Cracking the Airbnb Conundrum:

Creating Meaningful Short-Term Rental Regulations that Achieve Your Municipality's Regulatory Goals and Encourage Innovation

2016 IMLA Mid-Year Seminar
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April 17, 2016

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Overview

- Challenges
  - Mitigating "Commercial" Impacts
  - Addressing Enforcement Challenges
- Policy considerations
  - Considering Over or Under Inclusive Effects of Regulation
  - Awareness of your Regulation's Reach

Boston Snapshot

- (Based on Airbnb data only)
- Approx. 2,500 listings
- + 50% full-unit rentals
- Concentrated in downtown neighborhoods (Beacon Hill, Back Bay, South End, Fenway)
- Strong presence in outer neighborhoods

Mitigating "Commercial" Impacts

- **Goals:**
- 1-mitigate negative effects on quality of life in our dense residential neighborhoods.
- 2-prevent reduction in housing stock that would otherwise be available for long-term rental or purchase.



Least Permissive **Limited Use** **Permissive**

- Vary by District
- Vary by Frequency of Use
- Vary by Status of Short-Term Rental Operator
- Goal is to prohibit the "Most Disruptive"

- **Less Permissive:**
  - **Boulder: *Relationship of Operator to Unit*—only owners may be "operators" and short-term rental must occur in owner's principal residence.**
- **Limited to More Permissive:**
  - **Philadelphia: *Frequency of Rental and Relationship of Operator to Unit*-- restricts based on frequency: fewer than 91 days per year (no permit); 91-180 days per year (must be permanent resident and requires a permit)**
  - **Austin: *Density of Use and Zoning District*–restricts density based upon type of rental: (Type 3) rentals no more than 3% of units in any one building in a non-commercial district, 25% of units in any one building in commercial district. (Type 2) rentals no more than 3% of single-family detached units in census tract.***
  - **New Orleans (proposed by Planning Comm'n Staff): restricts based on type of rental, frequency and district: resident present during rental, largely unrestricted; full-unit rental limited to 30 days per year; longer than 30 days, and in residential district, would require zoning relief. If full unit is located in a commercial district, restrictions limited.****

***Austin City Council recently voted to phase out Type 2s as of 2022.**

**** Planning Commissioners voted to prohibit full unit rentals in residential districts beyond 30 days per year. City Council to consider.**

Enforcement Woes

- More permissive regulations make enforcement more difficult.
- **Limited Resources + identification problems + who to penalize**
  - Proactive enforcement pilot – Austin
    - Overnight enforcement shifts to identify worst violators
  - Require the cooperation of the online platforms
    - Listing permit number
    - Access to host information
    - Reminders and Notifications

The Over- and Under-Inclusiveness Problem

- Will some existing uses be considered "short-term rentals?"
  - Definitions
  - Are there distinguishing characteristics?
- Corporate Housing
- Bed and Breakfast Use
- Purchase/Develop Property Specifically for Short-Term Rental Use?
  - Is it ever a good thing?

Examples

- **"Bed and Breakfast"** – generally: non-residential use, renting out rooms in an owner-occupied home for short-term stay.
  - Sacramento—amends existing "BNB" definition to include non owner-occupied units, makes "STR" use a type of bed and breakfast use that does not require zoning relief if it is used as an STR no more than 90 days per year and houses up to 6 guests if unit is not owner's primary residence. If frequency of use exceeds 90 days, need to register as a bed and breakfast inn, a commercial use.
  - Chicago (pending)—"shared housing unit," distinct from bed and breakfast if rented for 90 or fewer days a year. If rented for more than 90 days a year, must register as a business, either a bed and breakfast establishment (owner occupied) or vacation rental (non owner-occupied).
- **"Corporate Housing"** – generally: non-residential use, business entity leases out units in a multi-unit building to its employees or contractors on a short-term basis.
  - Usually some form of management and oversight

The Expanding Short-Term Rental Industry





























Can these companies help municipalities?

- As the number of businesses existing to service the short-term rental industry increases, do a municipality's concerns regarding quality-of-life issues (neighborhood concerns) lessen?
- Or, do they just make it easier to buy multiple units for exclusive short-term rental use?
- Would they aid in the enforcement effort?

Final Thoughts…..

- It’s an evolving industry!
- Municipalities will need to continuously update policies or be aware of how changes in the industry (or at the state level) affect their regulations
- There are creative solutions to address the issues, but effectiveness depends in part on practical considerations.

“Short-term rentals” in the news, February 2016 (quickly outdated!)

