

# Impacts of Online Property Rental Marketplaces and the “Sharing Economy”

## What is the technology?

Online vacation rental marketplaces are websites which enable property owners, tenants and occupants to rent living space to travelers. The leading marketplace is Airbnb, which was recently valued at \$10 billion. Airbnb claims to have over 800,000 listings in 190 countries worldwide. It boasts over 17 million guests. Every property on the site is associated with a “host” (the person renting the space), who may be reviewed by the site’s registered users.

Airbnb and its ilk set themselves apart from sites like Zillow and Travelocity by operating outside the “business/residence” model. Airbnb claims it is not renting the rooms, merely facilitating a connection in the “sharing economy”—similar to claims made by ridesharing services like Uber and Lyft. The site operates on a broker’s model, taking a 3% cut from the renter and a 6% to 12% cut from the traveler, and largely claiming it need not pay taxes, leaving compliance with local laws and codes to participants. This share economy frequently operates under the radar, in areas that are currently unregulated, unlicensed, and often in opposition to existing economic markets and local regulations and ordinances.

## How does the technology affect local government?

Websites like Airbnb have allowed residential short-term rentals to proliferate throughout the United States. Problems associated with residential short-term rentals are nothing new to cities. Large numbers of such rentals are often associated with excessive noise, parking problems, trash and degrading a

neighborhood’s residential character. In severe cases, residential neighborhoods in popular tourist destinations become de facto hotel rows. This new trend may also have a negative impact on the local hotel and motel industry, including the jobs they provide. In addition, many states and cities tax hotel stays (usually referred to as a “transient occupancy tax”). Websites like Airbnb make it very difficult to collect these taxes because, in some cases, the hosts do not file returns self-report to the authorities.

## What are local governments doing about it?

Local governments are attacking the issue in several ways, including:

- Zoning, and Other, Regulations –From the land use perspective, cities may consider bans on residential short-term rentals altogether or in certain zones. This has been a popular approach, which predates these websites. In 1991, the California Supreme Court upheld Carmel-By-The-Sea’s ban on residential rental properties for less than 30 days at a time. Similar bans have been adopted in New Orleans, Miami Beach, and New York. Other cities have taken regulatory approaches. Rancho Mirage, California, for example, recently passed an ordinance requiring that every short term rental agreement be signed by someone over 30 years old.
- Code Enforcement – For local governments that permit residential short-term vacation rentals, a code-enforcement approach has proven effective—focusing on the nuisance conditions associated with short-term rentals (excessive noise, parking, trash, etc.).

- Tax Collection – Local governments might issue or seek subpoenas (legislative or judicial) for websites like Airbnb to identify who and what properties are “hosting” within their jurisdictions. They may then use this information to enforce existing short-term rental bans or regulations, focus code enforcement efforts, or collect transient occupancy taxes against those who have failed to pay. Additionally, Airbnb has entered into an agreement with Multnomah County, Oregon to collect and remit local taxes on behalf of the county and the city of Portland, an arrangement other cities may also be able to enter into with the company.

#### Legal Issues To Watch Out For:

- State Regulation – Attempts to regulate short-term rentals may be restricted by state legislation. For example, in 2011, Florida passed a law prohibiting cities and counties from restricting short-term vacation rentals, however it grandfathered in existing local regulations. Arizona’s takings law is drafted so broadly that the City of Sedona had to pay for diminution in property values as a result of passing its ordinance prohibiting short-term rentals.
- Subpoena Issues – New York’s Attorney General recently engaged in a public battle with Airbnb by issuing a subpoena for personal information on “hosts” in the City. This May, the State and Airbnb agreed to the disclosure of some information. However, a group of hosts has sued Airbnb to prevent the release.



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