City of Santa Monica

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

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[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 HomeExhange.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 it's 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 accommodation[3]

[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 rentals[4].

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 Monica[5]. 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".

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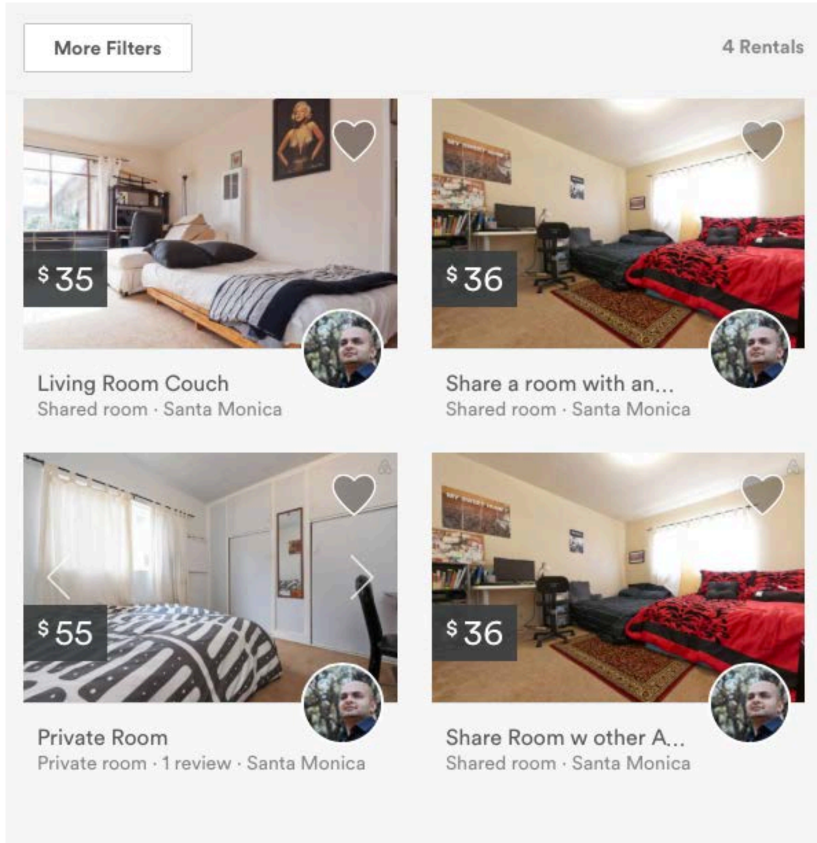
[5] The listing agent Globe Homes and Condos (aka Ghc) is reported in the March 2015 laane report and verified by staff

[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 unit[7], 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 Norfork, Ark., 682 F.3d 735 (8th Cir.

2012) (upholding Norfork, 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 number[8]. Of the

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[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 area[9].

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[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 days[10]. 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.

<u>Proposed Regulations</u>

At Council's direction, staff recommends the adoption of the attached Ordinance modified as recommended below. The Ordinance would establish the following minimal regulations[11]:

- 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

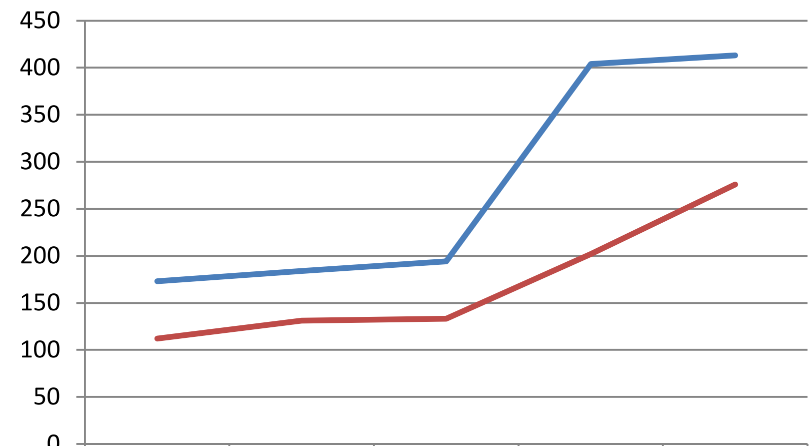
The proposed ordinance does not seek to alter landlord tenant relationships, as established under existing law. Staff does not recommend any further intrusion into the landlord tenant relationship as it could expose the ordinance to legal challenge and because it is not necessary. Council's concern about 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:



	FY05/06	FY11/12	FY12/13	FY13/14	Projected FY/14/15
Cases per Officer	173	184	194	404	413
Cases per All Staff	112	131	133	202	276

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

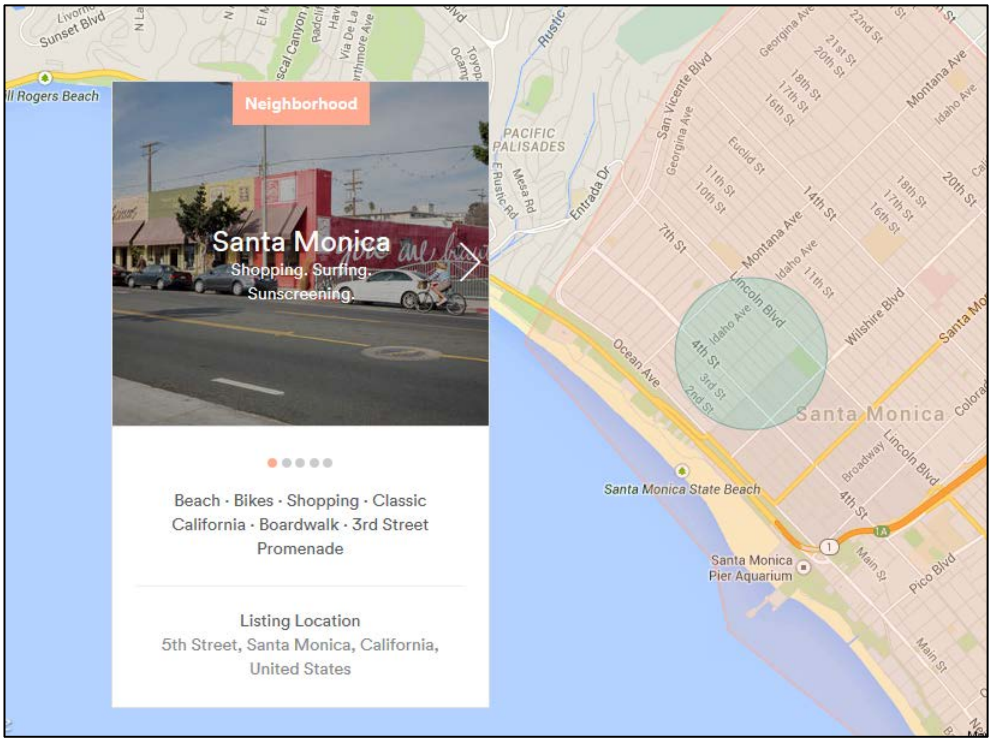
About This Listing

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

The Space	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 fundamental 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

Attachment A

NATIONAL LEAGUE of CITIES

CENTER FOR CITY SOLUTIONS AND APPLIED RESEARCH

CITIES, THE SHARING ECONOMY and WHAT'S NEXT

NATIONAL LEAGUE of CITIES | CENTER FOR CITY SOLUTIONS AND APPLIED RESEARCH

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

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Acknowledgments

The authors would like to acknowledge Nicole DuPuis for her help developing the research plan and reviewing the report. We would like to extend special thanks to Soren Messner-Zidell, who created the data visualizations, cover illustration and designed the report, and Paul Konz for editing the report. We are grateful for all of the city officials that took the time to speak to us about the sharing economy in their cities.

Photo credits: All photos courtesy of Getty Images, 2015, unless otherwise noted. Vector maps courtesy of Free Vector Maps, 2015.

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-hailing[1]) 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.*

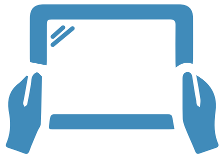
Why Sharing?

1 

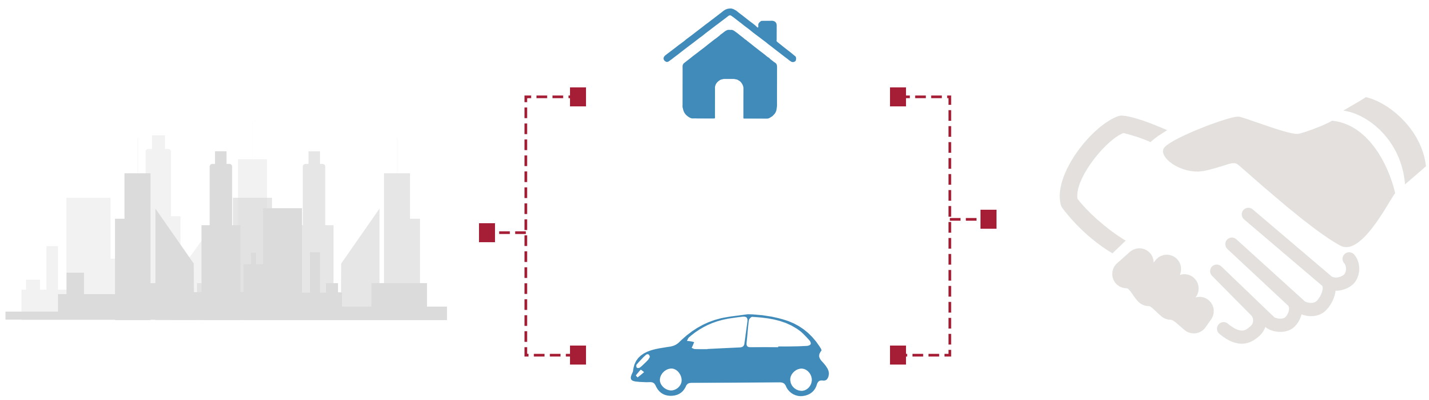
Cities experience an increase in
Urbanization

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.

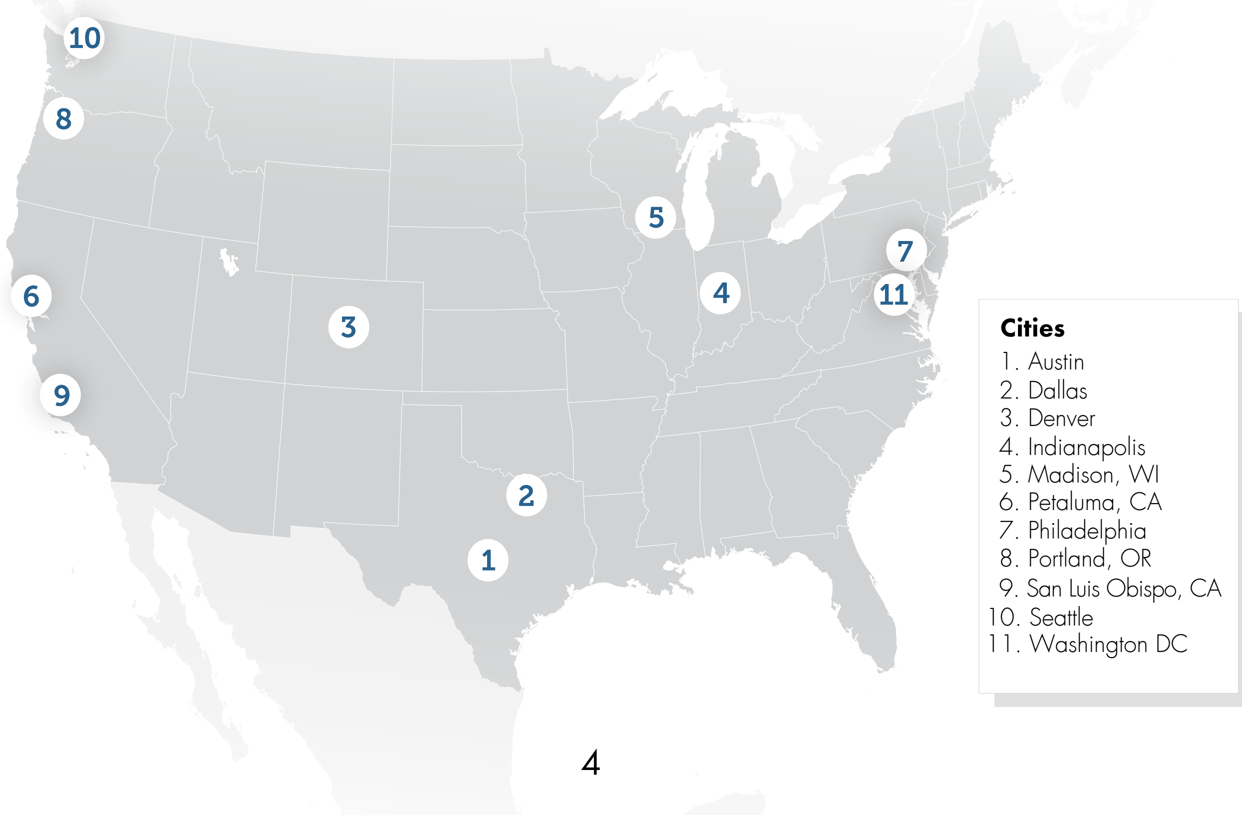
Over a four month period, from November 2014 through February 2015, Fels Consulting conducted 12 hour-long interviews with a diverse array of current and former city officials. In our selection process, we sought to maximize geographic diversity and maintain a balanced mix of representatives from both 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 cites 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 had 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


ULTURAL

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 backgrounds 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 chose 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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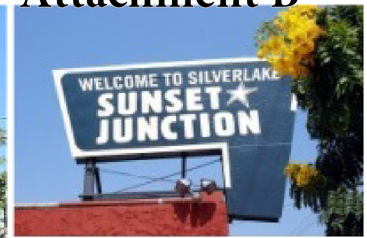
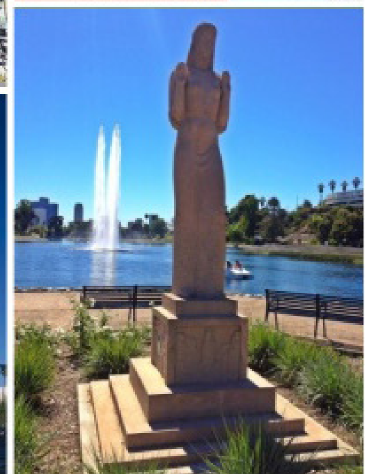
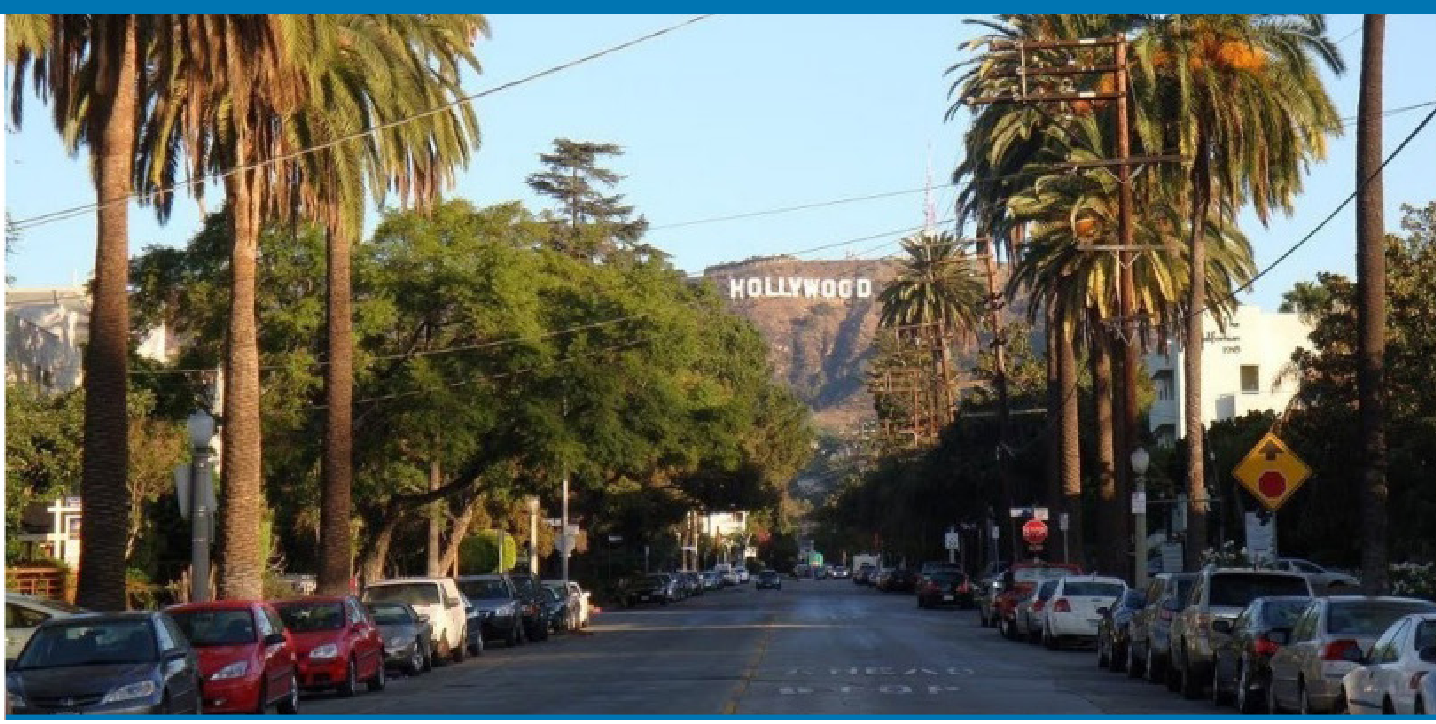




AIRBNB, RISING RENT, AND THE HOUSING CRISIS IN LOS ANGELES

MARCH 2015



laane
A NEW ECONOMY FOR ALL

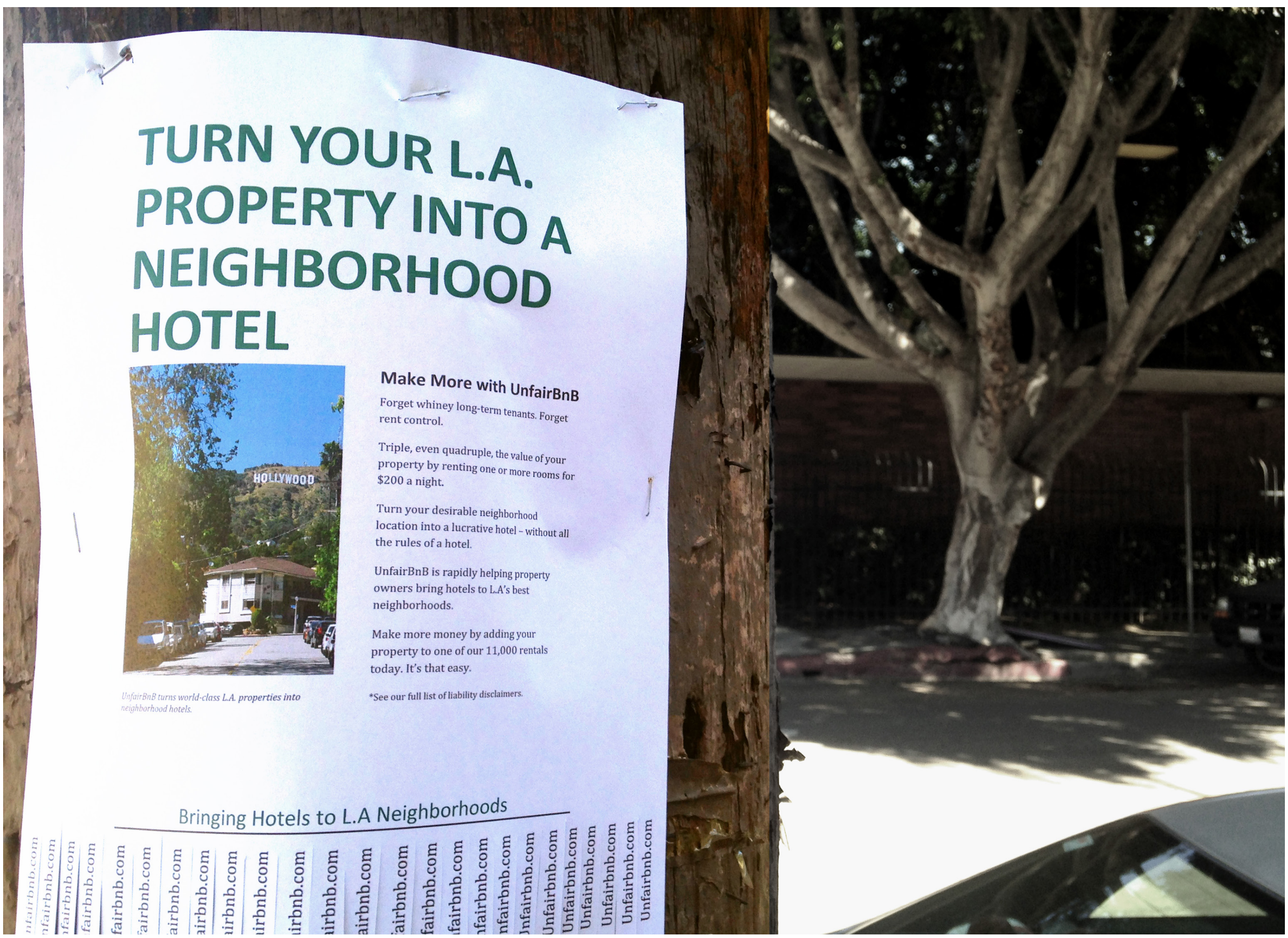
Roy Samaan

Table of Contents

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 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.

Renting out residentially zoned units as accommodation for travelers runs counter to land use regulations and zoning codes.

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]

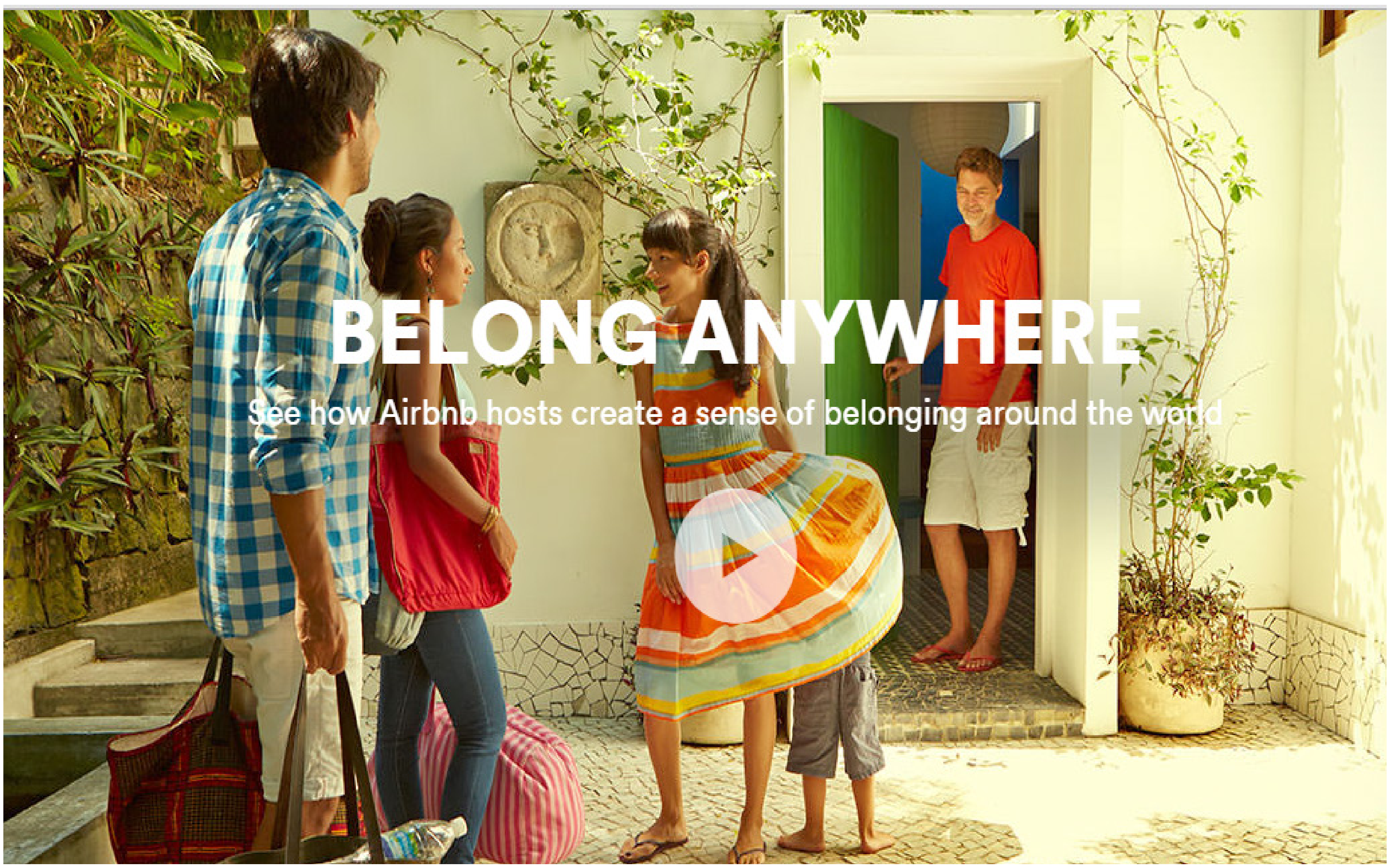
Uncertainty around the legality of AirBnB's core business model is further compounded by the fact that the company has not collected the hotel-related taxes mandated by most jurisdictions. Municipalities have explored a range of regulatory options to address the proliferation of illegal hotels in residential 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.

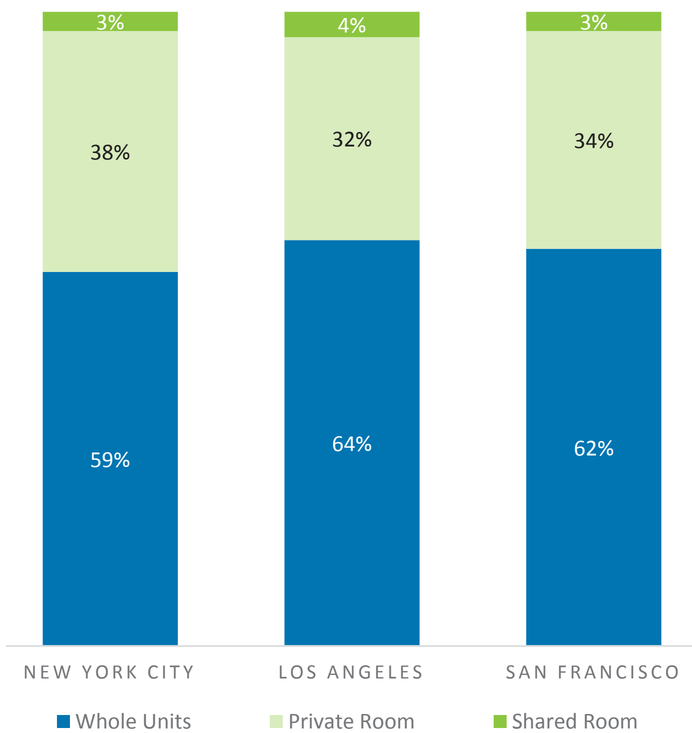
Renting out whole units exacerbates Los Angeles' existing shortfall of rental options while also creating safety hazards and quality of life concerns for Los Angeles neighborhoods.

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.

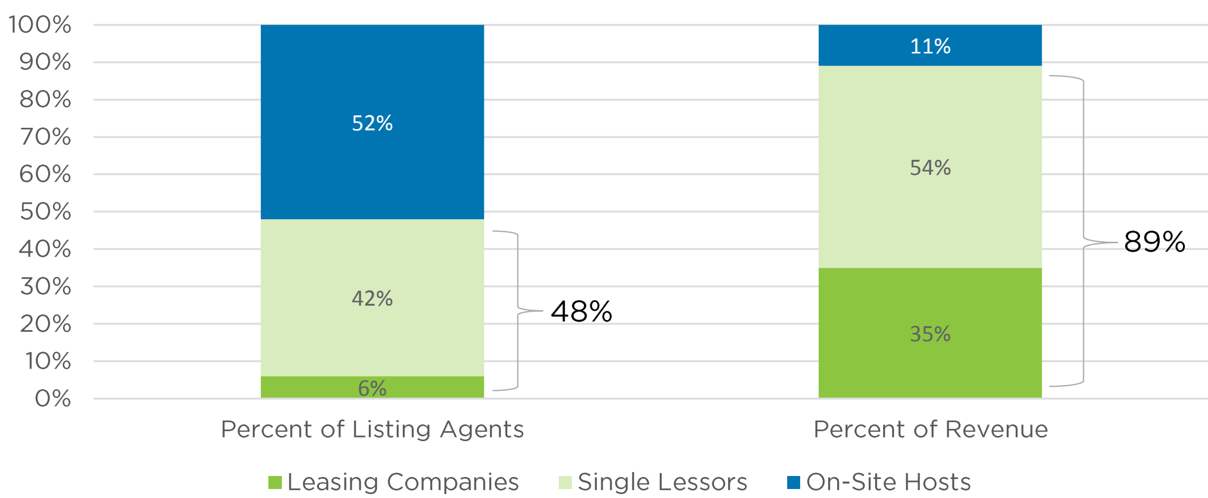
Figure 2, based on the company's data, shows that while those who actually "share"—the on-site hosts—are in the majority, they generate just 11 percent of the company's Los Angeles revenue.[19]

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

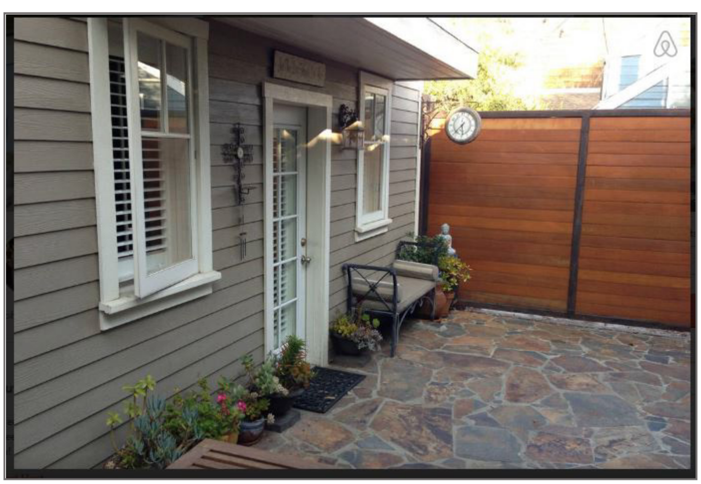


High intensity use indicates hotel conversion

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]



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

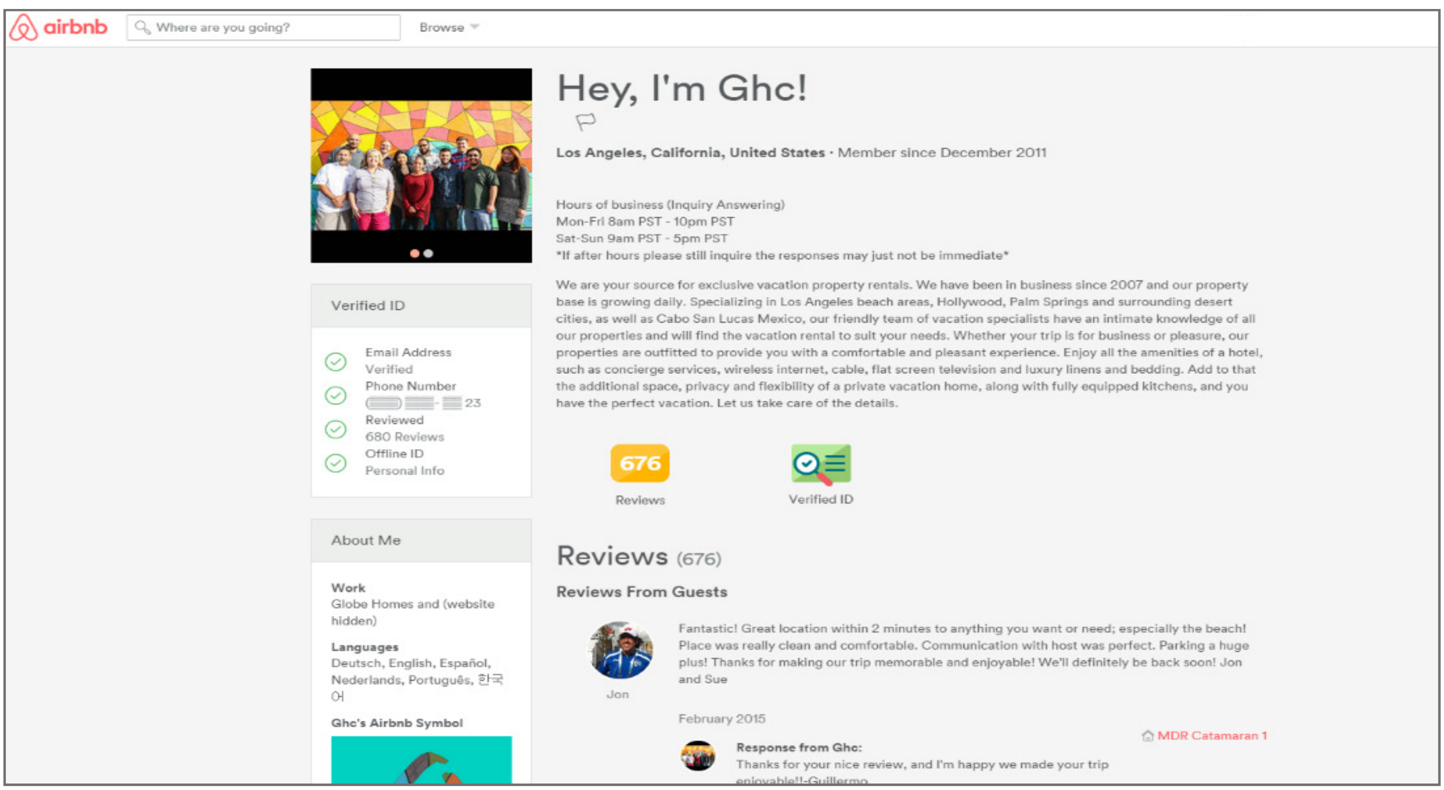


Figure 3: The profile page for Globe Homes and Condos

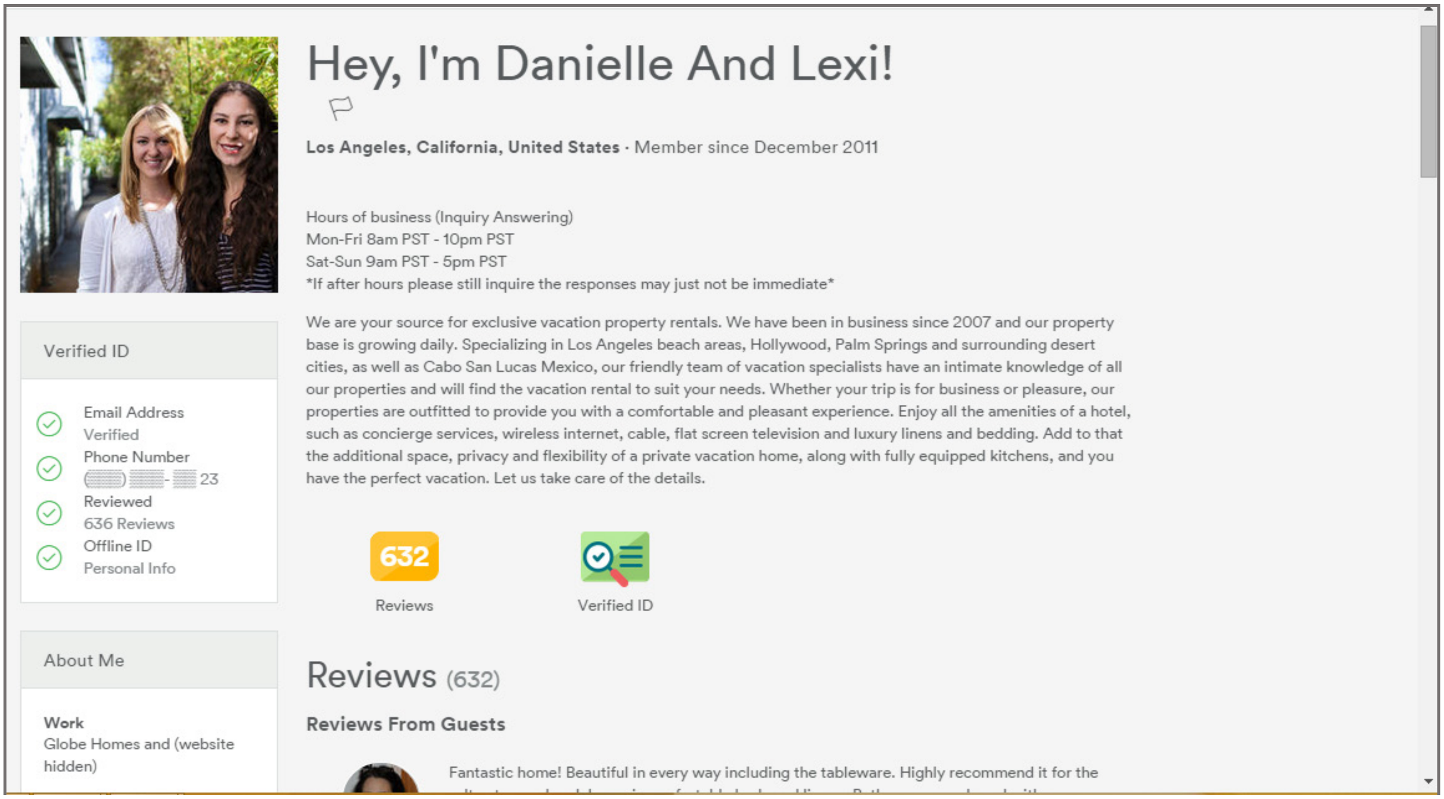


Figure 4: Danielle and Lexi were the previous avatars of Globe Homes and Condos on AirBnB.

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.

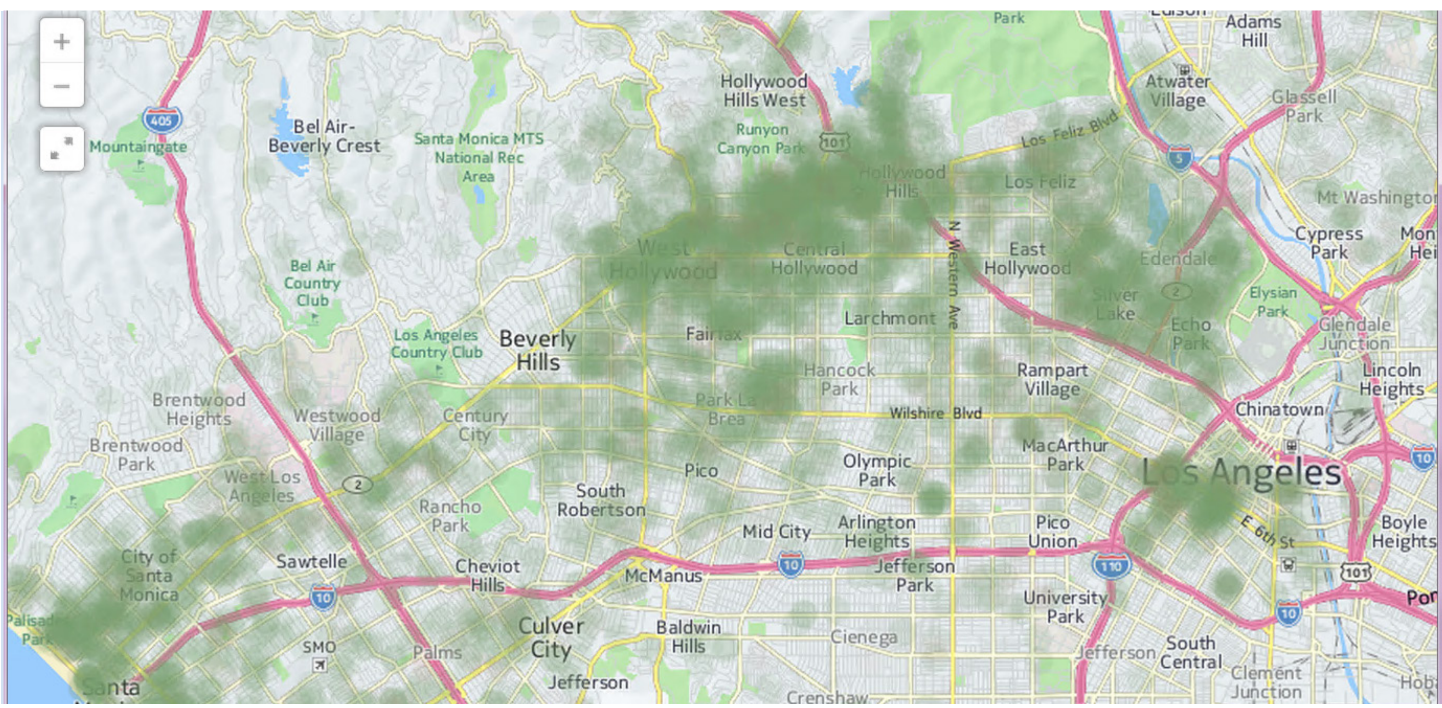
Our data show that the very individuals who are meant to benefit the most from AirBnB's service – "ordinary citizens" – are more than three times more likely to generate no revenue than hosts with multiple listings.

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. Benjamin 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]



A 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 costs 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.

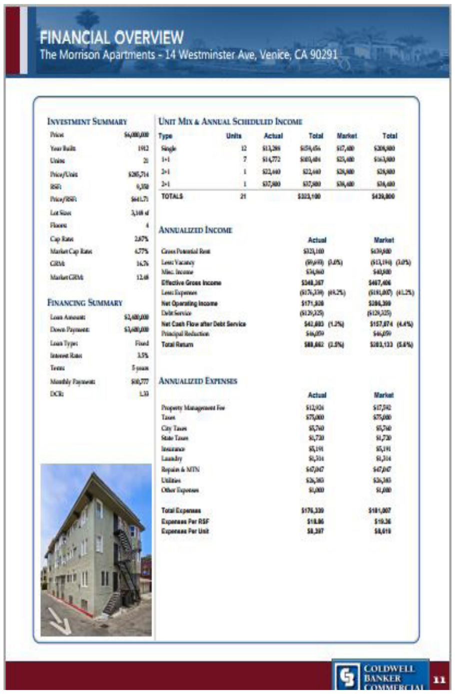
Los Angeles has the highest percentage of renters of any city in the country. Although the average rental price in Los Angeles has increased over the last three years, median wages have stagnated.[48] These factors have combined to make the Los Angeles rental market the least affordable in the country.[49] 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.

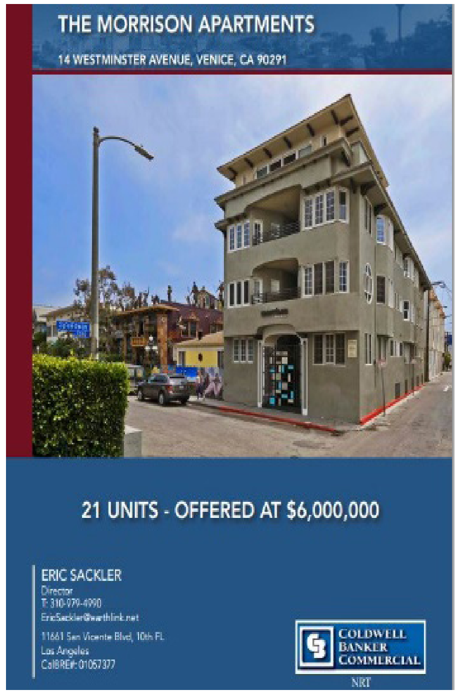
The 7,316 whole apartments currently listed on AirBnB represents nearly seven years' of affordable housing construction at the current rate of housing development.

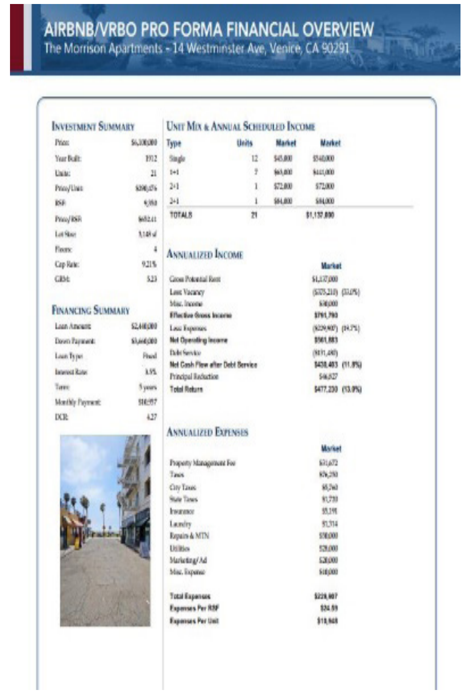
AirBnB creates incentives to take units off the rental market

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


THE MORRISON APARTMENTS
14 WESTMINSTER AVENUE, VENICE, CA 90291
21 UNITS - OFFERED AT $6,000,000
ERIC SACKLER
Director
T: 310-979-4990
EricSackler@warthlink.net
11661 San Vicente Blvd, 10th Fl.
Los Angeles
CalBRE#: 01057377


AIRBNB/VRBO PRO FORMA FINANCIAL OVERVIEW
The Morrison Apartments - 14 Westminster Ave, Venice, CA 90291

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]

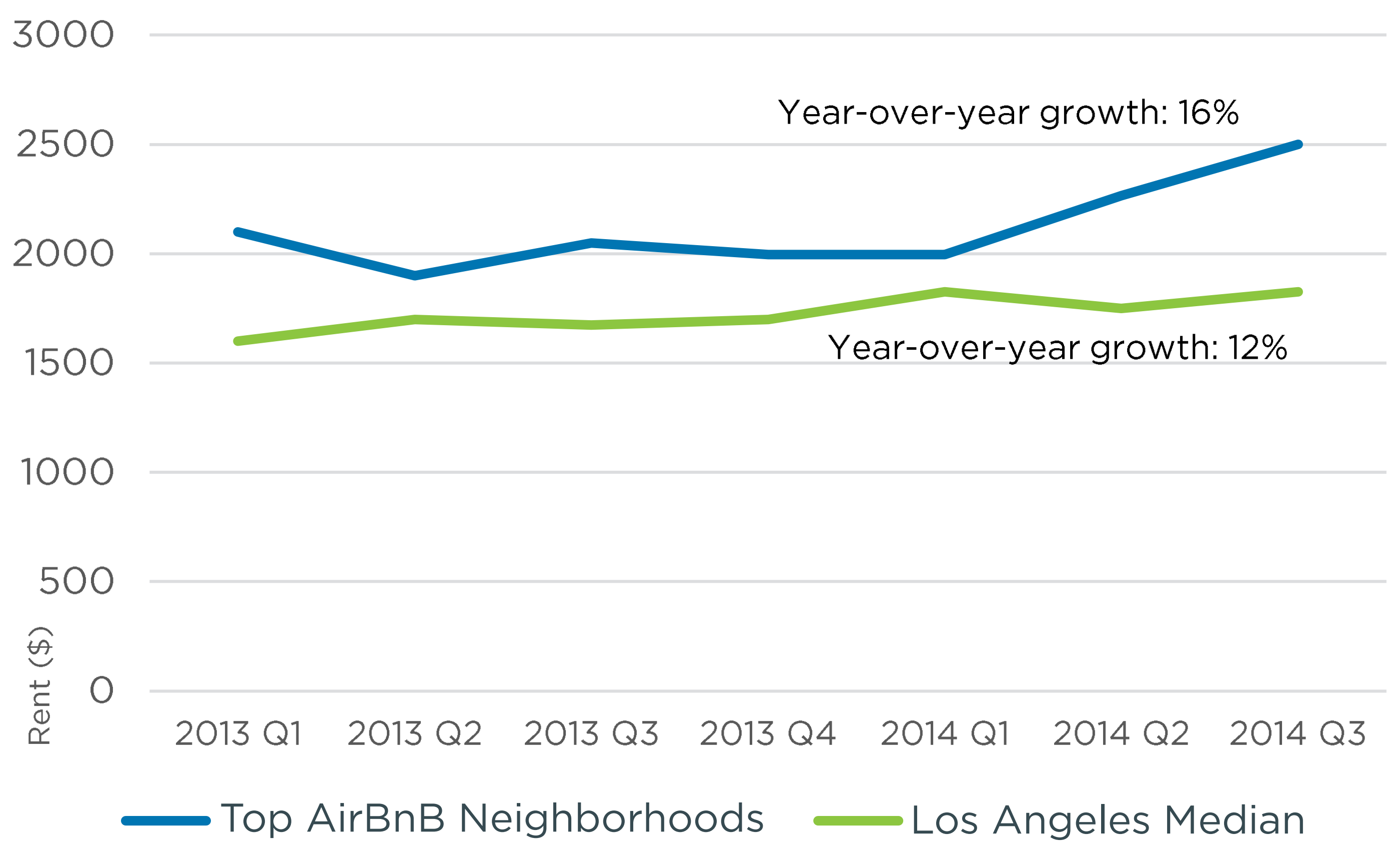
AirBnB market density coincides with neighborhoods that have rents well above the citywide average. These neighborhoods boast an average rent 20 percent higher than the citywide average.[58]

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

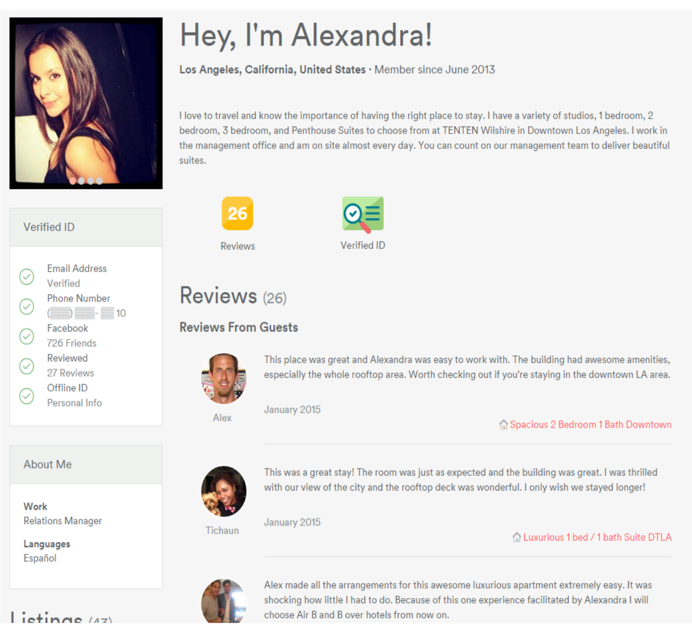


condo conversions in neighborhoods with vacancy rates below five percent.[60] Removing rental units from these markets by the thousands, as AirBnB has facilitated, appears to have contributed to declining vacancy rates, and consequent rising rents.

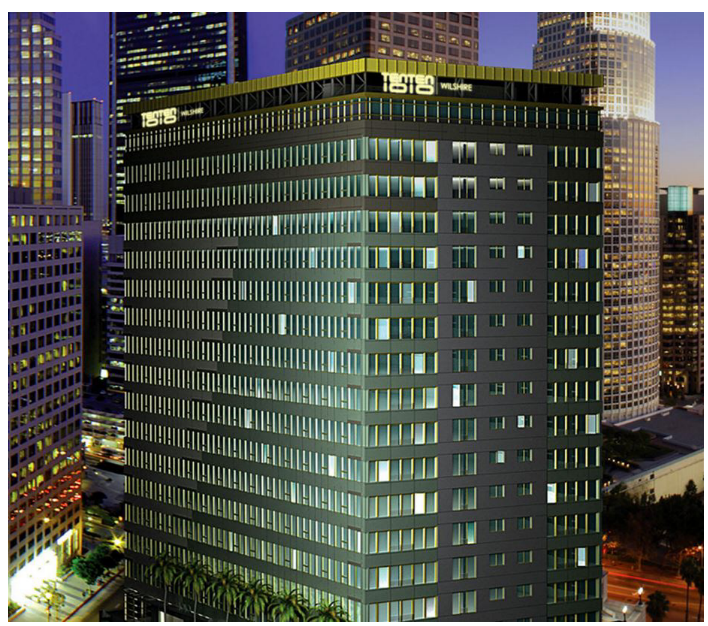
Examining AirBnB listings turns up examples like the case of 1010 Wilshire, a high end apartment building with 227 units in Downtown Los Angeles. AirBnB lists Alexandra as the "host," though as with Danielle and Lexi, we have no way of knowing if she runs the building or is merely an attractive image 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 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.

> **Removing rental units from these markets by the thousands appears to have contributed to declining vacancy rates, and consequent rising rents.**



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]

In Venice there are an average of 360 AirBnB listings per square mile.

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]

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 vermin 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. If, 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.

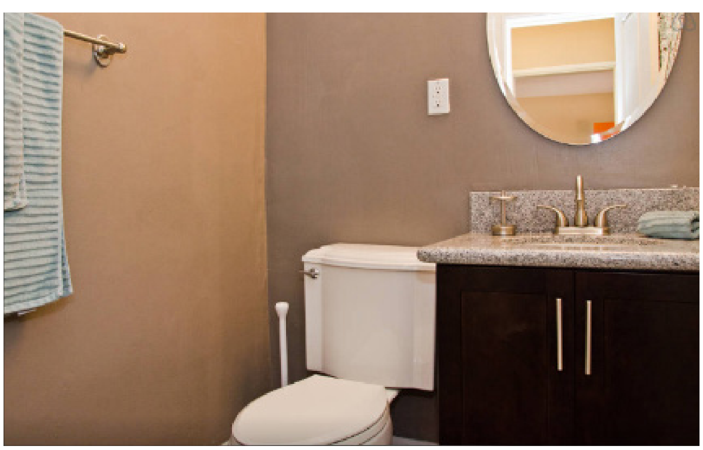


Figure 6: An AirBnB bathroom in a building with more than five units. There are no grab bars in this bathroom.

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 in 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 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]

Figure 10: An image of a bedbug accompanying Rachelle Bergstein's Yahoo Travel piece (Source: Getty Images).

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.

In 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 a 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

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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.

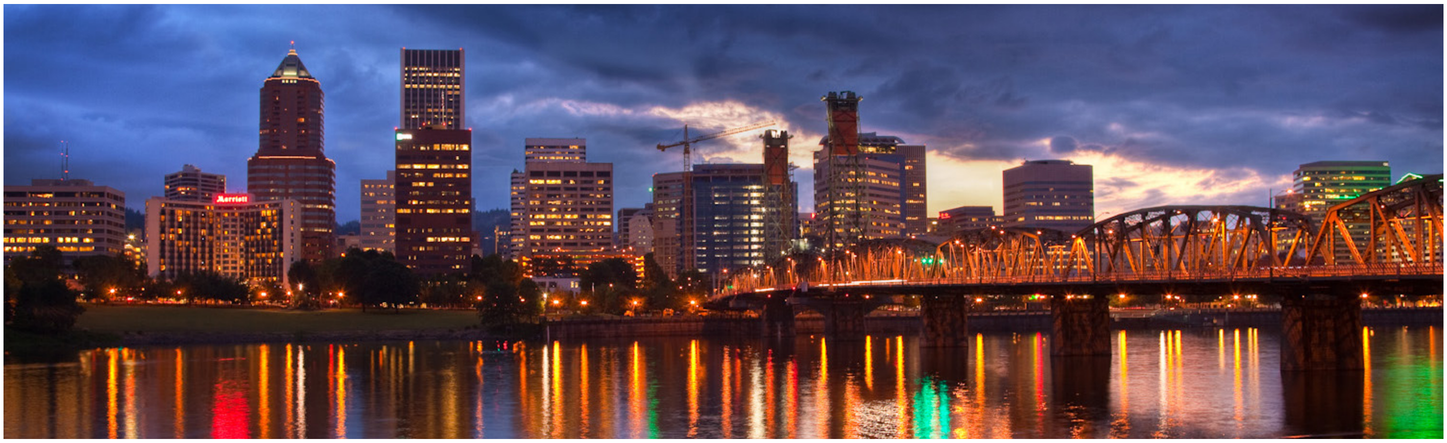
Before beginning that review, however, we want to raise a critical question about the basic proposal being offered by AirBnB—payment of significant funds in exchange for rules legalizing AirBnB's operations. This system has gone into effect in two cities, Portland and San Francisco.

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 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] The 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.

New York City residents rally against AirBnB ahead of a January 20, 2015 New York City Council hearing.

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 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 af 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 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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Attachment C

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Airbnb
in the city

From the Office of:

New York State Attorney General

Eric T. Schneiderman

October 2014

TABLE OF CONTENTS

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."

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[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.

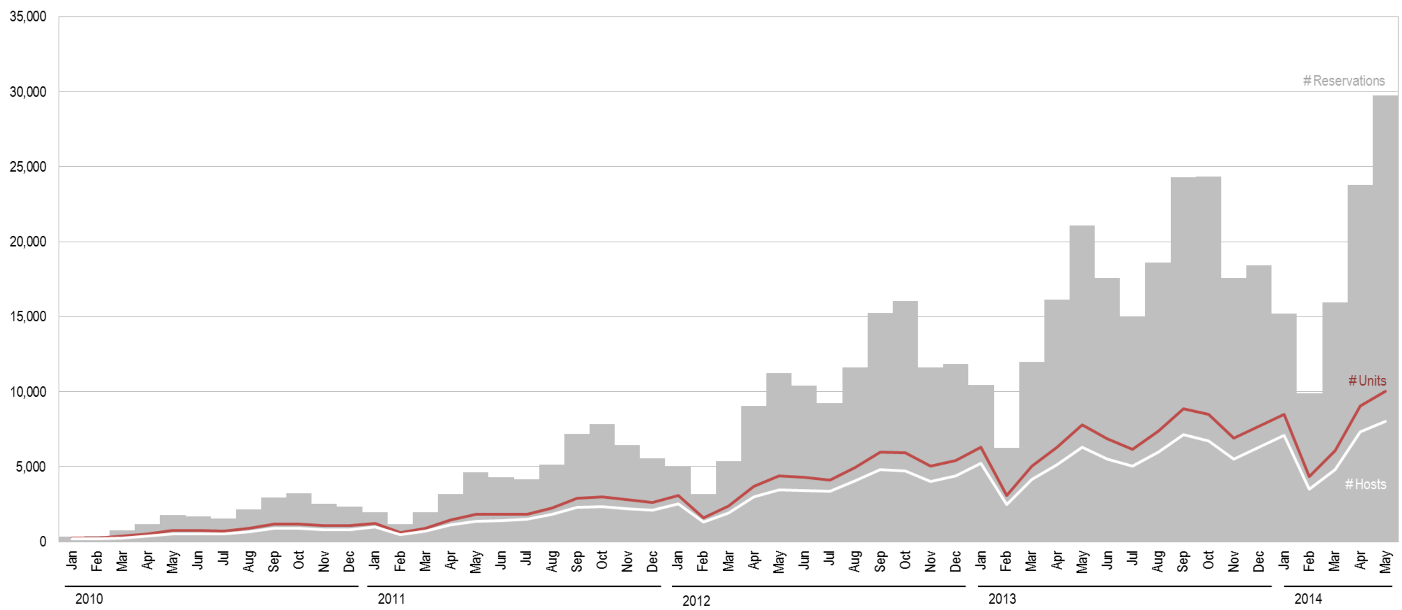
NYAG sought and obtained this Data in connection with potential enforcement actions involving the Reviewed Transactions. The information and analyses contained in this report, however, are provided solely to aid the public discourse. Pursuant to the terms of its agreement with Airbnb, dated May 20, 2014, 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)

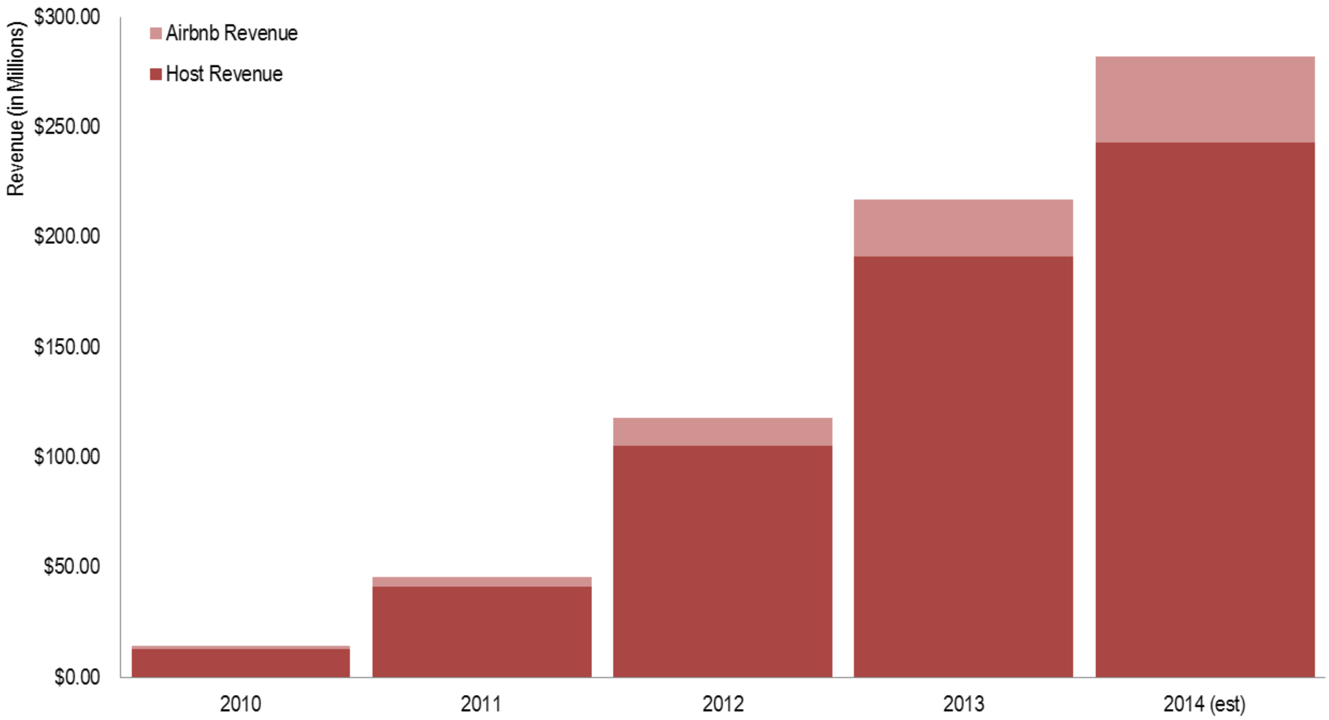


[4] For illustrative purposes, NYAG estimated 2014 year-end totals by assuming that the average monthly performance experienced in the first five months of the year in the relevant category would continue throughout the year. This is a rough estimate, which does not account for seasonal or other factors. 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.

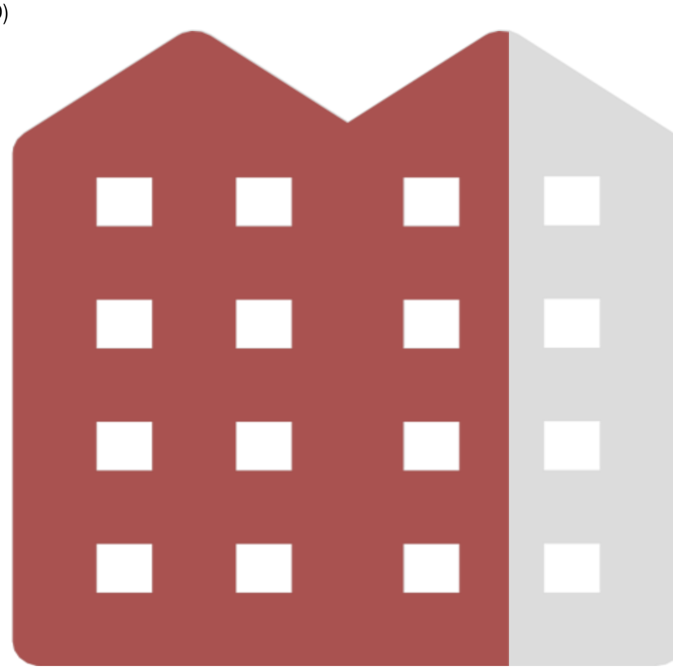
Figure 3: Most Private Short-Term Rentals on Airbnb Appear to Violate New York Law

(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.

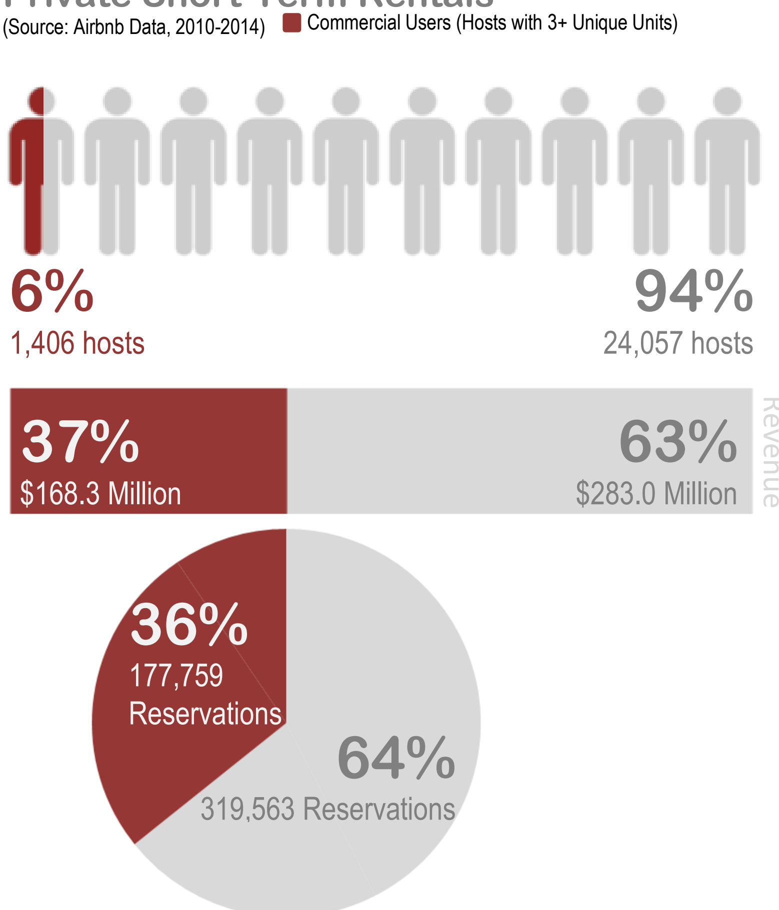
COMMERCIAL USERS

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)



[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.

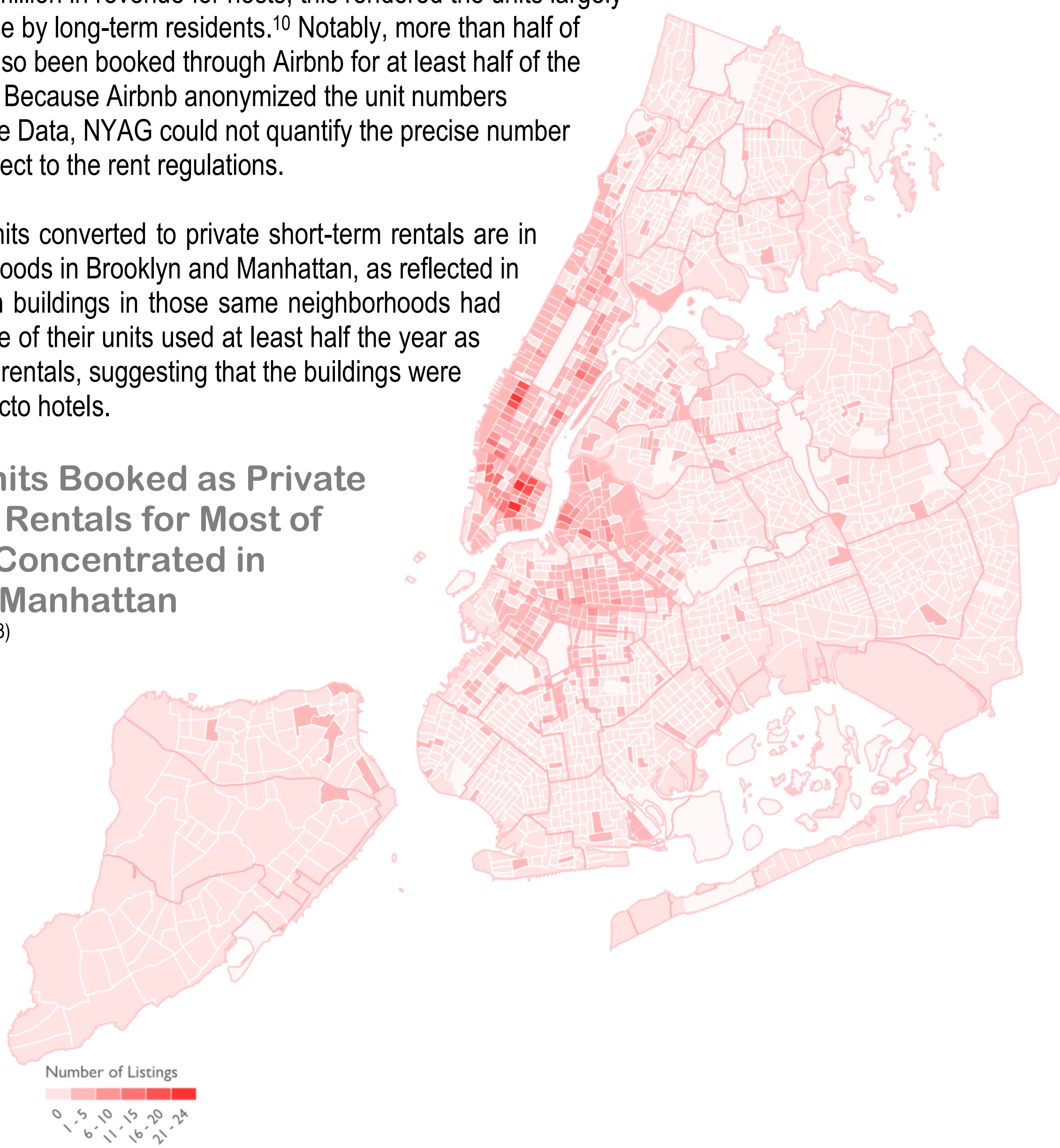
EFFECTS OF SHORT-TERM RENTALS ON RESIDENTIAL HOUSING SUPPLY

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)

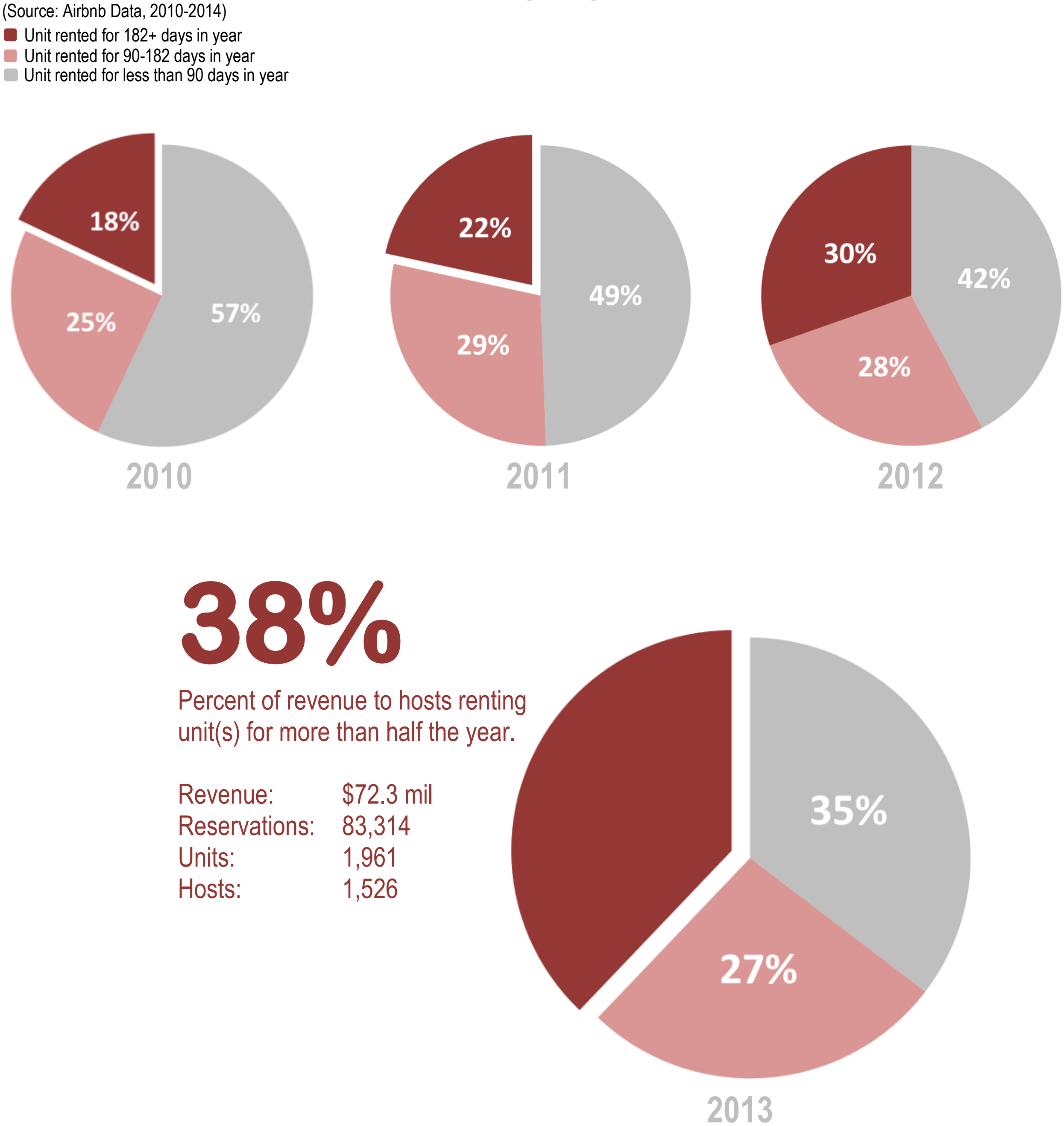


[10] It is likely that the number of units dedicated to private short-term rentals is substantially higher. The Reviewed Transactions cover Airbnb reservations only. Although listing on more than one site is common, this analysis cannot account for short-term rentals booked on other platforms. Also, 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)



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.

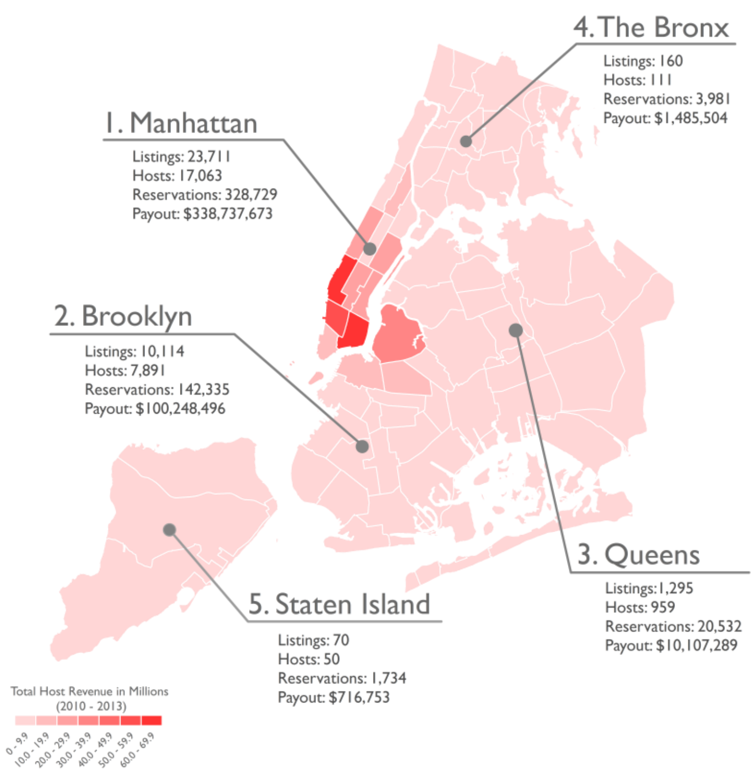
GEOGRAPHIC DISTRIBUTION OF SHORT-TERM RENTALS

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

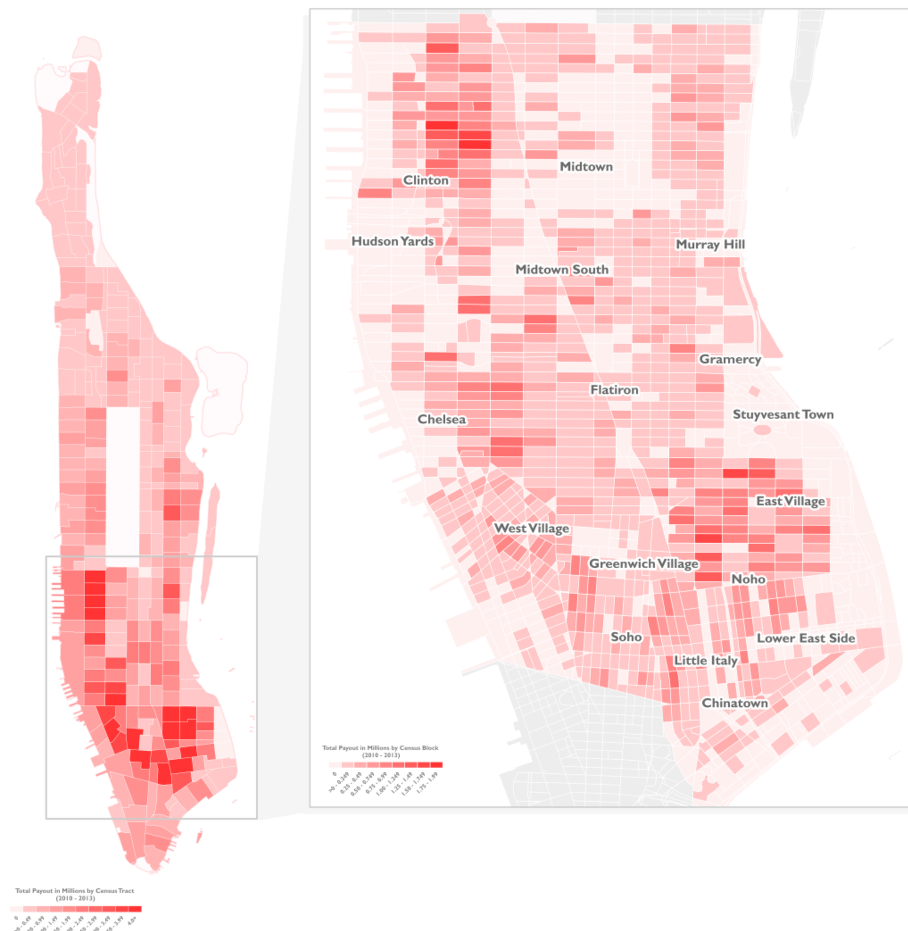
(Source: Airbnb Data, 2010-2014)



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)



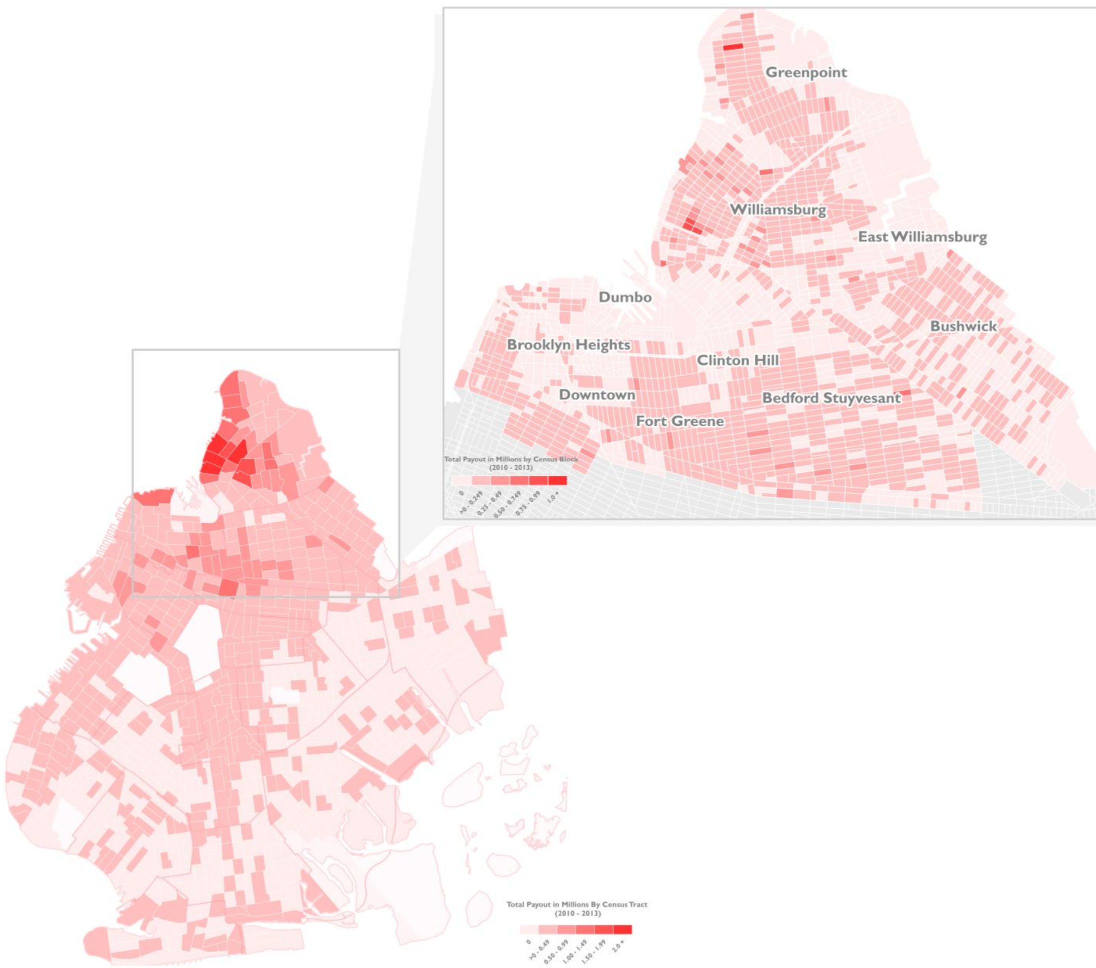
[12] NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN02 Greenwich Village/Soho." Available: http://furmancenter.org/files/sotc/SOC2013_Manhattan_02.pdf
NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN04 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,

-against-

CITY OASES, LLC, et al.,

Defendants.

---x

AFFIDAVIT IN SUPPORT

Index No.

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 members[1] (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

THOMAS JENSEN
Chief of Fire Prevention

Sworn to before me this
19th day of August, 2014.

Moira Archer
NOTARY PUBLIC

Moira Archer
Notary Public, State of New York
No. 02AR6063626
Qualified in New York County
Comission Expires 12/7/17

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
--X
THE CITY OF NEW YORK,

Plaintiff,

-against-

CITY OASES, LLC, MINA GUIRGUIS, SZILVIA PATKOS, HAMID KERMANSHAH a/k/a ABDOLHAMID KERMANSHAH, ABDOLMAJID KERMANSHAH a/k/a MAJID KERMANSHAH, 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,

Defendants.
--X

Index No.:

Affidavit of
<u>VLADIMIR PUGACH</u>

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. <u>August 25, 2012 Inspection</u>

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".

<u>5 West 31st Street</u>

A. <u>April 21, 2012 Inspection</u>

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. <u>October 5, 2013 Inspection</u>

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 accomodations 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.urbanoasisnyc.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 accomodations at both Buildings despite the fact that such accomodations 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

John P. Bigolski
Notary Public

JOHN P. BIGOLSKI
Notary Public, State of New York
No. 01BI5023114
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

Attachment D

LAO
70 YEARS OF SERVICE

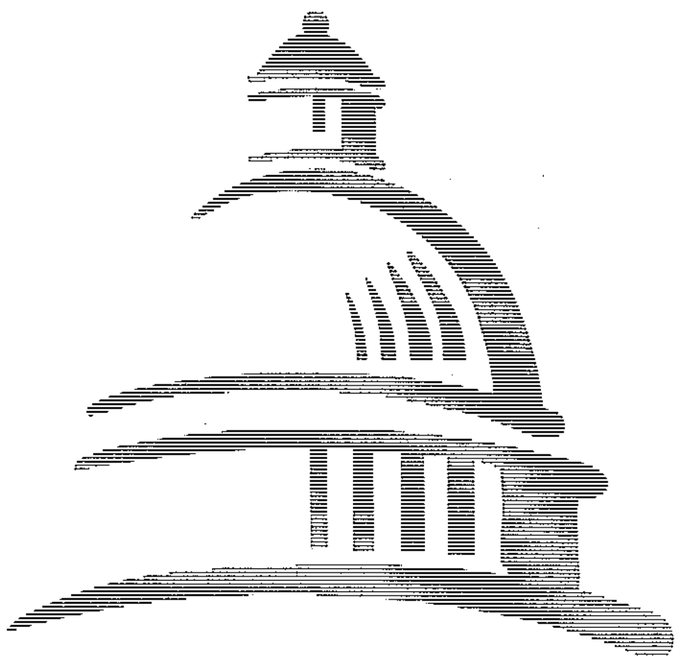
March 18, 2015

Overview of Sharing Economy and Short-Term Rentals

LEGISLATIVE ANALYST'S OFFICE

Prepared for:
Committee on Local Government
Hon. Brian Maienschein, Chair

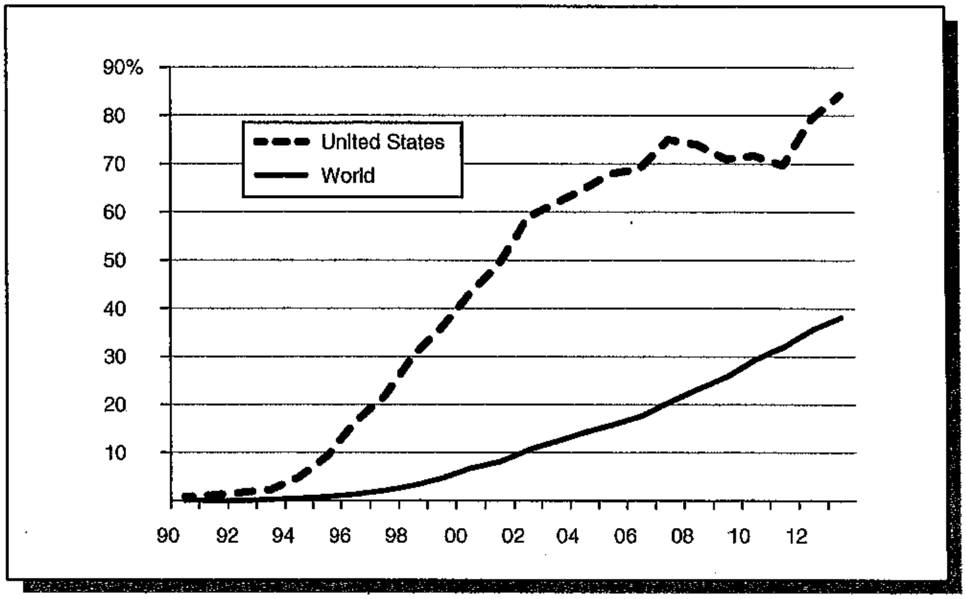
Assembly Revenue and Taxation Committee
Hon. Phil Ting, Chair



March 18, 2015

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).

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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.

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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.

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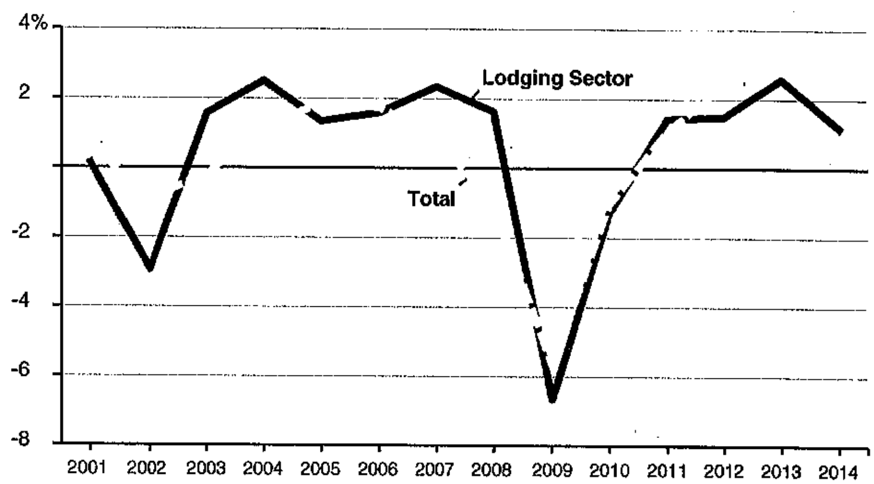
Employment Growth in State's Lodging Industry

Annual Change in Number of Jobs In California



☑ ***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.

70 YEARS OF SERVICE

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.

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Growth in Short-Term Rental Sector

☑ ***Airbnb.*** Started in 2008, this privately held company reports that it has over 1 million listings in 190 counties, 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.

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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.

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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.

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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.

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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.

Attachment E

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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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.

Table of contents

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.

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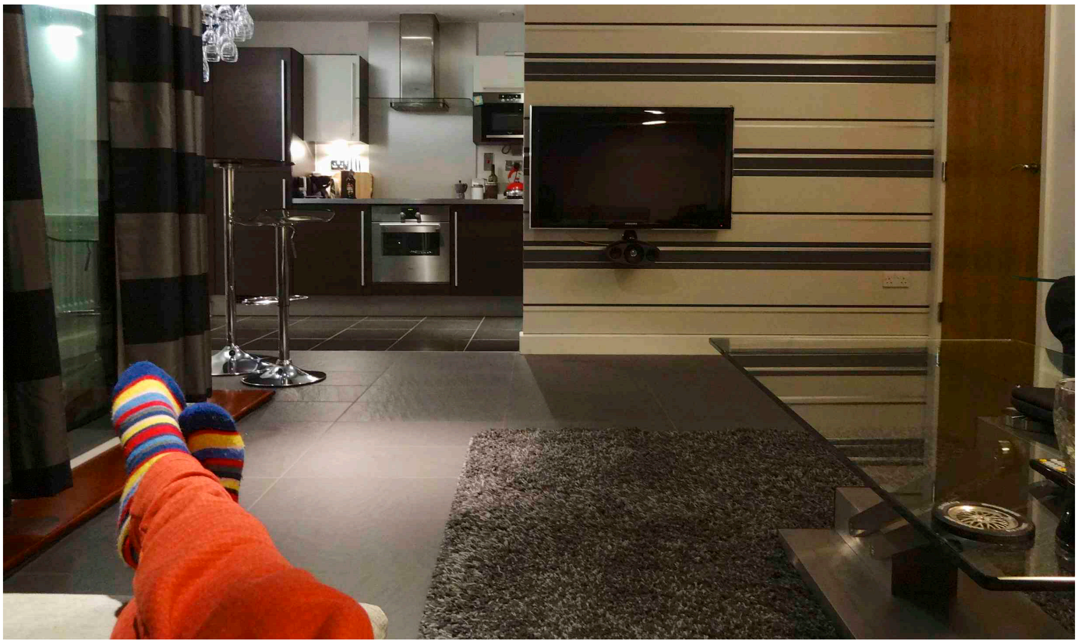
Behind the trend



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 buzzworthy 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 buzzworthy 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

Source: Tim Lucas on Flickr

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 available 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, HomeAway 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.

Source: Kris Layton on Flickr

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.

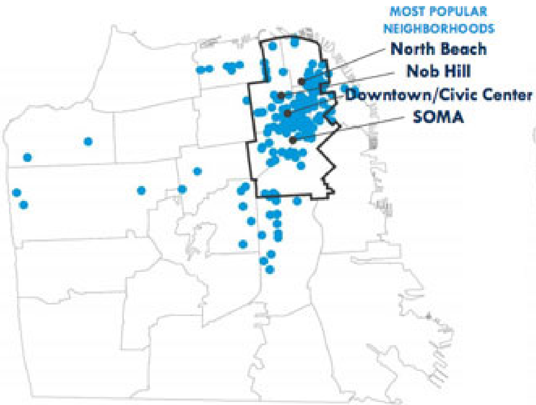
This could be a temporary change due to economic conditions, but younger people especially are becoming used to having access to more things than they could ever own.

"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

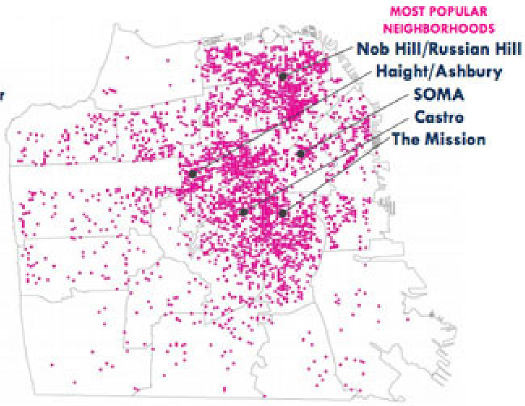
26%

OF HOTELS ARE LOCATED OUTSIDE OF 6 CENTRAL ZIP CODES



72%

OF AIRBNB PROPERTIES ARE OUTSIDE OF THESE 6 HOTEL ZIP CODES



Source: Airbnb

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, fee 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 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

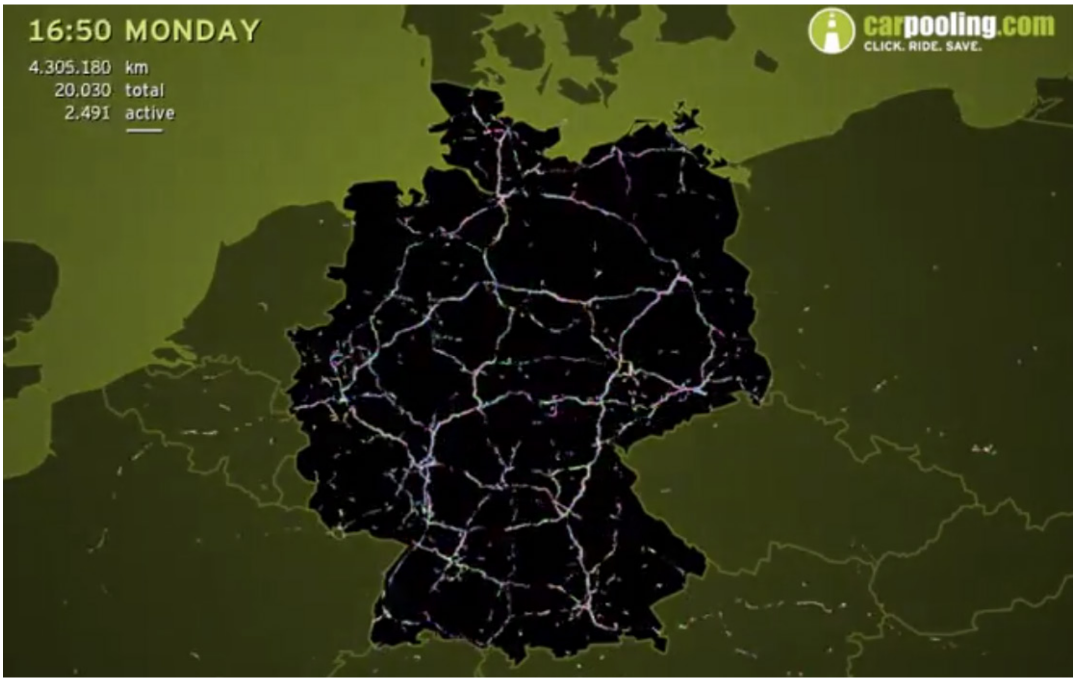
There are a number of startups that specialize in ridesharing, which is not unlike legitimized hitch hiking. Some are best for long-haul travel, and others operate more like peer-to-peer taxis.

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.

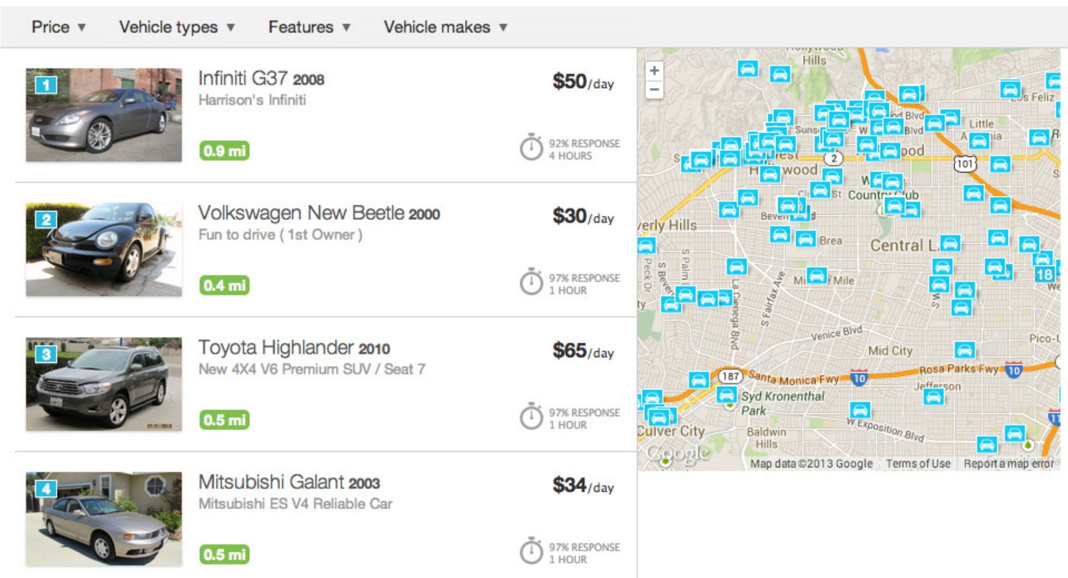
Last month, RelayRides officially received permission to operate in much the same way at San Francisco's airport. Like other car rental companies, RelayRides will pay 10 percent of gross profits and $20 per transaction to the airport. In June, the same airport filed a lawsuit against FlightCar for operating 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, FlighCar'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 aso 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



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 Airnbnb 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

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"The sharing economy: Why people participate in collaborative consumption," Juho Hamari and Antti Ukkonen, Helsinki Institute for Information Technology.
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http://www.slideshare.net/CollabLab/ygl-sharing-economy-position-paper-final-june-2013

"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

For any comments or questions, email us: trends@skift.com.

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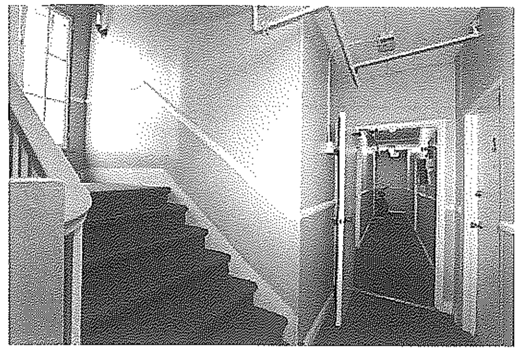
Attachment F

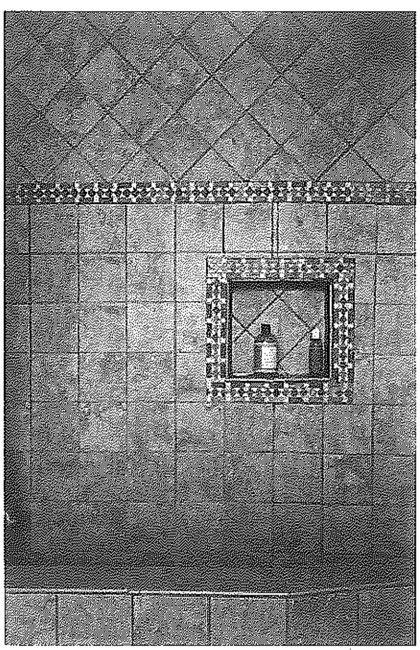
AIRBNB/VRBO ANALYSIS
THE MORRISON APARTMENTS
APN# 4226-006-005

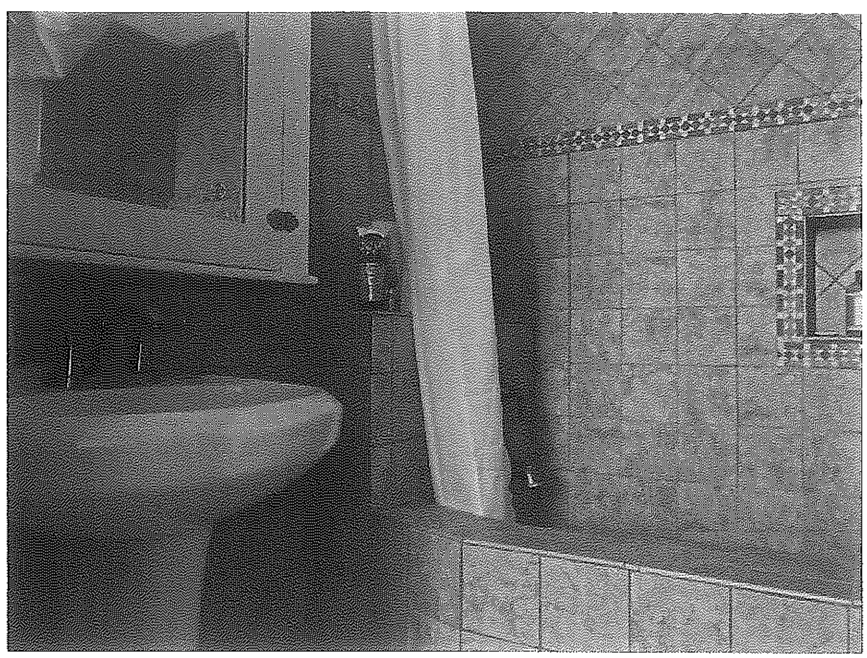
COLDWELL BANKER COMMERCIAL

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.

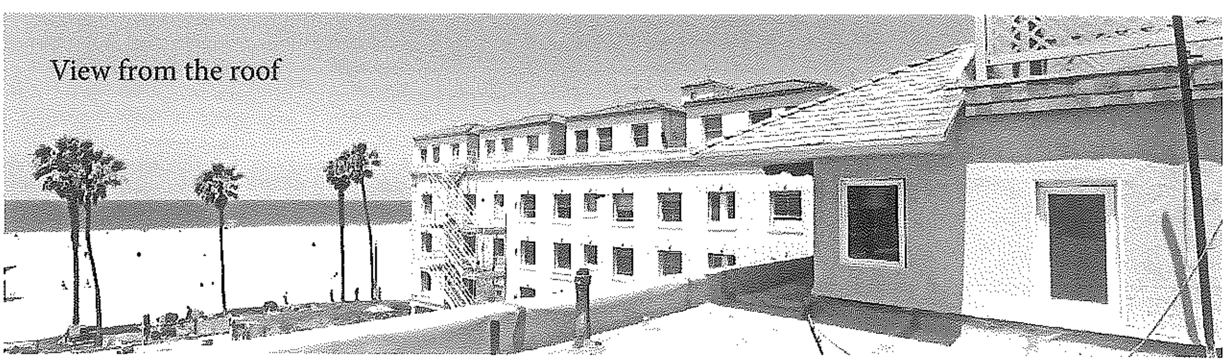






Average Daily Rate for AirBnB & VRBO Units in Immediate Area

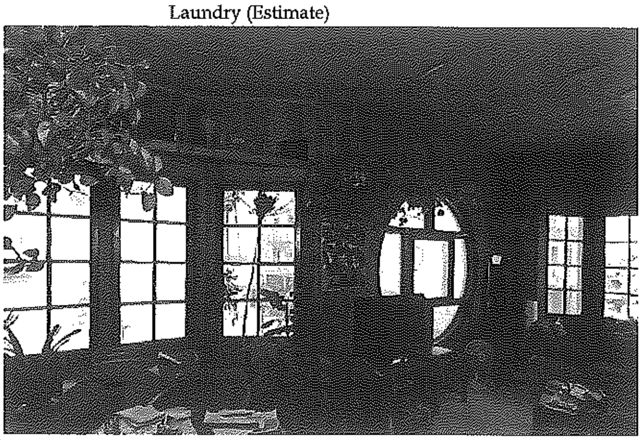
Street	Sub-Market	Zip	Unit Type	Daily Rate	
28th Ave	Venice	90291	1-Bedroom/1-Bath	$ 199	
Brooks Ave	Venice	90291	1-Bedroom/1-Bath	$ 145	
Innes Pl	Venice	90291	1-Bedroom/1-Bath	$ 130	
17th Ave	Venice	90291	1-Bedroom/1-Bath	$ 115	
S. Venice Blvd	Venice	90291	1-Bedroom/1-Bath	$ 145	
30th Ave	Venice	90291	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	**$ 144**
Sunset Ave	Venice	90291	1-Bedroom/1-Bath	$ 127	**Avg. Daily Rate**
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	
North Venice Blvd	Venice	90291	0-Bedroom/1-Bath	$ 150	
Pacific Ave	Venice	90291	0-Bedroom/1-Bath	$ 125	**$ 138**
20th Ave	Venice	90291	0-Bedroom/1-Bath	$ 119	**Avg. Daily Rate**
Dudley Court	Venice	90291	0-Bedroom/1-Bath	$ 155	

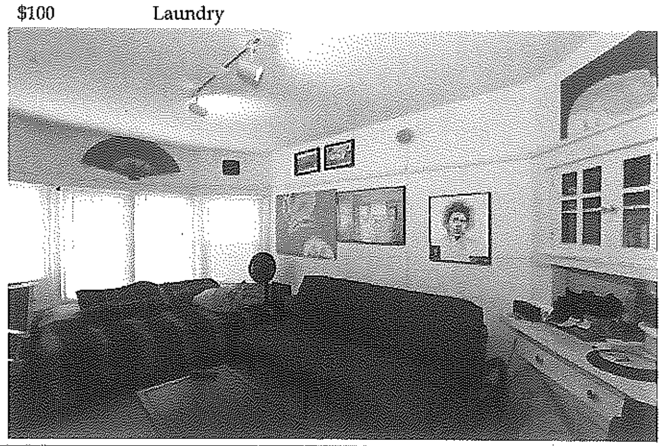


Unit	Description	Approx. Sq. Ft.	Market Rent	Comments
1	1+1	500	$5,250	1st Floor
2	1+1	500	$5,250	1st Floor
3	Single	300	$3,750	1st Floor
4	Single	300	$3,750	1st Floor
5	Single	300	$3,750	1st Floor
6	1+1	500	$5,250	1st Floor
7	Single	300	$3,750	1st Floor
21	2+1	1,000	$6,000	2nd Floor / Ocean View (Manager)
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



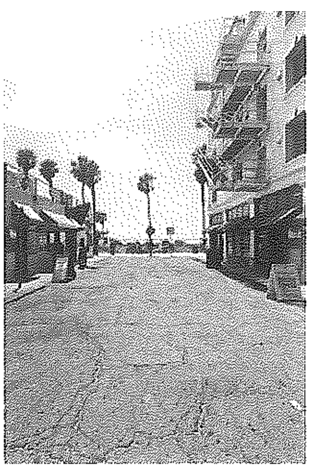


Investment Summary

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**

Attachment G – Examples of Recently Passed Short Term Rental Laws in California

City / County	Vacation Rentals Allowed*	Home Sharing Allowed**	Annual Limits	Limits on Occupancy	Landlord Notification	Neighbor Notification	Permit Required	Inspections Required	Minimum Insurance	TOT Required	Other
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 – But must prove residency.	Yes	Yes	Platforms must disclose to hosts the law and must collect TOT. Host must be a permanent resident of San Francisco. Law states that in compliance with Rent Control, tenant may not charge guests more rent than paying to current landlord.
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 – but must provide site plan and provide one off-street on-site parking space for guest use. Required to conform to standards established for bed and breakfasts. Must meet all building and fire code regulations.	Yes - via Bed & Breakfast regs.	Yes	Owner or responsible party must be within 15 minutes of the unit. Onsite advertising prohibited.

City / County	Vacation Rentals Allowed*	Home Sharing Allowed**	Annual Limits	Limits on Occupancy	Landlord Notification	Neighbor Notification	Permit Required	Inspections Required	Minimum Insurance	TOT Required	Other
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 to obtain permit, but permit provides City with the authority to inspect as needed. Law requires use of “reasonable prudent business practices” to ensure compliance with fire, building, and health and safety laws.	No	Yes	Various other requirements related to minimizing impacts on neighbors. Owner or responsible agent must be within 45 minutes of the unit. Hotline established by law to handle complaints.
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 – Annual, smoke detectors, no double keyed dead bolts, portable fire extinguishers, electrical, outdoor BBQ, garage firewall, emergency contact information, emergency escape or exit. Must provide documentation establishing that all designated bedrooms meet all local building and safety code requirements.	No	Yes	Various other requirements related to minimizing impacts on neighbors. Events prohibited.

City / County	Vacation Rentals Allowed*	Home Sharing Allowed**	Annual Limits	Limits on Occupancy	Landlord Notification	Neighbor Notification	Permit Required	Inspections Required	Minimum Insurance	TOT Required	Other
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 the code requires the owner to comply with all building and fire codes required for the level of occupancy of the vacation rental.	No	Yes	Requires vacation rentals to maintain a contact person to be listed to respond to neighbor complaints, with annual notification. Not required for home sharing since the unit is owner occupied. On site advertising prohibited. Bedrooms must meet the minimum size requirements as defined in the building code.

City Council Meeting: April 28, 2013 Santa Monica, California

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:

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MARSHA JONES MOUTRIE
City Attorney