

CITY CASE SHORT-TERM RENTAL ACCOMODATION (STR)

1. CITY OF PORTLAND, OREGON AND SHORT-TERM RENTALS

Portland's experience is instructive. The city's active real estate market¹⁰² and 3.1% vacancy rate¹⁰³ provides motivation to protect long-term rental housing by regulating its 2,000+ STRs.¹⁰⁴

LIMITED LEGALIZATION, PERMITTING, AND TAXATION

The City of Portland defined STRs as a new category of housing in its planning code¹⁰⁵ and passed a law in 2014 that allows STRs in suites and homes where the operator lives nine months out of the year and for no more than five guestrooms in any single-family dwelling. In January 2015, this was conditionally extended to units in multi-family housing, where STR units can be no more than one unit or a maximum of 25% of the total number of units (whichever is greater). STR operators are also obligated by local law to:

- register in the City's Transient Lodging Tax program
- collect and remit 11.5% (state and local) taxes from clients
- keep detailed records of client stays for City inspection upon request
- complete safety inspections
- notify neighbours
- purchase permits biennially
- display permits in the STR unit and permit numbers in all advertising
- limit STRs to 90 nights per year
- undergo a Land Use Conditional Use Review where there are three to five bedrooms.

AIRBNB AGREEMENT

The City also negotiated a private, separate agreement with Airbnb¹⁰⁶ to collect and remit city and state taxes on behalf of STR operators, and to remind operators of their obligations to comply with local regulations before posting an advertisement.¹⁰⁷

Portland city staff reportedly suggested during negotiations that Airbnb lock listings of non-compliant operators, but the company did not agree to this.¹⁰⁸ However, it did create a field in its web advertisement forms that prompts STR operators to enter permit numbers once they have obtained

these. During negotiations, Airbnb announced it would open a 160-employee customer-service center in Portland. It then promoted Portland as its first "Shared City". As part of this initiative, Airbnb has agreed to offer free smoke detectors and carbon monoxide detectors to operators who request this, work with the City to train STR operators on how to help with disaster relief, and make it easier for STR operators to donate earnings to local charities.¹⁰⁹

RESULTS

The City plans to complete an analysis of its regulatory effort next year.

Airbnb has since remitted millions in taxes to the City in lump sums, but its agreement with the City offers no effective way to identify operators who otherwise violate local laws (e.g. by operating without a permit, failing to post permit numbers in advertising, listing multiple properties, and renting out places they don't live in).¹¹⁰ Airbnb argues that routine disclosure of STR operator names and addresses would violate STR operator privacy;¹¹¹ the Portland Commissioner has argued that routine disclosure of STR operator names and addresses to meet tax obligations and safety requirements is no less than what is required of any other local business.¹¹²

Rentals of entire homes and apartments by STR operators who do not live in them continue to be widely advertised. If recent independent analysis of Airbnb listings¹¹³ is any indication, whole-home rentals constitute more than 56% of listed properties and multiple listings per STR operator are common.¹¹⁴ As of February 2015, media reported that the City has not enforced restrictions on whole-home rentals. A Portland vacation rental management company representative was quoted as saying that the law is unenforceable "unless you have someone sitting outside the door to check the box that 'Yes, they stay here 270 days out of the year.'"¹¹⁵

The threat of a \$500 fine for not displaying permit numbers does not appear to be motivating many STR operators. As of February 2015, 95+% of STR operators on Airbnb were not displaying permit numbers after the City-posted deadline for doing so,¹¹⁶ and STR platforms continue to let them advertise without them. Recent media reports suggest the City is not aware of how many STR platforms have modified their websites to include a field to list permit numbers.¹¹⁷

Many researchers are using software to analyze the

distribution and types of STRs by neighbourhood. Here is one customizable, open-source example:¹¹⁸ <https://github.com/tomslee/Airbnb> plus a roundup of data on Airbnb in several cities, produced using the same code: <http://insideAirbnb.com/get-the-data.html>

According to the City's Bureau of Development Services, STRs are only investigated when there is a complaint, and complaints don't actually result in fines—just an admonishment to apply for the appropriate permit. This system appears to do little to prevent emergence and operation of unpermitted STRs.

Recent news reports indicate that the City is now fining two STR companies who are not requiring operators to obtain permits and complete safety inspections.¹¹⁹

On the other hand, Portland's success in getting Airbnb to begin collecting taxes has broken new ground. Other cities (including Chicago, Washington, San Francisco, and Malibu) and at least one state (North Carolina) have since developed tax collection agreements with Airbnb.¹²⁰

FOR MORE INFORMATION:

- Portland's Accessory Short-Term Rental ordinance: <https://www.portlandonline.com/auditor/index.cfm?c=28197&a=501886>
- FAQ about Portland's short-term rental taxation and its agreement with Airbnb <http://www.portlandoregon.gov/revenue/article/415034?#AgreementbetweenAirbnbandCoP>
- Airbnb's (redacted) agreement with the City of Portland: <http://www.documentcloud.org/documents/1223398-lodging-tax-agreement-between-Airbnb-and-the.html#document/p10/a167057>
- Local media story archive: <http://www.wweek.com/portland/tag-0-1-Airbnb.html> See also this roundup of recent Portland of STR regulation developments: <http://the-Airbnb-analyst.com/?s=Portland>
- Independent quantitative analysis of STR listings in Portland (Airbnb only) <http://insideAirbnb.com/portland/#> and of Airbnb: <http://insideAirbnb.com/>
- Some suggestions for getting compliance, based on Portland's experience: <http://the-Airbnb-analyst.com/encouraging-registration-outreach-compliance/>

2. CITY OF AUSTIN, TEXAS AND SHORT-TERM RENTALS

Austin's response to short-term rentals is equally instructive.

LEGALIZE, LICENCE, TAX, AND CAP

In 2012, the City of Austin, Texas began requiring all STR operators to purchase licenses (\$285), which must be renewed annually, and to collect and remit a 9% hotel occupancy tax to the city from clients. Austin divides STRs into three types: 1) owner-occupied where the owner is "generally present" (this includes structures associated with the owner-occupied home, e.g. secondary suites); 2) not-owner occupied single-family residences and duplexes; and 3) not-owner occupied/ part of multi-family building (e.g. condos, apartments). STR types 2 and 3 are subject to area-based caps. For example, no more than 3% of the single-family detached homes within each census tract can be used for STRs.¹²¹ STR operators also require proof of property insurance and a certificate of occupancy or of a certified inspection.

RESULTS

By May 2014, the City had identified and contacted 1,089 local STR listings that were not complying with the new regulations by getting permits. Of those 1,089, approximately 72% led to a lodging provider either removing their posting or going through the licensing process. As of August 2014, there were 1,048 licensed STRs in Austin. Most of the licensed STRs (59%) are Type 1 (owner-occupied); 41% came from residences that are not owner-occupied.¹²² To date, just 5% of the City's census tracts have reached their caps.¹²³ STR licence holders now receive regular reminders from the city for taxes and as of August 2014 were generating over \$2 million in licensing fees and taxes for the City.¹²⁴

There remain some challenges to the existing system:

- Some 28% of the listings investigated did not come into compliance with the City's registration requirements. A December 2014 audit found that when STR operators ignore letters warning of non-compliance, the investigations stall and documented results of investigations do not undergo a supervisory review. The City had not finalized any process for citing non-compliant STR operators because they are concerned that evidence may not be successful in court.¹²⁵

- It is not clear what percentage of Austin STRs (estimated at about 3,000 by one group)¹²⁶ are now licensed.
- The law requires that licensed STRs include their license numbers in all advertising,¹²⁷ but a quick scan of Austin listings on STR sites suggest most operators aren't doing this. This complicates enforcement.
- As of January 2015, the Austin Code Department was refining its enforcement process for identified, unregistered STRs.

FOR MORE INFORMATION:

- Austin STR Ordinance No. 20130926-144: <http://www.austintexas.gov/edims/document.cfm?id=199458>

- Austin's STR program summarized: <http://www.austintexas.gov/str>
- Chart that allows residents to look up the number of available permits in a census tract: <http://www.austintexas.gov/page/percent-strs-issued-census-tract>
- Results of December 2015 audit of Austin STRs: <http://austintexas.gov/sites/default/files/files/Auditor/AU14116.pdf>
- Insight on regulation weaknesses: <http://republicofaustin.com/2013/02/19/5-ways-to-beat-austins-short-term-rental-licensing-ordinance-during-sxsw/>

3b.4 GETTING AHEAD OF THE CURVE

PART 1: LEVERAGING SHORT-TERM RENTALS FOR URBAN SUSTAINABILITY

Ensuring that Shared Space advances urban sustainability is an evolving challenge for cities. The following are some recommendations for local governments to discuss and explore further in the context of unique local priorities and circumstances.

Q1.
What can local governments do to maximize the positive impacts of STRs, like tourism dollars and local economic diversification, while mitigating possibly negative effects on sustainability?

RECOMMENDATION:

Use clear terminology. We strongly recommend that local governments promote clear thinking about Short-Term Rentals (STRs) by using terms that reflect the fact that these are economic activities with implications for broader communities.

For example:

- The term **short-term rentals** makes this clearer than **home-sharing**. It also distinguishes STRs from private social activities that are not reasonably regulated, as well as from long-term rentals. It is more accurate than vacation rentals, as STRs also relate to travel for reasons other than vacations.
- Similarly, terms like **resident, operator, client, customer,** and **short-term renter** are more accurate than **host** and **guest** considering that money does not typically change hands in host/ guest relationships and that in many STRs, operators have little or no contact with clients.

RECOMMENDATION:

Move beyond narratives concerned with “levelling the playing field”.

Productive discussion about sustainability and STRs also suggests that local government move beyond the narrow frames of media narratives about “levelling the playing field” between “innovators” (STRs) and “outdated businesses” (the