Attachment 4

Sally Long

From:	sdkirchick@aol.com
Sent:	Tuesday, August 07, 2018 11:20 PM
To:	Sally Long; Bryce Bishop
Cc:	susanmartin7007@yahoo.com
Subject:	Applicant's Rebuttal: CU-ADJ18-07
Attachments:	Can Short-Term Rental Arrangements Increase Home Values_ A Case.pdf; InternetAssociation-Seattle-Short-Term-Rental-Rentals.pdf; High St. Interior 1.JPG; High St. Interior 2.JPG; High St. Interior 3.JPG; High St. Interior 4.JPG; High St. Interior 5.JPG; High St. Interior 6.JPG; Salem.8-6-18.pdf

Hello:
Please find this email and attachments in support of Applicant's rebuttal to the new testimony your office received during the first 7-day open record period for Conditional Use Permit/ Adjustment Case No. CU-ADJ18-07. The attachments include photographs of the newly remodeled home at 725 High St., SE, publications that reflect STR's as improving neighborhoods, and letters that were submitted to the City Planning Department when the ordinance was first being considered in March 2017.
First and perhaps foremost, Kym and I want to make a few additional comments to the hearing officer in response to our neighbors' concerns raised through their individual emails. We understand and appreciate the position that the historic neighborhood is special and should be treated as such. However, their desire of complete exclusion of STR's in a historical district is not appropriate under the current ordinance allowing a permit to regulate them.
Prior to spending over $5000.00 (non-refundable) seeking the Class II and Class III permits, we did our research and carefully read the laws regulating STRs. Nothing in the ordinances stated that there is a clear exception to a historical overlay zoned neighborhood. Justifiably, we relied on the plain language of the local ordinances and proceeded forward because we met all of the legal requirements and as a few of our neighbors admitted the location is prime for an STR.
Interestingly, the position SCAN and its members now take was NOT their position just a little over a year ago when the ordinance was passed. No one argued to the planning commission nor City Council that a blanket exception based on the language of the zoning laws protecting the historical overlay district applies in any way to STRs. Mr. Christenson, Ms. Shirack, the Chair of SCAN's Land Use and Transportation Committee, and others oppose our permit application when really their arguments are an attack on the ordinance itself, unanimously passed by City Council just over a year ago.

When SCAN addressed the ordinance on March 17, 2017, Ms. Shirack indicated that SCAN opposed short term rentals only "because it provides an incentive to remove housing stock from the market for long-term residential use." (See attached letter to Planning Commission, dated March 6, 2017, as Attachment 3 to City Planner's recommendations to approve the STR ordinance.) She also argued that there would be a negative impact on neighbors because no one would be able to address concerns about the home and respond.
Nowhere did Ms. Shirack, on behalf of SCAN, or others argue for a blanket exception of the ordinance for historical districts as they now do. Their argument for exclusivity of short term visitors to their neighborhood is ironically in direct contradiction to their stated mission of inclusivity. On their web site and Facebook page, SCAN claims:

"We want everyone in our neighborhood to thrive and reach their potential. ***Our neighborhood is inclusive to all.*** It consists of tree lined streets, many parks, historic homes, and successful businesses." (www.scansalem.org, and Facebook page.)

"Inclusive to all" includes our friends desiring to stay in a home, not a hotel room, as an ideal place to come watch their son play in a Willamette football game, walk to the stadium and return for a BBQ. We envision visiting doctors, nurses, and other medical practitioners who work at Salem hospital to have a home, not a hotel room, where they can walk to their temporary work place and return to their family who spent the day walking to Bush Park and having a picnic. We envision politicians and other state government workers having a home, not a hotel room, in a lovely historic district neighborhood to inspire their work for the City of Salem and State of Oregon. We envision visitors to Salem to have a home, not a hotel room, to be welcomed by friendly neighbors who discuss the historical features of the neighborhood and the visitor's home city or country from where they reside.

With regard to the recommendations, one item indicated that "gatherings" are prohibited. It is unclear what the definition is of the word that is intended. Such a vague term can mean to prohibit a dinner party or the tenants inviting a few friends over to watch a ball game. It seems that the other restrictions prohibiting "meetings and events' covers the issue adequately. Another recommendation, which is discretionary under the ordinance, is to not allow the permit to run with the land. We are in agreement with such restriction but with the exception of inheritance to our children or a transfer to our property manager, Ms. Susan Martin.

Kym and I could have chosen to not remodel the interior and rent the home, as is, to a nice family of 6, 8, or even 12 people who collectively own 5 or 6 cars. We could have done so without a permit. We could have saved $125,000 doing so. But such a scenario was not our vision which at the time and even now believe is a win-win proposition for us, the neighborhood and the City.
The reality is a long term lease could result in greater traffic in and out of the driveway more than if our application is granted as regulated in the recommendations. (Interestingly, when the ordinance was passed, there was a parking restriction allowing one car on the street. This would address some concerns about backing out of the driveway. To be consistent, it seems reasonable to permit this restriction in addition to those cars that fit on the driveway.)

Further, we could have decided not to replace old electrical wiring, like I'm sure many of the historic homes still have today. But we chose to assure that the home is safe to preserve the integrity of the home and not be a danger to the neighborhood. We did so by also completely replacing the plumbing line from the water main throughout the entire home. Also, we repaired structural defects in two chimneys. We chose to purchase this home and to remodel it with an eye of preserving the historical qualities of the home and the neighborhood.

Some neighbors are concerned that "there is no guarantee on the face of this application or in the staff report that rooms could not be rented to six unrelated individuals, for some "short" period of time to be determined by the (out-of-state) owner." That the "gaps in this application that could result in significant, intrusive uses of this home should be obvious and of concern – not only to the neighbors and SCAN, which they are – but to the City as well."

This concern is speculative and fear based. Our property manager is a top notch very experienced professional who will carefully screen applicants before renting. We have every desire and interest to abide by the terms of the permit. We chose from the beginning to not cheat the City and operate without a permit, as quite frankly many homeowners do. If there is ever an issue with our renters, we look forward to a cooperative effort to let our manager know so we can address it without delay.

We recognize that zoning ordinances benefit the public by serving the City's interest in assuring careful and orderly development of residential property. Our desire is to work within the parameters the City ordinance provides and thereby financially support the preservation and cultural tourism of the historic neighborhood through the payment of the transient occupancy tax.

Attached are two data based case studies that are supportive of STR's as beneficial to the neighborhood. One is a Cornell University Study, written by a Harvard Law graduate and professor of law at Barry University School of Law, who concludes, based on data research, that STR's preserve the character of a neighborhood and help to preserve property values. The second is about the STR experience in Seattle, authored by Dr's. Garza and Hooten who conclude that STR's do "enormous good for cities like Seattle and their residents.
Further, Airbnb submitted a letter for consideration prior to adoption of the ordinance and is in the record as "Attachment 4" to the City Planner's recommendations to adopt the ordinance. Their points made address many of the neighbors concerns. (See attached letter.)

We truly hope the neighbors opposing the application can supplant their fear with support and love for the visitors who wish to enjoy the neighborhood as they do for the very reasons they choose to live there. We hope that the neighbors will be "inclusive" to residents, long-term renters, short-term renters and all visitors of SCAN neighborhoods as they publicly proclaim.

Respectfully,

Stu and Kym Kirchick

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Can Short-Term Rental Arrangements Increase Home Values? A Case for AirBNB and Other Home Sharing Arrangements

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Abstract

The sharing economy or "new economy"[1] has redefined consumption in the housing context in a manner that impacts traditional notions regarding home values and neighborhood integrity. Housing sharing allows owners to share some of the benefits of property ownership – namely use and enjoyment[2] – while shifting some of the burdens of ownership – particularly, the economic burdens. With the advent of the sharing economy, there is a brewing conflict between this new economy and the realities of economic regulation. Thus, in the housing context, we see this conflict playing out in the tension between growing patterns of home sharing and existing regulations that prohibit such sharing. Many state and local governments, relying on their inherent police powers, regulate short-term housing. In particular, certain land use legislation overtly prohibits occupation by short-term renters. One prominent justification for such prohibitions is the maintenance of property values and neighborhood character.

Keywords

Cornell, real estate, rental, short-term, AirBNB, home sharing, sharing economy, new economy, home values, property ownership, economic regulation, regulation, short-term housing, land use regulation, housing prohibition, value preservation, short-term lease, lease, renewal, lodging, timeshare, inn, hotel, housing cooperative, affordability, housing scarcity, technology, restrictions, New York City, Supreme Court, zoning restrictions, full prohibition, geographically-based restrictions, quantitative restrictions, proximity restrictions, operational restrictions, licensing requirements, condemnation, inverse condemnation, regulatory takings, private property, constructive taking, occupancy, taxation, public safety, neighborhood character, Multiple Dwelling Law, permanent occupancy, Attorney General, Eric Schneiderman, commercial user, Arun Sundararajan, California, Carmel-by-the-Sea, hotel revenue, lodging industry, mortgage, burden of homeownership, blight mitigation, community character, property values

Can Short-Term Rental Arrangements Increase Home Values?: A Case for Airbnb and Other Home Sharing Arrangements

By: Jamila Jefferson-Jones

Introduction

The sharing economy or "new economy"[1] has redefined consumption in the housing context in a manner that impacts traditional notions regarding home values and neighborhood integrity. Housing sharing allows owners to share some of the benefits of property ownership – namely use and enjoyment[2] – while shifting some of the burdens of ownership – particularly, the economic burdens. With the advent of the sharing economy, there is a brewing conflict between this new economy and the realities of economic regulation. Thus, in the housing context, we see this conflict playing out in the tension between growing patterns of home sharing and existing regulations that prohibit such sharing. Many state and local governments, relying on their inherent police powers, regulate short-term housing. In particular, certain land use legislation overtly prohibits occupation by short-term renters. One prominent justification for such prohibitions is the maintenance of property values and neighborhood character.

I argue that, despite short-term housing prohibitions and the underlying policies supporting them, such exchanges can actually help to preserve property values by providing income to homeowners that can be used to offset mortgage and maintenance costs – in other words, by allowing owners to *share* the burdens of ownership. Thus, rather than frustrating the goals and purposes for which old economy regulations were designed (e.g., the preservation of property values and neighborhood character), housing exchanges may instead aid in achieving these aims. Specifically, if homeowners are able to do so, they are more likely to be able to maintain their homes in the short-term and, in the long-term, to maintain ownership.

Policies that curtail short-term rental housing are of a bygone era and are ill-suited to address the modern sharing economy. The number of online platforms designed to link property owners with potential short-term lessees has grown rapidly over the last few years. For instance, Airbnb.com ("Airbnb") -- the most well-known of these platforms -- boasts that it has connected over twenty-five million guests with hosted properties in 34,000 cities in 190 countries since its founding in 2008.[3]

Sharing and bartering housing resources is not new. Historically, the concept has long existed in the context of lodging purchased on a time- or space-limited basis in inns and

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1 See Jenny Kassan and Janell Orsi, The Legal Landscape of the Sharing Economy, 27 J. Envtl. L. & Litig. 1, 2, 5 (2012) (listing some of the names of the new economy, such as the "relationship economy," "cooperative economy," "access economy," "peer-to-peer (or p2p) economy," and the "grassroots economy."). The modern sharing economy is diverse and is made up of various types of organizations and structures, including shared housing. *Id.* at 3 (noting that the sharing economy consists of "social enterprises, cooperatives, urban farms, cohousing communities, time banks, local currencies, and [a] vast array of other unique organizations."). What ties these various components together is that they "generally facilitate community ownership, localized production, sharing, cooperation, [and] small scale enterprise." *Id.*

2 The liberal view of property is represented by the prevailing Hohfeld-Honore "bundle of rights analysis." See J.E. Penner, The "Bundle of Rights" Picture of Property, 43 UCLA L. Rev. 711, 712-13 (1996) ("The currently prevailing understanding of property . . . is that property is best understood as a 'bundle of rights.'" (citations omitted)). Penner uses this term to describe the conflation of Wesley N. Hohfeld's analysis of rights and the incidents of ownership delineated by A.M. Honore. In this view, property includes the rights of use and enjoyment, possession, and alienation. See John S. Mill, Principles of Political Economy bk. II, ch. ii, at 218 (W. Ashley ed., 1909)).

3 Airbnb, *About Us*, https://www.airbnb.com/about/about-us (last visited Mar. 2, 2015).

boarding houses, rooms for rent, housing cooperatives, and informal arrangements.[4] The catalyst for such sharing has often been the quest for affordability, coupled with housing scarcity. In the contemporary context, we see a home sharing proliferation the catalyst of which is also the scarcity of resources – both affordable housing itself and the monetary resources with which to maintain home ownership. What is unique to home sharing in the new economy is not the sharing, but rather the way in which such sharing is facilitated by technology and how the use of such technology is causing innovation in sharing to outpace changes in housing regulation.[5]

This Article focuses on the question of whether short-term rental arrangements negatively impact neighborhood character and home values. Part I gives an overview of the character of and justifications for municipal short-term leasing restrictions. Part II examines the Airbnb controversy in New York City. Finally, Part III argues that municipalities may actually be doing themselves a disservice when they prohibit these new economy housing exchanges because they may be missing out on an opportunity to reap enhanced economic benefits from permitting such exchanges.

The Character of and Justification for Short-Term Rental Restrictions

The Supreme Court long ago recognized the validity of zoning regulations as a proper exercise of the police power.[6] However, the Court noted that the extent of the police power "varies with circumstances and conditions."[7] Thus, when examining the character of the various state and local government restrictions, it is important to do so in the context of local community circumstances. Local considerations have resulted in a number of different types of short-term rental restrictions. Current short-term rental restriction can be divided into six types: (1) full prohibitions; (2) geographically-based restrictions; (3) quantitative restrictions; (4) proximity restrictions; (5) operational restrictions; and (6) licensing requirements.[8]

Full Prohibitions and Geographically-Based Restrictions on Short-Term Rentals

Those localities that fully prohibit short-term rentals do so on a community-wide basis.[9] However, some municipalities also enact such full prohibitions only in certain geographical locations, such as particular zoning districts or neighborhoods.[10]

Full prohibitions may constitute a regulatory taking of private property without just compensation in violation of the Fifth and Fourteenth Amendments to the United States Constitution.[11] Governmental restrictions on the use of real property for the purpose

4 *See* David Faflick, Boarding Out: Inhabiting the America Literary Imagination, 1804-1860 39-41 (2012) (noting that "Dutch merchants [in the New World] enjoyed the temporary shelter afforded them by boarding as early as the seventeenth century," acknowledging the long-standing existence of such arrangement in Europe, and charting its development in America).

5 *See* Kassan & Orsi, *supra* note 1 at 5; Molly Cohen and Corey Zehngebot, *What's Old Becomes New: Regulating the Sharing Economy*, 58 Boston B.J. 6 (2014) (noting that the sharing economy is "[a]n old concept made new through internet-based sharing.").

6 *Village of Euclid v. Ambler Co.* at 272 U.S. 365, 387 (1926).

7 *Id.*

8 Rental restrictions may also be organized with respect to the entity that imposes them – such entities being local governments, residents, developers or a combination of these entities. Ngai Pindell, *Home Sweet Home? The Efficacy of Rental Restrictions to Promote Neighborhood Stability* 29 St. Louis U. Pub. L. Rev. 41, 47 (2009).

9 *See, e.g.,* N.Y. Multiple Dwelling Law, Article 1, §4.8(a) ("[a] Class A multiple dwelling shall only be used for permanent residence purposes").

10 *See e.g.,* Maui County, Haw., Code § 19.38.030(B) (2004) (Maui County, Hawaii ordinance limiting "transient vacation rentals" to "destination resort areas" and certain other business zoning districts).

11 The Takings Clause of the Fifth Amendment provides, "[N]or shall private property be taken for public use without just compensation." U.S. Const. amend. V. The Takings Clause applies to the states through the Fourteenth Amendment. *Id.* amend. XIV, § 1 ("[N]or shall any State deprive any person of . . . property, without due process of law . . . ."); *see also Nollan v. California Coastal Comm'n*, 483 U.S. 825, 827 (1987)(The Takings Clause of the Fifth Amendment is made applicable to the states via the Fourteen Amendment.). A property owner who is seeking to establish a claim pursuant to the Takings Clause must identify (1) the property taken; (2) the governmental conduct that resulted in the taking;

of short-term rentals may be classed as "inverse condemnation" – an instance where the government has taken property or impacted property rights without utilizing the condemnation process and, therefore, without providing just compensation for the taking.[12] Inverse condemnation applies both to physical invasions of private property and to so-called "regulatory takings"—those instances in which the government has regulated the use of property in a manner so as to constitute a constructive taking thereof. The genesis of the idea of the "regulatory taking" can be found in *Pennsylvania Coal Co. v. Mahon*,[13] wherein, Justice Oliver Wendell Holmes, Jr., writing for the Court, famously concluded that, with regard to government regulation of property rights, "The general rule at least is that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking."[14]

Quantitative Restrictions on Short-Term Restrictions

Municipalities that have enacted quantitative restrictions allow short-term rentals throughout the community, but limit the number of such rentals. Often, these communities take the approach of issuing short-term rental permits to property owners, but capping the number of such permits that may be issued.[15] As an alternative to an absolute cap, some municipalities mandate that a certain ratio of long-term to short-term residential use be maintained throughout the community or within certain designated zoning areas.[16] The impact of either approach is that owners who may want to enter the short-term rental market may be prohibited from doing so if the permitting cap has already been reached or if the mandated ratio cannot be maintained.

Proximity Restrictions on Short-Term Rentals

In contrast to the quantitative restrictions, some municipalities restrict new short-term rentals from being located within a certain distance of an existing short-term rental property.[17] Again, the manner of restriction may have the effect of preventing new entrants into the short-term market.

Operational Restrictions Affecting Short-Term Rentals

Many regulations restricting short-term rentals focus on the operational aspects of renting. These restrictions are also designed to prevent new entrants into the short-term rental market. For example, a municipality may limit the maximum overnight occupancy of

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and (3) the just compensation that would remedy the taking. *See generally* 3 Sands, Libonati & Martinez, Local Government Law: A Transactional Approach §16.53.20 (2000).

12 *Evangelical Lutheran Church of Glendale v. Los Angeles Cnty.*, 482 U.S. 304, 317 (1987) ("While the typical taking occurs when the government acts to condemn property in the exercise of its power of eminent domain, the doctrine of inverse condemnation is predicated on the proposition that the taking may occur without such formal proceedings."). If the government would like to acquire private property for public use, it must usually commence by attempting to negotiate a purchase agreement with the owner. If its attempts at negotiation fail, it will begin the condemnation process via the courts. At trial the government has to establish authority to condemn, which may require it show that the proposed taking is 'necessary', thus establishing its authority to condemn the property. If successful, the government will be required to pay just compensation to the owner for the taking. See Jessie Dukeminier, James E. Krier, Gregory S. Alexander & Michael H. Schill, Property 1081 (2010) (7th ed. 2010).

13 260 U.S. 393, 415 (1922).

14 The issue in Pennsylvania Coal was whether the effect of the Kohler Act—which prohibited the mining of anthracite coal in a manner that, among other things, would cause subsidence to any residential structure—amounted to a taking. The Court held that "To make it commercially impractical to mine certain coal has very nearly the same effect for constitutional purposes as appropriating or destroying it." *Id.* at 515.

15 *See, e.g.,* City of Santa Fe, N.M., Code §14-6.2(A)(6)(a)(i) (2011) (limiting the number of short-term rental permits to 350, unless the dwelling unit in question qualifies for a permit as an "accessory dwelling unit, owner-occupied unit, or unit located within a 'development containing resort facilities.'"

16 *See, e.g.*, Mendocino County, Cal., Code § 20.748.020(A) (1995) (mandating that a ratio of thirteen long-term to one short-term dwelling units be maintain throughout the county).

17 *See, e.g.*, San Luis Obispo County, Cal., Code § 23.08.165(c) (2012) (prohibiting residential vacation rentals from being established within 200 feet on the same block of any existing residential vacation rental or "visitor-servicing accommodation").

short-term rental properties. Such restrictions may be based on the number of bedrooms[18] in the property or on some other quantitative aspect of the property.[19] Alternatively, rental period regulations that limit the number of times that a property may be rented may be enacted.[20] These types of operational restrictions increase the cost of providing short-term rentals and, therefore, frustrate the very aim of owners seeking to reduce, shift or share the cost of ownership.

Licensing Requirements Affecting Short-Term Rentals

Some local government entities require that property owners seeking to use their properties for short-term rentals obtain a license to do so. Such licensing is often conditioned upon the property's passing various inspections.[21] Moreover, licensees may be subject to the payment of licensing fees and periodic renewals and, thus, additional fees. Often, this type of "procedural rental requirement [is employed] to ensure that landlords maintain their rental properties and that renters are well-behaved."[22]

Justifications for Municipal Short-Term Rental Restrictions

Communities justify restrictions of short-term leasing using various lines of reasoning, the most prominent of which (2) focus on issues related to taxation and revenue; (3) are public safety-based; or (3) relate to protecting property values and the character of the neighborhood;

1. Revenue and Competition with Licensed Lodging

The hotel industry has lobbied for bans prohibiting short-term rentals, or at the very least, tougher regulations that would compel owners to pay the same sorts of occupancy taxes and other fees to which licensed hotels are subject. By the same token, local governments have often couched their objections to prohibited short-term rentals in terms of lost hotel occupancy tax revenue.[23]

2. Public Safety

Local governments argue that the state is obliged to regulate the relationship between property owners and renters in order to protect the public from possibly unsafe lodging situations. Thus, municipalities argue that occupancy limits and inspection requirements, for example, are not designed to prevent owners from entering the rental market, rather they are meant to ensure that the renting public remains safe. As noted above, this reasoning is best-suited for a regulatory scheme that is mediating vertical relationships, rather than horizontal peer-to-peer relationships that have the tendency to be self regulating. Such burdensome requirements may have the unintended consequence of creating an "underground" market for short-term housing rentals. In essence, this is what is happening in municipalities with total bans as well. Although hosts are using a publicly-accessible website to facilitate sort-term rental relationships, these hosts have often taking the calculated risk of disregarding bans or onerous regulation in

18 *See, e.g.* Isle of Palms City, S.C., Code § 5-4-202(1) (2007) (limiting overnight occupancy to two persons per bedroom, plus and additional two persons).

19 *See, e.g.* Sonoma County, Cal., Code § 26-88-120(f)(2) (2010) (limiting maximum overnight occupancy by the design load of the septic system).

20 *See, e.g.*, Santa Fe, NM City Code §14-6.2(A)(6)(a)(ii) (limiting short-term rental units to a maximum of 17 rental periods per calendar year and limiting properties to one rental per consecutive seven-day period).

21 *See, e.g.*, Tillamook County (OR) Short Term Rental Ordinances, Section 6 (Standards) and 9.A.b (Short Term Renal Permit Application Requirements) (requiring that short-term rental properties be certified by a building inspector with regard to minimum fire extinguishers and smoke detectors and emergency escape standards, as well as structural requirements).

22 See Pindell *supra* note 8 at 49.

23 *See, e.g., Decision and Order, Airbnb v. Schneiderman,* No. 5393-13 (N.Y. Sup. Ct. May 13, 2014) *available at* http://www.documentcloud.org/documents/1159527-airbnb-new-york-decision.html#document/p9 (last visited Feb. 28, 2015).

order to shift a portion of their ownership burden, thus creating a "black market" in housing sharing.

3. Property Values and Character of the Neighborhood

Conventional thinking has been that short-term rental restrictions increase property values by causing owners to adhere to maintaining a gold standard of single-family ownership and occupancy. However, it is possible that property values may increase as a result of government's allowing owners to enter into the short-term market, especially if, in the long-run, by doing so, the owner is able to alleviate some of the burden of ownership and thereby avoid deferring maintenance or, in the extreme, avoiding foreclosure.

The argument regarding the protection of the character of a particular residential neighborhood pits permanent residents against short-term residents and the owners that rent to them. Permanent residents may argue that short-term tenants do not have ties to the community and do not or cannot, therefore, reflect the values of the community. These arguments conflate the length of stay in a community with the ability (or more precisely the inability) to be a good neighbor.

The New York Airbnb Controversy

The recent New York Airbnb controversy is a good example of the tensions between new economy home sharing and old economy regulation. In October 2013, New York Attorney General Eric Schneiderman subpoenaed Airbnb's records, requesting data on its hosts[24] for the previous three years.[25] Schneiderman contended that Airbnb hosts in New York City — Airbnb's largest United States market[26] — were violating a provision of the New York Multiple Dwelling Law which requires that certain multiple dwelling units only be occupied by "permanent occupants" – those residing in the unit for thirty or more consecutive days.[27] The Attorney General also asserted that Airbnb hosts in New York City were not complying with state and local tax registration and collection requirements.[28]

Airbnb moved to quash the subpoena, arguing that: "(i) there is no reasonable, articulable basis to warrant such an investigation and the subpoena constitutes an unfounded 'fishing expedition'; (ii) any investigation is based upon laws that are unconstitutionally vague; (iii) the subpoena is overbroad and burdensome; and (iv) the subpoena seeks confidential, private information from petitioner's [Airbnb's] users."[29]

Judge Gerald W. Connolly of the Supreme Court of the State of New York, Albany County held that the subpoena must be quashed because the requests contained therein were overly broad. The court made this determination despite its finding that a predicate factual basis had been established with "evidence [supporting the assertion that a substantial number of Hosts may be in violation of the Multiple Dwelling Law and/or New York State

24 Airbnb refers to the property owners who use its platform as "hosts" and the lessees as "guests." Airbnb, *supra* note 3.

25 *See Decision and Order, Airbnb v. Schneiderman,* No. 5393-13 (N.Y. Sup. Ct. May 13, 2014), *available at* http://www.documentcloud.org/documents/1159527-airbnb-new-york-decision.html#document/p9; see also, Stephanie Burnett, *Airbnb Hands Over Data on 124 Hosts in New York City to the Authorities*, Time, Aug. 25, 2014, *available at* http://time.com/3180103/airbnb-hands-over-data-on-124-hosts-in-new-york-city-to-the-authorities/ (last visited Feb. 28, 2015).

26 Tom Slee, Whimsley, *Trust, Ratings and the Data Behind Airbnb's Host Turnover, available at* http://skift.com/2014/06/12/trust-ratings-and-the-data-behind-airbnbs-host-turnover/ (last visited Feb. 28, 2015).

27 N.Y. Multiple Dwelling Law, Aricle 1, §4.8(a) (providing that "[a] Class A multiple dwelling shall only be used for permanent residence purposes" and defines "Class A dwelling" as including tenements, apartment houses, studio apartments, duplex apartments and kitchenette apartments. Further providing that "[f]or purposes of this definition, 'permanent residence purposes' shall consist of occupancy of a dwelling unit by the same natural person or family for thirty consecutive days or more and a person or family so occupying a dwelling unit shall be referred to herein as the permanent occupants of such dwelling unit.");*see Decision and Order, Airbnb v. Schneiderman,* No. 5393-13 (N.Y. Sup. Ct. May 13, 2014) *available at* http://www.documentcloud.org/documents/1159527-airbnb-new-york-decision.html#document/p9; N.Y. Multiple Dwelling Law, Article 1, §4.8(a).

28 *See Decision and Order, Airbnb v. Schneiderman,* No. 5393-13 (N.Y. Sup. Ct. May 13, 2014) *available at* http://www.documentcloud.org/documents/1159527-airbnb-new-york-decision.html#document/p9; Affidavit of Sumanta Ray in Opposition to Airbnb, Inc's Motion to Quash and in Support of the Attorney General's cross-Motion to Compel Responses to an Investigatory Subpoena, *Airbnb v. Schneiderman,* No. 5393-13 (N.Y. Sup. Ct. May 13, 2014), *available at* http://www.documentcloud.org/documents/1145999-new-york-attorney-general-analysis-of-airbnb.html#document/p3 (last visited Feb. 28, 2015).

29 *See Decision and Order, Airbnb v. Schneiderman,* No. 5393-13 (N.Y. Sup. Ct. May 13, 2014), *available at* http://www.documentcloud.org/documents/1159527-airbnb-new-york-decision.html#document/p9.

and/or New York City tax provisions."[30]

The court also held that Airbnb's constitutional vagueness argument was not yet ripe for review because there was no actual controversy ongoing between the state and the hosts.[31] Additionally, the court held that Airbnb had failed to show that the information requested by the subpoena was confidential.[32]

The court noted that the subpoena demanded information on "all Hosts that rent Accommodation(s) in New York State."[33] The Multiple Dwelling Law, however, applies only to "cities with a population of three hundred twenty-five thousand or more."[34] Moreover, the court found fault with the subpoena's not limiting its request to rentals of less than thirty days.[35]

With respect to the tax-related allegations made by the Attorney General, the court also took issue with the fact that the subpoena was not limited to New York City hosts and did not take into account the various exceptions to the state and city tax regulations.[36] In particular, the court noted that the Attorney General acknowledged the existence of exceptions to the hotel occupancy tax that exempted hosts who rented their properties "'for less than 4 days, or for fewer than three occasions during the year (for any number of total days).'"[37]

One day after the court's ruling, the Attorney General issued a second subpoena to Airbnb.[38] This second subpoena was revised to address the court's concerns about over breadth.[39] Less than a week after the issuance of the second subpoena, Airbnb and the Attorney General entered into an agreement whereby Airbnb would provide the Attorney general with anonymized data on its New York City hosts.[40] If after reviewing such data, the Attorney General or the New York City Office of Special Enforcement instituted an investigation of or undertook an enforcement action against a specific host, Airbnb agreed that it would provide non-anonymized information on that host.[41]

Five months later, in October 2014, Attorney General Schneiderman released *Airbnb in the City*, a report on the information that it had gathered from Airbnb as a result of the May 2014 agreement.[42] The report analyzed Airbnb bookings for "private stays"[43] in New York City from January 1, 2010 through June 2, 2014 (referred to in the report as the "Review Period").[44] According to the report, during the Review Period, "72 percent of units used as private short-term rentals on Airbnb appeared to violate [the Multiple Dwelling Law]."[45]

The New York Attorney General's earlier subpoena and eventual conclusions

30 *Id.; see also* Affidavit of Sumanta Ray in Opposition to Airbnb, Inc's Motion to Quash and in Support of the Attorney General's cross-Motion to Compel Responses to an Investigatory Subpoena *Airbnb v. Schneiderman*, No. 5393-13 (N.Y. Sup. Ct. May 13, 2014), *available at* http://www.documentcloud.org/documents/1145999-new-york-attorney-general-analysis-of-airbnb.html#document/p3.

31 *See Decision and Order, Airbnb v. Schneiderman*, No. 5393-13 (N.Y. Sup. Ct. May 13, 2014), *available at* http://www.documentcloud.org/documents/1159527-airbnb-new-york-decision.html#document/p9.

32 *See Id.* (noting that petitioner's privacy policy provides that it will disclose hosts' information at its discretion).

33 *Id.*

34 N.Y. Multiple Dwelling Law §3.

35 *See Decision* and Order, *Airbnb v. Schneiderman*, No. 5393-13 (N.Y. Sup. Ct. May 13, 2014), *available at* http://www.documentcloud.org/documents/1159527-airbnb-new-york-decision.html#document/p9.

36 *Id.*

37 *Id.* (quoting Respondent Memo. In Opp., p. 13).

38 *See* Benjamin Snyder, *New York Attorney General Issues New Subpoena in Airbnb Case,* Fortune (May 15, 2014), *available at* http://fortune.com/2014/05/15/new-york-attorney-general-issues-new-subpoena-in-airbnb-case/ (last visted Feb. 28, 2015); see also Letter from Attorney General Eric T. Schneiderman to Belinda Johnson, General Counsel, Airbnb, Inc., dated May 20, 2014, *available at* http://www.ag.ny.gov/pdfs/OAG_Airbnb_Letter_of_Agreement.pdf (last visited Feb. 28, 2015) (noting that a subpoena for records was issued on May 14, 2014).

39 See Snyder, *supra* note 38.

40 See Letter from Attorney General Eric T. Schneiderman to Belinda Johnson, General Counsel, Airbnb, Inc., (May 20, 2014), *available at* http://www.ag.ny.gov/pdfs/OAG_Airbnb_Letter_of_Agreement.pdf .

41 See *Id.* Airbnb has complied with this agreement, supplying the Attorney General with anonymized information on approximately 16,000 hosts and in August 2014, giving the Attorney General specific, non-anonymized information on 124 hosts. Stephanie Burnett, *Airbnb Hands Over Data on 124 Hosts in New York City to the Authorities,* Time, Aug. 25, 2014, *available at* http://time.com/3180103/airbnb-hands-over-data-on-124-hosts-in-new-york-city-to-the-authorities/.

42 New York State Office of the Attorney General, *Airbnb in the City*, Oct. 2014, *available at* http://ag.ny.gov/pdfs/Airbnb%20report.pdf.

43 A "private stay" is one in which the entire house or apartment is available to the guest and the host is not present in the unit during the stay. *Id.* at n. 1.

44 *Id.* at 2.

45 *Id.* at 2, 8.

regarding Airbnb and its hosts is emblematic of the tension inherent in the current regulatory scheme. A revision of the underlying policies justifying the restricting of short-term rentals is necessary in order to align our legal framework with our new economic reality.

Using "New Economy" Principles to Analyze the Impact of Short-Term rental Restrictions on Property Values and the Character of the Neighborhood

An owner's participation in home sharing by renting his or her property on a short-term basis impacts the use and enjoyment "sticks" in the traditional Hohfeld-Honore "bundle of rights analysis" of property.[46] By contrast, regulations prohibiting or restricting short-term rentals are a restraint on the right to alienate property – another stick in the bundle of rights. A question that must be address is whether by imposing such a restraint on alienation – one that restricts an owner's right to shift use and enjoyment on a short-term basis – state and local governments actually further their stated goals of preserving property values and neighborhood integrity.

The New York Attorney General's report was critical of the fact that six percent of hosts seemed to be "Commercial Users" in that they accounted for 36% of all private short-term bookings.[47] However, it must be noted that all Airbnb hosts are engaged in commercial activity – not just those deemed "commercial" by the Attorney General's office. A hallmark of the sharing economy is the blurring of the line between commercial and non-commercial activities. As Professor Arun Sundararajan noted,

One hundred years ago there wasn't a clear line between someone who ran a hotel and someone who let people stay in their homes. It was much more flu*Id.* Then we drew clear lines between people who did something for a living and people who did it casually not for money. Airbnb . . . [is] blurring these lines.[48]

Jurisdictions outside of New York have addressed this issue. For example, the plaintiffs in a case heard by the California Court of Appeal, Sixth District argued that the defendant municipality Carmel-by-the-Sea acted arbitrarily by restricting transient commercial use of residential property – in particular short-term rentals – while other commercial uses such as home occupations were permitted by the ordinance in question.[49] The court, however, found that home occupations "do not threaten the basic character of a residential neighborhood. Rather, they strengthen the community by fostering the talents of its residents."[50] I argue that the Ewing court's definition of "community-strengthening" activities is too limited and should include the economic strengthening provided by an influx of short-term rental income and the benefits that this income provides to property owners.

The plaintiffs also complained that Carmel had drawn the line between impermissible short-term and permissible long-term rentals arbitrarily by permitting rentals of 30 consecutive days but not 29. The court, however, citing *Euclid v. Ambler Co.*,[51] gave great deference to the legislature in making this determination:

Line drawing is the essence of zoning. Sometimes the line is pencil-point thin—allowing, for example, plots of 1/3 acre but not 1/4, buildings of 3 floors but not 4, beauty

46 See discussion of Hohfeld-Honore "bundle of rights analysis" *supra* note 3.

47 New York State Office of the Attorney General, *supra* note 42 at 2, 10-11.

48 Joel Stein, *Baby, You Can Drive My Car, and Stay in My Guest Room, and Do My Errands, and Rent my Stuff: My Wild Ride Through the New On-Demand Economy,* Time, 32, 38-40 (Feb. 9, 2015), *available at* http://time.com/3687305/testing-the-sharing-economy/ (last visited Mar. 2, 2015).

49 *Ewing v. City of Carmel-by-the-Sea,* 234 Cal App. 3d 1579, 1592-93 (1991); Carmel Ordinance No. 17.24.020 permits home occupations in the R–1 District, including "painting and related graphics, music, dance, dramatics, sculpture, writing, photography, weaving, ceramics, needlecraft, jewelry, glass and metal crafts." By contrast the New York Multiple Dwelling Law allows joint living-working quarters for "artists," as defined by the statute. See N.Y. Multiple Dwelling Law, Article 7, § 277.

50 *Ewing v. City of Carmel-by-the-Sea*, 234 Cal. App. 3d at 1593 (citing *County of Butte v. Bach*, 172 Cal.App.3d 848, 865 (1985) (home occupation exception in a zoning ordinance "implicitly premised upon expectations that the number and distribution of such encroachments will not be intolerable and that persons who live where they work are likely to have less detrimental impact than nonresidents").

51 272 U.S. 365.

shops but not beauty schools. In *Euclid*, the Supreme Court recognized that "in some fields, the bad fades into the good by such insensible degrees that the two are not capable of being readily distinguished and separated in terms of legislation." Nonetheless, the line must be drawn, and the legislature must do it. Absent an arbitrary or unreasonable delineation, it is not the prerogative of the courts to second-guess the legislative decision.[52]

Moreover, the court opined that "long-term tenants may create as stable a community as resident homeowners."[53] Further, the court found that "the 30–day cutoff [was] not arbitrary but, rather, reasonably linked to that goal [of creating community stability].[54] As noted earlier, this type reasoning is best-suited for the old economy and a regulatory scheme that is mediating vertical relationships, rather than the horizontal peer-to-peer relationships of the sharing economy.

Conclusion

Both vacationers and those traveling for business have expressed an increased interest in staying in homes rather than hotels. Although this may in the short-term cause a decline in hotel tax revenue in some cities, a well-thought-out taxing scheme for the sort of short-term rentals that are prevalent in the sharing economy can provide cities and states with a means of recouping these tax revenue losses while providing greater benefits in stabilizing existing ownership.

The ability to rent one's property – even in the short-term – may be a tremendous aid to struggling homeowners. By providing short-term rentals, owner may shift and share the burden of homeownership. This shifting can help to defray mortgage, homeowners association, and real estate tax costs. Moreover, the sharing of this burden, through the consequent sharing of the benefits of homeownership – use and enjoyment in particular – can help to avoid or at least mitigate instances of blight due to disrepair, distressed sales at below-market-rate sales prices, and even foreclosures. Thus, allowing owners to home share can protect a community's character and property values by helping to insulate individual owners from the effects of negative housing market downturns.

52 *Ewing v. City of Carmel-by-the-Sea*, 234 Cal. App.3d at 1593 (citing *Euclid v. Ambler Co.*, 272 U.S. 365, 389); see also *Village of Belle Terre v. Boraas*, 416 U.S. 1, 8 (1974); *Berman v. Parker*, 348 U.S. 26, 35–36 (1954).

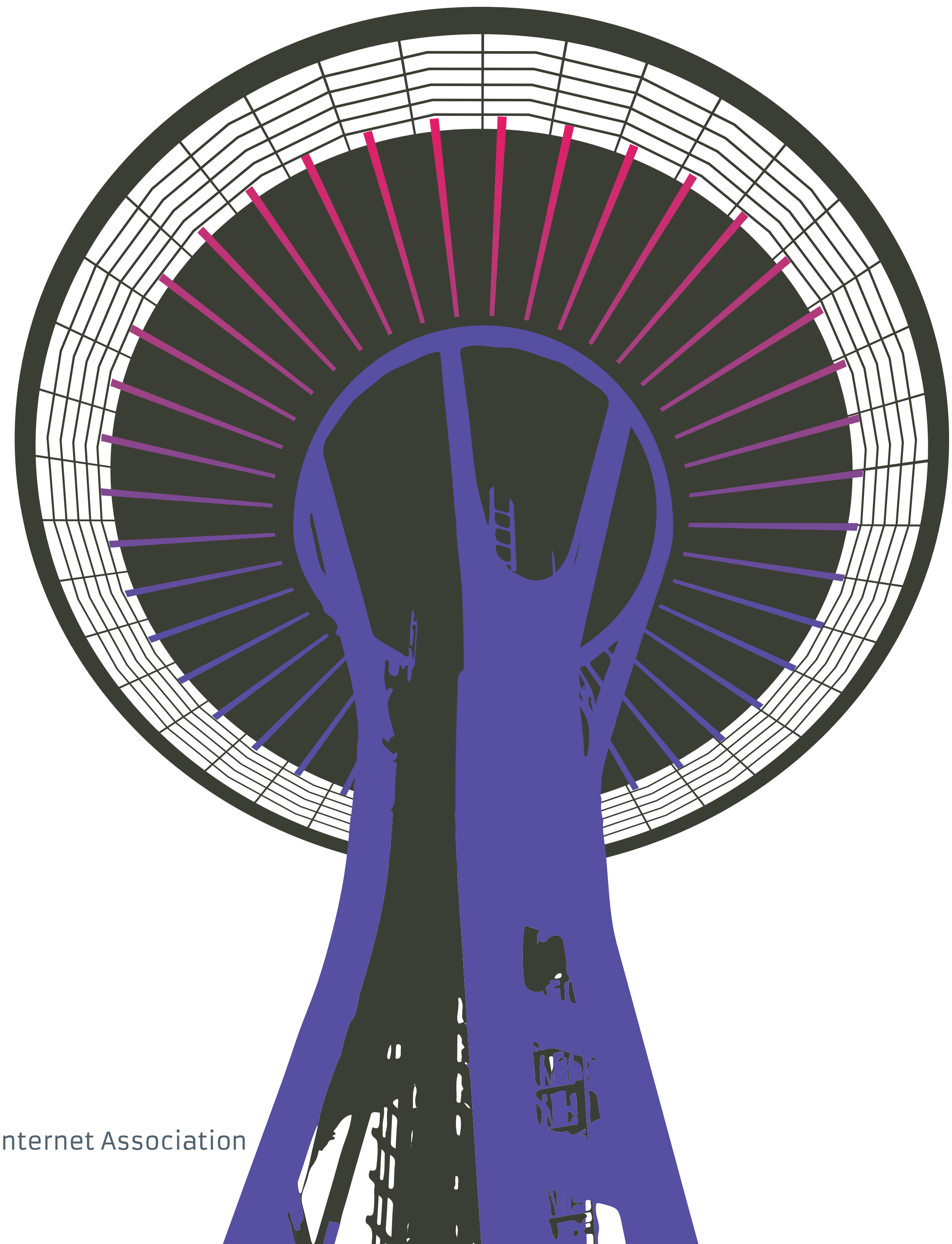
53 *Ewing v. City of Carmel-by-the-Sea*, 234 Cal. App.3d at 1593

54 *Id.*

A Comprehensive Look At Short-Term Rentals

A Spatial Economic Analysis Of Seattle

By Nestor Garza, Ph.D. & Christopher Hooton, Ph.D.



Internet Association

IA Report

Introduction

Internet Association set out to research short-term rentals (STRs) in Seattle in order to contribute accurate, scientific data to the highly-charged issue. Short-term rentals are an oft-maligned bogeyman in the city's housing debate, but there's scant research on their actual impact.

There's no doubt that the impacts of short-term rentals has been a subject of vigorous debate in Seattle as policymakers have been working on a regulatory framework to oversee the STR market. But before policymakers act, they should consider all the facts.

First, *prior research*[1] indicates that STRs are a tiny percentage of the Seattle housing market. HomeAway estimates they represented less than 1 percent of the entire Seattle housing market between April of 2015 and 2016, for example.

Second, this study produces evidence that contradicts two of the most common assertions made by STR opponents. Internet Association found no statistically significant relationship between STRs and reduced owner-occupancy or increased commercial property listing activity. In fact, it appears to the find the opposite to be true: STRs may actually help Seattleites stay in their homes and reduce commercial property activity that would drive residents from their neighborhoods.

Finally, we found that STRs and hotels service geographically and economically distinct areas of Seattle. Our research found no evidence of hotels and STRs occupying similar markets in Seattle; they serve different communities at different price points.

STRs do enormous good for cities like Seattle and their residents. An Airbnb host in Seattle *typically earns*[2] an extra $9,000 per year and nationally, 70 percent of HomeAway owners are able to cover *at least half of their mortgage*[3] through rentals. Beyond these obvious first-order benefits, STRs tend to bring much-needed commerce and tourist spending to under-served neighborhoods. In fact, 60 percent of Airbnb users report that the extra income they received helped them stay in their homes.

More work certainly needs to be done in this area, but the results in this paper point us in the right direction. Available evidence tells us that short-term rentals are not the blight on housing markets they've been portrayed to be; in fact it appears the opposite is true.

Christopher Hooton, Ph.D.

[1] *http://www.geekwire.com/2016/homeaway-says-short-term-rentals-comprise-less-1-seattle-housing-based-new-study/*
[2] *https://seattle.airbnbcitizen.com/urban-league-of-metropolitan-seattle-and-airbnb-partner-to-offer-new-economic-empowerment-opportunity-for-members/*
[3] *https://www.homeaway.com/info/media-center/press-releases/2016/vacation-rentals-provide-valuable-income-source-for-owners-again*

Executive Summary

Purpose: This report seeks to empirically examine several claims used against short-term rentals (STRs) through a comprehensive empirical case-study analysis of the Seattle market. Specifically, the report examined two aspects: 1) the relationship of STRs with the residential housing market and 2) the relationship of STRs with the hotel market.

Findings: The report finds no evidence that STRs negatively impact either the residential housing market or commercial hotel market. Rather, case studies provide some initial evidence that STRs may support homeownership for individuals and families and lead to market creation in the area of accommodations. While these findings are encouraging, the authors recommend additional research on these matters.

Methodology: The report investigated several research questions related to purported claims by opponents of STRs. The following table presents each opponent claim, its corresponding research question(s) for this paper, and a summary of the findings for the respective analytical exercise.

Purported argument against STRs	*Corresponding Research Question*	*Analysis summary*	*Key Finding*
'STRs cause higher rents forcing individuals out of their homes'	Do STRs correlate with owner-occupancy and/or the number of vacant housing units?	STRs demonstrate positive correlation with owner-occupancy and negative correlation with housing vacancy.	Our research found initial evidence that STRs may actually help Seattleites stay in their homes, not force them out.
'STRs lead to an increase in commercial property listings that turn residential areas into de-facto hotels'	Is there any correlation between the number of STR listings and commercial mortgages?	STRs are negatively correlated with both commercial mortgage applications and commercial mortgage originations.	Our research found that more STRs in Seattle corresponded with less commercial property listing activity.
'STRs are only in commercial areas of the city and don't help local neighborhoods'	What is the spatial structure of STR listings?	STR listings are highly diverse spatially with higher density outside of traditional hotel zones.	Our research found STRs appear all over Seattle, especially in areas underserved by hotels.
'STRs take away business from hotels, hurting the sector and its employees'	What is the degree of coincidence between STR listings and hotel rooms?	There is very low degree of coincidence between STRs and hotels; out of 239 block groups in Seattle with STRs, only 35 also had hotels.	Our research suggests STRs serve different people and different markets than hotels.
	Do the STR market and the hotel market have different spatial structures in their pricing?	There is no statistical evidence of similar spatial autoregressive price structures.	

Conclusion: There is no basis for restricting STRs based on any of the opposition claims examined. Rather, there is evidence that STR markets may safeguard home ownership by effectively providing revenue to local neighborhoods while also facilitating increased numbers of visitors thanks to a more geographically diverse accommodation market. Policymakers seeking to end the abuse of rental properties (of all types) should focus efforts on enforcing the existing regulations around: 1) the declaration of commercial investment properties in mortgages, 2) maintaining city property registers, and 3) the enforcement of existing licensing laws for landlords.

Section 1

Introduction

Short-term rentals are a relatively new phenomenon and, consequently, there is little evidence on their impacts in the literature. This report seeks to address that gap by directly investigating several of the primary negative claims used by opponents of short-term rental services like Airbnb, Homeaway, and others to assess their validity. Our primary conclusion is that there is no empirical evidence to support any of the opponent claims investigated here in the Seattle market, and we suggest that policymakers more closely examine data when formulating policy around STRs and the sharing economy more broadly. Based on our analysis, we find that STRs provide a geographically diverse accommodation market with some initial evidence that they 1) help support owner occupancy of units, 2) provide a more spatially equitable distribution of accommodation revenue throughout a city, and 3) may create a new and unique demand.

Our primary conclusion is that there is no empirical evidence to support any of the opponent claims investigated here in the Seattle market.

The findings of this report are important because they directly address many of the arguments and claims used in the debate on the new sharing economy. While the authors recommend additional research on some of the analytical exercises, the findings provide a comprehensive empirical foundation of evidence on how STRs interact with the two most purportedly affected areas within an urban market: residential housing and hotel accommodations. With the former, we find no evidence of negative impacts on owner-occupancy or on commercial landlord activity – claims that STR listings saturate housing submarkets have no basis in the data given the spatial distribution of listings and their relationship with housing stock characteristics. With the latter, we find a very low degree of coincidence between STRs and hotels and no statistical evidence of encroachment by STRs into hotel markets. The primary takeaway, which mirrors other recent findings such as those of Hathaway and Muro (2016),[1] is that there is simply no evidence to support the primary opposition arguments to STRs.

We structured the report into two analytical sections on housing impacts and hotel market impacts. Section 2 lays out our analytical approach and general empirical strategy. Section 3 presents the methodology and results on our housing market analyses while Section 4 presents the methodology and results for our hotel market impact analyses. Section 5 concludes and offers a brief policy discussion.

[1]Hathaway, Ian and Mark Muro (2016). "Tracking the gig economy: New numbers." Report. Brookings Institution.

Section 2

Research Approach And Empirical Strategy

This report uses information for the city of Seattle in order to investigate a set of research questions concerning the impacts of STRs on housing and hotel markets within the city. Each research question corresponds to one or more popular opponent claims on the impacts of STRs in markets. Combined, they serve as an empirical foundation for future research into STRs and their impacts. Table 1 presents each of the claims investigated along with their respective research question(s).

TABLE 1: STR OPPONENT CLAIMS AND CORRESPONDING RESEARCH QUESTIONS

Corresponding argument against STRs	*Research Question*	*Analytical approach*
'STRs cause higher rents forcing individuals out of their homes'	Do STRs correlate with owner-occupancy and/or the number of vacant housing units?	Longitudinal analysis of housing stock characteristics and STR listings
'STRs lead to an increase in commercial property listings that turn residential areas into de-facto hotels'	Is there any correlation between the number of STR listings and commercial mortgages?	
'STRs are only in commercial areas of the city and don't help local neighborhoods'	What is the spatial structure of STR listings?	Spatial econometric analysis of market pricing structures for STRs and hotels
'STRs take away business from hotels, hurting the sector and its employees'	What is the degree of coincidence between STR listings and hotel rooms?	
	Do the STR market and the hotel market have different spatial structures in their pricing?	

Source: Authors' elaboration

The goal, and consequent research approach, of the report is to examine a breadth of issues through a single intensive case study rather than investigating a single analytical or policy issue through a breadth of observations. In other words, the aim is to provide a comprehensive look at a single market. The rationale of this approach is that it offers a better entry into the contentiousness of the debate on STRs by examining all (or at least most) of the primary points of argumentation with data and robust analysis. The authors hope that this report may offer methodological guidance for future research on additional markets and for more in-depth analyses of individual policy issues. More immediately, the authors hope that the findings will help inform and guide policymakers as they consider STRs and the sharing economy.

The city of Seattle was chosen for two primary reasons. First, it is a contentious market for the sharing economy broadly and for STRs specifically. Stakeholders from all sides are closely watching STR impacts and potential regulations on the market. The second reason is more practical and related to the availability of comprehensive data on STR listings, the housing market, and hotel markets within the city.

The analyses are grouped into two sets – one set on housing impacts and one set on hotel market impacts. For the former we used a longitudinal analysis with annual observations aggregated at a metropolitan statistical area level. For the latter, we analyzed listings with a booking in the 12 months ending December 1, 2015 aggregated at block groups.

Section 3

Examining The Impact Of STRs On Housing

3.1 – Overview

Housing is understandably an issue of great importance to individuals and policymakers, which is why it is important for stakeholders to shape housing policies based on empirical evidence rather than unsubstantiated arguments. This section examines if and to what extent opposition claims against STRs are supported by empirical evidence in the Seattle market. Specifically, it examines claims that 1) STRs lead to an increase in individuals acting as commercial landlords via STR platforms and 2) STRs lead to a decrease in owner-occupancy.

To investigate these claims, we looked at two aspects of the Seattle housing market: 1) the relationship between short-term rentals and commercial landlord activity and 2) the relationship between short-term rentals and unit occupancy.

The report finds no evidence for these claims. Quite the opposite, the analysis suggests that STRs are negatively correlated with commercial landlord activity. Further, while causal relationships cannot be ascertained given the scope of analysis here, the evidence suggests that STRs may even support homeownership, acting as a stabilizing force in economic downturns by allowing individuals and families to capitalize on their assets and earn supplemental revenue.

3.2 – Methodology

We conducted a longitudinal analysis of Seattle's housing market from 2006-2015 using annual observations for the metropolitan statistical area. It examined the following metrics over that period:

1. Number of short-term rental listings
2. Number of investment mortgage applications
3. Number of investment mortgages originated
4. Number of housing units (total)
5. Number of owner-occupied housing units
6. Number of renter-occupied housing units
7. Number of vacant housing units

**All metrics were also examined as percent totals*

Data were collected from the United States Census Bureau's American Housing Survey, the United States Federal Financial Examination Council's Home Mortgage Disclosure Act Aggregate Reports, and from public Internet Association member company data on short-term rentals in the Seattle metropolitan market.

Using these data, the report conducted a series of Pearson's Product-Moment Correlation tests between individual metrics, which offers a test of the strength of the linear association of two variables. These tests were limited in scope and the report did not seek to establish full explanatory models of dependent variables. Rather, the analysis simply focused on establishing 1) whether a positive correlation between short-term rentals and investment activity existed (i.e. whether short-term rentals potentially lead to increased rental properties) and 2) whether a negative relationship between short-rentals and owner occupancy existed (i.e. whether short-term rentals potentially lead to a decrease in owner occupancy in housing). Had either of those relationships existed, additional modeling work would have been required to ascertain the causal effect of short-term rental units on each metric. Put differently, the analysis was looking for the existence of claimed relationships.

3.3 – Results

The analysis found that claims of these types of relationships have no basis in the Seattle metropolitan area. There was a negative relationship between short-term rentals and commercial property activity (as measured by investment property mortgage applications and approvals). There was a positive relationship between short-term rentals and owner occupancy.[2] Finally, STRs had a negative relationship with unit vacancy.

Far from being the source of great strain on residential housing markets, short-term rentals may provide residents an additional tool for obtaining and maintaining home-ownership.

While the report does not make causal claims because of its limited scope, the results do provide some initial evidence that, far from being the source of great strain on residential housing markets, short-term rentals may provide residents an additional tool for obtaining and maintaining home-ownership.

An *a priori* assessment would be that the access to additional income provided by short-term rentals allows residents to supplement income as needed depending on housing market conditions and broader metro area economic trends. This flexible additional income can be used to supplement incomes in economic downturns and to assist in rent or mortgage payments should they increase. For example, there was an increase in short-term rental activity in 2008 and 2009 during the height of the Great Recession, a reduction in listings from 2010 through 2013, and a stabilization of listings in 2013-2014 as the economic recovery stabilized and gained momentum. Results are presented in Table 2 and Figures 1-3.

TABLE 2: CORRELATION OF SHORT-TERM RENTAL LISTINGS WITH HOUSING METRICS

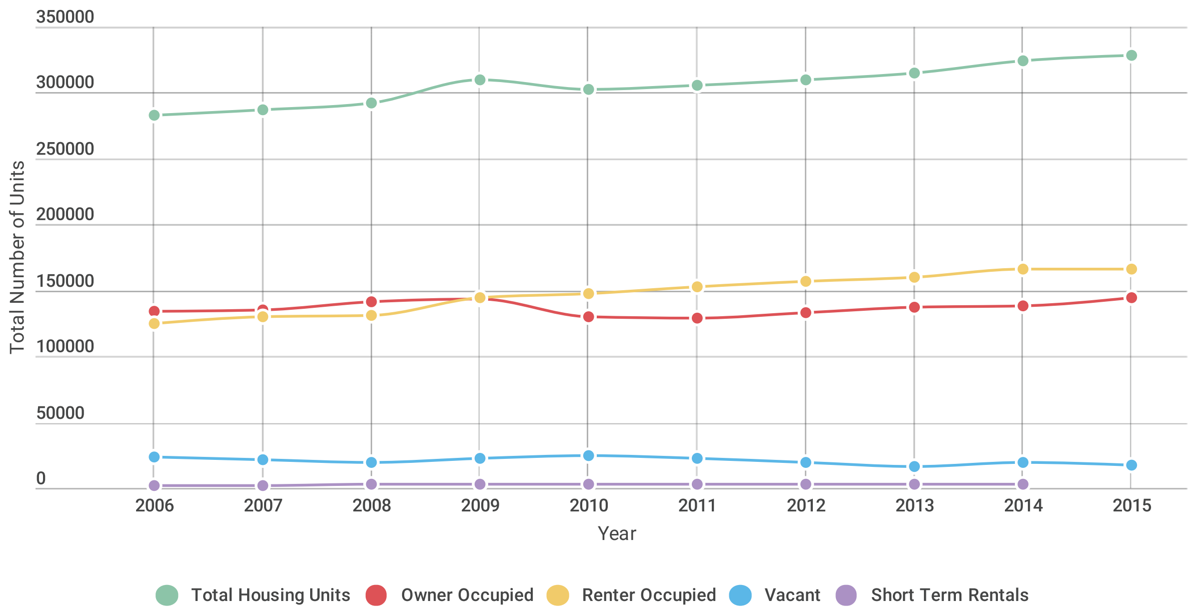
Housing Metric	*Correlation with short-term rentals*	*p-value*
Investment Mortgage Applications (% Total Mortgage Apps)	-0.4466	0.2282
Investment Mortgage Applications (Count)	-0.7694	0.0153
Investment Mortgages Originated (% Total Originations)	-0.6361	0.0655
Investment Mortgages Originated (Count)	-0.7619	0.0170

[2] As well as with the total number of housing units, which counters suggestions that STRs reduce overall housing stock.

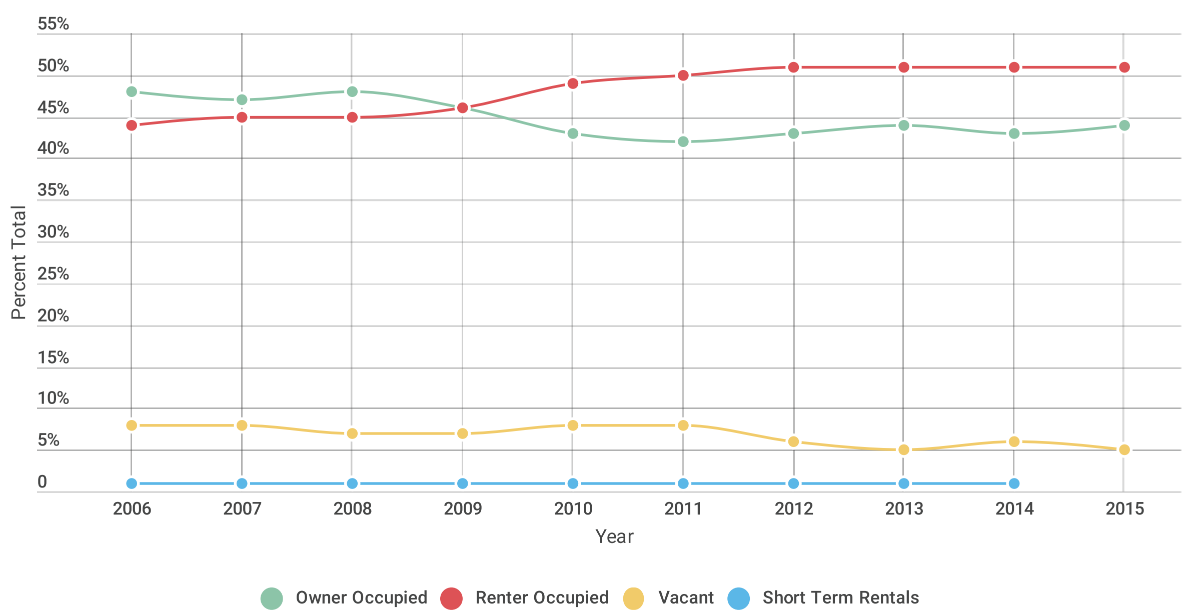
Housing Metric	*Correlation with short-term rentals*	*p-value*
Owner Occupied Units (% Total Housing)	0.0922	0.8135
Owner Occupied Units (Count)	0.4421	0.2335
Vacant Housing Units (% Total Housing)	-0.0989	0.8002
Vacant Housing Units (Count)	-0.1747	0.0653

Note: Correlation coefficients show the relationship from -1.0 to 1.0 between pairs of metrics with 1.0 being perfect positive correlation, -1.0 being perfect negative correlation, and 0 being no correlation. Negative correlations mean the pair of metrics move in opposite directions while positive relationships mean they move in the same direction. The p-values reported are for unadjusted standard errors and informational purposes only. P-values with 0.10 or less are significant at a 90% confidence level or higher.

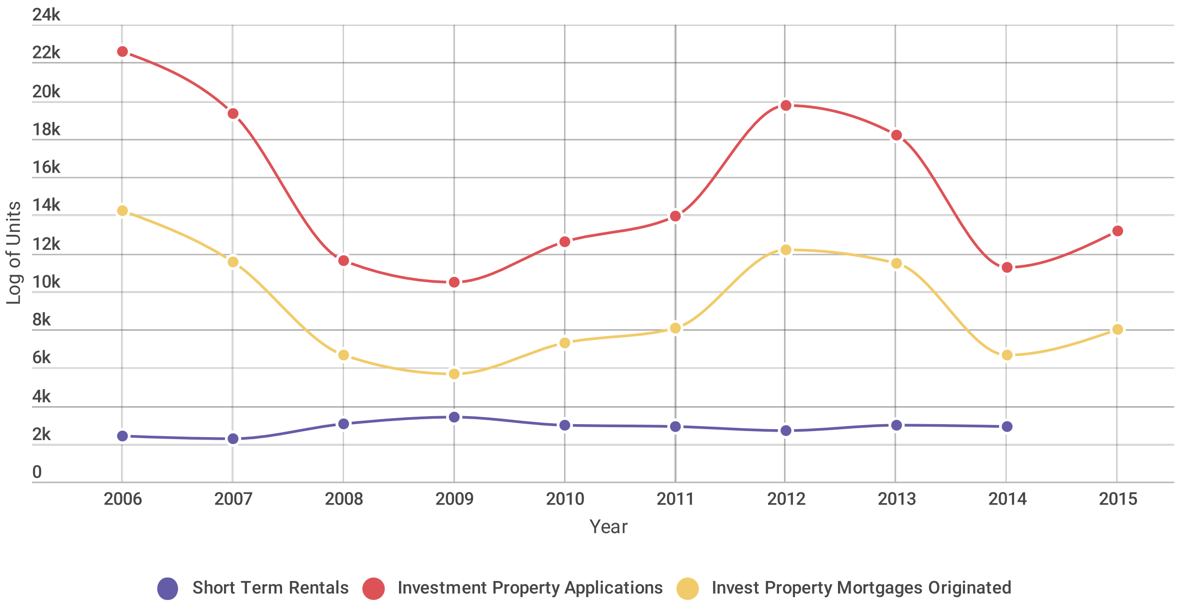
GRAPH 1: SEATTLE HOUSING UNITS BY TYPE



GRAPH 2: SEATTLE HOUSING UNITS BY TYPE (% TOTAL)



GRAPH 3: INVESTMENT PROPERTY MORTGAGE APPLICATIONS VS. SHORT-TERM RENTAL LISTINGS



Section 4

Examining The Relationship Between Strs And Hotels

4.1 – Overview

One of the more contentious issues surrounding the emergence of the sharing economy has been its impact on established sectors and businesses, particularly through its market effects. Some analysts have claimed that the sharing economy enjoys the advantage of a looser regulatory structure over traditional firms. But to date there is not robust evidence of such an effect, while it is possible the sharing economy has actually enlarged the marketplace: a phenomenon called "market creation." To investigate this debate, the report posed the following question: Do the STR listings and hotel accommodations have a different spatial structure of their pricing?

Some analysts have claimed that the sharing economy enjoys the advantage of a looser regulatory structure over traditional firms. But to date there is not robust evidence of such an effect.

Differences between these estimated spatial structures would provide evidence of market creation, in contrast to market capture by the new economy companies. The question is answered by mapping listings for STRs and hotels to determine the degree of coincidence between the two markets and then using a set of alternative spatial econometric approaches to investigate possible differences between spatial structures.

The results demonstrate: 1) a very low degree of spatial coincidence (geographic overlap) between STRs and hotels, 2) a geographically diverse distribution of STR listings, and 3) no statistical evidence of market capture by STRs of the hotel market.

The main takeaway is the lack of coincidence between both datasets, either by planning or market circumstances, which are beyond the reach of the econometrician to detect with the small samples compiled. This is perhaps more direct evidence that STRs and hotels cater to different markets.

4.2 – Analytical Problem

The market creation in the case of STRs is related to two particularities: a) its users prefer the intimate experience with the local realities of shared accommodations, in contrast to the more distant experience of the traditional accommodations (hotels); and b) many of its users could not generally have used the hotels' service because of their prices.

As the two reasons imply preferences for pricing and location, we designed a test that emphasizes these two characteristics. We wanted to test the hypothesis that the sharing economy and hotel accommodations do not share the same spatial market, and by attending to different demand patterns, the sharing economy providers have created new markets, instead of merely capturing the existing ones. The hypothesis was spatially tested using two empirical strategies:

a. We assessed if the parameter of spatial association of the accommodations' prices had the same sign and absolute value for both the sharing economy and hotel providers. In order to produce comparable parameters for both sets of data, the information was standardized so that the units of measure were strictly comparable in absolute values. In addition, as the two data sources differed in the number and location of the block groups with information, we developed the assessments for all the information first, and then developed block groups where both sources had information to allow a more direct comparison.

b. The second strategy involved simultaneously using the block groups where both sources provided information as observations, and then testing the possibility of a difference due to the hotel characteristic using a dummy variable. This strategy allowed us to enlarge the dataset available when using the two sources of information, and their combination also offered a direct comparison.

In the first strategy, if the parameter was positive and significant in both regressions, and it was statistically different between them, we can argue that the two markets have different spatial structures, and consequently, there is market creation (in contrast to market capture). If the opposite held true, the two markets over-impose on each other, and short-term rentals are a substitute (market capture) for hotel accommodations.

In the second strategy, if the dummy variable for the hotels and its interaction with the spatial association parameter were significant, there is evidence of market differentiation. If only the first one was statistically significant, we have evidence of a different spatial structure, but not necessarily of the spatial association parameter. The second strategy still requires significance of the spatial association parameter, as it determines the existence of (or lack thereof) a spatial structure. Both sets of estimations will use the corresponding listings or count variable as control of the regression, a more robust regression setting.

4.3 – Methodology

We compiled information about prices and count of listings (or adverts) per block groups in the city of Seattle. The compiled information amounts to 235 block groups with shared economy short-term rentals and 54 block groups with hotel adverts (209 independent hotel adverts). For reference, there are 482 unique block groups in Seattle. However, only 35 block groups have information from both sources, which required small sample bias correction measures when used in regression settings.

A "standardized" spatial dependence parameter was produced by regressing the nightly price in standard deviations on the spatially weighted version of itself. This is called a SAR (Spatially Autoregressive) model. The spatial weighting has used a [0,1] standardized inverse distance matrix, where the maximum possible spatial relationship (1) is the shortest possible distance between block groups' centroids. The SAR was estimated using both Full Maximum Likelihood (FML) and Bootstrap Errors, the first one is the standard technique in dealing with spatial correlation, while the second assesses the reliability of the estimation in presence of Small Sample Bias.

Two sets of econometric exercises were performed, first for both the independent full samples of block groups, then for the coincident small samples. This set tries to identify if the standardized SAR component of the two regressions was statistically different, implying a different spatial autoregressive structure, and consequently different markets. The second set of exercises was performed only on the coincident block groups. It used a dummy variable for the hotels and its corresponding interaction with the SAR, and it attempted to determine if the characteristic "hotel block group" had an impact on both the general regression and then the SAR parameter. A full description of the methodology is presented the Appendix.

The two sets of exercises are in general inconclusive, because Bootstrap regressions that deal with small sample bias show non-reliable SAR parameters. However, the second set of exercises seems to suggest different regression structures for both groups even in the Bootstrap setting. These sets of results, combined with the low degree of spatial coincidence between the two markets and the broader geographic distribution of STRs in the Seattle area (versus the concentrated nature of hotels), suggest that they are fundamentally different markets.

To conduct this analysis, we used two information sources:

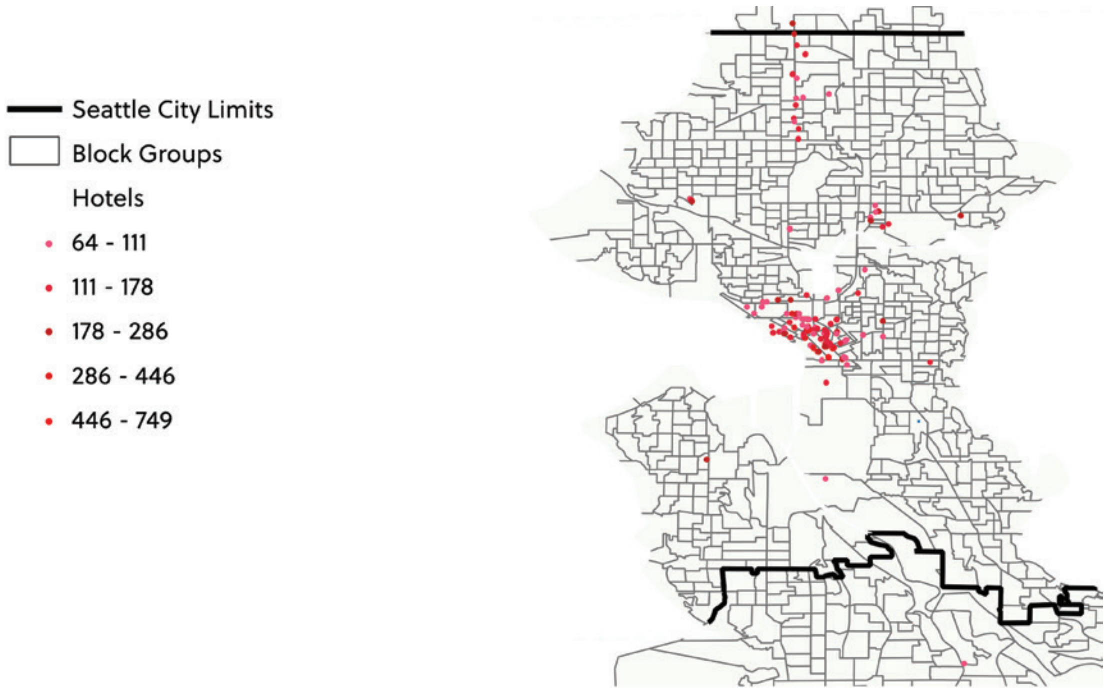
a. 209 online hotel adverts collected by the author. All of them correspond to a low season, three months' advance, 5 days stay. The search was made simultaneously from 10 different computers to avoid machine-tailoring of the demand, and the obtained nightly prices are reported in Map 1, while Map 2 reports the hotel count of observations per block group (only 54 block groups report at least one hotel advert).[3]

b. Information on listings, prices, and occupancy for 239 block groups, delivered by the sharing economy companies. The count of listings per block group is reported in Map 3.[4]

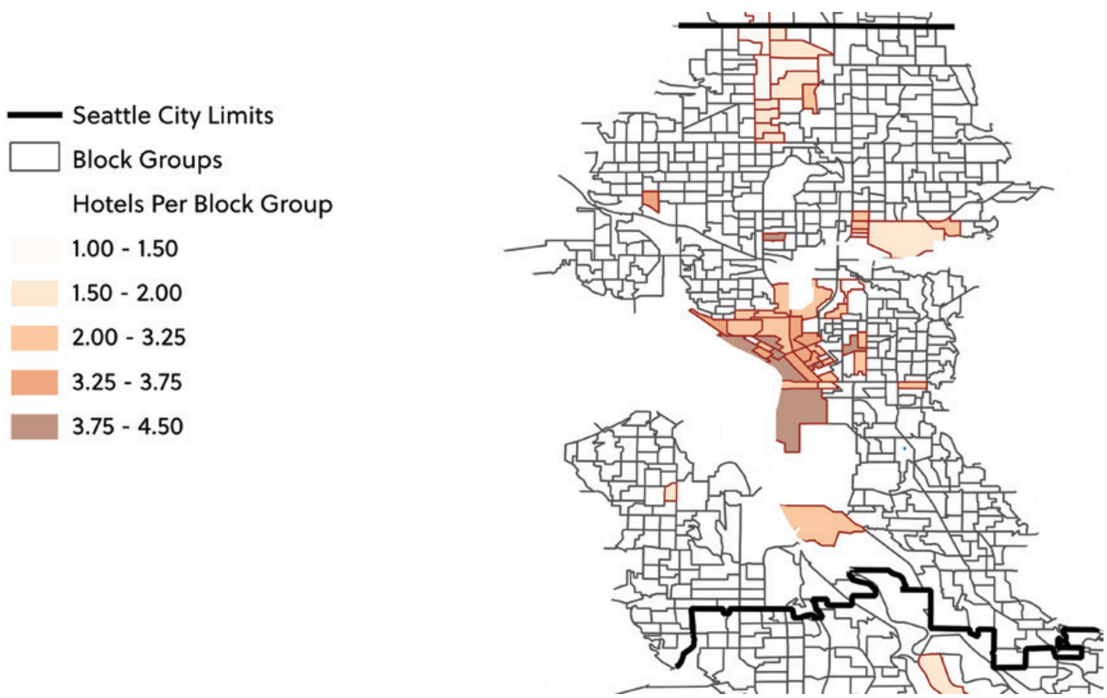
[3] Two hotels are located outside King County. They are included as they are close enough to be considered central Seattle.
[4] Note: While the report had data for all block groups, those with fewer than 6 listings were censored for privacy and are shown the same as blocks with no listings.

The average nightly price for the hotels and the STRs are reported in Maps 4 and 5 correspondingly. We can appreciate that in the case of the hotels, the count and the average price are coincident, relatively higher in the downtown, with a radial distribution towards the peripheries. Although they are non-present in vast residential areas, there is a higher presence of hotels in the Aurora Avenue and University Districts.

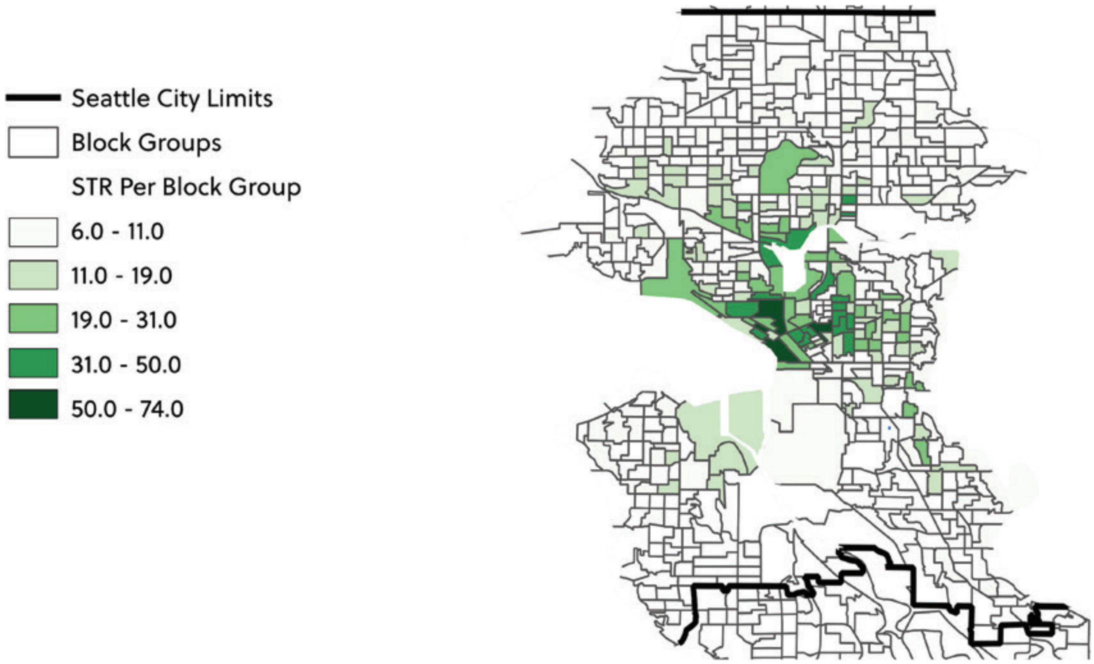
MAP 1: PRICE PER NIGHT (US$) IN ADVERTISED HOTELS (209 OBSERVATIONS)



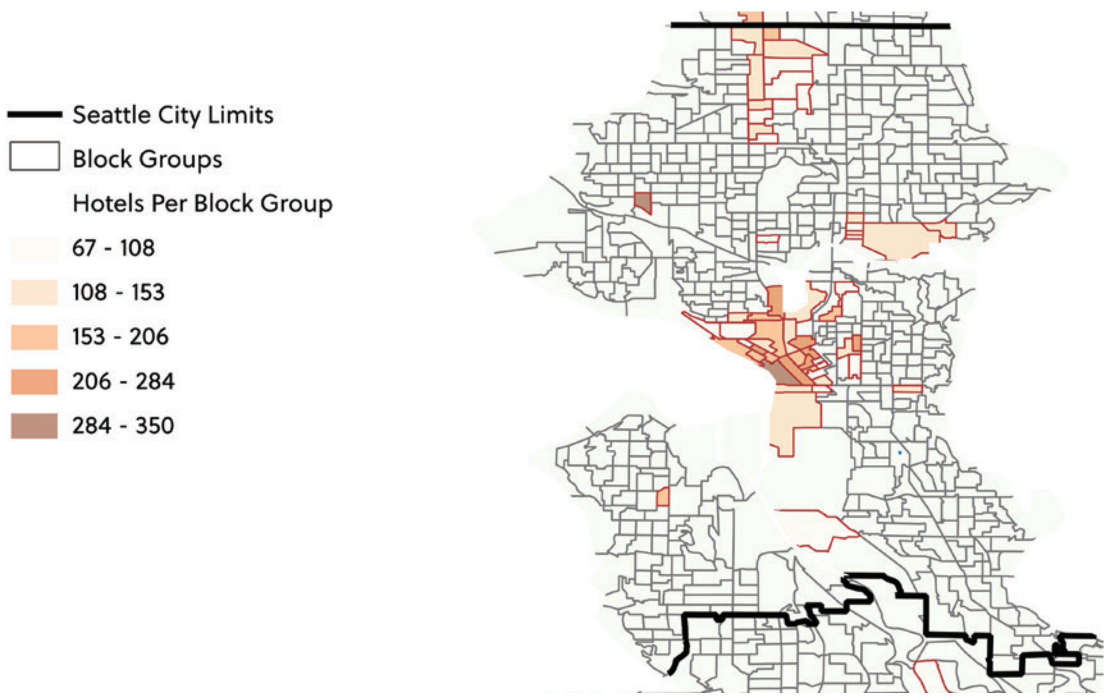
MAP 2: COUNT OF ADVERTISED HOTELS PER BLOCK GROUPS



MAP 3: LISTED SHARED ACCOMMODATIONS PER BLOCK GROUPS

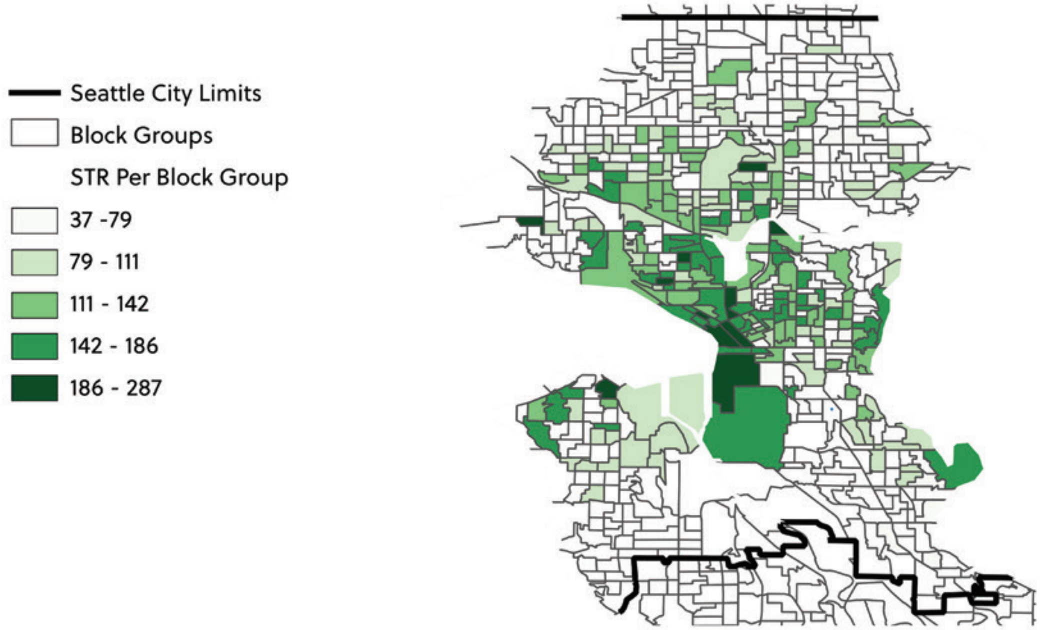


MAP 4: AVERAGE NIGHTLY HOTEL PRICE PER BLOCK GROUPS



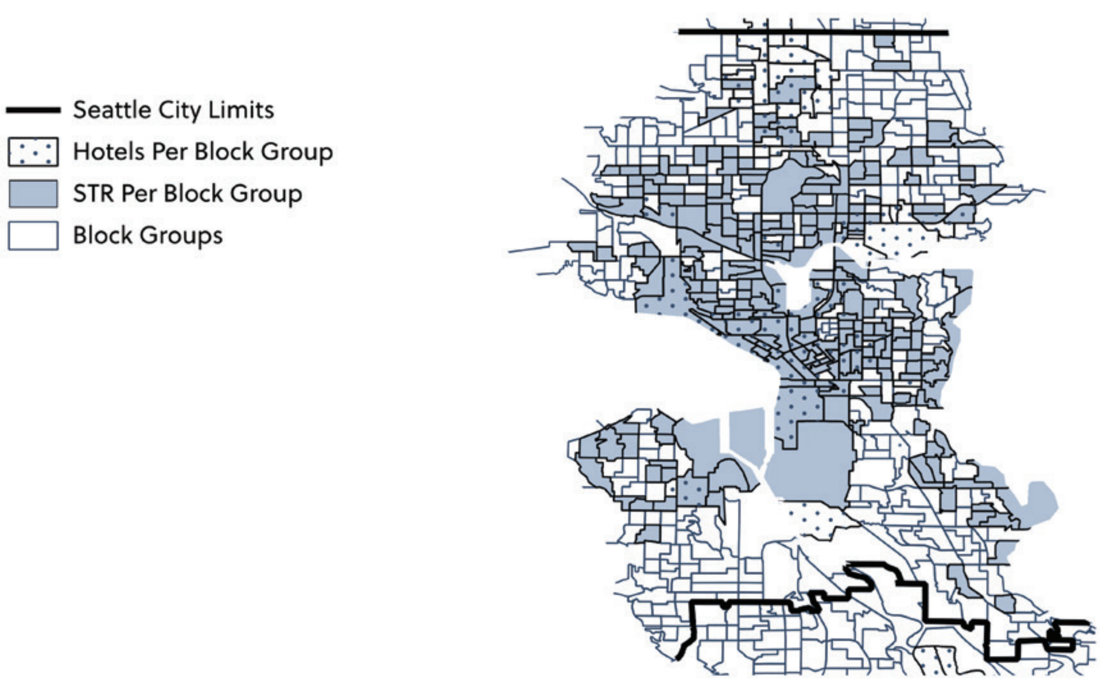
In Map 5, the STR listings do not have the same spatial regularity. They are abundant in residential areas towards the north and east of downtown, almost non-existent on Aurora Avenue, and report higher prices in both the city center and purely residential sectors as Queen Anne and Ballard.

MAP 5: AVERAGE SHARED ACCOMMODATION NIGHTLY PRICE PER BLOCK GROUPS



We have then a situation where there is a low degree of coincidence between hotels and STRs per block group, with a different pattern of spatial distribution of the prices in both groups. Consequently, we expect a different spatial association parameter in the econometric results. Due to the low degree of coincidence (only 35 block groups; presented in Map 6), we will also use robust SE approaches to ensure statistical validity. The fact that both sources are basically located in different city sections might be due to either market or planning considerations – a hypothesis that we discuss below in the section of econometric results.

MAP 6: DEGREE OF COINCIDENCE BETWEEN HOTELS AND SHARED ACCOMMODATIONS PER BLOCK GROUPS



4.4 – Results

Spatial comparison strategy. All the regressions presented in this report are performed in Standard Deviations, so that they are strictly comparable in absolute values. This strategy is preferable in our case to the most common use of logarithms, as in this last case there are still different absolute values despite offering an interpretation in terms of elasticities. The use of the variables in standard deviations brings them to a common unit of measure, which is crucial to compare the difference between estimated parameters.

In Table 3, we report the results for the sharing economy 239 block groups, where we have a positive and significant SAR component. In fact, there is a sizeable difference between the total and indirect effect of the SAR, which informs a complex set of spatial interrelationships, and a not robust estimate. Bootstrap errors have been applied with 100 repetitions and the absolute value of the SAR and its indirect effect, are significant and about the same in absolute value as the FML estimates.

In Table 4, we have the results for the 54 block groups with information. The SAR was not significant in both FML and Bootstrap estimations, even when using count control in the last specification. In fact, the Likelihood Ratio (LR) was not significant in the Bootstrap specifications, in contrast to always being significant for the sharing economy outputs of Table 3. We consider that this result must be due to the lack of observations, which affect the reliability of the spatial econometric output in presence of a cluster of high price observations in city center, and low priced hotel accommodations on Ballard Avenue.

TABLE 3: STRS – DEPENDENT VARIABLE: PRICE PER NIGHT (239 BLOCK GROUPS)

	FML		*Bootstrap*		
	Total Effect	Indirect Effect	Total Effect	Indirect Effect	SAR & Control
Constant	-1.062*	-789	-1.002*	-0.757	-0.478
SAR	0.798***	0.387***	0.783***	0.382***	0.332***
Listings					0.142**
Listings SAR					
Log-Likelihood	-316.613	-319.185			
Akaike	2.666	2.688			
Schwartz	2.695	2.717			
R2 Adjusted			0.128	0.114	0.134
LR (p-value)			0.000	0.000	0.000

** Significant at 90%; **Significant at 95%; ***Significant at 99%*

TABLE 4: HOTELS – DEPENDENT VARIABLE: PRICE PER NIGHT (54 OBSERVATIONS)

	FML		*Bootstrap*		
	Total Effect	Indirect Effect	Total Effect	Indirect Effect	SAR & Control
Constant	0.057	-0.039	0.705	0.045	1.646
SAR	0.464	0.263*	0.386	0.229	0.016
Count					0.335**
Count SAR					
Log-Likelihood	-75.008	-74.176			
Akaike	2.852	2.821			
Schwartz	2.926	2.895			
R2 Adjusted			0.002	0.016	0.039
LR (p-value)			0.260	0.151	0.092

** Significant at 90%; **Significant at 95%; ***Significant at 99%*

The results using only the 35 block groups that are coincident between the sharing economy accommodations and the hotels are reported in Tables 5 and 6 respectively. As stated above, the use of standardized variables allows us to compare directly the absolute value of the SAR parameter (total and indirect) in these tables. However, SAR was not significant in the Bootstrap estimations of Table 3, consequently, we have to assess only the statistical significance of the difference between the parameters in the FML total and indirect effect estimates. The p-values for these tests were 0.399 and 0.398, indicating the same degree of spatial association for both datasets.

The fact that Bootstrap errors did not produce significant SAR estimates in Table 6, implies that there is a strong small sample bias due to the lack of coincident observations. Because of this we cannot make definitive statements at this spatial scale (with this number of observations).

TABLE 5: STRS FOR COINCIDENT BLOCK GROUPS – DEPENDENT VARIABLE: PRICE PER NIGHT (35 OBSERVATIONS)

	FML		*Bootstrap*		
	Total Effect	Indirect Effect	Total Effect	Indirect Effect	SAR & Control
Constant	-3.462	-3.032	-1.025	-0.804	-0.429
SAR	0.719**	0.34**	0.043	0.206	173
Listings					0.248
Listings SAR					
Log-Likelihood	-46.443	-47.003			
Akaike	2.768	2.800			
Schwartz	2.857	2.889			
R2 Adjusted			0.048	0.101	0.087
LR (p-value)			0.093	0.027	0.068

** Significant at 90%; **Significant at 95%; ***Significant at 99%*

TABLE 6: HOTELS RESULTS FOR COINCIDENT BLOCK GROUPS – DEPENDENT VARIABLE: PRICE PER NIGHT (35 OBSERVATIONS)

	FML		*Bootstrap*		
	Total Effect	Indirect Effect	Total Effect	Indirect Effect	SAR & Control
Constant	-3.322	-5.685**	-3.581	-5.979*	-1.895
SAR	0.771*	0.451***	0.792*	0.464**	0.202
Count					0.548***
Count SAR					
Log-Likelihood	-46.443	-47.003			
Akaike	2.768	2.800			
Schwartz	2.857	2.889			
R2 Adjusted			0.030	0.025	0.026
LR (p-value)			0.129	0.147	0.197

** Significant at 90%; **Significant at 95%; ***Significant at 99%*

Treatment group comparison strategy. In this section, we follow the dummy test as presented in the methodological section above. Its set of results, presented in Table 7, offers a relatively similar picture to the one in Tables 5 and 6. The SAR estimate is positive and significant in most of the FML specifications, except when using Count (Listings) as a control in FML4. The same happened in the Bootstrap specifications when using the Count control in Bootstrap2. The hotels dummy was significant when used in the models FML2 and FML 4, but it was not significant in the model with the interacting parameter FML3. Furthermore, the dummy was significant in both Bootstrap regressions, even in the one with interacting parameter Bootstrap 2. However, we know that the spatial parameter was not significant in such case.

TABLE 7: HOTELS DUMMY AND INTERACTION – DEPENDENT VARIABLE: PRICE PER NIGHT (70 OBSERVATIONS)

	FML1		*FML2*		*FML3*		*FML4*		*Bootstrap1*		*Bootstrap2*	
	Total Effect	Indirect Effect	Total Effect	Indirect Effect	Total Effect	Indirect Effect	Total Effect	Indirect Effect	Total Effect	Indirect Effect	Total Effect	Indirect Effect
Constant	-4.249	-6.440***	-2.942	-4.048	-3.464	-5.273	-1.936	-3.036	-1.922	-2.164	-0.566	-1.285
SAR	0.908*	0.51***	0.745*	0.395**	0.841*	0.462***	0.596	0.324	0.568**	0.285**	0.386	0.211*
Hotels			-0.893***	-0.662***	0.143	1.747	-0.725***	-0.549**	-1.027***	-0.789***	-0.774***	-0.677***
Hotels *SAR					-0.059	-0.135						
Count							0.222*	0.202*				
Log-Likelihood	-101.030	-96.188	-93.753	-92.359	-93.718	-92.163	-91.993	-90.848				
Akaike	2.944	2.805	2.764	2.725	2.792	2.748	2.743	2.710				
Schwartz	3.008	2.870	2.861	2.821	2.920	2.876	2.871	2.838				
R2 Adjusted									0.167	0.180	0.191	0.200
LR (p-value)									0.000	0.000	0.000	0.000

** Significant at 90%; **Significant at 95%; ***Significant at 99%*

In the results of the final test, presented in Table 7, once again we cannot definitively ascertain whether hotels and STRs share a single spatial market. There is some suggestion from the results of models FML2, FML4 and Bootstrap1 that this may be a possibility, but the most direct and precise test FML3 did not produce significant results. Also, the regressions change when introducing Count as regression control in specifications FML4 and Bootstrap2, further evidence of non-fully reliable results. Even when we extend the database to 70 observations in this exercise, the use of the count control proves the unreliability of the SAR estimates while the interaction of the SAR and Hotel Dummy has never been significant - these results apply for both the FML and Bootstrap results. All of this most likely is due to the lack of spatial coincidence as presented in Map 6.

4.5 – Conclusion

We have performed two sets of empirical tests examining the relationships of short-term rentals with 1) the residential housing market and 2) the hotel market in the city of Seattle. In the first set, we collected data on commercial investment mortgages (applications and originations) in the metro area as well as the composition of its housing stock from 2005-2016. We then conducted a series of Pearson's Product-Moment Correlation tests between short-term rental listings and a variety of variables to examine their impacts of STRs on owner occupancy and vacancies. Using two sets of spatial econometrics exercises, we found no statistically conclusive evidence demonstrating the shared economy and hotels share the same markets in Seattle, or on the contrary, they serve different markets. The main problem found is the lack of coincident spatial information for both the shared economy and hotels sets of information, which required us to use bootstrap errors in order to detect any small sample bias in the FML estimations, when using full or only coincident samples of block groups. However, while the statistical evidence is inconclusive one way or another, the very low degree of spatial coincidence, the greater spatial diversity of STR listings, and some of the inconclusive statistical tests lead the authors to believe that STRs and hotels serve fundamentally different markets. In other words, STRs create demand rather than encroaching on hotel markets.

> *We found no statistically conclusive evidence demonstrating the shared economy and hotels share the same markets in Seattle.*

What does this battery of tests and their findings imply? We argue two things.

First, while there are many claims around the negative impacts of STRs on local markets, there is little evidence in the literature to support those claims. Furthermore, when they are addressed systematically through empirical research, we find none of them hold up. There is no evidence of negative impacts from STRs (as claimed by opponents) in the Seattle market, and initial evidence showing that STRs help stabilize housing markets while boosting accommodation stays (aka tourism).

Second, it is critical that policymakers not succumb to unsubstantiated claims surrounding STRs and, rather, that they use the empirical evidence that does exist. Policymakers seeking to end the abuse of rental properties (of all types) should focus efforts on: 1) the enforcement of existing regulations around the declaration of investment properties in mortgages and to city property registers and 2) the enforcement of existing licensing laws for landlords. However, when they examine the empirical evidence, there is no basis for restricting STRs based on any of the opposition claims examined here.

The evidence suggests that STR markets may provide a safeguard for home ownership while increasing visitors through a more geographically diverse accommodation market – one which more effectively provides revenue to local neighborhoods. It would be a disservice for policymakers to work against these positive impacts simply because they haven't seen the evidence.

Section 5

Appendix – STR and hotel market analysis methodology

We try spatial econometrics specifications that consider the spatial association between observations' variables. In this case, we are interested in the spatial association between the prices in different block groups in the city of Seattle. There are two prototype spatial models, the

Spatial Autoregressive Model (SAR):

$y_i = \beta^1 + \beta^2 w_i y_i + u_i$

And the Spatial Error Model (SEM):

$y_i = \beta^1 + \beta^2 x_i + \beta_3 w_i e_i + u_i$

The SAR regresses a variable against itself spatially weighted , and has a iid u vector of errors, which do not necessarily satisfy non-autocorrelation, precisely because of being per definition autoregressive. The SEM regresses the same variable against the spatially weighted vector of errors of an OLS regression between it and another variable (or set of variables). The choice of anyone of these models is a purely empirical matter as the benchmark from which to add more variables or perform more analyses. In the present document, however, even when the SEM has the advantage of not having indirect (feedback) effects through its spatial weighting, it does not offer an absolute value spatial association parameter for the variable of interest (prices), consequently we use SAR and test its robustness by checking its indirect effects.

The second strategy introduced above requires us to fusion both available sources of information, each one of them with weighted by the same W matrix. A dummy variable equivalent to one (1) when a block group observations is for hotels, and zero (0) otherwise, is introduced and tries to identify different estimation structures, and an interaction between it and the SAR component will inform if there are differences of the estimated parameter:

$y_i = \beta^1 + \beta^2\, w_i y_i + \beta_3 \cdot DummyHotel + \beta_4\, (w_i y_i\, u_i \cdot DummyHotel) + u_i$

The spatial weighting process for any of the proposed tests involves the creation of a Spatial Weights Matrix , which relates one-to-one every spatial unit (block group) with its neighbors, or with the entire spatial system. In the present case, it is advisable to use a matrix of inverse distances, because the block groups with information have very different areas, plus they have a scattered distribution on the urban space.[5] The maximum distance possible between two block groups determines their zero (0) relationship, while their closest possible distance determines the relation one (1). All the other relationships lie in between these extremes, weighting the entire set of possible spatial relationships between block groups.

Finally, as the resulting database that has comparable information for the sharing economy and hotels per block groups will be very small, we used Bootstrap errors to determine if there is any "small sample bias". Bootstrap makes multiple re-samplings and re-estimations of the parameters and standard errors of an OLS (or quintile) regression, if the changes in these values are significant, it means that the estimated parameters are not reliable due to the small sample bias.

[5] That contrasts with a continuous spatial distribution that would require a spatial matrix where vicinity is determined by sharing borders

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ATTACHMENT 3

SCAN South Central Association of Neighbors
Salem, Oregon

March 6, 2017

To: Planning Commission

From: Roz Shirack, Chair
SCAN Land Use & Transportation Committee

Re: Comments on Proposed Short Term Rental amendments

These comments are a consensus of the SCAN Land Use & Transportation Committee. They have not yet been reviewed by the full SCAN Board. We are requesting a continuance of the hearing to give more time for continued review and input by the SCAN Board, which meets March 8.

Accessory Short-Term Rentals

The Committee generally supports staff's proposal to regulate accessory short-term rentals in residential zones. If accessory short-term rentals are now occurring illegally and are expected to proliferate in residential zones, then we support, with several added requirements noted below, the license requirements and special use standards proposed by staff and posted on the City's webpage on February 22. All of staff's proposed safeguards and the Committee's requests below should be adopted in order to mitigate potential negative impacts on surrounding residents.

In addition to the proposed requirements on pages 1-3 of draft Ordinance Bill No. xx-17, the Committee requests:

- Require a minimum of one off-street parking space. Current proposal requires no additional parking (p. 97). Most of the people attending the February 1 open house "voted" for requiring additional off-street parking, most indicating one space per guestroom. One additional space, whether one or two guestrooms are rented, is a good compromise. Required parking is needed, given that some residences may already have a parking deficit, that is, not provide the required two spaces for a single family home.
- Require the license and local representative contact information be displayed on the residence so it can be seen by the public. Current proposal does not require license or local representative to be displayed (p. 14). Local representative contact information must be displayed so neighbors have a contact for complaints when residence is non-hosted. An accessory short-term rental is commercial lodging and the property owner should be held to the same requirement as other businesses to display their license.
- Notify neighborhood associations of initial and renewal license applications so they can provide comment, similar to notification of liquor license applications. This is especially

important for renewal applications because neighborhood associations may be aware of neighbor complaints that were not formally filed with the City.

- Add grounds for revoking or suspending a license in the code (eg, 3 complaints results in revoking). Also add grounds for not renewing a license (eg, 3 complaints).
- Require an annual staff report on the number of accessory short-term rentals, a summary of data gathered from guest registries (eg, number of days rented hosted and non-hosted, number of guests, etc); number of complaints; and how complaints were resolved.

The Committee supports all the proposed special use standards in Section 8, pages 5-7, and believes all are necessary to mitigate potential negative impacts on neighbors. In addition to those standards the Committee requests:

- When the residence is non-hosted the maximum number of guests shall be 10. Current proposal has no maximum (p. 6).

Additional Comments:

- Set license application fee to cover 1) administrative expense of review, inspection, and approval; and 2) enforcement expense.
- Code is vague about enforcement. Clearly state the process for making a complaint and how that complaint will be responded to and resolved, including a deadline for resolving complaints. Clearly state the penalty for ignoring licensing requirements or special use standards.
- Standard (e) Transient Occupancy Tax on page 2 should be for **accessory** short-term rentals. This may be a drafting oversight.

Short-Term Rentals

The Committee opposes short-term rentals in residential zones, because it provides an incentive to remove housing stock from the market for long-term residential use. *With the documented shortage of affordable housing in Salem, and multi-family vacancy rate of only 2.6% in 2016, the City should encourage housing for permanent residences, not for transient renters.* The Committee also believes the potential for negative impacts on neighbors is much higher when a resident family or local representative is not present in the residence to monitor renters and to respond to concerns of neighbors. Neighbors include those on the other side of a wall in an apartment, duplex, or condo.

If short-term rentals are allowed in residential zones, then:

- A *resident* manager must be required. Most participants at the open house (11 out of 14) believed the operator should be required to own and live in the short-term rental.
- An owner should be limited to one short-term rental. This will prevent landlords from converting houses and apartments to the short-term rental market or building new dwellings earmarked for the short-term rental market. Most participants at the open house (13 out of 17) believed an operator of a short-term rental should not be allowed to operate more than one short-term rental in the city.
- Staff's proposed requirements and the Committee's requested requirements for accessory short-term rentals noted above should be adopted for short-term rentals in residential zones.

ATTACHMENT 4

March 7, 2017

Bryce Bishop, Planner II
City of Salem
City Hall
555 Liberty Street SE, Room 305
Salem, OR 97301
BBishop@cityofsalem.net

CC: City Planning Commission

Re: Code Amendment Case No. CA17-01, Home Sharing Laws in Salem

Mr. Bishop,

I write to you today regarding the short-term rental (STR) community in Salem and the proposed amendments to local codes currently under consideration. We appreciate the opportunity to work with you and interested stakeholders to create rules that enable middle class Oregonians to continue to use home sharing to make ends meet.

Before turning to suggestions to strengthen the draft ordinance, I want to provide an overview of Airbnb in Oregon and some of the tools we've used to establish trust and security on our platform.

Airbnb: An Overview of Our Community in Oregon and Around the World

Airbnb was launched in 2008 with a single listing in an apartment in San Francisco. Our founders were struggling to afford an increasingly expensive housing market and decided to open up their own home to host other artists who were in town for a design conference.

Eight years later, that single home share has turned into a platform that has brought over 150 million guests to nearly 3 million listings in 65,000 cities across the globe.

Home sharing is an increasingly important component of the Oregon economy. In the last year alone, 7,800 residents welcomed over 647,000 guests to every corner of the Beaver State, with an additional 560,000 residents using Airbnb to travel across the country and around the world.

The vast majority of these hosts, 65 percent of whom are women and 39 percent of whom are over 50, are individuals and families who share their homes occasionally to pay for their mortgage, medicine, and student loans, or save money for retirement or a rainy day.

In fact, last year, the typical host shared their home for less than five days a month, bringing in $5,900 to help make ends meet. Additionally, 19,000 Salem residents used Airbnb to travel.

Airbnb has grown dramatically in recent years and one of the reasons for our success has been our investments in innovative tools to protect hosts, guests, and neighbors:

- In 2016, we launched the Neighbors platform, a tool that allows people to report safety or nuisance potential concerns directly to our staff for review. We've already taken action in response to complaints about specific listings and we will continue to take appropriate action where there is a pattern of problematic behavior by hosts or guests.

- Airbnb maximizes transparency by allowing hosts to require that guests provide a government ID, and we created a program called Verified ID, which connects a person's offline identification (a driver's license or passport) with another online profile, such as Facebook or LinkedIn accounts. For U.S. residents, Airbnb also runs host and guest information through several public databases to check if there are matches with certain felony convictions, sex offender registrations, or significant misdemeanors.

- Our community builds trust and a track record for users to be able to learn more about each other through publicly available reviews and feedback.

- We offer $1 million Host Protection Insurance and a $1 million Host Guarantee to help protect hosts and guests. If a guest or a host ever have an issue, our global Trust and Safety team is on call 24/7 to help.

Airbnb's Commitment to Collecting Taxes and Supporting Public Services

In addition to developing critical public safety tools, we are committed to working with states and cities to collect and remit lodging taxes on behalf of our hosts and guests.

We believe in helping our community pay its fair share. Since 2014 we have signed voluntary collection agreements (VCA) with over 230 jurisdictions around the world, including Portland, Ore., to collect and remit taxes on behalf of our hosts. These VCAs have enabled us to collect over $175 million to fund critical public services. We proactively reached out to the City of Salem earlier this year to begin collecting here.

Airbnb's Comments on Proposed STR Ordinance

We thank you for your thorough and thoughtful effort to foster responsible host sharing in Salem and offer the following suggestions on ways to improve the draft ordinance:

- As is the case in Portland and the vast majority of other cities across the country, we believe that accessory dwelling units (ADU) and/or guest houses should be allowed to be used for short term rentals. These units are helping homeowners stay in their homes by defraying the cost of mortgages/property taxes. Moreover, ADU's improve affordability by adding new units to the long-term housing stock, even when used for short term rentals initially or periodically.

- With regard to transient occupancy taxes, we urge Salem to include a clause that would allow a booking platform to collect and remit taxes on behalf of hosts, as we do in Portland and over 230 jurisdictions worldwide.

- We support the insurance requirement, but urge the committee to add a clause stating that an operator may satisfy this requirement via a booking service. Airbnb offers two overlapping $1 million insurance policies that protect hosts, guests, and neighbors in the rare event of injury or theft.

- We believe that all Salem residents—whether apartment renters or homeowners—should be able to share their own home and not be required to receive formal "permission" from landlords. Rather, the ordinance can reiterate that nothing in the regulations supersedes lease agreements between tenants and landlords.

- The 95-day maximum for non-hosted accessory short term rentals is stricter than many limitations we've seen across the country. We understand the rationale behind regulating non-hosted rentals more stringently than hosted rentals, but believe that Salem can reach its regulatory goals with a maximum closer to 180 days.

- As with any housing unit, the city has the right to inspect STRs for code violations. However, requiring every unit to be inspected as part of the registration process will create an onerous burden on both residents and regulators. As a result, we urge the committee to allow hosts to affirm that their homes are in accordance with the Housing Code and have the required parking.

- In order to be consistent with state law defining "resident" as an individual domiciled in the state or who spends at least 200 days in the state, we believe that the definition of "resident family" should be pegged to spending 200 days in the home, not 270

- The proposed requirement that all short term rental or accessory short term rental hosts obtain a license is onerous for those individuals who only occasionally rent their own homes, or are renting out a spare bedroom in their home. Many other cities have found that these individuals should be exempt from licensing or in-home inspection requirements. For instance, in Philadelphia, the registration requirement is triggered if an individual rents her own home for more than 90 days, while Jersey City, NJ requires registration only when a given individual offers five or more listings.

- Privacy is important for hosts and guests alike. As a result, while we agree that hosts should maintain records of bookings, we do not believe that these records should be turned over to the city as a matter of course during re-registration.

We look forward to continuing to work with you to craft rules that protect quality of life while ensuring that home sharing can continue to be an economic boon in Salem.

Sincerely,

Laura Spanjian
Airbnb