
5775 Carpinteria Ave
Carpinteria, CA 93013
(805) 684-5405

Scenario Years by Treatment

APPROACH #2 - All Treatments - Printed: 8/1/2015

Feature Legend

2015

0 0.1 0.2 0.3 0.4 0.5
Miles





City of Carpinteria
5775 Carpinteria Ave
Carpinteria, CA 93013
(805) 684-5405

Scenarios - Sections Selected for Treatment

Interest: .00%

Inflation: .00%

Printed: 08/01/2015

Scenario: APPROACH #3

Year	Budget	% PM	Year	Budget	% PM	Year	Budget	% PM
2015	\$511,268	0%	2016	\$0	0%	2017	\$0	0%
2018	\$0	0%	2019	\$0	0%			

Year: 2015

Street Name	Begin Location	End Location	Street ID	Section	Length	Width	Area	Last Inspected	FC	Surf Type	PCI	Cost	Rating	Treatment
**MARK AVE	VIA REAL	CINDY LN	MARKAVE	010	435	60	26,100	2/5/2013	A	AC	100	\$132,066	12,352	LIGHT REHABILITATION
**VIA REAL	SANTA YNEZ AVE	BRIDGE	VIAREAL	010	611	40	24,440	2/4/2013	A	AC	100	\$123,667	25,352	LIGHT REHABILITATION
Treatment Total												\$255,733		
**BAILARD AVE	VIA REAL	BRIDGEDECK (N)	BAILAAVE	030	200	25	5,000	2/5/2013	A	AC	89	\$2,200	49,846	LIGHT MAINTENANCE
**BAILARD AVE	BRIDGEDECK (S)	CARPINTERIA AVE/END	BAILAAVE	040	285	32	9,120	2/5/2013	A	AC	89	\$4,013	48,150	LIGHT MAINTENANCE
**CARPINTERIA AVE	END	RINCON RD	CARPIAVE	010	700	31	21,700	2/5/2013	A	AC	72	\$9,548	46,414	LIGHT MAINTENANCE
**CARPINTERIA AVE	RINCON AVE	BAILARD AVE	CARPIAVE	020	4,240	32	135,680	2/5/2013	A	AC	84	\$59,700	53,816	LIGHT MAINTENANCE
**CARPINTERIA AVE	LINDEN AVE	ELM AVE	CARPIAVE	090	377	45	16,965	2/5/2013	A	AC	81	\$7,465	53,127	LIGHT MAINTENANCE
**CARPINTERIA AVE	ELM AVE	HOLLY AVE	CARPIAVE	100	533	45	23,985	2/5/2013	A	AC	78	\$10,554	51,429	LIGHT MAINTENANCE
**CARPINTERIA AVE	HOLLY AVE	7TH ST/ SANTA YNEZ AV	CARPIAVE	110	1,867	58	108,286	2/5/2013	A	AC	87	\$47,646	52,151	LIGHT MAINTENANCE
**LINDEN AVE	EL CARRO LN	NIPOMO DR	LINDEAVE	030	750	46	34,500	2/4/2013	A	AC	88	\$15,180	51,133	LIGHT MAINTENANCE
**LINDEN AVE	NIPOMO DR	BRIDGEDECK (N)	LINDEAVE	040	575	46	26,450	2/4/2013	A	AC	89	\$11,638	49,857	LIGHT MAINTENANCE
**LINDEN AVE	CARPINTERIA AVE	8TH ST	LINDEAVE	060	685	53	36,305	2/4/2013	A	AC	89	\$15,975	48,163	LIGHT MAINTENANCE
**LINDEN AVE	8TH ST	6TH ST	LINDEAVE	070	615	53	32,595	2/4/2013	A	AC	91	\$14,342	44,058	LIGHT MAINTENANCE

** - Treatment from Project Selection

Scenarios Criteria:



City of Carpinteria
5775 Carpinteria Ave
Carpinteria, CA 93013
(805) 684-5405

Scenarios - Sections Selected for Treatment

Interest: .00%

Inflation: .00%

Printed: 08/01/2015

Scenario: APPROACH #3

Year: 2015

Street Name	Begin Location	End Location	Street ID	Section	Length	Width	Area	Last Inspected	FC	Surf Type	PCI	Cost	Rating	Treatment
**LINDEN AVE	6TH ST	RAILROAD TRACKS	LINDEAVE	080	390	53	20,670	2/4/2013	A	AC	89	\$9,095	48,163	LIGHT MAINTENANCE
**SANTA YNEZ AVE	VIA REAL	CARPINTERIA AVE	SANYNAV E	010	925	37	34,225	2/4/2013	A	AC/A C	94	\$15,059	71,809	LIGHT MAINTENANCE
**VIA REAL	SANTA MONICA RD	SANDYLAND REEF INN/ COP	VIAREAL	030	1,056	40	42,240	2/4/2013	A	AC	89	\$18,586	48,163	LIGHT MAINTENANCE
**VIA REAL	CRAVENS LN	CITY LIMITS/ COP	VIAREAL	060	847	39	33,033	2/4/2013	A	AC	88	\$14,535	51,133	LIGHT MAINTENANCE
Treatment Total												\$255,536		
Year 2015 Area Total						631,294	Year 2015 Total				\$511,269			
Total Section Area:						631,294	Grand Total				\$511,269			

** - Treatment from Project Selection

Scenarios Criteria:



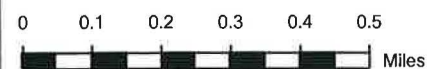
City of Carpinteria
5775 Carpinteria Ave
Carpinteria, CA 93013
(805) 684-5405

Scenario Years by Treatment

APPROACH #3 - All Treatments - Printed: 8/1/2015

Feature Legend

2015



50th Year



Golden Jubilee

City of Carpinteria

COUNCIL AGENDA STAFF REPORT August 10, 2015

ITEM FOR COUNCIL CONSIDERATION

An update by the 50th Anniversary Committee on community events and activities being planned and carried out to recognize and celebrate the 50th anniversary of City incorporation.

STAFF RECOMMENDATION

Action Item _X_ ; Non-Action Item ___

Receive a report on events and activities to date and those being planned to commemorate the City's 50th Anniversary of incorporation.

Motion: I move to receive and file the 50th Anniversary Committee report.

BACKGROUND

This year the City of Carpinteria celebrates its 50th year of incorporation. The incorporation anniversary date is September 28. In January, the City Council appointed a 50th Anniversary Committee and established a budget of \$27,700 (attached). The Committee has been meeting regularly since then to develop and implement plans for various events and activities aimed at recognizing the community milestone. In April, the City Council received a report from the Committee, approved the 50th Anniversary seal, via Resolution No. 5608, and authorized sending letters to local, state and federal officials in order to properly announce and publicize the anniversary.

DISCUSSION

The following is a brief description of events and activities completed, ongoing and coming.

50th Anniversary Seal. With the help of local artist, John Wullbrandt, and consent of the original artist, Robert Perez, a special 50th Anniversary Seal was designed and has been in use as the City's official seal for all City business since April 2015.

Recognition at Community Events. With the help of John Wullbrandt and the Carpinteria High School Future Farmers of America (FFA) Club, a 50th Anniversary entry was a part of the 2014 Holiday Parade and 2015 Independence Day Parade. The Carpinteria Valley Chamber of Commerce included the 50th Anniversary as a part of its theme for its annual community meeting in January. The annual Rotary Club of Carpinteria Talent Show that benefits local school music programs included the 50th Anniversary theme and spawned the Club's instrument donation drive, "50 Instruments for the 50th". A panel discussion on Carpinteria history since incorporation, which included John Wullbrandt, Matt Roberts and Silvia Echeverria, was a part of The Friends of the Library annual meeting in May.

Upcoming events being planned include a September 28 film event at the Carpinteria Playhouse Theatre where the 50th Anniversary video being prepared by Nimmer Pictures will be played as well as historical home movies of former Mayor and City Council member Ernest C. Wullbrandt. Finally, the 50th Anniversary Jubilee Celebration, a street party, is scheduled for the evening of Thursday, October 1, 2015, on Linden Avenue. The event is being planned by volunteers and the California Avocado Festival.

Gifts. The Carpinteria Beautiful organization announced in June that in commemoration of the City's 50th anniversary it was gifting a porcelain sign suitable for permanent display on the front wall of City Hall. The California Avocado Festival has donated two 50th Anniversary logo signs for installation on the City Welcome signs.

Official Communications. A letter, approved for distribution by the City Council, has been mailed to local, state and federal officials in the region announcing the anniversary milestone and inviting officials to anniversary events.

News and Promotion. Monthly Coastal View News column by Eydie Kaufman, Coastal View News centerspread sections, Carpinteria Magazine articles, Summer 2015, interviews with David Griggs and Guy and Carmen Robitaille, Chamber of Commerce 2015 Destination Guide/Business Directory information on 50th Anniversary, and a planned Coastal View News insert to include information about events the week prior to the September 28, 2015 anniversary date.

Historical Recognitions. The Carpinteria Valley Historical Society Museum has created a display of City anniversary memorabilia. The display tells the story of City incorporation and reflects on past anniversary celebrations. Also, the 50th Anniversary Committee has approved pursuing the creation of a time capsule with details to be determined.

Video Project: Nimmer productions (Larry Nimmer) was hired to develop and complete this project, which includes interviews and information about the early history of the City and a decade-by-decade review. The project is well underway and scheduled to be completed by September.

Street Banners: A special 50th anniversary banner program has been developed. The banners are two-sided and include the 50th anniversary logo on a field of purple on one side and white on the opposite along with the sponsor name. Each banner sponsor will receive their banner when the program sunsets after the City anniversary.

Merchandise: Ideas for merchandise are being discussed by the Committee. A 50th anniversary pin has been ordered. It is likely that the Avocado Festival and other organizations will incorporate the 50th anniversary theme in their products over the remainder of the year.

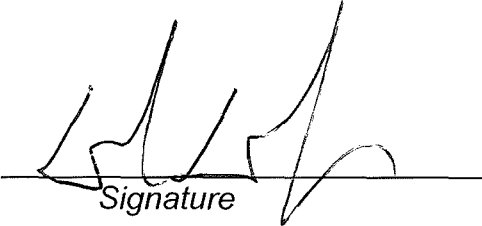
FINANCIAL CONSIDERATIONS

The City Council approved budget for the Committee's work is \$27,700. The largest expense will be the Jubilee Celebration street party on October 1, 2015. The City's portion of costs is expected to be within the range of \$12-15,000, which is within the budget amount.

PRINCIPAL PARTIES EXPECTED AT MEETING

50th Anniversary Committee members

Staff contact: Dave Durflinger
(805 684-5405, daved@ci.carpinteria.ca.us)



Signature