

## SOME IMPORTANT TAKEAWAYS FOR YOU

### AIRBNB & ZONING: A PLANNER & LAWYER'S GUIDE TO SHORT- TERM RENTALS

#### **What are the most common reasons why communities have regulated or are considering regulating short-term rentals?**

- Reduce noise, parking, traffic and trash-problems
- Eliminate party houses
- Reduce STR's impact on neighborhood character
- Ensure building safety
- Improve responsiveness to neighbor complaints
- Stem STR's negative impact on affordable housing availability
- Improve permit and tax compliance to increase tax revenue
- Ensure a level playing field between law abiding traditional lodging providers and illegal short-term rentals
- Reduce tension between short-term rental property owners and their neighbors
- Send a clear message to citizens that the city takes the STR problems seriously

#### **Do local governments have the legal right to regulate short- term rentals in the first place?**

- Yes, always to some extent, but is it by zoning or separate ordinance or both, and do you need improved enabling legislation?

#### **Are there any legal constraints on how local governments can regulate short-term rentals and the various vacation rental websites operating in their jurisdiction?**

- Yes, check tax laws, consider Fair Housing Amendments Act. Check: HOA rules; covenants; and easements, lease terms, subsidized housing rules, rent control/rent regulation, insurance.

#### **Do these rights and constraints differ from state to state?**

- Yes

#### **If new rules are in fact required, what legislative tools do local governments have at their disposal when regulating short-term rentals?**

- Work with your state legislative delegation

#### **What are the typical events leading up to a city feeling it has become necessary to put in place regulation of short-term rentals?**

- Housing crisis
- An increase in complaints about STRs
- Bad incidents (party houses etc.)
- Perceived negative changes in neighborhood character
- Complaints from hospitality industry that vacation rentals are competing unfairly

### **When is the best time for a city to address the short-term rental issues and put in place regulation?**

- Before it becomes a common phenomenon:
  - More STR properties means more economic interests at play
  - More STR properties means more angry neighbors
  - More STR properties means more losses of tax dollars for the community
- Before it becomes a crisis!
  - No time to address issue in a thoughtful and strategic manner
  - Elected policy makers become more concerned with politics than finding workable solutions
  - Much more difficult to get everyone on the same page when things are heated
  - Debate tends to become very polarized and unproductive

### **How does one think about short-term rentals in the context of other uses that are regulated by local governments?**

- Straddles traditional zoning definitions - No one-size-fits all definition of short-term rentals:
  - Community impact varies widely based on:
    - Type of property
    - Type of use (hosted or non-hosted)
    - Location
    - Number and density of STRs in neighborhood

### **As a planner, where does one start, when tasked with writing a short-term rental ordinance draft?**

- Get the facts:
  - How many STRs are there? (Not just on Airbnb, but across all the websites)
  - Where are they located? (Are they concentrated in certain areas?)
  - What types of properties are being rented (single family, multi-family, high-end, low-end etc.)?
  - How are they being used (all the time, seasonally, occasionally etc.)
- Understand the issues and community's concerns
- Articulate why you want to regulate -> what problems are you trying to address?
- Understand what enforcement resources and tools will be available
- Research NATIONAL best practices (little chance that the surrounding cities have come up with the silver bullet answer)
- Write a draft ordinance

### **What are the best practices for achieving the most common planning objectives?**

- Preserving the character of a neighborhood -> set quotas or density limits and disallow signs
- Minimize STRs impact on long-term rental housing stock -> only issue permits to permanent residents
- Eliminating nuisances -> set clear expectations about how renters must behave

- and make sure that landlords inform renters of their obligation to follow those rules; require a local 24/7 contact person for each property
- Ensuring building safety? Require inspections (but make the requirements reasonable)
  - Ensuring tax and permit compliance -> deploy automated monitoring tools or staff up

### **What are the costs and benefits associated with the different approaches to enforcing short-term rental regulations (pro-active enforcement vs. on a complaints basis)?**

Complaint based enforcement:

- Pros: Easy (neighbors generally only complain when things get really bad -> lots of tension between neighbors)
- Cons: Ineffective and selective

Pro-active enforcement:

- Pros: Ensures fair, continuous and consistent compliance monitoring and enforcement
- Cons: Labor intensive and difficult (unless staff is augmented with electronic compliance monitoring tools)

### **What are the most common challenges associated with pro-actively monitoring compliance with, and enforcing, short-term rental regulations?**

- Difficult to find the properties:
  - Rental property listings are spread across 100s of different websites
  - Address data is hidden from listings making it time-consuming or impossible to locate the exact properties and identify owners
  - The vacation rental platforms refuse to provide the detailed data
- Difficult to keep track of the data as listings are constantly added, changed or removed
- No easy way to find out how often the properties are rented and for how much

### **How do we bring the non-permitted properties into compliance?**

- Find them! (Easier said than done!)
- Send them a letter to let them know that you know that they are operating -> 70-90% will comply on the first letter
- Make it simple and economical to apply for a permit
- Ensure that fines and other legal actions are a real deterrent

### **What are the best ways to overcome the compliance monitoring and enforcement challenges?**

- Make sure that the ordinance is enforceable:
  - Require a permit or license and make sure that the sole act of advertising a STR without it is a punishable offence
  - Only include provisions in the ordinance that you can actually enforce -> as an example it is impossible to enforce limits on the number of nights that a property can be rented.

- Make it simple and easy to comply with the rules, so people who want to play by the rules can do so easily

Staff up and/or deploy compliance monitoring software to improve the efficiency of your existing staff

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