

ShareBetter SF Initiative Regulating Short Term Tourist Rentals (“Airbnb petition”)

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What’s the Problem?

As short term rental websites such as Airbnb grow in popularity in San Francisco a growing number of landlords are removing entire apartments and houses from the rental market. This is significantly exacerbating our affordable housing crisis. Estimates are that over 10,000 homes in San Francisco are being used as short term rentals. According to the Department of City Planning, in December of 2014 over 5,000 homes and apartments were listed on the largest short term tourist rental (STTR) web site, Airbnb. Although some short-term rentals are listed by San Franciscans renting spare bedrooms to help meet high costs of living, the majority of listings are for entire units, posted by non-residents.

Wasn’t It Against the Law to Do This?

Until recently rentals of less than 30 days have been illegal in San Francisco. However, short term rental platforms like Airbnb simply ignored the law and profited from a completely illegal activity. Adopting a “passive” complaint system, the City has completely failed to enforce the law. Despite numerous complaints to City agencies, not one wrongdoer has been found in violation and no action has been taken against them. There is currently a backlog of approximately 2,000 uninvestigated complaints.

Wasn’t A Law Recently Passed to Solve This Problem?

Yes, however it has proven to be unenforceable. In October, 2014 the Board of Supervisors passed and the Mayor signed an ordinance making some short term tourist rental uses legal. The ordinance established a registration system and only allows such short term rental uses where the host is a permanent resident of the unit. The ordinance was written after its author met privately with Airbnb lobbyists over 60 times. His legislation allows 90 days a year of “un hosted” STTR use and 265 days a year of “hosted” short term rentals.

The law, however, has no effective enforcement mechanisms and blatant violations have continued unabated. Although the host is now required to register, Airbnb and other platforms have continued to list unregistered hosts. They have also refused to provide the necessary information to determine how many days the unit is rented or whether the host was present during the rental. By April of this year both the Planning Department and the Mayor acknowledged that the law as written is unenforceable. Since then weak amendments have been proposed, but these do little or nothing to solve the problem.

What does the ShareBetterSF measure DO?

Our legislation will:

- Hold hosting platforms responsible for listing illegal or unregistered short term tourist rental listings, and enact fines to the platform of up to \$1,000 a day for violations.
- Require quarterly reports from both hosts and hosting platforms of the number of nights the host rented the premises for short term rentals.
- Limit the number of nights a unit may be rented to 75 nights per year. This limit will apply to both hosted and un-hosted units, in order to discourage the conversion of residential units to exclusive short term tourist rental use.
- Provide access to the courts to those directly impacted by illegal short term rentals, ONLY if the City elects not to act on a valid complaint.
- Provide notification to neighbors and neighborhood organizations when a host registers a unit for short term rental use.

But doesn't the ShareBetterSF measure invade hosts privacy by requiring them to provide the City their name, address and the number of days they rent out their unit?

No.

First, San Francisco requires all businesses to provide their name, business address and hours and days of operation, so that the City can properly regulate and tax them. Such information has always been publicly accessible.

Second, despite Airbnb's protests to the contrary, such disclosure is completely consistent with Airbnb's own Terms of Service agreement. As of May 2014, all Airbnb hosts and guests have agreed to these terms, which state, in part:

"...Hosts and Guests expressly grant us permission to transfer data and other information relating to Occupancy Taxes, if any, collected and remitted relating to your transactions."

"...You acknowledge that Airbnb has no obligation to monitor your access to or use of the Site, Application, Services or Collective Content or to review or edit any Member Content, but has the right to do so ...to comply with applicable law..."

"Airbnb may access, preserve and disclose any of your information ... if we believe in good faith that it is reasonably necessary to... protect the rights, property or safety of Airbnb..."

But Aren't Short Term Tourist Rentals Used Mainly by San Franciscans renting spare bed rooms in order to meet high living costs?

No, Airbnb wants you to believe this, but it is absolutely not true. According to an April, 2015 San Francisco Planning Department staff report, as of December, 2014, 63% of Airbnb listings were for full units. This means that approximately 3,228 entire homes and apartments – not spare rooms – were listed. The same report found that the average rental rate for full units was nearly three times that of a single bedroom.

Even though in most cases the short term tourist rental use of entire units is illegal, hosting platforms are protecting these transactions because they are the most profitable activity on the platform. Airbnb makes considerably more money off of the higher nightly rate for entire units than for spare rooms in a unit. VRBO, which is the second largest web based “hosting service” exclusively rents entire units. In December, 2014 VRBO listed 1,250 full units, according to the Anti-Eviction Mapping Project. In other words as of December, 2014 these two sites alone accounted for some 4,500 entire homes and apartments having been removed from the San Francisco rental market. That is 1,000 units more than the 3,500 new units that were built in all of 2014!

Just who would be affected by the ShareBetterSF measure?

First, web hosting companies would have to cooperate with the City and its residents by ensuring that they only list registered STTR’s, and face fines for violations.

Second, those hosts that are cheating the system would be affected. Nearly 3,000 short term tourist rentals are listed by owners who don’t live in the units. About 800 additional units are listed by people who don’t even live in San Francisco. These owners will no longer be able to list these units without risking penalties.

Third, the ShareBetterSF initiative requires that neighbors, building tenants and resident owners be notified before short term rentals would be allowed in their building or on their block. This would provide neighbors with a level of protection against the adverse impacts of short term tourist rentals.

Won’t any new STTR law hurt the “little guy” and make it even tougher for folks to make ends meet?

No, this measure is designed to protect the average San Franciscan who is trying to make ends meet in one of the most expensive cities in the nation. Indeed, by closing loopholes in the existing ordinance and reducing the number of violations, “little guy” hosts legitimately offering a spare room or a bedroom will in fact have less competition from “bad actors.” Moreover, nothing in our measure will limit the ability of a resident owner to apply for a “bed and breakfast” permit. These permits are now available in most residential neighborhoods, with a conditional use authorization.

Don't short term tourist rentals help San Francisco's economy?

Despite the self-serving claims of Airbnb that it makes a positive contribution to the San Francisco economy, an independent and publicly vetted report by the San Francisco Controller dated May 18th 2015 found the opposite. It concluded:

“The Citywide economic harms associated with higher housing costs are fairly severe... Removing a single unit from the market would have a total economic impact on the City's economy of approximately minus \$250,000 to minus \$300,000 per unit. This exceeds the annual total economic benefit from visitor spending, host income and hotel tax, given prevailing short term rental rates.” (page 8)

In addition, the hotel workers union estimates that for every 1,000 tourists who stay in Airbnb rentals rather than hotels, 80 hotel worker jobs are lost. Because they are already among those San Franciscans who have been hardest hit by the soaring cost of housing, these workers are doubly impacted by short term rentals.