File No. 150363 Committee Item No. 2
Board Item No. 7

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use & Transportation Date May 18, 2015

Board of Supervisors Meeting Date July 14 2015

Cmte	Board	
☐	☐	Motion
☐	☐	Resolution
☒	☒	Ordinance
☒	☒	Legislative Digest
☐	☐	Budget and Legislative Analyst Report
☐	☐	Youth Commission Report
☐	☐	Introduction Form
☒	☒	Department/Agency Cover Letter and/or Report
☐	☐	MOU
☐	☐	Grant Information Form
☐	☐	Grant Budget
☐	☐	Subcontract Budget
☐	☐	Contract/Agreement
☐	☐	Form 126 – Ethics Commission
☐	☐	Award Letter
☐	☐	Application
☒	☒	Public Correspondence

OTHER (Use back side if additional space is needed)

☐	☐	_____
☐	☐	_____
☐	☐	_____
☐	☐	_____
☐	☐	_____

Completed by: Andrea Ausberry Date May 14, 2015
Completed by: _____ Date _____

AMENDED IN COMMITTE.
5/18/15

FILE NO. 150363 ORDINANCE NO.

[Administrative Code – Short-Term Residential Rentals]

Ordinance amending the Administrative Code to revise the Residential Unit Conversion Ordinance to: limit short-term rental of a Residential Unit to no more than 120 days per calendar year; revise the definition of Interested Parties who may enforce the provisions of Chapter 41A through a private right of action to include Permanent Residents residing within 100 feet of the Residential Unit; create an additional private right of action under certain circumstances; and direct the Mayor to create an Office of Short-Term Residential Rental Administration and Enforcement staffed by the Planning Department and other departments as needed; and affirming the Planning Department's determination under the California Environmental Quality Act.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *~~strikethrough italics Times New Roman font~~*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Environmental Findings. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 150363 and is incorporated herein by reference. The Board affirms this determination.

Section 2. The Administrative Code is hereby amended by revising Sections 41A.4, 41A.5, 41A. 6, and 41A.7 and adding Section 41A.8, to read as follows:

SEC. 41A.4. DEFINITIONS.

Whenever used in this Chapter 41A, the following words and phrases shall have the definitions provided in this Section:

* * * *

Director. The Director of the Planning Department, *or his or her designee*.

* * * *

Interested Party. A Permanent Resident of the building in which the Tourist or Transient Use is alleged to occur, any homeowner association associated with the Residential Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur, *a Permanent Resident or Owner of a property within 100 feet of the property containing the Residential Unit in which the Tourist or Transient Use is alleged to occur,* the City and County of San Francisco, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws.

* * * *

Short-Term Residential Rental. A Tourist or Transient Use where all of the following conditions are met:

(a) the Residential Unit is offered for Tourist or Transient Use by the Permanent Resident of the Residential Unit;

(b) the Permanent Resident is a natural person;

(c) the Permanent Resident has registered the Residential Unit and maintains good standing on the Department's Short-Term Residential Rental Registry; and

(d) the Residential Unit: is not subject to the Inclusionary Affordable Housing Program set forth in Planning Code Section 415et seq.; is not a residential hotel unit subject to the provisions of Chapter 41, unless such unit has been issued a Permit to Convert under Section 41.12; is not otherwise a designated as a below market rate or income-restricted Residential Unit under City, state, or federal law; has not been the subject of an eviction pursuant to the Ellis Act and Administrative Code Section 37.9(a)(13) within the five year period prior to applying for the Registry if such eviction occurred after November 1, 2014; and no other requirement of federal or state law, this Municipal Code, or any other applicable law or regulation prohibits the permanent resident from subleasing, renting, or otherwise allowing Short-Term Residential Rental of the Residential Unit.

Short-Term Residential Rental Registry or Registry. A database of information maintained by the Department that includes information regarding Permanent Residents who are permitted to offer Residential Units for Short-Term Residential Rental. Only one Permanent Resident per Residential Unit may be included on the Registry at any given time. The Registry shall be available for public review to the extent required by law, except that, to the extent permitted by law, the Department shall redact any Permanent Resident names *and street and unit numbers* from the records available for public review.

* * * *

SEC. 41A.5. UNLAWFUL CONVERSION; REMEDIES.

(a) **Unlawful Actions.** Except as set forth in subsection 41A.5(g), it shall be unlawful for

(1) any Owner to offer a Residential Unit for rent for Tourist or Transient Use;

(2) any Owner to offer a Residential Unit for rent to a Business Entity that will allow the use of a Residential Unit for Tourist or Transient Use; or

(3) any Business Entity to allow the use of a Residential Unit for Tourist or Transient Use.

(b) **Records Required.** The Owner and Business Entity, if any, shall retain and make available to the Department records to demonstrate compliance with this Chapter 41A upon written request as provided herein. ~~*Any Permanent Resident offering his or her Primary Residence as a Short Term Residential Rental shall retain and make available to the Department records to demonstrate compliance with this Chapter 41A, including but not limited to records demonstrating Primary Residency, the number of days per calendar year he or she has occupied the Residential Unit, and the number of days per calendar year, with dates and duration of each stay, the Residential Unit has been rented for Short Term Residential Rental Use.*~~

(c) **Determination of Violation.** Upon the filing of a written Complaint that an Owner or Business Entity has engaged in an alleged unlawful Conversion or that a Hosting Platform is not complying with the requirements of subsection (g)(4)(A), the Director shall take reasonable steps necessary to determine the validity of the Complaint. The Director may independently determine whether an Owner or Business Entity may be renting a Residential Unit for Tourist or Transient Use in violation of this Chapter 41A or whether a Hosting Platform has failed to comply with the requirements of subsection (g)(4)(A). To determine if there is a violation of this Chapter 41A, the Director may initiate an investigation of the subject property or Hosting Platform's allegedly unlawful activities. This investigation may include, but is not limited to, an inspection of the subject property and/or a request for any pertinent information from the Owner, Business Entity, or Hosting Platform, such as leases, business records, or other documents. The Director shall have discretion to determine whether there is a potential violation of this Chapter 41A and whether to conduct an administrative review hearing as set

forth below. Notwithstanding any other provision of this Chapter 41A, any alleged violation related to failure to comply with the requirements of the Business and Tax Regulations Code shall be enforced by the Treasurer/Tax Collector under the provisions of that Code.

(d) **Civil Action.**

(1) The City may institute civil proceedings for injunctive and monetary relief, including civil penalties, against an Owner, Business Entity, or Hosting Platform for violations of this Chapter 41A under any circumstances, without regard to whether a Complaint has been filed or the Director has made a determination of a violation through an administrative review hearing as set forth in this Chapter 41A.

*(2) **Private Rights of Action.***

(A) Following the filing of a Complaint and the determination of a violation by the Director through an administrative review hearing ~~*as set forth in this Chapter 41A, the City may institute civil proceedings for injunctive and monetary relief against a Hosting Platform for violation of subsection (g)(4)(A) or the City or*~~ any other Interested Party may institute civil proceedings for injunctive and monetary relief against an Owner or Business Entity.

(B) An Interested Party who is a Permanent Resident of the building in which the Tourist or Transient Use is alleged to occur, is a Permanent Resident of a property within 100 feet of the property containing the Residential Unit in which the Tourist or Transient Use is alleged to occur, or is a homeowner association associated with the Residential Unit in which the Tourist or Transient Use is alleged to occur may institute a civil action for injunctive and monetary relief against an Owner or Business Entity if:

(i) The Interested Party has filed a Complaint with the Department;

(ii) The Director has not made a written determination pursuant to subsection 41A.6(a) that there is no violation of this Chapter 41A or basis for an investigation for an unlawful activity;

(iii) An administrative hearing officer has not issued a final determination pursuant to subsection 41A.6(b) regarding the Complaint within 105 days of the filing of the Complaint with the Department;

(iv) After such 105-day period has passed, the Interested Party has provided 30 days' written notice to the Department and the City Attorney's Office of its intent to initiate civil proceedings; and

(v) The City has not initiated civil proceedings by the end of that 30-day notice period.

Under this subsection 41A.5(d)(2)(B), the prevailing party shall be entitled to the costs of suit, including reasonable attorneys' fees, pursuant to an order of the Court.

*(3) ~~In addition,~~ **Civil Penalties.** If the City is the prevailing party in any civil action under this subsection (d):* an Owner or Business Entity in violation of this Chapter *41A* or a Hosting Platform in violation of subsection (g)(4)(A) may be liable for civil penalties of not more than $1,000 per day for the period of the unlawful activity. *Interested Parties other than the City may not seek or obtain civil penalties.*

*(4) **Attorneys' Fees and Costs.*** If the City or *any other ~~the~~* Interested Party is the prevailing party, the City or the Interested Party shall be entitled to the costs of enforcing this Chapter 41A, including reasonable attorneys' fees, pursuant to an order of the Court.

(5) Any monetary award obtained by the City and County of San Francisco in such a civil action shall be deposited in the Department to be used for enforcement of Chapter 41A. The Department, through the use of these funds, shall reimburse City departments and agencies, including the City Attorney's Office, for all costs and fees incurred in the enforcement of this Chapter 41A.

* * * *

(g) **Exception for Short-Term Residential Rental.**

(1) Notwithstanding the restrictions set forth in this Section 41A.5, a Permanent Resident may offer his or her Primary Residence as a Short-Term Residential Rental if:

(A) ~~*The Permanent Resident occupies the Residential Unit for no less than 275 days out of the calendar year in which the Residential Unit is rented as a Short-Term Residential Rental or, if the Permanent Resident has not rented or owned the Residential Unit for the full preceding calendar year, for no less than 75% of the days he or she has owned or rented the Residential Unit*~~ *The Residential Unit is rented for Tourist or Transient Use for no more than 120 days during any calendar year*;

(B) The Permanent Resident maintains records for two years demonstrating compliance with this Chapter *41A*, including but not limited to information demonstrating Primary Residency, ~~*the number of days per calendar year he or she has occupied the Residential Unit,*~~ the number of days per calendar year the Residential Unit has been rented as a Short-Term Residential Rental, and compliance with the insurance requirement in Subsection (D). These records shall be made available to the Department upon request;

* * * *

(4) **Requirements for Hosting Platforms.**

(A) **Notice to Users of Hosting Platform.** All Hosting Platforms shall provide the following information in a notice to any user listing a Residential Unit located within the City and County of San Francisco through the Hosting Platform's service. The notice shall be provided prior to the user listing the Residential Unit and shall include the following information: that Administrative Code Chapters 37 and 41A regulate Short-Term Rental of Residential Units; the requirements for Permanent Residency and registration of the unit with the Department; and the transient occupancy tax obligations to the City.

(B) A Hosting Platform shall comply with the requirements of the Business and Tax Regulations Code by, among any other applicable requirements, collecting

and remitting all required Transient Occupancy Taxes, and this provision shall not relieve a Hosting Platform of liability related to an occupant's, resident's, Business Entity's, or Owner's failure to comply with the requirements of the Business and Tax Regulations Code. A Hosting Platform shall maintain a record demonstrating that the taxes have been remitted to the Tax Collector and shall make this record available to the Tax Collector upon request.

(C) Any violation of a Hosting Platform's responsibilities under subsection (g)(~~5~~*4*)(A) shall subject the Hosting Platform to the administrative penalties and enforcement provisions of this Chapter *41A*, including but not limited to payment of civil penalties of up to $1,000 per day for the period of the failure to comply, with the exception that a violation related to failure to comply with the requirements of the Business and Tax Regulations Code shall be enforced by the Treasurer/Tax Collector under that Code.

* * * *

SEC. 41A.6. PROCEDURES FOR DETERMINING ADMINISTRATIVE PENALTIES.

(a) **Notice of Complaint.**

(1) Within 30 days of the filing of a Complaint and upon the Director's independent finding that there may be a violation of this Chapter *41A*, the Director shall notify the Owner by certified mail that the Owner's Residential Unit is the subject of an investigation for an unlawful use and provide the date, time, and place of an administrative review hearing in which the Owner can respond to the Complaint. ~~*If the Director finds there is no violation of this Chapter or basis for an investigation for an unlawful activity, the Director shall so inform the complainant within 30 days of the filing of the Complaint.*~~

(2) If the Complaint concerns the failure of a Hosting Platform to comply with the requirements of subsection *41A.5* (g)(4)(A), within 30 days of the filing of the Complaint and upon the Director's independent finding that there may be a violation of this Chapter, the Director shall notify the Hosting Platform by certified mail that the Hosting Platform is the

subject of an investigation for failure to comply with the requirements of that subsection and provide the date, time, and place of an administrative review hearing in which the Hosting Platform can respond to the Complaint.

(3) Once a Complaint has been filed, the Department shall include information regarding the Complaint, including whether the Complaint is pending or resolved and, if resolved, any final determination, on the Department's website.

(4) If the Director finds there is no violation of this Chapter or basis for an investigation for an unlawful activity, the Director shall so inform the complainant within 30 days of the filing of the Complaint.

(b) **Administrative Review Hearings.** In the event the Director determines that an administrative review hearing shall be conducted, the Director's appointed hearing officer will hold an administrative review hearing within 45 days of the Director's finding that there may be a violation of this Chapter 41A to review all information provided by the Interested Party, members of the public, City staff, and the Owner or Hosting Platform for the investigation and the hearing officer shall thereafter make a determination whether the Owner or Hosting Platform has violated this Chapter.

(1) For hearings regarding alleged unlawful conversions, notice of the hearing shall be conspicuously posted on the building that is the subject of the hearing. The Director shall appoint a hearing officer to conduct the hearing.

(2) **Pre-hearing Submission.** No less than ten days prior to the administrative review hearing, parties to the hearing shall submit written information to the Director including, but not limited to, the issues to be determined by the hearing officer and the evidence to be offered at the hearing. Such information shall be forwarded to the hearing officer prior to the hearing along with any information compiled by the Director.

(3) **Hearing Procedure.** If more than one hearing is requested for Residential Units located in the same building at or about the same time, the Director shall consolidate all of the hearings into one hearing. The hearing shall be recorded. Any party to the hearing may at his or her own expense cause the hearing to be recorded by a certified court reporter. Parties may be represented by counsel and shall have the right to cross-examine witnesses. All testimony shall be given under oath. Written decisions and findings shall be rendered by the hearing officer within 30 days of the hearing. Copies of the findings and decision shall be served upon the parties by certified mail. A notice that a copy of the findings and decision is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday shall be posted by the Owner or the Director in the building in the same location in which the notice of the administrative review hearing was posted.

(4) **Failure to Appear.** In the event the Owner, authorized Hosting Platform representative, or an interested party fails to appear at the hearing, the hearing officer may nevertheless make a determination based on the evidence in the record and files at the time of the hearing, and issue a written decision and findings.

(5) **Finality of the Hearing Officer's Decision and Judicial Review.** The decision of the hearing officer shall be final. Within 20 days after service of the hearing officer's decision, any party may seek judicial review of the hearing officer's decision.

(6) **Hearing Officer Decision and Collection of Penalties.** Upon the Hearing Officer's decision, the Director may proceed to collect the penalties and costs pursuant to the lien procedures set forth in Subsection 41A.6(d), consistent with the Hearing Officer's decision.

(7) **Remedy of Violation.** If the Hearing Officer determines that a violation has occurred, the Hearing Officer's Decision shall:

(A) Specify a reasonable period of time during which the Owner, Business Entity, or Hosting Platform must correct or otherwise remedy the violation;

(B) Detail the amount of any administrative penalties the Owner or Hosting Platform shall be required to pay as set forth in Subsection 41A.6(c); and,

(C) For violations by Owners, state that if the violation is not corrected or otherwise remedied within this period, the Department shall remove or prohibit the registration of the Residential Unit from the Short-Term Residential Registry for one year even if the Residential Unit otherwise meets the requirements for Short-Term Residential Rental.

(8) If the Hearing Officer determines that no violation has occurred, the determination is final.

(c) **Imposition of Penalties for Violations and Enforcement Costs.**

(1) **Administrative Penalties.** If the Hearing Officer determines that a violation has occurred, an administrative penalty shall be assessed as follows:

(A) For the initial violation, not more than four times the standard hourly administrative rate of $121.00 for each unlawfully converted unit, or for each identified failure of a Hosting Platform to comply with the requirements of subsection *41A.5*(g)(4)*(A)*, per day from the notice of Complaint until such time as the unlawful activity terminates;

(B) *F*For the second violation by the same Owner(s), Business Entity, or Hosting Platform, not more than eight times the standard hourly administrative rate of $121.00 for each unlawfully converted unit, or for each identified failure of a Hosting Platform to comply with the requirements of subsection *41A.5* (g)(4)*(A)*, per day from the day the unlawful activity commenced until such time as the unlawful activity terminates; and

(C) *F*For the third and any subsequent violation by the same Owner(s), Business Entity, or Hosting Platform, not more than twelve times the standard hourly administrative rate of $121.00 for each unlawfully converted unit or for each identified failure

of a Hosting Platform to comply with the requirements of subsection *41A.5* (g)(4)*(A)* per day from the day the unlawful activity commenced until such time as the unlawful activity terminates.

(2) **Prohibition on Registration and Listing Unit(s) on Any Housing Platform.** In the event of multiple violations, the Department shall remove the Residential Unit(s) from the Registry for one year and include the Residential Unit(s) on a list maintained by the Department of Residential Units that may not be listed on any Hosting Platform until compliance. Any Owner or Business Entity who continues to list a Residential Unit in violation of this section shall be liable for additional administrative penalties and civil penalties of up to $1,000 per day of unlawful inclusion.

* * * *

SEC. 41A.7. *OFFICE OF SHORT-TERM RESIDENTIAL RENTAL ADMINISTRATION AND ENFORCEMENT.*

The Mayor shall establish an Office of Short-Term Residential Rental Administration and Enforcement, which shall provide a single location to receive and process applications for the Registry and complaints regarding violations of this Chapter 41A. ~~and which~~ This Office *shall be staffed by the Department* and other departments as appropriate, with participation from *the Department of Building Inspection,* ~~and~~ *the* Treasurer/*Tax Collector's Office,* and other departments *as needed to process applications for the Registry and enforce the requirements of this Chapter 41A in a timely and efficient manner. It is the intent of this Board in directing the establishment of this office to streamline both the process of administering the Registry and enforcing the requirements of this Chapter 41A to protect residential housing from unlawful conversion to Tourist or Transient Use.*

SEC. 41A.8 **CONSTRUCTION.**

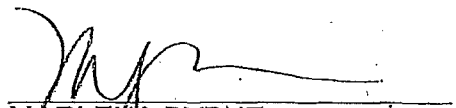
(a) Nothing in this Chapter may be construed to supersede any other lawfully enacted ordinance of the City and County of San Francisco.

(b) Clauses of this Chapter are declared to be severable and if any provision or clause of this chapter or the application thereof is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions of this Chapter.

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
MARLENA BYRNE
Deputy City Attorney

n:\legana\as2015\1500635\01016697.doc

FILE NO. 150363

LEGISLATIVE DIGEST
(5/18/15 - Amended in Committee)

[Administrative Code – Short-Term Residential Rentals]

Ordinance amending the Administrative Code to revise the Residential Unit Conversion Ordinance to: limit short-term rental of a Residential Unit to no more than 120 days per calendar year; revise the definition of Interested Parties who may enforce the provisions of Chapter 41A through a private right of action to include Permanent Residents residing within 100 feet of the Residential Unit; create an additional private right of action under certain circumstances; and direct the Mayor to create an Office of Short-Term Residential Rental Administration and Enforcement staffed by the Planning Department and other departments as needed; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Under Chapter 41A of the San Francisco Administrative Code, renting a residential unit for less than a 30-day term is prohibited unless it is offered by the Permanent Resident of the unit, who registers the unit with the Planning Department and otherwise meets the requirements, described in Chapter 41A, for renting the unit as a Short-Term Residential Rental.

Chapter 41A defines a Short-Term Residential Rental as a rental for less than 30 days where the unit: is offered by the Permanent Resident of the unit who is a human being, not a company; has been registered on the Planning Department's Registry; is not subject to the City's Inclusionary Affordable Housing Program; is not a residential hotel unit; is not otherwise designated as a below market rate or income-restricted unit under any law; and is not otherwise prohibited by a law or regulation from being subleased or rented as a rental for less than 30-days.

Under existing law, Short-Term Residential Rentals are limited to 90 days per year for unhosted rentals (meaning the Permanent Resident is not in the unit when the unit is rented) and are unlimited for hosted rentals (which is when the Permanent Resident continues to reside in the unit during the rental period). This requirement states that the Permanent Resident must reside in the unit for no less than 275 days out of the calendar year.

These limitations are designed to prohibit Owners, Business Entities that may own residential units, and other people, including tenants, from converting rental units from residential use to tourist use (also referred to as transient or hotel use).

Chapter 41A is administered and enforced by the Planning Department. Chapter 41A requires the Planning Department to make the Registry available for public review, but directs the Department to redact any Permanent Resident's names to the extent permitted by law.

If someone suspects that a Residential Unit is being offered as a short-term rental in violation of Chapter 41A, he or she may file a Complaint with the Planning Department. After a Complaint has been filed with the Planning Department and the Planning Director has held an administrative review hearing and determined that a tenant, Owner, Business Entity that owns the unit, or a Hosting Platform (this is defined as usually meaning an online advertising platform) has violated Chapter 41A, the City may sue any violator for injunctive and monetary relief, including damages, civil penalties, and attorneys' fees.

Additionally, the Code provides for a private right of action, which allows an Interested Party to sue a violator who is not a Hosting Platform (meaning they can sue an owner, tenant, or Business Entity that owns or leases the unit) for injunctive and monetary relief, including damages, civil penalties, and attorneys' fees. Interested Party is defined as a Permanent Resident of the building, the Owner of the unit, any homeowners' association linked to the unit, or a housing non-profit.

Amendments to Current Law

The proposed ordinance limits the number of days per calendar year that unit can be rented as a Short-Term Residential Rental at 120 days per calendar year, regardless of whether the rental is hosted or unhosted.

The proposed amendments to Administrative Code Chapter 41A would prohibit a unit from being offered as a short-term residential rental if it has been the subject of an Ellis Act eviction (where the property owner seeks to go out of the rental business) after November 1, 2014 and within five years of applying for the Registry.

The proposed ordinance would expand the definition of Interested Party (meaning those who can sue to enforce the requirements of Chapter 41A through a private right of action) to include a Permanent Resident or Owner of a property within 100 feet of the Residential Unit where the violation is allegedly occurring.

The proposed amendments would direct the Planning Department to redact the street and unit numbers of any residences included in the Registry (as well as Permanent Residents' names) from records available for public review, to the extent permitted by law.

The proposed legislation requires the Planning Department to include information on the Department's website about any pending or resolved Complaints regarding violations of Chapter 41A.

The proposed legislation provides that the City may enforce the requirements of Chapter 41A against an Owner (which under the existing law is defined as including a tenant), Business Entity, or Hosting Platform through filing a lawsuit at any time. It also provides that only the City may be entitled to civil penalties if it wins the lawsuit.

Both existing law and the proposed ordinance allow any other Interested Party to file a lawsuit against an Owner (again, meaning property owner or tenant) or Business Entity who has violated Chapter 41A and seek damages, injunctive relief, and attorneys' fees after the Planning Director has made a determination that a violation has occurred.

The proposed legislation amends the Code to add an additional private right of action. This would allow certain Interested Parties to file a lawsuit to enforce the requirements of Chapter 41A without first waiting for the Planning Director to make a final determination of violation under one set of circumstances. Specifically, an Interested Party who is a Permanent Resident of the building or of a building within 100 feet of the building where the violation has occurred or a homeowners' association associated with the unit may file a lawsuit against an Owner (property owner or tenant) or Business Entity who is allegedly violating Chapter 41A if:

- The Interested Party has filed a Complaint with the City;
- The Planning Director has not made a determination that there is no violation of Chapter 41A or no basis for an investigation;
- 105 days have passed since the filing of the Complaint and an administrative hearing officer has not issued a final determination regarding the Complaint;
- After the 105-day period passes, the Interested Party notifies the City of its intent to file a lawsuit; and
- The City does not file its own lawsuit by the end of the 30 day notice period.

Under this second, new private right of action, if the City files its own lawsuit, the Interested Party may not (although they may wait until after the Director finds a violation and file a lawsuit then). Under this second private right of action, the prevailing party is entitled to attorneys' fees.

The proposed legislation directs the Mayor to create an Office of Short-Term Residential Rental Administration and Enforcement, staffed by the Planning Department and any other relevant departments, including if necessary the Department of Building Inspection and the Tax Collector's Office. This new office would provide a single-location for members of the public to apply for the Registry and for staff enforcement of Chapter 41A's requirements.

Background Information

In October 2014, Administrative Code Chapter 41A and the Planning Code were amended to allow Short-Term Residential Rentals, beginning in February 2015. Prior to those amendments, rental of residential units for less than 30-day terms was prohibited City-wide under both Chapter 41A and the Planning Code.

n:\legana\as2015\1500635\01016775.doc

SAN FRANCISCO
PLANNING DEPARTMENT

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

April 27, 2015

Ms. Angela Calvillo, Clerk
Honorable Mayor Edwin M. Lee
Honorable Supervisors Kim, Campos, and Farrell
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Nos. 2014-001033PCA, 2015-003861PCA, and 2015-004765PCA
Board File Nos. 141036, 150295, 150363
Planning Commission Recommendation: *Approval with Modification*

Dear Ms. Calvillo, Mayor Lee and Supervisors,

On April 23, 2015, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider proposed amendments to Chapter 41A of the Administrative Code relating to Short-Term Rentals. At the hearing, the Planning Commission reviewed all three proposed ordinances and recommended approval with modification.

The Department determined that the proposed amendments are not defined as a project under CEQA Guidelines Section 15378 and 15060(c) (2) because they do not result in a physical change in the environment.

Please find attached documents relating to the actions of the Planning Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

Aaron D. Starr
Manager of Legislative Affairs

cc:
Marlena Byrne, Deputy City Attorney
Ivy Lee, Aide to Supervisor Kim
Carolyn Goossen, Aide to Supervisor Campos
Jess Montejano, Aide to Supervisor Farrell

Nicole A. Elliot, Legislative Director, Commission & Board Liaison, Office of Mayor Edwin M. Lee
Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee

Attachments:
Planning Commission Resolution
Planning Department Executive Summary

SAN FRANCISCO
PLANNING DEPARTMENT

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution No. 19360

HEARING DATE APRIL 23, 2015

Project Name:	Amendments Relating to Short-Term Rentals
Case Number:	2014-001033PCA, 2015-003861PCA, and 2015-004765PCA
	[Board File No. 141036, 150295, 150363]
Initiated by:	Supervisor Kim/ Introduced October 7, 2014
	Supervisor Campos/Draft Ordinance Introduced March 24, 2015
	Mayor Edwin Lee, Supervisor Farrell/ Introduced April 14, 2015
Staff Contact:	Aaron Starr, Manager of Legislative Affairs
	aaron.starr@sfgov.org, 415-558-6362
Reviewed by:	AnMarie Rodgers, Senior Policy Advisor
	anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	Recommend Approval with Modifications

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS THE THREE PROPOSED ORDINANCES THAT WOULD AMEND CHAPTER 41A OF THE ADMINISTRATIVE CODE; AND MAKING ENVIRONMENTAL FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

WHEREAS, on October 7, 2014, Supervisors Kim and Breed introduced a proposed Ordinance (hereinafter "Kim" ordinance) under Board of Supervisors (hereinafter "Board") File Number 141036, which would amend the Administrative Code, Chapter 41A, to prohibit certain residential units that have been the subject of an Ellis Act eviction from use as short-term residential (hereinafter STR) rentals and provide for private rights of action to enforce the requirements of this Chapter; and

WHEREAS, on April 14, 2015, Supervisor Campos introduced a proposed Ordinance (hereinafter "Campos" ordinance) under Board File Number 150295, amending the Administrative Code, Chapter 41A, to revise the Residential Unit Conversion Ordinance to: limit short-term rental of a Residential Unit to no more than 60 days per calendar year; require Hosting Platforms to verify that a Residential Unit is on the City Registry prior to listing, remove a listing once a Residential Unit has been rented for Tourist or Transient Use for more than 60 days in a calendar year, and provide certain useage data to the Planning Department; prohibit short-term rental of certain "in-law" units; revise the definition of Interested Parties who may enforce the provision of Chapter 41A through a private right of action to include Permanent Residents residing within 100 feet; amend the private right of action provisions to allow for a private right of action against Hosting Platforms and create an additional private right of action against Owners, Business Entities, and Hosting Platforms under certain circumstances; and provide for criminal penalties against Hosting Platforms in violation of this Chapter 41A; and

WHEREAS, on April 14, Mayor Edwin Lee and Supervisor Farrell introduced a proposed Ordinance (hereinafter "Mayoral" ordinance) under Board File Number 150364 amending the Administrative Code, Chapter 41A, to revise the Residential Unit Conversion Ordinance to limit short-term rental of a Residential Unit to no more than 120 days per calendar year; revise the definition of Interested Parties who may enforce the provisions of the Administrative Code, Chapter 41A, through a private right of action to include Permanent Residents residing within 100 feet of the Residential Unit; create an additional private right of action under certain circumstances; and direct the Mayor to create an Office of Short-Term Residential Rental Administration and Enforcement staffed by the Planning Department, Department of Building Inspection, and Tax Collector's Office; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinances on April 23, 2015; and,

WHEREAS; the three proposed Ordinances have been determined not to be a project under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinances.

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors approve with modifications the proposed ordinances.

The Planning Commission adopted the following recommendations regarding the three proposed Ordinances:

1. Remove the distinction between hosted and un-hosted rentals, per the Campos and Mayoral ordinances. PASSED

   AYES: Fong, Johnson, Moore, Richards, and Wu
   NOES: Antonini, Hillis
   ABSENT: none .

2. Prohibit units that have been subject to an Ellis Act Eviction within the last 5 years from registering on the STR registry, per the Kim ordinance. PASSED

   AYES: Fong, Hillis, Johnson, Moore, Richards, and Wu
   NOES: Antonini
   ABSENT: none

3. Allow the City to institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time, per all three ordinances. **PASSED**

   AYES: Antonini, Fong, Hillis, Johnson, Moore, Richards, and Wu
   NOES: none
   ABSENT: none

4. Allow private right of action for non-profits as outlined in the Kim ordinance. **PASSED**

   AYES: Fong, Hillis, Johnson, Moore, Richards, and Wu
   NOES: Antonini
   ABSENT: none

5. Add "Permanent Resident or owner residing within 100 feet" to the definition of Interested Party per the Campos ordinance and the Mayoral ordinance. **PASSED**

   AYES: Antonini, Fong, Hillis, Johnson, Moore, and Wu
   NOES: none
   ABSENT: Richards

6. Prohibit Hosting Platforms from listing any unit that did not maintain good standing on the City's STR registry, per the Campos ordinance. **FAILED**

   AYES: Moore, Richards, and Wu
   NOES: Antonini, Fong, Hillis, and Johnson
   ABSENT: none

7. Add a provision to the STR law directing the Mayor to set up a STR Office that would be staffed by the Planning Department, Department of Building Inspection and The Tax Collector's office, per the Mayoral ordinance. **PASSED**

   AYES: Antonini, Fong, Hillis, and Johnson
   NOES: Moore, Richards, and Wu
   ABSENT: none

8. Make the maximum number of nights a unit can be used as a hosted or un-hosted STR at 120 days. Adjust as needed if future studies can confirm the point where such use would incentive the illegal conversion of residential units to fulltime tourist use, per the changes proposed in the Mayoral ordinance. **PASSED**

   AYES: Antonini, Fong, Hillis, and Johnson
   NOES: Moore, Richards, and Wu
   ABSENT: none

9. Remove the provision in the Administrative Code that requires an Administrative Hearing if a violation is found. This modification was proposed by the Planning Department. **PASSED**

   AYES: Antonini, Fong, Hillis, Johnson, Moore, Richards, and Wu

NOES: none
ABSENT: none

10. Remove the provision in the Administrative Code that allows cross-examination of witnesses during the Administrative Hearing. This modification was proposed by the Planning Department. PASSED

    AYES: Antonini, Fong, Hillis, Johnson, Moore, Richards, and Wu
    NOES: none
    ABSENT: none

11. Do not Require Hosting Platforms to report quarterly to the Planning Department the number of nights the Residential Unit was occupied as a Short-Term Residential Rental, per the Campos ordinance. PASSED

    AYES: Antonini, Fong, Hillis, and Johnson
    NOES: Moore, Richards, and Wu
    ABSENT: none

12. Do not remove "the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur" from the definition of Interested Party, per the Campos ordinance. PASSED

    AYES: Antonini, Fong, Hillis, Johnson, Moore, and Richards
    NOES: Wu
    ABSENT: none

13. Do not allow private rights of action for any Interested Party after 90 days if the Department has not instituted civil action, as proposed in the Campos ordinance. PASSED

    AYES: Antonini, Fong, Hillis, and Johnson
    NOES: Moore, Richards, and Wu
    ABSENT: none

14. Do not prohibit units that have been approved under Section 207.3 of 715.1 of the Planning Code from being used as a STR, per the Campos ordinance. PASSED

    AYES: Antonini, Fong, Hillis, Johnson, Moore, Richards, and Wu
    NOES: none
    ABSENT: none

15. Do require noticing to *"any Permanent Resident of the building in which the Residential Unit is located, any homeowners' association associated with the Residential Unit, and any individual or neighborhood association that has requested notification regarding Registry applications for the property on which the Residential Unit is located,"* informing them that an application to the Registry for the unit has been received, per the most recent version of the Campos ordinance introduced on 4/21/15. PASSED

AYES: Antonini, Fong, Hillis, Johnson, Moore, Richards, and Wu
NOES: none
ABSENT: none

In addition, the Planning Commission considered and recommended further study on the following issues, but did not take action on them.

1. Allowing Private Right of Action against Hosting Platforms, per the Campos Ordinance;
2. The 135 day timeline for Private Rights of Action, per the Mayoral Ordinance;
3. Prohibiting Interested Parties from receiving Civil Penalties, per the Mayoral Ordinance; and
4. Allowing a different number of days for Hosted and Non-hosted rentals.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. Generally, the Commission supports efforts to amend the law now that the City has a better understanding of STR and now that implementation of the STR program has begun. The Commission continues to believe that STRs should be allowed within a reasonable regulatory structure. Many of the proposed amendments in these three ordinances would add regulation that enables limited STR while seeking to protect the public interest by minimizing the potential effects on neighborhoods and the housing stock. The proposed amendments generally increase the City's capacity for enforcement either by adding additional resources, data for checks and balances or more easily verified limits. However, some proposed changes would undermine the City's enforcement ability and rights the rights of landlords.

2. The Commission finds that removing the distinction between hosted and un-hosted rentals is a great improvement to the current law. Without this change, enforcement of the law would continue to be compromised as the Planning Department has not identified an effective method to determine if a rental is truly hosted or not. Further, the distinction between hosted and un-hosted rentals creates an avenue to operate a fulltime bed and breakfast type use in their home without public notice or Planning Commission review.

3. Paramount to the Commission's recommendations is protecting the existing housing stock for San Francisco's residents and workers. An Ellis Act Eviction, by its very nature, is the property owner's statement that they are exiting the rental market. The existing and proposed versions of the law seek to keep the unit as primarily residential by limiting STR to the occupant of the unit. An owner move-in eviction is another eviction type that would allow the owner to move in and engage in STR. By allowing STR in owner-move in evictions; the owners' rights to STR are maintained. Removing the capacity for STR in the circumstance of Ellis Act Eviction removes a potential enforcement problem and removes the incentive to evict tenants when STRs may be more lucrative.

4. The Commission finds that the proposed Ordinance increases the Department's enforcement powers and gives the City more power in prosecuting the most egregious cases by allowing the City to take immediate action against repeat offenders.

5. The Commission finds that the proposed ordinances increases the Department's enforcement capacity by allowing non-profits that have in their bylaws a focus on housing the ability to go after some of the city more vulnerable housing, including units where an Ellis Act Eviction has occurred within the last five years and in buildings with three or more rent-controlled units.

6. The Commission finds that including in the definition of Interested Party "residents and owners within 100" of the unit in questions allows those most directly impacted by STR to initiate civil proceedings once the Department has found a violation.

7. The Commission finds that prohibiting Hosting Platforms from listing any unit that did not maintain good standing on the City STR registry would diminish the City's role in enforcing its own laws.

8. The Commission finds that increasing the limit on STRs for individual properties to 120 days would not incentivize the conversion of rental housing to short-term rentals; however, should more data become available that provides further insight on this issue, this limit should be reconsidered.

9. The Commission finds that the City should pursue improved data collection and technologic solutions to inform policy-makers and assist with enforcement, and explore collaboration with other city agencies that may provide better information across hosting platform types rather than requiring Hosting Platforms to provide quarterly report to the City on the number of nights units listed on their serves are rented.

10. The Commission finds that unit owners have an inherent interest in the unit that they own and therefore should not be removed from the definition of Interested Party.

11. The Commission finds that allowing any Interested Party to initiate civil proceedings before the Planning Department has determined if a violation has occurred could open up the entire process for abuses. Further, it would limit the Planning Department's ability to bring decisive action against violators.

12. The Commission finds that the current regulation, which only allows the primary resident to register the unit as a STR, is sufficient enough to ensure that Accessory Dwelling Units are not illegally converted to a permanent hotel use. The Commission does not find a policy reason to prohibit the permanent residents of these units from participating in the City's STR program.

13. General Plan Compliance. The proposed amendments to the Planning Code are consistent with the following Objectives and Policies of the General Plan.

HOUSING ELEMENT

OBJECTIVE 2
RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

As amended, the proposed Ordinances would be consistent with Object two of the Housing Element because they would limit the number of days that a unit could be utilized as a short term rental and how much that could be charged for a short-term rental, helping to preserve the City's existing housing stock.

OBJECTIVE 3
PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

POLICY 3.1
Preserve rental units; especially rent controlled units, to meet the City's affordable housing needs.

With the proposed amendments, the proposed Ordinances would help preserve rental units by ensure that they are not converted into full time short-term rentals.

OBJECTIVE 11
SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

POLICY 11.8
Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

While not an entirely a new use, short-term rentals are proliferating within the City like never before and having a new and distinct impact on the City's residential neighborhoods. With the Commission's proposed amendments, the proposed Ordinances would help preserve the distinct residential character of the City's residential neighborhoods by limiting the number of nights a residential unit can be rented out as a short-term rental.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 2
MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

POLICY 2.1
Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Short-term rentals are commercial activity and these Ordinances seeks to retain that commercial activity in the City while providing sufficient regulatory controls to ensure that any negative impacts are addressed.

OBJECTIVE 3
PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED

Policy 3.4
Assist newly emerging economic activities

Short-term rentals and short-term rental hosting platforms are an emerging economic activity; the proposed Ordinances would maintain the legality of this activity within San Francisco.

14. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

   The proposed Ordinances would not have a negative effect on neighborhood-serving retail uses.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

   The Commission's proposed amendments to the proposed Ordinances seek to minimize any impacts that this proposal would have on existing housing and neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

   The proposed Ordinances would not negatively affect the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

   The proposed Ordinances would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

   The proposed Ordinances would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinances would not have an impact on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

   The proposed Ordinances would not have an impact on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

   The proposed Ordinances would not have an impact on the City's parks and open space access to sunlight and vistas.

8. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT WITH MODIFICATIONS the proposed Ordinances as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 23, 2015.

Jonas P. Ionin
Commission Secretary

ADOPTED: April 23, 2015

SAN FRANCISCO
PLANNING DEPARTMENT

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Executive Summary
Administrative Code Text Change
HEARING DATE: APRIL 23, 2015

Date:	April 16, 2015
Project Name:	Amendments Relating to Short-Term Rentals
Case Number:	2014-001033PCA, 2015-003861PCA, and 2015-004765PCA [Board File No. 141036, 150364, 150363]
Initiated by:	Supervisor Kim/ Introduced October 7, 2014 Supervisor Campos/Draft Ordinance Introduced March 24, 2015 Mayor Edwin Lee, Supervisor Farrell/ Introduced April 14, 2015
Staff Contact:	Aaron Starr, Manager of Legislative Affairs aaron.starr@sfgov.org, 415-558-6362
Reviewed by:	AnMarie Rodgers, Senior Policy Advisor anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	Recommend Approval with Modifications

ADMINISTRATIVE CODE AMENDMENTS

Sponsors Supervisors Kim and Breed: Short Term Rental Ordinance, Duplicated File.

The proposed Ordinance sponsored by Supervisors Kim and Breed (hereinafter "Kim Ordinance") would amend the Administrative Code's provisions on Short-Term Rentals (hereinafter "STR") (Chapter 41A) to prohibit certain residential units that have been the subject of an Ellis Act Eviction from use as short-term residential rentals and provide for private right of action to enforce the requirements of Admin Code Chapter 41A; and making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

The Way It Is Now:

1. Units that have been subject to an Ellis Act Eviction[1] are not prohibited from being used as a STR.
2. The City may institute civil proceedings against a Hosting Platform[2], Business Entity[3], or Owner[4], but only following the filing of a complaint and the determination of a violation by the Planning Department.

---

[1] Administrative Code Section 37.9(a)(13)

[2] **Hosting Platform** is defined as "A person or entity that provides a means through which an Owner may offer a Residential Unit for Tourist or Transient Use. This service is usually, though not necessarily, provided through an online platform and generally allows an Owner to advertise the Residential Unit through a website provided by the

3. Interested Parties[5] may only institute civil proceedings against a Business Entity or Owner and only following the filing of a complaint and the determination of a violation by the Planning Department.

The Way It Would Be:

1. Units that had been subject to an Ellis Act Eviction within the last five years could not be used as a STR.
2. The City could institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time.
3. Interested Parties could still only institute civil proceedings against a Business Entity or Owner and only following the filing of a complaint and the determination of a violation by the Planning Department; however two additional private rights of action would be allowed, which are as follows:

   (a) Non-profit Organization that has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws may institute a civil action against the Owner or Business Entity, if within 5 years prior to the date of the filing of the Complaint, the Owner or Business Entity terminated the tenancy of one or more tenants in the building using the Ellis Act, where the tenant was served with a notice of eviction after October 7, 2014. An Interested Party may institute a civil action under this subsection only if (1) the Interested Party has filed a Complaint with the Department; (2) 30 days have passed since the filing of the Complaint; (3) after such 30-day period has passed, the Interested Party has provided 30 days' written notice to the Department and the City Attorney's Office of its intent to initiate civil proceedings; and (4) the City has not initiated civil proceedings by the end of that 30-day period.

   (b) Non-profit organization that has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws and has existed as such for no less than five years from February 1, 2015, may institute civil proceedings against an Owner or Business Entity of a rent-controlled building of at least three Residential Units for injunctive relief. An Interested Party may institute a civil action under this subsection only if the Interested Party has (1) filed a Complaint with the Department; (2) 45 days have passed since the filing of the

---

Hosting Platform and provides a means for potential tourist or transient users to arrange Tourist or Transient Use and payment, whether the tourist or transient pays rent directly to the Owner or to the Hosting Platform."

[3] **Business Entity** is defined as "A corporation, partnership, or other legal entity that is not a natural person that owns or leases one or more residential units."

[4] **Owner** is defined as "Any person who is the owner of record of the real property. For the purposed of the City's STR regulations, the term "Owner" includes a lessee where the lessee is offering a Residential Unit for Tourist or Transient use."

[5] **Interested Parties** is defined as "A Permanent Resident of the building in which the Tourist or Transient Use is alleged to occur, any homeowner association associated with the Residential Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur, the City and County of San Francisco, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws."

Complaint; and (3) after such 45-day period has passed, the Interested Party has provided written notice to the Department and the City Attorney's Office of its intent to initiate civil proceedings.

Sponsors Supervisors Campos, Mar and Avalos: Amendments to the STR Ordinance

The proposed ordinance sponsored by Supervisors Campos, Avalos, and Mar (hereinafter the "Campos" ordinance) would amend the Administrative Code to revise the Residential Unit Conversion Ordinance to: limit short-term rental of a Residential Unit to no more than 60 days per calendar year; require Hosting Platforms to verify that a Residential Unit is on the City Registry prior to listing, remove a listing once a Residential Unit has been rented for Tourist or Transient Use for more than 60 days in a calendar year, and provide certain useage data to the Planning Department; prohibit short-term rental of certain "in-law" units; revise the definition of Interested Parties who may enforce the provision of Chapter 41A through a private right of action to include Permanent Residents residing within 100 feet; amend the private right of action provisions to allow for a private right of action against Hosting Platforms and create an additional private right of action against Owners, Business Entities, and Hosting Platforms under certain circumstances; and provide for criminal penalties against Hosting Platforms in violation of this Chapter 41A; and affirming the Planning Department's determination under the California Environmental Quality Act.

The Way It Is Now:

1. An Interested Party is defined as *"A Permanent Resident of the building in which the Tourist or Transient Use is alleged to occur, any homeowner association associated with the Residential Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur, the City and County of San Francisco, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws."*
2. The City may institute civil proceedings against a Hosting Platform, Business Entity, or Owner, but only following the filing of a complaint and the determination of a violation by the Planning Department.
3. Interested Parties may only institute civil proceedings against a Business Entity or Owner and only following the filing of a complaint and the determination of a violation by the Planning Department.
4. Non-hosted rentals are limited to 90-days a year and hosted rentals are unlimited[6].
5. Hosting Platforms are not prohibited from listing a Residential Unit that does not maintain good standing on the City's Short-term Residential Registry[7].

---

[6] The actual text states that The Permanent Resident must occupy *"the Residential Unit for no less than 275 days out of the calendar year in which the Residential Unit is rented as a Short-Term Residential Rental,"* the effect of which is to limit non-hosted rentals to 90-day.

[7] **Short-Term Residential Rental Registry** is defined as "A database of information maintained by the Planning Department that includes information regarding Permanent Residents who are permitted to offer Residential Units for Short-Term Residential Rental. Only one Permanent Resident per Residential Unit may be included on the

6. The Permanent Resident must submit a report to the Department every year regarding the number of days the Residential Unit or any portion thereof has been rented as a Short-Term Residential Rental; however, Hosting Platforms are not required to report the number of nights a Residential Unit was occupied as a Short-Term Residential Rental.
7. Dwelling Units authorized under Section 207.3 of 715.1 of the Planning Code, also known as Accessory Dwelling Units (ADUs) or in-laws, are not prohibited from being used as a STR.
8. The Planning Department is required to redact the name of the Permanent Resident included in the STR register for records available for Public Review.
9. Existing law provides for misdemeanor criminal penalties against an Owner or Business Entity who violates Chapter 41A and unlawfully rents a unit as a short-term rental.

The Way It Would Be:

1. For the definition of Interested Party, *"Permanent Resident or owner residing within 100 feet"* would be added to the definition and *"the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur"* would be deleted from the definition.
2. The City could institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time (the same change as prescribed in the Kim Ordinance').
3. An Interested Party would be able to institute a civil action against the Owner, Business Entity or Hosting Platform for injunctive and monetary relief prior to the Department finding that a violation has occurred if the Interested Party has filed a Complaint with the Department; 60 days have passed since the filing of the Complaint; after such 60-day period has passed, the Interested Party has provided 30 days' written notice to the Department and the City Attorney's Office of its intent to initiate civil proceedings; and the City has not initiated civil proceedings by the end of that 30-day period.
4. Both non-hosted and hosted rentals would be limited to 60-days a year.
5. Hosting Platforms would be prohibited from listing any unit that did not maintain good standing on the City's Short-term Residential Registry.
6. Permanent Residents would still be required to report to the Department how many times their unit had been rented over the past year as a STR, and the Hosting Platforms would now be required to report quarterly to the Planning Department the number of nights the Residential Unit was occupied as a Short-Term Residential Rental. Further, if a Hosting Platform has information that a unit has been used as a STR for more than 60 days, they would be required to immediately remove such listing from its platform.
7. ADUs or in-laws approved under Section 207.3 or 715.1 of the Planning Code would be prohibited from being used as a STR.
8. The Planning Department would be required to redact the street and unit numbers of any residences included in the STR register, in addition to the name of the Permanent Resident.

Registry at any given time. The Registry shall be available for public review to the extent required by law, except that, to the extent permitted by law, the Department shall redact any Permanent Resident names from the records available for public review."

9. The proposed ordinance would allow for misdemeanor criminal penalties against a Hosting Platform, as well as an Owner or Business Entity, who violates the requirements of Chapter 41A.

Sponsor Mayor Edwin Lee, Supervisor Farrell: Amendments to the STR Ordinance

The proposed ordinance Sponsored by Mayor Edwin Lee and Supervisor Farrell (hereinafter the "Mayoral" Ordinance) would amend the Administrative Code to revise the Residential Unit Conversion Ordinance to limit short-term rental of a Residential Unit to no more than 120 days per calendar year, revise the definition of Interested Parties who may enforce the provisions of Chapter 41A through a private right of action to include Permanent Residents residing within 100 feet of the Residential Unit, create an additional private right of action under certain circumstances, and direct the Mayor to create an Office of Short-Term Residential Rental Administration and Enforcement staffed by the Planning Department, Department of Building Inspection, and Tax Collector's Office.

The Way It Is Now:

1. Non-hosted rentals are limited to 90-days a year and hosted rentals are unlimited.
2. An Interested Party is defined as *"A Permanent Resident of the building in which the Tourist or Transient Use is alleged to occur, any homeowner association associated with the Residential Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur, the City and County of San Francisco, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws."*
3. All STR functions, including registration and enforcement, are administered by the Planning Department.
4. The Planning Department is required to redact the name of the Permanent Resident included in the STR register for records available for Public Review.
5. The Planning Department is not required to include information on the Department's website about any pending or resolved Complaints regarding violations of Chapter 41A.
6. The City may institute civil proceedings against a Hosting Platform, Business Entity, or Owner, but only following the filing of a complaint and the determination of a violation by the Planning Department.
7. Interested Parties were eligible for civil penalties if the Interested Party won a lawsuit against a violation of Chapter 41A.
8. Interested Parties may only institute civil proceedings against a Business Entity or Owner and only following the filing of a complaint and the determination of a violation by the Planning Department.

The Way It Would Be:

1. Both non-hosted and hosted rentals would be limited to 120 days.
2. The definition of Interested Party would be amended to include *"Permanent Resident or owner residing within 100 feet,"* the same languages that is proposed in Campos ordinance.

3. The proposed Ordinance includes a provision directing the Mayor to set up a STR Office that would be staffed by the Planning Department, Department of Building Inspection and The Tax Collector's office.
4. The Planning Department would be required to redact the street and unit numbers of any residences included in the STR register, in addition to the name of the Permanent Resident.
5. The Planning Department would be required to include information on the Department's website about any pending or resolved complaints regarding violations of Chapter 41A.
6. The City could institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time (the same change as prescribed in the Kim ordinance and the Campos ordinance).
7. Only the City may be entitled to civil penalties if it wins the lawsuit, not an Interest Party.
8. Interested Parties would be able to institute civil proceedings against a Business Entity or Owner if the following conditions are met: (1) The Interested Party has filed a Complaint with the City; (2) The Planning Director has not made a determination that there is no violation of Chapter 41A or no basis for an investigation; (3) 105 days have passed since the filing of the Complaint and an administrative hearing officer has not issued a final determination regarding the Complaint; (4) After the 105-day period passes, the Interested Party notifies the City of its intent to file a lawsuit; and (5) The City does not file its own lawsuit by the end of the 30 day notice period.

BACKGROUND

Existing Regulations

With a valid Short-Term Residential Rental Registration number, a Permanent Resident[8] may rent out their Primary Residential Unit for periods of less than 30 nights without violating the requirements of the City's Residential Unit Conversion and Demolition Ordinance (Administrative Code Chapter 41A) or the Planning Code. This includes renting a portion or the entire unit while the permanent resident is present for an unlimited number of nights per year and renting a portion of the entire unit while the permanent resident is *not* present for a maximum of 90 nights per year.

In order to obtain a Short-Term Residential Rental Registration number, the following conditions must be met:

1. The applicant must be the Permanent Resident (owner or tenant) of the residential unit that they intend to rent short-term.
2. The applicant must obtain a San Francisco Business Registration Certificate from the San Francisco Treasurer and Tax Collector's Office.
3. The applicant must obtain liability insurance in the amount of no less than $500,000 or provide proof that liability coverage in an equal or higher amount is being provided by any and all hosting platforms through which the applicant will rent the unit.

[8] To be a Permanent Resident, the applicant must live in that specific residential unit for at least 275 nights of any given calendar year. New residents must have occupied the specific unit for at least 60 consecutive days prior to applying for the Short-Term Residential Registration. Applicants may only register the specific residential unit in which they reside.

4. The applicant's residential unit must not have any outstanding Planning, Building, Housing, Fire, Health, Police, or other applicable City code violations.
5. The applicant may only register one residential unit.
6. Residential units that are subject to the Inclusionary Affordable Housing Program and residential units designated as below market rate (BMR) or income-restricted under City, state, or federal law are not eligible to register. Units subject to San Francisco's Rent Stabilization (Rent Control) Ordinance are able to register, but may charge tourists no more than a proportional amount of the residential rent.

Planning Commission's Original Recommendation

The Planning Commission heard the original STR ordinance introduced by Supervisor Chiu[9] on August 7, 2014 and voted four (Antonini, Fong, Hillis, and Johnson) to two (Moore and Sugaya) with Commissioner Wu absent to recommend approval with modifications to the Board of Supervisors. In making their recommendation, Commission found that allowing residents to rent their units on a limited basis was of reasonable, that STRs needed to be limited in order to preserve the City's housing stock, to reduce impacts on affordable housing, and to protect the livability of residential neighborhoods.

The Commission's recommendation sought to create a legal avenue for hosts who want to occasionally rent their primary residence on a short-term basis, while balancing concerns over housing affordability and neighborhood character. Consequently, the Commission's recommendations mainly focused on improving the enforcement and monitoring of STRs; however the Commission also believed that the Ordinance needed to be expanded to regulate both hosted and non-hosted rentals and that all of the City's non-subsidized dwelling units should be treated the same under the new restrictions.

Of the Commission's 16 recommendations, six were not incorporated into the final ordnance. Those include:

1. Modify the Ordinance so that the proposed city-run registry tracks the number of nights a unit has been rented.
2. Require any STR platform or company doing business in San Francisco to provide information on the number of nights a property was rented. Information should be reported back to the city on a quarterly basis at a minimum.
3. Grant citation authority to the Planning Department if it is chosen to be the enforcement agency for STRs, and provide for increased penalties for repeat violators.
4. Limit hosted rentals by nights rented, similar to the restrictions placed on non-hosted rentals, or by limiting the number of rooms that can be rented at any one time.
5. Require the property owner's consent in tenant occupied units and/or a 30-day notification by the Department to the owner prior to listing a unit on the STR registry.
6. Require the Planning Department to maintain a list of registered hosting platforms.

The final ordinance did include a requirement similar to recommendation five that requires the Department to send a letter to the property owner notifying them that the permanent resident of the unit has applied to be on the STR registry; however, a property owner's consent is not required before listing a unit on the sort-term rental ordinance.

[9] Board File 140381, Ordinance Number 218-14, Final Action 10/27/2014

Budget and Finance Committee Hearing

Since the Board adopted the STR Ordinance, the Department also participated in a public hearing before the Budget and Finance Sub-Committee on March 4, 2015[10]. This hearing was at the request of Supervisors Farrell and Christensen and focused on the Planning Department's capabilities to enforce the STRs Ordinance, and the financial resources necessary for effective enforcement. At the hearing, Department staff presented an overview of the new law; the process for registration; some of the stats on how registration is progressing; and then provided our assessment of what's working and what could work better.

During the presentation, staff emphasized that the Planning Commission felt that if housing and neighborhood character could be preserved, it would be reasonable to allow STRs. So while the Commission felt comfortable with permitting the use in a way that did not reduce our housing, this use is predicated on this limits being enforced.

Staff also acknowledged that while some potential applicants complained about the burden of registering in person, appointments save both applicants and planners from a chaotic intake situation. The face-to-face meetings allow for applicants to ask important questions and learn about the program in greater detail. Staff believes the face-to-face, scheduled appointments also help to reduce the occurrence of fraudulent applications being filed.

The members of this Committee are typically Chair Farrell, Tang, and Mar. At the March 4 hearing, Supervisors Christensen, Campos, and Kim joined in for the hearing. Supervisor Farrell restated his commitment to ensuring sufficient resources to enforce this law. Supervisor Campos stated that he has asked the Board's Budget Analyst to report on the issue and that the City may need to subpoena some hosting platforms to increase our understanding. Supervisor Christensen wanted to increase motivation for registry and thought the City should get clear about our goals and develop a timeline for hosts to register. Supervisor Mar expressed his disappointment that a local, successful corporation was failing to cooperate. He said he liked the idea of adding a cap to the registry. Supervisor Kim again stated that the law has put the Planning Department in a difficult position of enforcing a law that is inherently difficult to enforce. As this was a hearing, no action was taken.

ISSUES AND CONSIDERATIONS

Planning Department's Short-Term Rental Data

As of April 3, 2015, 455 Short-Term Residential Rental Applications have been submitted to the Planning Department for review. While staff is currently reviewing these applications, the following is a summary of our current disposition of these applications:

Certificates Issued: 170 applications out of 455 applications (37%) have been reviewed by staff and found to be complete and accurate, resulting in the issuance of a registration certificate. This process involves 1) creating the record in the Project and Permit Tracking System (PPTS); 2) verifying accuracy and completeness of application materials; 3) checking for open enforcement violations with the Planning Department and Department of Building Inspection; 4) mailing notices to property owners when necessary; and, 5) creating/issuing the registration certificate and mailing registration packet to the applicant.

Ineligible Applications: 27 of the 455 applications (6%) have been reviewed by staff and appear to be

[10] Board File 150198

ineligible. Ineligible applicants are those who do not appear to be permanent resident of the unit in question. This is often determined by information the applicant has provided during their appointment or information available as a result of previous enforcement action. These applicants have been issued a Notice of Intent to Deny Based Upon Incomplete or Ineligible Short-Term Residential Rental Application ("Notice"). The Notice provides 30 days for the applicant to submit additional materials. Failure to respond will result in denial of the application.

Incomplete Applications: Staff has found that at least 53 of the 455 (12%) applications include inadequate or inconsistent information. This includes documents that show ownership of the property with different mailing addresses for supporting materials. Staff has also received applications for multi-unit buildings where the owner claims residency in one unit (the unit they are also applying to rent short-term), while also submitting documentation revealing that they live in another unit in the same building. These inconsistencies prevent staff from being able to process and issue certificates. During the intake appointment, applicants are informed of the missing or inaccurate documents and are given the opportunity to email or physically drop off the missing documentation (avoiding the need for a separate appointment). Those applicants that have not submitted missing documentation have been issued a Notice of Intent to Deny Based Upon Incomplete or Ineligible Short-Term Residential Rental Application ("Notice"). The Notice provides 30 days for the applicant to submit additional materials. Failure to respond will result in denial of the application.

"No-Show" and Cancelled Appointments: Since the program first began accepting appointments on February 2, 2015; staff has experienced a no-show/cancellation rate of 26%. Over time, staff has observed that a greater number of applicants fail to show up for their scheduled appointment. Staff believes that the high no-show/cancellation rate may decrease if applicants are charged a no-show/cancellation fee. The Department has begun offering after-hours drop-in application sessions (without need for appointment) once per month and plans to introduce business-hours drop-in sessions (beginning in May) to increase opportunities for the public to submit applications and optimize staff time for application intake.

	Number	Ratio
Applications Submitted	455	–
Certificates Issued	170	170/455
Applications Found to be Ineligible	27	27/455
Submitted Applications Currently Missing Materials	53	53/455
"No-Show" and Canceled Appointments	132	132/515* *number of scheduled appointments

Housing Affordability

The Planning Department's paramount concern continues to be limiting the impact that STRs have on the availability and affordability of the City's housing stock. This concern is derived from Objectives Two and Three of the City's Housing Element, which seek to "retain existing housing units" and "protect the affordability of the existing housing stock" respectively. Many hosts (56%) say the tourist use enables

them to pay their rent or mortgage[11]. The concern is that the financial assistance for hosts may be coming at the expense of residential tenants' opportunity for permanent housing.

The critical questions for policy makers seeking to protect housing are: when does STR make more efficient use of unused resources and when does it incentivize the conversion of residential space to tourist use? While this report reviews a fair amount of new data, these fundamental questions remain unanswered.

This section of the staff report will review available data in relation to how tourist use of housing may affect housing availability and affordability.

Newly available data, specific to San Francisco since the August 2014 Commission hearing:

- 2014 August- datascrape of Airbnb by an independent journalist[12]
- 2014 December- datascrape of Airbnb by an independent journalist[13]
- 2015 February- datascrape of Airbnb by an independent journalist[14]
- PENDING- Controller's Report by the Office of Economic Analysis
- PENDING- Board of Supervisors Budget and Legislative Analyst

New comparative reports on STR in other cities:

- 2014 October- NY State Attorney General Study, "Airbnb in the City"[15]
- 2015 March- LAANE, "Airbnb, Rising Rent, and the Housing Crisis in Los Angeles"[16]

In 2015, the Planning Department benefited from the graduate research of Alex Marqusee at the UC Berkeley Goldman School of Public Policy. A detailed memorandum summarizing this work to date is attached as Exhibit B. The attached memorandum collaborates multiple data sources to provide the most complete and transparent window yet into San Francisco's STR market. Highlights of the "Marqusee Memorandum" include:

1. **Extent of San Francisco's STR Market.** Using multiple sources, the memo reaffirms previous estimates that approximately 4000-5000 Airbnb listings currently exist in San Francisco. To understand how listings may translate into tourist stays and/or the loss of housing, this memo notes that:

- an estimated 130,000 tourists stayed in STRs in 2014, according to the San Francisco Travel Association;

---

[11] Economic Impact Analysis. HR&A Associates, commissioned by Airbnb. 2012.

[12] Data collected and published by Tom Slee. Retrieved from https://www.google.com/fusiontables/DataSource?docid=1WvonuxK6oy6c6gi7iIvLDIaItcyHXbx8t0KKGh1p#map:id=3 in February 2015.

[13] Data collected by: Murray Cox of http://insideairbnb.com/ (personal communication with staff in March 2015).

[14] Data collected by: Guss Dolan (http://darkanddifficult.com/) & Anti-Eviction Mapping Project (http://www.antievictionmappingproject.net/) (personal communication with staff in March 2015)

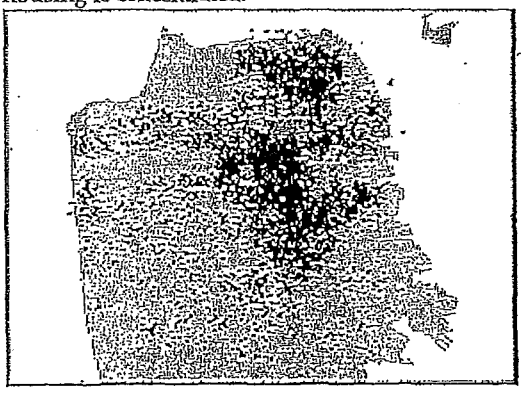
[15] New York State Attorney General, Eric T. Schneiderman. "Airbnb in the city". October 2014. Retrieved from http://www.ag.ny.gov/pdfs/Airbnb%20report.pdf in November 2014.

[16] LAANE, A New Economy for All. "Airbnb, Rising Rent, and the Housing Crisis in Los Angeles", March 2015. Retrieved from http://www.laane.org/wp-content/uploads/2015/03/AirBnB-Final.pdf in April 2015.

- the majority of hosts rent out their units less than once per month; however, a few hosts rent more frequently, there are about 500 listings that are booked at least 3.5 times per month; and
- Airbnb estimated that the average stay per booking is 5 nights per trip in 2011. This estimate is collaborated with a survey by the SF Travel Association Visitor Survey that found short-term rental stays averaged 5.1 nights.

2. Revenue and Economic Incentives for San Francisco Hosts. The memo estimates revenue of hosts by counting post-rental reviews and increasing this number by 28% to account for the percentage of bookings that Airbnb has said do not result in reviews. This estimation technique shows that most units generate little revenue per month ($495 monthly revenue for 50% of hosts) but some hosts make a sizable income ($1894 monthly revenue for the top 10% of hosts and $2500 monthly revenue for the top 5% of hosts). When considering when the economic incentives that the STR market may provide to convert residential use to tourist use, it's important to compare the prices of similar units from both the residential and STR market. While a perfect comparison is not possible, the memo explores current Craigslist rental rates by neighborhood against STR rates by neighborhood. This data show that the median number of days where STR use would outcompete residential use is about 257 days[17]. This provides assurance that the highest STR cap proposed (120 day limit) in the pending ordinances would still protect housing by ensuring that residential use would be more lucrative than STR.

3. Description of STR Listings: Entire Units in the Northern and Eastern Neighborhoods. All three datascrapes cited in the memo confirm that a majority of hosts (61%) rent their entire unit. Private rooms account for about a third of the listings (35%). And, shared rooms represent the smallest fraction of San Francisco listings (4%). The density map below shows that STR units are concentrated where the City's housing is concentrated.



Note: Map points for listings are imprecise as the data available on Airbnb's website obscures the exact location by about ¼ mile. This obfuscation likely accounts for dots in the ocean and parks.

San Francisco Analysis. The data shows that the average, minimum booking per month is slightly less than once per month. If Airbnb's 2011 statement that bookings typically are for 5 rental days is still accurate; then the median tourist use of a listing represents 54 days per year or about 15% of the year. Allowing for tourist use of a unit for 15% of the year falls squarely within policymaker expectations. The current law allows tourist use of a full unit for 25% of the year. However, the most active 25% of listings average 2 bookings per month which results in tourist use for approximately 33% of the year and the top

[17] This number overestimates the profitability of Airbnb by not accounting for some fees and operating costs. The Office of the Controller is expected to explore this topic in more detail in an upcoming report.

10% of listings are estimated to be in tourist use for the majority of the year—exceeding the limits proposed by all of the draft ordinances. The good news is that the average listing continues to be dedicated to tourist use for a fraction of the year. Without a more detailed survey of hosts, it cannot be determined if the listing is used for residential use for the remainder of the year. Along the same lines, there is no data to inform policymakers about when a tenant may decide to forego a roommate and instead periodically lease a portion of their unit as a STR. The data does show that a limited number of listings that are dedicated to tourist use for a majority of the year and have little capacity to house San Francisco residents.

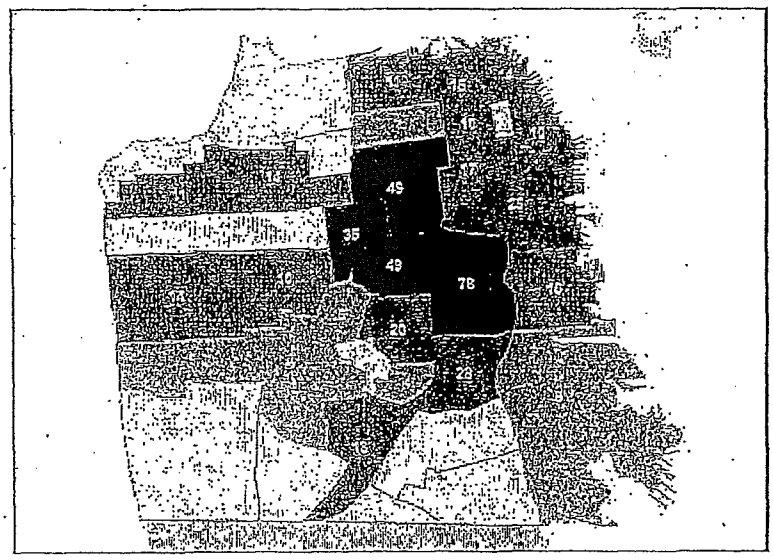
Minimum Estimated Bookings for all 5,148 Listed Units in San Francisco

The Average Listings Comply with SF Policy Intent; But
The Most Active Listings Are Dedicated to Tourist, Not Residential Use

	Median (average) listings	Maximum use if 90 STR days allowed	Top 25% most active listings	Maximum use if 120 STR days allowed	Top 10% most active listings	Top 5% of active listings
Bookings per month	0.9	1.5	2	2	3.5	4.5
Approx. % of the year listing dedicated to tourist use*	15%	25%	33%	33%	58%	74%

** The length of stay per booking is estimated here at 5 days. This is based upon Airbnb's 2011 statement that bookings are typically for 5 rental days and is slightly less than the 2014 SF Travel Association Visitor Survey stating short-term rental stays averaged 5.1 nights.*

Density of STR Listings By Neighborhood That Appear to Be Rented as STR at Least 50% of the Year



This map demonstrates that some of the most frequently booked or commercially-oriented listings are concentrated in core neighborhoods. The numbers represent the listings per neighborhood which are believed to be rented at least 50% of the year.

Conclusions Beyond San Francisco. In addition to the Marqusee Memorandum, staff reviewed the New York Attorney General Report on New York City; the LAANE report on Los Angles and a report commissioned by Airbnb as summarized in the Wall Street Journal[18].

Together, the conclusions in these three reports seem to mirror the local public dialogue:

1) *While the majority of hosts may be offering units in a manner that aligns with public policy goals in San Francisco; a minority of commercial users dominate the market and*
2) *Although STRs likely have limited effect on the citywide housing market, the effect is more pronounced in high-demand neighborhoods.*

Highlights from these three reports on STRs include:

- **NY Attorney General Report:** This report analyzes Airbnb bookings from January 1, 2010 to June 2, 2014. It provides the first exploration of how users in NYC use the hosting platform. The intent of the report is to inform decision-makers on how to "best embrace emerging technology while protecting the safety and well-being of our citizens".

  - **Effects on Housing Supply.** "Thousands of residential units in New York City were dedicated primarily or exclusively to private STRs. In 2013, over 4,600 unique units were each booked as private STRs for three months of the year or more. Of these, nearly 2,000 units were each booked as private STRs on Airbnb for at least 182 days—or half the year. While generating $72.4 million in revenue for hosts, this rendered the units largely unavailable for use by long-term residents. Notably, more than half of these units had also been booked through Airbnb for at least half of the prior year (2012)." (pg. 12)
  - **Neighborhood Concentration.** "The majority of units converted to private STRs are in popular neighborhoods in Brooklyn and Manhattan. A dozen buildings in those same neighborhoods had 60% or more of their units used at least half the year as private STRs, suggesting that the buildings were operating as de facto hotels." (pg. 12)
  - **Rate of Growth.** "Private STRs in New York City have grown at a staggering pace. The number of unique units booked for private STRs through Airbnb has exploded, rising from 2,652 units in 2010 to 16,483 in just the first five months of 2014. Private bookings in New York City saw a nearly twelvefold spike, rising from 20,808 in 2010 to an estimated 243,019 in 2014." (pg. 6)
  - **Commercial Users.** "While commercial users represented a minority of hosts, they dominated the private STR market in units, reservations, and revenue. Commercial Users [represent only 6% of all hosts, but] controlled more than one in five unique units in New York City booked on Airbnb, accepted more than one in three private reservations, and received more than one of every three dollars in revenue from private STRs on Airbnb—for a total of $168 million." (pg. 10)

[18] Kusisto, Laura. Wall Street Journal. "Airbnb Pushes Apartment Rents Up Slightly, Study Says" March 30, 2015. Retrieved from http://blogs.wsj.com/developments/2015/03/30/airbnb-pushes-up-apartment-rents-slightly-study-says/ in April 2015.

New York City Commercial Users Accounted for a Disproportionate Share of Private STRs

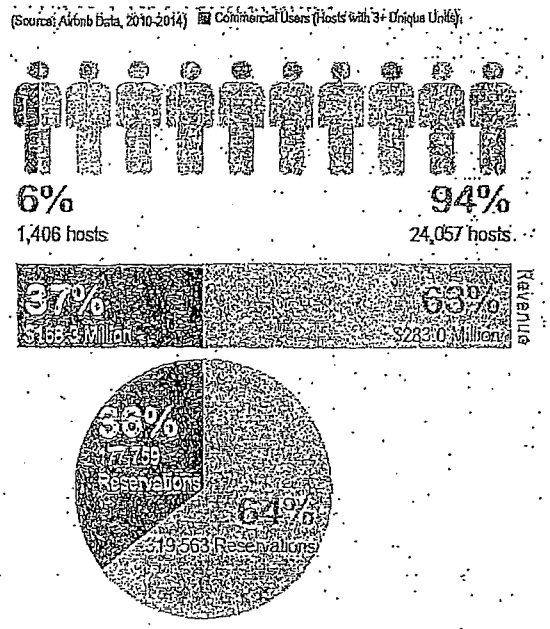


Image from NY Attorney General report illustrating that a minority of hosts garner the a high percentage of revenue and reservations.

- **LAANE Report on Los Angeles.** This report completed by a nonprofit that seeks to "build a new economy based upon: good jobs, thriving communities, and a healthy environment" is the most critical. It concludes with four principals for regulating short-term rentals 1) protect housing; 2) require approval for each STR; 3) hosting platforms should share the burden of enforcement; and 4) hosts should only be able to rent STR when they are present during the rental period.

  - **Characterization of STR in LA.** "these units are not, by and large, the "shared" space implied by terms like host or sharing economy. Instead, nearly 90 percent of AirBnB's Los Angeles revenues are generated by lessors with whole units and leasing companies who rent out two or more whole units." (pg. 3)
  - **Loss of Housing.** "AirBnB has created a nexus between tourism and housing that hurts renters. The 7,316 units taken off the rental market by AirBnB is equivalent to seven years' of affordable housing construction in Los Angeles." (pg. 3)
  - **Impact Varies by Neighborhood.** "In Venice, as many as 12.5% of all housing units have become AirBnB units, all without public approval." (pg. 3)

- Wall Street Journal. This article[19] summarizes a report commissioned by Airbnb and written by Thomas Davidoff of the University of British Columbia.
  - Citywide Impacts on Housing May Be Limited. "Airbnb increases the price of a one-bedroom unit by about $6 a month. In San Francisco, he found that it increases rents by on average about $19 a month... Even without relying on Airbnb's estimates, Mr. Davidoff said that if one assumes that all listings are investors renting out units solely on Airbnb, the increases are modest. In New York, rents would likely go up around $24 a month and San Francisco around $76 a month."
  - Neighborhood Impacts May Be More Pronounced. "Airbnb listings aren't evenly spread across most cities but tend to be concentrated in prime neighborhoods, meaning that popular places could face more pressure on rents than others. Mr. Davidoff said it is difficult to measure how much Airbnb drives up rents in places like Venice Beach, which has about 200 places available for this Friday evening, because some people may just move to a different area, lessening the rent increase. He said in that case, the criticism of Airbnb is less about citywide affordability than the right of people to stay in desirable neighborhoods. 'It's not an affordability issue. It's a luxury neighborhood issue or a bohemian neighborhood issue,' he said."

Since the Planning Commission hearing in August, decision-makers and the public benefit from much greater availability of data on STRs. Both the San Francisco data and the data from other reports point to limited impacts from the average host, while a small number of commercially-minded hosts disproportionately colonize the listing market. For this reason, a key need is to identify the apparently small number of hosts who provide year-round lodging to tourists at the expense of potential residents. Further, the current level of STRs likely has a limited effect on citywide housing prices and availability. However, certain neighborhoods that provide the City's most affordable housing may also provide a ripe incentive to illegally convert housing to tourist use. Targeting legislative and enforcement efforts towards those commercial hosts and vulnerable neighborhoods may provide the greatest protections of the City's precious housing resources. The pending reports to be published by the Controller's Office of Economic Analysis and the Budget & Legislative Analyst may very well provide such data. Without such data, a broader legislative approach may be advisable given the current housing affordability crisis.

Neighborhood Character

There have been concerns raised that STRs are impacting neighborhood character and quality of life for residents. Many of the complaints that the Department receives about STRs have to do with the hours of activity that tourists keep compared to long-term residents. The Department believes that this may be a concern in some neighborhoods that have a concentration of units being used as STRs full time, but in most neighborhoods where occasional use is the norm this is not likely to be as much of a problem.

Hotels, Inns and Bed & Breakfast Uses in Residential Districts

In addition to STR provisions in the Administrative Code, the Planning Code also allows small hotel uses in Residential Districts with Conditional Use authorization. They are historically known as bed and breakfast inns or small hotels, and are limited to 5 rooms in all RH Districts except in RH-1 Districts,

[19] The Wall Street Journal. "Airbnb Pushes Up Apartment Rents Slightly, Study Says", Kusisto, Laura. March 30, 2015.

where the use is prohibited. Because the existing STR law doesn't place any restrictions on the number of days for hosted rentals, the law essentially allows small hotels in RH districts as of right. Prior to the recent legislative change hotels with less than six rooms required a Conditional Use authorization, which is accompanied by notice to the neighbors and a discretionary public hearing. There is clearly a difference between renting out a home while on vacation verses a fulltime bed and breakfast; however, as the Department's enforcement team has found, and subsequent studies have affirmed[20], a number of owners are using STR sites to circumvent traditional oversight processes and are effectively adding high-intensity hotel-like uses in a residential neighborhood.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinances and adopt the attached Draft Resolution to that effect.

The Department recommends approval on the following aspects of the three proposed Ordinances:

1. Remove the distinction between hosted and un-hosted rentals, per the Campos and Mayoral ordinances.
2. Prohibit units that have been subject to an Ellis Act Eviction within the last 5 years from registering on the STR registry, per the Kim ordinance.
3. Allow the City to institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time, per all three ordinances.
4. Allow private right of action for non-profits as outlined in the Kim ordinance.
5. Add "Permanent Resident or owner residing within 100 feet" to the definition of Interested Party per the Campos ordinance and the Mayoral ordinance.
6. Prohibit Hosting Platforms from listing any unit that did not maintain good standing on the City's STR registry, per the Campos ordinance.
7. Add a provision to the STR law directing the Mayor to set up a STR Office that would be staffed by the Planning Department, Department of Building Inspection and The Tax Collector's office, per the Mayoral ordinance.
8. Make the maximum number of nights a unit can be used as a hosted or un-hosted STR at 120 days. Adjust as needed if future studies can confirm the point where such use would incentive the illegal conversion of residential units to fulltime tourist use, per the changes proposed in the Mayoral ordinance.

---

[20] "Window into Airbnb's hidden impact on S.F." (June 16, 2014) Retrieved from www.SFChronicle.com on July 1, 2014.

The Department is proposing the following modifications, which are not proposed in any ordinance.

9. Remove the provision in the Administrative Code that requires an Administrative Hearing if a violation is found.
10. Remove the provision in the Administrative Code that allows cross-examination of witnesses during the Administrative Hearing.

The Department does not recommend approval of the following items:

11. Do not Require Hosting Platforms to report quarterly to the Planning Department the number of nights the Residential Unit was occupied as a Short-Term Residential Rental, per the Campos ordinance.
12. Do not remove "the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur" from the definition of Interested Party, per the Campos ordinance.
13. Do not allow private rights of action for any Interested Party after 90 days if the Department has not instituted civil action, as proposed in the Campos ordinance.
14. Do not prohibit units that have been approved under Section 207.3 of 715.1 of the Planning Code from being used as a STR, per the Campos ordinance.

BASIS FOR RECOMMENDATION

Generally, the Department supports efforts to amend the law now that the City has a better understanding of STR and now that implementation of the STR program has begun. The Department continues to believe that STRs should be allowed within a reasonable regulatory structure. Many of the proposed amendments in these three ordinances would add regulation that enables limited STR while seeking to protect the public interest by minimizing the potential effects on neighborhoods and the housing stock. The proposed amendments generally increase the City's capacity for enforcement either by adding additional resources, data for checks and balances or more easily verified limits. However, some proposed changes would undermine the City's enforcement ability and rights the rights of landlords.

Recommendation 1: Remove the distinction between hosted and un-hosted rentals, per the Campos ordinance and Mayoral ordinance.

Both Supervisor Campos's and the Mayoral ordinances would remove the distinction between hosted and non-hosted rentals. The current law permits hosted rentals 365 days per year and limits un-hosted rentals to 90 days per year. Removing this distinction is a great improvement to the current law. Without this change, enforcement of the law would continue to be compromised as the Department has not identified an effective method to determine if a rental is truly hosted or not. Further, the distinction between hosted and un-hosted rentals creates an avenue to operate a fulltime bed and breakfast type use in their home without public notice or Planning Commission review.

Recommendation 2: Prohibit units that have been subject to an Ellis Act Eviction within the last 5 years from registering on the STR registry, per the Kim ordinance.

Paramount to the Department's recommendations is protecting the existing housing stock for San Francisco's residents and workers. An Ellis Act Eviction, by its very nature, is the property owner's statement that they are exiting the rental market. The existing and proposed versions of the law seek to keep the unit as primarily residential by limiting STR to the occupant of the unit. An owner move-in eviction is another eviction type that would allow the owner to move in and engage in STR. By allowing

STR in owner-move in evictions; the owners' rights to STR are maintained. Removing the capacity for STR in the circumstance of Ellis Act Eviction removes a potential enforcement problem and removes the incentive to evict tenants when STRs may be more lucrative.

Recommendation 3: Allow the City to institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time, per the Kim ordinance and Campos ordinance.

This provision increases the Department's enforcement powers and gives the City more power in prosecuting the most egregious cases by allowing the City to take immediate action against repeat offenders. It also helps restore balance between the City and other Interested Parties, which under the various proposal, would be allowed to act before the Department has found that a violation has occurred.

Recommendation 4: Allow private right of action for non-profits as outlined in the Kim ordinance.

This limited provision increases the Department's enforcement capacity by allowing non-profits that have in their bylaws a focus on housing the ability to go after some of the city more vulnerable housing, including units where an Ellis Act Eviction has occurred within the last five years and in buildings with three or more rent-controlled units. Further these entities' main focus is on the preservation or improvement of housing and have an inherent interested in ensuring that the City's housing stock is protected.

Recommendation 5: Add "Permanent Resident or owner residing within 100 feet" to the definition of Interested Party per the Campos ordinance and the Mayoral ordinance.

This modification will add those that are most directly impacted by STRs, those living within the immediate vicinity of the unit in question, to initiate civil proceedings once the Department has found a violation. Protecting neighborhood character is one of most important issues that the Department is concerned about when it comes to allowing STRs in residential districts, and the department finds that this modification is in line with that concern.

Recommendation 6: Prohibit Hosting Platforms from listing any unit that did not maintain good standing on the City's STR registry, per the Campos ordinance.

This amendment would prohibit Hosting Platforms from listing a STR property on their service without a valid STR registration number. The Department believes that this provision is essential to improving the City's enforcement capacities as it would prevent anyone from listing a unit without a registration number, and it makes the Hosting Platforms an active partner in ensuring that hosts are abiding by the City's rules.

Recommendation 7: Add a provision to the STR law directing the Mayor to set up a STR Office that would be staffed by the Planning Department, Department of Building Inspection and The Tax Collector's office, per Mayoral ordinance.

While this proposal is not outlined in detail, the Department understands that this new office will act as a one stop shop for all STR issues in the city, including enforcement, administration, and outreach. The office will allow a host to apply for the business license, sign up for the registry and get answer to their questions in one office. Having three agencies share in the responsibilities for the STR program will add more resources to enforcement and provide enhanced customer service to the City's residents.

Recommendation 8: Make the maximum number of nights a unit can be used as a hosted or un-hosted STR at 120 days. Adjust as needed if future studies can confirm the point where such use would incentivize the illegal conversion of residential units to fulltime tourist use, per the changes proposed in the Mayoral ordinance.

As mention on page 10, two pending reports (one each by the Controller's Office and Budget Analyst) may shed more light onto the financial aspects of STRs in the City. As part of that analysis, the Department understands the Controller may be looking at the number of days at which STRs become more profitable than renting a unit out full time to a permanent resident. When this item first came to the Planning Commission, the Department supported the 90-day limit because it was consistent with the accessory uses limits for dwelling units in the Code, which is currently one-fourth of the floor area (90 days is one-fourth of the year), and still maintained the unit as primarily residential. 120 days is one-third of the year, which still fits within the definition of an accessory use for other non-residential uses, and the units would still be primarily residential for the majority of the year. The Marqusee Memo estimates that the median days of STR needed to outcompete residential use is about 257 days[21]. This provides assurance that the recommended 120 day cap would still protect housing by ensuring that residential use would be more lucrative than STR. That said, the Department is hesitant to recommend further changes to the number of days until we better understand what impact the change will have on the City's housing stock. In particular, it is unclear if STR listings that are frequently booked would be put to residential use if STR were further limited. For example, even in cases where STRs are not as lucrative as residential uses and where the STR merely provides the host with a marginal funding source, the question remains: would the space be offered for another tenant if STR were not available? The answer to this question lies in individual living preferences as to whether it's easier to live with a roommate or intermittent tourists.

Recommendation 9: Remove the provision in the Administrative Code that requires an Administrative Hearing if a violation is found.

This amendment is not proposed in any of the pending ordinances. Existing law requires a mandatory administrative review hearing once the Department has found there is a violation. The Department is recommending that this be modified to make the hearing voluntary, so that if the Department finds there is a violation, it could be abated without a hearing. If the violation is contested, then a hearing could be requested by person or entity charged with a violation.

Recommendation 10: Remove the provision in the Administrative Code that allows cross-examination of witnesses during the Administrative Hearing.

This amendment is not proposed in any of the pending ordinances. Existing law allows for cross-examination of witnesses during the Administrative Hearing. This provision is a holdover from the administrative hearing processes that was in place prior to the STR program. The Department finds that cross-examination is unnecessary for a hearing of this type and removing cross-examination would reduce the potential for needless acrimony.

Recommendation 11: Do not require Hosting Platforms to report quarterly to the Planning Department the number of nights the Residential Unit was occupied as a Short-Term Residential Rental, per the Campos ordinance.

---

[21] This number overestimates the profitability of Airbnb by not accounting for some fees and operating costs. The Office of the Controller is expected to explore this topic in more detail in an upcoming report.

The Department originally recommended this provision be added to the STR ordinance when it was first heard by the Planning Commission last August. At the time, the Department was concerned that without this information the ordinance could not be effectively enforced. However, if Recommendation 6 listed above is added to the City's STR program the Department believes that the law will be more enforceable. Further, not all Hosting Platforms are involved with the booking or the financial transaction between the host and the renter, making the information the City would get from these Hosting Platforms incomplete. This requirement would also subject those Hosting Platforms that do collect this information to a higher standard and scrutiny than those that do not, and these reporting requirements may shift hosts to other platforms that do not collect the information in order to circumvent the law.

Instead the Department believes that the City should pursue improved data collection and technologic solutions to inform policy-makers and assist with enforcement, and explore collaboration with other city agencies that may provide better information across hosting platform types. Certainly hosts who maintain booking information should be encouraged to share this data with the City, especially when a violation is alleged; however the Department does not believe that it should not be requirement of the STR program for the reasons stated above.

Recommendation 12: Do not remove "the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur" from the definition of Interested Party, per the Campos ordinance.

This modification would remove the owner of the unit from the definition of Interested Party. Interested Parties are currently allowed to seek civil action against a tenant (Owner[22]) or Business Entity once the Planning Department has found in violation. Removing owners of the unit from the definition of Interested Party would remove the unit owner's ability to seek civil action under Admin Code Section 41A. While the unit owner has other legal avenues to address violations of a lease agreement, the Department believes that unit owners have an inherent interest in the unit that they own and therefore should not be removed from the definition of Interested Party.

Recommendation 13: Do not allow private rights of action for any Interested Party after 90 days if the Department has not instituted civil action, as proposed in the Campos ordinance.

Supervisor Campos's ordinance proposes to allow anyone who is defined as an Interested Party to initiate civil proceedings if the Department has not determined if a violation has happened within 90-days. While the Department supports the limited expansion of private rights of action in Supervisor Kim and Breed's Ordinance; the Department finds that the provision in Supervisor Campos's ordinance is overly broad. The Department believes that the City should be responsible for enforcing its own laws, and allocate resources accordingly. Allowing any Interested Party, which is proposed to include everyone within 100 feet of the property, to initiate civil proceedings before the Department has determined if a violation has occurred could open up the entire process for abuses. Further, it would limit the Department's ability to bring decisive action against violators.

Recommendation 14: Do not prohibit units that have been approved under Section 207.3 of 715.1 of the Planning Code from being used as a STR, per the Campos ordinance.

Units approved under 207.3 and 715.1 are not subject to any income restrictions, and for all intents and purpose they are units like any other in the City. The Department believes that the current regulation, which only allows the primary resident to register the unit as a STR, is sufficient enough to ensure that

[22] For the purposed of the City's STR regulations, the term "Owner" includes a lessee where the lessee is offering a Residential Unit for Tourist or Transient use.

these units are not illegally converted to a permanent hotel use. The Department does not see a policy reason to prohibit the permanent residents of these units from the City's STR program.

ENVIRONMENTAL REVIEW

The proposed Ordinance is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any comments of support or opposition to the proposed ordinances.

RECOMMENDATION:	Recommendation of Approval with Modifications

Attachments:

Exhibit A:	Draft Planning Commission Resolution
Exhibit B:	Memo from Alex Marqusee, UC Berkeley Goldman School of Public Policy
Exhibit C:	Board of Supervisors File No. 141036
Exhibit D:	Board of Supervisors File No. 150364
Exhibit E:	Board of Supervisors File No. 150363

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

April 24, 2015

File No. 150363

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On April 14, 2015, Mayor Lee introduced the following legislation:

File No. 150363

Ordinance amending the Administrative Code to revise the Residential Unit Conversion Ordinance to: limit short-term rental of a Residential Unit to no more than 120 days per calendar year; revise the definition of Interested Parties who may enforce the provisions of Chapter 41A, through a private right of action to include Permanent Residents residing within 100 feet of the Residential Unit; create an additional private right of action under certain circumstances; create an Office of Short-Term Residential Rental Administration and Enforcement staffed by the Planning Department, Department of Building Inspection, and Tax Collector's Office; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Andrea Ausberry, Assistant Clerk

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

Joy Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning, ou=Environmental Planning, email=joy.navarrete@sfgov.org, c=US
Date: 2015.04.27 16:22:24 -07'00'

Attachment

cc: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

BOS M, COB, LM

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Todd Rydstrom
Deputy Controller

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2015 MAY 18 AM 11: 23
AK

May 18, 2015

The Honorable Board of Supervisors
City and County of San Francisco
Room 244, City Hall

Angela Calvillo
Clerk of the Board of Supervisors
Room 244, City Hall

Re: Office of Economic Analysis Impact Report for File Numbers 150295 and 150363

Dear Madam Clerk and Members of the Board:

The Office of Economic Analysis is pleased to present you with its economic impact report on file numbers 150295 and 150363, "Amending the Regulations of Short-Term Residential Rentals: Economic Impact Report." If you have any questions about this report, please contact me at (415) 554-5268.

Best Regards,

Ted Egan
Chief Economist

cc Andrea Ausberry, Committee Clerk, Land Use and Transportation Committee

City and County of San Francisco

Office of the Controller – Office of Economic Analysis

Amending the Regulation of Short-Term Residential Rentals: Economic Impact Report

Office of Economic Analysis
Items #150295 and #150363

May 18th, 2015

Introduction

- The Office of Economic Analysis (OEA) has prepared this economic impact report in response to the introduction of two proposed ordinances that would modify the regulation of short-term rentals in San Francisco:
  - Item #150295, introduced by Supervisor Campos on April 14th ("the Campos legislation").
  - Item #150363, introduced by Mayor Lee and Supervisor Farrell, also on April 14th ("the Mayor/Farrell legislation").
- A short-term rental (STR) is the leasing of a residential unit for a short period. The lessor may be a unit's owner or its tenant, and is referred to in this report as a "host".
- While a segment of the city's housing has been used for this purpose since at least 1990, the development of online hosting platforms since 2005 has given the practice more prominence.
- The City clarified its regulation of short-term rentals with the passage of Ordinance 218-14 in 2014.
- That ordinance established rules regarding registration and reporting of short-term rental activity, set annual limits, and established rules for enforcement and redress.
- Major differences between Ordinance 218-14 and the proposed ordinances are set forth on the following two pages.

Major Differences between Current Law and the Two Proposed Ordinances

Provisions	Current Law	Mayor/Farrell Legislation	Campos Legislation
Annual Hosting Days	90 for entire units, unlimited for hosted	120	60. Platforms prohibited from listing units known to exceed the 60 day limit.
Civil Proceedings by the City	Allowable only after a complaint and Planning determination	Any time	Any time
Definition of "Interested Party"	Unit owner, HOA or resident of the building; the City; non-profit dedicated to housing	Adds permanent residents or owners within 100 feet.	Adds permanent residents, not absentee owners, within 100 feet.
Private Right of Action	Allowable only after a complaint and Planning determination.	Allowable after a complaint.	Allowable after a complaint.
Criminal Penalties	Hosts' violations are misdemeanors	Same as current law.	Adds that platform violations are also misdemeanors.
Registry Requirements	Host must register and remain in good standing	Same as current law	Platforms prohibited from listing units not in good standing. Planning required to notify neighbors upon receipt of completed application.

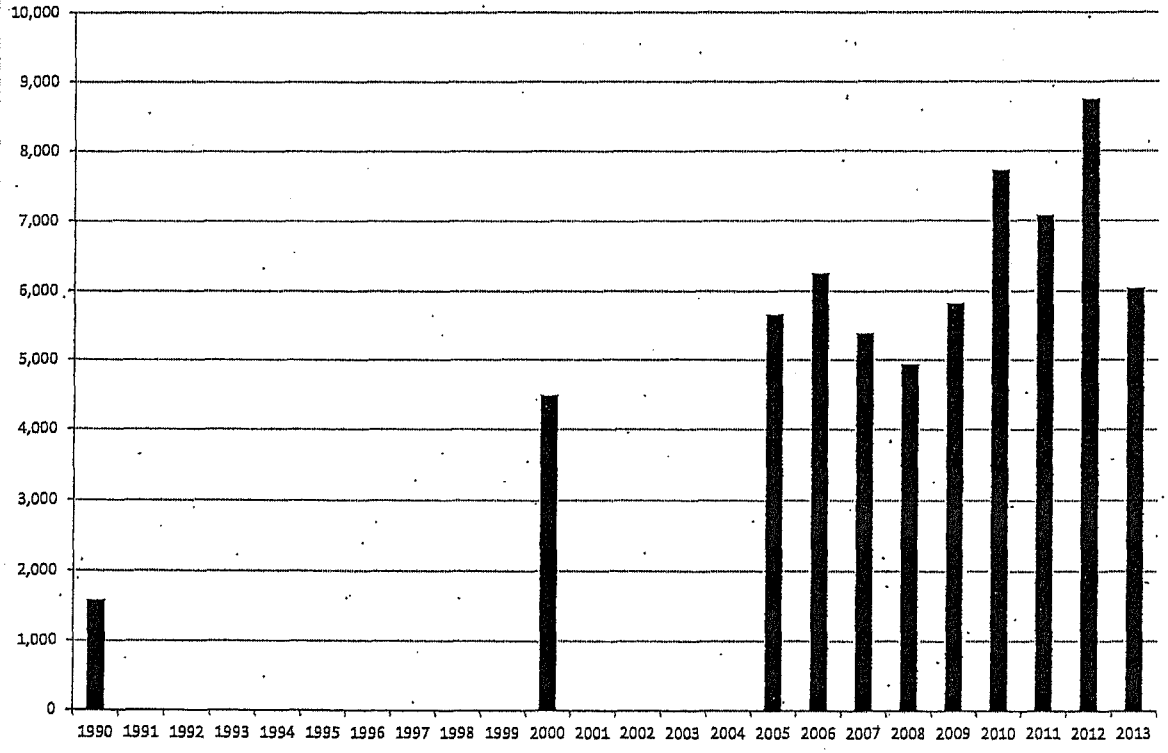
Major Differences between Current Law and the Two Proposed Ordinances (continued)

Provisions	Current Law	Mayor Legislation	Campos Legislation
Reporting Requirements	Hosts must report annual usage as STRs	Same as current law	Adds a quarterly reporting requirement for platforms
Privacy	Registry is a public document; host names are redacted	Host names and addresses to be redacted.	Host names and addresses to be redacted.

Background

- Online hosting platforms such as Airbnb (founded 2008), VRBO (founded 1995), and HomeAway (founded 2005) have facilitated the listing of residential property for short-term use.
- Airbnb, in particular, also permits the leasing of a private or shared room, in an otherwise occupied unit.
- Hosting platforms facilitate these transactions by not only creating an online marketplace that processes the financial transaction, but by providing insurance, communication, and reviewing tools that allow both sides an opportunity to reduce their risk.
- While these platforms facilitate the short-term rental of a unit by an occupant, who either remains in, or temporarily vacates, the unit, they also facilitate a form of serial short-term renting in which the unit is never occupied by a resident, and effectively becomes a hotel room.
- In the former situation, short-term renting may increase the population density of the city, but does not affect the demand for or supply of housing for residential use.
- In the latter situation, short-term renting effectively removes the unit from the residential housing market.

Housing Use for Tourism in San Francisco, 1990-2013



The chart to the left indicates the number of housing units represented as vacant in San Francisco for what the Census terms "seasonal, recreational, or occasional use. Some housing has been used for tourism since at least 1990, but the number grew rapidly from 1990 through 2012, where it peaked at 9,000 units, approximately 2.4% of the city's housing stock.

In 2013, the number dropped to 2005/2006 levels.

From the Census data, it is impossible to determine if these units are being kept off the residential market entirely, or only used for tourism reasons from time to time.

City and County of San Francisco

Office of the Controller - City Services Auditor

Potential Economic Benefits of Short-Term Rentals

- Short-term rentals provide additional income to hosts, increase the City's hotel tax revenue, and increase the amount of visitor spending that occurs in the city.
- In cases when a host temporarily vacates the unit for a visitor, then the city's economy receives host income and visitor spending, but may lose resident spending, depending on where the resident relocates.
- San Francisco Travel has recently conducted an intercept survey of visitors to the city, which asked about their spending patterns and lodging type. The research found that visitors staying in short-term rentals spent (as a party) an average of $215 per day at local businesses.
- The OEA has no information on how many residents temporarily move within the city, or outside the city, to accommodate a short-term visitor. If only 25% remain in the city, which is probably a conservative assumption, then based on the average resident household expenditures, and the mix of Airbnb rental types scraped from its website in 2014, the net increase in spending per STR unit per rental day is $177.
- The SF Travel research indicated that STR guests spend $95 per day for lodging, on average, which would lead to a $13.30 per day hotel tax.
- According to the OEA's REMI model, the total economic impact of such daily spending at businesses, including multiplier effects, is $376.

Potential Economic Costs of Short-Term Renting

- According to the Planning Department, although Ordinance 218-14 limits the number of nights per year that a unit may be legally used for short-term rentals to 275, in practice this limit is unenforceable. This is because it is impracticable to determine whether or not a host is in their unit on a given night.
- As a result, if the incentives exist, a host may fully withdraw the housing unit from the residential market, and use it for short-term renting on a full-time basis, potentially up to every night of the year.
- If short-term renting results in the withdrawal of a housing unit from the residential market, then the reduced supply would lead to higher housing costs.
- The citywide economic harms associated with higher housing costs are fairly severe. According to the REMI model, removing a single housing unit from the market would have a total economic impact on the city's economy of approximately -$250,000 to -$300,000 per year. This exceeds the annual total economic benefit from visitor spending, host income, and hotel tax, given prevailing short-term rental rates.
- On a net basis, then, a housing unit withdrawn from the market to be used for short-term rentals produces a negative economic impact on the city, even if the unit generates host income, visitor spending, and hotel tax every day of the year.

Economic Impact Factors

- In terms of the two proposed ordinances, the OEA projects that both would affect the city's economy in two primary ways:
  1. By affecting the incentive of a host to remove a unit from the housing market and devote it to short-term rental use on a full-time basis, through the annual caps that each would impose. Compared to the current regulation of short-term rentals, establishing an effective cap to maintain housing on the market would prevent housing price inflation, and would have a positive economic impact.
  2. By affecting the amount of host income, visitor spending, and hotel tax that short-term renting adds to the city's economy. Compared to current law, establishing an effective cap would reduce that spending and tend to affect the economy in a negative way.

- The analysis that follows presumes that the annual caps in each ordinance are enforceable. The OEA cannot assess the relative efficacy of the different enforcement mechanisms in each proposed ordinance.

Methodology

- The OEA is not aware of any sources of data on the number of housing units taken off the market to be used as a short-term rental on a full-time basis, within San Francisco.
- Because we lack data on how owners and tenants actually behave in this regard, this report studies the economic incentives that a host faces, given the current state of the market for short-term rentals and rental housing. This involves comparing the income that a host could potentially receive by renting a vacant unit as a short-term rental, and as a long-term residential rental.
- We acquired data retrieved from Airbnb's and Craigslist's websites, and for data quality reasons focused on our comparison on 2 bedroom units in neighborhoods that had over 20 listings in both of the samples.
- We then estimated the income that a host would receive, by deducting various operating expenses. This allowed us to estimate an average daily income associated with short-term renting, and an average annual income associated with long-term residential renting.
- We then calculated the number of days per year that a unit would have to be in operation as a short-term rental, for its STR income to equal its annual income as a residential rental.
- A given annual cap is likely to produce a positive economic impact if it is below that break-even level. However, a cap that is far below the threshold would reduce the positive economic and fiscal benefits of short-term renting, and thus the overall economic impact, because it would limit spending, host income, and hotel tax revenue, without providing significant additional protection to the housing stock.

Short-Term and Long-Term Rental Rates for Entire 2 Bedroom Units in 16 San Francisco Neighborhoods, 2014

	Airbnb		Craigslist	
Neighborhood	Count	Average Price	Count	Average Price
BernalHeights	70	$207	145	$3,585
Castro/UpperMarket	74	$252	222	$4,372
HaightAshbury	45	$250	179	$3,990
InnerRichmond	25	$222	223	$3,440
InnerSunset	21	$186	196	$3,585
Marina	42	$324	239	$4,904
Mission	145	$238	406	$4,472
NobHill	30	$273	267	$4,459
NoeValley	52	$258	336	$4,135
NorthBeach	27	$292	154	$4,614
OuterRichmond	21	$193	242	$3,052
PacificHeights	29	$307	313	$5,247
PotreroHill	38	$290	325	$4,396
RussianHill	35	$488	166	$4,811
SouthofMarket	58	$331	2354	$4,890
WesternAddition	76	$392	758	$4,030

Cost Assumptions Used in Estimating Short-Term and Long-Term Rental Income

Costs applicable to Short-Term Rental Hosts	Costs Applicable to Residential Lessors
Hosting Fee: 3% of revenue	Residential vacancy loss – 3.7% of revenue
Fixed cost of furnishing unit: 1.5% of revenue	Apartment management fee – 7% of revenue
Gas & Electric: 3% of revenue	Water – 1.5% of revenue
Cable / Phone / Internet: 1.5% of revenue	Garbage – 1% of revenue
Water – 1.5% of revenue	**Operating Income –87% of revenue**
Garbage – 1% of revenue	Maintenance – 10% of operating income
Operating Income– 88% of revenue	
Maintenance – 15% of operating income	
Income: 75% of revenue	**Income: 78% of revenue**

City and County of San Francisco

Office of the Controller - Office of Economic Analysis

Break-Even Analysis Results

Neighborhood	Average Annual Income, Long-Term Rental	Average Daily Income, Short-Term Rental	Average Days of Short-Term Rental to Equal Long-Term Rental Income
Bernal Heights	$33,555	$155	217
Castro/Upper Market	$40,921	$189	217
Haight Ashbury	$37,347	$188	200
Inner Richmond	$32,200	$166	194
Inner Sunset	$33,555	$140	241
Marina	$45,902	$243	189
Mission	$41,854	$178	235
Nob Hill	$41,734	$205	204
Noe Valley	$38,699	$194	200
North Beach	$43,185	$219	198
Outer Richmond	$28,568	$144	198
Pacific Heights	$49,111	$230	214
Potrero Hill	$41,148	$217	190
Russian Hill	$45,034	$366	123
South of Market	$45,767	$248	185
Western Addition	$37,725	$294	129

Analysis of 2 bedroom entire apartment data from 16 San Francisco neighborhoods reveals that the average number of days that a host would need to engage in short-term renting, to equal the average income they could receive from residential renting, ranges from 123 days a year in Russian Hill to 241 days a year in the Inner Sunset.

This analysis suggests that an STR use at a maximum occupancy rate (such 85%-90%, or 310-330 days a year) would easily exceed the break-even point in every neighborhood. For this reason, some cap is necessary to prevent a negative economic impact.

These results further suggest that both the 60-day and 120-day caps in the two proposed ordinances are conservative, and likely to eliminate the risk of withdrawal of housing units from the residential market, in the vast majority of cases. Because the Mayor/Farrell legislation would allow more short-term renting while discouraging the withdrawal of housing units, it likely has a more positive economic impact.

Caveats to This Analysis

- Because of data limitations, the analysis in this report covers only 2 bedroom units. While the findings from these areas are fairly conclusive, it is possible that the short-term rental market places a higher value on other unit sizes, relative to the residential market.
- Secondly, this analysis also only considers the relative income that a host would receive putting an entire vacant unit into service as a short-term rental or a long-term rental. It does not compare the short-term market for private rooms, with the residential market for roommates: private rooms within residential units.
- Analysis of this second question is complicated by the fact that an owner or tenant of an occupied unit with a spare bedroom essentially faces three choices: short-term renting, finding long-term roommate, or personal use of the additional space.
- U.S. Census micro-data indicates that over 20% of San Francisco housing units have more bedrooms than occupants, and this percentage has remained relatively steady over the 2006-2013 period. The rapid increase in residential rents since 2010, and the availability of online platforms for short-term renting, have not reduced this percentage.
- For this reason, the OEA believes that if a given cap is effective at preventing entire vacant units from being removed from the housing market, it would be unlikely to be less effective at preventing a vacant bedroom from being withdrawn from the market.

Conclusions

- Because the City has only recently required clarified its regulations regarding short-term rentals, the amount and quality of City data on the subject is very limited. It is likely that our understanding of short-term renting, and its impact, will continue to develop as more and better data becomes available.
- In particular, the OEA is unaware of any data on how many housing units are being removed from the market to be used as short-term rentals on a permanent basis. Such a withdrawal from the market would lead to a negative economic impact, notwithstanding the increased visitor spending, host income, and hotel tax that short-term renting provides.
- Without data on actual behavior, this report studied the incentives that exist to remove a vacant unit from the housing market, by comparing the income that it could earn as a short-term rental and a residential rental.
- The analysis found that the average number of days that a unit would need to be short-term rented, to create an incentive to withdraw it from the housing market, ranged from 123 to 241 days per year in different neighborhoods of the city. The annual caps in both proposed ordinances are well below these break-even points, in most neighborhoods.
- Because the Mayor/Farrell legislation allows more short-term renting while setting a cap well below the break-even point in the majority of neighborhoods, it likely has a more positive economic impact.

Staff Contacts

Ted Egan, Ph.D., Chief Economist, ted.egan@sfgov.org
Asim Khan, Ph.D., Principal Economist, asim.khan@sfgov.org

The authors thank Alex Marqusee and AnMarie Rodgers from the Planning Department for their assistance in the preparation of this report. All errors, omissions, and conclusions are solely the responsibility of the Office of Economic Analysis.

BAYAREA COUNCIL

May 15, 2015

VIA EMAIL

The Honorable Malia Cohen
The Honorable Jane Kim
The Honorable Scott Wiener

Land Use and Transportation Committee
Board of Supervisors, City & County of San Francisco
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689

RE: Proposed changes to short term rental regulations

Dear Supervisors Cohen, Kim and Wiener:

We write in advance of the Land Use and Transportation Committee's upcoming consideration of proposed changes to the City & County of San Francisco's existing short term rental regulations. The current version of these regulations only recently came into effect.

As you consider the new ordinances that seek to amend these regulations, we urge you to take a measured approach. The short term rental industry allows a great many San Franciscans to augment their incomes and afford the high cost of living here.

When legislating around fledgling industries that provide such key benefits, it is our strong belief that it is important to start with the lightest possible approach, lest you kill the industry in your effort to regulate it.

Sincerely,

Matt Regan

Matt Regan
Senior Vice President, Government Relations
Bay Area Council

Cc: Andrea Ausberry, Clerk

P 415.2[illegible]
F 415.981.6408
353 Sacramento Street, 10th Floor
San Francisco, California 94111
1215 K Street, Suite 2220
Sacramento, California 95814

Ausberry, Andrea

From:	Brianne Riley [briannekriley@gmail.com]
Sent:	Friday, May 15, 2015 2:09 PM
To:	Cohen, Malia (BOS); Kim, Jane (BOS); Wiener, Scott
Cc:	Ausberry, Andrea
Subject:	Bay Area Council Letter Regarding Short Term Rental Regulations
Attachments:	Short Term Rental Regulations Letter - Bay Area Council.pdf

Dear Supervisors Cohen, Kim and Wiener:

Attached please find a letter from the Bay Area Council regarding short term rental regulations, which are on the agenda for Monday's Land Use and Transportation Committee meeting.

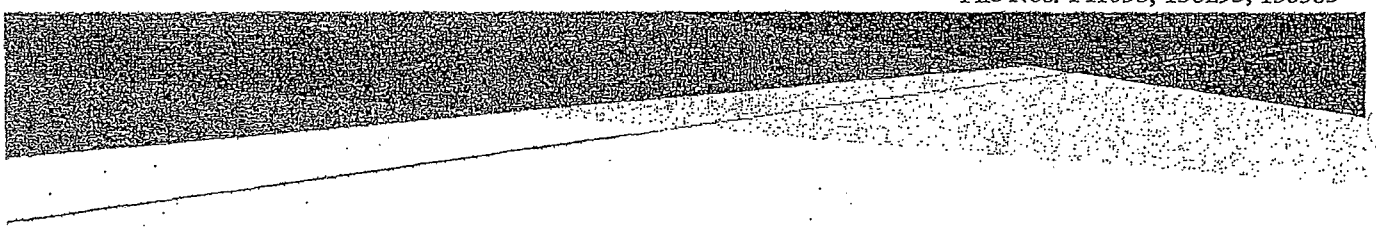
Please let me know if you need any additional information or are unable to access the attachment.

Sincerely,
Brianne Riley

Brianne Riley, JD | Policy Associate | **BAYAREA COUNCIL**

353 Sacramento Street, 10th Floor | San Francisco, CA 94111

Direct: 415-946-8747 | Cell: 510-545-3552 | briley@bayareacouncil.org



THE IMPACT OF AIRBNB ON THE SAN FRANCISCO HOUSING CRISIS

Alex Marqusee

A Report Prepared for the San Francisco Planning Department

May 2015

TABLE OF CONTENTS

EXECUTIVE SUMMARY

In November of 2014, San Francisco enacted an ordinance to regulate the short term rental (STR) market that has existed illegally since at least 2008.[1] Short term rentals in San Francisco generate enormous consternation and controversy over their potential to disrupt the social fabric of neighborhoods as well as the threat they pose to the City's stock of affordable rental housing. So far, anecdotes, conjecture and political posturing dominate the public discussion.

This report seeks to infuse data and economic analysis into the public policy debate over the impact of short term rentals to rental housing in San Francisco. The analysis relies on the publicly facing data available from Airbnb, the largest STR hosting platform, demographic and economic indicators and a database of apartments posted on Craigslist in 2014.

This report investigates what, if any, problems short term rentals pose to the supply of rental housing in San Francisco in order to recommend improvements to the current legislation. In order to minimize the potential loss of long term rental housing while still permitting STRs, this analysis recommends that the Board of Supervisors of the City and County of San Francisco:

Increase the current limit on STR use to 120 days for any combination of hosted and unhosted STRs:

1. The vast majority of STR hosts appear to be genuine 'homesharers' who rent their space infrequently and do not impact the supply of long term rental housing.
2. Approximately 10% of hosts appear to be 'Airbnb hotels' that rent their listing for more than half of the year. The existence of these fully commercial units and the potential for further conversions necessitate an enforceable cap.
3. It is infeasible to enforce two caps that differentiate between hosted and unhosted rentals.
4. This analysis suggests that raising the cap from 90 to 120 days will not incentivize more conversions since at a 120 day cap almost no vacant apartments are more profitable as STRs than as traditional long term rentals.

Remove the restriction on rent controlled tenants earning more revenue than they pay in monthly rent:

1. Even though at least 30% of rent controlled tenants could pay for their entire rent through STR income, there is no reason to suggest that these tenants would have rented their spare bedrooms to long term roommates in the absence of STRs. In effect, it is unclear whether any housing is being removed from the market due to the use of STR by rent controlled tenants.
2. This provision hurts low income rent controlled tenants who might benefit greatly from the extra income generated through a STR.

Give regulators the powers necessary to enforce the law:

[1] Cutler, K. *San Francisco Legalizes, Regulates Airbnb with 7-4 Vote, Lots of Amendments.* 2014. Tech crunch piece Retrieve at http://techcrunch.com/2014/10/07/san-francisco-airbnb/

1. Currently, the law is completely unenforceable and market trends indicate that an unregulated STR market will lead to the loss of more long term rentals. In order to make the law enforceable, the enforcing agency needs to be able to require short term rental hosting platforms to regularly provide non-anonymized data and/or to fine hosting platforms each day for listing illegal short term rentals.

AUTHOR'S NOTE

This report was prepared by Alex Marqusee as part of the program of professional education at the Goldman School of Public Policy, University of California, Berkeley. This report is submitted in partial fulfillment of the course requirements for the Master of Public Policy degree. The judgments and conclusions are solely those of the author, and are not necessarily endorsed by the San Francisco Planning Department, the Goldman School of Public Policy, the University of California, or by any other agency.

Academic Advisor: Dan Lindheim, Lecturer, Goldman School of Public Policy, University of California, Berkeley.

Client: AnMarie Rodgers, Senior Policy Advisor, Planning Department of the City and County of San Francisco.

ACKNOWLEDGMENTS

I would like to first and foremost thank AnMarie Rodgers for taking a chance on me and for her partnership and encouragement throughout the process. Thank you for your mentorship, your humor and the incredible energy and enthusiasm you bring to work every day.

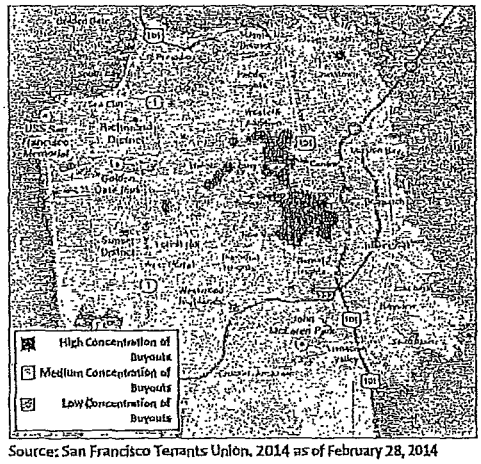
I am also grateful to Dan Lindheim for always pushing me to answer the bigger questions; Larry Rosenthal and Michael O'Hare for suggestions on how to approach the analysis; the entire enforcement team at the Planning Department for letting me pester them with questions; the citywide staff at the Planning Department for their comments and suggestions; and, of course, to Airbnb and Homeway for creating a policy conundrum for me to solve. Finally, many thanks to the inimical Ann Hollingshead for her constant reminders of just how far we can go if only we truly believe in ourselves.

On a personal note, I am thankful for the support and friendship of Ethan Guy during this process without whom I would have eaten half as many meals, forgotten to laugh at all my mistakes and never gotten the chance to meet our dear friend George.

INTRODUCTION

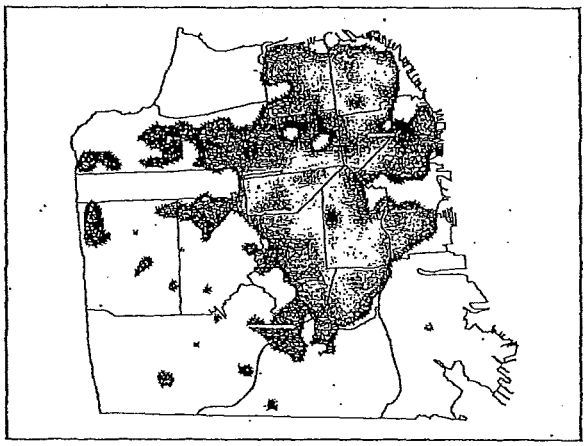
In November of 2014, San Francisco enacted an ordinance to regulate the short term rental (STR) market that has existed illegally since at least 2008.[2] Short term rentals in San Francisco generate enormous consternation and controversy over both their potential to disrupt the social fabric of neighborhoods and the threat they pose to the City's stock of affordable rental housing. Opponents of STRs claim that the commercial use of residential housing remove units from the long term rental market and increases rents. If nothing else, short term rentals have become a flashpoint in the debates surrounding the housing affordability crisis and opponents claim that they contribute to the gentrification in and displacement of vulnerable communities:

Exhibit 5: Map of Reported Tenancy Buyouts, 2013-14



Source: San Francisco Tenants Union, 2014 as of February 28, 2014

Distribution of Airbnb Listings (December 2014)



On the other side of the debate, proponents of 'homesharing' claim that the income generated through STRs allows them to remain in their homes and maintain their quality of life despite the rising cost of living. They also cite internal Airbnb studies that purport to link economic growth to increased tourism made possible by short term rentals. So far, anecdotes, conjecture and political posturing dominate both sides of the public discussion.

This report seeks to infuse data and economic analysis into the policy debate over the impact of short term rentals to rental housing in San Francisco. STRs potentially pose a variety of problems in addition to the impacts to housing but these issues are outside the scope of this report.[3] Instead, this report takes a step back from the political and anecdotal arguments to collect and evaluate the available public data and determine what, if any, problems short term rentals pose to rental housing supply in San Francisco in order to recommend improvements to the current legislations.

[2] Cutler, K. *San Francisco Legalizes, Regulates Airbnb With 7-4 Vote, Lots of Amendments.* Nov. 2014. Retrieved from http://techcrunch.com/2014/10/07/san-francisco-airbnb/

[3] A brief overview of the potential problems STRs may pose outside of threats to the housing supply may be found in the Appendix.

The San Francisco Planning Department commissioned this report in response to the lack of credible data sources or analysis from which to recommend an appropriate regulatory framework. This report relies on an analysis of publicly facing data collected from the website of the largest STR hosting platform – Airbnb, which comprises an estimated 80% of the STR market – as a proxy for the entire short term rental market.[4] Readers unfamiliar with short term rentals should begin with the background section included in the Appendix. Additionally, readers interested in an in-depth presentation of statistics describing the Airbnb market in San Francisco and of the limited academic research on STRs should refer to the 'Marqusee Memo' submitted to the San Francisco Planning Commission on April 16th, 2015.[5]

The rest of the report first introduces and explains the three mechanisms by which STRs might reduce the supply of rental housing. Next, the report presents the potential threat of STRs in the context of the larger rental housing and hotel markets. The loss of rental housing from STRs is then evaluated to determine the current magnitude of STRs' impact as well as the potential threat for the future. Finally, the report recommends legislative changes. In addition to the background section, the Appendix contains a brief discussion of other problems to tenants and neighborhoods that short term rentals pose, a summary of the findings from this report, a description of data sources and methods, and results from simulations and regressions.

[4] Please refer to the Marqusee Memo.

[5] The Marqusee Memo can be accessed as Exhibit B of the SF Planning Department's submission to the SF Planning Commission Website on proposed amendments to short term rental legislation. The document can begins on page 30 at http://commissions.sfplanning.org/cpcpackets/2014-001033PCA.pdf. A video record of the public debate over short term rentals as well as a brief presentation of the Marqusee Memo can be found at http://sanfrancisco.granicus.com/MediaPlayer.php?view_id=20&clip_id=22581 and the short term rental discussion begins at 2:50.

HOW COULD SHORT TERM RENTALS IMPACT RENTAL HOUSING?

Leasing lodging on a short term basis isn't a new phenomenon, but the increased frequency of STRs facilitated by online hosting platforms combined with unenforceable regulations raises the possibility of new, larger impacts. An increase in the commercial use of residential housing through STRs poses several potential problems. This section introduces the mechanisms by which short term rentals may reduce the supply of rental housing. The Appendix contains a brief discussion of how short term rentals my pose problems for tenants and for the quality of life in neighborhoods.

PERMANENT CONVERSIONS TO STR HOTELS

Landlords could choose to convert long term units to short term rental hotels. This might stem from landlords seeking the greatest financial return from their rental unit and deciding short term rentals are more profitable than long term rentals. Even if STRs are less profitable than long term rentals, landlords may seek to avoid the complications of rent control and eviction protections and use STRs to generate almost as much profit as long term rentals.

INCREASED WITHHOLDING OF RENTAL UNITS

Landlords in San Francisco currently withhold rentals from the market for a number of reasons. San Francisco has a higher incidence of vacant rentals held off the market than comparable cities.[6] The ability to cover operating costs through STR income may encourage more landlords to withhold units from the long term rental market or to withhold units for longer periods of time.

OVERCONSUMPTION OF HOUSING (LOSS OF ROOMMATES)

Owners and tenants may remove rental capacity from the market by converting bedrooms to 'private room' STRs that they would otherwise offer to long term tenants. Some tenants may value the lack of a permanent roommate more than the financial security of a long term lease and the disruptions associated with STRs. In this scenario, a tenant may purchase more rental housing than they could normally afford by renting part of their new apartment as a STR.

In other scenarios, current residents may have an additional bedroom that they could rent to a long term tenant but decide to rent on a short term basis. This may happen to avoid rent control, the potential for being locked into a year-long contract with a noxious tenant or if they value the flexibility of not having to always have a roommate.

---

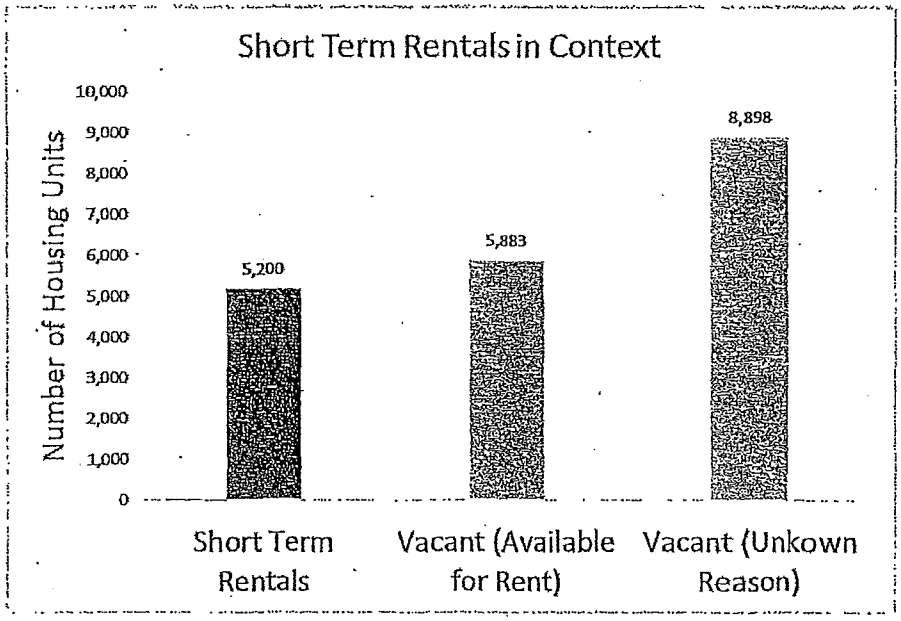
[6] SPUR, *Non-Primary Residences and San Francisco's Housing Market*. 2014. Retrieved from http://www.spur.org/sites/default/files/publications_pdfs/SPUR_Non-Primary_Residences.pdf Page 9 indicates that the vacancy rate in San Francisco is 60% higher than in comparable cities.

EVALUATING IMPACTS TO RENTAL HOUSING FROM SHORT TERM RENTALS

This section evaluates the extent to which each of the mechanisms described above currently impacts rental housing as well as its potential to reduce the supply of rental housing in the future. First, the section begins with a description of current and projected short term rental market in San Francisco in order to put the potential threat to rental housing in context.

PUTTING THE THREAT OF SHORT TERM RENTALS TO RENTAL HOUSING IN CONTEXT

The removal of even a small number of rental units could have a large impact on the availability of rental housing in San Francisco because of the current very low rental vacancy rates. The table below presents data from the census in 2013 on the number of vacant units in San Francisco as compared to the number of apartments listed on Airbnb at the end of 2014. Please note that there are certainly more STR listings on other STR hosting websites.



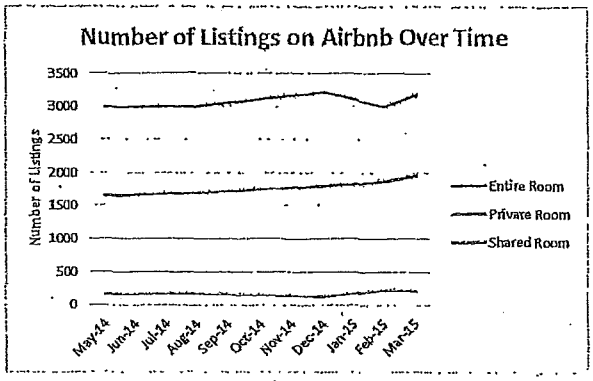
The vacancy data from the census shows that there were at least 5,883 rental units available in 2013 and another 8,898 vacant units that the census staff were unable to characterize and might have been available for rent. Compared to the limited available rental housing, if some STRs remove rental housing then STRs could substantially reduce the supply of available rental housing.

Interviews with housing experts and economists revealed that, either through signaling or by directly reducing the stock of low-cost housing, small changes in supply can have discernable effects on rental

prices, particularly when rental vacancy rates are low.[7] In other words, the actual loss of even a few units or the appearance of units being removed from the market can increase prices in areas where vacancy rates are very low. In 2013, the census estimated an overall rental vacancy rate of 2.5%.[8] However, some submarkets such as Pacific Heights, Russian Hill, the Western San Francisco neighborhoods and the Haight-Ashbury neighborhood have vacancy rates lower than the city-wide average.[9] The loss of even a few long term rentals in these areas could exacerbate the housing crisis in San Francisco in submarkets with lower vacancy rates.

SUPPLY OF SHORT TERM RENTALS

There are approximately 3000 'entire units' and another 2000 'private or shared room' short term rentals available on Airbnb.[10] There are approximately another 1200 listings on VRBO but it's unclear how many of these listings are repeated on multiple platforms.[11] For Airbnb, this number has not changed significantly over the past year.



The number of actual properties available for rent is lower than the number of listings. There are certainly fake listings as well as listings where the same property lists both a private room and an entire unit separately.[12] In addition, approximately one fifth of rentals appear to have never be rented.[13]

Geographically, Airbnb listings concentrate in the downtown and central neighborhoods. The maps below show a 'heat map' of the concentration of listings on the left and each Airbnb listing rendered individually as a point on the right:

[7] Interviews conducted by Ann Hollingshead and shared with Author. The original work can be accessed from: Hollingshead, A. (Forthcoming: 2015). "When and How Should Cities Implement Inclusionary Housing Policies?" Prepared for the Cornerstone Partnership. University of California, Berkeley.

[8] American Community Survey, 2013 1 Year Sample, Table DP04.

[9] Paragon. *San Francisco Bay Area Apartment-Building Market.* April 2015. Retrieved from http://www.paragon-re.com/Bay_Area_Apartment_Building_Market

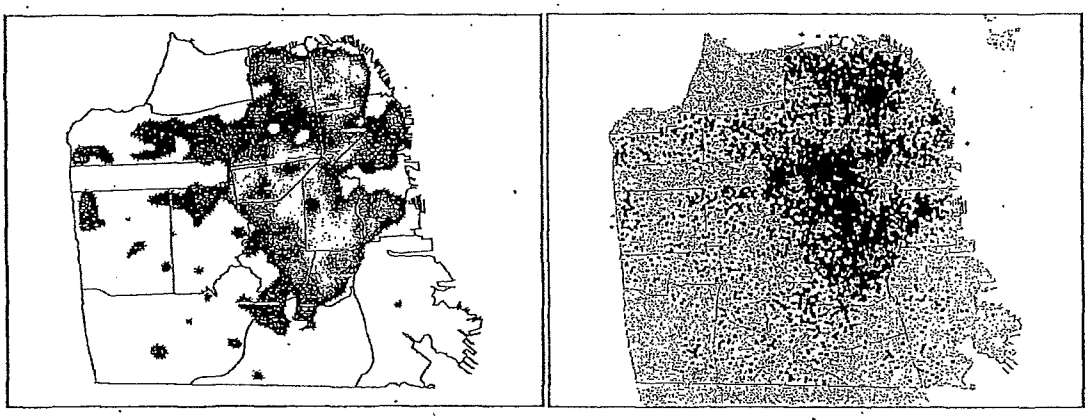
[10] Averages from multiple scrapes of Airbnb's website. Please see the Marqusee Memo.

[11] Data scrape from http://www.antievictionmappingproject.net/airbnbmap.html

[12] Email from Gus Dolan to Author describing experience creating a fake listings.

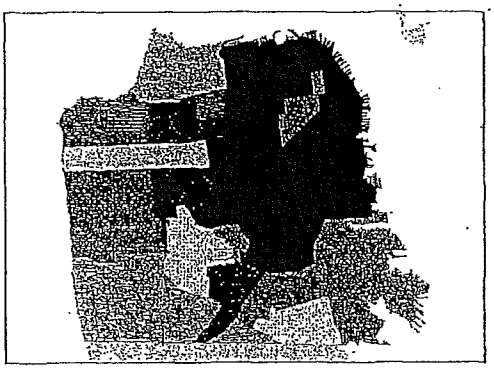
[13] Analysis from multiple scrapes of Airbnb's website. Please see the Marqusee Memo.

Maps of Airbnb Listings in San Francisco (December 2014)



This higher concentration of units in the central and northern neighborhoods remains even after controlling for the higher density of housing units in those neighborhoods.

Map of Airbnb Listings Normalized by Number of Housing Units (Dec. 2014)



The map to the left presents the number of listings on Airbnb in each neighborhood divided by the total number of housing units in that neighborhood. Darker shades represent neighborhoods with higher concentrations of Airbnb listings. Controlling for housing density in this way confirms that the concentration of Airbnb units in the northern and central neighborhoods is not due simply to a larger total number of housing units in those areas.

DEMAND FOR SHORT TERM RENTALS

A lack of good data precludes a perfect accounting of the demand for short term rentals in San Francisco. However, it is possible to approximate the demand for STRs by corroborating several data sources. In 2014, a survey of 4,682 visitors to San Francisco found 76 visitors who were staying in "peer-to-peer lodging" of some kind through Airbnb, VRBO, Homeaway or a related service. From this number, the survey estimated that 130,000 visitors stayed in peer-to-peer lodging in 2014.[14] In 2012, a

[14] Destination Analysts. *San Francisco: Visitor Industry Economic Impact Summary, 2014.* Published by the San Francisco Travel Association provided to the author

study commissioned by Airbnb reported that the highest demand in any one month was 1,576 individual bookings in August.[15]

In addition, data collected from Airbnb's website allow for an estimation of the number of days guests book each listing (i.e. the occupancy rate). There are four methods to approximate the true occupancy rate per listing. These methods provide a range of estimated occupancy rates to account for the fact that guests underreport reviews and that many guests stay for longer than the minimum stay required by the host.[16,17]

Methods for Estimating Occupancy Rates

1. Restrict the analysis to only include units for which an occupancy rate can be reasonably estimated: those active for more than six months that also have a minimum required stay of fewer than 6 days. Other units may show much higher occupancy rates that in reality reflect the higher occupancy rates during the summer or have recently changed their minimum required stay to much higher than 6 nights. These restrictions lead to conservative estimates.
2. Calculate the minimum occupancy rate by multiplying the number of reviews per year by the minimum length of stay required by the host.
3. Create less conservative estimates of the occupancy rate that account for the underreporting of reviews and average stays longer than the minimum required by the host:
    a) Multiply by the minimum length of stay and inflate the number of reviews to account for underreporting. Airbnb stated in 2012 that only 72% of guests leave reviews.
    b) Multiply by the average length of stay instead of minimum required stay. Three sources from 2012 and 2014 state that, on average, guests stay approximately 5 nights per trip.
    c) Use both the average length of stay instead of the minimum required and inflate for the underreporting of reviews.

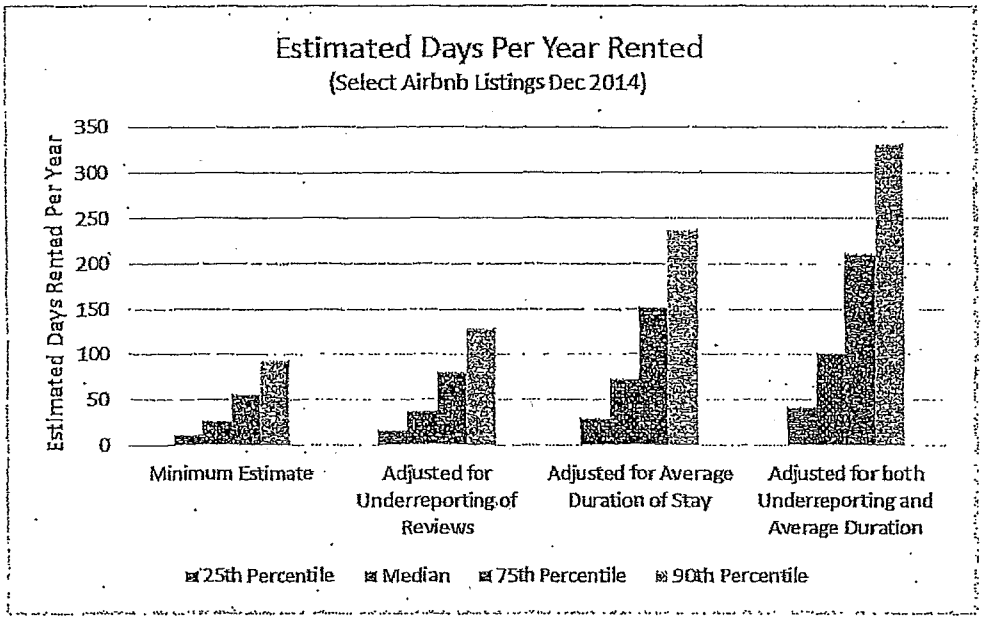
These calculations create the following distributions in the chart below of the number of days per year that Airbnb listings have been rented. The groups represent increasingly less conservative estimates

[15] Rosen Consulting Group. *Short-Term Rentals and Impact on the Apartment Market.* 2013. Retrieved from http://www.rosenconsulting.com/products/rentalreport.html . This report accessed Airbnb data for 2012 but offers no transparency into their methodology. The website 'Journalist's Resource' described this study as an internal Airbnb report.

[16] Multiple sources over several years point to an average duration of stay of 5 nights in San Francisco most recently the Destination Analysts report cited earlier found an average length of stay of 5.1 nights.

[17] Chesky, B. (9/7/2012) *What percent of Airbnb hosts leave reviews for their* guests. Retrieved from: http://www.quora.com/What-percent-of-Airbnb-hosts-leave-reviews-for-their-guests

arranged from left to right. For each estimation technique, the value of the quartiles and the 90th percentile visualizes the range of the days of occupancy realized by Airbnb listings as of December 2014.



The above chart shows how difficult it is to accurately estimate occupancy rates for Airbnb units with the very highest occupancy rates. It is possible to say that the top ten percent of most frequently booked Airbnb Units are likely occupied between a quarter to three quarters of the year. However, the data do not support more precise estimates due to potential biases. For instance, the recent survey presented above reported that the 67 visitors to San Francisco staying in peer-to-peer lodging stayed for an average of 5.1 nights. In reality, this average reflects a distribution that might be different for different types of rentals. STRs that resemble hotels may have a very high number of reviews and bookings but each booking is only for a few days. Conversely, STRs that cater to business travelers staying for two week conferences may have fewer reviews and bookings but each stay is for a week or more. If these two scenarios represent most listings, then the conservative estimates would underestimate the occupancy rate of STRs catering to business travelers and the less conservative estimates would overestimate the occupancy rate of STRs that resemble hotels. However, given that it is impossible to know whether that scenario is true, this report assumes that the distribution of the duration of stay is unrelated to the number of reviews a unit has. Regardless, these estimates represent the best approximation of the occupancy rates of STRs in the absence of data provided directly by the hosting platforms.

REGULATIONS AND ENFORCEMENT

The current San Francisco law restricts the use of short term rentals to permanent residents. There is no restriction on the number of days a host can rent their unit while present ('hosted rentals') but there is a 90 day cap on the number of days a host can rent their unit while not present ('unhosted rentals'). Legal

operators of short term rentals must be registered with the San Francisco Planning Department, have a business license, and hold liability insurance for at least $500,000. In addition, tenants of below market rate rentals are barred from offering STRs and tenants in rent controlled apartment are restricted from generating more revenue per month than they pay in rent. [18]

The legislation charges the San Francisco Planning Department with enforcement but the legislation fails to provide enough tools to meaningfully enforce the law for several reasons. First, it is very difficult to verify whether or not an applicant is a permanent resident. School districts for years have run into great difficulty investigating parents for misrepresenting their permanent addresses.[19,20] Second, it is virtually impossible to monitor whether or not a host is present or not during the rental. Third, it is unclear how the Department can monitor the current rent that rent controlled tenants pay or the total revenue or profit generated by any listing. Finally, verifying that a host has not exceeded the cap on unhosted rentals may prove to be impossible without data from the short term rental platform. The Planning Department may be able to catch hosts exceeding the cap on occupancy by analyzing tax receipts submitted to City but it is unclear at this point whether or not that is possible.

PROJECTING THE SHORT TERM RENTAL MARKET

The market for STRs in San Francisco, much like any other lodging market, will change over time depending on the underlying fundamentals of the local economy as well as the prices, demand and supply for its substitutes and complementary goods.

The very limited evidence suggests that short term rentals substitute for lower-priced hotels. An econometric study by researchers from Boston University found that a 10% increase in the supply of Airbnb listings in Texas caused a 0.35% decrease in the monthly revenue for hotels in the same area.[21] They also found that the impact on revenue was not distributed evenly amongst all hotels but disproportionately impacted lower-priced hotels. Even though this is just one study, it does confirm at least the link between short term rentals and traditional hotel lodging in a city with similar housing pressures to San Francisco.[22]

Currently, hotels in San Francisco report record high occupancy rates and analysts project that this trend will continue in the near term. SF Travel, the local travel industry association, reports that many

---

[18] For more information, please see the SF Planning Department's FAQ on STRs at: http://www.sf-planning.org/index.aspx?page=4004

[19] Tucker, J. *SF school district goes after residency cheats.* 2010. Retrieved at: http://www.sfgate.com/news/article/SF-school-district-goes-after-residency-cheats-3167934.php

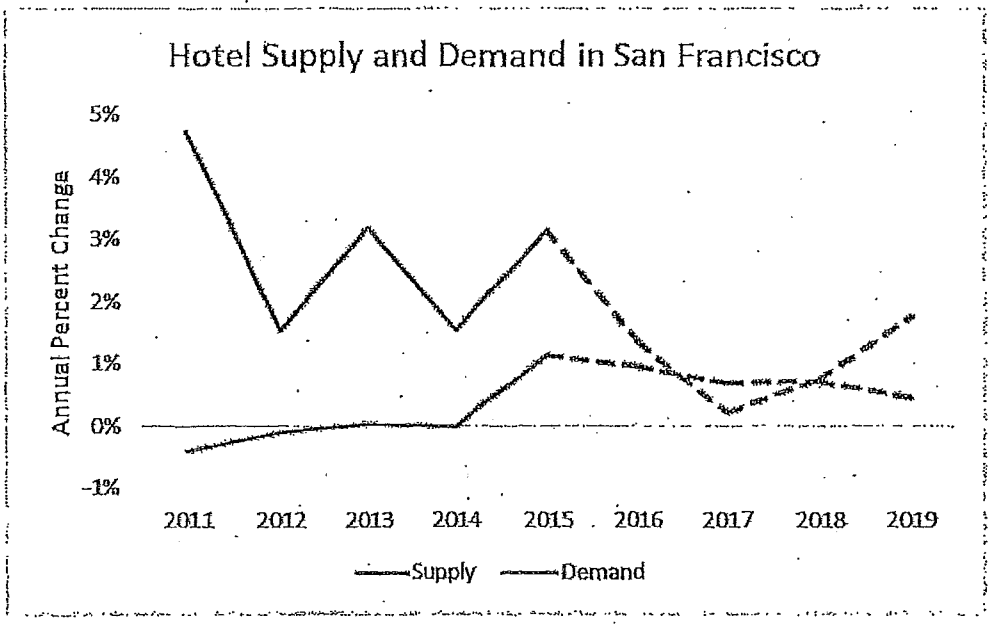
[20] Gafni, M. *Bay Area public school districts spying on kids in border control battle.* 2015. Retrieved from http://www.mercurynews.com/my-town/ci_27084199/

[21] Zervas et al. *The Rise of the Sharing Economy: Estimating Impact of Airbnb on the Hotel Industry.* 2015. Retrieved from http://people.bu.edu/zg/publications/airbnb.pdf

[22] BBC Research and Consulting. 2014 Comprehensive Housing Market Analysis. 2014. Retrieved at http://austintexas.gov/sites/default/files/files/NHCD/2014_Comprehensive_Housing_Market_Analysis_-_Document_reduced_for_web.pdf

companies who host conventions and large meetings in San Francisco book large blocks of hotel rooms fifteen years in advance.[23] PKF Hospitality Research recently reported a city-wide occupancy rate of 85% which belies the fact that during the high season hotels are essentially completely booked.[24,25] Occupancy rates are similar for both upper-priced and lower-priced hotels. These record high occupancy rates mean that there is little excess supply to accommodate any increase in the number of visitors travelling to San Francisco. Instead, visitors will have to either stay in lodging outside of the city or turn to STRs.

A projected increase in demand for lower-priced hotels combined with rising hotel prices and a limited supply of new hotel rooms suggests that demand for short term rentals will increase in the near term. Tourism Economics' projections illustrate the increasing mismatch between rising demand for hotel lodging and the anemic supply response:[26]



The chart above confirms that demand is projected to outstrip supply over the next few years and that the average daily rate for hotel rooms in San Francisco will rise from approximately $200 per night to

[23] Sciacca, A. *Here's where 1,600 hotel rooms are planned in San Francisco.* 2015. Retrieved from http://www.bizjournals.com/sanfrancisco/blog/2015/04/san-francisco-hotel-projects-tourism-slideshow.html?page=all

[24] PKF Hospitality Research, A CBRE Company. San Francisco Econometric Forecast of U.S Lodging Markets. March-May 2015 Edition. Provided to the author by the SFTA.

[25] Occupancy rates for hotels varies seasonally. Data from 2010-2012 illustrates clearly that occupancy rates in the last spring and the summer are approximately ten percentage points higher than the annual average.

[26] STR. *Tourism Economics, Forecast – San Francisco/ San Mateo, CA.* February 2015. Provided to author by SFTA.

$250 per night over the next two years. However, the changes in supply and demand are not projected to be even spread across all types of hotels.

Demand for lower priced hotel is projected to grow at an even higher rate than upper-priced hotels at approximately three percent over the next few years. Supply is only projected to increase by the 195 lower-priced hotel rooms in the two hotels currently under construction. To put that in context, there are currently 7691 lower-priced hotel rooms in San Francisco. Even if the hotel rooms under construction come on-line immediately, that only represents a 2.5% increase in supply resulting in a modest increase in occupancy rates in lower-priced hotels. The increased occupancy for lower-priced hotels and the rising prices relative to STRs suggests that consumers will increasingly substitute towards short term rentals as a substitute for increasingly expensive and unavailable lower-priced hotels.

In addition, there is another market for STRs that includes visitors, new residents and business travelers interested in lodging that falls somewhere between a hotel and a formal, longer-term sublease. These consumers are searching for vacation rentals, corporate housing or temporary housing for a couple of weeks. These consumers are not substituting away from hotels but rather appear to be taking advantage of short term rentals hosting platforms as one of the only ways for extended stay rentals. For business travelers at least, newspaper accounts indicate a growing acceptance of STRs and companies that handle reimbursements have started to accept Airbnb as a valid expense item.[27][28]

Finally, upper-priced hotels comprise over two thirds of the supply of hotels in San Francisco and charge approximately $250 per night on average.[29] Prices for upper priced hotels are projected to increase to nearly $300 per night by the end of 2017 and there is no supply of upper-priced hotels planned for at least the next three years. Demand, however, is projected to increase for upper-priced hotels. Entire apartment STRs in comparison only charge about $250 on average and private room rentals only charge about $120 all before cleaning fees which average about $80-$90 and a 20% tax and fee surcharge.[30] It is unclear whether the prices of STRs will rise alongside of hotel prices since there is conceivably a much larger pool of potential STR suppliers who might be induced to enter the market by rising demand.

The analysis presented here suggests that rising prices and reduced availability for upper-priced hotels will lead more affluent consumers to search for more expensive STRs, lower-priced hotels or lodgings outside of San Francisco. In addition, if STRs do substitute in large part for lower-priced hotels, then the increasing affordability of STRs relative to hotels and the scarcity of available lower-priced hotel rooms suggests that more and more consumers will look to short term rentals. At the very least, there is no

---

[27] Concur. *Concur triplink now integrates with Airbnb to provide visibility into booking and spend.* Retrieved from https://www.concur.com/blog/en-us/concur-triplink-now-integrates-with-airbnb-to-provide-visibility-into-booking-and-spend

[28] Said, C. *Business Travelers opt for Airbnb listings instead of hotels.* Retrieved from http://www.sfgate.com/travel/article/Business-travelers-opt-for-Airbnb-listings-6182342.php

[29] PKF reports that 85.1% of hotel rooms in the Market Street submarket are 'upper priced' hotels while 67.8% of hotel rooms in the Nob Hill/Wharf submarket are 'upper priced' hotels.

[30] Please see the 'Marqusee Memo'

evidence to suggest that current market conditions that have led to worries about STRs removing rental housing will lessen in the near future.

EVALUATING THE LOSS OF RENTAL HOUSING FROM SHORT TERM RENTALS

PERMANENT CONVERSION TO STR HOTELS

Short term rentals may remove housing from the long term rental markets through the conversion of rental units to full-time, commercial STR hotels. Unfortunately, data limitations preclude a perfect estimation of the number of STR hotels. Data scraping offers a large amount of useful information to understand the Airbnb market but does not offer data on the exact number of bookings or the length of those bookings. It is possible to get a general sense of the magnitude of the number of commercial users through the occupancy rates estimated earlier. However, these estimates rely on assumptions about the number of guests that leave reviews and the length of each stay. With the qualification that these estimates are mildly conservative approximations, the following table shows the numbers of suspected commercial units defined as listings with an occupancy rate greater than 50%:

Estimated Number of Commercial Airbnb Units: All Airbnb Units (Dec. 2014)

Type of Unit	Occupancy Rate Above 50% (Average of 5.1 Days per Stay)	Occupancy Rate Above 50% (Most Conservative Calculation)
Entire home/apt	413	23
Private room	303	10
Shared room	9	0
Total	725	33

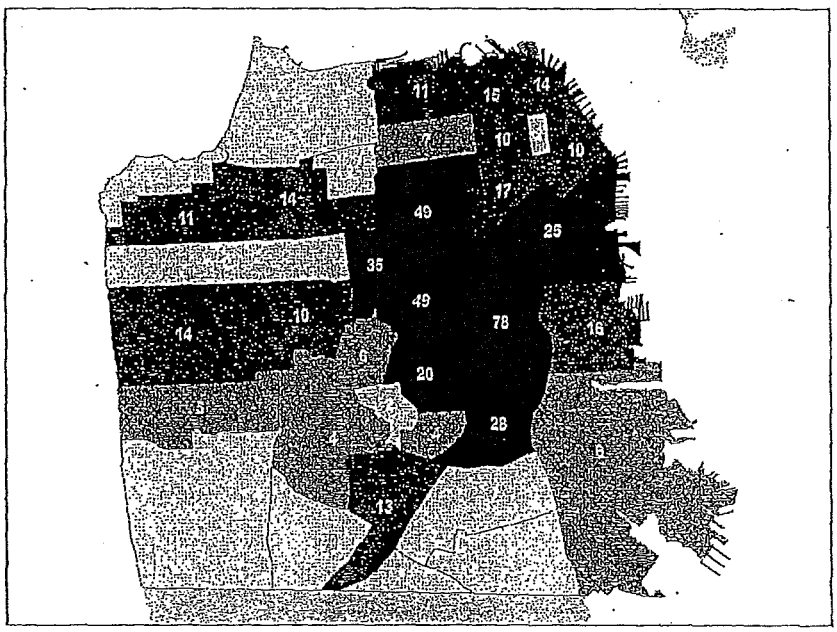
However, some of these units may only reflect a high occupancy rate because they have been listed for a very short amount of time or had a few bookings just after entering the market. It is also possible that listings that joined Airbnb in the spring of 2014 benefited from the increased demand that occurs each year during the high tourist season in summer. The next table only looks at Airbnb rentals that have been listed for at least six months to exclude this source of potential bias:

Estimated Number of Commercial Airbnb Units: Airbnb Units Listed for Minimum Six Months (Dec. 2014)

Type of Unit	Occupancy Rate Above 50% (Average of 5.1 Days per Stay)	Occupancy Rate Above 50% (Most Conservative Calculation)
Entire home/apt	282	18
Private room	211	8
Shared room	4	0

Total	497	33

The above table confirms that there are Airbnb hosts who rent out their listing very frequently and appear to be operating STR hotels. This distribution of listings is not even across the city:

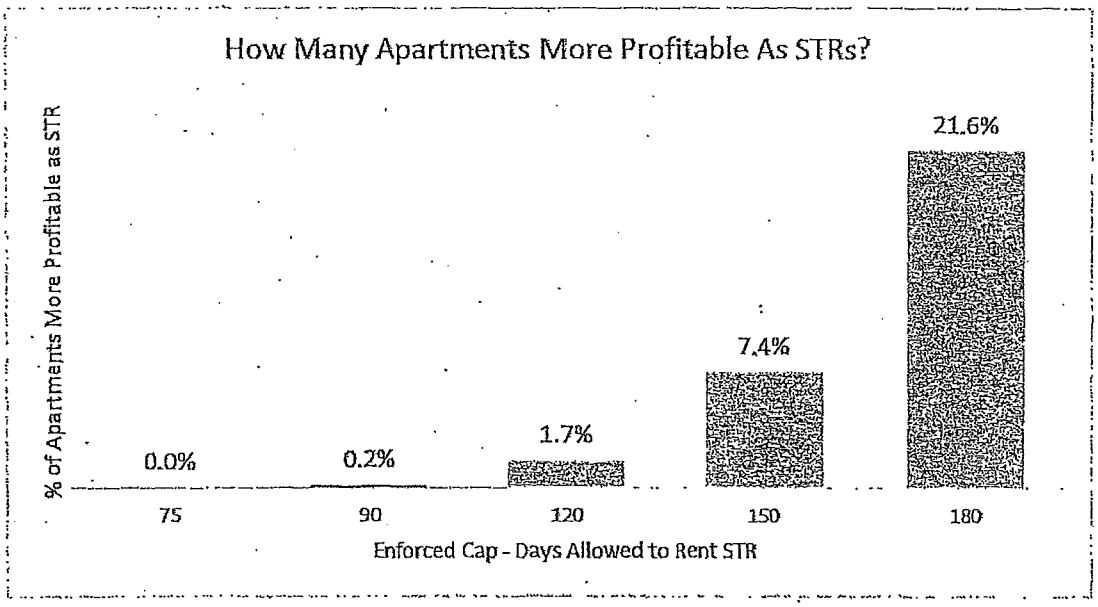


The map above shows the approximately 500 commercial Airbnb units representing 10% of total listings. Simulating the choices landlords face when choosing between a STR and a traditional long term rental helps project whether this number may rise in the future. The following analysis seeks to answer the question: how many days would a landlord have to rent out an Airbnb unit to generate more revenue than the equivalent traditional long term rental. The resulting simulation creates a distribution of the 'Break Even Point' by comparing actual, advertised long term rental prices to short term rents calculated to match the apartment's attributes (location, bedrooms and bathrooms). A full explanation of the methods, the regression model and regression results for predicting STR, the model for the 'Break Even Point' and the results of a simulation analysis confirming these statistics is available in the Appendix.

Methods for Calculating 'Break Even Point'

1. Compare short term rents and long term rents for 8500 apartments listed on Craigslist in 2014. A regression analysis created a predicted short term nightly rent for each listing based on its location, number of bedrooms and number of bathrooms.
2. Assume that operating a short term rentals costs 18% of total revenue. Airbnb charges hosts a 3% processing fee and the two most prominent management companies (Pillow and Guesthop) charge 15% of revenue to manage all aspects of running a short term rental. This underestimates the true cost of running a short term rental.
3. Calculate the occupancy rate required for each short term rental to generate the same income as the apartment listed on Craigslist. Expressed as 'Days Occupied until STR is More Profitable' which multiplies the occupancy rate by 365 to convert into number of days out of the year.

Applying the estimated short term rents to a sample of apartments listed on Craigslist creates a distribution of 'Break Even' occupancy rates expressed as the number of days in a year a short term rental would have to be rented to be as profitable as a comparable long term rental. The median value suggests that, on average, there is an incentive for rational landlords to convert long term units to short term rentals if the unit could be rented as a short term rental for more than 213 days out of the year. The distribution also shows that nearly all of the rental units sampled would have to be rented for more than 120 days a year to be more profitable as a short term rental:



The resulting analysis suggests that many vacant properties are vulnerable to conversion to a short term hotel because they would be more profitable as a full time short term rental than as a long term rental.

[31] The potential for an increase in demand for STRs established earlier suggests that in the absence of effective regulation San Francisco should expect more conversions of vacant apartments to commercial STR hotels.[32]

In summary, this analysis suggests:

1. Some hosts currently run commercial Airbnb units in San Francisco. The number is not entirely clear, but it appears to be approximately five hundred units or 10% of total listings concentrated in the downtown and central neighborhoods.
2. In an unregulated market, the majority of landlords have an incentive to convert their vacant apartments into short term rental hotels if they believe they can achieve occupancy rates above approximately 213 days a year.
3. If the current spatial distribution of commercial units continues, the central and downtown neighborhood will have many more units removed from the long term rental market. As a result, there will be an increase in prices in those areas due to the current very low rental vacancy rates.

There may be landlords who still choose to convert their empty apartments to STRs even if they can't generate as much income than a long term rental. The following section investigates this possibility.

INCREASED WITHHOLDING OF RENTAL UNITS

STRs may remove rental housing from the long term market if the income from a STR allows landlords to hold more rental units off the market or hold them off the market for longer. This scenario does not pose a problem if the government is able to enforce the requirement that hosts permanently reside in

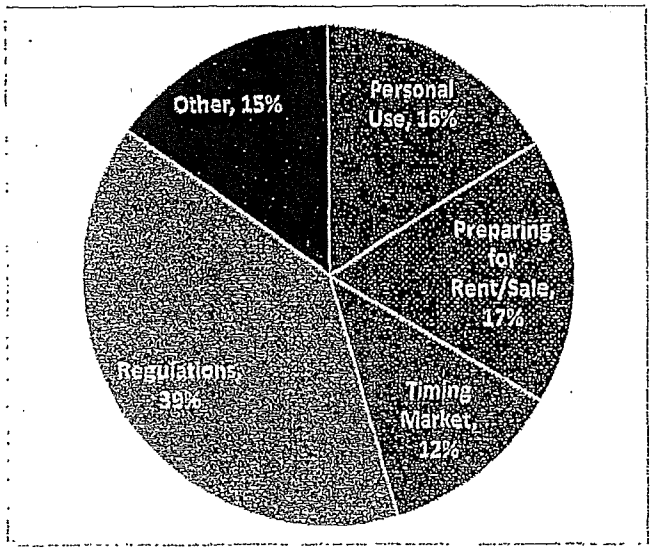
[31] This calculation is only as good as the estimated short term rent. The analysis included simulations of a selection of neighborhoods to confirm that these findings are not dues to poor estimates. This method ran two thousand versions of this same analysis by altering the estimated short term rents each time by a random amount of the margin of error. The resulting distributions confirm these findings and can be found in the Appendix.

[32] The available evidence suggests that approximately 10% of current Airbnb listings operate as full-time, commercial Airbnb hotels and that the relative long term and short term prices are such that many more rental units could be converted profitably to short term rentals in an unregulated marketplace. However, the above simulation analysis fails to incorporate landlords' expectations of future income streams when making a choice between long term and short term rentals and so may misstate a rational landlord's decision making process.

A more accurate estimate of a rational landlord's decision to rent a unit as a short term rental or long term rental projects the expected revenue of a long term and short term rental over many years. The income from a long term rental is varied by the expected turnover of tenants each year and the resulting increase in rents by the allowable increase from the rent board or a resetting of rates to the market price. A full description of the methods and results is available in the Appendix. The simulation confirms the earlier results that, on average, a rational landlord would only prefer short term rentals if she were able to achieve occupancy rates similar to a San Francisco hotel.

the unit being rented as a STR. However, it is difficult to imagine a city agency ever being able to audit whether a resident uses an apartment as their primary residence through reasonable methods.

Landlords in San Francisco already hold units off the market for a variety of reasons. In 2003, Bay Area Economics surveyed landlords in San Francisco in part to determine why landlords withhold rental units:[33]



The pie chart to the left illustrates that many units are held off the market without a plan to rent them out in the near future because of a fear of regulations. The small sample size precludes any definitive claims but does establish the real possibility of landlords operating short term rentals in order to hold more units off the market or hold them off the market for a longer period of time.

Landlords only need to cover their operating expenses through a STR in order to hold a unit off the market without incurring losses. The 2013 Survey of Income and Operating Expenses in Rental Apartment Communities found that the average apartment cost just over $4,500 annually to operate.[34] In comparison, a study commissioned by Airbnb in 2012 established that the average Airbnb listing generated approximately $6,772 in income annually.[35]

It is possible to estimate the revenue currently generated by each listing through information available on Airbnb's website including: the number of reviews, the nightly price, the minimum required stay and how long the unit has been listed. However, the resulting metrics understate the true gross revenue and are inexact approximations.[36] Overall, these numbers should be interpreted as only general

[33] Bay Area Economics. *San Francisco Property Owners Survey Summary Report.* Retrieved from http://www.sfrb.org/Modules/ShowDocument.aspx?documentid=1887

[34] Lee, C. *2013 Survey of Operating Income & Expenses In Rental Apartment Communities*. National Apartment Association. Retrieved from http://www.naahq.org/sites/default/files/naa-documents/income-expenses-survey/2013-Income-Expenses-Summary.pdf Page 60

[35] This data point actually represents the average revenue realized by Airbnb hosts over the last 12 months and not over the 2012 calendar year. It is unclear whether this represents gross revenue or revenue net of fees, taxes and Airbnb charges listed on the website. Data from Rosen Consulting Group study.

[36] The metric understates the true revenue since not all guests leave reviews. In addition, assuming that all guests stayed for the minimum number of nights only provides the minimum revenue. Finally, some guests might have changed their prices and minimum stay requirements over the lifetime of the rental. This makes the resulting statistics less accurate.

approximations of the magnitude of the revenue that listings generate. In addition, this statistic creates misleading results when applied to some units and so the dataset is restricted.[37]

Methods for Estimating Hosts' Revenue

1. Calculate the most conservative estimated monthly revenue (number of reviews per month multiplied by the minimum required length of stay multiplied by the price per night).
2. Calculate progressively less conservative estimates of monthly revenue:
    a) Multiply the minimum length of stay and inflate by how many users did not leave reviews. Airbnb stated in 2012 that only 72% of guests leave reviews
    b) Multiply by the average length of stay instead of the minimum required stay but use the original number of reviews per month. Sources from 2012 and 2014 state approximately 5 nights as the average length of stay.
    c) Adjust for both the average length of stay instead of the minimum and for the underreporting of reviews.

The following table presents the distribution of monthly revenues from the four different estimation techniques and are presented top to bottom in order from most to least conservative. Please note that these are estimates meant to give an approximation of how much revenue listings generate each month on average:

Estimates for Hosts' Monthly Revenue: Select Airbnb Units (Dec. 2014)

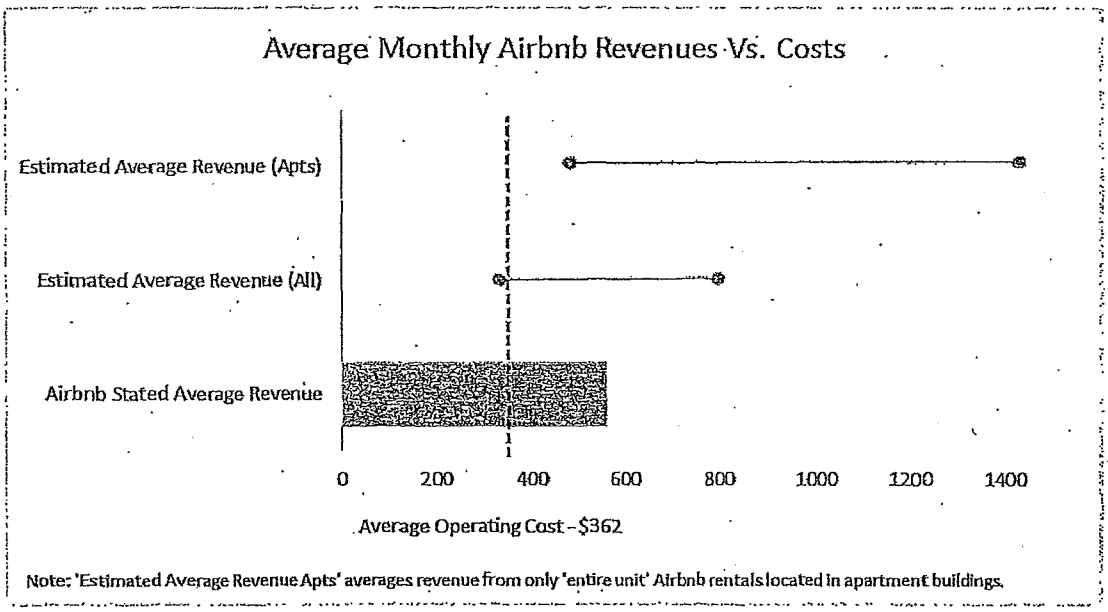
Adjustment Method Applied	25th Percentile	50th Percentile	75th Percentile	90th Percentile	95th Percentile
Nothing (Most Conservative Estimate)	$150	$356	$780	$1,364	$1,800
Number of bookings inflated for missing reviews	$208	$495	$1,083	$1,894	$2,500
Average stay of 5 nights instead of minimum requirement	$398	$956	$1,964	$3,189	$4,137

[37] The following statistics are misleading when calculated for certain units and so the data is restricted to avoid biasing these results. First, these statistics exclude units that have been offered for fewer than six months to remove revenue numbers that might only reflect the occupancy rates during San Francisco's high tourist season during the summer.[37] In addition, it is clear that some units have changed their minimum nights required for a reservation since the unit's reviews per month multiplied by the minimum nights for reservation exceed the number of days in a month. So, these statistics exclude units with a minimum required stay of more than five days to very conservatively avoid the potential for including these inaccurate estimations. These two restrictions reduce the total units for this analysis from 5148 units to 2752 units.

Both increased length of stay and inflated for missing reviews (Least Conservative Estimate)	$553	$1,328	$2,727	$4,429	$5,746

When annualized, the more conservative estimate that just corrects for the under reporting of reviews illustrates that most Airbnb units in San Francisco generate more revenue than the average operating cost of about $4,500 (or approximate $380 monthly). Both the upper range of the estimated revenue that Airbnb units currently generate as well as the average revenue that Airbnb reported in 2012 exceed the national average of long term operating costs.

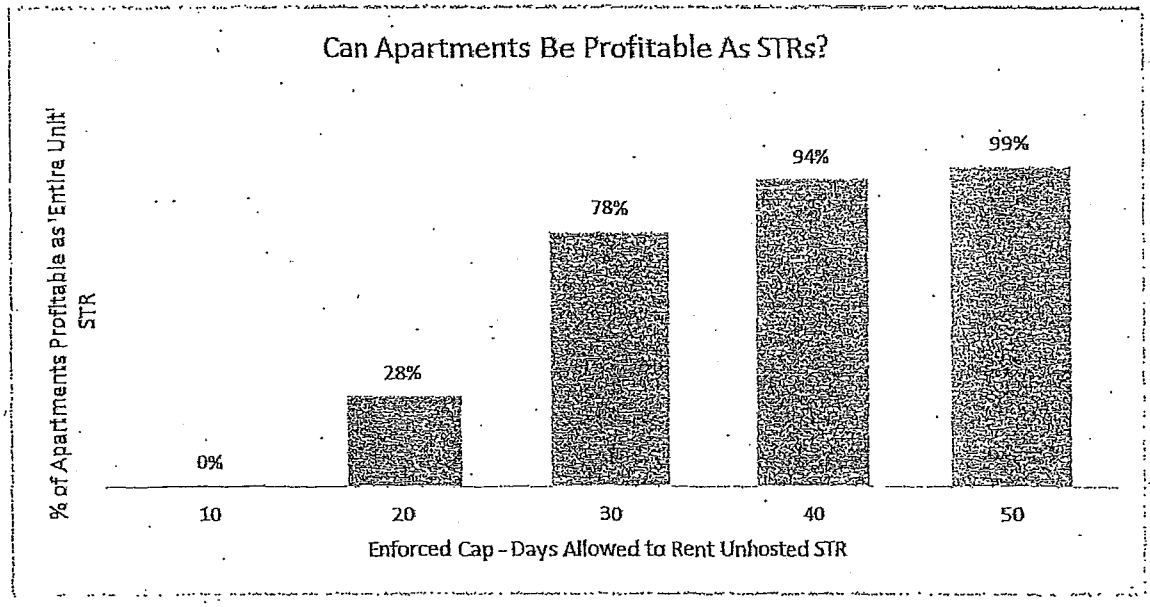
Estimating revenue for only Airbnb listings in apartment buildings illustrates that STR operators in apartment buildings currently generate higher revenues than they pay in annual operating costs.



The chart above establishes that the average Airbnb STR located in an apartment building that is rented out as an entire apartment generates more revenue than the average annual cost of operating an apartment unit.[38] However, these calculations of revenue do not include the costs associated with running a short term rental (managing reservations, scheduling cleaning services, purchasing extra insurance, etc.).

[38] This analysis restricts the Airbnb dataset to only those units that report being located in an apartment. Approximately two thirds of the units report being located in an apartment while most of the rest report being in a house. It appears impossible to estimate a reasonably consistent average operating cost for the owner of a home in San Francisco and so this analysis only uses units in apartments.

Analyzing apartments listed on Craigslist establishes that the majority of vacant apartments could be held off the market at no loss to the landlord through the use of short term rentals. The costs of operating any unit listed on Craigslist is estimated as the square footage multiplied by 4.98, the national average cost per square foot for rental operations.[39] Using a similar methodology to the Break Even Point analysis gives a distribution of how many days a short term rental would need to be rented to break even with costs.[40] This calculation compares the average cost not to the estimated revenue but to the estimated income that includes the costs associated with running at STR.[41]



The above chart shows that, on average, market rate apartments in San Francisco only need to be rented for approximately 24 days on Airbnb to cover operating costs. The majority of sampled Craigslist apartments only need between 19 and 29 days to cover operating costs. This analysis does not suggest that this many apartments would be removed from the long term rental market if STRs were completely unregulated. Instead, this chart suggests that nearly all of the apartments that were listed on Craigslist in 2014 could be profitable as a STR if they were rented for more than fifty days.

In summary, this analysis suggests:

[39] Lee, C. *2014 Survey of Operating Incomes & Expenses in Rental Apartment Communities.* 2014. Retrieved from http://www.naahq.org/sites/default/files/naa-documents/income-expenses-survey/2014-Income-Expenses-Summary.pdf

[40] For this analysis: $O = {}^{M}/_{P_{ST}}$ where O is the occupancy rate; M is the long term operating costs calculated by square foot, and P_{st} is the fitted value for the short term rental net of short term operating costs.

[41] This includes accounting for both the Airbnb processing fee of 3% as well as 15% as the estimated cost of managing a STR over and above long term operating costs.

1. Currently, most Airbnb STRs generate more income than they incur in long term operating costs. This is especially true for Airbnb's that are located in apartment buildings.
2. Landlords have the ability to hold many units off the rental market without incurring operating losses by using Airbnb in an unregulated market. On average, this analysis estimates that apartments in San Francisco only need to be rented for 24 days as an Airbnb rental to cover operating costs.

OVERCONSUMPTION OF HOUSING

The 'overconsumption of housing' made possible by short term rental income threatens long term rental housing by reducing the number of bedrooms available to long term tenants. Essentially, a tenant will rent a higher quality house or apartment (more expensive neighborhood, more bedrooms, more amenities, etc.) than they would otherwise choose or be able to afford only because they can rely on the additional income generated through renting part of their space as a STR. Under current regulations, a registered host can rent out a spare bedroom for an unlimited amount of time.

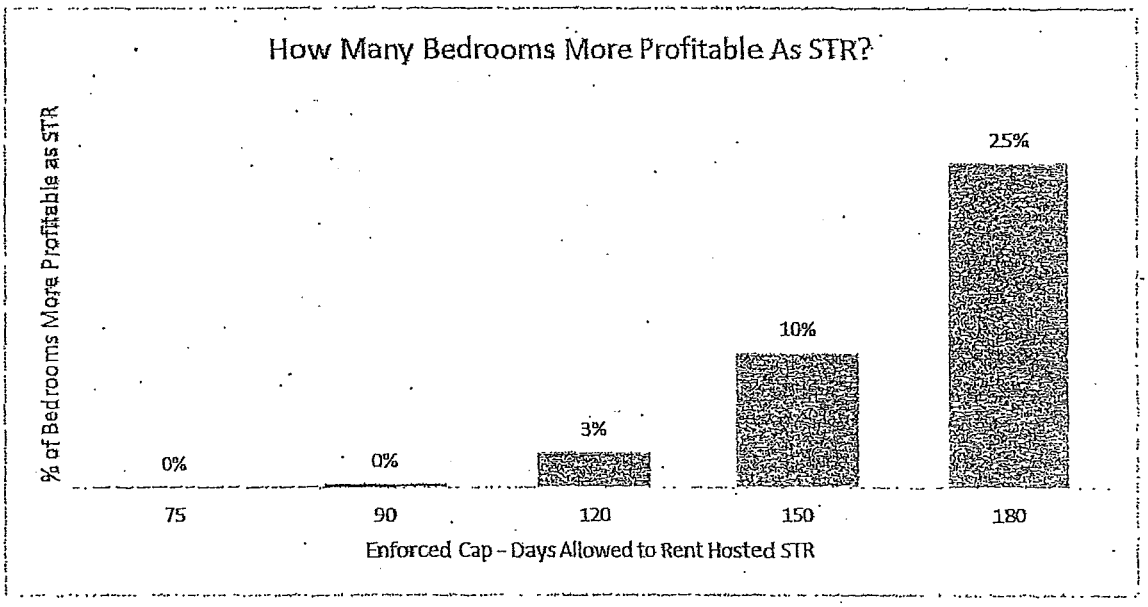
It is possible to investigate how many tenants might be currently removing bedrooms from the long term rental market by analyzing the estimated occupancy rates of hosts offering 'private rooms'. The analysis presented earlier showed that approximately half of the suspected commercial users of Airbnb offered private rooms. However, the average operator of a private room on Airbnb generates somewhere between $200 and $700 per month which is substantially below the median rent per bedroom of $2,800 in San Francisco.[42] This suggests that few hosts of private rooms fully recoup the market rate rent of the bedroom used as a STR.

In addition, comparing Airbnb prices to the price per bedroom of apartments listed on Craigslist gives an estimate of how easily a tenant could recoup the long term rent of a bedroom through a STR. Using the same methodology as estimating the days needed to cover long term operating costs,[43] the distribution below presents the number of days a host would need to rent out their spare bedroom to generate the same revenue as the market rent of that bedroom:

[42] Median rent from: http://blog.zumper.com/wp-content/uploads/2015/03/March-2015-National-Rent-Report.pdf

[43] For this analysis: $O = {}^{R_{LT/Bed}}/_{P_{ST}}$

Where: O is the occupancy rate, $R_{LT/Bed}$ is the rent per bedroom of craigslist apartment (annualized), and P_{st} is the fitted value for a private room short term rental net of short term operating costs (annualized). This analysis is restricted only to craigslist apartments that have more than one bedroom. In reality, many residents will double up in smaller apartments. This analysis may understate the profitability of renting out a private room by not including those situations.



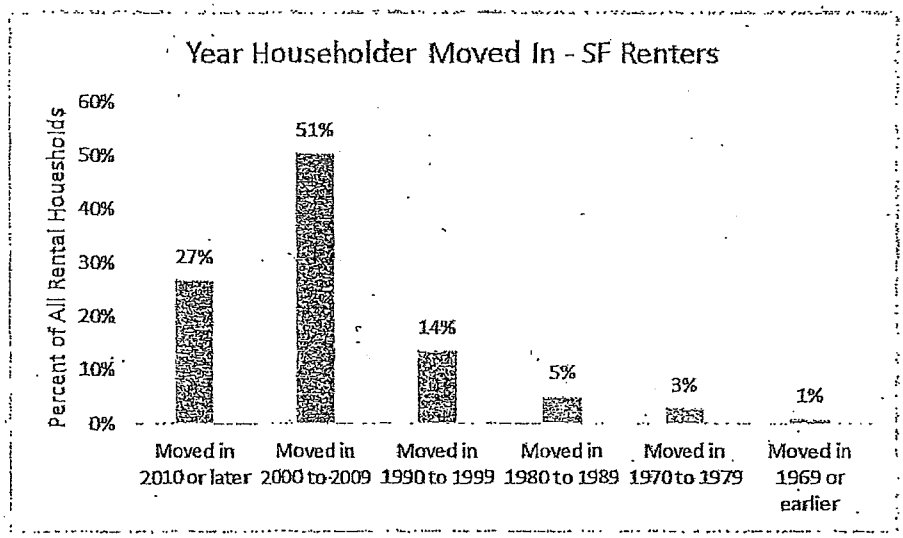
The chart above illustrates that the very few tenants could recoup the full market cost of a bedroom through a STR if they rented the STR for fewer than 120 days. The average master tenant renting a new apartment would have to rent out a spare bedroom for an average of 254 days a year to generate as much revenue as a long term tenant. Even if a new master tenant is willing to pay a 20% premium for full control over the apartment, the average private room listed on Airbnb would still need to be rented for 203 days to generate as much revenue as a long term roommate.

However, this analysis is confounded by a number of factors:

1. The analysis may underestimate the profitability of Airbnb 'private room' rentals by analyzing only apartments from Craigslist that listed more than one bedroom. In reality, many apartments listed as '1 Bedroom' may in fact contain two or more sleeping spaces that could be rented as a STR. In this way, the cheapest apartments have been removed from this analysis which may have been more profitable as a private room STR at lower occupancy rates.
2. Hosts may choose to overconsume housing without recovering the entire amount of foregone rent. A master tenant could highly prefer having more control over the entire unit and be willing to recoup substantially less than she could have earned with a long term roommate.
3. Not all hosts offering private rooms would have rented those bedrooms to long term tenants if STRs weren't possible. This could be because the host is the tenant of a rent controlled apartment and doesn't need the extra income for living expenses. The owner of a non-rent controlled house might not value the additional income from a long term tenant more than the trouble of having that tenant. Finally, owners might be willing to rent out an illegal unit as a short term rental but be unwilling or unable to rent out the unit on a long term basis due to a lack of a full kitchen or minimum safety requirements.

4. Tenants who have lived in their unit for a long time might benefit from rent control and pay substantially below market rates. For these tenants, the above calculations based on market rates underestimate the profitability of renting out a bedroom. The analysis still holds for evaluating the choice a rent controlled master tenant makes when deciding between short term rentals and a long term roommate who could be charged market rent. However, master tenants in rent controlled apartments might be able to make a lot of profit from short term rentals and may choose to do so if they value control over their space more than maximizing revenue.

The following analysis investigates this possibility that master tenants of rent controlled apartments may more easily be able to profit greatly through a STR and eschew offering those rooms to long term roommates. The potential for rent controlled tenants to do so depends on the size of their discount on rent due to rent control. The census reports that 84% of rental units are in buildings built before 1980 which means the vast majority of rental units in San Francisco are most likely covered by rent control.[44] Given that most renters are covered by rent control, the following chart illustrates that many renters are likely receiving deep discounts on rent because they have lived in rent-controlled apartments for more than five years:



The longer a household has stayed in their rental unit the deeper the discount they currently receive. The following table shows the current rent paid by tenants in 2013 as reported by the American Community Survey and the number of apartment available at that price on Craigslist during 2014:[45]

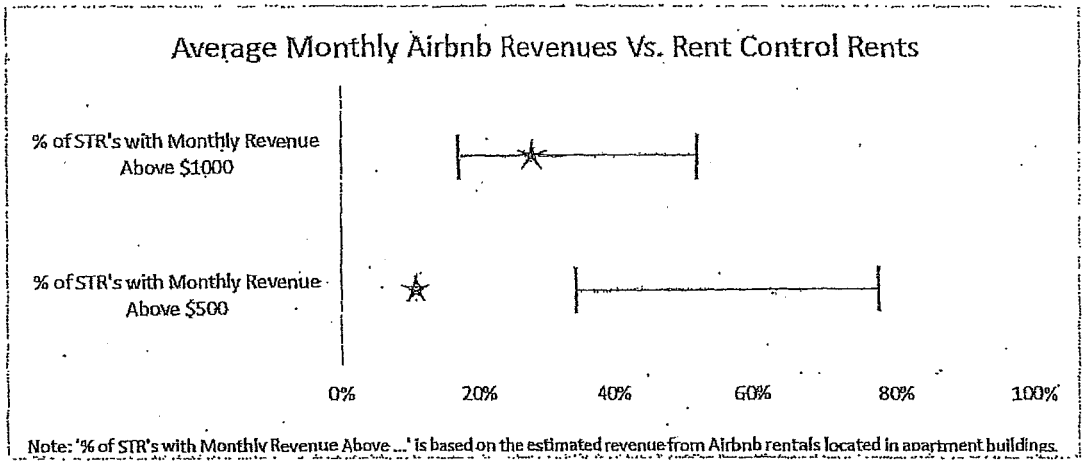
[44] 2013 American Community Survey, 5 Year Sample, Table B25036.

[45] Apartment data from Authors calculations of craigslist data scraped repeatedly during 2014 and cleaned for duplicates. ACS Data from the 2013 American Community Survey 3 year Sample.

Monthly Rent	1 Bedroom Apartments: % of tenants in 1 bedroom Rent Controlled apartments paying this rent	1 Bedroom Apartments: % of vacant 1 bedroom apartments available at this rent	2 Bedroom Apartments: % of tenants in 2 bedroom Rent Controlled apartments paying this rent	2 Bedroom Apartments: % of vacant 2 bedroom apartments available at this rent
$1 to $500	10%	0%	3%	0%
$500 to $1000	24%	1%	9%	0%
$1000 to $1500	23%	2%	10%	0%
$1500 to $2000	26%	6%	12%	2%
$2000 +	17%	91%	15%	98%

The table above demonstrates that a large percentage of tenants pay far less in rent than the current market price. This is especially true for two bedroom units which may be more likely to have extra room for a private bedroom short term rental.

The following chart shows the range of estimates of average revenue of Airbnb units in apartment buildings in San Francisco that generate at least $1000 or at least $500 dollars a month. The blue stars indicate the percentage of rent controlled apartments that pay less than a $1000 or less than $500 a month in rent.



The chart above demonstrates that there is a high likelihood that many rent controlled households that offer short term rentals generate more gross revenue than they pay in monthly rent. The chart shows that approximately 30% of rent controlled households (which is in turn approximately 25% of all rental households) could generate more in monthly gross revenue than they pay in monthly rent.

Proponents of restricting the income generated through STRs for tenants of rent controlled apartments allude to either the increased likelihood of lost roommates or the general unfairness that rent controlled households can more easily profit through a STR. However, these claims are tenuous at best.

First, when opponents of STRs cite a general unfairness of a rent controlled tenant generating profit from a STR they fail to mention to whom this situation is unfair. The landlord does not receive any more or less rent when the master tenant becomes a STR host. In fact, the landlord may benefit if they are able to evict the tenant for cause for breaking their lease and then rent the apartment at the market rent. The situation is also not unfair to the general public or to prospective tenants since if the apartment turned over the rent would reset to market rates and the benefit to rent control would be lost to all. The only plausible 'unfairness' would be to residents who might have been roommates had STRs not existed. However, this isn't the most likely outcome.

Most master tenants paying less than $1000 in rent are likely neither rent burdened and nor do they need the income from a long term tenant to meet rent or living expenses. Also, the economics literature on the distribution of rent controlled housing has demonstrated that rent control does not distribute benefits just towards low income residents but rather distributes benefits across all income classes.[46,47] There is little to support the claim that rent controlled master tenants would rent out their spare bedrooms to long term tenants in the absence of STRs.

The above evidence does however suggest that rent controlled tenants are more easily able to profit from STRs than new tenants who may be choosing to 'overconsume' housing. However, since rent controlled tenants are most likely not removing bedrooms from the market, there is no long term housing lost to protect through STR regulation.

In sum,

1. It is not possible to determine how many bedrooms are taken off of the market by the 'overconsumption' of vacant rental units but the relative prices of STRs and market rate long term rents suggest that this scenario is unlikely.
2. Although long-tenured rent controlled tenants can easily profit from STR, the distribution of the benefits of rent control means that rent controlled tenants might not be removing housing through STRs.
3. In an unregulated market, this analysis suggests that the average new tenant has an incentive to remove a bedroom for STR use if they are able to rent that room for at least 250 days. The analysis also suggests that no tenants will be able to fully cover their rental costs if they rent

[46] Gyorko, J. and Lineman, P. *Equity and Efficiency Aspects of Rent Control: An Empirical Study of New York City.* 1987. Retrieved from http://www.socsci.uci.edu/~jkbrueck/course%20readings/gyourko%20and%20linneman2.pdf

[47] See Jenkins, Blair's *Rent Control: Do Economists Agree* for a review of the literature.

their spare bedroom for fewer than 100 days. This result hold true even if you assume tenants are willing to pay a 20% premium for not having a permanent roommate.

RECOMMENDATIONS FOR REGULATING SHORT TERM RENTALS

This report established that short term rentals currently impact rental housing in San Francisco through the existence of commercial STRs and the likelihood that landlords withhold more rental units using STR income. In addition, the profitability of STRs compared to long term rentals makes the loss of more long term units a worrisome possibility in the context of a very constrained rental market and rising demand for STRs. This section outlines recommendations for how San Francisco should regulate STRs based on the preceding analysis.

Normative Criteria for Recommendations

These recommendations draw on the principles established by the San Francisco Planning Department's second and third policy objectives as directed by the City's General Plan:

"That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

That the City's supply of affordable housing be preserved and enhanced"

In addition, this report advocates for regulations that allow residents to engage in short term rentals according to their individual preferences up until the point that their use of short term rentals conflicts with these two policy objectives.

This reports recommendations are responses to a few of the major choices currently facing policy makers as they debate proposed amendments to the original legislation:

Recommendations:

1. **Increase the current cap to 120 days for any combination of hosted and unhosted STRs;**
2. **Remove the restriction on rent controlled tenants making more revenue than they pay in monthly rent;**
3. **In order to make the law enforceable, institute either a requirement for short term rental hosting platforms to regularly provide non-anonymized data and/or give an enforcement agency the ability to fine hosting platforms for listing illegal short term rentals.**

Rationale: The current cap of 90 days is unnecessarily restrictive. This report shows that the overwhelming number of short term rental units currently rent their listing for far fewer than 90 days. There are also hosts who exceed the 90 day cap and appear to generate a substantial amount of revenue. The relevant policy question is whether changing the cap would alter the incentives of hosts in such a way that induces the conversion of more long term units to STRs. Raising the cap to 120 days under a future regulatory framework that is able to effectively enforce an occupancy rate of STRs will not induce more conversions for the following reasons:

1. Very few landlords can generate more revenue from a STR than from a long term tenant at either 90 or 120 days. If a landlord is seeking to maximize profit then approximately the same very small number of landlords will convert their vacant apartments to STR under both 90 and 120 caps. Since no more housing will be lost, the cap should be raised to allow residents the freedom to rent their STRs for between 90 and 120 days if they so choose.
2. All units appear to be profitable as short term rentals at any cap above 50 days. Since operating costs relative to potential STR income are sufficiently low, this report estimates that nearly all apartments that become vacant could be profitable as a STR for fewer days than the current 90 day cap. In this sense, raising the cap from 90 to 120 days does not alter the decision making of a landlord whose goal is to avoid having a long term tenant and instead rent out to short term tenants. If the policy goal was to protect all rental housing from conversion to STRs at any cost, then the cap should be set to well below 20 days. However, this cap would effectively eliminate short term rentals which is not the policy objective of the Board of Supervisors, the Planning Department or the Mayor.
3. Any enforcement regime will be unable to differentiate between hosted and unhosted rentals. There is no conceivable way that the Planning Department or another city agency will be able to tell whether or not a host is present during a rental. So, it is necessary to set a cap that applies equally to hosted and unhosted rentals.

Rationale: the current restriction on rent controlled tenants generating more income than they pay in monthly rent will most likely not preserve any long term housing and is an inequitable solution. It is true that master tenants in rent controlled apartments might be able to pay their rent entirely through income generated by a STR. However, this policy should be removed for the following reasons:

1. It appears impossible to enforce this provision. Auditing the income and rental statements of all short term rentals to identify scofflaws is infeasible.
2. The evidence presented in this report suggests that there is no reason to believe that rent controlled tenants would rent their extra rooms to long term tenants even if this provision could be enforced. Rent controlled tenants often pay far below current market rates and the economics literature demonstrates that they are not mostly very low income tenants that would need the income from a long term roommate.
3. Allowing rent controlled tenants to profit from STR is not unfair. The landlord does not gain or lose anything more from their tenant profiting than if STRs didn't exist. Instead, restricting rent controlled tenants reduces the number of tourists coming to the city who then generate more

economic activity. It also produces an inequitable situation where the more affluent rent controlled tenants are still easily able to afford their living costs. At the same time, low income rent controlled tenants will struggle with their living expenses when they could have benefited from the revenue generated by STRs at little cost to society.

Rationale: the current law is unenforceable without giving regulating agencies additional powers. The enforcing agency should be able to require short term rental hosting platforms to regularly provide non-anonymized data and/or to be able to fine hosting platforms for listing illegal short term rentals. This requirement is essential because:

1. There is currently no mechanism to identify how many days any one listing is actually booked per year, no way to identify the address of online listings, and there doesn't ever appear to be a means to enforce the permanent residency requirement.
2. If the City is unable to enforce the regulations, current trends of demand and supply for STRs and the maturation of the STR market suggest that more long term housing will be lost to STRs.

APPENDIX

DATA SOURCES

This report relies on data from a number of sources.

1. A fact sheet provided by Airbnb in 2012 and included in the SF Planning Department's public record on STRs;
2. A consulting report by Rosen Consulting Group who had access to Airbnb data for 2012 but offer no transparency into their methodology. The website 'Journalist's Resource' described this study as an internal Airbnb report[48];
3. An economic impact analysis by HR&A associates for Airbnb that was reported on but not released[49] to the public;[50]
4. Data scraped and mapped in August 2014 by an independent journalist[51] (cited as '8/14 Scrape');
5. A news story by Carolyn Said in the San Francisco Chronical relying on data scrapped from the Airbnb website on May 19, 2014, by the data mining company Connotate[52] (cited as SFC);
6. Data scraped and in December 2014 by an independent journalist[53] and provided to author (cited as '12/14 Scrape');
7. Data scraped on 02/09/15 by an independent journalist[54] and provided to author (cited as '2/15 Scrape').
8. A data summary brief, 'San Francisco: Visitor Industry Economic Impact Summary, 2014' by the San Francisco Travel Association provided to the author (cited as 'SFTA').
9. A database of apartment listings from Craigslist was provided by the San Francisco Planning Department to the author and included data for all of 2014. The data was put through an extensive process to remove duplicates which led to a final total of 8,553 observations.

How reliable is this Information?

---

[48] Penn, Joanna and John Wihbey (2015, January 29th). *Uber, Airbnb and consequences of the sharing economy: Research roundup*. Retrieved from http://journalistsresource.org/studies/economics/business/airbnb-lyft-uber-bike-share-sharing-economy-research-roundup

[49] Airbnb contracted HR&A Advisors to create this report. The author contacted HR&A on 3/18/15 for a copy of the report and was told that the report could not be released since it is Airbnb's proprietary information.

[50] Geron, T. *Airbnb had $56 Million Impact on San Francisco: Study.* Retrieved from http://www.forbes.com/sites/tomiogeron/2012/11/09/study-airbnb-had-56-million-impact-on-san-francisco/

[51] Data collected and published by Tom Slee. Retrieved from https://www.google.com/fusiontables/DataSource?docid=1WvonuxK6oy6c6gi7jlvLDlaJtcyHXbx8t0KKGh1p#map:id=3 in February 2015.

[52] Said, C. Window into Airbnb's hidden impact on S.F. *San Francisco Chronical*. Retrieved from http://www.sfchronicle.com/business/item/Window-into-Airbnb-s-hidden-impact-on-S-F-30110.php

[53] Data collected by: Murray Cox of http://insideairbnb.com/ (personal communication with staff in March 2015).

[54] Data collected by: Guss Dolan (http://darkanddifficult.com/) & Anti-Eviction Mapping Project (http://www.antievictionmappingproject.net/) (personal communication with staff in March 2015)

Overall, this data provides a reliable description of the general characteristics and size of the Airbnb market in San Francisco but cannot provide exact figures due to unverified methodologies and imperfections in the data scraping process. The consulting reports by HR&A and the Rosen Consulting Group provide no methodology nor means of verification. It is impossible to tell whether or not their conclusions are biased or interpreted objectively. Data collected from webscrapes may omit some listings or may over-count duplicated listings and so the resulting statistics are inexact. These limitations in the data reinforce the need to corroborate each source against the others.

BACKGROUND INFORMATION ON SHORT TERM RENTALS

The STR market comprises consumers ("guests") renting entire apartments, private rooms, or access to a shared room from property owners or lease holders ("hosts"). Online hosting platforms such as Airbnb facilitate the connections between hosts and guests and earn a fee from both parties for each booking (i.e. the fee per booking model). Others hosting platforms such as Homeaway and VRBO also facilitate the connection between guest and, in addition to the fee per booking model, offer hosts a subscription service for advertising their rentals (i.e. the fee per listing model). Still other hosting platforms such as Craigslist do not generate revenue from either hosts or guests. Hosts and guests are encouraged by hosting platforms to provide reviews of each other. Most municipalities define short term rentals as lasting fewer than thirty days and prohibit turning residences into fully commercial units. STRs may provide a close substitute to hotel rooms or may provide a new type of lodging product by providing additional amenities such as full kitchens, easy access to different neighborhoods, and a more local and authentic experience of an area.

In many ways, short term rentals represent a hybrid between a hotel, a vacation rental and a subleased apartment. From the consumer perspective, short term rentals often resemble a vacation rental where the consumer pays for the use of a home for a specified duration of time. In some cases the guests may be sharing the space with the hosts in which case the experience more closely resembles Couchsurfing, an earlier service that matched travelers with hosts who were willing to share their homes for free. In other cases, guests and hosts barely interact during a short stay that more closely resembles a hotel transaction.

Short term rentals also resemble short term subleases. From a supplier's perspective, the short term rental business resembles repeated short term subleases. Suppliers provide guests with sleeping quarters and access to a bathroom and sometimes other amenities. They must pay upkeep costs in between tenants for cleaning and maintenance work. In addition, they are responsible for property and/or income taxes and bear the costs of damages associated with tenant negligence. Suppliers also face some of the same risks as traditional sub-lessors in the form of bad tenants who are difficult to evict.

The growth of associated services and the maturation of the STR market may encourage more commercialization and increase the ability of causal users to engage in STRs. Hosts can increasingly rely on API integration to seamlessly post listings across multiple short term rental platforms. Full service

listing management services take all of the effort and work out of hosting a STR.[55] Still other services help hosts maximize their revenue through real time pricing algorithms.[56]

Many proponents of STR claim that the nature of online reviews will self-regulate the market and ensure high quality experiences for guests. The available evidence suggests that online marketplaces do not fully self-regulate. Online marketplaces that rely on profiles and digital reputations may facilitate racial discrimination. A study of Airbnb in New York City found that non-black hosts charge 12% more for rentals controlling for all information visible on the website.[57] Airbnb's rating system also fails to differentiate listings through their reputation based system since nearly 95% of ratings are 4.5 or 5 stars (Airbnb's rating system has a maximum of 5 stars). Moreover, it is unclear what these ratings really mean. There is only a very weak correlation between the ratings of properties listed on both Airbnb and TripAdvisor.[58] In general, users of reputation based marketplaces seek out reciprocal positive reviews. In this way, these reputations are probably upwardly biased.[59][60] More recently, Airbnb has acknowledged potential problems of bias and has instituted new structures to encourage more honest reporting.[61]

BRIEF DISCUSSION OF OTHER THREATS OF SHORT TERM RENTALS

INCREASED TENANT EVICTIONS

Many tenants may want to offer short term rentals in their unit without fully understanding the risks involved. Leases may have clauses in them making subleasing a violation of the lease or specifically prohibiting short term rentals. Tenants hosting short term tenants would be opening themselves up to an eviction for cause without fully understanding the risks. Other leases may not have specific language about subleasing or short term rentals but might have language about illegal uses of the unit. Most hosts in San Francisco are currently out of compliance with current short term rental regulations and so would also be opening themselves up to being evicted.

The evidence is difficult to come by, but it there appears to be a rise in evictions for breach of lease that correlates to the rise of short term rentals in San Francisco. However, there is also a general increase in

---

[55] Examples include Pillow and Guesthop.

[56] Examples include BeyondPricing and Everbooked

[57] Edelman, Benjamin G. and Luca, Michael, Digital Discrimination: The Case of Airbnb.com (January 10, 2014). Harvard Business School NOM Unit Working Paper No. 14-054. Available at SSRN: http://ssrn.com/abstract=2377353 or http://hbswk.hbs.edu/item/7429.html

[58] Zervas, Georgios and Proserpio, Davide and Byers, John, A First Look at Online Reputation on Airbnb, Where Every Stay is Above Average (January 28, 2015). Available at SSRN: http://ssrn.com/abstract=2554500

[59] Overgoor, J., Wulczyn, E. & Potts, C. (2012). Trust Propagation with Mixed-Effects Models. In J. G. Breslin, N. B. Ellison, J. G. Shanahan & Z. Tufekci (eds.), ICWSM, : The AAAI Press. Retrieved from http://web.stanford.edu/~cgpotts/papers/OvergoorWulczynPotts.pdf

[61] McGarry, C. (2014, July 11). Airbnb revamps reviews to encourage more honesty. *TechHive.* Retrieved from http://www.techhive.com/article/2452750/airbnb-revamps-reviews-to-encourage-more-honesty.html

eviction pressure due to rising rents that incentivize landlords to put pressure on long tenured tenants in rent controlled apartments. It is inappropriate to claim from this data that STRs are responsible for the increase in evictions, but the correlation and anecdotal evidence do buttress the claims that the phenomenon is happening.[62]

	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015[63]
Breach of Rental Agreement	399	442	561	468	607	738
Illegal use of Unit	37	20	26	41	42	91

INCREASED LEGAL LIABILITIES

Insurance companies consider short term rentals as a form of commercial use in the same way as the operation of a bed and breakfast.[64] Renters and homeowner's insurance will not cover damages incurred through the use of a short term rental. Airbnb offers hosts supplementary insurance which increases the protections for hosts but only if their primary insurer accepts their claim. Owners and residents may be increasing their potential liability for damages to their units or from lawsuits by short term tenants if they only have insurance meant for strictly residential use. This could be especially true in San Francisco where the prohibition of accessory dwelling units (ADU, i.e. 'in-law unit') and restrictive zoning codes create illegal housing units that have not been inspected to be up to code.

Landlord-tenant conflicts are regulated similarly to traditional leases in some cases and hotels in others. California recognizes STR guests who stay in a rental for more than thirty days to have the same rights as long term tenants in some situations.[65] In this way, suppliers face many of the same risks of sublessors but appear to not take the same legal precautions. Some hosts ask guests to sign a contract or rental agreement as a condition of rental.[66] However, it appears that the majority of short term rentals do not require any written or signed terms.[67] The lack of clearly delineated rights and responsibilities could make future litigations more difficult in cases of conflict.[68] Tenants and landlords in California face the

[62] Dickey, M. *some Airbnb Hosts in San Francisco Are At Risk Of Eviction.* Retrieved from http://www.businessinsider.com/airbnb-hosts-san-francisco-risk-eviction-2014-4

[63] All data Retrieved from Sf Rent board at http://www.sfrb.org/index.aspx?page=46

[64] Interviews of an insurance representation from a national insurance company as well as an interview with a lawyer specializing in San Francisco rental housing.

[65] California Department of Consumer Affairs. *General Information about Landlords and Tenants.* Retrieved from http://www.dca.ca.gov/publications/landlordbook/whois.shtml

[66] Airbnb. *Can Hosts Ask Guests to Sign a Contract.* Retrieved from https://www.airbnb.com/support/article/465?topic=223

[67] Scan by author of 50 listings on Airbnb and Homeaway on 3/30/15 found only a single requirement for a written contract.

[68] G3MH. *Landlord-Tenant Issues in San Francisco.* Retrieved from http://www.g3mh.com/downloads-2014/8_2014_Landlord_Tenant_Issues.pdf

prospect of having to go to the courts to formally evict any guests who refuse to leave after staying for more than thirty days.[69]

Hosts also may be required to comply with the American's with Disabilities act depending on the circumstances although this area of law remains unsettled. Owner-occupied residences are exempt from ADA requirements but units rented out full time for STRs may have to be ADA compliant.[70]

Some legal analysts believe that although it is unclear whether hosts are covered by the ADA, it is only a matter of time before ADA lawsuits begin.[71] Other analysts claim the short term rentals will most likely be covered by the ADA and similar state laws because of their similarity to timeshares which the DOJ has recently found to be "places of lodging."[72]

In addition, the Fair Housing Act applies to STRs and it is illegal to discriminate against a potential renter based on race, religion, national origin, gender, familial status or disability. Both Federal and California state laws (i.e. the Unruh Act) apply.[73,74,75]

DISRUPTIVE BEHAVIOR OF STR GUESTS

Increased use of short term rentals bring more and more visitors into neighborhoods and into residential buildings. STR guests have fewer incentives to create or maintain good social relations with other residents and may be more disruptive. Bachelor parties or visitors with a late night schedules would increase the noise and disturbances for the immediate neighbors. In addition, giving STR guests access to buildings raises safety concerns for all residents if keys are copied or lost, security gates are left open or criminals are given access to the building.

LOSS OF COMMUNITY

---

[69] Bort, J. *Airbnb Host: A Guest Is Squatting In My Condo And I Can't Get Him to Leave.* 2014. Retrieved at http://www.businessinsider.com/airbnb-host-cant-get-squatter-to-leave-2014-7#ixzz38EUXm1xU

[70] Title III-1.300 of the ADA exempts residential dwelling units. However, time shares and vacation homes which are commercial in nature are sometimes covered by the act. The Department of Justice rules stress that "the extent to which the operations resemble those of a hotel, motel or inn" dictate whether or not a vacation home or time-share should be ADA compliant. Airbnb advises its hosts that most are not 'a place of public accommodation' and so are exempt from the ADA. However, it warns that the ADA may apply to hosts who offer more than five rooms.

[71] Wilson, M. (2014, August 14). Could Housing-Sharing Open the Door for ADA Litigation? [Web log post]. Retrieved from http://blogs.findlaw.com/strategist/2014/08/could-house-sharing-open-the-door-for-ada-litigation.html

[72] Gladstone, M. B. (2014, October 15). *What the Final New Airbnb Legislation Means for You, Your Tenants and Your Liabilities.* Retrieved from http://www.hansonbridgett.com/Publications/articles/2014-10-landuse-term-rentals.aspx

[73] Eichner, M. (2013, November 28). *Are temporary rentals covered by fair housing laws?* Los Angeles Times. Retrieved from http://articles.latimes.com/2013/nov/28/business/la-fi-rentwatch-20131201

[74] Fishman, S. *How to Screen Renters on Airbnb, VRBO, and Other Short-Term Hosting Sites.* Retrieved from http://www.nolo.com/legal-encyclopedia/how-screen-renters-airbnb-vrbo-other-short-term-hosting-sites.html

[75] *Unruh Civil Rights* Act. Retrieved from http://www.dfeh.ca.gov/Publications_Unruh.htm

Increased concentration of short term rentals in neighborhoods removes long term residents who build functioning health communities. Taken to an extreme, this would create a hallowing out of neighborhoods as the percentage of long term residents drops below the density required to support cultural or community institutions.

SUMMARY OF PROBLEMS SHORT TERM RENTALS POSE TO RENTAL HOUSING

The following chart summarizes this report's analysis of the current impact of STRs in San Francisco:

	Finding	Qualification/Notes
Overall Impact	5000-7000 total STR listings which represent a substantial fraction of vacant rental units.	Unclear the number of duplications across hosting platforms and the number of unique properties with a STR.
	High concentration of Airbnb listings in central and northern neighborhoods	
Conversion to STR Hotels	Estimated 500 commercial Airbnb hotels	Conservatively estimates this figure by only including STRs listed for more than six months on Airbnb, with an occupancy rate above 50%. This is an approximation that assumes that each stay is for the average duration of 5.1 nights.
	High concentration of 'Airbnb hotels' in central and northern neighborhoods	
Withholding of rental units from market	The current estimated average revenue for Airbnb's in apartments exceeds the average operating costs for apartments.	
Overconsumption of Housing (loss of roommates)	Current Airbnb 'private room' listings do not generate as much revenue as the median per bedroom rent in SF but do generate more than the rent of approximately 30% of rent controlled apartments (25% of all apartments)	

The following chart summarizes this report's analysis of the incentives involved with STRs and how STRs could impact rental housing in San Francisco in the future:

	Finding	Qualifications/Notes
Overall Projections	Increase in demand for STRs due to constrained hotel supply which substitutes for STRs.	Unclear how much of the increased demand for hotels will translate into demand for STR and how much will extend to hotels in areas outside of San Francisco.
	Increase in demand for STRs due to increased acceptance of STRs among business travelers.	
	Increase in demand by continuing to serve extended STR consumers who have no other formal options.	Extended STR consumers are those who want to stay in San Francisco for between a week and a month.
Conversion to STR Hotels	Median of 213 days to make more money from a STR than a long term rental.	This does not indicate that half of apartments will convert to STR hotels if the cap is raised to 213. However, it points to the overall profitability of STRs that are operated like hotels
	Very few apartments more profitable above 120 days	There does not appear to be an incentive to convert a long term rental into a STR if there is an enforced cap of 120 days.
Withholding of rental units from market	Apartments in San Francisco need to be rented as a STR on average for 24 days to generate as much revenue as the long term operating costs of the unit.	This revenue figure does not include the costs of maintaining a STR which is roughly estimated at 18% of revenue.
Overconsumption of Housing (loss of roommates)	Uncertainty around whether rent controlled tenants would actually rent spare bedrooms to long term roommates precludes projections.	

METHODOLOGY FOR BREAK EVEN POINT ANALYSIS

This section explains the methodology for determining the break even occupancy rate between short term rentals and long term rentals in San Francisco. This analysis seeks to answer the question: how many days of the year would a short term rental need to be rented to be as profitable as a long term rental? This analysis uses the data set of Airbnb units scraped in December 2014 as it appears to be the most complete and accurate data available.

The following variables are included in this calculation:

P_{LT} = Annualized rent of an apartment rented as a long term rental. This is the actual monthly price listed on craigslist for an apartment in San Francisco multiplied by 12. Craigslist units with a price per bedroom below $700 are removed since they all appear to be advertising for roommates instead of for entire units.

P_{ST} = Estimated annualized price of an apartment rented at 100% occupancy as a short term rental on Airbnb. This is a value fitted to the specifics of one of the Craigslist apartments. A number of regressions were run to test different functional forms using the number of bedrooms, number of bathrooms and a dummy variable for each of the 38 planning department defined neighborhoods. These regressions were only run on the subset of the Airbnb units that are listed as entire units (as opposed to just private rooms or shared rooms). For Craigslist units that did not list information about a bathroom, the functional form specification is:

$$P_{ST} = \alpha + \beta\, Bedrooms + \beta\, Bedrooms^2 + \beta\, Neighborhood_i + \varepsilon$$

Where α is the intercept, Bedrooms is the number of bedrooms that a short term rental has, Bedrooms squared is the squared number of bedrooms in a short term rental, $\beta\, Neighborhood_i$ represents a set of dummy variables for all but one of the neighborhoods defined by the planning department and ε is the error term. For craigslist units whose listings included information about the number of bathrooms, the functional form is:

$$P_{ST} = \alpha + \beta\, Bedrooms + \beta\, Bedrooms^2 + \beta\, Bathrooms + \beta\, Neighborhood_i + \varepsilon$$

The coefficients from these regressions are used to estimate what each craigslist apartment would be able to charge as a short term rental. This gives an estimated nightly short term rental rate which I then multiply by 365 to create an estimated annualized short term revenue.

C_{ST} = annual cost to running a short term rental over and above normal maintenance costs. This includes fees, cleaning and maintenance costs and hotel taxes. Two of the higher profile providers of short term rental management and cleaning services charges 15% of gross revenue.[76][77] This service provides cleaning services, pre-reservation home preparation, managing guest interactions, price optimization, screening potential guests, and emergency support. In addition, Airbnb charges a 3% fee to the landlord for the processing the booking. This leads to a total short term operating cost of 18%. However, none of these costs are included in the normal maintenance of an apartment a landlord must pay each year which include more major repairs, building management, depreciation, and property taxes among others.

M = Annual long term maintenance costs for being a landlord. The 2013 Survey of Operating Income & Expenses In Rental Apartment Communities found that the average annual operating expenditure for

[76] Retrieved from https://www.pillowhomes.com/
[77] Retrieved from http://guesthop.com/

multifamily units in the San Francisco-Oakland-Freemont MSA is $7.68 per square foot.[78] This figure applies to both long term and short term rentals and so drops out from the model. It is possible that it does not apply evenly to both long term and short term rentals but this analysis assumes that they are the same.

Model

The research question is concerned about the expected income a landlord stands to gain or lose by choosing to withhold her unit from the long term market and instead rent it out as a short term rental. The outcome of interest is the breakeven occupancy rate that leads to equivalent short term rental income and long term rental income for the next year:

$$[P_{ST} \times (1 - C_{ST}) \times O\,] - M = P_{LT} - M$$

Simplifying and rearranging terms leads to our model:

$$O = \frac{P_{LT}}{P_{ST} \times (1 - C_{ST})}$$

The resulting values are used to evaluate the occupancy rates based on the fitted model. However, in this equation, P_{LT} and C_{ST} are known values but P_{ST} is a constructed variable subject to uncertainty. The regression model explains approximately half of the variation in short term rental prices. This uncertainty is included in the model through a simulation of the average one and two bedroom unit listed on Craigslist for five neighborhoods. So, instead of using single values, the simulation analysis incorporates the following distributions:

P_{LT} = normally distributed with a mean equal to the average rent and with a standard deviation from the data used to calculate the mean. This is calculated by neighborhood separately for one and two bedroom units.

P_{ST} = the fitted value equal to characteristics of the apartment under consideration in the simulation. This is also assumed to be normally distributed with a standard deviation equal to the standard error of the regression.

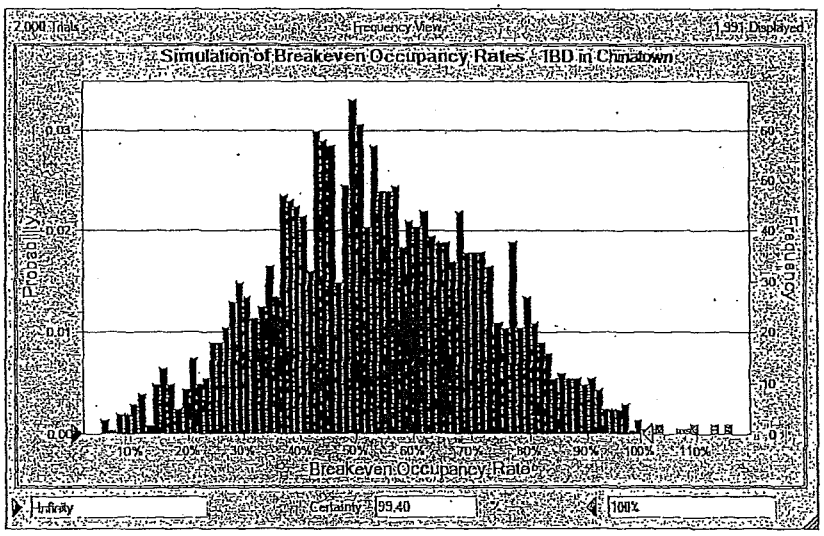
With the same model, two thousand trials were run using those distributions to estimate the breakeven occupancy rate for each typical one and two bedroom unit in five different neighborhoods of interest. The results confirm the general distribution of breakeven occupancy rates. The simulation additionally

[78] Lee, C. *2013 Survey of Operating Income & Expenses In Rental Apartment Communities*. National Apartment Association. Retrieved from http://www.naahq.org/sites/default/files/naa-documents/income-expenses-survey/2013-Income-Expenses-Summary.pdf

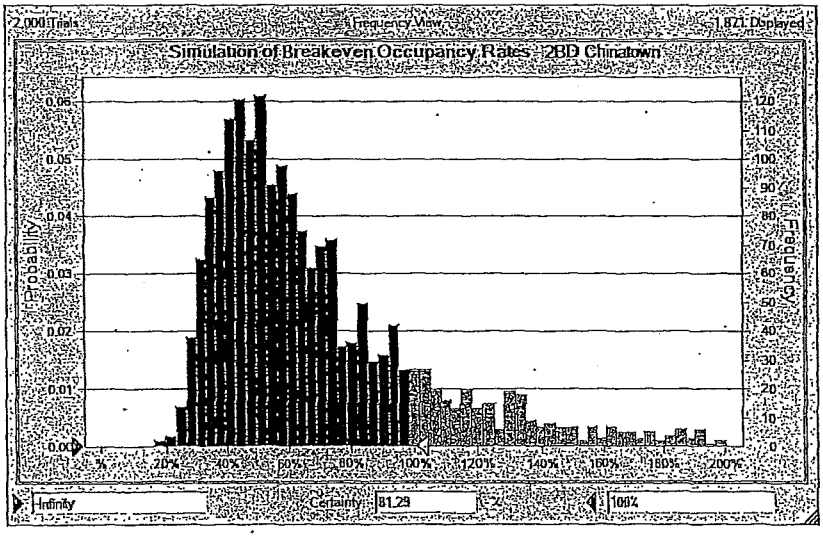
provides a measure of confidence for predicting whether units are more profitable as a short term unit rather than a long term unit.

This resulting simulations illustrate the certainty with which the model estimates that a particular apartment could be more profitable as a STR than as a long term rental.

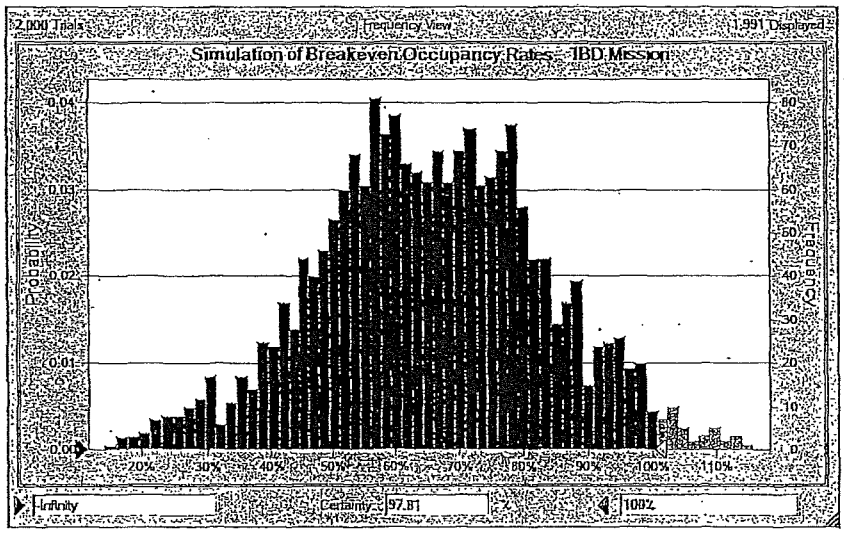
Typical 1 Bedroom Apartment in Chinatown:



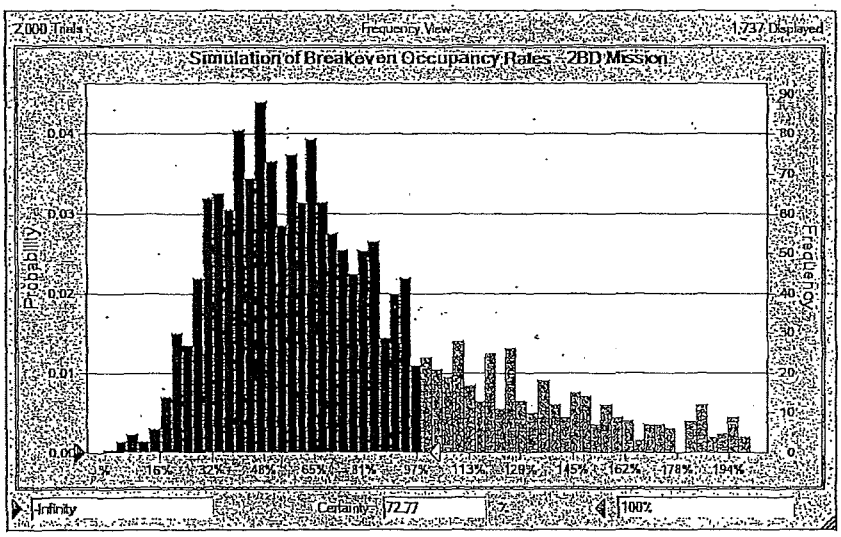
Typical 2 Bedroom Apartment in Chinatown:



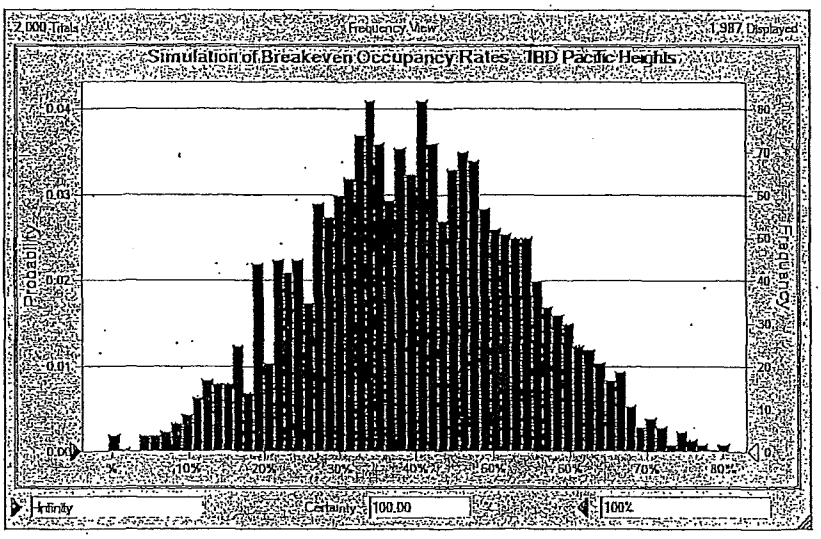
Typical 1 Bedroom Apartment in Mission:



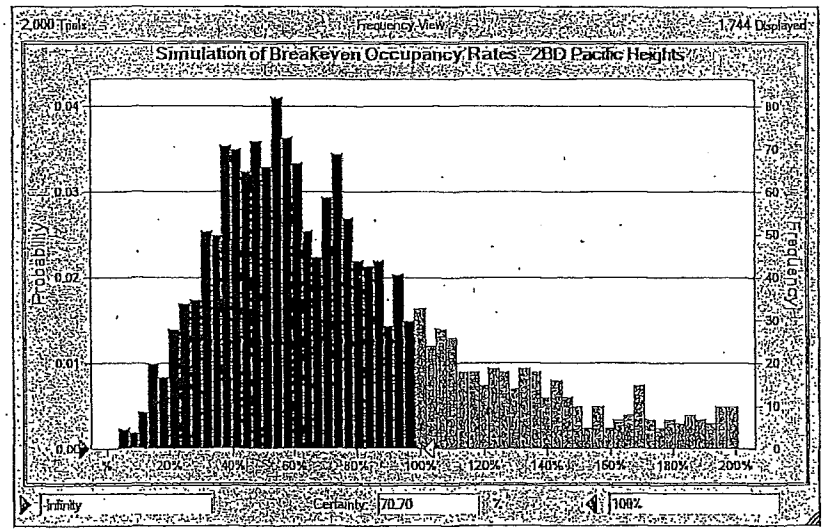
Typical 2 Bedroom Apartment in the Mission:



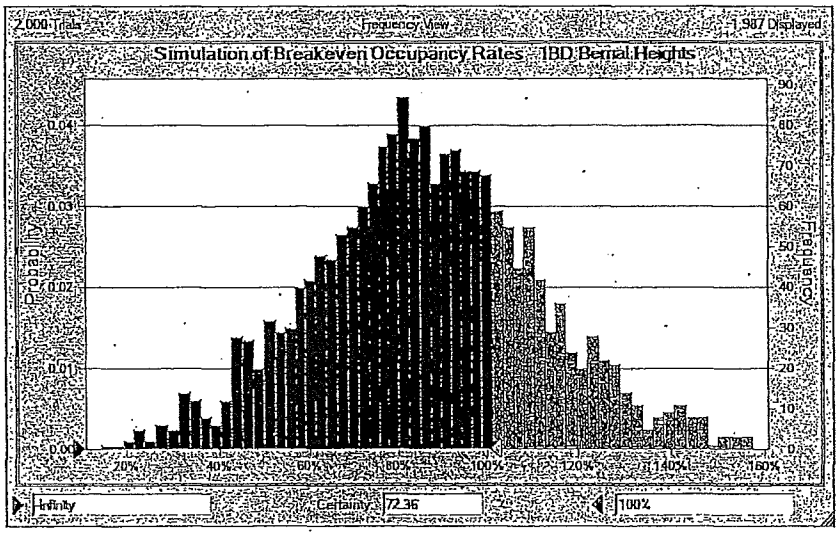
Typical 1 Bedroom Apartment in Pacific Heights:



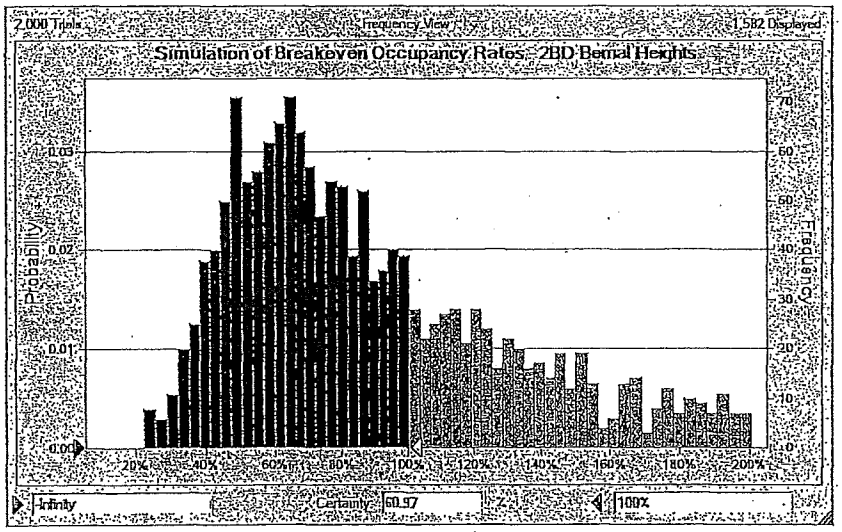
Typical 2 Bedroom Apartment in Pacific Heights:



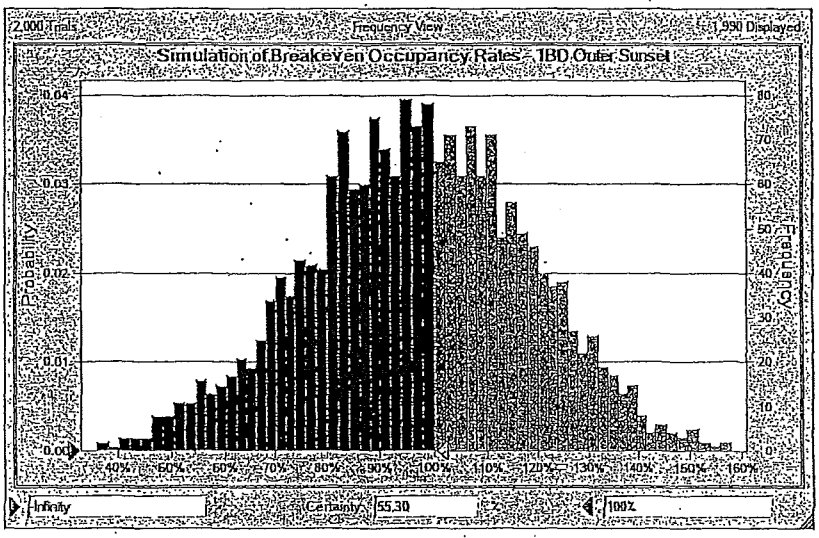
Typical 1 Bedroom Apartment in Bernal Heights:



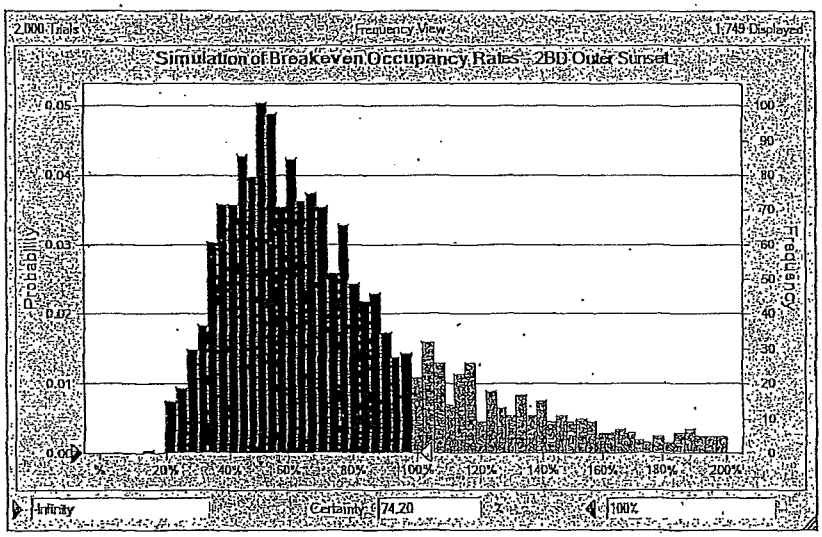
Typical 2 Bedroom Apartment in Bernal Heights:



Typical 1 Bedroom Apartment in the Outer Sunset:



Typical 2 Bedroom Apartment in the Outer Sunset:



METHODOLOGY FOR LANDLORD DECISION WITH DISCOUNTED FUTURE INCOME STREAMS

This simulation builds off of the Break Even Point methodology to incorporate landlords' expectations of future income streams for long term and short term rentals. Surveys of landlords in San Francisco show that 45% of landlords say that rent control makes being a landlord more difficult and 61% say eviction controls have at least some impact on increasing the difficulty of operations.[79] To account for this, this

[79] Landlord Survey, page 23

simulations incorporates a rational landlord's accounting of expected losses from rent control when accepting a long term tenant.

Landlord's income streams for long term and short term rentals are simulated separately for the average one bedroom apartment in each of the five neighborhoods with the highest concentration of expected commercial units. These neighborhoods are simulated to test the impact of different caps on unhosted rentals on the expected profitability of short term rental hotels. The current regulatory framework suggests that it is possible to successfully enforce regulations on the number of nights an unhosted rental can be rented. However, other regulations around ensuring that a landlord is the permanent tenant appear to be very difficult to enforce.

The simulation uses several assumptions to model a landlord's decision about expected income streams. The allowable rent control increase in San Francisco is set at 60% of the consumer price index (CPI).[80] For this analysis, I assume that a landlord expects that inflation will continue at the most recently announced annual CPI for the Bay Area of 2.5%.[81] The expected annual allowable increase under rent control is then 1.5%. The landlord will also have an assumption about the growth of market rate rents. In January 2015, rents grew by an average of 14.9% year over year.[82] Although this increase is not spread evenly across the city. I will conservatively estimate that for any place in the city a landlord should expect a five percent increase in rents year over year for the next several years.

In summary, this simulation includes the following variables and assumptions:

i = the inflation rate assumed to be the current consumer price index of 2.5%

r_m = the growth rate of market rents, assumed to be 5%

r_{ST} = the growth rate of short term rents. Assumed to be the same as the growth of hotel rates in the San Francisco metropolitan area which has averaged 3.9% from 1988 to 2014. However, the past four years have seen approximately 10% year over year growth in nightly hotel rates and this growth is projected to taper off to between 4% to 8% over the next four years. This analysis assumes that landlords conservatively expect short term rents to grow by 5% over the next ten years.

r_c = the allowable rent increase for a rent controlled unit, assumed to be the most recent value of 1.5%.

R_o = the base market rent charged at the beginning of tenancy ($t = 0$).

t = number of years

C_{ST} = annual cost to running a short term rental over and above normal maintenance costs. Please see previous appendix section for explanation. Value assumed to be 32% of total short term revenue.

---

[80] Rent board http://www.sfrb.org/Modules/ShowDocument.aspx?documentid=1939

[81] http://www.bls.gov/regions/west/news-release/ConsumerPriceIndex_SanFrancisco.htm

[82] Zillow research: http://www.zillow.com/research/jan-2015-market-report-8951/

O = occupancy rate of the short term rental hotel. Assumption is varied between 60, 90, 120, 230 and 300 days. 60, 90 and 120 days model the three most commonly suggested caps on unhosted rentals. 230 and 300 days represent that national average hotel occupancy rate and the San Francisco hotel occupancy rate respectively.

The net present value of the income stream for long term rents depends the landlord's expectations of the length of tenure of their long term tenant because of the impact of rent control. The American Community Survey 5 year sample for San Francisco shows that of the 453, 017 renters in San Francisco, 358,096 (79%) lived in the same residence a year ago.[83] The economics literature has established that under rent control the probability of turnover is a conditional on the tenant's length of tenure: people in rent controlled apartments are more likely to stay in their apartment the longer they've been in that unit.[84] However, for simplicities sake I will assume that the probability of any tenant leaving in any year is 20%.

The simulation predicts whether the rent should reset to market rates or continue to grow by the rate allowed by the rent control board each year for ten years. This income stream is converted to a net present value. The simulation compares that figure against the present discounted value of ten years of short term rental income where the nightly rate tracks the growth of hotel prices. This analysis is run for the five different occupancy rates. This creates five distributions of the expected profit or loss from renting a unit as a short term rental instead of a long term rental. The analysis assumes that rational landlords will choose the higher value.

The final results of the simulation for the five neighborhoods of interest ([redacted])

Cap		Mission	Castro/Upper Market	Haight Ashbury	Western Addition	Bernal Heights	South of Market
60	Expected Value	-272193	-251236	-243458	-254114	-233842	-267591
	Confidence it's Converting	0	0	0	0	0	0
90	Expected Value	-236864	-210302	-207687	-216399	-206769	-215402
	Confidence it's Converting	0	0	0	0	0	0

[83] Source: U.S. Census Bureau, 2009-2013 5-Year American Community Survey B07013: Geographic Mobility in the past year by tenure for current residence in the United States.

[84] Ault paper on rent control http://ac.els-cdn.com/S0094119084710096/1-s2.0-S0094119084710096-main.pdf?_tid=6a01ec3a-edd5-11e4-9eeb-00000aab0f6c&acdnat=1430246339_d284a3f425f5a3b384afc08b27e0dda2

120	Expected Value	-201535	169368	-171916	-178683	-179696	-163212
	Confidence it's Converting	0	0	0	0	0	0
230	Expected Value	-71994	-19277.5	-40756.6	-40392.6	-80427.6	28149.22
	Confidence it's Converting	0	0	0	0	0	32.9
300	Expected Value	10441.04	76234.89	42708.61	47610.5	-17256.8	149924.8
	Confidence it's Converting	13.6	100	95.7	99	0	100

The table above confirms the earlier conclusion that long term rentals are still more profitable to the rational landlord unless the enforced cap approaches hotel occupancy rates of above 250.

REGRESSION MODEL AND RESULTS FOR PREDICTING VALUES OF AIRBNB PRICES

Short term rents are predicted for rental units listed on craigslist by regressing the available attributes of Airbnb rentals on their nightly price. The full model is:

$$P_{ST} = \alpha + \beta\, Bedrooms + \beta\, Bedrooms^2 + \beta\, Bathrooms + \beta\, Neighborhood_i + \varepsilon$$

Where α is the intercept, Bedrooms is the number of bedrooms that a short term rental has, Bedrooms squared is the squared number of bedrooms in a short term rental, $\beta\, Neighborhood_i$ represents a set of dummy variables for all but one of the neighborhoods defined by the planning department and ε is the error term. For units on Craigslist whose listings that did not include information about the number of bathrooms, the functional form is:

$$P_{ST} = \alpha + \beta\, Bedrooms + \beta\, Bedrooms^2 + \beta\, Neighborhood_i + \varepsilon$$

These regressions gave the following predictive values:

VARIABLES	(1) price	(2) price
Bedrooms	30.54***	51.08***
	(8.938)	(13.86)
Bedrooms Squared	8.457***	11.41***
	(2.681)	(3.820)

Bathrooms	90.19***	
	(8.645)	
Bayview	-39.76**	-47.68**
	(19.84)	(19.88)
Bernal Heights	-46.76***	-49.46***
	(7.125)	(7.140)
Castro/Upper Market	13.77*	14.96*
	(7.191)	(7.884)
Chinatown	24.94**	27.89**
	(10.37)	(11.73)
Crocker Amazon	-95.99***	-98.32***
	(32.17)	(31.40)
Diamond Heights	-46.71	-15.39
	(37.12)	(29.41)
Downtown/ Civic Center	4.957	11.55
	(7.051)	(7.641)
Excelsior	-80.63***	-92.95***
	(15.45)	(13.87)
Financial District	44.06***	48.17***
	(12.86)	(14.87)
Glen Park	-37.22**	-35.09***
	(14.56)	(13.35)
Golden Gate Park	-22.80*	-35.67**
	(12.82)	(16.33)
Haight Ashbury	-0.866	-9.038
	(8.191)	(8.866)
Inner Richmond	-32.92***	-35.90***
	(8.936)	(9.027)
Inner Sunset	-44.50***	-44.87***
	(8.614)	(8.066)
Lakeshore	-33.27	-35.59
	(27.88)	(24.64)
Marina	58.52***	57.99***
	(10.96)	(11.87)

Mission	-6.772	-11.09
	(6.961)	(7.323)
Nob Hill	49.38***	47.77***
	(9.519)	(10.46)
Noe Valley	9.124	9.359
	(10.41)	(10.82)
North Beach	58.47***	58.28***
	(14.57)	(16.14)
Ocean View	-65.71***	-66.81***
	(19.26)	(18.88)
Outer Mission	-76.76***	-79.44***
	(13.91)	(13.25)
Outer Richmond	-54.92***	-59.24***
	(11.18)	(10.26)
Outer Sunset	-56.46***	-65.12***
	(13.24)	(12.96)
Pacific Heights	85.06***	98.63***
	(24.24)	(26.25)
Parkside	-46.29**	-51.60**
	(20.12)	(21.25)
Potrero Hill	11.16	19.06
	(20.32)	(20.39)
Presidio	4.979	6.567
	(25.75)	(22.68)
Presidio Heights	38.65	41.98
	(26.10)	(30.68)
Russian Hill	62.68***	56.06***
	(13.26)	(13.62)
Seacliff	-63.78***	-80.13***
	(21.40)	(30.27)
South of Market	55.13***	67.26***
	(11.24)	(11.71)
Treasure Island/YBI	-27.66	-25.42
	(90.16)	(83.26)

Twin Peaks	19.80	20.90
	(23.40)	(26.71)
Visitacion Valley	-100.7***	-92.56***
	(29.63)	(22.87)
West of Twin Peaks	-80.74***	-61.91***
	(20.48)	(19.87)
Western Addition	-	-
Constant	39.83***	112.8***
	(12.89)	(10.57)
Observations	3,212	3,212
R-squared	0.488	0.434

Robust standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

Ausberry, Andrea

From:	Board of Supervisors, (BOS)
Sent:	Monday, May 18, 2015 12:17 PM
To:	BOS-Supervisors; Ausberry, Andrea
Subject:	File 150295, 150363, 141036 FW: Land Use & Transportation Committee Meeting, May 18 2015
Attachments:	Airbnb in San Francisco on May 4 2015 _ Dark and Difficult.pdf
Follow Up Flag:	Flag for follow up
Flag Status:	Flagged

From: bd@masha.org [mailto:bd@masha.org] **On Behalf Of** gussdolan
Sent: Monday, May 18, 2015 11:09 AM
To: Board of Supervisors, (BOS)
Subject: Land Use & Transportation Committee Meeting, May 18 2015

May 13, 2015
TO: San Francisco Board of Supervisors
RE: Land Use & Transportation Committee Meeting, May 18 2015
AGENDA ITEM: Short Term Rental Legislation

Please enter the attached document (Airbnb in San Francisco on May 4 2015 _ Dark and Difficult.pdf) into the public record for the Land Use & Transportation Committee Meeting noted above. Please distribute a copy to all San Francisco Supervisors.

Thank you,

Guss Dolan

Hayes Valley, San Francisco

415.812.0956

gussdolan@darkanddifficult.com

Airbnb in San Francisco on May 4 2015

Posted on May 9, 2015 by admin

On May 4 2015 I found 5312 San Francisco rentals on Airbnb.
This is a 660 increase over the number of rentals found on April 18 2015.

From Oct 1 2014 thru May 4 2015 the average number of San Francisco rentals found on Airbnb is 5148. This table shows, for each date, the count, the count plus/minus compared to the average, and the percentage compared to the average.

TABLE 1 : Total Rental Counts by Date

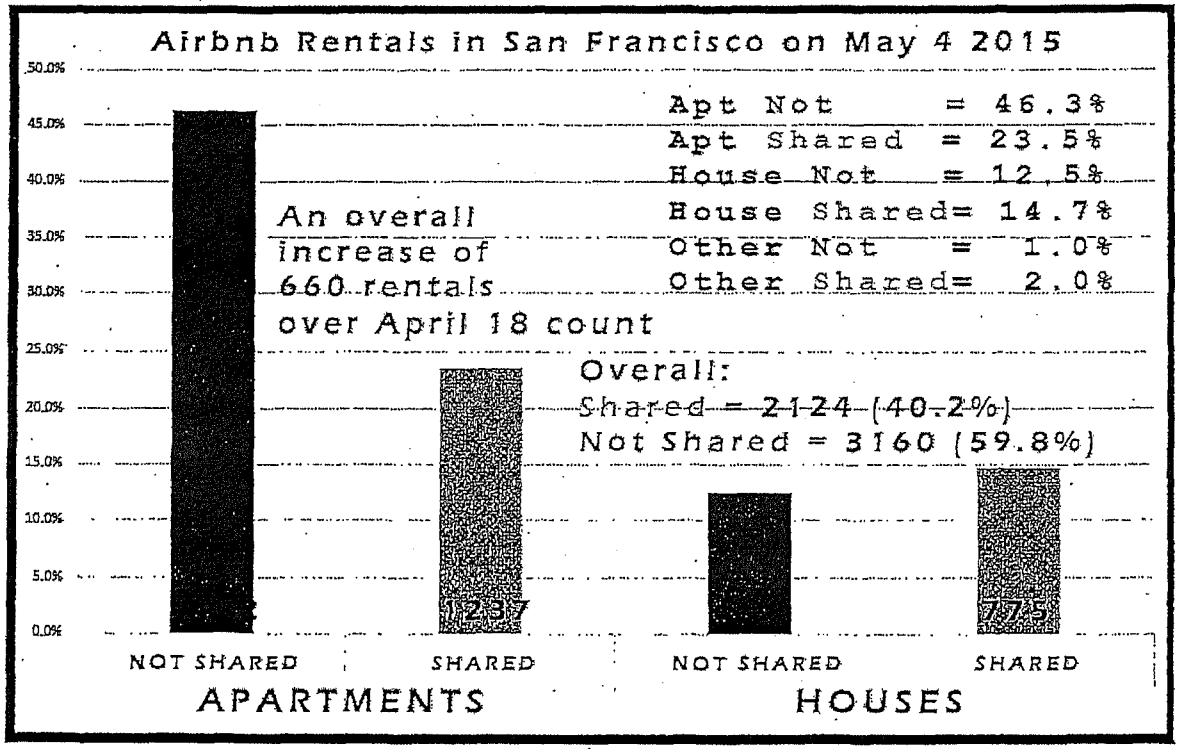
date	COUNT	AVG-UP/DN	AVG-PERC
20141001	5429	281	5.5%
20141024	4784	-364	-7.1%
20141116	4987	-161	-3.1%
20141204	5507	359	7.0%
20141225	5544	396	7.7%
20150125	5431	283	5.5%
20150210	5080	-68	-1.3%
20150228	4580	-568	-11.0%
20150324	5321	173	3.4%
20150418	4652	-496	-9.6%
20150504	5312	164	3.2%

681

This chart shows the breakdown of San Francisco rentals, by Apartment vs House, and Shared vs Not Shared (Shared="Private Room" or "Shared Room", Not Shared = Entire Apartment/House is for rent; "Other" are rentals considered jokes or accommodations not germane to the discussion here, such as boats, yurts, tree-houses, etc, although it also includes dorms and hotels, which are worthy of a separate discussion of Airbnb's effects).

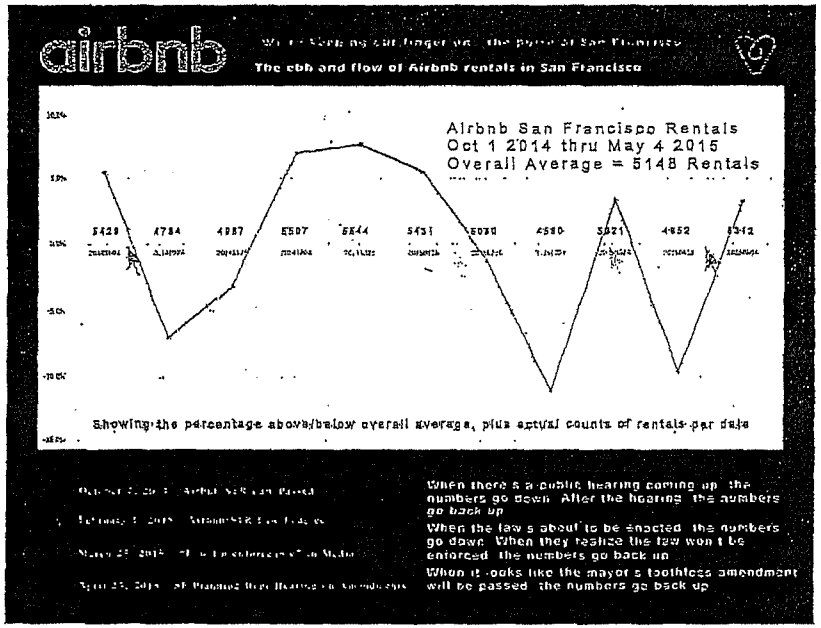
- 70% of the San Francisco rentals on Airbnb are Apartments vs 27.2% Houses
- 2/3 of the Apartments are Not Shared
- Slightly more (2.2%) Houses are Shared over Not Shared
- Overall Not Shared rentals are nearly 60% vs 40% Shared

Chart 1 : Apartment vs House, Shared vs Not Shared



This line chart shows the per-date change vs the overall percentage as in Table 1 above, with some notable event dates indicated. There appears to be a relationship between these events and the rise and fall of San Francisco Airbnb rentals.

Chart 2 : Overall Fluctuation by Date



Here is a table depicting Hosts by number of rentals and how many rentals they control (and the percentage that is of the overall total of San Francisco rentals on Airbnb).

- Only 2/3 of San Francisco Airbnb rentals are rented by single-rental hosts.
- One third (1791) are rented by multi-rental hosts. In theory 828 of these can include some 'legitimate' Airbnb hosts who rent the same property twice, once as a shared or private room, and again as entire apartment/house.
- 18.1% of all San Francisco Airbnb rentals are controlled by hosts renting 3 or more units. None of these (in

whole) can be considered 'legitimate' Airbnb rentals according to our Short Term Rental regulations.

Table 2 : Hosts by Number of Rentals

Rentals Per Host	Hosts	Sum of Rentals	Percent of All
1	3521	3521	66.3%
2	414	828	15.6%
3	97	291	5.5%
4	36	144	2.7%
5	27	135	2.5%
6	12	72	1.4%
7	4	28	0.5%
8	5	40	0.8%
9	2	18	0.3%
11	3	33	0.6%
12	3	36	0.7%
13	4	52	1.0%
14	1	14	0.3%
15	2	30	0.6%
22	2	44	0.8%
26	1	26	0.5%

Airbnb spokesperson David Owen has stated that "each month Airbnb pays to the city of San Francisco over $1,000,000 in Hotel Taxes" and "each month Airbnb hosts in San Francisco average between $500 and $1000 to

help them to stay in San Francisco" (for one source see the video of San Francisco Planning Commission meeting on April 23 2015, David Owen's statement during public comments).

(this gets a little complicated, you may want to get out your calculator)

On May 4 I found 4134 hosts renting 5312 units on Airbnb.
4134 hosts *averaged* (high for Mr Owen's numbers) at $1000 each = Host net receipts of $4,134,000 per month.
$1,000,000 in Hotel Tax (14%) = Airbnb gross receipts of $7,142,857 per month.
Which leaves us with this question...
- Is Airbnb earning (gross), with its maximum 15% take of gross revenue, from San Francisco alone, per month, the remaining $3,008,857?
- Or, are hosts making more than Mr Owen contends?

At a Gross Monthly Income of $7,142,857, minus Airbnb's 'cut' of 3% Host fee and 9% Guest Fee (actually variable from 6-12%; I used the middle 9%) of $857,143, the Host Net would be $6,285,714, which would work out to an average of $1,520 per Host ($18,245 per year). This may seem like a minor discrepancy, but it's indicative of how Airbnb throws numbers out to the public (and government regulators) that cannot be trusted. Airbnb knows that the more their hosts are known to earn, the less sympathy the public will have for their 'cause'. The more that hosting on Airbnb is recognized as a profit-making endeavor, the less believable their constant refrain of "helping ordinary people pay their rent and property taxes".

Another way to look at it is this:
If Airbnb is paying $1,000,000 per month in Hotel Tax, that's $7,142,857 gross receipts.
If 4134 hosts *averaged* $1000 each, that equals Host net receipts of $4,134,000 per month.
That gives Airbnb a gross take of $3,008,857.
If Airbnb's *maximum* take is 3%+12%, then the actual gross receipts is (3,008,857 / 15 * 100) $20,059,046 per month. And the 14% Hotel Tax on that is $2,808,266. Which indicates that Airbnb is cheating the city of San Francisco of $1.8 million per month.

The fact that the numbers don't add up gives more credence to the claim that we need to be able to examine the actual numbers to discern who might not be paying what they are, by law, supposed to be paying. Personally, it makes me wonder if $1,000,000 per month in hotel taxes paid by Airbnb in San Francisco is a valid amount–or is it just a number they decided on paying because it sounds good in their media PR, and they know the city of San Francisco has no way of verifying it?

~~~~~~

I found 5277 rentals with a valid 'price' field. Here are the counts, average price, standard deviation, by AHO (Apartment, House, Other) and by Share Type.

Table 3 : Average Rental Prices

AHOU	share type	count	AvgPrice	StdDev
A	Entire home/apt	2444	$238.66	$337.12
A	Private room	1118	$123.15	$54.32
A	Shared room	120	$94.56	$76.62
H	Entire home/apt	659	$360.10	$484.56
H	Private room	710	$133.35	$390.64
H	Shared room	65	$61.35	$29.16
O	Entire home/apt	51	$210.57	$111.47
O	Private room	76	$122.99	$57.28
O	Shared room	34	$343.15	$1,706.37
	Total	5277		

Table 4 : Rental Price Ratios

PRICE RATIOS	Shared	Private	Entire
Apartment	0.77	1.00	1.94
House	0.46	1.00	2.70

PRICE RATIOS	Apartment	House
Shared	1.00	0.65
~~~~~~

Private	1.00	1.08
Entire	1.00	1.51

Based on Airbnb's (David Owen's) statement of "Each month we pay over $1,000,000 Hotel Tax to the city of San Francisco"...

Based on the nightly price figures from Table 3, we get the following (numbers are for 100% occupancy rate, until end):

Table 5 : Estimated Gross, Hotel Tax, and Occupancy Rate

TotalDailyBaseRateIncome	$1,100,042.59
AddAirbnb9%GuestFee	$1,199,046.42
YearlyGross	$437,651,943.48
MonthlyGross	$36,470,995.29
14%TaxPerMonth	$5,105,939.34
AirbnbTaxPaid	$1,000,000.00
OccupancyRate	19.6%

The 9% Airbnb Guest Fee is midway between the actual 6-12% variable fee.
The overall average occupancy rate is 19.6% (would actually be slightly more as David Owen states they pay 'more than' $1M per month in Hotel Tax).
This does not include income from extra fees (cleaning, pets, extra guests, etc) (which would lower occupancy rate). This does not account for duplicate rentals (same address as Private Room and Entire Apartment) (would raise occupancy rate).

This is a *very* general estimated average, based upon an unverified statement of David Owen (unverified: (1) Airbnb pays $1,000,000+ per month in SF Hotel Tax, and (2) $1,000,000+ per month is the correct amount of Hotel Tax owed by Airbnb).

~~~~~~
~~~~~~

Regarding Airbnb's statement "72% of bookings leave reviews".
Based on the "72%" quote, and 5.1 nights average stay, and David Owen's "We pay $1M+ per month to San Francisco in hotel tax"...
...the numbers I get match up remarkably well (see note below).

For the period:
10/1/2014 5/4/2015 =215 days
=7.06 Months

I subtracted, for each roomid, MAX(visible_review_count)-MIN(visible_review_count) = Number reviews this 7month period, then multiplied x average price x 5.1 days x 1.09 (avg) GuestFee and got...
(calc : bookings : gross : tax)
SUM : 45423 : $42,387,580 : $5,934,261
Monthly : 6426 : $5,996,693 : $839,537

Then I added the 'missing' 28% (not reviewed) and got:
SUM : 63088 : $58,871,639 : $8,242,029
Monthly :8925 : $8,328,740 : $1,166,024

The $1,166,024 matches Airbnb alleged tax paid/owed.
(no extra fees included here, which would raise the end totals)

But... as Airbnb has been known to fiddle with its publicly quoted data, I would not be surprised to learn eventually that the actual quote should be "72% of Airbnb Hosts leave a review when they stay at another Airbnb listing (not their own)" (non-host stays are reviewd at a much lower rate). '72%' seems high to me for any type of active public response rate—unless you get a reciprocal payback in kind, as a host is looking for. And then a new formula will have to be devised to calculate estimated gross income.
But until then, this seems to match up well.

*Note: It's (very) possible that "MAX(visible_review_count)-MIN(visible_review_count)" does not count all unique, new reviews. If a roomid has MAX=12 and MIN=8, resulting in 4 'new' reviews, it is possible that the 8 not counted are not the same 8 reviews from date to date. For example, 2 of these 8 could be removed and replaced by 2 new reviews, which would not be counted. The end result calculations should be considered a *minimum* of gross receipts and hotel taxes due.

~~~~~~

Table 6 are numbers using only Entire Apartment Rentals (Not Shared, no Houses).
'SINGLE RENTAL' are hosts renting only one Entire Apartment (they could be renting one, or many, or none, Private Rooms or Shared Rooms) (therefore "HOSTS"="RENTALS" in the chart).
'MULTI RENTAL' are hosts renting two or more Entire Apartments (they could be renting one, or many, or none, Private Rooms or Shared Rooms).
Overall, the number of Multi Entire Apartment hosts is going up, as is their percentage of this market share (especially recently). Currently these percentages are higher than they've ever been (since Oct 1 2014).

Table 6 : Entire Apartment Rentals, by Single-Rental Hosts vs Multi-Rental Hosts

	SINGLE RENTAL		MULTI RENTAL			
DATE	HOSTS	RENTALS	HOSTS	RENTALS	%HOSTS	%RENTALS
20141001	2149	2149	156	436	6.8%	16.9%
20141024	1921	1921	122	331	6.0%	14.7%
20141116	1999	1999	122	333	5.8%	14.3%
20141204	2202	2202	159	452	6.7%	17.0%
20141225	2254	2254	136	393	5.7%	14.8%
20150125	2157	2157	138	406	6.0%	15.8%
20150210	1996	1996	133	364	6.2%	15.4%
20150228	1802	1802	116	312	6.0%	14.8%
20150324	2011	2011	154	424	7.1%	17.4%
20150418	1774	1774	131	351	6.9%	16.5%
20150504	2000	2000	161	442	7.5%	18.1%

Chart 3 : Entire Apartment Rentals, by Single-Rental Hosts vs Multi-Rental Hosts
~~~~~~

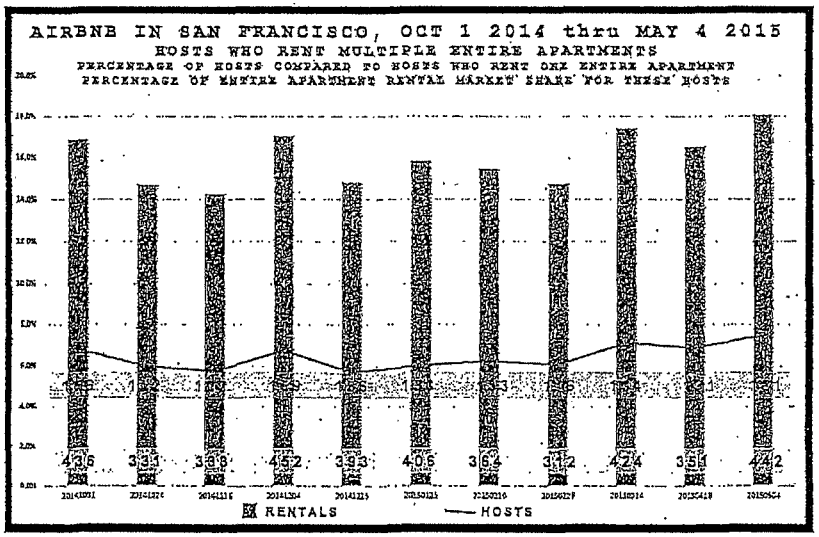


Table 7 : Host Home Locations

Each Airbnb host lists a 'Home Location', presumably where they live. The table shows this broken down by hosts who claim to be from San Francisco, those who claim to be from California (not San Francisco), United States (not California), and Foreign (not United States) (some claim a generic 'California', which I assume to not be San Francisco, or a generic 'United States', which I assume to not be California).

'PERC-1' = Percentage of total rentals for San Francisco
'PERC-2' = Percentage of Apartment, or House, or Other rentals for San Francisco
'PERC-3' = Percentage of Apartment, or House, or Other, then by 'roomtype' rentals for San Francisco

AHO	roomtype	SCUFX	COUNT	PERC-1	PERC-2	PERC-3
Apartment	Entire home/apt	California	83	1.6%	2.3%	3.5%
Apartment	Entire home/apt	Foreign	20	0.4%	0.6%	0.8%

Apartment	Entire home/apt	San Francisco	2045	39.9%	57.2%	86.4%
Apartment	Entire home/apt	United States	217	4.2%	6.1%	9.2%
Apartment	Entire home/apt	(Unknown)	1	0.0%	0.0%	0.0%
Apartment	Private room	California	38	0.7%	1.1%	3.5%
Apartment	Private room	Foreign	22	0.4%	0.6%	2.0%
Apartment	Private room	San Francisco	944	18.4%	26.4%	86.3%
Apartment	Private room	United States	90	1.8%	2.5%	8.2%
Apartment	Shared room	California	2	0.0%	0.1%	1.7%
Apartment	Shared room	Foreign	3	0.1%	0.1%	2.5%
Apartment	Shared room	San Francisco	98	1.9%	2.7%	83.1%
Apartment	Shared room	United States	15	0.3%	0.4%	12.7%
House	Entire home/apt	California	17	0.3%	1.2%	2.7%
House	Entire home/apt	Foreign	3	0.1%	0.2%	0.5%
House	Entire home/apt	San Francisco	558	10.9%	40.1%	87.2%
House	Entire home/apt	United States	61	1.2%	4.4%	9.5%
House	Entire	(Unknown)	1	0.0%	0.1%	0.2%

	home/apt					
House	Private room	California	10	0.2%	0.7%	1.5%
House	Private room	Foreign	7	0.1%	0.5%	1.0%
House	Private room	San Francisco	622	12.1%	44.7%	90.4%
House	Private room	United States	49	1.0%	3.5%	7.1%
House	Shared room	California	7	0.1%	0.5%	10.8%
House	Shared room	Foreign	1	0.0%	0.1%	1.5%
House	Shared room	San Francisco	57	1.1%	4.1%	87.7%
(Other)	Entire home/apt	California	17	0.3%	10.9%	34.7%
(Other)	Entire home/apt	Foreign	1	0.0%	0.6%	2.0%
(Other)	Entire home/apt	San Francisco	19	0.4%	12.2%	38.8%
(Other)	Entire home/apt	United States	12	0.2%	7.7%	24.5%
(Other)	Private room	California	3	0.1%	1.9%	4.0%
(Other)	Private room	Foreign	1	0.0%	0.6%	1.3%
(Other)	Private room	San Francisco	51	1.0%	32.7%	68.0%
(Other)	Private room	United States	20	0.4%	12.8%	26.7%
(Other)	Shared room	California	4	0.1%	2.6%	12.5%

692

(Other)	Shared room	San Francisco	14	0.3%	9.0%	43.8%
(Other)	Shared room	United States	14	0.3%	9.0%	43.8%

Table 7b : Host Home Locations (Non SF Combined, Ratios of Not Shared vs Shared)

Same as above for generic Shared vs Not Shared by host home location, with the ratio of Not Shared to Shared. (All Non San Francisco combined in last row)

Total	5127	PERC-1	SHARED	NOT	RATIO
San Francisco	4408	86.0%	34.8%	51.1%	1.47
California	181	3.5%	1.2%	2.3%	1.83
United States	478	9.3%	3.7%	5.7%	1.54
Foreign	58	1.1%	0.7%	0.5%	0.71
(Unknown)	2	0.0%			
Non San Francisco	717	14.0%	5.6%	8.4%	1.51

Table 8 • 1102 Hosts Active in Every Web Scan

There are 1102 hosts who had at least one active rental in each and every of the eleven Airbnb web scans listed. The average Rentals Per Host, for all hosts, is 1.26. For the 1102 hosts active every scan, 1.60. For all hosts except the 1102, the average is 1.13.

	ALL HOSTS / RENTALS			1102 HOSTS			Not 1102
DATE	HOSTS	RENTALS	RATIO	HOSTS	RENTALS	RATIO	RATIO
20141001	4278	5429	1.27	1102	1801	1.63	1.14

20141024	3848	4784	1.24	1102	1708	1.55	1.12
20141116	3981	4987	1.25	1102	1705	1.55	1.14
20141204	4350	5507	1.27	1102	1757	1.59	1.15
20141225	4452	5544	1.25	1102	1738	1.58	1.14
20150125	4343	5431	1.25	1102	1775	1.61	1.13
20150210	4093	5080	1.24	1102	1747	1.59	1.11
20150228	3694	4580	1.24	1102	1697	1.54	1.11
20150324	4186	5321	1.27	1102	1834	1.66	1.13
20150418	3696	4652	1.26	1102	1744	1.58	1.12
20150504	4134	5312	1.28	1102	1850	1.68	1.14
AVG	4096	5148	1.26	1102	1760	1.60	1.13

Chart 8 • 1102 Hosts Active in Every Web Scan

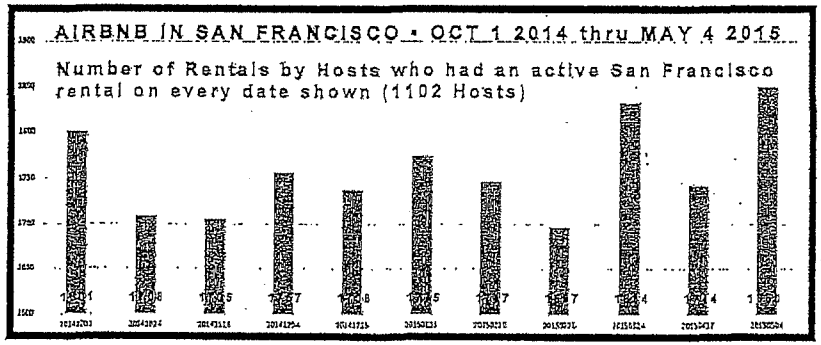
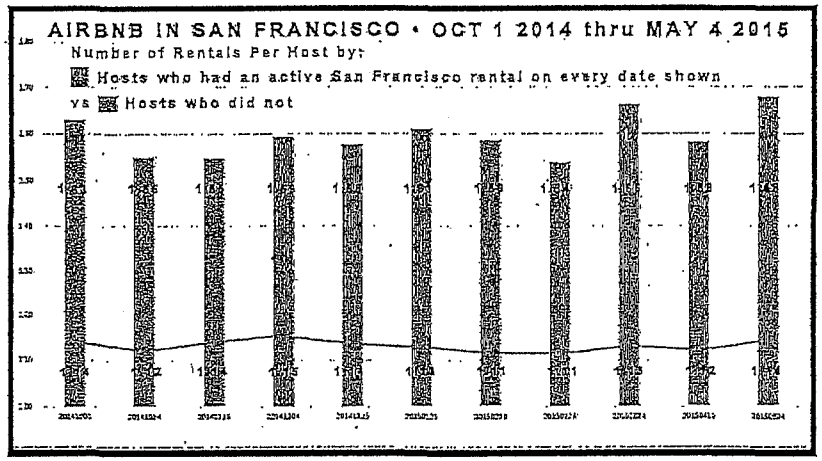


Chart 8b • 1102 Hosts Active in Every Web Scan



~~~~~~

[no *more to come*]

~~~~~~

This entry was posted in airbnb, corporate welfare, Gentrifucked, Recall David Chiu, Recall Jane Kim, Recall Mayor Ed Lee, SF Bay Area, Sharing Economy, Sharing Economy Bullshit. Bookmark the permalink.

2 Responses to *Airbnb in San Francisco on May 4 2015*

admin *says:*

May 16, 2015 at 2:53 pm

On May 4 2015 I found 5312 rentals, and 4134 hosts (San Francisco rentals on Airbnb).

When filtered for valid Property & Shared types this became...
5274 rentals, 4106 hosts

I found 214 hosts who rent (illegally) 2 or more Entire Apartments and/or Houses, for a total of 589 rentals (= 5% of total hosts, 11% of total rentals, 19% of all 'Entire' Apartment or House rentals).

I found 2300 hosts who rent 1 "Entire" Apartment or House, exactly.

I found 165 hosts who rent 1 "Entire" Apartment or House, plus 1 room (private or shared), exactly.

I found 1201 hosts who rent 1 room (private or shared), exactly.

I found 67 hosts who rent (probably illegally) 3 or more rooms (private or shared), no Entire Apt/House, totaling 376 rooms.

I have little doubt that many more of these rentals are illegal, under our STR laws, but without Airbnb's cooperation it is nearly impossible (certainly time- and resource-consuming) to ferret out who is legal and who is not.

Reply

admin *says:*

May 16, 2015 at 3:58 pm

[this file was used to generate stats for comment above]
Link below is to an (excel) CSV file, which lists all hostid's on May 4 2015, and the types of listings they rented ([AHO]-[EPS] = Apartment/House/Other-Entire/PrivateRoom/SharedRoom).
CNT: the number of types host is renting
SUM: the total number of rentals for host
NS-SUM: the total number of Not Shared (Entire) rentals for host (Apartment and/or House, not Other)

http://darkanddifficult.com/wordpress/wp-content/uploads/2015/05/Book4.csv

Reply

---

airbnb

Supporting Small Business in San Francisco

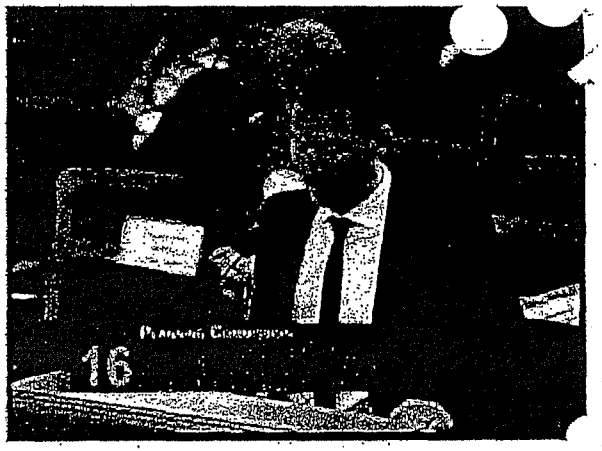
April 19, 2015 By David Owen

Earlier today, Airbnb shared the following email with hundreds of San Francisco small business owners, merchant associations and community organizations.

Dear San Francisco Small Business Owner:

We wanted to know more about how our hosts and guests are making our economy stronger, so we asked the Land Econ Group to study Airbnb's economic impact throughout San Francisco. Here's what they found:

- The Airbnb community contributed nearly $469 million to the San Francisco economy last year.
- The average Airbnb host **earns $13,000 per year hosting** – money they use to pay the bills and stay in San Francisco, and shop at businesses like yours.
- The Airbnb community supports 3,600 jobs at the local neighborhood businesses they patronize.
- 72% of Airbnb properties are outside of traditional hotel districts, in neighborhoods that haven't benefitted from tourism in the past.
- The typical Airbnb property is booked about 6.5 nights per month, underscoring the point that these are people who are simply sharing space in the home in which they live.



4-23-2015 (PM)
San Francisco Planning Commission meeting
"Every month the average host here in San Francisco makes between $500 and $1000"

Averaged to $750 per month, that's $9000 per year

If it's not true, it's a lie. If you said it, knowing it's not true, you're a liar.

airbnb

Introducing San Francisco's Home Sharing 11

April 23, 2015 By David Owen

4-23-2015 (PM)
San Francisco Planning Commission meeting
"Every month the average host here in San Francisco makes between $500 and $1000"

Their stories reflect the thousands of middle class San Franciscans who depend on the additional income they make from home sharing to help pay their mortgage or rent. According to a recent economic impact study, the average Airbnb host in San Francisco makes a little more than $1,000 each month from hosting.

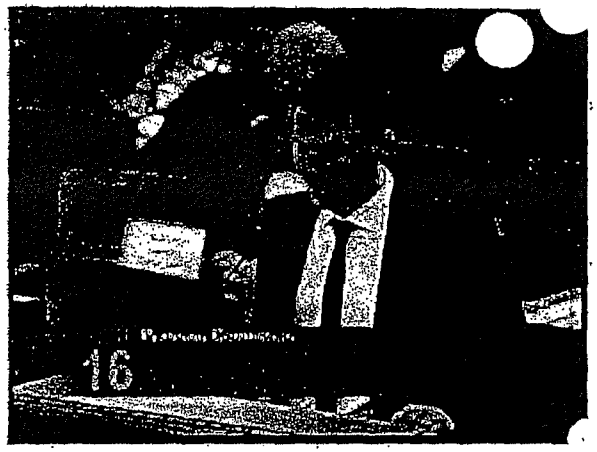
This was posted on Airbnb website during the morning hours of April 23, before Mr Owen's statement at the Planning Commission meeting.

If it's not true, it's a lie. If you said it knowing it's not true, you're a liar.

698

airbnb

The New San Francisco Math
by Professor David Owen
Airbnb University

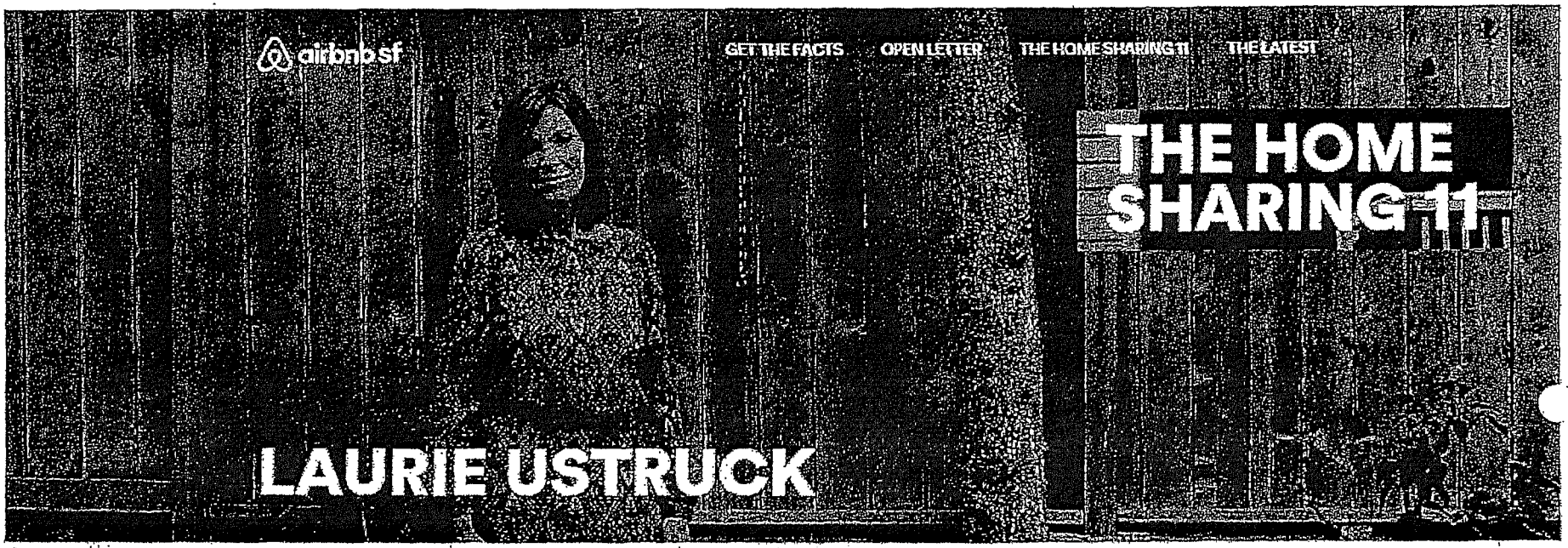


4-23-2015 (PM)
San Francisco Planning Commission meeting
"Every month the average host here in San Francisco makes between $500 and $1000"

	"1000 per month" Scenario 1	$1M Hotel Tax Scenario 2
Host Earnings Per Year	$13,000	$18,639
Host Earnings Per Month	$1,083	$1,553
Host Earnings Pre 3% Host Fee Charged	$1,116	$1,600
Add 9%(avg) Guest Fee for Airbnb	$1,216	$1,744
Avg Host Count (Oct 1 2014 thru May 4 2015)	4096	4096
Monthly Airbnb Gross (4096 Hosts)	$4,981,794	$7,142,858
SF Hotel Tax (14%)	$697,451	$1,000,000
Airbnb Tax (claimed) Paid	1000000	1000000
Minimum Missing Tax	$302,549	-$0.13
Minimum Missing Income Pre Tax	$2,161,063	-$0.96

When Airbnb (David Owen) claims that they pay "over one million dollars per month to the city of San Francisco in Hotel Taxes" you cannot get to that figure with hosts averaging only $1000 per month. So which is the lie? $1000 per month host income? Or $1,000,000 per month Hotel Tax?

If it's not true, it's a lie. If you said it, knowing it's not true, you're a liar.



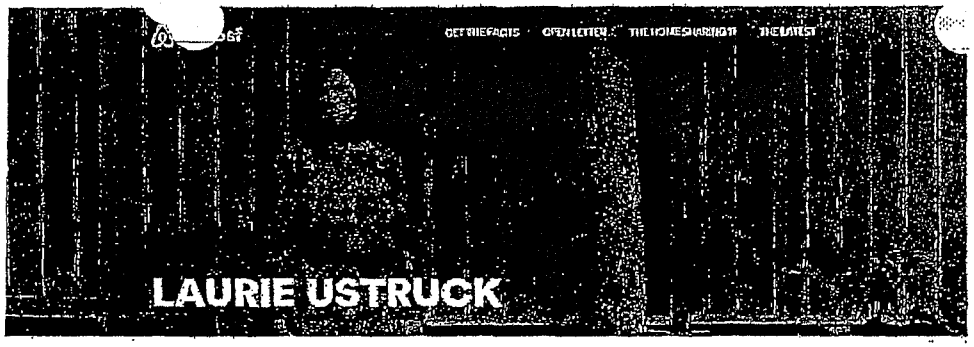
700

District 1: Laurie Ustruck

"Home sharing has allowed me to stay in the city I am madly in love with - San Francisco."

"When I moved to San Francisco four years ago, I was splitting the cost of living with someone else. When we parted ways, I was left to shoulder all of the housing costs on my own. Home sharing has allowed me to stay in the city I am madly in love with - San Francisco. Since I work from home, I can channel that love into being an ambassador for this city and introduce visitors to my favorite local businesses here in the Outer Richmond/Ocean Beach. There's nothing I enjoy more than watching other people fall in love with my neighborhood the way that I have. I hope I can continue sharing my home, and sharing the treasures of this amazing city with my guests."

The heart-rending plight of the Airbnb Home Sharing



THE HOME SHARING 11

District 1: Laurie Ustruck
HostID 2275604
RoomID 1427660
Permit Number STR-0000026

Laurie

Charming Studio Apt at Ocean Beach

San Francisco, CA, United States ★★★★★ (137)

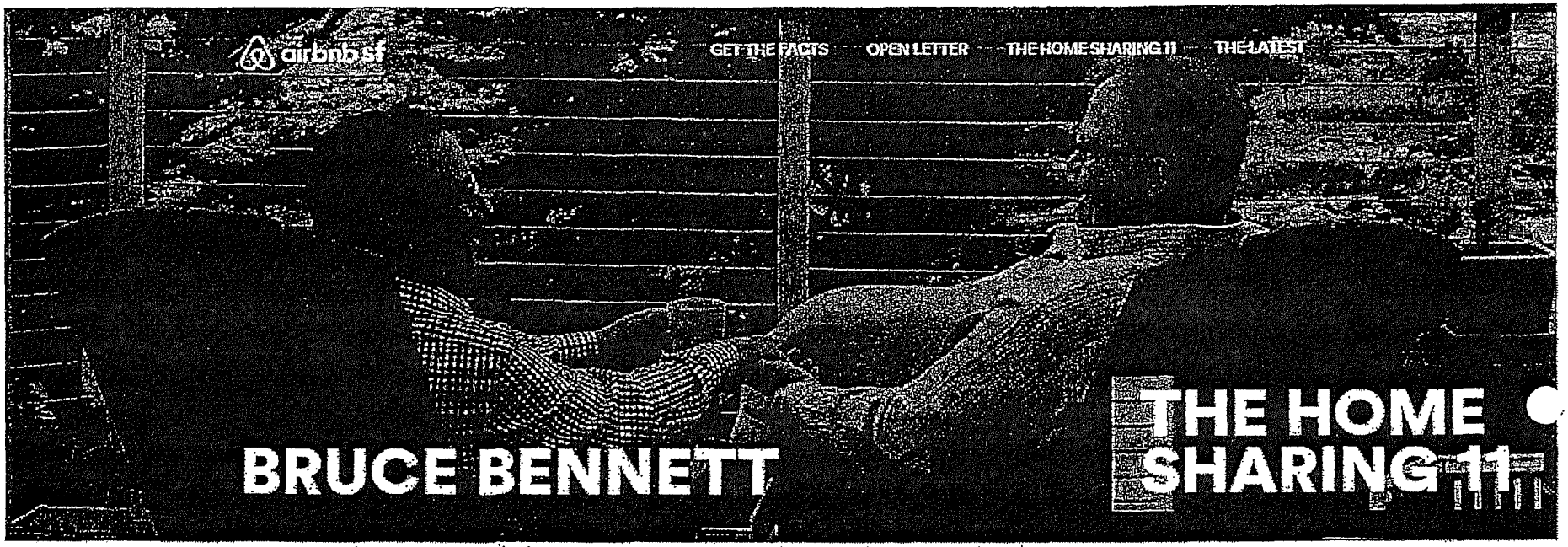
Entire home/apt | 2 Guests | 1 Bedroom | 1 Bed

"This quiet and private, 1 bedroom flat (500+ sq.ft.) is a charming, peaceful hideaway 2 blocks from Ocean Beach, Golden Gate Park and Land's End. It has a queen-size bed tucked into a cozy yet spacious alcove, wet bar, dinette, small private bath (shower only), and living room with flat-screen tv.

The self contained studio is on the ground floor of my home with a secure, well lit, private street entry through my garage and access to the deck and patio in the back of the home."

Laurie Ustruck is a TENANT at XXX 47th Avenue, and her residence is not the studio apartment she is renting on Airbnb. The studio apartment appears to be an illegal in-law unit. Since Laurie is the tenant, and not the owner, and Laurie does not reside in the studio apartment, she cannot rent it out as a Short Term Rental, under current law.

The heart-rending plight of the Airbnb Home Sharing 11



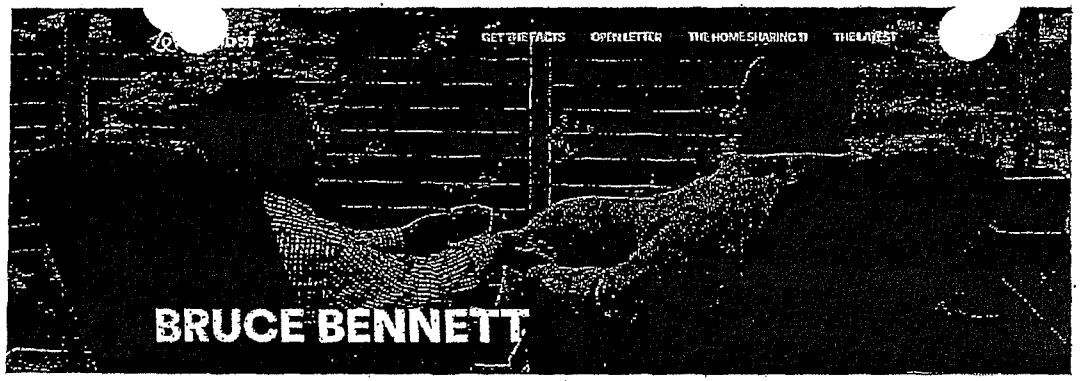
702

District 7: Bruce Bennett

"With limited income, a mortgage and property taxes due soon, home sharing is the only way I could make ends meet."

"My husband Lawrence and I have been sharing a room in our Glen Park home since February 2014. I lost my job a few months ago and now work a contract job. With limited income, a mortgage and property taxes due soon, home sharing is the only way I could make ends meet. Some of the people that have stayed in our home could not afford to come to San Francisco if a hotel was the only option. I love that our guests can enjoy the neighborhood we love, Glen Park, and spend money at the local businesses that we love, as well."

The heart-rending plight of th Airbnb Home Sharing



THE HOME SHARING 11

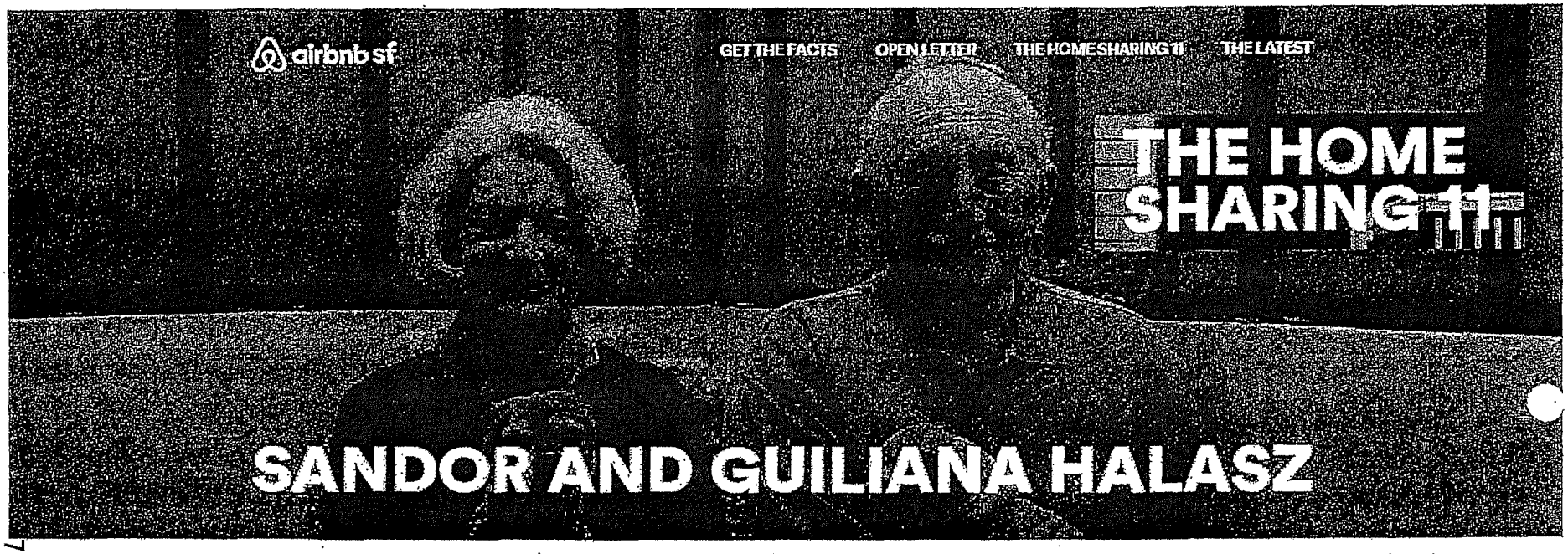
District 7: Bruce Bennett
HostID 3198527
RoomID 2042095
Permit Number STR-0000130

"With limited income, a mortgage and property taxes due soon, home sharing is the only way I could make ends meet"

When this story appeared on the Airbnb website on April 23, the property taxes on the Glen Park home of Bruce and Lawrence were not 'due soon' -- in fact, they were paid in full on December 10, 2014. But there was $2,651.78 in unpaid property taxes due on their other property, their Diamond Heights condominium. So, when Bruce says Airbnb home sharing helps him 'make ends meet', he and Lawrence obviously have more ends to meet than the average San Franciscan who cannot afford to own a house in Glen Park and a condominium in Diamond Heights.

ps: They are paying a total property tax rate for two properties valued at, combined, $1,013,337 by the City and County of San Francisco. Zillow real estate estimates these two properties, combined, at a value of $1,690,440. That gives Bruce and Lawrence an estimated PORC subsidy ('Property Owners Rent Control') of $8,709 per year, or $725 per month.

The heart-rending plight of the Airbnb Home Sharing 11



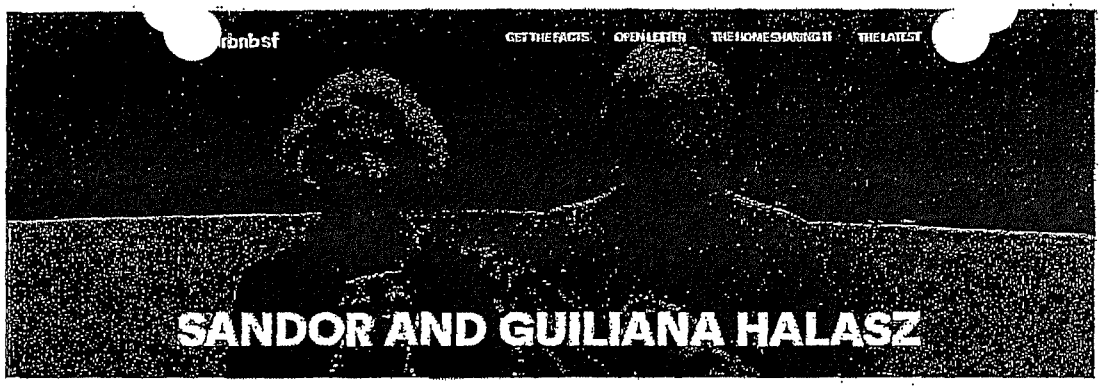
704

District 2: Sandor and Guiliana Halasz

"Hosting has allowed us to stay in San Francisco during our retirement."

"We migrated to the United States in the 1960s with our family and have been living in the beautiful Marina District ever since. We started sharing our home in order to afford our property taxes. Hosting has allowed us to stay in San Francisco during our retirement. After fifty years here, we are so lucky and thankful to be able to remain in the city we love. And now, we have friendships and connections with visitors from all over the world. In our retirement, home sharing has given us a new adventure together.

The heart-rending plight of the Airbnb Home Sharing



THE HOME SHARING 11

District 2: Sandor and Guiliana
HostID 10891326
RoomID 2134475
Permit Number STR-0000123

"We started sharing our home in order to afford our property taxes."

Sandor and Guiliana live in a single-family home in the Marina, which is currently valued by the City & County of San Francisco at $845,475, with an annual property tax payment of $10,266. Zillow real estate estimates the current value of their property at $3,407,992, which would result in an annual property tax bill of approximately $41,380. This gives them a PORC subsidy ('Property Owners Rent Control', aka Proposition 13) of about $31,114 per year, or $2592 per month. Which, sadly, is more than I earn at my current job.

ps: In 2013 there was an eviction at this property for an "Owner Move In" (OMI). This type of eviction is not included in the proposed amendment to our STR legislation by Supervisors Kim and Breed, which only applies to Ellis Act evictions.

pps: Sandor and Guiliana have another rental on Airbnb, an "Entire home/apt" (it's a house) in San Miguel de Allende, Guanajuato, Mexico, which they rent for $550 /week. I have no idea if they own the property in Mexico. It has no reviews on Airbnb as of this writing.

The heart-rending plight of the Airbnb Home Sharing 11

From: MPatterson@uct.com [mailto:MPatterson@uct.com]
Sent: Tuesday, June 02, 2015 11:49 AM
To: Board of Supervisors, (BOS)
Subject: Proposed Airbnb restrictions

Dear Supervisors,

I have written in the past. Understanding that the goal is to protect housing stock, there are both reasonable restrictions that are being proposed and restrictions that do nothing to improve housing stock, and penalize people who have tried to abide by the current laws.

Seems you have two groups to look at:

1. People renting a room in their house
2. People renting entire apartments

On Airbnb, the listings show as "private room" or "entire apartment". If you are trying to increase the housing stock, wouldn't it make sense to put restrictions on "entire apartment" listings? It's easy as every listing has this definition.

I have registered with the city (though a cumbersome process), am not restricting any housing stock, and wouldn't make the room available for rent on a full time basis even if Airbnb was banned (I don't want to get into tenant issues or have someone living full time in my home). Why can't there be reasonable restrictions on people who follow the rules and more onerous restrictions for the people you say are reducing housing stock such as:

1. No restriction on the number of days if you rent a room in your house
2. Restrictions on the number of days if you rent an entire apartment (60,120,180 whatever addresses the concern of people doing it full time)
3. Having the data supplied so it can be verified
4. Having an enforcement mechanism.

Observing the debate, I can't help but surmise that both sides are trying for a winner take all approach. Airbnb wants no restrictions and the city keeps piling on restrictions, many of which don't address your stated goal, and in totality would make Airbnb unviable in SF.

What does my renting a room in my house do to eat at housing stock? Nothing. What does it do for the safety of neighbors? Nothing, I am at home when guests stay there. Meanwhile, local businesses lose revenue (if guests are forced downtown), the city loses revenue (total room capacity declines), people have shorter stays and spend less money (my pricing is below hotels). How is that good for San Francisco?

I am confused as to why a reasonable compromise is so elusive. There are lots of us who rent rooms in our house. Airbnb has been a benefit for many widely publicized reasons. Please meet your rhetoric of helping San Franciscans with common sense legislation by focusing on the areas you state you are concerned about and leave the person who is just renting rooms in their apartment out of the fray.

Thank you for your time and consideration.

Michael Patterson
Mission District Resident

President London Breed
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

April 14, 2015

Dear President Breed,

Last October, San Francisco approved progressive home sharing legislation, marking an important step forward for the peer to peer economy. While the legislation was not perfect, it was welcomed by countless San Francisco families. Home sharing gives travelers the chance to see San Francisco's diverse neighborhoods and is an economic lifeline for San Franciscans, many of whom would be forced to leave the City they love if they couldn't share their space.

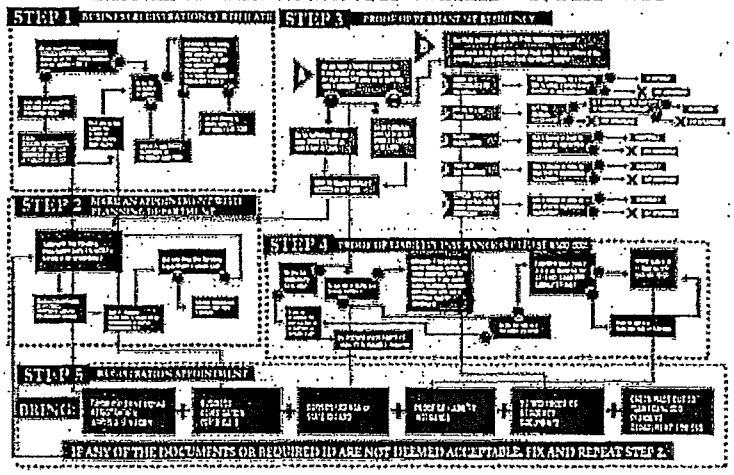
Today, home sharing and Airbnb are also helping to fight economic inequality by giving every resident the opportunity to turn their home into an economic asset. According to our surveys, 71 percent of hosts use the income they earn to help pay the bills. Later this week, we will be releasing new information showing how home sharing helps middle class San Franciscans make ends meet.

In October, Airbnb also began collecting and remitting the same taxes as hotels on behalf of our hosts and guests in San Francisco. We were under no obligation to take this action and the overwhelming majority of other short term rental platforms still refuse to follow our lead. We are proud that our community has already contributed millions of dollars to the City's General Fund through this initiative.

Unfortunately, after the law was approved, the Planning Department created a system that was designed to fail by implementing restrictions and requirements – many of which had no basis in the law – that have made it difficult or impossible for San Franciscans to follow the new rules. One Airbnb host documented the complexity of the current process:

airbnb

SHORT-TERM RENTAL REGISTRATION PROCESS



Hosts who have successfully completed this process have received threatening letters from the City Treasurer demanding they collect hotel taxes – even though Airbnb is already doing so on their behalf. To be clear, Airbnb has been remitting these taxes to the City since October 1, 2014 and has paid a back tax assessment issued by the City Treasurer in full. Today, the City Treasurer is accepting nearly $1 million every month from the Airbnb community, while demanding our hosts also remit the exact same tax — double taxing on the same activity solely because they have not received personal, private, confidential information about regular people who share their home.

Given these challenges, it is no surprise that many critics of the new law have stepped forward. Supervisor Campos has introduced a Trojan Horse proposal that effectively bans home sharing by demanding the government receive sensitive personal data about thousands of City residents, and would pit neighbor against neighbor in frivolous litigation. Some in the City are also considering placing similar legislation on the ballot this November.

Supervisor Farrell has offered an alternative proposal. While this legislation is certainly an improvement upon Supervisor Campos'

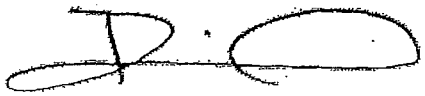
airbnb

attempt to ban home sharing, it also raises significant concerns. Most notably, this proposal imposes an arbitrary 120-day cap on families' ability to share the home in which they live, even when they are present. This kind of proposal would adversely impact San Franciscans like Kevin and Esther who share their guest room and use the money they earn to pay medical bills associated with Kevin's Parkinson's disease.

We know these issues are not easy and we appreciate the challenge in ensuring that home sharing remains legal and transparent while also preventing abuses. After over two years spent crafting legislation on this topic, the City should work quickly and give the new rules time to work. San Franciscans do not want us to continually re-fight old battles - revisiting this matter every few months will not move us forward. Instead, we should spend 2015 ensuring new rules are implemented quickly, fairly and in a way that supports families who depend on home sharing to make ends meet.

We are optimistic that we can achieve these goals and we appreciate the opportunity to participate in this conversation. The thousands of Airbnb hosts and guests who love this city look forward to continuing to work with you to make San Francisco an even better place to live and visit.

Sincerely,



David Owen

~~April 24~~ 2015

My name is Judith Davis and I have lived in SF since 1968. I have a room in my house that I have shared with family and roommates for 35 years. After having trouble with roommates I started hosting with airbnb.

I am a long time home owner of 45 years in Noe Valley. I am a widow and was a single parent and I am now retired after working 30 years at Rainbow Grocery on Folsom street.

I receive $956 a month from Social Securtiy and I have no other source of income. I am now 71 years old. I started using airbnb after my children and grandchildren grew up and moved out. From time to time a family member needs a short term place to stay and airbnb gives me that option.

My guest have been wonderful people from all over the world who love being able to stay in a neighborhood rather than in a hotel downtown. I provide them with a book of Noe Valley's resturant menues/maps on 24th Street to use during their stay in SF.

I have been able to maintain and put money back into my 130 year old Victorian due to hosting on airbnb. Throughout history older women, widows,retired folks have rented out rooms in their homes.."Boarding Houses"...my grandparents did it,perhaps yours did as well.

Please do not add another disavantage to us low income folk trying to stay in the city and maintain our homes. PGE, WATER,TRASH are already so much higher than just a few years ago .

If the 120 days cap of being able to book guests go thru I will loose half of my income. and it wasn't that much to begin with.

Thanks for your time and consideration and I hope you will do the right thing and allow me to host airbnb guests in my home when I need to do that .

thank you Judith Davis

Ausberry, Andrea

From:	Alex Marqusee [amarqusee@gmail.com]
Sent:	Thursday, May 14, 2015 2:52 PM
To:	Ausberry, Andrea
Subject:	Report To Submit to Land Use Committee for May 18th Meeting
Attachments:	The Impact of Airbnb on the San Francisco Housing Crisis_Alex Marqusee_May2015.pdf

Hi Andrea,

I hope everything is going well. I'd like to submit the attached report to the land use committee for their meeting on the 18th. I unfortunately will not be there to also comment publicly but I would like this to be part of the record for the meeting.

The attached document, "The Impact of Airbnb on the San Francisco Housing Crisis" is in response to 2014-001033PCA, 2015-003861PCA, and 2015-004765PCA [Board File No. 141036, 150295, 150363].

Please excuse me if I should be sending this to someone else.

Best,

--
Alex Marqusee
Master of Public Policy Candidate, 2015
University of California, Berkeley
(301)802-1328

To: BOS-Supervisors; Ausberry, Andrea
Subject: File 150295, 150363 FW: Airbnb letter re: Short Term Rental regulations
Attachments: Airbnb letter re STR regulation - 4-15-2015.pdf

From: David Noyola [mailto:dgn@platinumadvisors.com]
Sent: Wednesday, April 15, 2015 12:31 PM
To: Calvillo, Angela (BOS)
Cc: Gosiengfiao, Rachel (BOS)
Subject: Airbnb letter re: Short Term Rental regulations

Madam Clerk,
Attached is a letter to the full Board of Supervisors regarding Short Term Rental regulations that I am hoping your office can help distribute to individual members of the Board.

Thank you for your help, please let me know if you have any questions.

All the best,

David Noyola
Platinum Advisors
560 Mission Street, Suite 2800
San Francisco, CA 94105
O (415) 955-1100 x4013 | C (415) 812-6479
dgn@platinumadvisors.com

FINAL SF ECONOMIC IMPACT EMAIL

TO: San Francisco small business owners

FROM: David Owen

RE: Airbnb: Making San Francisco More Affordable, Supporting Small Businesses

DATE: April 19, 2015

You're one of the hundreds of small business owners who support Airbnb in San Francisco, so we wanted you to be the first to know about new research that shows how home sharing supports businesses like yours and makes San Francisco more affordable for more families.

Airbnb got started in 2008 when our co-founders struggled to make their rent. Since then, we've heard from families across the city who use Airbnb to help pay the bills. For many people, sharing their home on Airbnb is the only way they can afford to stay in the city they love.

We've also heard from you about how Airbnb guests visit small businesses in neighborhoods from the Outer Sunset to the OMI and the Bayview - neighborhoods that haven't traditionally benefited from tourism in the past. These anecdotes confirm what we've always known: that the majority (72%, in fact) of Airbnb guests are staying outside of traditional hotel districts and in the neighborhoods where so many of you own small businesses.

We wanted to know more about how our hosts and guests are making our economy stronger, so we asked the Land Econ Group to study Airbnb's economic impact throughout San Francisco. Here's what they found:

- The Airbnb community contributed nearly **$469 million to the San Francisco economy last year.**
- The average Airbnb host **earns $13,000 per year** hosting - money they use to pay the bills and stay in San Francisco, and shop at businesses like yours.
- The Airbnb community supports **3,600 jobs at the local neighborhood businesses they patronize.**
- **72%** of Airbnb properties are outside of traditional hotel districts, in neighborhoods that haven't benefitted from tourism in the past.
- The typical Airbnb property is **booked about 6.5 nights per month**, underscoring the point that these are people who are simply sharing space in the home in which they live.

Over the last three years alone, Airbnb's economic impact in San Francisco has grown from $56 million to $469 million annually, a more than eight-fold increase.

Our study also found that Airbnb guests spend more time and money in the city than the typical hotel guests. Check out this chart:

Spending Per Trip	Airbnb Guests	Hotel Guests[1]
Total	$1,223	$931
Avg. Length of Stay	5.0 nights	3.5 nights

Each year, hundreds of thousands of people stay in Airbnb properties across the city. For these guests, San Francisco becomes a special place for two reasons: the warm hospitality they find in their San Franciscan hosts and the delicious meals, unique experiences, and vital services they discover at your businesses. San Francisco's small businesses are the backbone of this community. We're proud Airbnb's community is helping businesses like yours and making this city a little more affordable for thousands of residents, and countless more visitors - many of whom would not have come without an affordable, local travel option.

Thank you again for your partnership. As we update and add to this data in the future, we will make sure you're the first to know. If you have additional questions, or thoughts about strengthening our partnership, please don't hesitate to reach out to my colleague Mason Smith (mason.smith@airbnb.com).

Sincerely,

David Owen

[1] Airbnb guest spending data based on 2012 survey of Airbnb guests in San Francisco and Airbnb accommodation costs from previous year in San Francisco. Average Airbnb length of stay based on Airbnb bookings data. Hotel guest data based on most recently available data from SF Travel (http://www.sanfrancisco.travel/san-francisco-visitor-industry-statistics). Guest Spending inflated to 2015 $ by Land Econ Group.

To: BOS-Supervisors; Ausberry, Andrea
Subject: File 150295, 150363 FW: Airbnb letter re: Short Term Rental regulations
Attachments: Airbnb letter re STR regulation - 4-15-2015.pdf

From: David Noyola [mailto:dgn@platinumadvisors.com]
Sent: Wednesday, April 15, 2015 12:31 PM
To: Calvillo, Angela (BOS)
Cc: Gosiengfiao, Rachel (BOS)
Subject: Airbnb letter re: Short Term Rental regulations

Madam Clerk,
Attached is a letter to the full Board of Supervisors regarding Short Term Rental regulations that I am hoping your office can help distribute to individual members of the Board.

Thank you for your help, please let me know if you have any questions.

All the best,

David Noyola
Platinum Advisors
560 Mission Street, Suite 2800
San Francisco, CA 94105
O (415) 955-1100 x4013 | C (415) 812-6479
dgn@platinumadvisors.com

For additional letters (1 of 470) pertaining to this matter, please see File No. 150363 or the following link:
https://sfgov.legistar.com/LegislationDetail.aspx?ID=2262359&GUID=0AD10E60-D561-4738-A67D-97A628A22B94&Options=ID|Text|&Search=150363

From: Guss Dolan
Hayes Valley, San Francisco
415.812.0956
gussdolan@darkanddifficult.com
www.darkanddifficult.com

May 13, 2015
TO: San Francisco Board of Supervisors
RE: Land Use & Transportation Committee Meeting, May 18 2015
AGENDA ITEM: Short Term Rental Legislation

Please enter this document into the public record for the Land Use & Transportation Committee Meeting noted above. Please distribute a copy to all San Francisco Supervisors.

From Saturday through Monday (April 25-27 2015) I sent 338 emails, addressed to Airbnb (trust@airbnb.com; support@airbnb.com) and the San Francisco Planning Department (shorttermrentals@sfgov.org). Most of these (306 emails) I also CC'd to Mayor Ed Lee (mayoredwinlee@sfgov.org) and my Supervisor London Breed (Breedstaff@sfgov.org).

Each email gives details for a specific current (as of 4-18-2015) Airbnb listing for a San Francisco rental which is apparently not being 'hosted' by a San Francisco resident, based upon what the host lists as their 'Home Location', and therefore is most likely in violation of the terms of the recently enacted San Francisco Short Term Rental legislation. Each email lists the following information, taken from the online listing:

Listing Location: (always San Francisco, CA, United States)
Host ID: #######
Host Name: ?????????
Host Link: http://www.airbnb.com/users/show/######
Host Home Location: (city/state/country/country abbreviation)
Listing ID: #########
Listing Link: http://www.airbnb.com/rooms/#######
Listing Description: ????????
Share Type: (Shared room or Private room or Entire home/apt)

Below are all of the emails, and the auto-responses I received from Airbnb, combined. They are in order by date, first to last (I received no responses, automated or otherwise, from the San Francisco Planning Department, nor Mayor Lee, nor Supervisor Breed).

OFFICE OF THE MAYOR
SAN FRANCISCO

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2015 APR 14 PM 3:27

EDWIN M. LEE
MAYOR

BJ

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Mayor Edwin M. Lee
RE: Administrative Code – Short-Term Residential Rentals
DATE: April 14, 2015

Attached for introduction to the Board of Supervisors is an ordinance amending the Administrative Code to revise the Residential Unit Conversion Ordinance to limit short-term rental of a Residential Unit to no more than 120 days per calendar year, revise the definition of Interested Parties who may enforce the provisions of Chapter 41A through a private right of action to include Permanent Residents residing within 100 feet of the Residential Unit, create an additional private right of action under certain circumstances, and direct the Mayor to create an Office of Short-Term Residential Rental Administration and Enforcement staffed by the Planning Department, Department of Building Inspection, and Tax Collector's Office; and affirming the Planning Department's determination under the California Environmental Quality Act.

Please note this item is co-sponsored by Supervisor Farrell.

I respectfully request that this item be calendared in Land Use & Transportation Committee.

Should you have any questions, please contact Nicole Elliott (415) 554-7940.

1 DR. CARLTON B. [illegible] IT PLACE, ROOM 200
SAN FRANCISCO, CALIFORNIA 94102-4681