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Cracking the Airbnb Conundrum: Creating Meaningful Short-Term Rental Regulations that Achieve Your Municipality's Regulatory Goals and Encourage Innovation

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Cracking the Airbnb Conundrum: Creating Meaningful Short-Term Rental Regulations that Achieve Your Municipality's Regulatory Goals and Encourage Innovation.

Over the past three years, the short-term rental industry, like its sibling the ride-sharing industry, has seen both an explosive rate of growth and a corresponding legislative reaction from municipalities across the country. Use of known platforms such as Airbnb, VRBO, and HomeAway has soared, and European companies like OneFineStay, Wimdu, and Housetrip have developed a stronger presence in the United States. Cities have responded swiftly, setting the ground rules for where, how often, and for how long one may offer a residential unit for short-term stays. For the most part, the debate no longer centers on the question of whether cities should prohibit short-term rentals, but rather how they can effectively regulate short-term rental use in a way that both achieves their policy goals and encourages compliance. Where cities' efforts to discuss, draft, and amend their short-term rental policies are the subject of daily news stories, it is clear that the topic continues to polarize groups of stakeholders with diverse interests.

Cities and towns attempting to regulate short-term rentals assume a burdensome task: to regulate an industry that occurs largely in private residences, yet creates impacts felt by next-door neighbors and the hotel industry alike. The fact that some early adopters of short-term rental policies are now engaged in their second or third round of legislative amendments highlights both the complexity of the issue and the reality that the debate does not end once the regulations are enacted. Last November, San Francisco voters rejected by a margin of 55% to 45% a ballot question that would have amended the city's short-term rental ordinance by limiting short-term rental use of a property to 75 days a year, prohibiting in-law units, and requiring more notification to abutters and reports to the city.[1] The measure generated renewed debate on whether and how to regulate short-term rentals, even though the initial regulations (also the subject of much heated discussion) had been in place for over a year.[2] After having

[1] Carolyn Said, *Prop F: S.F. Voters Reject Measure to Restrict Airbnb Rentals*, SFGate, http://www.sfgate.com/bayarea/article/Prop-F-Measure-to-restrict-Airbnb-rentals-6609176.php (Nov. 4, 2015).

[2] A review of the paid arguments for either side of Prop F highlights the divisiveness of the issue, with neighborhood associations, hotel workers, environmental and housing advocates, and real estate industry organizations advocating in favor of the measure, and business organizations, individual residents and Airbnb arguing against it. See City and County of San Francisco, Department of Elections *Voter Information Pamphlet, Local Ballot Measures - Proposition F*, http://sfpl.org/index.php?pg=2000126101 (Nov. 2015).

passed amendments to its short-term rental regulations and having placed a moratorium on new short-term rentals of single-family homes this past fall, the City of Austin continues to consider further ways to strengthen its enforcement powers.[3] And in Wisconsin, a state bill proposes to preempt municipal regulation of the duration and frequency of short-term rental use, potentially invalidating local ordinances already in place.[4]

Additionally, as the short-term rental industry has hit its stride, the effects of municipal regulations are reaching the "short-term rental support industry" which provides services to both property owners and short-term rental hosts. Now, a municipality's regulations affect not only hosts and the online platforms facilitating short-term rental transactions, but also the booking management, concierge, and cleaning companies that specialize in short-term rentals.

With new cities adopting regulations daily, capturing a complete and up-to-date snapshot of the short-term rental regulatory landscape is nearly impossible. However, a review of some recently enacted regulations reveals the diverse methods cities have employed to address the most common challenge municipalities face in regulating short-term rental use: balancing the desire to preserve affordable housing, ensure guest safety, and establish industry equity with the need to avoid over-regulation, encourage compliance, and in more and more cases, to support innovation in established industries. While acknowledging that the business of reconciling these conflicting objectives can be a seemingly impossible task, this paper highlights ways that some cities have tackled these issues, raises some enforcement challenges and discusses long-standing and new business models that might be affected by the strength and reach of your municipality's regulation.

I. Mitigating the Commercial Impacts of Short-Term Residential Rentals

The premise underlying many cities' short-term rental policies is that short-term rental use is a residential use of property that when conducted on a certain scale, creates larger-scale impacts that more closely resemble commercial enterprises, thus requiring municipal intervention. Specifically, the idea is that when concentrated in residential areas, or when conducted for a certain number of

[3] Michael Theis, *Austin to Weigh Controversial Short-Term Rental Rules; Here are the Details HomeAway Dislikes*, Austin Bus. J., http://www/bizjournals.com/austin/blog/real-estate/2016/01/austin-to-weigh-controversial-short-term-rental.html (Jan. 28, 2016).
[4] Jeff Glaze, *Wisconsin Airbnb Bill Threatens Affordable Housing, Says Madison Mayor*, GovTech Social, http://www.govtech.com/social/Wisconsin-Airbnb-Bill.html (Feb. 11, 2016).

days per year, short-term rental use may rise to such a level that it creates lasting "commercial" impacts, in the form of depleted or overpriced housing stock, reduced hotel use, or neighborhood disruption.[5] The extent of the impact and thus the level of mitigation needed, however, are often unclear. While Airbnb has claimed that as many as 75% of hosts on its platform in New York City only rent one unit,[6] or that hosts use its platform primarily as a way to earn extra income to pay their mortgages,[7] other statistics paint a different picture. A January 2016 study by The Pennsylvania State University and the American Hotel & Lodging Association found that in the twelve major U.S. cities analyzed between 2014 and 2015, operators of two or more units accounted for nearly 40% of revenue on Airbnb, while operators renting for 360 or more days a year accounted for nearly 30%, suggesting that the use falls closer to the "commercial" end of the spectrum.[8] And yet another study, conducted by CBRE Hotels in the same time period, found that short-term rentals had an almost negligible impact on hotels, suggesting that the use falls far short of disrupting the established lodging industry.[9] Whether these studies reflect a bias on the part of their authors or not, they highlight the difficulty in obtaining an accurate account of short-term rental use and its effect on existing residential and commercial uses.

Individual cities, however, have generally focused their efforts on developing regulations that aim to lessen the impact of short-term rental use in residential districts, either by limiting the density of the use, restricting the type of short-term rental that a host may offer, or controlling the frequency with which a host may use a property as a short-term rental. The methods they employ result in varying levels of restriction on the amount of short-term rental activity allowed. For example, the City of Boulder, whose short-term rental regulations took effect on January 4, 2016, only permits short-term rental use in a host's principal

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[5] City of New Orleans Planning Commission, *Short Term Rental Study* 73-74 (January 19, 2016), http://www.nola.gov/city-planning/major-studies-and-projects/short-term-rental-study.

[6] Jennifer Fermino, *Airbnb Releases Data on NYC Apartments, but City officials Believe Info is Incomplete,* Daily News, http://www.nydailynews.com/new-york/nyc-airbnb-users-breaking-law-report-article-1.2451722 (Dec. 2, 2015).

[7] David Hantman, *Airbnb and Housing*, http://publicpolicy.airbnb.com/author/david-hantman/page/3 (Feb. 13, 2014) (noting people depend on Airbnb to help pay their bills).

[8] Dr. John W. O'Neill and Yuxia Ouyang, *From Air Mattresses to Unregulated Business: An Analysis of the Other Side of Airbnb*, (The Pennsylvania State University Jan. 2016).

[9] Jamie Lane and R. Mark Woodworth, *The Sharing Economy Checks In: An Analysis of Airbnb in the United States; Implications on Traditional Hotel Development and Market Performance Going Forward* (CBRE Hotels' Americas Research, Jan. 2016) (finding that out of 59 markets for which hotel revenue data was available, Airbnb generated 2% or more of hotel revenue in only 15 markets).

residence or in an accessory unit, regardless of where the unit is located.[10] The City of Philadelphia, for the express purpose of ensuring that short-term rental use does not create a nuisance in surrounding neighborhoods, allows "limited lodging" as accessory use of a dwelling unit, either for fewer than 91 days per year (requiring no use permit) or for between 91-180 days per year (conducted by the unit's permanent resident and requiring a use permit).[11] The City of Austin, one of the first major cities to adopt short-term rental regulations, allows short-term rentals in both residential and commercial districts, but restricts the density of the use depending upon the type of short-term rental: short-term rentals of entire units in single-family, detached dwellings may occur in no more than 3% of those units in the property's census tract, while short-term rentals of entire units located in multifamily dwellings may occur in no more than 3% of the units in any one building if the building is in a non-commercial district, or 25% if the building is in a commercial district.[12] And the City of New Orleans' Planning Commission, which recently sent its short-term rental study to its city council for consideration, proposes a hybrid approach, imposing varying restrictions according to the frequency of the rental use and the location of the unit.[13] Under the proposal, accessory short-term rental use of a dwelling where the resident is present would be largely unrestricted, while short-term rental use of a full unit would be limited to 30 days per year.[14] Rental of full units in residential districts for more than 30 days per year would require zoning relief, while rental of full units in commercial districts would be subject to limited restrictions.[15]

The method that your municipality uses to address short-term rental impacts will be based on a number of considerations, including specific policy goals, zoning policies, existing laws, and stakeholder interests. However, as the above examples demonstrate, there is an array of possible approaches that cities can employ to allow short-term rental use while still limiting its commercial and neighborhood-disrupting effects.

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[10] In addition, only owners may serve as hosts of a short-term rental. Boulder Rev. Code (Colo.), § 10-3-19 (current through Feb. 18, 2016), https://www.municode.com/library/co/boulder/codes/municipal_code?nodeId=TIT10ST_CH3RELI_10-3-19SHRMRE.

[11] City of Philadelphia Bill No. 150441-A (June 18, 2015), https://phila.legistar.com/LegislationDetail.aspx?ID=2284628&GUID=BD14B7C9-3FBB-4DD3-8932-90DC4AEABC8E&Options=ID|Text|&Search=limited+lodging.

[12] City of Austin Ordinance No. 20130926-144 Sept. 26, 2013), http://www.austintexas.gov/page/short-term-rental-types

[13] City of New Orleans Planning Commission, Short Term Rental Study (January 19, 2016) pp. 86-87, http://www.nola.gov/city-planning/major-studies-and-projects/short-term-rental-study/

[14] *Id.*

[15] *Id.*

II. Considering Enforcement Challenges

Drafting regulations restricting short-term rental use is (comparatively) easy; ensuring that those regulations allow for effective enforcement by a municipality that likely has limited resources is not. This is especially true where short-term rental use is one that occurs primarily in private homes and apartments and is more difficult to control. Cities whose short-term regulations have been in place for several years are still working to improve the success of their enforcement efforts by both strengthening their enforcement powers and by relying on the online platforms that facilitate short-term rental transactions to aid in the enforcement process. The City of Austin, whose code department has succeeded in bringing 72% of investigated units into compliance with its short-term rental ordinance since 2012, still faces the challenge of identifying illegally operating short-term rentals.[16] In July 2015, the city began a pilot program to tighten enforcement efforts, assigning a squad of code employees to overnight weekend shifts to identify potential violators.[17] Information gathered during the pilot stage led the city to propose revisions to its regulations to prevent hosts from advertising a short-term rental prior to obtaining a license, to increase the distance between short-term rentals in single-family residences, to require hosts to certify that their units meet city codes, and to phase out short-term rentals in single-family or duplex properties entirely by 2022.[18]

Three months after the City of Portland, Oregon passed its initial short-term rental regulations, requiring short-term rental hosts to obtain a permit and to collect and remit transient lodging tax, only 4% of hosts had applied for a permit.[19] Two months later, compliance hovered at 7%.[20] As a result, in January

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[16] Natalia Ciolko, *Housing Heartburn or Marijuana?* The Austin Chronicle, at: http://www.austinchronicle.com/news/2015-02-27/housing-heartburn-or-marijuana (Feb. 27, 2015).

[17] Alicia Inns, *Austin City Council Continues Short-Term Rental Talks*, KXAN, http://www.kxan.com/2015/08/13/city-council-continues-short-term-rental-talks (Aug. 13, 2015).

[18] Michael Theis, *Austin to Weigh Controversial Short-Term Rental Rules; Here are the Details HomeAway Dislikes*, Austin Business Journal, at: http://www/bizjournals.com/austin/blog/real-estate/2016/01/austin-to-weigh-controversial-short-term-rental.html (Jan. 28, 2016). On Tuesday, February 23, 2016, the city council voted to adopt most of the proposed revisions. See Mary Huber, *Austin City Council Votes to Phase Out Some Short-Term Rentals*, My Statesman, http://www.mystatesman.com/news/news/local/austin-council-moves-toward-phasing-out-some-short/nqWq9/ (Feb. 23, 2016).

[19] Gabriella Dunn, *The City Has No System to Ensure Airbnb Rentals Undergo Inspections*, Willamette Week, http://www.wweek.com/portland/article -23476-safety_last.html (Nov. 4, 2014).

2015, the city amended its ordinance, citing the city's inability to effectively enforce its ordinance where online platforms had refused to provide the names and addresses of hosts in the city.[21] As amended, the ordinance required booking agents to collect and remit the appropriate lodging tax, to provide physical addresses of short-term rentals and hosts' names, and to list the city-issued permit number on its online listings.[22] In the fall of 2015, after the online platforms had largely failed to respond to warning letters from the city, the city sued the most egregious violator, HomeAway,[23] for failing to collect and remit lodging tax and for failing to disclose the names and addresses of Portland hosts.[24] HomeAway, in response, moved to dismiss the suit, arguing that the city did not have the authority to regulate booking agents and that requiring names and addresses on demand violated the Fourth Amendment's prohibition against unreasonable searches.[25] While the city noted that both Airbnb and HomeAway had failed to collect the required transient lodging tax, it stated that Airbnb had been "the most cooperative with the city," agreeing to provide the city with local host addresses for tax audit purposes and to create a specific field in its listings for hosts to list their permit numbers.[26]

Perhaps in response to criticism by cities that the online platforms do not do enough to aid cities in enforcing their short-term rental restrictions, in November 2015 Airbnb issued its Community Compact, a pledge to work with municipalities to encourage compliance by educating hosts about cities' short-term rental regulations, assisting in the collection of hotel occupancy taxes,

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[20] Mike Francis, *Council Approves Short-Term Rentals in Multiunit Buildings; Defers on Enforcement*, The Oregonian/OregonLive, http://www.oregonlive/business/index.ssf/2015/01/council_approves_short-term_re.html (Jan. 14, 2015). In addition, the city also approved short-term rental use of apartments, condominiums, and multi-unit buildings.

[21] Steve Law, *Portland to Crack Down on Airbnb Hosts Who Fail to Get Permits*, Portland Tribune, http://portlandtribune.com/pt/9-news/247793-116145-portland-to-crack-down-on-airbnb-hosts-who-fail-to-get-permits (Jan. 21, 2015).

[22] Portland City Code (Or.) § 6.04.040, 6.04.170 (Oct. 16, 2015), http://www.portlandonline.com/auditor/index.cfm?c=28805&a=553894.

[23] Shelby R. King, *The City is Finally Suing a Short-Term Rental Company, and It's Not Airbnb. Update: But Wait! Airbnb Has Been Warned to the Tune of Nearly $1 Million*, Portland Mercury, http://m.portlandmercury.com/BlogtownPDX/archives/2015/10/21/the-city-is-finally-suing-a-short-term-rental-company-and-its-not-airbnb (Oct. 21, 2015).

[24] *Id.*

[25] See Defendants' Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim Upon Which Relief May be Granted, *City of Portland v. HomeAway.com, Inc., et al.*, 2015 WL 9275052 (D. Or. Nov. 13, 2015) (No. 3:15-cv-01984-MO). As of this writing, the court has not yet heard or ruled on the motion.

[26] *Id.*

providing anonymized data, and releasing reports of aggregated data for municipal planning purposes.[27] The question of whether and to what extent these commitments will result in concrete changes in the ways that Airbnb and other online platforms partner with cities remains. However, the future of effective enforcement may likely depend not only on these companies' willingness to share their resources, but also on cities' abilities to take proactive steps to strengthen their enforcement powers and to find their own creative ways to root out violators.[28]

III. The Overinclusiveness Problem: Will Existing Uses Be Caught in Your Short-Term Rental Regulation?

Short-term rental regulations--like any regulatory scheme that expressly defines specific terms--risk sweeping existing business models and uses (or not yet contemplated ones) into the restrictions applicable to "short-term rentals." As cities attempt to draw the line between "residential" and "commercial" use in arriving at a definition of what constitutes "short-term rental" use of property, some amount of overinclusion or underinclusion is inevitable.[29] Whether your municipality is willing to accept the parameters of a proposed definition of "short-term rental" use depends on a number of legal and political factors. However, it is important to consider how your proposed definition (or exemptions from that definition) may positively or negatively affect both existing and new business models. For example, the commercial landlord who leases a high percentage of units in one building as corporate housing may not welcome regulations that define it as a short-term rental operator. On the other hand, the bed and breakfast owner who must currently apply for zoning relief to operate may be in favor of a regulation that replaces "bed and breakfast" use with a "short-term rental" use that eliminates the need for a permit. The property owner who purchases blighted property for the specific purpose of renting it for short-term rental use may seek to

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[27] Airbnb, *The Airbnb Community Compact*, http://publicpolicy.airbnb.com/compact (Nov. 11, 2015).

[28] For example, in April 2016, the City of Amsterdam, without the assistance of Airbnb, will begin scraping data from Airbnb's booking system to track hosts flouting the city's short-term rental regulations. See *Amsterdam to Spend €1m on Illegal Airbnb Clampdown*, DutchNews.nl, http://www.dutchnews.nl/news/archives/2016/02/amsterdam-to-spend-e1m-on-illegal-airbnb-clampdown (Feb. 16, 2016).

[29] Jimmy Thomson, *Airbnb in Apartment Blocks; Where do you Draw the Line?* Domain, www.domain.com/au/news/airbnb-in-apartment-blocks-where-do-you-draw-the-line-20160208-gmo6n2 (Feb. 13, 2016).

be exempted from your regulations.[30] And matters may be further complicated if businesses traditionally excluded from the definition of "short-term rental" use, such as hotels, seek to use online platforms to advertise some of their properties for short-term stays.[31]

The ambiguity lies in the fact that the distinctions between the definitions of existing uses and short-term rental uses that a municipality seeks to regulate are slight, therefore making it difficult to draw the line between residential and commercial use and the requirements for each. Two of the most common existing uses that are vulnerable to inclusion in a municipality's short-term rental regulations--corporate housing and bed and breakfasts-- are prime examples of this uncertainty.

Under the traditional corporate housing model, a business entity leases residential dwelling units, most often in multi-family structures, and then sub-leases them for both short and long-term occupancy by employees or clients seeking temporary housing.[32] Although these units are subject to long-term leases with the owner or corporate housing agent, the short-term sub-leases to customers, previously unregulated, may be vulnerable to inclusion in a short-term rental regulatory scheme. In addition, as both owners and operators of corporate housing see the value in marketing these units as short-term rentals to a wider audience, they are partnering with online platforms to market and in some cases to manage the rentals.[33]

For those municipalities that allow different levels of short-term rental activity in commercial or mixed use and residential zoning districts, existing

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[30] In New Orleans, one early proposal advocated providing exemptions to the city's short-term regulations for those willing to fix up blighted properties. See *New Airbnb Plan Would Allow Short-Term Rentals but not of Entire Properties in New Orleans*, The Advocate (noting consideration of proposal to allow those fixing up blighted home to use it exclusively for short-term rentals for couple years), http://theadvocate.com/news/neworleans/neworleansnews/12761876-93/new-airbnb-plan-would-allow (Jun 27, 2015).

[31] Stephen R. Miller, *First Principles for Regulating the Sharing Economy*, Harv. J. on Legis. 17 (forthcoming) (February 20, 2015 draft) (arguing that with legalization of short-term rental existing market participants like hotels might seek to enter the short-term rental market).

[32] *Redwood City Slaps Corporate Housing Providers Downtown with Cease and Desist Letters*, Silicon Valley Business Journal, http://www.bizjournals.com/sanjose/news/2015/11/16/redwood-city-slaps-corporate-housing-providers.html (Nov. 16, 2015).

[33] Rey Mashayekhi, *Three Biggest U.S. Resi Landlords are in Talks with Airbnb*, The Real Deal New York Real Estate News, http://therealdeal.com/2015/12/15/three-biggest-u-s-landlords-are-in-talks-with-airbnb (Dec. 15, 2015).

corporate housing may not be affected by a short-term rental regulation. For example, the City of New Orleans proposes four different short-term rental types, allowing a "commercial short term rental," as an allowed use in every non-residential district where residential uses are permitted.[34] In Austin, short-term rentals of units in multi-family structures that are located in non-commercial districts are restricted to 3% of the dwelling units in a structure, while the use may occur in 25% of the dwelling units in a building in a commercial district.[35] And the City of Chicago expressly excludes "corporate housing" from its definition of "shared housing units," dwelling units offered for transient occupancy and for which short-term rental use is limited to 90 days per year.[36] On the other hand, municipalities that limit the number of days a unit may be offered for short-term rental use or that require the operator to be a permanent resident of the unit, regardless of the zoning district in which it is located, may effectively prohibit corporate housing use. As the corporate housing market seeks to distinguish itself from traditional short-term rental use, it may demand that municipalities clarify where corporate housing falls in their regulatory schemes.

A "bed and breakfast" is another use common in many municipal zoning codes and is defined in a way that resembles many short-term rental arrangements. Most often, bed and breakfast use is defined as the rental for transient occupancy of a room in an owner-occupied residential structure, where the operator provides breakfast. The use, however, is generally considered a commercial use rather than a residential one and often requires zoning relief in residential districts. Drafting to either distinguish the use or to change its definition to accommodate the new concept of short-term rental use thus requires municipalities to create slight variations among the uses. The City of Sacramento, in its recent code amendments allowing short-term rental use, modifies its definition of "bed and breakfast" to eliminate existing "owner-occupied" and

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[34] City of New Orleans Planning Commission, *Short Term Rental Study* 57 (January 19, 2016), http://www.nola.gov/city-planning/major-studies-and-projects/short-term-rental-study.

[35] Austin City Code (Tex.) § 25-2-790; 25-2-791(C)(4)-(5) (current through Jan. 27, 2016), https://www.municode.com/library/tx/austin/codes/code_of_ordinances?nodeId=TIT25LADE_CH25-2ZO_SUBCHAPTER_CUSDERE_ART4ADRECEUS_SPCRESHRMREUS_S25-2-790SHRMRETY3RE.

[36] Chicago, Ill. Ordin. O2016-709 §§ 4-6-300, 4-9-010, https://chicago.legistar.com/LegislationDetail.aspx?ID=2567010&GUID=369DCAA5-8470-402C-A72B-43BD1C4E2180 (Feb. 10, 2016) ("'corporate housing' means a dwelling unit owned or leased by a business entity that is available for rent for transient occupancy solely by the business entity's officers, employees, family members of the officers or employees, consultants, vendors or contractors").

maximum length of stay requirements, and then allows bed and breakfast use in residential districts with appropriate zoning relief.[37] A "short-term rental" is a type of bed and breakfast use not requiring zoning relief, if it is limited to no more than six guests per stay and occurs no more than 90 days per year if the unit is not the owner's primary residence.[38] Uses exceeding these limits register as a bed and breakfast inn, a commercial use.[39] In Chicago's proposed ordinance, a "shared housing unit," a dwelling unit containing six or fewer sleeping rooms and rented for transient occupancy, is distinct from both a "bed-and-breakfast establishment" and a "vacation rental" if it is rented for 90 or fewer nights in a calendar year.[40] If the host chooses to rent a portion of or the entire unit for more than 90 nights, the host must register as either a "bed-and-breakfast establishment" (owner-occupied) or a "vacation rental" (non-owner-occupied) and obtain a regulated business license.[41]

While corporate housing and bed and breakfast use are only two examples of existing uses that may be affected by your short-term rental regulation, they highlight the complexity of developing regulations that address your policy objectives but minimize over or under inclusion. A review of existing property uses in your jurisdiction may aid you as you continue to refine your municipality's definition of "short-term rental" use to reflect the particular type of use you are attempting to regulate.

IV. The Far Reach of Your Regulation

Your short-term rental regulations will affect not only hosts, guests, and the online platforms facilitating their transactions, but also companies that have sprouted up to service the property owners and hosts that seek to take advantage of the short-term rental industry's popularity. With the arrival of companies that manage corporate and vacation housing for short-term use (BridgeStreet, Stay Alfred), online platforms that market both long and short-term rentals (RadPad), and short-term rental host-management services (Guesty, Air Concierge, MetroButler), municipalities will see the effect of their regulatory choices extend

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[37] Sacramento, Cal., *Ordinances Amending Titles 5 and 17 of the Sacramento City Code Relating to Short-Term Rentals and Bed and Breakfast Inns* (Jan. 19, 2016), http://sacramento.granicus.com/GeneratedAgendaViewer.php?view_id=21&event_id=2740.

[38] *Id.*

[39] *Id.*

[40] Chicago, Ill. Ordin. O2016-709 §§ 4-6-290, 4-6-300, 4-9-010, https://chicago.legistar.com/LegislationDetail.aspx?ID=2567010&GUID=369DCAA5-8470-402C-A72B-43BD1C4E2180 (Feb. 10, 2016).

[41] *Id.* §§ 4-6-010, 4-6-290, 4-6-300.

farther than ever before.[42] Some companies have even partnered directly with established short-term rental platforms, establishing their own piece of the short-term rental market.[43] As a result, municipalities may wish to consider how the existence of these "short-term rental support" companies may affect their regulatory decisions. For example, a short-term rental concierge service may have a direct relationship with a short-term rental property owner and may arrange the property's booking, provide customer service during a guest's stay, and provide cleaning and repair services. Does the presence of such a service lessen the risk that the short-term rental will create a nuisance in its residential neighborhood, and therefore should such units be exempt from restrictions applicable to other short-term rentals? There is no correct answer to this question, but it stresses not only the numerous factors that can affect your municipality's regulatory choices, but also the ways in which some companies are establishing internal oversight over their short-term rental units. As this sub-industry continues to expand, it will be interesting to see whether more companies take on the role of third-party regulator of units offered for short-term use.

V. Conclusion

For the most part, cities are not prohibiting short-term rental use, but are recognizing it as a "new" but likely permanent use of property that requires some form of municipal oversight. As the industry continues to develop, municipalities will need to tailor their policies to reflect a critical analysis of both the externalities of short-term rentals and the resources they have available for enforcement. A tolerance for under or over inclusiveness will also be necessary. Despite the obvious difficulties, this challenge should not be avoided: short term rental use, like the visitor it accommodates, is here to stay.

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[42]BridgeStreet, About BridgeStreet, http://www.bridgestreet.com/serviced-apartments/about-bridgestreet.html (accessed February 23, 2016); http://www.stayalfred.com (accessed February 18, 2016); Annlee Ellingson, *RadPad moves into Airbnb's neighborhood with short-term rentals*, L.A. Biz, http://www.bizjournals.com/losangeles/news/2016/02/02/radpad-moves-into-airbnb-s-neighborhood-with-short.html (Feb. 2, 2016); Guesty, *Features*, https://www.guesty.com/features (accessed February 18, 2016); http://www.airconcierge.net (accessed February 18, 2016); MetroButler, *What We Do*, http://www.metrobutler.com/services (accessed February 18, 2016).

[43] BridgeStreet Global Hospitality, BridgeStreet and Airbnb Develop Global Hospitality Program, https://www.bridgestreet.com/press-releases/airbnb-bridgestreet-program (Oct. 7, 2015).