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STATE OF HAWAII  
**DEPARTMENT OF TAXATION**

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To: The Honorable J. Kalani English, Vice Chair  
and Members of the Senate Committee on Tourism and International Affairs

The Honorable Rosalyn H. Baker, Chair  
and Members of the Senate Committee on Commerce, Consumer Protection, and Health

Date: March 17, 2016  
Time: 9:30 A.M.  
Place: Conference Room 229, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: H.B. 1850, H.D. 1, Relating to Taxation.

The Department of Taxation (Department) supports the intent of H.B. 1850, H.D. 1 and provides the following comments for your consideration.

H.B. 1850, H.D. 1, permits a transient accommodations broker to register as a tax collection agent on behalf of its operators and plan managers. As a tax collection agent, the broker will be required to report, collect, and pay general excise tax and transient accommodations tax on behalf of all of its operators and plan managers for transient accommodations booked directly through the broker. The tax collection agent will assume all obligations, rights, and responsibilities imposed on operators and plan managers for business activities conducted directly through the tax collection agent and will be personally liable for all taxes due and collected. The bill is effective upon approval, applies to taxable years beginning after December 31, 2016, and requires the Department to make registration forms available within 90 days of the effective date.

By permitting brokers to act as tax collection agents, similar to how multi-level marketing organizations may act as tax collection agents on behalf of their direct sellers, pursuant to section 237-9(e), Hawaii Revised Statutes (HRS), this bill will ease the burden of reporting and remitting taxes for operators and plan managers, and will facilitate collection at the source for the Department.

The Department appreciates that its proposed amendments were adopted by the House Committee on Finance, including amendments that allow the Department to promulgate rules to set forth minimum criteria for a broker to become a registered collection agent, allow the

Department to cancel a broker's registration for any cause, not just one authorized under existing law, and disallow brokers from transferring their registration to another entity.

The Department also notes that the House Committee on Finance amended Section 10 by making the bill applicable to taxable years beginning after December 31, 2016 with the intent to provide the Department additional time to create and adopt necessary forms and rules. Section 7, however, provides that the Department must make forms available within 90 days after the *effective date*, which was not changed in the last draft. Accordingly, in order to provide the Department sufficient time to promulgate rules and create forms, the Department requests that Section 7 be amended to state that the Department shall make forms available by January 1, 2017.

Thank you for the opportunity to provide comments.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
MAYOR



GEORGE I. ATTA, FAICP  
DIRECTOR

ARTHUR D. CHALLACOMBE  
DEPUTY DIRECTOR

March 17, 2016

The Honorable J. Kalani English, Vice Chair  
and Members of the Committee on Tourism  
and International Affairs

The Honorable Rosalyn H. Baker, Chair  
and Members of the Committee on Commerce,  
Consumer Protection, and Health

Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Vice Chair English, Chair Baker, and Committee Members:

Subject: House Bill No.1850, HD 1  
Relating to Taxation

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 1850, HD 1, which would allow a transient accommodation broker to serve as a collection agent for the general excise tax (GET) and transient accommodation tax (TAT).

The proposals in this Bill are counter-productive to efforts by the State and counties to establish requirements that would enhance enforcement against operators of illegal vacation rentals. During the 2015 legislative session, Senate Bill No. 519 (Act 204) required all vacation rental advertisements to include the TAT registration number. Essentially, requiring the operator of vacation rentals to provide a TAT license helps with the identification of those who are operating without a short-term rental permit and most likely not paying the taxes. By not disclosing the names, addresses, or GET/TAT information as proposed in House Bill No. 1850, HD 1, would undermine ongoing enforcement initiatives. For example, this Bill would:

1. Allow transient accommodation brokers to collect and remit taxes to the State Department of Taxation for which the accuracy could not be verified;
2. Not require the transient accommodation broker to disclose to the State Tax Department the names and addresses of any of its operators and plan managers in connection with any returns;

The Honorable J. Kalani English, Vice Chair  
and Members of the Committee on Tourism  
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Hawaii State Senate

Re: House Bill No. 1850, HD 1

March 17, 2016

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3. Provide that all returns and information provided by a registered transient accommodation broker tax collection agent be confidential and disclosure thereof shall be prohibited as provided in Section 237D-13; and
4. Establish that a registered transient accommodation tax collection agent under the provisions of the measure not be held accountable for the duties and obligations of the operator, or liable to any other law of the State, or any county regarding transient accommodation.

For the State Department of Taxation to manage its enforcement efforts against the rise in the number of illegal vacation rental units, it is imperative to establish requirements such as a mandatory TAT reporting. Such reporting will help identify which vacation rental operators have paid taxes, how much, and who has not paid the required taxes. For the counties, the general knowledge that a TAT license exists is an indicator that transient accommodation rental operations are being conducted. This information can be used to contribute to the preponderance of evidence that the use, legal or illegal, is ongoing.

In regards to online advertisement to the posting of a TAT: Although the City and County of Honolulu endorses this requirement, it should be clear that it becomes a double-edge sword when the consumer and the public are misled to believe that the State Department of Taxation's authorization for the transient accommodation broker display a TAT license, it is not a verification that the transient accommodation use is legitimate.

Thank you for this opportunity to testify on House Bill No. 1850, HD 1.

Very truly yours,



George I. Atta, FAICP  
Director

**Bernard P. Carvalho, Jr.**  
Mayor



**Michael A. Dahilig**  
Director of Planning

**Nadine K. Nakamura**  
Managing Director

**Ka'āina S. Hull**  
Deputy Director of Planning

**PLANNING DEPARTMENT**  
**County of Kaua'i, State of Hawai'i**  
4444 Rice Street, Suite A-473, Līhu'e, Hawai'i 96766

**Testimony before the Senate Committees on Tourism and International Affairs and  
Commerce, Consumer Protection and Health  
HOUSE BILL 1850 HD1 Relating to Taxation**

March 17, 2016 at 9:30 am  
Conference Room 229

By Michael A. Dahilig  
Director of Planning, County of Kaua'i

Honorable Members of the Committee:

On behalf of the County of Kaua'i, I offer testimony with **CONCERNS** and would **OPPOSE** the measure if certain provisions are re-added to the bill like what currently exists in the Senate Companion bill before the House. We support the House version in its current form.

Currently Senate Bill 2693 SD3 has not removed provisions providing companies like AirBnB and Vrbo.com immunity from civil or criminal prosecution should they facilitate TAT collections from illegally operating Transient Vacation Rentals. However, this House version of the companion bill does remove those provisions.

We understand the need to more efficiently and tightly capture taxes from those who fail to pay them. However, this bill, if passed as is, would potentially further companies like [VRBO.com](http://VRBO.com) and AirBnB to help to facilitate illegal usage contrary to county zoning laws rather than holding them responsible as business partner.

The County of Kaua'i has very strict zoning laws related to transient usage given the wholesale gentrification caused by the "vacation renting" of homes meant for only residential use. Many of these rentals are also on agricultural lands, and operating contrary to Chapter 205, Hawaii Revised Statutes relating to State Land Use policy. As our Department has attempted to enforce these county and state laws to preserve our rural residential communities, a common defense posed by these operators is, "I'm legal because I have paid TAT."

Having these private operators help collect taxes but not be held responsible for their role in perpetuating violations of county zoning laws would only lead to further proliferation of resort usage in communities meant for Hawai'i's residents. Contrary to what has been pitched by many who wish to short-term rent out a room or a unit, this activity has actually created the reverse effect by upping residential home values and pushing affordable long-term renters out of the market.

We respectfully request the committee **PASS THE HOUSE VERSION AS IS**. Mahalo for your consideration.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** GENERAL EXCISE, TRANSIENT ACCOMMODATIONS, Transient Accommodations Brokers as Tax Collection Agents

**BILL NUMBER:** HB 1850, HD-1

**INTRODUCED BY:** House Committee on Finance

**EXECUTIVE SUMMARY:** Allows a transient accommodations broker to serve as a collection agent for general excise and transient accommodations taxes. This type of arrangement would probably enhance collection of taxes because of the difficulty of policing individual owners.

**BRIEF SUMMARY:** Adds a new section each to HRS chapter 237 and chapter 237D allowing the director of taxation to permit a transient accommodations broker to register as a tax collection agent on behalf of all of its operators and plan managers. Defines “operator,” “plan manager,” and “transient accommodations broker” the same as in the TAT law.

Upon successful registration as a tax collection agent, the broker shall report, and collect, and pay over the tax due on behalf of all of its operators and plan managers as it relates to activity booked through the broker. Registration does not relieve the broker from any of its own tax obligations, and the operators and plan managers are not protected as to any business activity other than that booked through the broker.

Registration also does not obligate a broker to disclose the names or addresses of its operators and plan managers except in response to a lawful and valid subpoena, or upon consent of the operator or plan manager.

A broker may cancel its registration by delivering a written cancellation notice to the department and its customers; the cancellation will be effective no earlier than 90 days after delivery of the notice. The department may also cancel a registration for any cause, including violations of the tax laws or a breach of the registration agreement.

A broker may, but is not required to, inquire with the county in which the accommodation is located regarding compliance with any local zoning laws.

Amends HRS section 237-30.5, relating to rental collection agents, and section 237D-8.5, relating to collecting TAT for the same residents, to clarify that those provisions do not apply to registered transient accommodation brokers.

**EFFECTIVE DATE:** Upon approval, shall apply to taxable years beginning after December 31, 2016.

**STAFF COMMENTS:** Act 143, SLH 1998, amended HRS section 237-9 to allow multi-level marketing companies to act as agents to collect and pay over GET on behalf of their independent entrepreneurs. At the time, it was considered beneficial for the marketing companies to collect

and pay over tax as opposed to having the Department of Taxation chase down a myriad of independent owners with varying degrees of tax compliance among them.

This bill presents an opportunity for the same logic and policy considerations to apply to transient vacation renters operating through transient accommodation brokers such as AirBnB, Flipkey, Homeaway, and VRBO, except that the stakes may be a little higher because TAT as well as GET is being collected. This bill would appear to be necessary or desirable to enhance the Department's collection ability given the limited resources available for all of state government including the Department.

Questions have been raised whether, or to what extent, the transient accommodations broker should be required to ascertain compliance with local zoning laws. There are some who would prefer the broker to augment the counties' policing of their zoning laws. This argument often gets phrased as, "Shame on you, broker, for allowing your hosts/owners to hide their illegal activity," which presupposes that the hosts are a bunch of scofflaws and crooks. Others, like us, see county zoning compliance as an issue totally separate from State tax collection. This bill allows, but does not require, the broker to inquire about county level compliance.

At bottom, the responsibility for compliance with both State tax and county zoning laws rests with the owners of the accommodations, not the broker. The broker of course gets a written representation from each owner that all is well and lawful, although in fact owners may be in varying degrees of compliance with the zoning laws just as they are in varying degrees of compliance with the tax laws. The broker, however, can easily do something about the latter because money from the transient guests flows through the broker's system. That is all this bill tries to address.

Digested 3/12/16

TOURISM AND INTERNATIONAL AFFAIRS COMMITTEE  
VICE-CHAIR SENATOR KALANI ENGLISH

COMMERCE, CONSUMER PROTECTION AND HEALTH  
CHAIR SENATOR ROSALYN BAKER

**HB 1850, HD1**

March 17, 2016  
9:30 a.m., Room 308

Dear Senator English, Senator Baker, and committee members:

We write in support of HB 1850, HD1 which would enable Airbnb and similar platforms to collect and remit Transient Accommodations Tax (TAT) and General Excise Tax (GET) on behalf of our community.

Hawaii has a vibrant Airbnb community of responsible hosts and guests. Home sharing is an increasingly popular accommodations option, and the significant benefits it provides to both local businesses and thousands of local residents by generating supplemental income highlight the importance of this emerging economic sector. Airbnb's mission is to democratize travel by allowing anyone to belong anywhere. We make this happen through our people-to-people platform that connects hosts and guests in 191 countries and 34,000 cities around the world.

Currently, Airbnb and similar platforms are neither allowed nor legally obligated to collect and remit these taxes on behalf of their hosts in Hawaii. Airbnb voluntarily stepped forward to propose this legislation.

HB 1850, HD1 would enable Airbnb to ensure full tax compliance and maximum tax revenue collection on all bookings conducted through our platform. It would also simplify administration for both the Department of Taxation (DOTAX) and our host community, and reduce the State of Hawaii's enforcement burden in ensuring individual tax compliance. Airbnb first began collecting and remitting hotel and tourist taxes from guests on behalf of hosts in San Francisco and Portland. Since then, we have successfully been collecting and remitting taxes in jurisdictions across the world, including Amsterdam, Chicago, Malibu, North Carolina, Oakland, Washington D.C., Oregon, Palo Alto, Paris, Philadelphia, Phoenix, Rhode Island, San Diego, San Jose, Florida, and Washington (State). The systems in these jurisdictions have been found to be an effective and efficient means of collection and remittance of taxes. As such, Airbnb would like to replicate this system here in Hawaii, and this bill will help to ensure that Airbnb has the ability to do so.

We would also like to address concerns raised by opposition in recent weeks. Opponents argue that the bill does not ensure proper accountability. DOTAX disagrees: "Auditing [under the bill] is actually made simpler as there is only one source to request documentation to initiate an



audit.” ([article link.](#)) Under HB 1850, HD1 Airbnb would register as the single taxpayer, assuming full responsibility with respect to applicable taxes on its platform and using its tax ID number to meet Act 204’s posting requirement. Airbnb would remain subject to DOTAX’s full audit authority. As such, if DOTAX requires the names or addresses of a platform’s users, the platform would provide the data with either the consent of its users or under an administrative subpoena from DOTAX (Sections 2 and 3, paragraph(g)). We believe this strikes the appropriate balance to allow DOTAX to monitor and ensure proper payment through its enforcement powers, while maintaining the security of the personal information of hosts.

Others contend this bill somehow shields users from county land use enforcement, thus interfering with the intent of Act 204. That is patently false. HB1850, HD1 is a tax bill designed to allow Airbnb to help its community pay its fair share of taxes. The legislative history of Act 204 also demonstrates that the purpose of the law was ensuring tax assessment and payment, not DOTAX’s enforcement of county land use laws.<sup>1</sup> Indeed, tax payment does not impact a user’s county land use liability. Moreover, taxpayer information is already confidential under state law. DOTAX thus does not share individual information of taxpayers with counties for local land use enforcement, and HB1850 does not impact this policy.

As we move forward, we will continue our work with leaders on common sense rules for home sharing. We are confident that we can work together on sensible and modern regulations that reflect the new economy, facilitate compliance, and make local communities stronger.

Regards,

*Beth Adair*

Beth Adair  
Global Head of Tax

*David Owen*

David Owen  
Regional Head of Public Policy

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<sup>1</sup> See Senate Stand. Comm. Rpt. No. 479 on SB519 (which became Act 204). Senate SCRs 785, House SCR 976, 1216 and 1571, and Conference Committee Rpt. No. 128, similarly make no mention of DoTAX’s enforcement of county land use laws, but reinforce the bill’s intent: ensuring full payment of taxes.



# HAWAII APPLESEED

## CENTER FOR LAW & ECONOMIC JUSTICE

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Testimony of Hawai'i Appleseed Center for Law and Economic Justice

Opposition to **HB 1850, Relating to Taxation**

Senate Committees on Tourism and International Affairs; and Commerce, Consumer Protection, and Health

Scheduled for Hearing Tuesday, March 17, 2016, 9:30 AM, Room 229

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*Hawai'i Appleseed Center for Law & Economic Justice is a nonprofit law firm created to advocate on behalf of low income individuals and families in Hawaii. Our core mission is to help our clients gain access to the resources, services, and fair treatment that they need to realize their opportunities for self-achievement and economic security.*

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Dear Chair Baker, Vice Chairs English and Kidani, and Members of the Committees on Tourism and International Affairs; and Commerce, Consumer Protection, and Health:

Thank you for the opportunity to testify in **strong opposition** to HB 1850, which would allow vacation rental brokers to serve as tax collection agents for the purposes of collecting General Excise and Transient Accommodation taxes on vacation rentals. While we appreciate that the Hawai'i Department of Taxation is overworked and underfunded, and that this would relieve some of their collection burden, any additional tax collection potential has to be weighed against the hidden costs of this measure.

The Hawai'i Appleseed Center for Law & Economic Justice has long been involved in attempting to address the crippling lack of affordable housing in our state. Hawai'i has the highest rate of homelessness in the nation. This is due in no small part to the extraordinary cost of living in the state.

To be able to afford a 2-bedroom apartment in Hawai'i a worker needs to make \$31.61/hour (the average renter wage is \$14.49/hour)—the highest required renter-wage in the nation. In 2013, 79% of households making below 30% of the Area Median Income were paying more than half of their incomes just to keep a roof over their heads. When families pay too much in rent, making ends meet becomes a constant struggle. High housing-related expenses are combined with depressed wages, heavy taxes, and high costs for food and other necessities which create nearly insurmountable barriers for many Hawai'i residents. With so little income left after paying high housing costs, families are forced to cut corners. These rent-overburdened families are more likely to face challenges paying for nutritious and sufficient food and make difficult tradeoffs, particularly in health care and transportation expenditures. Both children and adults who lack affordable housing have poorer health indicators.

Families are often forced to move into sub-standard or crowded housing. In 2011, 13 percent of Hawai'i's households were doubling up with friends or family due to economic necessity, and a full 30 percent were either doubled-up or crowded.

The number of affordable and available housing units in Hawai'i does not come close to meeting the need for these units, especially for low-income households. The 2011 Hawai'i Housing Planning Study found that between 2012 and 2016, the state would need at least 28,000 units to meet the total housing demand. Two-thirds of overall demand—approximately 19,000 units—is from households who are considered low-income or below. Yet on Oahu, there aren't



# HAWAII APPLESEED

## CENTER FOR LAW & ECONOMIC JUSTICE

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even enough units being developed to accommodate overall population growth, creating a shortfall of 2,000 units annually. Exacerbating the problem, many new units are for the high end of the market and appeal to non-resident buyers as vacation or investment properties.

HB 1850 will only increase these problems by encouraging residents to convert rental space that could be going to provide affordable housing for local residents into vacation rentals for trendy tourists. Nearly 70% of vacation rentals in Hawai'i listed with industry leader AirBnB—some 3000 units—are categorized as “whole place” rentals (meaning a renter gets the entire home). Every one of these rentals represents a space that could have housed a local family that might otherwise be consigned to our growing homeless population.

While we acknowledge the need for more tax revenues, we question whether a measure that will likely exacerbate our already dire housing situation is the smartest way forward. We thank you again for the opportunity to testify and reiterate our **strong opposition** to HB 1850.

KAILUA NEIGHBORHOOD BOARD NO. 31

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TESTIMONY STRONGLY OPPOSING HB1850  
Kailua Neighborhood Board

Just as the State and the counties have been making some progress to increase TAT and GET collections from vacation rentals and enforce against illegal ones, this bill is being heard that will do just the opposite. In the last session, SB519 (Act 204 7/2/2015) was adopted that required all vacation rental advertisements to include the TAT registration number:

"(1) The registration identification number or an electronic link to the registration identification number of the operator or plan manager issued pursuant to this section..."

Act 204 will help show that a vacation rental has a TAT license. They could only advertise if they have a TAT ID. Act 204 is a much superior statute. **Bill HB1850 will undo that recent progress** and enable vacation rentals to advertise through companies like Airbnb and hide their locations from tax enforcement. This is significant step backwards.

HB1850 enables vacation rental businesses, with or without a TAT or GET license, to advertise with Airbnb.com or other vacation rental broker, thus removing incentive for them to obtain a TAT license and to pay the taxes. This will also make it difficult for enforcement inspectors to identify these businesses and determine if they are legal or illegal. It is a bill that would promote illegal activities by allowing companies like Airbnb to collect and remit taxes without making records readily available for inspection.

Illegal vacation rentals are a growing problem in our state, and this bill does nothing to fix it as did Act 204 which HB1850 repeals. They're a problem not just because they aren't paying their fair share of taxes, but also because illegal vacation rentals take away affordable housing for local people, and hurt our economy by directly competing with full-service hotels that provide good local jobs. PLEASE OPPOSE HB1850.

Charles A. Prentiss, Ph.D., Chair

Charles A. Prentiss^Kailua Neighborhood Board^Oppose^No

# Keep It Kailua

## *Preserving Kailua's Character*

March 16, 2016

Re: **Please OPPOSE HB1850 (The Airbnb Bill)**

We adamantly oppose HB1850 HD1 as written. The bill claims to allow transient accommodations brokers to register as tax collection agents to collect and remit general excise and transient accommodations taxes on behalf of operators and plan managers using their services, but it does much more!

- HB1850 HD1 facilitates the growth of illegal transient lodging businesses in residential zoned neighborhoods.
- HB1850 HD1 hides the identity of legal and “illegal” transient lodging businesses (vacation rentals) from the tax department, County zoning officials and the public!
- HB1850 HD1 releases transient accommodations brokers from any liability to ensure their clients (short-term lodging owners) are in compliance with County zoning laws and implies County Governments can not pass laws holding transient accommodations brokers liable for advertising illegal vacation rentals..

Traditionally, the rental housing market and the hospitality industry do not intersect. However, AirBnB and other internet vacation rental brokers have created a platform that allows landlords to pit tourist dollars against renter dollars. Landlords can potentially earn significantly more money by converting traditional rental stock into AirBnB units, as many appear to have done.

Hawaii cannot afford to lose housing units. Recent government reports verify the State of Hawaii is facing a housing shortage of over 55,000 residential homes within ten years. Visitor lodging businesses in residential zoning reduces the local housing supply. The belief that an owner-occupied vacation rentals do not reduce the housing supply is false. Apartments attached to homes, studios,

cottages, Ohana units and ADU's are desperately needed housing in our residential community. The vast majority of young singles and young married couples "cannot" afford to purchase or rent an entire house. Vacation rentals of any type or form not only reduce supply of long-term rentals, they also drive up rental rates of long-term rentals.

Visitor lodging businesses in our neighborhoods also changes the "residential character" of our neighborhoods and the entire community by displacing local neighbors from our neighborhoods with a revolving door of strangers. Short-term tenants have little interest in public agencies or in the welfare of the citizenry. They do not participate in local government, coach paddling, or join the hospital guild. They do not lead a scout troop, volunteer at the library, or keep an eye on an elderly neighbor. Literally they are here today and gone tomorrow—without engaging in the sort of activities that weld and strengthen a community.

Thank you for your consideration.

## **Keep it Kailua**

*Keep It Kailua is a grassroots community group founded in 2004 whose purpose is to retain Kailua's family-oriented residential character and quality of life.*

*Keep It Kailua's goals are to:*

- *Protect residential zoning and promote permanent residency in our neighborhoods*
- *Preserve and enhance scenic, civic, recreational and cultural features that define Kailua's sense of place*
- *Protect water resources essential to the health of the environment*
- *Preserve trees and maintain open green space*
- *Promote walking and the use of non-motorized bicycles as alternatives to automobile transportation within and around the town*
- *Promote businesses that serve the residential community*
- *Support other community groups with similar goals*

Please visit us at [www.keepitkailua.com](http://www.keepitkailua.com)

**THE COUNCIL OF THE CITY OF NEW YORK  
OFFICE OF COUNCIL MEMBERS  
JUMAANE D. WILLIAMS & HELEN ROSENTHAL**

CONTACT:

Ilana Maier (Williams)  
imaier@council.nyc.gov, 917-608-8784  
Stephanie Buhle (Rosenthal)  
sbuhle@council.nyc.gov, 646-647-4395

FOR IMMEDIATE RELEASE  
March 11, 2016

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**COUNCIL MEMBERS ROSENTHAL & WILLIAMS  
WARN AIRBNB INVESTORS OF ILLEGAL ACTIVITY**

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Today **Council Member Helen Rosenthal, Chair of the Committee on Contracts**, and **Council Member Jumaane D. Williams, Chair of the Committee on Housing and Buildings**, [released a letter](#) below, to Airbnb's top thirty investors warning them of increasing government regulations on Airbnb's illegal activity that might impact the value of their investment.

"Our top concern has always and will continue to be the working families, seniors, and tenants who are being forced out of their homes and harassed because landlords know they can profit more by running illegal hotels. If Airbnb truly cared about middle class New Yorkers, they would not continue to allow landlords to take valuable apartments off the market, exacerbating our serious housing crisis," said **Council Member Rosenthal** and **Council Member Williams** in a joint statement.

March 9, 2016

Dear Airbnb Investors:

We are writing to alert you to new information regarding your investment in Airbnb. By Airbnb's own admission, the majority of their listings in New York City are illegal. We are therefore increasing regulation on Airbnb activity, which could impact the value of your investment.

New York City recently allocated several million dollars to fund:

- Education efforts to make all New Yorkers aware that renting out their entire apartment, condo, or cooperative for fewer than 30 days is illegal;
- Information technology to scrape the websites of Airbnb and other short-term rental platforms to identify users who post illegal listings; and
- Inspectors from multiple City Agencies to identify and fine apartment owners or tenants who post illegal listings on Airbnb and other short-term rental platforms.

In addition, we are passing legislation to significantly increase the fines for anyone caught posting their apartment for an illegal rental on any online platform. Legislation that requires additional reporting will also allow the City to more accurately track and fine repeat offenders.

New York tenants, condo owners, and co-op owners who post an illegal rental are breaking the law and the terms of their lease or board agreement, and all of them are at risk of eviction. We have heard from

the Real Estate Board of New York (REBNY) that eviction proceedings are moving forward at an increasing pace.

New York State Attorney General Eric Schneiderman investigated Airbnb in 2014, and his investigation concluded that nearly 75 percent of Airbnb's New York City listings were illegal. A recent anonymized data dump from Airbnb confirmed at least 60 percent of its New York City listings are currently illegal.

The public outcry against Airbnb is steadily growing. From news outlets increasing awareness of the illegal activity to editorial boards, Airbnb is not faring well in New York City. The Daily News Editorial Board called Airbnb's data disclosure in December 2015 a "data sharing sham," and they called on Airbnb to come clean with the government.

We recently met with Airbnb's representative, Chris Lehane. We asked him if Airbnb would voluntarily install simple software to keep illegal rentals off of their website. Remarkably, he refused, saying that he did not agree with the New York State law.

As you can imagine, we were disappointed to learn that a nearly \$30 billion company would knowingly allow illegal activity on its website. Other online platforms like Craigslist and Reddit have policies in which they promise to ensure their users obey the law and remove content that disobeys the law. It is remarkable that Airbnb would refuse a seemingly commonsense corporate practice to maintain the integrity of their product.

Last month, independent data analysts determined that Airbnb dropped nearly 1,500 illegal New York City listings a few weeks prior to presenting their data to the press and the public. After Airbnb was exposed for hiding information, they claimed these listings were dropped because they were illegal listings; yet, those hosts are quickly reposting their multiple apartments onto the website. If Airbnb can't be trusted to report honestly about their listings, how can investors trust them with other matters?

Of course, when a New York City small business behaves illegally, the government shuts them down. Surely your business would not knowingly tolerate illegal activity in your company. It's likely that you keep abreast of the activity of your investments. The issue that we're bringing to light is likely one that the Airbnb prospectus did not disclose to you as investors.

We would welcome the opportunity to speak with you to discuss questions or thoughts you might have about helping Airbnb restrict their New York home-sharing apartments to legal activity.

For our part, if we were invested in a company that knowingly engaged in so much illegal activity, we would think twice about keeping our money in that company.

With regards,



Helen Rosenthal  
Council Member, 6th District  
New York City

Jumaane D. Williams  
Council Member, 45th District  
New York City



Maria E. Zielinski, Director of Taxation  
State of Hawai'i  
Room 221  
Department of Taxation  
830 Punchbowl Street  
Honolulu, Hawai'i 96813 March 7, 2016

Dear Director Zielinski,

We are concerned with the details of companion bills HB1850 and SB2693 SD1 being promoted by staff in the Department of Taxation.

These bills suggest that by granting tax-collector status to "Transient Accommodation Broker Tax Collection Agents" the Department of Taxation will elevate them to the status of registered agents of the State of Hawai'i.

A staff member from your department attended a House Finance Committee hearing February 23 and was questioned rigorously by members of the committee. One important question asked was whether or not the department was concerned that the source of the TAT/GET-taxed income may be illegal according to county (or counties') laws. His response, generally, was that your department taxes TAT and GET transactions regardless of their legality. Fair enough; the department could not possibly determine that every transaction taxed did not include some form of illegal activity, service, or product.

However, given that most of the residential-zoned transient accommodation activity on O'ahu is illegal, easily determined by comparing Hawai'i Tourism Authority data ( $\approx 4,500$  in 2014 but Housing Advocates to M. Zielinski March 7, 2016 Page 2 of 2 much greater now) with the number of valid Honolulu County-issued nonconforming use certificates in effect ( $\approx 800$ ), we are concerned especially with the probability that a significant portion, or majority, of the future transactions by these new registered agents will be illegal under Honolulu City and County law. Much the same goes for Kaua'i and Maui Counties.

Our fear is that your department's granting of registered agent status to various vacation-rental brokers will cause the public, visitors, and waiting-in-the-wings prospective illegal short-term rental providers to use the excuse that any such short-term rental activity must be "legal" because it is being openly and publicly brokered by a registered agent of the State of Hawai'i. Housing is the issue here. Illegal vacation rentals already take thousands of houses and apartments out of O'ahu's rental market – driving up prices, rents, and homelessness. Adding a few thousand more new illegal vacation rentals will dramatically worsen the situation and undermine the governor's (and our) quest for solutions to the housing crisis.

Should this scenario play out as we fear that it must, your department and the state administration will be burdened with the ethical conflict of having given legitimacy to the state-registered tax collection agents involved in widespread illegal activity at the counties' level and aided their ability to turn even more much-needed rental housing into vacation rentals.

We take this opportunity to request that the Department of Taxation withdraw its support for SB2693/HB1850 and request the governor to veto this bill should it pass.

Please telephone Larry Bartley of Save O'ahu's Neighborhoods (224-4040), or contact any of us below, should you have any questions or desire further information.

Sincerely yours,

Larry Bartley, Executive Director, Save O'ahu's Neighborhoods (SONHawai'i)  
The Reverend Bob Nakata, Faith Action for Community Equity (FACE)  
Victor Geminiani, Co-Executive Director,  
Hawai'i Appleseed Center for Law and Economic Justice  
The AiKea Movement  
Kathleen Pahinui, Save North Shore Neighborhoods  
Connie Mitchell, Executive Director for IHS, The Institute for Human Services, Inc.  
Eric Gill, Financial Secretary-Treasurer, Unite Here! Local 5  
Don Bremner, Spokesperson, Keep It Kailua (KIK)  
Cc: Governor David Ige  
Scott Morishige, Coordinator on Homelessness  
Ec: Honolulu Mayor Kirk Caldwell  
Jun Yang, Executive Director, Honolulu Office of Housing  
Mayors and zoning enforcement officers for all Hawai'i counties



**HB1850 HD1  
RELATING TO TAXATION**

Senate Committee on Tourism and International Affairs  
Senate Committee on Commerce, Consumer Protection, and Health

March 17, 2016

9:30 a.m.

Room 229

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend to the Board of Trustees a position of **COMMENT** on HB1850 HD1. This bill seeks to streamline the collection of transient accommodations taxes for individually advertised vacation rentals, by allowing transient accommodation brokers, including websites and other rental listing services, to register as tax collection agents and collect and remit taxes on behalf of vacation rental operators. **However, by allowing brokers to shield the identify of their operators, this bill may inadvertently hinder the progress made in enforcing county land use laws and mitigating the current proliferation of unlawful Transient Vacation Units (TVUs) and Bed and Breakfast establishments (B&Bs),** that have exacerbated the housing challenges faced by Native Hawaiians and other island residents. Accordingly, OHA urges the Legislature to continue seeking ways to better ensure meaningful enforcement of county land use regulations.

**As home prices, rental prices, and homelessness continue to increase, and as our state anticipates additional population growth and an associated demand for more housing over the next decade,<sup>1</sup> land-use planning and enforcement that ensures housing affordability is more critical now than ever before.** Unfortunately, notwithstanding county land use ordinances that prohibit their operation in certain areas, illegal vacation rentals have proliferated throughout the state. Such vacation rentals may have removed much-needed units from the residential rental market, and exacerbated the rise in housing costs that now exceed what many state residents are able to afford. For example, a recent study by the Department of Business, Economic Development & Tourism (DBEDT) indicates that the recent increase in demand for single family vacation rentals has already contributed to the overall increase in demand for housing units in our islands.<sup>2</sup> An increase in vacation rental activity has also correlated with major drops in available residential rental listings, including those for increasingly rare single family units. **Notably, the Hawai'i Tourism Authority report found 22,238 individually advertised units in Hawai'i for 2014—units that could otherwise provide residential housing for**

---

<sup>1</sup> The Department of Business, Economic Development & Tourism (DBEDT) projects that Hawai'i's population will demand an additional 65,991 units in the next ten years. See, DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM, MEASURING HOUSING DEMAND IN HAWAII, 2015-2025, April 2015, page 3, available at <http://files.hawaii.gov/dbedt/economic/reports/2015-05-housing-demand.pdf>.

<sup>2</sup> *Id.* at 9.

**117,607 individuals.**<sup>3</sup> Without meaningful enforcement of county land use laws, the potential impacts of illegal vacation rental operations on the long-term housing market will remain unaddressed.

These impacts may particularly affect Native Hawaiians. Native Hawaiians, whose homeownership rate is significantly lower than the state average, must rely substantially on the rental housing market.<sup>4</sup> More than half of Native Hawaiian renters, many of whom already live in overcrowded situations, also live in homes they are struggling to afford. Furthermore, despite the fact that Native Hawaiians participate in the labor force at higher rates than the state average,<sup>5</sup> Native Hawaiians earn significantly less per capita than the average per capita income.<sup>6</sup> **Accordingly, Native Hawaiians are particularly disadvantaged by land uses that contribute to increased housing costs and rental housing shortages.**

OHA's research also indicates that most housing-insecure Native Hawaiian households include five or more individuals; accordingly, single family rental units are particularly important to improving the overall housing stability of the Native Hawaiian community.<sup>7</sup> Unfortunately, such rental units are particularly scarce, and may have a high potential for conversion to vacation rentals: a recent Affordable Rental Housing Study Update shows dramatic reductions in rental listings over the last three years for both multi-family and single-family units on all islands,<sup>8</sup> at the same time that the Hawai'i Tourism Authority reported an explosion in advertised vacation rentals.

In addition, data does not show that vacation rental operations significantly increase economic opportunities for our beneficiaries. Again, with Native Hawaiian homeownership rates significantly lower than the state average, Native Hawaiians are less likely to own second or additional homes that could be rented as a vacation unit.<sup>9</sup>

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<sup>3</sup> See INDIVIDUALLY ADVERTISED UNITS IN HAWAI'I (VACATION RENTALS) DECEMBER 2014, available at [http://www.hawaiiitourismauthority.org/default/assets/File/research/accommodations%20studies/Individually%20Advertised%20Units%20in%20Hawaii%20\(Vacation%20Rentals\).pdf](http://www.hawaiiitourismauthority.org/default/assets/File/research/accommodations%20studies/Individually%20Advertised%20Units%20in%20Hawaii%20(Vacation%20Rentals).pdf).

<sup>4</sup> Out of 71,006 Native Hawaiian households, 37,562 households are owner-occupied. This figure is commonly used by most governmental agencies to represent the homeownership rate. Therefore, the homeownership rate for Native Hawaiians is 52.9% compared to the statewide average of 56.7% of households. See OFFICE OF HAWAIIAN AFFAIRS, OHA DATA BOOK HOUSING TENURE BY RACE-ETHNICITY IN HAWAI'I 2014, available at <http://www.ohadatabook.com/T02-131-15u.pdf>. This figure includes 8,329 DHHL residential lease "owner-occupied" property units. DHHL ANNUAL REPORT 2014, p. 48, available at <http://dhhl.hawaii.gov/wp-content/uploads/2011/11/DHHL-Annual-Report-2014-Web.pdf>. For non-DHHL properties, the Native Hawaiian homeownership rate is therefore 41.2%, 15.5 percentage points below the statewide rate.

<sup>5</sup> American Community Survey, 2013, Civilian Labor Force Datapoint, U.S. Census Bureau.

<sup>6</sup> In 2013, the per capita income for Native Hawaiians was \$9,105 less than the statewide per capita income. See OFFICE OF HAWAIIAN AFFAIRS, INCOME INEQUALITY AND NATIVE HAWAIIAN COMMUNITIES IN THE WAKE OF THE GREAT RECESSION: 2005 TO 2013 (2014) <http://www.oha.org/wp-content/uploads/2014/05/Income-Inequality-and-Native-Hawaiian-Communities-in-the-Wake-of-the-Great-Recession-2005-2013.pdf>.

<sup>7</sup> OFFICE OF HAWAIIAN AFFAIRS, HAWAI'I RENTERS STUDY 2013: UNDERSTANDING THE HOUSING NEEDS OF NATIVE HAWAIIAN AND NON-HAWAIIAN SECTION 8 HOUSEHOLDS (2013), available at <http://www.oha.org/wp-content/uploads/2015/01/OHA-Hawaii-Renters-Study-2013-Full-Report.pdf>.

<sup>8</sup> See HAWAI'I HOUSING AND FINANCE CORPORATION, RENTAL HOUSING STUDY 2014 UPDATE (2014), available at <http://dbedt.hawaii.gov/hhfdc/resources/reports/>.

<sup>9</sup> See footnote 3.

County initiatives indicate that curbing the impacts of vacation rentals on housing opportunities for residents may require a stronger enforcement framework for county land use laws. For example, in 2009, the County of Maui adopted a permitting system that would allow Transient Vacation Rentals (“TVRs”) and Bed and Breakfast operations (“B&Bs”) in residential areas, and established caps on the number of permitted units in specific neighborhoods and districts. Despite the permitting requirement, with little enforcement there still appears to be a large and growing number of TVRs and B&Bs operating throughout Maui County, without the necessary permits.<sup>10</sup> Not surprisingly, Maui has continued to experience a dramatic decrease in available rental housing for all income levels, with residential rental listings dropping by 80% in some areas over the last three years.<sup>11</sup> The Maui Planning Commission has expressed concerns with the lack of available residential housing and the potential conversion of residential units to vacation rentals, and in light of the ongoing lack of enforcement, has asked the Maui County Council to either repeal the vacation rental permitting ordinances, or issue a moratorium on new permits until more residential housing is available.<sup>12</sup> As illustrated by Maui, robust and effective land-use enforcement may be critical to regulate and meaningfully mitigate the impacts of transient vacation rentals.

**If passed, this measure as written may inadvertently inhibit the enforcement of county land use laws.** This measure would specifically prohibit the collection of information on individual operators from transient accommodations brokers acting as their tax collection agents, even when such operators are unlawfully doing business. OHA notes that similar statutes for network marketing businesses do the opposite: these statutes require tax collection agents to submit a list of direct sellers for whom they are collecting and remitting taxes.<sup>13</sup> Absent such a requirement, this measure does not assist and may hinder county enforcement of land use ordinances, allowing illegal and unpermitted vacation rental operators to remit taxes while shielding their identity through listing brokers. Accordingly, should this measure move forward, OHA urges the Committees and the Legislature to continue seeking ways to support meaningful enforcement of county land use laws with respect to transient vacation rentals.

Mahalo nui for the opportunity to testify on this measure.

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<sup>10</sup> While only 130 permits for either a TVR or B&B were issued for Maui County, there were more than 8,000 TVR, B&B, or other short-term rental units advertised on the island in 2014. See footnote 7. While the number of those advertised could include units operating in zoning districts (hotel, resort) where their use conforms with the zoning ordinance, the disparity between the numbers merits further review.

<sup>11</sup> RICK CASSIDAY, MAUI RENTAL MARKET AFFORDABLE RENTAL HOUSING STUDY UPDATE 2014 (2014), available at <http://dbedt.hawaii.gov/hhfdc/files/2015/02/RENTAL-HOUSING-STUDY-2014-UPDATE-COUNTY-OF-MAUI.pdf>.

<sup>12</sup> See Council of the County of Maui Agenda, Regular Meeting of June 5, 2015, No.15-168 available at: <http://www.co.maui.hi.us/Archive.aspx?AMID=226>.

<sup>13</sup> “If required by the director as a condition of obtaining the license, [a tax collection agent shall] furnish with the annual return, a list (including identification numbers) of all direct sellers for the taxable year who have been provided (by the tax collection agent) information returns required under section 6041A of the Internal Revenue Code of 1986, as amended, and any other information that is relevant to ensure proper payment of taxes due under this section.” HRS §237-9(e)(2), available at [http://www.capitol.hawaii.gov/hrscurrent/Vol04\\_Ch0201-0257/HRS0237/HRS\\_0237-0009.htm](http://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0237/HRS_0237-0009.htm)



The Senate  
The Twenty-Eighth Legislature  
Regular Session of 2016

To: Sen. Rosalyn Baker, Chair  
Sen. J. Kalani English, Vice Chair  
Sen. Michelle Kidani, Vice Chair

Date: March 17, 2016

Time: 9:30 a.m.

Place: Conference Room 229  
Hawaii State Capitol

**RE: House Bill 1850, HD1, Relating to Taxation**

Chair Baker, Vice Chairs Kidani and English and Members of the Committees:

*Rental By Owner Awareness Association (RBOAA) is a Hawaii non-profit corporation whose mission is to provide Hawaii property owners with information to help them comply with the applicable State and County regulations, support the Hawaii economy by offering visitors choice in accommodation, and to advocate for the rights of Hawaii vacation property owners. RBOAA members provide transient vacation rentals in full compliance with existing tax and county regulations. RBOAA fully supports full enforcement of existing regulations.*

RBOAA recognizes the resource constraint in the Department of Taxation which affects the ability to pursue tax collection, and supports proposals which assist in the collection of taxes without undue burden on the taxpayer or the state.

However, this bill, as written, is not good for the State, nor for the Counties, nor for the vacation rental owners and therefore, RBOAA has no choice but to **OPPOSE** the bill and **recommends three amendments.**

1. Add clarifying wording stating:
  - a. “No owner, operator or plan manager is required to engage a registered transient accommodations broker.”
  - b. “No transient accommodations broker is required to register as a tax collection agent.”

## 2 | HB 825 RELATING TO TRANSIENT ACCOMMODATIONS

- i. Obviously, an owner, operator or plan manager who does not engage a registered transient accommodations broker registered as a tax collection agent would remain responsible for compliance with all provisions of this Chapter.
  - ii. Vacation rental owners have been receiving advertisements for the last 4 years mis-identifying the qualifications of the “local contact”. We expect to receive similar advertisements from those who stand to financially benefit from mis-identifying the need to use a tax collection agent, unless this ambiguity is clarified.
  - iii. In Portland, the City Council adopted this same agreement with AirBnB, but now all advertising platforms are required to adopt it even though they never had any input to its design and even though they handle transactions very differently from AirBnB.
2. We recommend removing the wording “*A registered transient accommodations broker tax collection agent shall not be required to disclose to the director the names or addresses of any of its operators and plan managers in connection with any return, reconciliation, payment, or other filing by the registered transient accommodations broker tax collection agent under this chapter*”.
  - a. We recognize the desire on the part of the broker to maintain privacy; however, the DoT has a steadfast and absolute commitment to privacy. So, without adding any value, this clause opens up this proposed process to significant abuse.
3. Clause 237- (j) reads: “*All registered transient accommodations broker tax collection agents **may** [emphasis added] inquire and insure [sic] whether the transient accommodation is in compliance with all pertinent land use laws.*”

The word “**may**”, in the above clause, will be interpreted as “**can, but not required to**” and therefore has no meaning.

- a. Change “**may**” to “**shall**” in the above clause.
- b. Change “**insure**” to “**ensure**” in the above clause.

Thank you for the opportunity to testify on this measure.

Sincerely,

Neal Halstead  
President,  
Rentals by Owner Awareness Association



## Save O'ahu's Neighborhoods OPPOSES HB1850/SB2693.

March 17, 2016

TSI/CPH Committees' Hearing

Dear Senator,

The primary reasons behind the mainland vacation rental brokers pushing this bill are:

- A. To give the mainland 'registered transient accommodation broker tax collection agents' (whew) the aura of legality while advertising and booking illegal short-term rentals.
- B. Attract currently-illegal operations by providing secrecy to shield their locations and identity from county zoning enforcement.
- C. Nullify Act 204 that went into effect January 1. Act 204 requires all transient accommodation advertisements to post the TAT account # of the operator of the property.
- D. Entice more homeowners to become illegal operators by providing secrecy to shield their locations and identity.
- E. Attract more operations by providing web-hosting, advertising, tax-filing, and booking services

The result of this legislation will be to:

- 1) Hide and obfuscate the names and addresses of county-illegal short-term rentals
- 2) Provide an aura of legitimacy to illegal operations that will increase their number beyond the ability of county zoning enforcement to ever provide effective enforcement.
- 3) Encourage vacation-rental operators to cheat on their TAT and GET.
- 4) Encourage many more residential homeowners to convert long-term rentals to vacation rentals. **Many, many new illegal vacation rentals will open**, which in turn will cause all the following negative results....
- 5) Increase rents for long-term rental homes and apartments
- 6) Increase homelessness
- 7) Introduce a constant stream of overnight strangers into residential-zoned neighborhoods, destabilizing the neighborhoods
- 8) Raise tourism resentment to new highs
- 9) Undermine the high-overhead legitimate hotel industry by promoting low overhead competition that does not have insurance, security, high property taxes, living-wage labor, FICA, Medicare, and on and on.
- 10) Undermine the job security of labor and management in the legitimate hotel industry



11) Undermine the service industry and suppliers to the legitimate hotel industry. Vacation rental operators buy at Costco, WalMart, etc. instead of traditional hotel suppliers.

With county governments, especially Honolulu and Maui, cracking down on illegal short-term rentals, many would-be illegal operators are waiting in the wings to see what happens. If this identity-shielding law passes, they will jump in the game right away. This will remove many long-term rentals from the housing market.

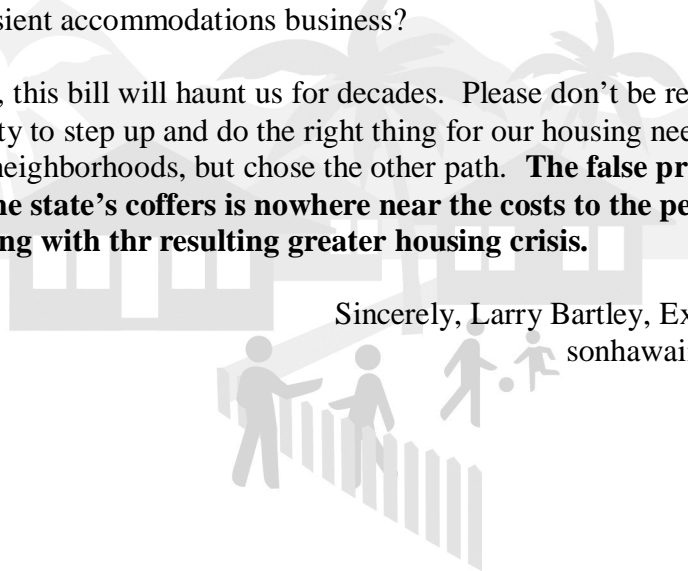
Please take another minute to read the attached letter to the Dept of Taxation and Governor Ige. Then have a look at the postcard mailed to an Ewa Beach residential home.

Also attached are reports from the New York Attorney General, Salon Magazine, Pew Charitable Trusts, New York City Councilmembers and others.

Section §237 (c) states “operators and plan managers shall be deemed **licensed** under this chapter...” Without knowing the definition of ‘licensed’, it would appear that this means licensure to conduct a transient accommodations business?

If passed and becomes law, this bill will haunt us for decades. Please don't be remembered as one who had the opportunity to step up and do the right thing for our housing needs and the sanctity of our residential neighborhoods, but chose the other path. **The false promise of a few more bucks in the state's coffers is nowhere near the costs to the people and the state government in dealing with the resulting greater housing crisis.**

Sincerely, Larry Bartley, Executive Director  
sonhawaii@hawaii.rr.com





Maria E. Zielinski, Director of Taxation  
State of Hawai'i  
Room 221  
Department of Taxation  
830 Punchbowl Street  
Honolulu, Hawai'i 96813

March 7, 2016

Dear Director Zielinski,

We are concerned with the details of companion bills HB1850 and SB2693 SD1 being promoted by staff in the Department of Taxation.

These bills suggest that by granting tax-collector status to "Transient Accommodation Broker Tax Collection Agents" the Department of Taxation will elevate them to the status of **registered agents** of the State of Hawai'i.

A staff member from your department attended a House Finance Committee hearing February 23 and was questioned rigorously by members of the committee. One important question asked was whether or not the department was concerned that the source of the TAT/GET-taxed income may be illegal according to county (or counties') laws. His response, generally, was that your department taxes TAT and GET transactions regardless of their legality. Fair enough; the department could not possibly determine that every transaction taxed did not include some form of illegal activity, service, or product.

However, given that most of the residential-zoned transient accommodation activity on O'ahu is illegal, easily determined by comparing Hawai'i Tourism Authority data ( $\approx 4,500$  in 2014 but

much greater now) with the number of valid Honolulu County-issued nonconforming use certificates in effect (~800), we are concerned especially with the probability that a significant portion, or majority, of the future transactions by these new **registered agents** will be illegal under Honolulu City and County law. Much the same goes for Kaua'i and Maui Counties.

Our fear is that your department's granting of **registered agent** status to various vacation-rental brokers will cause the public, visitors, and waiting-in-the-wings prospective illegal short-term rental providers to use the excuse that **any such short-term rental activity must be "legal" because it is being openly and publicly brokered by a registered agent of the State of Hawai'i**. Housing is the issue here. Illegal vacation rentals already take thousands of houses and apartments out of O'ahu's rental market – driving up prices, rents, and homelessness. Adding a few thousand more new illegal vacation rentals will dramatically worsen the situation and undermine the governor's (and our) quest for solutions to the housing crisis.

Should this scenario play out as we fear that it must, your department and the state administration will be burdened with the ethical conflict of having given legitimacy to the **state-registered tax collection agents involved in widespread illegal activity** at the counties' level and aided their ability to turn even more much-needed rental housing into vacation rentals.

We take this opportunity to request that the Department of Taxation withdraw its support for SB2693/HB1850 and request the governor to veto this bill should it pass.

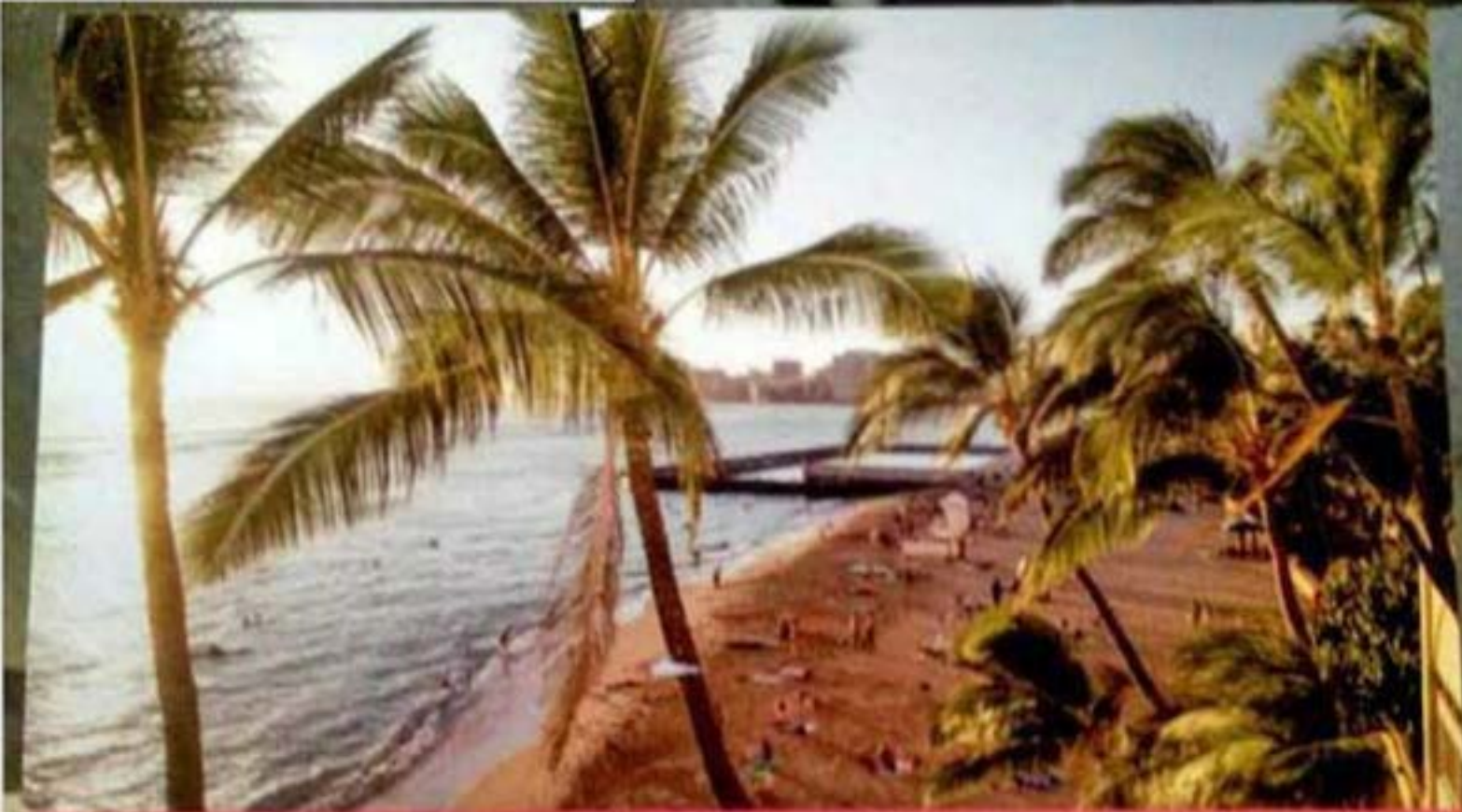
Please telephone Larry Bartley of Save O'ahu's Neighborhoods (224-4040), or contact any of us below, should you have any questions or desire further information.

Sincerely yours,

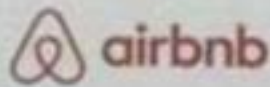
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Don Bremner, Spokesperson, Keep It Kailua (KIK)

Cc: Governor David Ige  
Scott Morishige, Coordinator on Homelessness

Ec: Honolulu Mayor Kirk Caldwell  
Jun Yang, Executive Director, Honolulu Office of Housing  
Mayors and zoning enforcement officers for all Hawai'i counties



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\*\*\*\*\*AUTO\*\*5-DIGIT 96706

EWA BEACH HI 96706

Mailed to Ewa Beach address not legal to rent for less than 30 days per ROH Honolulu



# Airbnb in the city

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From the Office of:  
New York State Attorney General  
Eric T. Schneiderman



October 2014

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This report was prepared by the Office of the Attorney General of the State of New York’s Research Department and Internet Bureau.

# INTRODUCTION

The rapid rise of short-term rental platforms like Airbnb have dramatically expanded the use of traditional apartments as transient hotel rooms—sparking a public debate in New York and in communities worldwide about the real-world consequences of this online marketplace.

Where supporters of Airbnb and other rental sites see a catalyst for entrepreneurship, critics see a threat to the safety, affordability, and residential character of local communities. Are the new platforms fueling a black market for unsafe hotels? By bidding up the price of apartments in popular areas, do short-term rentals make metropolitan areas like New York City less affordable? Is the influx of out-of-town visitors upsetting the quiet of longstanding residential neighborhoods?

Until now, the discourse has centered more on opinions and anecdotes than facts. This report seeks to bridge the gulf between rhetoric and reality. It offers the first exploration of the data on how users in New York City, one of Airbnb's most important markets, utilize the most successful online lodging rental platform. More broadly, the report endeavors to use quantitative data to inform an ongoing debate about how we embrace emerging, disruptive technologies, while protecting the safety and well-being of our citizens.

By analyzing Airbnb bookings for “private” stays,<sup>1</sup> this report presents a snapshot of short-term rentals in New York City from January 1, 2010 through June 2, 2014 (the “Review Period”). Among the key findings:

**Short-Term Rentals Experienced Explosive Growth.** Private short-term bookings in New York City on Airbnb increased sharply during the Review Period, registering more than a tenfold increase. The associated revenue also spiked, nearly doubling each year. This year, revenue to Airbnb and its hosts from private short-term rentals in New York City is expected to exceed \$282 million.

**Most Short-Term Rentals Booked in New York Violated the Law.** State and local laws in New York—including the Multiple Dwelling Law and the New York City Administrative Code—prohibit certain short-term rentals. During the Review Period, 72 percent of units used as private short-term rentals on Airbnb appeared to violate these laws.<sup>2</sup>

**Commercial Users Accounted for a Disproportionate Share of Private Short-Term Rentals by Volume and Revenue.** Ninety-four percent of Airbnb hosts offered at most two unique units during the Review Period. But the remaining six percent of hosts dominated the platform during that period, offering up to hundreds of unique units, accepting 36 percent of private short-term bookings, and receiving \$168 million, 37 percent of all host revenue. This report refers to these hosts as “Commercial Users.”

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<sup>1</sup> Airbnb hosts can offer a “shared room,” where the host remains present during the stay, an “entire home/apartment,” where the host is not present, or a “private room,” where the host may or may not remain present during the stay. This report and its source data address only the last two categories, which, when combined, are labeled “private” stays, rentals, or reservations in the report.

<sup>2</sup> By assuming that *all* reservations listed as a “Private Room” complied with these laws, the analysis *understates* the degree to which rentals on Airbnb may have violated the law. Specifically, a “Private Room” rental for less than 30 days is legal only where a permanent resident was present during the stay.

**Top Commercial Users Employed Rental Platforms to Run Multimillion-Dollar Short-Term Rental Businesses.** Well over 100 Commercial Users each controlled 10 or more unique Airbnb units during the Review Period. Together, these hosts accepted 47,103 private short-term reservations and earned \$59.4 million in revenue. The highest-earning operation administered 272 unique Airbnb listings, booked 3,024 reservations, and received \$6.8 million in revenue during the Review Period. Each of the top 12 New York City operations on Airbnb during that period earned revenue exceeding \$1 million.

**Private Short-Term Rentals Displaced Long-Term Housing in Thousands of Apartments.** In 2013, more than 4,600 units were booked as short-term rentals through Airbnb for three months of the year or more. Of these, nearly 2,000 units were booked as short-term rentals for a cumulative total of half the year *or more*—rendering them largely unavailable for use by long-term residents.<sup>3</sup> Notably, the share of revenue to Airbnb and its hosts from units booked as private short-term rentals for more than half the year increased steadily, accounting for 38 percent of each figure by 2013.

**Numerous Short-Term Rental Units Appeared to Serve as Illegal Hostels.** New York law does not permit commercial enterprises to operate hostels, where multiple, unrelated guests share tight quarters. In 2013, approximately 200 units in New York City were booked as private short-term rentals for more than 365 nights during the year. This indicates that multiple transients shared the same listing on the same night, as they would in an illegal hostel. The 10 most-rented units for private short-term rentals were each booked for an average of about 1,900 nights in 2013, with the top listing accepting 13 reservations on an average night.

**Gentrified or Rapidly Gentrifying Neighborhoods Primarily in Manhattan Accounted for the Vast Majority of Revenue from Private Short-Term Rentals in New York City.** Bookings in just three Community Districts in Manhattan—the Lower East Side/Chinatown, Chelsea/Hell’s Kitchen, and Greenwich Village/SoHo—accounted for approximately \$187 million in revenue to hosts, or more than 40 percent of private stay revenue to hosts during the Review Period. By contrast, all the reservations in three *boroughs* (Queens, Staten Island, and the Bronx) brought hosts revenue of \$12 million—less than three percent of the New York City total.

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<sup>3</sup> The actual number of apartments that shifted from long- to short-term housing could be much higher. This analysis covers paid Airbnb bookings only, omitting short-term rentals simultaneously offered on other platforms. This analysis also excludes nights when the apartments remain vacant between bookings.



# DATA & TERMINOLOGY

In late 2013, the Office of the Attorney General of the State of New York (“NYAG”) launched an investigation of users of web platforms like Airbnb who run large-scale enterprises in violation of fire safety, zoning, tax, and other applicable laws. Appendix A provides a brief overview of several applicable laws. In particular, the Multiple Dwelling Law (the “MDL”), as amended in 2010, prohibits rentals in “Class A” buildings—a category encompassing most residential apartment buildings in New York City—for stays of less than 30 days. This prohibition confronts the fire and safety risks associated with hotels and other transient accommodations, as detailed in Appendix B.

On May 14, 2014, NYAG served Airbnb with a subpoena for detailed information about rental transactions on its platform. Shortly thereafter, and pursuant to an agreement dated May 20, 2014, Airbnb shared data with NYAG reflecting certain rental transactions in an anonymized format (the “Data”).

In particular, Airbnb produced Data on 497,322 transactions (the “Reviewed Transactions”) for stays between January 1, 2010 and June 2, 2014 (the “Review Period”) that involved:

(1) A private stay, i.e. where the host listed an “entire home/apartment” or a “private room” for rent;

and

(2) One of the following:

a. A rental transaction for a stay in New York City of less than 30 days; or

b. A rental transaction for a stay in a unit in New York City of between 30 and 180 days that did not qualify for the *de minimis* exception for hotel room occupancy taxes (i.e., where a unit is booked for only up to 14 days or at most three times in a given year).

While private stays constitute the bulk of New York City reservations on Airbnb, the company declined to disclose the number of transactions not meeting the review criteria. It is therefore unclear how many transactions are excluded from the Data. As above, this report uses the word “private” (often paired with “booking,” “reservation,” “stay,” or “short-term rental”) as shorthand to distinguish the Reviewed Transactions (involving rentals for an “entire home/apartment” or a “private room”) from other Airbnb transactions, particularly those involving a “shared room.”

Airbnb anonymized key details of the Reviewed Transactions, replacing user names and unit numbers with unique ID codes. When analyzing the transactions, this analysis assumes the accuracy and uniqueness of Airbnb’s designations.

NYAG also conducted a second-level analysis of the Reviewed Transactions using New York City’s Geosupport Desktop Edition. By geo-locating the building addresses associated with the 35,354 unique units in the Data, NYAG identified the unique Borough, Block, and Lot (“BBL”) identification number for all but 3,138 unique units. The BBL numbers allowed NYAG to search for the units in the Primary Land Use

Tax Lot Output (“PLUTO”) database, which identifies the type of building for zoning purposes. By necessity, NYAG relied on the accuracy of this database.

NYAG sought and obtained this Data in connection with potential enforcement actions involving the Reviewed Transactions. The information and analyses contained in this report, however, are provided solely to aid the public discourse. Pursuant to the terms of its agreement with Airbnb, dated May 20, 2014, NYAG may publicly disclose its analyses of the Data (such as those contained in this report). The underlying Data may not be disclosed.

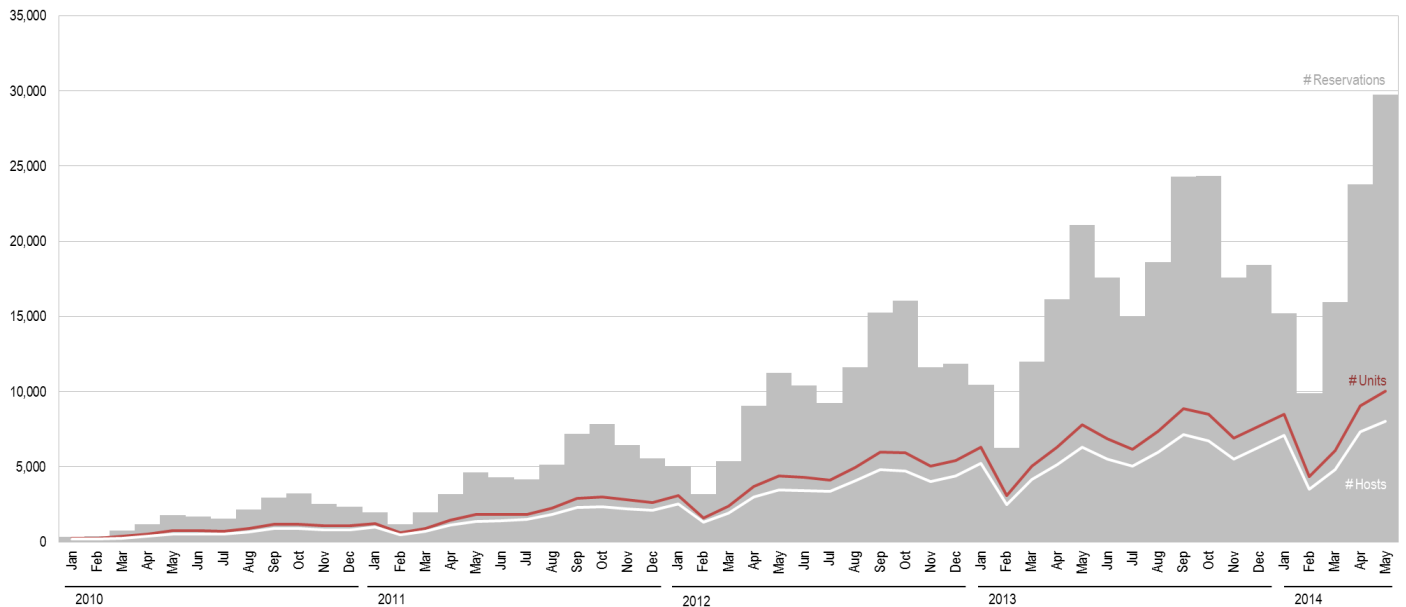
# GROWTH IN PRIVATE SHORT-TERM RENTALS

## Private Short-Term Rentals in New York City have Grown at a Staggering Pace.

During the Review Period, the number of unique units booked for private short-term rentals 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.<sup>4</sup> As with traditional hotel rooms, the short-term rental market varies seasonally. The chart below (Figure 1) shows that private bookings on Airbnb were on an upward trajectory throughout the Review Period, as measured by number of hosts, unique units, and total reservations.

Figure 1:  
Monthly Growth in Private Short-Term Rentals on Airbnb

(Source: Airbnb Data, 2010-2014)

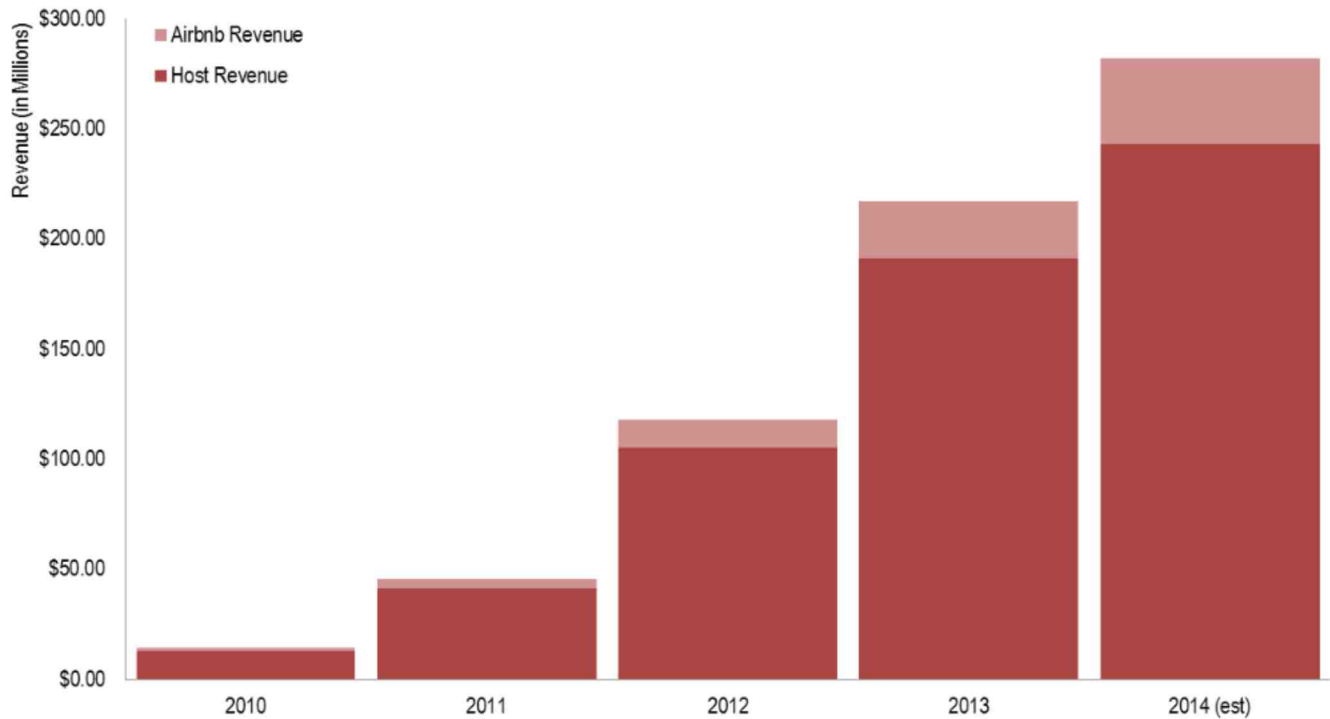


<sup>4</sup> For illustrative purposes, NYAG estimated 2014 year-end totals by assuming that the average monthly performance experienced in the first five months of the year in the relevant category would continue throughout the year. This is a rough estimate, which does not account for seasonal or other factors. For example, the estimation method makes no adjustment for the seasonal peak seen in August and September of previous years.

Private Short-Term Rentals in New York City Generated Over \$500 million in Revenue in Less than Five Years. As reflected in Figure 2 below, between the start of 2010 and the end of 2013, revenue to Airbnb and its hosts from private short-term rentals in New York City doubled almost every year, with revenue in 2014 estimated to exceed \$282 million. During the Review Period (January 1, 2010 through June 2, 2014), transaction fees associated with the Reviewed Transactions resulted in direct revenue to Airbnb of about \$61 million.<sup>5</sup>

Figure 2:  
Revenue from Airbnb Reservations Nearly Doubled Every Year

(Source: Airbnb Data, 2010-2014)



<sup>5</sup> Hosts pay Airbnb a three percent fee for reservations booked on the platform. Guests pay Airbnb a fee that varies from six to 12 percent of the reservation.

### Most Private Short-Term Rentals Booked in New York City Violated the Law.

Comparing the addresses associated with the Reviewed Transactions to a database of New York City buildings suggests that 72% of unique units used as private short-term rentals on Airbnb during the Review Period involved the rental of an “entire/home apartment” for less than 30 days in either (1) a “Class A” multiple dwelling or (2) a non-residential building.<sup>6</sup> These rentals would respectively violate the MDL (which prohibits such rentals in “Class A” buildings) or the New York City Administrative Code (which prohibits the use of non-residential buildings for housing). See Appendix A.

As depicted in Figure 3 below, the 300,891 reservations that appear to violate the building use and zoning laws yielded approximately \$304 million for hosts during the Review Period. Airbnb itself earned almost \$40 million in fees from these transactions. This represents approximately two out of every three dollars Airbnb received in connection with the Reviewed Transactions.

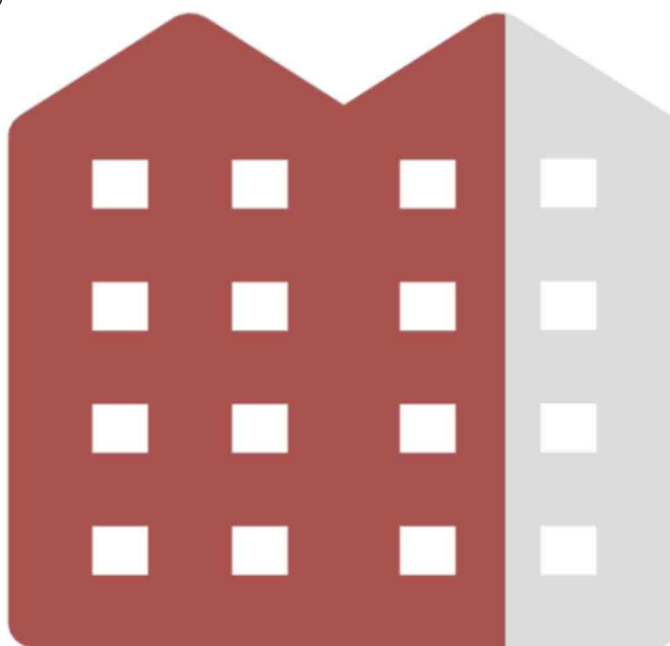
Figure 3: Most Private Short-Term Rentals on Airbnb Appear to Violate New York Law

(Source: Airbnb Data, 2010-2014, compared with PLUTO)

72%

Percent of unique units rented in apparent violation of the MDL or NYC Administrative Code.

Revenue:	\$304 Million
Reservations:	300,891
Units:	25,532
Hosts:	20,835



The above numbers likely understate the degree to which private short-term rentals posted on Airbnb during the Review Period may have violated the law. For purposes of this calculation, the report assumes that *all* reservations identified as a “private room” (as distinct from an “entire home/apartment”) complied with the MDL, regardless of whether they were located in a “Class A” building. In fact, “private room” rentals in “Class A” buildings shorter than 30 days would comply with the MDL only where the host or another permanent resident remained in the unit during the guest’s stay.

<sup>6</sup> Specifically, the MDL permits rentals shorter than 30 days in hotels and “Class B” buildings, primarily one- and two-family homes. This analysis therefore assumes that rentals in residential buildings comply with the MDL where they are designated in the Department of Buildings separate classification system as Class A (“One Family Dwelling”), B (“Two Family Dwelling”), H (Hotels), S0 (“Primarily One Family with Two Stores or Offices”), S1 (“Primarily One Family with Store or Office”), or S2 (“Primarily Two Family with Store or Office”). The MDL also permits sublets of apartments for 30 days or more.

**New York City Is Likely Owed Millions in Unpaid Hotel Taxes from Private Short-Term Rentals.** A number of taxes may apply to private short-term rentals. See Appendix A. In particular, New York City assesses a hotel room occupancy tax of 5.875 percent that applies to private short-term rentals. Excluding fines and penalties, the total estimated liability for hotel room occupancy taxes associated with the Reviewed Transactions is over \$33 million.<sup>7</sup> See Figure 4 below.

Few Airbnb hosts appear to have filed the paperwork with New York City necessary to remit hotel room occupancy taxes, nor did Airbnb collect any of the hotel taxes owed for the Reviewed Transactions.<sup>8</sup> Even the most conservative estimate therefore finds that private short-term rentals booked through Airbnb incurred millions of dollars in unpaid hotel room occupancy taxes.

Figure 4:  
Private Short-Term Rentals in New York City Incurred Over \$33 Million in Hotel Tax Liability

(Source: Airbnb Data, 2010-2014)

<b>Year</b>	<b>Hotel Room Occupancy Taxes</b>
2010	\$961,378
2011	\$3,079,250
2012	\$7,797,270
2013	\$14,221,841
2014 (through 6/2/14)	\$7,407,413
<b>Total</b>	<b>\$33,467,152</b>

<sup>7</sup> To calculate the total estimated liability for hotel room occupancy taxes, we first multiplied the total payments for private short-term rentals by the hotel room occupancy tax rate (.05875). Next, we added the per-room fee, which ranges up to \$2 per night depending on the cost of the room. We then excluded all “private room” transactions where the host only offered one listing. (Such transactions would not be taxable where the host remained present during the stay.) Finally, we applied the *de minimus* exception, excluding tax liability for any unit booked in a given year (a) for fewer than 14 days; or (b) on fewer than three separate occasions. See Appendix A for further discussion of the hotel room occupancy tax.

<sup>8</sup> Based on guidance from tax authorities, Airbnb maintains that it is not required to collect these taxes on behalf of hosts.

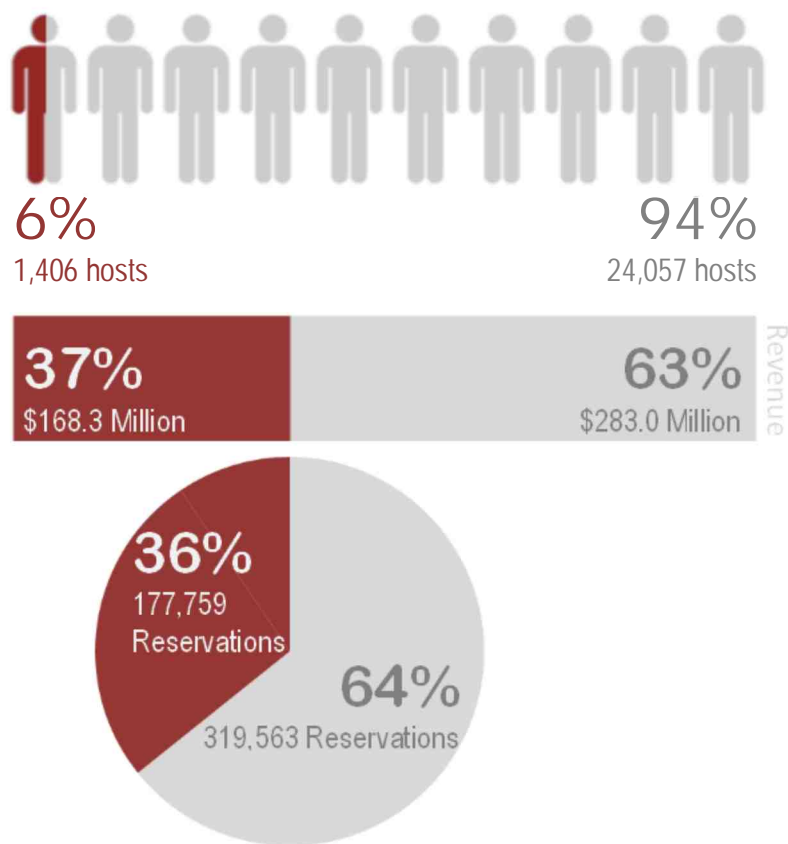
# COMMERCIAL USERS

While Commercial Users Represented a Minority of Hosts, They Dominated the Private Short-Term Rental Market in Units, Reservations, and Revenue. 25,463 hosts offered private short-term rentals in New York City during the Review Period. Of these hosts, 24,057 (94 percent) offered no more than two unique units for private short-term rentals during the period.<sup>9</sup>

As illustrated in Figure 5, 1,406 hosts (six percent) acted as “Commercial Users,” running larger operations that administered from three to 272 unique units during the Review Period. During that period, Commercial Users controlled more than one in five unique units in New York City booked on Airbnb as private short-term rentals, accepted more than one in three private reservations, and received more than one of every three dollars in revenue from private short-term rentals on Airbnb—for a total of \$168 million.

Figure 5:  
Commercial Users Accounted for a Disproportionate Share of Private Short-Term Rentals

(Source: Airbnb Data, 2010-2014) ■ Commercial Users (Hosts with 3+ Unique Units)



<sup>9</sup> While operating smaller ventures, these hosts may nonetheless be in violation of the law. See, e.g., pp. 8-9 above.

**Major Commercial Ventures Used Airbnb to Conduct Multimillion-Dollar Businesses.** Since 2010, 124 Commercial Users offered 10 or more unique units as private short-term rentals. These Commercial Users operated enterprise-scale ventures that together earned revenue of \$60 million during the Review Period. The chart below (Figure 6) reflects the top 12 Commercial Users by revenue. During the Review Period, these Commercial Users together controlled 801 unique units, accepted 14,655 private reservations, and received more than \$24.2 million in total revenue for private short-term rentals. A single Commercial User—the top New York host on Airbnb during the Review Period—controlled 272 unique units and received revenue of \$6.8 million. This individual received two percent of all New York host revenue for private stays and personally earned Airbnb close to \$800,000 in fees.

Figure 6: The Top Commercial Users Earned Millions from Private Short-Term Rentals

(Source: Airbnb Data, 2010-2014)

Host	Unique Units	Reservations	Nights Booked	Revenue to Host
1	272	3,024	29,234	\$6,838,472
2	223	1,342	12,003	\$2,863,493
3	46	1,833	12,184	\$2,168,027
4	22	1,607	13,103	\$1,616,814
5	16	751	4,212	\$1,613,763
6	27	1,480	8,675	\$1,598,276
7	24	1,185	6,008	\$1,418,058
8	21	802	4,731	\$1,417,459
9	14	1,072	6,175	\$1,345,823
10	9	663	3,211	\$1,156,561
11	34	425	7,708	\$1,138,706
12	92	471	3,198	\$1,026,270
<b>Total</b>	<b>801</b>	<b>14,655</b>	<b>110,442</b>	<b>\$24,201,722.00</b>

In April 2014, in direct response to NYAG’s investigation, Airbnb publicly claimed it had barred certain large Commercial Users from accepting additional reservations. The time period covered by the Data does not enable us to gauge whether Airbnb’s purported reform lessened the domination of Commercial Users in the private short-term rental market. Commercial Users with between three and nine unique units, however, enjoyed a similarly elite position on the platform; during the Review Period, they were responsible for one-quarter of all private short-term bookings and received revenue of \$108.9 million—about one in every four dollars hosts received. Regardless, the Data make clear that during the approximately 4.5-year Review Period, Commercial Users accounted for a substantial and disproportionate share of Airbnb’s business in New York City.



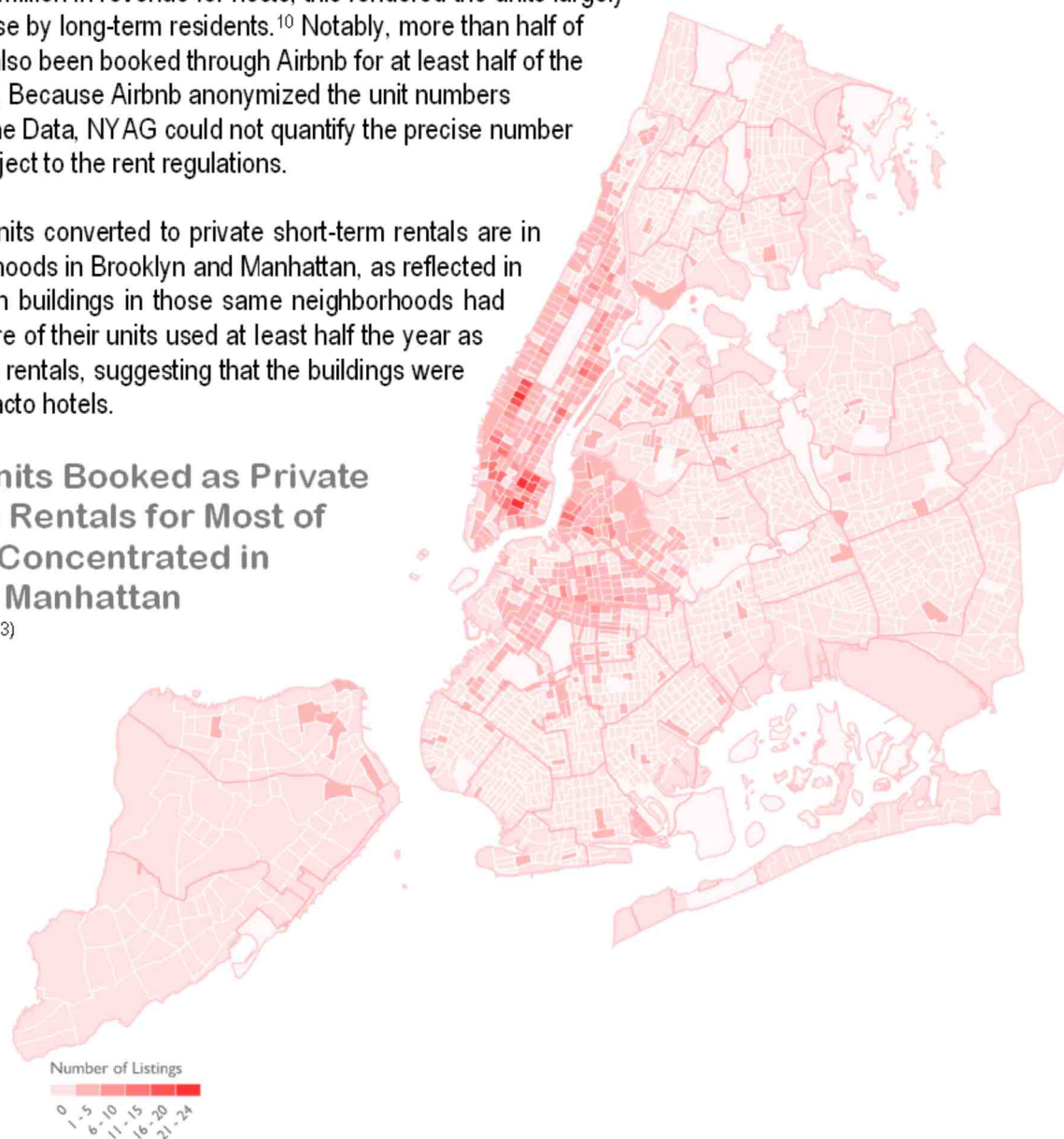
# EFFECTS OF SHORT-TERM RENTALS ON RESIDENTIAL HOUSING SUPPLY

**Thousands of Residential Units in New York City Were Dedicated Primarily or Exclusively to Private Short-Term Rentals.** In 2013, over 4,600 unique units were each booked as private short-term rentals for three months of the year or more. Of these, nearly 2,000 units were each booked as private short-term rentals 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.<sup>10</sup> Notably, more than half of these units had also been booked through Airbnb for at least half of the prior year (2012). Because Airbnb anonymized the unit numbers associated with the Data, NYAG could not quantify the precise number of these units subject to the rent regulations.

The majority of units converted to private short-term rentals are in popular neighborhoods in Brooklyn and Manhattan, as reflected in Figure 7. A dozen buildings in those same neighborhoods had 60 percent or more of their units used at least half the year as private short-term rentals, suggesting that the buildings were operating as de facto hotels.

**Figure 7: Units Booked as Private Short-Term Rentals for Most of 2013 Were Concentrated in Brooklyn & Manhattan**

(Source: Airbnb Data, 2013)



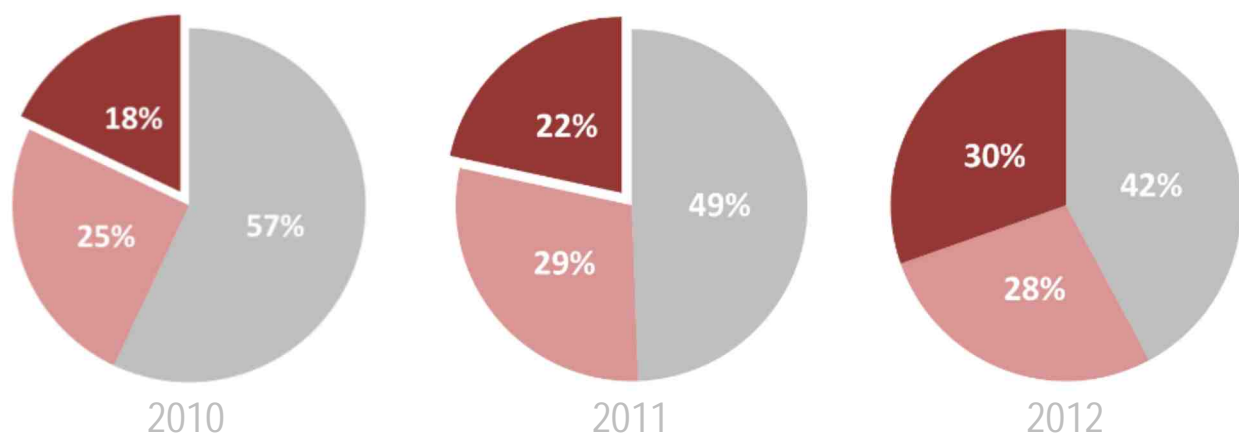
<sup>10</sup> It is likely that the number of units dedicated to private short-term rentals is substantially higher. The Reviewed Transactions cover Airbnb reservations only. Although listing on more than one site is common, this analysis cannot account for short-term rentals booked on other platforms. Also, the Data do not indicate periods when a unit is left intentionally vacant pending further short-term rentals.

**Units Dedicated Primarily or Exclusively to Private Short-Term Rentals Accounted for an Increasing Share of Revenue Over Time.** As reflected in Figure 8 below, over time, the share of revenue hosts received from units booked for more than half the year has increased, rising from 18 percent of private short-term rental revenue in New York City in 2010 to 38 percent of such revenue in 2013. Airbnb's revenue from the associated fees also increased, rising from over \$270,000 in 2010 to \$10 million in 2013. Units booked on Airbnb as private short-term rentals for half the year or more—and thereby largely removed from long-term housing—generated 38 percent of all fees Airbnb received in 2013 in connection with the Reviewed Transactions.

Figure 8: Increasing Share of Host Revenue from Units Booked as Private Short-Term Rentals for Majority of the Year

(Source: Airbnb Data, 2010-2014)

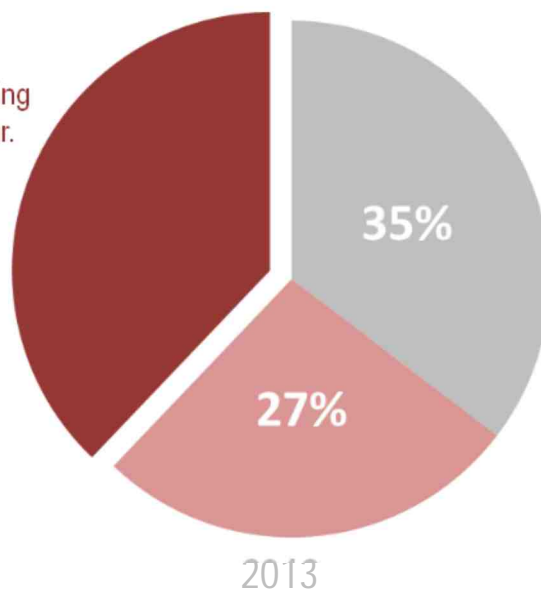
- Unit rented for 182+ days in year
- Unit rented for 90-182 days in year
- Unit rented for less than 90 days in year



**38%**

Percent of revenue to hosts renting unit(s) for more than half the year.

Revenue: \$72.3 mil  
 Reservations: 83,314  
 Units: 1,961  
 Hosts: 1,526



**Numerous Units Booked as Private Short-Term Rentals May Have Operated as Illegal Hostels.** Certain states permit hostels, where multiple, transient strangers often share rooms outfitted with bunk beds and barebones amenities. Because tight quarters and other factors create heightened fire and safety risks to travelers and permanent residents, these states generally require hostels to adhere to rigorous safety requirements. New York currently prohibits for-profit hostels entirely.

Although other explanations may apply to certain listings, patterns of high occupancy in connection with a single unit are consistent with their use as a hostel or other high-volume transient accommodation. Close to 200 units throughout New York City were each booked on Airbnb as private short-term rentals for more than 365 total nights in 2013.<sup>11</sup>

Figure 9 below provides data associated with 10 most-booked private short-term listings on Airbnb in 2013. For 2013, these units averaged 1,920 booked nights each. One listing in Brooklyn accepted 285 individual reservations for a total of 4,735 booked nights. Thus, on an average night, this listing accommodated 13 reservations.

Figure 9: Ten Most-Rented Units Booked Substantially More Than 365 Nights a Year

(Source: Airbnb Data, 2013)

Rank	Borough	Reservations	Nights Booked	Average Nightly Rate Charged	Revenue to Host
1	Brooklyn	285	4,735	\$49.12	\$193,495.00
2	Brooklyn	90	2,273	\$107.77	\$130,331.00
3	Brooklyn	361	2,129	\$45.15	\$81,110.00
4	Manhattan	313	2,059	\$178.72	\$305,243.00
5	Manhattan	304	1,599	\$75.73	\$108,130.00
6	Manhattan	44	1,407	\$104.22	\$100,992.00
7	Brooklyn	460	1,313	\$101.94	\$113,168.00
8	Manhattan	221	1,278	\$158.80	\$169,693.00
9	Manhattan	204	1,245	\$105.97	\$110,965.00
10	Queens	182	1,165	\$132.44	\$119,716.00

<sup>11</sup> The Data exclude all listings identified as a "shared room," which could likewise serve as illegal hostels or other high-volume transient accommodations. We expect that the number of New York City units booked as short-term rentals for more 365 days a year during the Review Period would increase if these transactions were included.

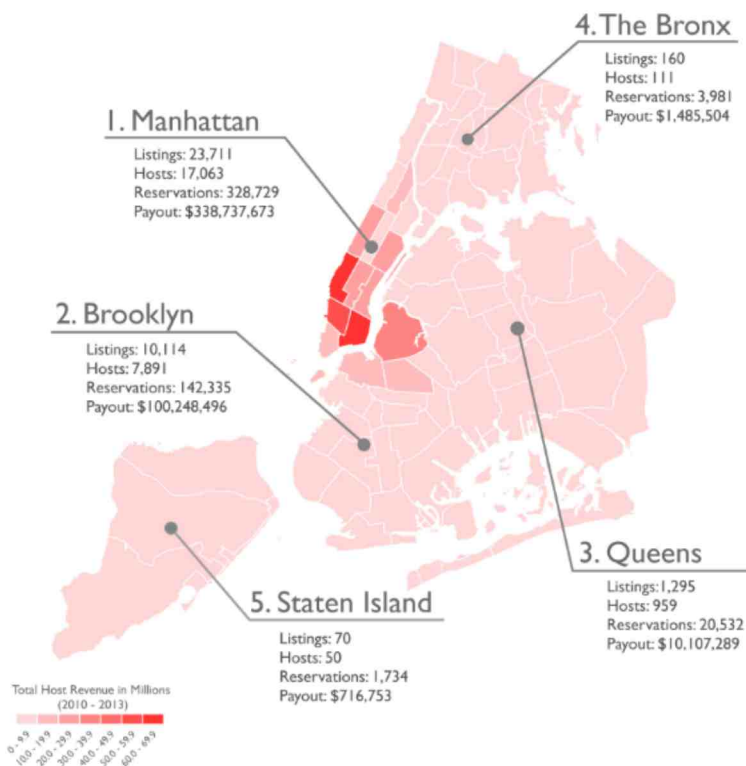
# GEOGRAPHIC DISTRIBUTION OF SHORT-TERM RENTALS

Revenue Generated in Manhattan and Brooklyn Accounted for Virtually All Revenue from Private Short-Term Rentals Citywide. During the Review Period, private bookings in those two boroughs yielded \$438 million to Airbnb hosts—97 percent of the citywide revenue totals. The 33,825 unique units in Manhattan and Brooklyn during that period accounted for the vast majority (96 percent) of units used for private short-term rentals booked citywide. This runs counter to the suggestion that any benefits associated with private short-term rentals are well-distributed throughout the city.

As depicted in Figure 10 below, during the Review Period, about 17,000 hosts offered over 23,000 unique units in Manhattan for private short-term rentals and received revenue of \$338 million. Brooklyn emerged as a distant second in each category, with just under 8,000 hosts offering about 10,000 unique units and receiving revenue of approximately \$100 million. By contrast, private short-term rentals in the remaining three boroughs (Queens, Staten Island, and the Bronx) together yielded hosts just \$12.2 million—less than three percent of the citywide total.

Figure 10: Vast Majority of Private Short-Term Rentals Booked in Manhattan and Brooklyn

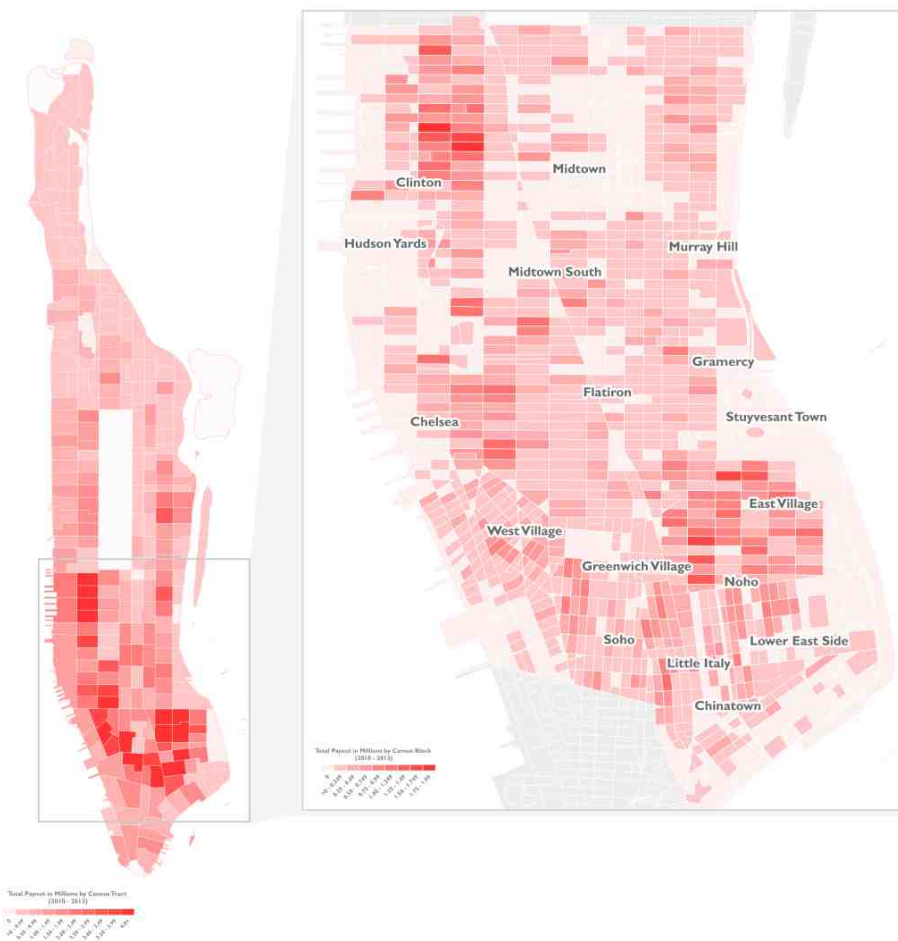
(Source: Airbnb Data, 2010-2014)



Three Community Districts in Manhattan Accounted for an Outsize Share of Private Short-Term Rentals in the Borough and Citywide. As reflected in Figure 11, three Community Districts—the Lower East Side/Chinatown, Chelsea/Hell’s Kitchen, and Greenwich Village/SoHo—accounted for one-third of unique units booked as private short-term rentals in New York City. These three, largely downtown districts accounted for host revenue of \$186.9 million, which represented 55 percent of host revenue for private stays in Manhattan and 41 percent of host revenue for private stays citywide. Greenwich Village/SoHo and Chelsea/Hell’s Kitchen had the highest median rents in New York City, tied at \$2,035 per month in 2012.<sup>12</sup> The Lower East Side was the most rapidly gentrifying neighborhood in New York City (based on the spread between median rents of new residents compared with all renters).<sup>13</sup>

Figure 11:  
Three Lower Manhattan Community Districts Accounted for Most of Borough Revenue

(Source: Airbnb Data, 2010-2014)



<sup>12</sup> NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN02 Greenwich Village/SoHo." Available: [http://furmancenter.org/files/sotc/SOC2013\\_Manhattan\\_02.pdf](http://furmancenter.org/files/sotc/SOC2013_Manhattan_02.pdf)

NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN04 Clinton/Chelsea." Available: [http://furmancenter.org/files/sotc/SOC2013\\_Manhattan\\_04.pdf](http://furmancenter.org/files/sotc/SOC2013_Manhattan_04.pdf)

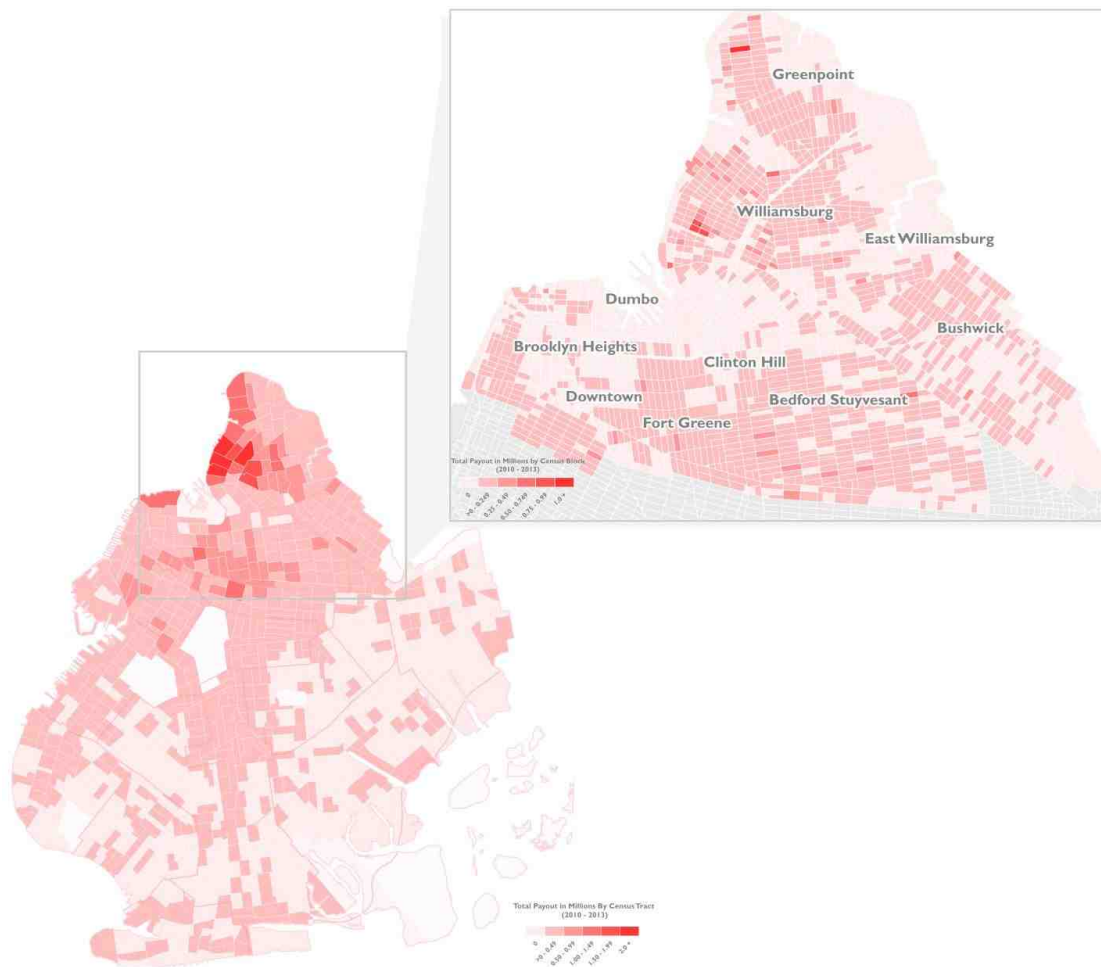
<sup>13</sup> NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN03 Lower East Side/Chinatown." Available: [http://furmancenter.org/files/sotc/SOC2013\\_Manhattan\\_03.pdf](http://furmancenter.org/files/sotc/SOC2013_Manhattan_03.pdf)

**Williamsburg and Greenpoint Hosted the Greatest Share of Private Short-Term Rentals in Brooklyn.** During the Review Period, most revenue from private Brooklyn short-term rentals came from Community Districts along the Northern Brooklyn waterfront and in the neighborhoods often collectively called “Brownstone Brooklyn.” As depicted in Figure 12 below, the Williamsburg/Greenpoint Community District had for the largest concentration of private short-term rentals in Brooklyn, generating \$39 million for hosts—40 percent of the boroughwide total and nearly 10 percent of the citywide total.

Like the Lower East side, the Williamsburg/Greenpoint Community District was one of the most rapidly gentrifying neighborhoods in New York City, as reflected in the disparity between the rents paid by old and new renters in 2012.<sup>14</sup> Other popular community districts included Downtown Brooklyn/Fort Greene (\$14.7 million revenue), Prospect Heights/Bedford Stuyvesant (\$14.4 million revenue), and Park Slope (\$8.67 million revenue).

Figure 12: Williamsburg and Greenpoint Accounted for 40 Percent of Brooklyn Host Revenue

(Source: Airbnb Data, 2010-2014)



<sup>14</sup> NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "BK01 Greenpoint/Williamsburg." Available: [http://furmancenter.org/files/sotc/SOC2013\\_Brooklyn\\_01.pdf](http://furmancenter.org/files/sotc/SOC2013_Brooklyn_01.pdf)

# APPENDIX A: SUMMARY OF SELECTED LAWS

## PROPERTY USE AND SAFETY LAWS

Property use and safety laws establish basic standards for the permissible and sound use of property. These laws seek to protect the health, safety, morals, welfare, and reasonable comfort of the residents of the property.

One such law is the New York State Multiple Dwelling Law (the “MDL”), which prohibits rentals of less than 30 days in “Class A” multiple dwelling. Prior to 2010, the MDL defined “Class A” buildings as those dwellings occupied “as a rule, for permanent residence purposes.” The phrase “as a rule, for permanent residence purposes” was ambiguous and left room for various interpretations. For example, the phrase “as a rule” could mean that at least some measure of secondary short-term occupancy is permitted in a “Class A” building, provided that the majority of units are occupied on a permanent residency basis. The court in *City of New York v. 330 Continental, LLC*, 60 A.D.3d 226 (1st Dept. 2009) followed this interpretation, holding that the MDL is not violated when only a minority of units in a Class A building are used as transient hotel rooms.

In 2010, the MDL was amended to specify that permanent residency of a dwelling means at least 30 consecutive days’ occupancy by a “natural person or family” in a unit. Thus, one cannot rent out an apartment in a “Class A” multiple dwelling for less than 30 days, unless a “permanent resident” is present during the rental period. A “multiple dwelling” is a dwelling occupied by three or more families living independently. The purpose of this prohibition is to protect guests, ensure the proper fire and safety codes, and protect permanent residents who “must endure the inconvenience of hotel occupancy in their buildings.” It was also designed to preserve the supply of affordable permanent housing. See New York State Assembly Memorandum in Support of Legislation (S. 6873-B, 233rd Leg. (N.Y. 2010 (Sponsor’s Memo) Bill No. A10008).

Even if the building is not a “Class A” multiple dwelling, a short-term rental could still violate the law. For example, New York City Administrative Code, section 28-118.3.2, prohibits changes to the use, occupancy, or egress of a building. A short-term stay in a building that is not a “Class A” multiple dwelling would violate the law unless the building’s certificate of occupancy expressly authorized that type of use.

## TAX LAWS

Anyone who rents out a unit on a short-term basis must pay applicable hotel taxes. These taxes include the New York City Hotel Occupancy tax of 5.875%, plus an additional per room fee of 50 cents to \$2, depending on the total cost of the room.<sup>15</sup>

The operator (as relevant here, the host) is personally liable for the portion of the tax collected or required to be collected. The operator must collect the tax for all rentals of apartments or rooms, except in the case of: (1) rental of only one room in an owner-occupied home; (2) rentals for less than 14 days, or for fewer than three occasions during the year (for any number of total days);<sup>16</sup> and (3) "long-term leases," i.e., rentals for a continuous period of 180 consecutive days.

Other taxes, including sales taxes and the New York City Unincorporated Business Tax ("UBT"), may also apply. The UBT is a 4% tax on net income imposed on individuals or unincorporated entities that carry on or are currently liquidating a trade, business, profession, or occupation within New York City. This includes those engaged in the business of renting out homes and apartments for profit as an unincorporated business.

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<sup>15</sup> This additional fee is based on the "rent" being charged for a room:

If the rent for the room is...	The tax will be...
\$10 or more, but less than \$20	50 cents per day per room + the hotel room occupancy tax rate
\$20 or more, but less than \$30	\$1 per day per room + the hotel room occupancy tax rate
\$30 or more, but less than \$40	\$1 per day per room + the hotel room occupancy tax rate
\$40 or more	\$2 per day per room* + the hotel room occupancy tax rate

A hotel suite may have more than one room. The tax will be \$2.00 per room per day on each of the rooms that make up the suite plus the hotel room occupancy tax for the entire suite rental. For example, the tax on a suite with 3 rooms will be \$6.00 per day plus the hotel room occupancy tax for the entire suite rental.

<sup>16</sup> Rentals of listings in a single building are aggregated and rentals of listings by a single owner or primary leaseholder are aggregated across buildings. Once a facility is required to pay hotel occupancy tax, it must continue to pay the tax until it falls below the de minimis thresholds for three consecutive years.



APPENDIX B:  
SELECTED AFFIDAVITS  
(FIRE & SAFETY ISSUES)

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

THE CITY OF NEW YORK,

Plaintiff,

**AFFIDAVIT IN  
SUPPORT**

-against-

Index No.

CITY OASES, LLC, et al.,

Defendants.

-----X

STATE OF NEW YORK    )  
                                  )ss.:  
COUNTY OF KINGS    )

THOMAS JENSEN, being duly sworn, deposes and says:

1. I am employed by the New York City Fire Department (“FDNY”) as the Chief of Fire Prevention, a position I have held since 2007. I am a member of FDNY’s uniformed firefighting force, and hold the rank of Assistant Chief. I have been employed by FDNY since 1973, when I was appointed to the position of Firefighter. Prior to being appointed to the rank of Assistant Chief, I was promoted to and held the ranks of Lieutenant, Captain, Battalion Chief, Deputy Chief, Deputy Assistant Chief.

2. As Chief of Fire Prevention, I oversee the operations and personnel of the Bureau of Fire Prevention, the FDNY bureau primarily responsible for FDNY’s fire prevention and code enforcement mission. In addition, as Chief of Fire Prevention I served as the Chair of the Fire Protection Systems Committee of the New York City Department of Buildings Code Revision Project that culminated in the 2014 New York

City Building Code, and I was a member of the Managing Committee of FDNY's Code Revision Project that culminated in the 2014 New York City Fire Code.

3. I am fully familiar with the New York City Fire Code, and its predecessor, the New York City Fire Prevention Code, by virtue of my training, experience and position.

4. I make this affidavit in support of plaintiffs' application for a temporary restraining order, and preliminary injunction in the above-captioned action. This affidavit outlines the heightened fire and life safety concerns and standards associated with transient residential occupancies, as compared to non-transient residential occupancies.

5. FDNY is responsible for enforcing the New York City Fire Code ("Fire Code") and rules promulgated thereunder, which seek to prevent fires and mitigate their danger to life or property, throughout the five boroughs of New York City. FDNY also has authority to enforce fire and life safety provisions contained in the New York City Building Code ("Building Code").

6. One type of building occupancy specifically addressed in the Fire Code and Building Code are hotels and other transient accommodations.

7. Transient residential occupancies in New York City (classified by Building Code Section 310.1.1 as Group R-1 occupancies) are required to be designed, constructed and operated in accordance with more stringent fire protection requirements than those applicable to apartment buildings and other non-transient residential occupancies (classified by New York City Building Code Section 310.1.2 as Group R-2 occupancies).

8. A major reason for this distinction is that the visitors who stay in transient residential occupancies are not familiar with the layout of the building, including the exit stairwells, as are permanent residents. Occupants of transient accommodations therefore are likely to find it more difficult to evacuate the building quickly in the event of a fire or other emergency. This would be especially the case if there is a heavy smoke condition, smoke being a prime cause of death and serious injury in the event of fire. Occupants of transient accommodations typically are only familiar with the entrance through which they entered and the elevators. Use of elevators is discouraged in the case of a fire because they may open on floors engulfed by fire, smoke or heat, or even stall between floors.

9. Historically, it has taken tragic fires to lead to major changes and improvements in fire safety. For example, the 1980 fire at the Las Vegas MGM Grand Hotel and Casino, which resulted in some eighty-five (85) deaths and hundreds of injuries, and other significant hotel fires in Las Vegas, Houston, and White Plains, New York, led to substantial changes in fire safety requirements for transient accommodations in New York City. Beginning in the 1980s, FDNY addressed the need for heightened fire safety protection requirements in transient accommodations, first by issuance of a directive (Fire Prevention Directive 2-82), then by promulgation of a rule (3 RCNY 39-01), and more recently through the enactment in 2008 of Chapter 4 of the new New York City Fire Code, which, together with the new Fire Department rules, incorporated the requirements of the now repealed Fire Prevention Directive 2-82 and 3 RCNY 39-01.

10. With the enactment of Local Law No. 148 of 2013, the Fire Code was revised to enhance emergency preparedness in hotels and other transient residential

occupancies by requiring that the emergency preparedness plans, staff training and drills in such occupancies address all types of emergencies, not just fires. The Fire Department will be promulgating rules implementing these new Fire Code provisions. Until such time as such rules are promulgated, existing (2008 Fire Code) emergency preparedness requirements for hotels and other transient residential occupancies remain in effect as set forth in FC401.3.6.1.

11. The Fire Code imposes or references a series of requirements on transient residential occupancies beyond those which are applicable to non-transient residential occupancies:

- (a) Provision of portable fire extinguishers (FC 906.1);
- (b) Provision of automatic sprinkler systems (FC 903.2, referencing the Building Code);
- (c) Provision of photoluminescent exit path markings for exits and stairwells in high-rise buildings (FC 1001.2, referencing the Building Code);
- (d) Provision of manual, automatic, or manual and automatic fire alarm systems, on all floors with smoke detection capability, notification of building occupants and, in most buildings, voice communication capability (FC 907.2, referencing the Building Code and National Fire Protection Association Standard 72);
- (e) A fire safety and evacuation plan, which sets forth the evacuation and other procedures to be implemented in the event of a fire, and which

designates the fire safety director, deputy fire safety directors and fire brigade members<sup>1</sup> (2008 Fire Code Section FC 404.2.1);

(f) Provision of a fire safety director, who is responsible for implementing the fire safety and evacuation plan, notifying the Fire Department, and communicating all instructions and directions to building occupants in the event of a fire, and who must possess a FDNY certificate of fitness and be present in the hotel or motel at all times (2008 Fire Code Section FC 401.6.5);

(g) Provision of a lobby fire command center, equipped with a control panel that displays the status of alarm devices in the building, and that is used by the fire safety director and FDNY emergency response personnel to implement the fire safety and evacuation plan (FC 907.3);

(h) Provision of a fire brigade, consisting of building staff trained in fire safety, who assist the fire safety director and FDNY personnel with the implementation of the fire safety and evacuation plan (2008 Fire Code Section FC 401.6.5); and

(i) Posting of diagrams on every guest room entrance door showing the route to two stairwells or other means of egress (FC 405.5).

12. In contrast, the New York City Fire Code contains the following less stringent fire protection requirements for non-transient residential occupancies:

(a) There is no requirement for portable fire extinguishers.

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<sup>1</sup> 2008 Fire Code Section 402.4.1(8) requires this plan for “Group R-1 occupancies, occupied by more than 30 lodgers, or more than 15 lodgers above street level, for a period of 90 days or less; and/or operated to accommodate such numbers of lodgers for such period of occupancy; and/or designed to contain a total of more than 30 sleeping rooms, or more than 15 sleeping rooms above the street level, for such period of occupancy; and/or occupied by one or more lodgers on a floor more than 75 feet (22 860 mm) above the street level, for such period of occupancy, or operated or designed for such lodging.”

(b) There was no requirement for a building-wide fire alarm system in older apartment buildings, and, in newer apartment buildings, the requirement for a fire alarm system is limited to certain areas of the building and does not alert building occupants in the event the fire alarm system is activated (FC 907.2, referencing the Building Code and National Fire Protection Association Standard 72).

(c) In contrast to the detailed fire safety and evacuation plan and emergency preparedness staff to implement it required in transient residential occupancies, in apartment buildings the Fire Code only requires annual distribution of a fire safety guide that contains information about the building, basic fire prevention and fire preparedness measures and emergency fire safety instructions in the event of fire (FC 406.2.1).

(d) In contrast to the posting of diagrams on each transient occupancy unit showing two evacuation routes, in apartment buildings there need only be a fire safety notice posted on the back of the main entrance door to individual dwelling unit doors and in the common areas of the building, that assists occupants in selecting the safest course of action in the event of a fire (FC 405.5).

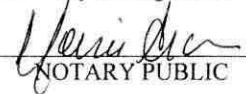
13. Accordingly, a visitor who occupies a unit in an apartment building that is being used illegally for transient occupancy, does not have the benefit of the fire and life safety measures required in legal transient occupancies for the protection of persons unfamiliar with the layout of the building. Moreover, a visitor who occupies a unit in an apartment building that is being used illegally for transient occupancy is not afforded the same opportunity to familiarize himself or herself with the information contained in the

fire safety guide for that building, as is afforded to a resident of the building. The visitor is thus placed at significantly increased risk of injury or death in the event of a fire.

14. In the larger context of fire safety in New York City it is important to note that the overall fire protection measures developed and instituted in recent decades have resulted in a dramatic decline in the number of fatalities attributable to fire incidents. As depicted in Exhibit A attached hereto, the number of fire related fatalities declined from almost 300 in 1976 to 62 in fiscal year 2010. That number has since declined even further. FDNY Statistics for fiscal year 2013 (see Exhibit B) reported 493,377 fire incidents, including 25,278 structural fires but only 47 civilian fire fatalities. New York City's fire protection measures, including those designed to protect transient visitors to the City, have contributed to the historically low level of fire deaths.

  
THOMAS JENSEN  
Chief of Fire Prevention

Sworn to before me this  
19<sup>th</sup> day of August, 2014.

  
NOTARY PUBLIC

**Maira Archer**  
Notary Public, State of New York  
No. 02498803828  
Qualified in New York County  
Comission Expires 12/7/17



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
THE CITY OF NEW YORK,

Plaintiff,

Index No.:

-against-

CITY OASES, LLC, MINA GUIRGUIS, SZILVIA PATKOS, HAMID KERMANSHAH a/k/a ABDOLHAMID KERMANSHAH, ABDOLMAJID KERMANSHAH a/k/a MAJID KERMANSHAH, WILSHIRE LIMITED, THE LAND AND BUILDING KNOWN AS 59 FIFTH AVENUE, BLOCK 570, LOT 6, County of New York, City and State of New York, RAHMAN NY INC., THE LAND AND BUILDING KNOWN AS 5 WEST 31<sup>ST</sup> STREET, BLOCK 833, LOT 36, County of New York, City and State of New York, and "JOHN DOE" and "JANE DOE," numbers 1 through 10, fictitiously named parties, true names unknown, the parties intended being the managers or operators of the business being carried on by defendants CITY OASES, LLC, RAHMAN NY INC., and/or WILSHIRE LIMITED,

**Affidavit of**  
**VLADIMIR PUGACH**

Defendants.

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STATE OF NEW YORK )

: ss.:

COUNTY OF NEW YORK )

VLADIMIR PUGACH, being duly sworn, deposes and says:

1. I am presently employed as an Associate Inspector for the New York City Department of Buildings (hereinafter the "DOB"), and I have been so employed for almost nine (9) years. I have been assigned to the Mayor's Office of Special Enforcement ("OSE")

(formerly named the Office of Midtown Enforcement) since July 2009, where I serve as a member of the Mayor's Inspection Task Force (hereinafter the "MTF").

2. The MTF is composed of inspectors from various New York City agencies, including the DOB, the New York City Fire Department, the New York City Health Department, and the Department of Finance, as well as officers from the New York City Police Department. The MTF's function is to perform 'quality of life' inspections, covering compliance with health, safety and fire codes, in structures located within the five boroughs of the plaintiff, CITY OF NEW YORK [the "CITY"].

3. I submit this affidavit, which is based upon both my personal knowledge and my review of pertinent records kept by the CITY and its various agencies, in support of the plaintiff's application for a temporary restraining order, as well as its motion for a preliminary injunction.

4. On December 3, 2011, and August 25, 2012, I participated in code enforcement inspections of 59 Fifth Avenue, New York; and on April 21, 2012, and October 5, 2013, I participated in code enforcement inspections of 5 West 31<sup>st</sup> Street. These inspections were conducted by the MTF in response to complaints that dwelling units in the buildings were being operated as illegal transient hotel units.

**59 Fifth Avenue**

**A. December 3, 2011 Inspection**

5. During the December 3, 2011 inspection of 59 Fifth Avenue, I observed, among other things, (a) that the second and third floors had been converted from 2 class A apartments to 3 class A apartments on each floor without first obtaining a permit as required by the New York City Building Code; (b) that the second and third floors were occupied for

transient use, contrary to that allowed by the certificate of occupancy for the building; (c) that there was a failure to provide (i) a fire alarm system as required for transient occupancy, (ii) a sprinkler system as required for transient occupancy, and (iii) the means of egress required for transient occupancy.

6. Accordingly, I issued ECB Notices of Violation for the violations, as follows:

- i. Violation No. 34924282Z for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by Certificate of Occupancy No. 75911, in that the 2<sup>nd</sup> and 3<sup>rd</sup> floors were converted from two class A apartments to 3 class A apartments, and were occupied by transient, short-term guests, scheduled to stay for less than 30 days. Additionally, the attic apartment was illegally occupied as an office. This is a Class 1 Hazardous violation.
- ii. Violation No. 34924283K for violation of § 28-105.1 of the New York City Building Code for work without a DOB permit for the installation of full height partitions creating additional apartments on the 2<sup>nd</sup> and 3<sup>rd</sup> floors, and plumbing for the additional apartment. This is a Class 1 Hazardous violation.
- iii. Violation No. 34924284M for violation of § BC 1004.4 of the New York City Building Code for failure to provide required means of egress for transient use of the 2<sup>nd</sup> and 3<sup>rd</sup> floors. This is a Class 1 Hazardous Violation.
- iv. Violation No. 34924285Y for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.
- v. Violation No. 34924286X for violation of § BC 903.2.7 of the New York City Building Code for failure to provide an automatic sprinkler system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.

A copy of the Certificate of Occupancy No. 75911 is annexed hereto as Exhibit "A".

7. These violations directed discontinuation of the illegal occupancy, the obtaining of permit for the work done without a permit, and imposed a partial stop work

order. Copies of each of the December 3, 2011 ECB Notices of Violation are collectively annexed hereto as Exhibit "B".

8. On the day of the inspection, December 3, 2011, I took photographs at 59 Fifth Avenue of the "House Rules" for the transient guests, and of documents in possession of guests showing the booking of accommodations at 59 Fifth Avenue, indicating the length of stay, among other things, documents which were shown by guests to the MTF team. Those photographs are attached as Exhibit "C".

9. The violations were the subject of a hearing at the New York City Environmental Control Board ("ECB"), held on April 12, 2012, at which I testified. After hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the April 19, 2012 ECB decision is annexed hereto as Exhibit "D".

10. Defendant Wilshire Limited appealed the ECB judge's decision to the Board. That appeal was denied by Appeal Decision and Order issued on December 20, 2012. A copy is attached as Exhibit "E".

**B. August 25, 2012 Inspection**

11. On August 25, 2012, I participated in a follow-up code enforcement inspection of 59 Fifth Avenue conducted by the MTF, in response to a new complaint that 2<sup>nd</sup> and 3<sup>rd</sup> floor apartments were being operated as an illegal transient hotel.

12. During that inspection I observed that there had been no change in the illegal use of the 2<sup>nd</sup> and 3<sup>rd</sup> floor apartments for transient use and occupancy, and that the attic apartment was also being used and occupied transiently. In addition, I observed that the egress and fire safety violations had not been corrected.

13. Accordingly, I issued ECB Notices of Violation for the recurring violations

and additional fire safety violations, as follows:

- i. Violation No. 34979610R for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by Certificate of Occupancy No. 75911, in that the 2nd and 3rd floors were converted from two class A apartments to 3 class A apartments, and were occupied by transient, short-term guests, scheduled to stay for less than 30 days. Additionally the attic was also being occupied by transient, short-term guests, and one of the 2nd floor apartments as an office. This is a recurring Class 1 Hazardous violation.
- ii. Violation No. 34979611Z for violation of § BC 1004.4 of the New York City Building Code for failure to provide required means of egress for transient use of the 2<sup>nd</sup> and 3<sup>rd</sup> floors. This is a recurring Class 1 Hazardous Violation.
- iii. Violation No. 34979612K for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a recurring Class 1 Hazardous Violation.
- iv. Violation No. 34979613M for violation of § BC 903.2.7 of the New York City Building Code for failure to provide a sprinkler system in a building used for transient occupancy. This is a recurring Class 1 Hazardous Violation.
- v. Violation No. 34979614Y for violation of § 28-204.4 of the New York City Building Code, for failure to comply with the Commissioner's order to file a certificate of correction with respect to the five violations described in Paragraph 6 of this Affidavit.

14. The violations directed discontinuation of the illegal occupancy and the filing of a certificate of correction. Copies of the August 25, 2012 ECB Notices of Violation are collectively annexed hereto as Exhibit "F"

15. During the inspection I took photographs of documents in possession of guests showing the booking of accommodations at the Subject Premises and information on check-in procedures. Copies of these photographs are annexed hereto as Exhibit "G".

16. The violations were the subject of a hearing at the New York City Environmental Control Board ("ECB"), held on May 2, 2013, at which I testified. After

hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the May 10, 2013 ECB decision is annexed as Exhibit "H".

17. Defendant Wilshire Limited appealed the ECB judge's decision to the Board. That appeal was denied by Appeal Decision and Order issued on October 31, 2013. A copy of the Appeal Decision and Order is annexed hereto as Exhibit "I".

**5 West 31<sup>st</sup> Street**

**A. April 21, 2012 Inspection**

18. During the code inspection of 5 West 31<sup>st</sup> Street conducted by the MTF on April 21, 2012, I observed, among other things, (a) that, on the ninth and tenth floors, full height partitions had been erected to create twelve transient-use rooms, and plumbing and electrical wiring installed, without first obtaining a permit as required by the New York City Building Code; (b) that the ninth and tenth floors were occupied for transient use; (c) that there was a failure to provide (i) a fire alarm system as required for transient occupancy, (ii) a sprinkler system as required for transient occupancy, and (iii) the means of egress required for transient occupancy; and (d) that there was a failure to comply with the Building Code requirements for the direction of swing of exit doors for transient accommodations, in that the doors marked for exit on the ninth and tenth floors swing against the direction of egress.

19. There being no certificate of occupancy for 5 West 31<sup>st</sup> Street, upon my examination of the records at the DOB concerning the building, I determined that the transient occupancy on the ninth and tenth floors of the building is contrary to that which is lawfully allowed.

20. Accordingly, I issued ECB Notices of Violation for the violations, as follows:

- i. Violation No. 34947948H for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by

DOB records, in that the 9<sup>th</sup> and 10<sup>th</sup> floors, with twelve sleeping rooms, were occupied by transient, short-term guests, scheduled to stay for less than 30 days. This is a Class 1 Hazardous violation.

- ii. Violation No. 34947947X for violation of § 28-105.1 of the New York City Building Code for work without a DOB permit for the installation of full height partitions creating twelve transient-use rooms on the 9<sup>th</sup> and 10<sup>th</sup> floors, and for the installation of plumbing and electrical wiring. This is a Class 1 Hazardous violation.
- iii. Violation No. 34947942R for violation of §§ 28-301.1, BC 1018.1, and 27-366 of the New York City Building Code for failure to provide required means of egress for transient use of the 9<sup>th</sup> and 10<sup>th</sup> floors. This is a Class 1 Hazardous Violation.
- iv. Violation No. 34947943Z for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.
- v. Violation No. 34947944K for violation of § 1008.1.2.2 of the New York City Building Code for failure to comply with the required direction of swing of exit doors in a building with transient occupancies. This is a Class 1 Hazardous Violation.
- vi. Violation No. 34974946Y for violation of § 28-118.3 of the New York City Building Code for an altered or changed building being occupied without a valid certificate of occupancy, as required by §§ 28-118.3.1 and 28-118.3.2.

21. The violations directed discontinuation of the illegal occupancy, the obtaining of a certificate of occupancy, and compliance with the Code. Copies of the April 21, 2012 ECB Notices of Violation are collectively annexed hereto as Exhibit "J".

22. On the day of the inspection, April 21, 2012, I took photographs at 5 West 31<sup>st</sup> Street of the operator's contact information and Certificate of Authority posted at the building, of booking invoices and reservation documents. Those photographs are annexed hereto collectively as Exhibit "K".

23. The Violations were the subject of a hearing at the New York City

Environmental Control Board (“ECB”), held on February 28, 2013, at which I testified. After hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the March 14, 2013 ECB decisions is annexed hereto as Exhibit “L”.

**B. October 5, 2013 Inspection**

24. On October 5, 2013, I participated in a follow-up code enforcement inspection of 5 West 31<sup>st</sup> Street conducted by the MTF in response to a new complaint that the Subject Premises was being operated as an illegal transient hotel.

25. On that date the apparent person in charge refused entry to the MTF to perform an inspection. That individual, Iana Ivashyna, was the same apparent person in charge at the time of the first inspection performed on April 21, 2012. A photograph of her official New York State identification card taken during the prior inspection conducted on April 21, 2012 is attached as Exhibit “M”.

26. Each and every one of the sixteen (16) ECB NOV’s noted above that I issued to the defendants herein included an order from the DOB Commissioner to correct the conditions that gave rise to the charged violations and to certify such correction with DOB. Under DOB regulations, a Class 1 [immediately hazardous] violation must be corrected ‘immediately’ .

27. I have reviewed the DOB records regarding the Buildings at 5 West 31<sup>st</sup> Street and 59 Fifth Avenue. Based upon my review, I have determined that, to date, the defendant owners have failed to certify their correction for each and every one of the sixteen (16) NOV’s that were issued to them on December 3, 2011, April 21, 2012, and August 25, 2012. Of those sixteen (16) NOV’s, fifteen (15) of them were issued on the basis that the violations were Class I hazardous violations and, in fact, after their respective hearings, the ECB upheld



such violations as Class 1 hazardous violations. The sixteenth violation [NOV 34979614Y] was issued as an “Aggravated 1” violation, indicating that the charged violation was issued as a ‘repeat offense’, which is considered to be a more serious violation than a Class 1 violation. A copy of a recent print-out from DOB records for each of the two buildings, at 5 West 31<sup>st</sup> Street and 59 Fifth Avenue, is annexed hereto collectively, as Exhibit “N”, confirming this information.

28. Finally, as part of OSE’s investigation regarding the operation by defendants of illegal short-term rentals in permanent residence apartments in New York City, I, together with MTF member New York City Police Department [“NYPD”] Sergeant Arthur Levine, confirmed the current offering and availability of short-term accommodations at both 59 FIFTH AVENUE and 5 WEST 31<sup>st</sup> STREET. See Affidavit of NYPD Sergeant Arthur Levine, sworn to on August 22, 2014 [“Levine Affid.”], at paragraph 4.

29. In that regard, we booked reservations through the Contempo Design Suites web site, <http://www.contempodesignnyc.com>, for two (2) days [11/6/14 – 11/8/14] at 59<sup>th</sup> FIFTH AVENUE, under the alias name of “Kim Gallagher”. In addition, we booked reservations through the Urban Oasis web site, <http://www.urban oasisnyc.com>, for seven (7) days [5/1/15 – 5/8/15] at 5 WEST 31<sup>st</sup> STREET, under the alias name of “Martin Keller”. Copies of the reservation documents and invoices for 59 FIFTH AVENUE and 5 WEST 31<sup>ST</sup> STREET are annexed to the Levine Affid., respectively, as Exhibits “A” and “B”.

30. Based on my observations with Sergeant Levine that the defendants were offering apartments in both 59 FIFTH AVENUE and 5 WEST 31<sup>st</sup> STREET for short-term rental, and based on our actual booking of short-term rental accommodations at both Buildings despite the fact that such accommodations are not lawfully permitted by the relevant provisions

of the applicable statutes and codes, I issued two ECB Notices of Violation: ECB NOV # 35096468M [to respondent/defendant WILSHIRE LIMITED, for 59 FIFTH AVENUE] and ECB NOV # 35096469Y [to respondent/defendant RAHMAN NY INC., for 5 WEST 31<sup>ST</sup> STREET]. Both NOV's cited the respondents/defendants for their violations of NYC Building Code [Admin. Code] § 28-210.3 [Illegal conversions of dwelling units from permanent residences.] which states, in pertinent part, that "It shall be unlawful for any person or entity who owns or occupies a multiple dwelling or dwelling unit classified for permanent residence purposes to use or occupy, offer or permit the use or occupancy or to convert for use or occupancy such multiple dwelling or dwelling unit for other than permanent residence purposes." Copies of the two NOV's are annexed hereto , collectively, as Exhibit "O".

  
VLADIMIR PUGACH

Sworn to before me on the  
25<sup>th</sup> day of August, 2014

  
Notary Public

JOHN P. BIGOLSKI  
Notary Public, State of New York  
No. Q1B15023114  
Qualified in Kings County  
Commission Expires Jan. 31, 2018-JB

# APPENDIX C: SELECTION OF ANONYMOUS COMPLAINTS

During the Review Period, thousands of New Yorkers submitted complaints to state and city agencies complaining about the proliferation of short-term rentals, primarily in New York City. These complaints raise a host of grievances with short-term rentals, including safety, noise, and a failure to abide by building rules. The excerpts below—which are anonymized to protect the complainants—highlight a few of the broad themes found in these complaints.

## Complaint Submitted October 13, 2013 (NYAG):

*[I live in] a Class A, partly rent-stabilized, partly market-rent four-flight walk-up tenement building of a lower Manhattan neighborhood. The apartment on the 1st floor being rented out as a hotel suite... The [temporary renters] apparently [do not] have key to side yard to dispose of garbage so was dumping it on street in front. After we complained by leaving notes a maid service began to appear every few days to clean the apartment... We urged management to put an end to illegal hotel rental. In July, 2012 [an apartment in the building] was burglarized of all her grandmother's jewelry in what appeared to be an inside job. Meanwhile, I began to notice a revolving door in the apartment beneath mine. This morning, another neighbor concerned about the erosion of Class A apartments found on line [the apartment in question] being [listed] on Airbnb. It appears that [numerous other apartments my block have also been] listed on Airbnb... Safety, building security, quiet enjoyment of our homes, any sense of community are under assault: please investigate.*

## Complaint Submitted October 14, 2013 (NYAG):

*I write to ask you to take the strongest enforcement action possible against the proliferation of illegal hotels in our neighborhoods facilitated openly by the website Airbnb. I live in a middle class, northern Brooklyn neighborhood and about one and a half years ago I spent almost one entire hellish year battling an illegal hotel operating in the apartment below me. I called countless [City agencies] but to no avail. The person who operated that site had numerous others throughout the city. It was a health and safety risk and the proprietor threatened me with physical force for reporting her and the landlord at the time (the building has since been sold) was a willing accomplice as he hoped to get higher rent from a hotel than from legal tenants. Rent in our neighborhood has become near unaffordable for us and it is partly because people can charge such high rents to illegal hotels.*

## Complaint Submitted March 11, 2014 (NYAG):

*I am writing to bring your attention to a business that is using Airbnb to illegally rent out its apartments via Airbnb, essentially operating as a hotel chain masquerading as individuals renting apartments. The company in question is [presents itself as a legitimate short-term rental service] using several pseudonyms. From what I can tell, they are buying NY tenement apartments and*

*renting them out to tourists. Among many other problems, this has the effect of forcing long-standing residents out of their apartments to serve tourists.*

**Complaint Submitted March 12, 2014**  
**(Office of New York Senator Elizabeth Kruger):**

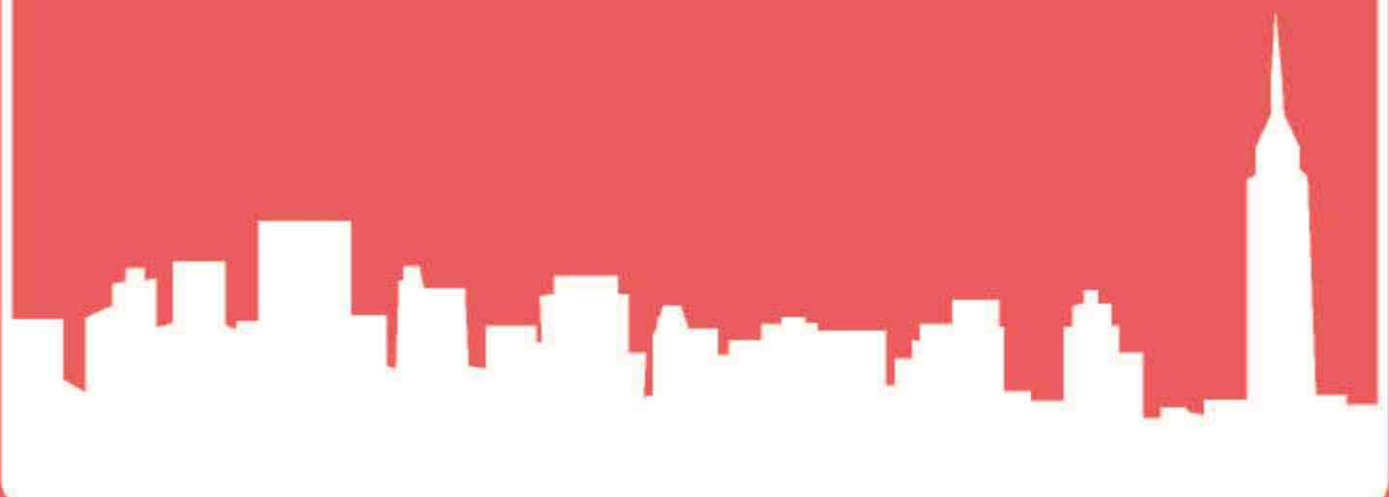
*I am 41 year old resident of New York City [and hold a lease in a] building with three apartments in Northern Brooklyn... Since October of 2010 I have confronted the problem of [the tenant in the unit above mine] renting the apartment for tourists. They use the Airbnb [website]. At first I got really frightened of having transient strangers entering and exiting the building with so much frequency, then I kind of got used to it, but never felt comfortable with the circumstances. Besides, my life and the life of my roommates is constantly disrupted with the noise from upstairs neighbor with groups of people making heavy noise, especially during the night. We have had property stolen from the basement, lost deliveries left inside the building, the front door was once vandalized and the list of incidents goes on... The host accommodates up to four people in each room (for a total of 12 people at the same time). [For] at least one year the host has [been offering short-term rentals and does] not live in the building but with his girlfriend somewhere else in the neighborhood. To rent the rooms he comes to meet his clients, gives them the keys to the building, and then leaves...*

**Complaint Submitted March 21, 2014**  
**(New York City Office of Special Enforcement):**

*[I just wanted to give you] an update on two apartments [being used as illegal hotels]. Both apartments are owned by the same landlord... and both apartments are almost continuously occupied [for short periods by groups of tourists from all over the world]... We also see a cleaning person and the Airbnb hostess visiting both apartments with supplies. I have met every family so far (except the one that moved in today) to let them know about the situation. I am hoping that some of them mention the fact of this being an illegal rental on the Airbnb website, or to the hostess... All of the felt something was amiss when the hostess failed to meet them in person and had them pick up the keys from someone else... Our lives have been seriously affected by these illegal activities*



NEW YORK STATE OFFICE  
*of the*  
**ATTORNEY  
GENERAL**



## Airbnb, acting as Portland's lodging tax collector, won't hand over users' names or addresses



The Airbnb Inc. logo and application — both recently redesigned — are displayed on an Apple Inc. iPhone and iPad in this arranged photograph. (*Bloomberg*)



By [Elliot Njus](#) | [The Oregonian/OregonLive](#)

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on July 21, 2014 at 11:08 AM, updated July 21, 2014 at 6:34 PM

Even though Airbnb has agreed to collect lodging taxes on behalf of users who rent rooms in their Portland homes, the city won't get those users' names and addresses. Instead, it will just get a single return, as though Airbnb were a single 1,600-room hotel.

As the city moves to legalize and regulate Airbnb-style short term rentals, the arrangement reached with the city's revenue bureau takes away one tool to enforce the new regulations it's putting in place.

Without identifying information on lodging tax returns, the city won't be able to use the tax receipts to determine which users are

renting out out rooms without a permit.

Some of those users might simply be unaware of the new laws around short-term rentals. Others could ignore them because their rental wouldn't be allowed even under the new city rules. That could include whole-home rentals, banned because of their potential impact on the long-term rental supply, or because a rental doesn't meet safety requirements.

Documents  
[Read the lodging tax agreement between Airbnb and the city of Portland.](#)

The agreement was released to The Oregonian on Friday under a public records request. It's the first such agreement Airbnb has reached with a U.S. city, although Airbnb is working on a similar pact with San Francisco.

The agreement specifies that Airbnb won't release identifying information on users as a matter of course — only for audits and specific complaints.

Reporting on collections (p. 14)

10. **Compliance with Laws**  
11. **Reporting on Collections**

Tax returns won't include exact locations or personally identifying information, which will make it difficult to compare tax receipts collected as a matter of course with permits issued by the city.

[View entire document with DocumentCloud](#)

Airbnb's website lists hundreds of "entire place" rentals that, even under the city's proposal, wouldn't be allowed. City code enforcement officials have said that there are listings on the site that appear in promotional photos to violate even basic safety rules, like adequate fire escape routes.

Under the current system, some operators of short-term rentals pay the lodging taxes the city says they owe, but many don't. The city has had little recourse for pursuing those who don't pay the taxes because Airbnb's website — in an understandable nod to privacy concerns — obscures full names and exact addresses.

It also hasn't actively pursued those who paid taxes but haven't gone through the costly and time consuming process of obtaining a conditional use permit for their miniature bed-and-breakfast. Although most such operations operate in violation of city code, the Bureau of Development Services has only pursued cases instigated by a complaint. It has occasionally sent out warning letters or leveled fines.

Automatic tax collections would have given the city a comprehensive look at who's using Airbnb, only one of several online room-rental facilitators, but one with more than 1,600 registered hosts in Portland.

"If we were given a list, we could on some level make sure everyone was complying with the requirement to pull a permit," said Mike Liefeld, enforcement program manager for city.

But Terri Williams, the city's tax division manager, said getting identifying information as though the operators were remitting the taxes themselves was never part of discussions with Airbnb. She said she didn't know why.

"I don't know if I have a good answer for that," Williams said.

Airbnb would turn over some information — potentially anonymous ID numbers — during a tax division audit, which Williams says it conducts for most hotels every three years. For Airbnb, the equivalent of a hotel more than twice the size of Portland's largest, those audits would be more frequent.

But the city uses sampling, so only a small amount of data would be turned over — one day's worth, perhaps.

Airbnb has worked closely with the city as Portland has shaped its policies on short-term rentals, meeting with members of the city planning commission and the city council.

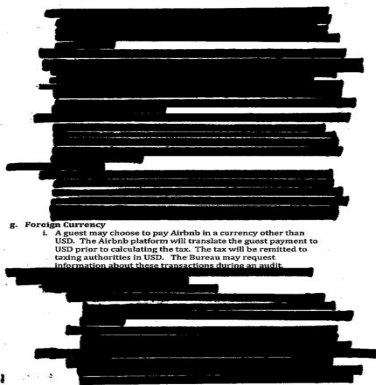
And in the middle of the debate, it also announced it would open a customer service center in Portland's Old Town, a highlight of Mayor Charlie Hales' State of the City address. Shortly thereafter, it [declared Portland its first "Shared City,"](#) another initiative on which the company worked closely with Hales.

"Over the past few months, we had productive discussions with Portland officials and reached an agreement to voluntarily collect city and county taxes from guests on behalf of hosts," a statement from the company said. "This agreement strives to make the process simple and keep personal taxpayer information confidential."

Parts of the tax agreement provided to The Oregonian are heavily redacted. Abby Coppock, spokeswoman for the city's Office of Management and Finance, said the redactions were made under an exemption to public records law that protects trade secrets.

[Redactions \(p. 10\)](#)

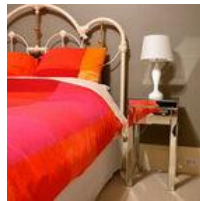




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-- Elliot Njus

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Airbnb to start collecting Oregon lodging tax statewide

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March 9, 2016

Dear Airbnb Investors:

We are writing to alert you to new information regarding your investment in Airbnb. By Airbnb's own admission, the majority of their listings in New York City are illegal. We are therefore increasing regulation on Airbnb activity, which could impact the value of your investment.

New York City recently allocated several million dollars to fund:

- Education efforts to make all New Yorkers aware that renting out their entire apartment, condo, or cooperative for fewer than 30 days is illegal;
- Information technology to scrape the websites of Airbnb and other short-term rental platforms to identify users who post illegal listings; and
- Inspectors from multiple City Agencies to identify and fine apartment owners or tenants who post illegal listings on Airbnb and other short-term rental platforms.

In addition, we are passing legislation to significantly increase the fines for anyone caught posting their apartment for an illegal rental on any online platform. Legislation that requires additional reporting will also allow the City to more accurately track and fine repeat offenders.

New York tenants, condo owners, and co-op owners who post an illegal rental are breaking the law and the terms of their lease or board agreement, and all of them are at risk of eviction. We have heard from the Real Estate Board of New York (REBNY) that eviction proceedings are moving forward at an increasing pace.

New York State Attorney General Eric Schneiderman investigated Airbnb in 2014, and his investigation concluded that nearly 75 percent of Airbnb's New York City listings were illegal. A recent anonymized data dump from Airbnb confirmed at least 60 percent of its New York City listings are currently illegal.

The public outcry against Airbnb is steadily growing. From news outlets increasing awareness of the illegal activity to editorial boards, Airbnb is not faring well in New York City. The Daily News Editorial Board called Airbnb's data disclosure in December 2015 a "data sharing sham," and they called on Airbnb to come clean with the government.

We recently met with Airbnb's representative, Chris Lehane. We asked him if Airbnb would voluntarily install simple software to keep illegal rentals off of their website. Remarkably, he refused, saying that he did not agree with the New York State law.

As you can imagine, we were disappointed to learn that a nearly \$30 billion company would knowingly allow illegal activity on its website. Other online platforms like Craigslist and Reddit have policies in which they promise to ensure their users obey the law and remove content that disobeys the law. It is remarkable that Airbnb would refuse a seemingly commonsense corporate practice to maintain the integrity of their product.

Last month, independent data analysts determined that Airbnb dropped nearly 1,500 illegal New York City listings a few weeks prior to presenting their data to the press and the public. After Airbnb was exposed for hiding information, they claimed these listings were dropped because they were illegal listings; yet, those hosts are quickly reposting their multiple apartments onto the website. If Airbnb can't be trusted to report honestly about their listings, how can investors trust them with other matters?

Of course, when a New York City small business behaves illegally, the government shuts them down. Surely your business would not knowingly tolerate illegal activity in your company. It's likely that you keep abreast of the activity of your investments. The issue that we're bringing to light is likely one that the Airbnb prospectus did not disclose to you as investors.

We would welcome the opportunity to speak with you to discuss questions or thoughts you might have about helping Airbnb restrict their New York home-sharing apartments to legal activity.

For our part, if we were invested in a company that knowingly engaged in so much illegal activity, we would think twice about keeping our money in that company.

With regards,



Helen Rosenthal  
Council Member, 6<sup>th</sup> District  
New York City



Jumaane D. Williams  
Council Member, 45<sup>th</sup> District  
New York City

# Airbnb spending more than \$8 million to fight new rental rules

By **Lizzie Johnson** Updated 2:55 pm, Saturday, September 26, 2015



IMAGE 1 OF 3

"The greenest hotel is the one you never build. **Airbnb and Homeaway** are eliminating the need for new hotels. This decade will see a slowing, then ending of new hotel construction because of these companies." -- Sunil Paul

As election day nears, contributions are flooding into the campaigns for and against San Francisco's November ballot initiatives, with Airbnb putting up more than \$8 million to fight tougher restrictions on short-term rentals.

The new campaign finance reports, covering the period from July 1 to Sept. 19, involve not only the city's 11 ballot measures but also Mayor **Ed Lee**'s re-election bid, a fight for the District Three supervisor's seat and a number of other local races.

The biggest money is showing up in the battle over Proposition F, where Airbnb is battling a measure that would tighten the rules for turning homes into impromptu hotels. With plenty of cash also flowing into the other side, the proposition is shaping up to be the most expensive and contentious on the ballot.

Prop. F would cap vacation rentals at 75 nights per year for each home or apartment and impose steep fines on companies like Airbnb or Homeaway for listing rentals that don't comply with city law. It would require housing platforms and hosts to give the city quarterly reports on how many nights properties had been rented. SF for Everyone, which opposes the measure, has raised more than \$3.2 million since July 16, and \$4.6 million more on Sept. 24, after the campaign finance deadline passed, for a total of more than \$8 million. The campaign — almost entirely funded by Airbnb — has spent \$3.6 million.

### **Largest donors**

The proposition is backed by Share Better SF — whose members include landlords, housing activists, unions and neighborhood groups. They have raised \$200,117.04 in support of the measure. Since July 1, it has received \$89,312.58 in donations.

The **San Francisco Apartment Association** was one of the biggest donors, contributing more than \$20,000. But its biggest donor is Unite Here, a union representing hotel workers, a group threatened by the growing popularity of short-term rentals in the city. The union gave \$50,000 during the most recent finance reporting period and another \$50,000 on Sept. 23, just days after the reporting deadline, bringing its total contribution to \$200,000.

### **Construction freeze**

A similar trend has emerged for Proposition I, which would put a moratorium on the construction of market-rate housing in the Mission District. A campaign in support of it, the Committee to Save the Mission, has raised \$79,222.06, with more than half — \$47,957.14 — coming in since Aug. 1.

The group against it, San Franciscans for Real Housing Solutions, has collected about \$500,000 since July 1. The biggest donors include real estate companies like Wilson Meany, which donated \$10,000, and the **Toboni Group**, which donated \$25,000. Another \$200,000 was donated on Sept. 23 by the **California Association of Realtors**, based in Sacramento, bringing their total contribution to \$237,000.

Fundraising for Lee's re-election campaign has slowed in the past few months, although with no strong challenger in the race, that's not really a concern. He has raised \$1.18 million — just \$76,000 since the last finance report filed in August — and spent \$1.22 million.

Money is more of a worry for Sheriff **Ross Mirkarimi**, who is being far outpaced in his re-election campaign by challenger **Vicki Hennessy**. The incumbent has raised \$90,217 and spent \$22,702.33. Hennessy has raised

\$244,639, of which she has spent \$175,329.99.

## Sheriff's funds

But Mirkarimi had about \$73,000 left in his campaign account on Sept. 19, compared with about \$34,000 for Hennessy, whose \$81,000 in cash-on-hand was offset by about \$47,000 in unpaid bills.

The race for District Three supervisor has heated up in recent weeks, with appointed incumbent **Julie Christensen** pitted against former Supervisor **Aaron Peskin**. It's an important race, both symbolically and politically. If Christensen loses the seat — which Lee named her to this year after **David Chiu** was elected to the Assembly — it will reflect poorly on the mayor. If Peskin wins, it will tip the balance of the **Board of Supervisors** toward the progressives.

So far, Peskin has outraised Christensen by nearly \$60,000. He has collected \$293,690.96 to Christensen's \$234,190.45. He has also spent less on his campaign, according to the finance report, leaving him with about \$128,000 in his campaign war chest, compared to around \$84,000 for Christensen.

A third candidate for the seat, educator **Wilma Pang**, did not file a campaign finance report, which is not required until a candidate has raised \$1,000 or more.

*Lizzie Johnson is a San Francisco Chronicle staff writer. E-mail: [ljohnson@sfchronicle.com](mailto:ljohnson@sfchronicle.com) Twitter: [@lizziejohnsonnn](https://twitter.com/lizziejohnsonnn)*

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The Pew Charitable Trusts / Research & Analysis /  
Stateline / New Study Adds to Airbnb Debate

## STATELINE

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# New Study Adds to Airbnb Debate

January 20, 2016

By Sophie Quinton

A new American Hotel & Lodging Association-sponsored study offers new data on short-term rental website Airbnb for policymakers to ponder. But the numbers, disputed by Airbnb, do little to resolve questions about the nature of the company and the hosts who use it.

A growing share of Airbnb hosts in 12 major cities rent out their homes full-time or list two or more units on the site, according to a Pennsylvania State University analysis of Airbnb listings. The AH&LA says this is the latest evidence that short-term rental websites encourage illegal hoteliers.

"These are not individuals simply making some extra money," Katherine Lugar, the head of the AH&LA, told reporters on a conference call Wednesday. Instead, she said, many hosts are running lodging operations without adhering to laws even the smallest bed-and-breakfasts must follow.

Lugar called on government officials to halt illegal activity and make sure that short-term rental companies follow the same rules as other lodging businesses.

City and state policymakers across the country are trying to figure out how to regulate short-term rentals, an increasingly popular lodging option even in areas where such rentals are technically illegal. In cities experiencing an affordable housing shortage, such as New York City, the debate has been particularly contentious.

Researchers from the Pennsylvania State University School of Hospitality Management used an AH&LA grant to purchase large amounts of data from Airdna, a company that advises Airbnb hosts based on listing data pulled from the Airbnb website. The researchers excluded listings that offered a shared room and unconventional units, such as treehouses, so they could draw comparisons between Airbnb and the hotel industry.

The study found that nearly 30 percent of the home rental website's revenue from September 2014 to September 2015 came from hosts who made their unit available 360 days per year and nearly 40 percent of revenue came from hosts who rent out multiple units.

Airbnb spokesman Nick Papas said in an email that the AH&LA-sponsored study was "intended to mislead and manipulate."

"The overwhelming majority of Airbnb hosts are middle-class people who occasionally share only the home in which they live," he said. The "available listing" metric the researchers used doesn't offer meaningful insight, he said, because many hosts list their home as available although they only occasionally host guests.

It's not the first time studies have shown that some Airbnb hosts are running large operations, however. In 2014, a New York state report that relied on subpoenaed Airbnb data found that 6 percent of hosts offered up to hundreds of listings on the site and drove 37 percent of host revenue. Papas said that 95 percent of New York City hosts share only one listing.



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# The Unsavory Side of Airbnb

**How the popular matching company facilitates landlord conversion of entire rental buildings to de facto hotels.**

**By Steven Hill**

*This article appears in the Fall 2015 issue of The American Prospect magazine. [Subscribe here.](#)*

“ Belonging is the idea that defines Airbnb,” says its young, 34-year-old billionaire CEO and co-founder Brian Chesky. “Really, we’re about home. You see, a house is just a space, but a home is where you belong. ... That is the idea at the core of our company: belonging.”

Airbnb has captured the imagination of both travelers and homeowners. Most of its hosted rentals are an inexpensive, adventurous way to travel, as well as a source of extra money for some residents. Airbnb is cool. No question, there is a legitimate and innovative use for web and app-based companies that match residents and travelers. Craigslist was an early, successful pioneer in this digital space.

Launched in a San Francisco apartment just seven years ago, Airbnb has taken this service to a dramatically new level of expansion. It has become a global behemoth with a market valuation of \$25 billion—more than three times that of the 50-year-old Hyatt Hotels chain.

But in touristy cities with housing shortages and hot real-estate markets—New York, San Francisco, Los Angeles, and many more—Airbnb plays a less savory role. Not only does Airbnb facilitate illegal conversions of entire buildings

from tenant apartments to de facto hotels, it has also become part of the landlord lobby that resists enforcement of local laws prohibiting such abuses. To be sure, places like San Francisco would suffer the effects of conversions even without Airbnb, but the evidence shows that Airbnb supercharges the process.

Take the case of Chris Butler, who was evicted from his rent-controlled apartment on the grounds that the owner's husband needed to move in (a legally acceptable reason for evicting a tenant, called "owner-occupied move-in"). Yet the husband never moved in, and instead the owner listed that unit as well as another on Airbnb for \$145 a night, considerably more than the \$60 a night the tenant paid. So the tenant sued the landlord for unjust eviction. "They forced me out of a home I loved," says Butler. "It was incredibly difficult to find a place, especially because I have a really old dog. I ended up paying over double what I was paying there."

In another lawsuit, tenant Susan Whetzel claims that she was illegally evicted from her rent-controlled apartment, which was then rented out via Airbnb. The owner claimed that he was converting his three-unit building into condominiums, but the building was never converted. Whetzel claims she was harassed by the owners until she finally moved out, and then discovered her apartment listed on the Airbnb website for \$250 a night, more than four times her rent. With an attorney's help, she filed suit, asking for her apartment back, plus damages. Her lawsuit is still pending.

San Francisco City Attorney Dennis Herrera also filed a lawsuit against two property owners, accusing them of evicting longtime tenants, two of them disabled, so the owners could illegally convert the residential buildings into pricey tourist hotels using Airbnb, VRBO, and other short-term rental services. Another city attorney's investigation found that iconic residential developer Angelo Sangiacomo had been brazenly renting out 16 rent-controlled units as short-term tourist hotel rooms, marketed as "the SOMA Suites Hotel."

**For many in the city of Saint Francis, to be  
"Airbnb'd" is a decidedly nasty experience.**

These are just a small sample of the many tenants who have been “Airbnb’d.” Yes, besides being a multibillion-dollar hospitality company, Airbnb is also now a verb. For many in the city of Saint Francis, to be “Airbnb’d” is a decidedly nasty experience.

In a tight housing market, rent-controlled apartments are prey for what we might call “slamlords,” who promote condo conversions or renovations that would justify massive rent increases. Airbnb provides another layer—a powerful financial incentive as well as a technique for landlords to convert their apartment buildings into tourist hotels. An accidentally leaked memo from huge real-estate developer Coldwell Banker Commercial put the net annual income for renting units of a Los Angeles apartment building to local residents at 5.6 percent. But if those units were rented via Airbnb, the projected rate of return was 13 percent—well over twice the profit.

Theresa Flanderich is a retired nurse who has lived for 30 years and raised her son in a two-bedroom apartment in charming, touristy North Beach in San Francisco—and has been desperately fighting eviction as a landlord tries to remove her (and other tenants in her building, including a man in advanced stages of Parkinson’s disease). She gave me a tour of her neighborhood. Just on her street alone, Theresa can point to five buildings where all the tenants have received eviction notices.

Theresa shows me one building, pointing out four lockboxes that are visible on the banister outside the front entryway to four apartments—the telltale sign that this building has been Airbnb’d. The constant carousel of new faces can check themselves in and out of each apartment, accessing the key via the lockbox for which they are given the combination, without ever meeting the landlord or manager. The transaction can be completed anonymously, facelessly, over the Airbnb website or app. Where before this building housed families who were part of the neighborhood, now, says Theresa, it’s an Airbnb tourist hotel.

Theresa has had to turn into a tenant-rights activist to fight her own eviction. She and her neighbors formed the North Beach Tenants Committee. Joe Tobener, a San Francisco attorney who is representing Chris Butler in his

lawsuit, has represented many of these tenants. “We get about 60 calls a week,” he says, many of them from people being illegally displaced so landlords can use Airbnb, VRBO, or other services to rent to tourists. “There’s so little enforcement [in San Francisco], it’s like the Third World,” he says. “Airbnb is contributing to the displacement of long-term tenants.”

According to a report by the city’s Rent Board, nearly 2,000 tenant units had evictions in 2013, a 13 percent increase from 2012. Since most rented locations house more than one person, housing experts have estimated that figure represents at least 5,000 individuals evicted in 2013.

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**HOW MUCH OF THIS** displacement and damage is attributable to Airbnb? The answer to that is a matter of much controversy, and is mired in a lack of reliable data—to which Airbnb itself contributes, by refusing to provide even anonymized data to city officials. All of this plays out intensely in local politics.

San Francisco, like New York and many other cities, has had a housing crunch for many years. The causes are multiple, ranging from zoning rules to rising market values and a scarcity of public funds for affordable housing. City Hall utterly failed to anticipate the current housing shortage, a study by *The San Francisco Examiner* revealed. From 2007 to 2014, more than 19,000 new housing units were built in San Francisco, but two-thirds (nearly 13,000) of them sold at prices only affordable to the rich. Five thousand of them (28 percent) were priced for the poor, and only 1,213 (6 percent) were priced for the middle class. The economics are simple: Developers profit a lot more by building high-income housing for wealthy techies and the Chinese and international elite. So not all of San Francisco’s housing crisis reflects the impact of Airbnb.

Airbnb claims that with San Francisco having 220,000 rental units citywide,

the company's nearly 6,000 hosts represent too small a footprint to make a difference on the overall housing market. That sounds reasonable until you look at the numbers more closely. A study from the nonpartisan legislative analyst's office in San Francisco, which serves the Board of Supervisors (the name for the city council), estimated that between 925 and 1,960 units citywide have been permanently removed from the housing market because of Airbnb activity. To Airbnb, that is a small amount of lost housing, compared to citywide supply.

But with a perilously low vacancy rate of a mere 2.9 percent—around 6,400 units across the entire city—Airbnb is devouring a huge chunk of available vacancies. If the upper figure of 1,960 units lost is correct, the legislative analyst's office concluded that Airbnb is single-handedly removing nearly a quarter of available vacant units from the housing market. Certain popular neighborhoods like Haight-Ashbury and the Mission have been hit even harder, with Airbnb listings consuming nearly a third of the vacancies there. The U.S. Census estimates approximately 2.3 persons per San Francisco household, so that would amount to over 4500 people who potentially have lost access to housing as a result of Airbnb listings.

San Francisco, like most cities, has had a long-standing law prohibiting the renting of a domicile for less than 30 days. The reason was to prevent the city's residential housing stock from becoming tourist hotels. In San Francisco, almost two-thirds of residents are renters (compared to a national average of one-third renters), yet property owners and wealthy developers wield tremendous political and economic clout.

**“We call it the ‘hotelization’ of San Francisco. Seniors, families, and low-income tenants are being pushed out.”**

Not surprisingly then, the Airbnb-ing of San Francisco is part of what Tenderloin Housing Clinic Executive Director Randy Shaw has called a “massive rezoning of the entire city for tourist use.” Ted Gullicksen, who was executive director of the San Francisco Tenants Union, said, “We call it the

‘hotelization’ of San Francisco. Seniors, families, and low-income tenants are being pushed out.”

As a result of all this disruption, Airbnb has found itself in the middle of political battles in many cities. The company’s executives have disavowed responsibility for any of this ravaged landscape, claiming that Airbnb is merely a booking agent, an intermediary facilitating commercial transactions between two parties. And it has found a willing army to mobilize—its “regular people” hosts, who have been turned out by professional Airbnb organizers to pack city hall hearings.

One of the clear redeeming aspects of the Airbnb platform is how it has permitted some everyday San Franciscans to rent out a spare room and earn income during an economically troubled time. After interviewing some of these “home-sharers” (as they call themselves), I’m convinced that this service is a genuine boon to them. During legislative hearings and before the media, the Airbnb spinmeisters have portrayed these home-sharers as the face of the company.

But here’s what’s deceptive about that framing: Data analysis of Airbnb usage in San Francisco tells a decidedly different story about who is benefitting. Although Airbnb refuses to share its numbers, a 2014 report commissioned by the *San Francisco Chronicle* found that of the (at the time) nearly 5,000 homes, apartments, and private or shared rooms for rent via Airbnb, two-thirds were entire houses or apartments with no owner present during the rental period, and almost a third of Airbnb rentals were controlled by people with two or more listings. Some of the “whole house” or “whole apartment” rentals are from hosts who happen to be away. But many others are being rented out by professional property managers who are handling multiple Airbnb rentals on behalf of absentee home- and condo owners. A separate study conducted by data analyst Tom Slee found similar results. He calculated that about 70 percent of Airbnb revenue comes from hosts who are renting out an entire home or apartment, and 40 percent comes from Airbnb hosts with multiple listings.

In other words, a great deal of Airbnb’s revenue and commercial activity in



San Francisco does not come from the listings of “regular people” who own and live in their homes and are merely renting out a spare room. Instead, an increasing amount comes from the types of professional landlords who are removing housing from the market and making it exclusively available for tourists. Many of these landlords are getting rid of rent-controlled housing, and are even evicting thousands of people like Chris Butler, Susan Whetzel, Theresa Flandrich, and her neighbors. It would be useful to know how the number of Airbnb de facto hotel rooms in San Francisco and elsewhere compares with bona fide host rentals. But, of course, the company won’t share that data.

Whatever its remarkable founding origin as a rags-to-riches story that began in Brian Chesky’s living room in 2008, Airbnb has morphed into a giant loophole for professional real-estate operatives, allowing them to evade long-standing city laws that previously had protected the local housing stock by banning short-term tourist rentals.

San Francisco Planning Commissioner Hisashi Sugaya (who later left the commission) said, “Short-term rentals have been around a long time. It hasn’t been a big to-do. But these companies [like Airbnb] have shoved it back in the city’s face by enhancing the ability of people to break the law.”

**SAN FRANCISCO ISN'T** the only place where the Airbnb-ing of the local housing stock by professional landlords has caused an uproar. Airbnb has been fined in Barcelona (for violating local laws), pilloried in London, its hosts subjected to unannounced inspections in Paris (for illegal rentals), and banned under most circumstances in Berlin (to protect the city’s housing stock). In New York, State Attorney General Eric Schneiderman launched an investigation, including subpoenaing data from Airbnb and, when the company refused to comply, taking it to court. His investigation found that nearly 40 percent of Airbnb’s \$451 million in revenue—some \$168 million—came from hosts who had at least three listings on the site. In a story similar to San Francisco’s, many of Airbnb’s 25,000 or so “hosts” are not in fact “regular people” looking to rent out a spare room in their home; they are professional

operators who took on multiple leases in desirable locations, resulting in what *The New York Times* called the “professionalization” of short-term rental hosting.

One of those New York City operators, Robert “Toshi” Chan, was revealed to be the Airbnb “host” of more than 200 apartments in dozens of different buildings, known collectively as Hotel Toshi. He leased the apartments from landlords for 20 percent over market rate, and then re-rented them on Airbnb as illegal short-term rentals for fabulous amounts. Eventually, Toshi’s illegal operation was uncovered and he was shut down, agreeing to pay a \$1 million settlement for not obtaining proper hotel permits or insurance.

## **The state attorney general’s report also exposed that nearly three-quarters of all Airbnb rentals in New York City were illegal**

The state attorney general’s report also exposed that nearly three-quarters of all Airbnb rentals in New York City were illegal and in violation of numerous hotel-tax, zoning, and other laws, including the law forbidding short-term rentals of less than 30 days. Yet Airbnb has defended its practices by doubling down with its company line that New York City, San Francisco, and other cities are operating under an old business model. In a June 2014 interview with host Katie Couric, CEO Brian Chesky complained that a “lot of the laws are 20th-century laws, or sometimes even 19th-century laws, in the 21st century.”

Meanwhile, in Los Angeles, a study of Airbnb listings by the Los Angeles Alliance for a New Economy (LAANE) found that while a majority of the 8,400 hosts were the over-hyped “regular people” renting a spare room in their home, those rentals generated just 11 percent of the company’s revenue. The other 89 percent was generated by professional landlords and agencies, and those renting out an entire home or apartment rather than a spare room. As in San Francisco, many of these are being rented out by professional property managers on behalf of absentee owners. One apartment building with 227 units in downtown Los Angeles had 20 percent of its units listed on Airbnb. The LAANE study also found that more than 7,000 houses and apartments had

been removed from the rental market in metro Los Angeles for use as short-term rentals, which represented “nearly seven years’ of affordable housing construction at the current rate of housing development.” Touristy Hollywood, Santa Monica, and hipster Venice Beach have been particularly devastated. Similar problems were uncovered by a study of Airbnb in Portland, Oregon.

How about cities outside the U.S., in Airbnb’s far-flung global operation? Using the same statistical methods from his San Francisco and New York studies, Tom Slee collected data on more than 90,000 hosts and 125,000 listings—about a fifth of Airbnb’s total at the time—from 18 major cities all over the world, to draw a portrait of Airbnb’s global business. His findings follow the pattern in San Francisco, New York City, Los Angeles, and other U.S. cities. Forty-four percent of Airbnb’s revenue and 45 percent of guest visits in these 18 cities came from hosts with multiple listings. In certain cities, including Rome, Barcelona, Tokyo, Mexico City, Rio de Janeiro, and others, 60 percent or more of guest visits came from hosts with multiple listings, with London and Berlin showing a 50-50 split.

What all these cities have in common is that they are major tourist meccas that already had housing shortages and affordability pressures. In cities and towns with ordinary housing markets, services like Airbnb can provide a useful add-on to existing lodging options for tourists. But in these magnet cities, the evidence is compelling that, while Airbnb has offered the “regular people” standard as the face of its company, in city after city the data do not support this “couch-surfing” narrative. Instead, a significant chunk of the local housing stock is being turned into tourist hotels run by professional landlords and property managers.

Airbnb has resisted, with all the lawyers and lobbyists that a billion-dollar company can hire, any attempts to regulate their business model, not only in San Francisco but everywhere else. In San Francisco, Mayor Ed Lee’s chief financial benefactor, Ron Conway, who is a

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billionaire Silicon Valley venture capitalist (and the most influential Republican in this most Democratic of cities) in Airbnb. So does billionaire tech investor local who co-founded PayPal and whose net worth went from \$1 billion to \$2.2 billion. The Bay Area is populated by the most influential core of public officials who are the sapiens gurus of Silicon Valley.



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Documents obtained by the 48 Hills investigative website through a Public Records Act request found that regulators had known about the increasing number of illegal rentals since 2011, yet did nothing about it. Indeed, it is a simple matter to look on the Airbnb or VRBO websites and see who the violators are; their websites are virtual advertisements for the hosts' criminality, with homes brightly photographed and displayed. But city officials declined to "troll" (as one city memo called it) the websites, and adopted an exasperating hands-off policy of only responding when someone filed a complaint. Despite the fact that thousands of violations had been occurring every week for several years, a city-planning staffer's memo dated April 4, 2014, noted that only three cases had been sent violation letters, and only 15 cases had been closed since 2012.

The Board of Supervisors eventually passed legislation to legalize and regulate short term host rentals such as Airbnb, attaching a few timid conditions that hosts are supposed to follow. But as critics had predicted, those conditions have proven impossible to enforce, particularly since the legislation inexplicably failed to require Airbnb to provide the data about hosts that would enable enforcement. Even though hosts are required to register with the city, to date only about 14 percent have. A San Francisco housing inspector told me: "The board allocated no new funds or resources for enforcement, and the Planning Commission which was assigned enforcement responsibility is not set up to do this. They don't even want to do it."

But outside San Francisco, officials in other cities seem to have reached the limits of their tolerance for Airbnb's disruption. In New York, Attorney

General Schneiderman not only forced Airbnb to give up data needed for enforcement, he succeeded in getting Airbnb to kick some of the worst landlord violators off of its platform. Recently, Santa Monica officials, fed up with the rampant hotelization of their beach town, passed a law explicitly outlawing rentals of less than 30 days, though permitting the renting of a spare room as long as hosts followed certain licensing requirements and paid the city's 14 percent hotel tax.

And even in San Francisco, local residents have taken it upon themselves to do what the tech-enamored city officials will not do. A coalition of homeowners, neighborhood groups, and tenant-supporters have collected tens of thousands of signatures to place on this November's ballot Proposition F, which would greatly rein in Airbnb. Among other things, the measure will limit all short-term rentals to 75 days a year, require quarterly reports from hosts, and make it illegal for platforms such as Airbnb to list hosts who are not registered with the city. Perhaps most importantly, it would require Airbnb and other hosting platforms to provide the data, such as guest and revenue reports for each host, which would allow enforcement. If Proposition F passes in Airbnb's hometown, it may blow some wind out of the sails of the company's soaring \$25 billion trajectory.

## **A search on LinkedIn reveals that Airbnb regularly hires staffers who have experience managing political campaigns.**

Not surprisingly then, Airbnb is pulling out all the stops to defeat it. It is mobilizing its home-sharer hosts and its network of political insiders; its lobbyists are meeting with key leaders to win the endorsements of influential organizations. A search on LinkedIn reveals that Airbnb regularly hires staffers who have experience managing political campaigns. A December 2014 job posting for an Airbnb "community organizer" position, for example, listed "recruiting, training, and managing advocates of home sharing" as the primary job responsibility and "community organizing in political campaign[s]" as the top desired qualification for the position. Airbnb is

putting all of its operational strength into defeating Proposition F, including already spending a reported half a million dollars as of early September.

But proponents have powerful political allies as well, including some labor unions and former Mayor and now Senator Dianne Feinstein, a politically moderate Democrat who calls the current law unworkable and unenforceable, as it incentivizes “illegal conversion of residences to de facto hotel rooms.” She characterizes Proposition F as “common sense change” that will “close loopholes and provide effective enforcement tools” while still allowing people to rent out an extra room from time to time, or their entire house while on vacation.

**DESPITE HIS RHETORIC** about sharing, trust, and belonging, CEO Brian Chesky and his investors have not backed down, except under legal pressure from officials such as New York’s Schneiderman. After all, with one stroke of the computer mouse, Airbnb could “evict the evictors”—proactively expel from its website any hosts who are effectively professional landlords or property managers operating tourist hotels. Let’s imagine for a moment that Chesky has an epiphany and decides to truly embrace the “sharing and belonging” ethos that he espouses. What could Airbnb do to partner with local governments and tenant associations, and make short-term rentals into something positive? What policies should local governments enact?

1. Delist the professional landlords and multi-property agents from the Airbnb site.
2. Cooperate with cities like San Francisco, Santa Monica, and Portland, which require hosts to register with local agencies, by delisting any unregistered hosts.
3. Pay the same hotel occupancy taxes that all hotels pay in all 34,000 cities in which Airbnb operates, or collect them from the hosts and turn them over to the cities.
4. Provide the anonymized data (host’s name and address, as well as number

of rental nights and rates charged by each host) that cities need to enforce regulations and taxation.

It really wouldn't take very much for Airbnb to be a good corporate citizen. Several of these actions are the same as those recommended by the legislative analyst office in San Francisco, yet the Airbnb-tainted Board of Supervisors backed away from imposing such a regulatory framework. That's when local residents took the matter into their own hands by collecting signatures for Proposition F.

It's crucially important to recognize that if the only hosts really were "regular people," who lived in their own home and occasionally rented out a room or the whole house while away, nobody would object much. But that would wipe out a sizable chunk of Airbnb's business model and make Airbnb much less valuable to investors waiting for a mammoth IPO. Airbnb has become its own worst enemy by stubbornly refusing to work with local officials to figure out a way to enforce sensible laws that prohibit conversions of rental apartments into de facto hotels. Consequently, a backlash appears to be brewing.

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# Airbnb's tricky new numbers game: The tax-evading, neighborhood-gutting loophole they exploit — at everyone's expense

Hotel taxes and zoning laws shouldn't be disrupted. If Airbnb stopped releasing selective data, they wouldn't be

STEVEN HILL (HTTP://WWW.SALON.COM/WRITER/STEVEN\_HILL/)

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(<http://media.salon.com/2014/04/airbnb.jpg>)

A new article in the New York Times blares the headline that many have been waiting for: "Airbnb Releases Trove of New York City Home-Sharing Data (<http://www.nytimes.com/2015/12/02/technology/airbnb-releases-trove-of-new-york-city-home-sharing-data.html>)." Why is Airbnb data so important? At this point it's well-established that Airbnb has been invaded by professional real estate operatives, who are exploiting Airbnb as a loophole that allows them to evade local housing laws forbidding rentals for fewer than 30 days.

Those laws have been on the books for many years to prevent the housing stock from being rented out to tourists instead of local residents. Airbnb is aware of this professional invasion, yet has done nothing to rein it in. After all, with one flick of the computer mouse, Airbnb could "evict the evictors" – kick off its platform the hosts that are renting out multiple properties (some Airbnb "hosts" control dozens of properties).

Cities trying to enforce their housing and rental laws have been nearly powerless to do so. With thousands of hosts engaged in illegal and quasi-legal activity, it's almost impossible for existing levels of city staffing to locate these hosts, assess how many nights they are renting their property, how much they are charging per night, how much hotel tax they should be paying, and other details. Airbnb is also aware of the enforcement nightmare that it has unleashed. Even in the handful of its 34,000 cities where Airbnb has agreed to pay taxes, like in San Francisco, without the host data city regulators can't verify that Airbnb is paying the correct amount it owes. They have to take the company's word for it.

So one of the primary demands of regulators, housing activists and neighborhood advocates trying to cope with the Airbnb disruption has been for the company to turn over data to local agencies, so that it can be used for enforcement purposes. Despite its claim to being a "sharing economy" company, Airbnb has steadfastly refused to turn over the data in city after city. The only city where Airbnb previously turned over some data was in New York, after Attorney General Eric Schneiderman subpoenaed it and went to court. Airbnb typically has hidden behind the excuse that it would be an invasion of its hosts' privacy to turn over the data. Never mind that hosts turning their properties into Airbnb hotels has been an enormous invasion of neighborhood privacy – that's the type of privacy that doesn't go ka-ching at the cash register, and has never interested Airbnb.

So Airbnb finally turning over data, voluntarily, without the legal hammer of a subpoena, shows progress. Or does it? Airbnb has a history of unilaterally releasing selective data that paints a picture of the company and its service in a favorable light. So is this newly released stockpile of data just more whitewashing?

Unfortunately, the data reported in the New York Times has the whiff of “funny numbers,” including in this case a rather dramatic “correction” that suddenly appeared on the New York Times website after the article was published. Let’s parse through the numbers a bit.

Initially, the article reported “some 93 percent of revenue earned by active hosts in New York City who share their entire home comes from people who have only one or two rental listings on the platform.” But that data point wasn’t granular enough to reveal how many of those “whole homes” are with hosts who actually live there, and are just renting the whole home when they happen to be away — or how many are “absentee owners” who bought a property as an investment to let out on Airbnb.

A huge part of the professional invasion in New York City, San Francisco, Los Angeles and elsewhere has been from investors buying up whole homes and never living there, only renting on Airbnb. Those kinds of absentee owners remove housing stock and create a permanent hotel within a neighborhood that was never zoned for such hotel activity. So how much of that 93 percent figure involves “whole home” rentals by absentee owners? The data as reported by the New York Times doesn’t tell us.

But then, a funny thing happened. Later in the day the New York Times issued a correction, and that specific sentence was changed, quite dramatically to this:

“From November 2014 until November 2015, some 75 percent of revenue earned by active hosts in New York City who share their entire home came from people who have only one or two rental listings on the platform. Over 2015 to 2016, Airbnb projects that number will rise to 93 percent.”

So the “93 percent” number is based on an Airbnb *projection*. The real number is only 75 percent. Data analyst Tom Slee, who has done numerous analyses of Airbnb’s business model by “scraping” data from the website, reacted by saying, “A drop from 93% to 75% is significant. That’s almost a four-fold increase in the proportion that comes from three-or-more listers. All of a sudden the Airbnb numbers look much more like those collected by myself and other external investigators, which Airbnb routinely say are inaccurate.”

Slee’s data scrape from this past September found that of the 30,268 listings in New York City, 44 percent of guest visits are to hosts with “multiple properties,” which he defined as *two* or more properties — compared to the “new” data from Airbnb which found that 25 percent of listings came from hosts with *three* or more properties. There’s nothing inconsistent between these two findings. In fact, a year ago an investigation by New York state attorney general Eric Schneiderman found that nearly 40 percent of Airbnb’s \$451 million in revenue from New York City – some \$168 million – came from hosts who had at least three listings on the site.



## Airbnb and SF Tax Collector Wrangle Over Tax Payments

By [Lydia Chávez](http://missionlocal.org/author/lchavez/) (<http://missionlocal.org/author/lchavez/>) [🐦](http://twitter.com/LydiaChavezZ) (<http://twitter.com/LydiaChavezZ>)  
Posted June 18, 2015 8:44 am

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Renting out a spare room or apartment for a few days? Sounds like easy money. But when one Airbnb host in the Mission District complied with San Francisco's new requirement to register with the city, she received an unpleasant surprise – a bill for hotel taxes. “Now that we complied, we are wondering if we should not have,” she said ruefully.

In a sense the bills being sent to hosts are a salvo in the larger ongoing battle in San Francisco – and across the world – over how to regulate the billion-dollar sharing economy. Cities assert that hosting platforms like Airbnb are like any brick-and-mortar business. The platforms say they are different.

The dispute is playing out in those tax bills in San Francisco.

Airbnb collects the hotel tax directly on its platform from hosts such as the woman in the Mission, and writes the city a monthly check. The city, however, says that's not enough.

“When you file your taxes, you can't just send a check, you are required to give information about your income. Every business in San Francisco has to do the same thing,” said Amanda Kahn Fried, a policy and legislative manger with the Office of the Treasurer and Tax Collector.

The city, she said, has no way to check that anyone's specific taxes have been paid. As a result, “there is joint liability” until the city can connect the dots between a tax payment and an address.

It's unclear to what extent the city will pursue hosts, but the tactic puts hosts and platforms at odds and may give the city more leverage to regulate Airbnb. Already, the tax bills to hosts – followed by incensed Airbnb blog posts – have sent the City's Tax Collector and Airbnb back to the negotiating table to address what an Airbnb spokesman called “the challenging issue” of the hotel tax.

It's a challenge peculiar to Airbnb. When most businesses pay the hotel tax, they submit information on an address, unit and the number of nights a room has been rented.

Airbnb submits “anonymized” information. As an Airbnb spokesperson explained, that's “basically a long list of the transactions that happen in San Francisco.”

Does this include addresses, units and number of nights?

“No,” the spokesperson said. The reason, he explained, is that Airbnb is different. Although it pays the hotel tax, it is not a hotel because its hosts cannot rent out their places at will, but are constrained by the city.

But so too are others that pay city taxes, such as SROs and the owners of buildings built before

1979. And they, too, must submit detailed tax information. How far the “we are different” argument may take Airbnb remains to be seen, but it may eventually end up in court. A labor commission failed to buy the “we are different” argument in the case of Uber, and ruled earlier this month that its drivers are employees and not independent contractors. (Uber said Wednesday it is appealing the decision.)

It’s an argument that Airbnb is also using to battle the Board of Supervisors’ efforts – delayed until July 14 – to effectively regulate short-term rentals.

At present, the city caps un-hosted rentals at 90 days a year. It also requires hosts to register with the city – something fewer than 600 of the more than 6000 hosts have done.

The reason effective caps are so important is that, it’s widely agreed, landlords need to be discouraged from taking long term rentals off the market. One unit taken off the market quickly negates all of the positive economic benefits of homesharing, such as local spending, local earning and the fat tax check the city gets, according to city reports.

To insure compliance, Supervisor David Campos wants hosting platforms to require a city registry number before listing their room, unit or house. Once the host reaches the cap, Campos proposes, the listing should be dropped until the next year. Airbnb is balking.

I suggested to Airbnb’s spokesman that Campos’s suggestion was akin to other public/private arrangements. Banks, for example, require that a business register with the state before it can open a bank account.

Airbnb operates around the world, the spokesperson said. “It would be nearly impossible for us to self-police and take on the role of the government and enforcement agency.”

When it was pointed out that many banks also operate globally, the spokesman offered a different analogy. If he is driving on Highway 101 and is speeding, he said, we don’t ask ATT to provide the highway patrol with that information. Moreover, we let the car companies make cars that exceed the speed limits, he added.


In other words, “we are different.”

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**Subject:** Testimony OPPOSE HB1850  
**Date:** Tuesday, March 15, 2016 3:25:27 PM

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**Dear Senate Tourism and International Affairs Committee and the Commerce, Consumer Protection, and Health Committee**

**I OPPOSE HB1850 because:**

It would allow companies like Airbnb to collect and remit taxes without any way of verifying that the amount they remit is anywhere near what the vacation rental owners owe. It doesn't hold companies like Airbnb responsible for making sure these vacation rental listings are legal or illegal. Illegal vacation rentals are a growing problem in our state, and this bill does nothing to fix it. They're a problem not just because they aren't paying their fair share of taxes, but also because illegal vacation rentals take away affordable housing for local people and hurt our economy by directly competing with full-service hotels that provide good, local jobs.

We need genuine leadership by our legislators in Hawaii. Individuals that think not individually but of our collective responsibility to look out for the people who live and work in Hawaii, not just look out for off shore corporations like AirBandB. We can not trade our long term future for some quick cash. Yes, we need to get the revenue, but this is not the solution.

Our system is broken. We will see the homeless population increase if you pass laws like this one. The availability of truly affordable housing and good jobs are the two largest reasons why people are homeless. This too has a financial cost on our state. Every day I talk to our members, I currently am the union organizer for members in both Waikiki and Kauai. Protecting our members good jobs is a priority. When we do this we are also protecting the local economy.

I am also a renter myself. We have no rent control here in Hawaii, so the housing market is vulnerable to supply and demand. Our elected officials are viewed as weak to corporate interests and corrupt in the sense that you are viewed as too close to these interests. AirBandB wants to come in and exploit this. Please send a message that we are not weak. Hawaii can take care of its own. I care about Hawaii and I vote.

Aloha,

Allison

Allison Lum  
Organizer  
UNITEHERE Local 5



*Eric Gill, Financial Secretary-Treasurer*

*Hernando Ramos Tan, President*

*Godfrey Maeshiro, Senior Vice-President*

March 15, 2016

The Honorable Kalani English, Vice Chair  
and Members  
Committee on Tourism and International Affairs  
Hawaii State Senate

The Honorable Rosalyn Baker, Chair  
and Members  
Committee on Commerce, Consumer Protection and Health

*TESTIMONY submitted on behalf of UNITE HERE! Local 5*

Re: **HB1850 HD1: Taxation; Transient Accommodations Brokers; Tax Collection Agents; General Excise Tax; Transient Accommodations Tax**  
RELATING TO TAXATION.

Allows transient accommodations brokers to register as tax collection agents to collect and remit general excise and transient accommodations taxes on behalf of operators and plan managers using their services.

Vice Chair English, Chair Baker and Members:

UNITE HERE Local 5 is a local labor organization representing 11,000 hotel, health care and food service workers employed throughout our State. We would like to express strong **opposition** to HB1850 HD1, which allows hosting platforms such as AirBnB and VRBO to collect and remit taxes on behalf of operators without provisions requiring relevant information be forwarded to the tax department.

In addition to concerns we have raised in previous testimony, which we reiterate below, it is absolutely vital that the State avoid preempting (accidentally or otherwise) local regulations for vacation rentals. To that end, we recommend that the following language be included in the bill:

“The Legislature declares its intent not to occupy the field of regulation of short-term rentals, vacation rentals or bed and breakfast lodging. This chapter establishes only minimum standards and is in addition to and supplementary to any other federal, state, or local law or ordinance, or any rule or regulation issued thereunder. Counties, cities and towns within this State shall have the power to adopt laws or ordinances, and rules and regulations thereunder, regulating short-term rentals, vacation rentals or bed and breakfast lodging within their jurisdictions. Any local regulation which is more favorable to neighbors of such rentals and lodging than the minimum standards applicable under this chapter, or any rule or regulation issued hereunder, shall not be affected by this chapter and such other laws, or rules or regulations, shall be in full force and effect and may be enforced as provided by law.”

Transient accommodations brokers would have no motivation to correctly report or collect taxes from vacation rental owners or operators, since the tax department would have no way to verify the information they provide. The brokers would in fact have motivation not to remit the correct amount of taxes:

1. in order to maintain a competitive advantage against hotels and other rental platforms;

2. to protect illegal operators (on whose business the brokers often earn fees) from scrutiny and potential injunction; and
3. to avoid negative attention from lawmakers that could lead to further meaningful regulations.

As it is, we can only guess at the amount of TAT and GET lost to the State and the counties from illegal vacation rentals, and this measure will make the problem worse by shielding vacation rentals from proper oversight by the tax department. A study commissioned by the Hawaii Tourism Authority identified 4,411 individually advertised units on Oahu as of September 2014, and over 22,000 across the state, making up over 25% of the total lodging supply. It is not clear how many of these are legal vacation rentals, individual self-managed rooms in condotels, etc., making it difficult to quantify illegal non-traditional hotel accommodations and their impact on the State. Moreover, the State and the counties need mechanisms for enforcing vacation rental laws so that we do not lose the housing inventory our state desperately needs to illegal vacation rentals.

Supporters of these types of limited lodging services argue that they cater to visitors looking for vacation experiences not offered at a hotel, and that such visitors will not come if vacation rentals are not allowed. Some may argue that limited lodging services provide them with necessary supplemental income – though on Oahu 79.6% of AirBnB listings – over 5,000 units – are categorized as “entire place” meaning an entire housing unit is being rented out to visitors. Many of these units are being rented out by people with multiple listings.

Some vacation rental owners/operators have testified that they already pay required taxes but their information should remain private for personal safety – even though they advertise via internet to strangers. On the other hand, **nobody else** running a legitimate business in this state is allowed that kind of anonymity. The only kind of safety that kind of anonymity provides is the safety for illegal operators to continue operating illegally. In fact, if the public and regulators lack of access to information about the locations and operators of vacation rentals, this could create safety issues for visitors and residents. There is no justification for allowing transient accommodations owners and operators to skip out on regulations that every other legitimate business in the state follows, especially when a significant fraction of advertised vacation rentals are illegal – a minimum of 42% of all vacation rentals on Oahu alone.

Institutionalizing the collection of tax money from illegal vacation rentals is a step toward blindly accepting all of them, regardless of location, safety concerns, community impacts and impacts on affordable housing. While there may be a legitimate need for some vacation rentals in order to cater to visitors who might not otherwise travel to Hawaii, there needs to be a broader discussion with a lot of community input. On top of being fundamentally flawed, this bill is therefore premature.

Illegal short-term rentals impact housing, the tourist industry and our sense of neighborhood. Our Union has done extensive studies on this issue and has progressive ideas on how to assist the counties on the enforcement of the current laws relating to transient vacation accommodations. We are willing to provide the information to this committee. We believe that any workable solution must include language that puts reporting requirements on hosting platforms in order to be successful.

Any initiative passed by the Legislature should not work against measures already adopted by the Counties that work to better enforce existing laws related to illegal vacation rental operations or initiatives that help to alleviate the housing crisis. As just one example, HB 1850 HD1 would work against the City and County of Honolulu’s Accessory Dwelling Units (ADU) initiative passed and signed into law last year that works to address these two issues.

At the very least, we must require hosting platforms to provide the information the public needs to prevent proliferation of illegal rentals. This bill does the exact opposite.

HB1850 HD1 is fundamentally flawed, specifically:

1. HB1850 HD1 would allow brokers to collect and remit taxes without any way of verifying that the amount they remit is anywhere near what the owner/operators owe:
2. HB1850 HD1 provides no means to identify the owners/operators;
3. HB1850 HD1 provides no responsibility on the broker to ensure that all of its listings are legal; and
4. HB1850 HD1 is counterproductive. It serves a purpose that is contrary to initiatives recently passed on the County level and works against the State's commitment towards addressing out housing crisis.

At a minimum, HB1850 HD1 must be amended to include:

1. A publicly verifiable means for tracking which vacation rentals are being advertised, which ones have paid taxes, and how much each has paid. This is necessary for answering the two crucial questions about each vacation rental being advertised online:
  - a) Is it paying taxes? And
  - b) Is it operating legally?
2. Anti-preemption language to ensure that the regulation of short-term rentals, vacation rentals or bed and breakfast lodging that the counties currently enforce or wish to adopt in the future.
3. The removal of the amendment in HB 1850 HD1, Section 2, Chapter 237, "(j) All registered transient accommodations broker tax collection agents may inquire and insure whether the transient accommodation is in compliance with all pertinent land use laws."
  - a) This language is unnecessary because it does not require companies like AirBnB to make sure its listings comply with local laws; it makes it an *option*.

To accomplish this:

1. All ads should include both a Tax ID number and the address of the property being advertised;
2. Brokers should be required to report Tax ID and address information for all listings along with the amount of tax money collected from each listing; and
3. The report needs to be public.
  - a) This allows the Department of Taxation (DoTax), the counties and individuals the data they need to keep the rise of illegal units in check. Even if DoTax doesn't have the resources to act on anything right now, this will preserve their ability to do so later on. Otherwise, the State would have no verifiable way to know who's paying what (if any) taxes, thus putting into question the actual net gain in tax revenue from the measure.
4. Language should be included that states, "The Legislature declares its intent not to occupy the field of regulation of short-term rentals, vacation rentals or bed and breakfast lodging. This chapter establishes only minimum standards and is in addition to and supplementary to any other federal, state, or local law or ordinance, or any rule or regulation issued thereunder. Counties, cities and towns within this State shall have the power to adopt laws or ordinances, and rules and regulations thereunder, regulating short-term rentals, vacation rentals or bed and breakfast lodging within their jurisdictions. Any local regulation which is more favorable to neighbors of such rentals and lodging than the minimum standards applicable under this chapter, or any rule or regulation issued hereunder, shall not be affected by this chapter and such other laws, or rules or regulations, shall be in full force and effect and may be enforced as provided by law."

Thank you for your consideration. We recognize the State's need to generate revenue, but we should carefully ensure that any measure passed actually accomplish what it is intended to do.



**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [lisamarten@hawaii.rr.com](mailto:lisamarten@hawaii.rr.com)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Tuesday, March 15, 2016 7:01:17 PM

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**HB1850**

Submitted on: 3/15/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lisa Marten	Individual	Oppose	Yes

Comments: Aloha Chair and Committee members. Please oppose this Bill. While I support collecting taxes, this Bill actually serves the purpose of circumventing our zoning laws. It allows illegal vacation rentals to become anonymous by hiding behind large mainland corporations that are not required to verify the legality of the business. We have a housing crisis, which this will make worse. We have neighborhoods that are overridden with illegal vacation rentals, which this will make worse. On Oahu, the DPP has hired extra staff and is finally doing something about it. Please do not undermine their efforts. Thank you, Lisa Marten

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**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [michelle@hawaiiantel.net](mailto:michelle@hawaiiantel.net)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Wednesday, March 16, 2016 8:07:43 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michelle Pillen	Individual	Oppose	Yes

Comments: I strongly OPPOSE HB1850 HD1 because: 1) it would allow brokers to collect and remit taxes without any way of verifying that the amount they remit is anywhere near what the owners/operators owe; 2) it provides no means to identify the owners/operators of illegal vacation rentals; and 3) it provides no responsibility on the broker to ensure that all of its listings are legal.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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## Testimony on HB 1850

If Bills 1850 and becomes law, the voters and taxpayers will suffer the effects of higher housing rents and increased homelessness. Much needed housing will be lost through conversion to illegal vacation rentals. Just down the street from us is an extended family of 13 living in a 3-bedroom house because working family members cannot afford the high rents on the North Shore. Just up the street is a high-end house illegally renting for \$1,000 and more a night if vacation renters opt to rent the guest house. And it's not just high-end homes that are illegal vacation rentals, but low and medium-income home owners have gone into the lucrative, illegal vacation rental markets. These illegal operations are everywhere on the North Shore as vacationers seek to experience "local living." This bill will only worsen what has already become a housing crisis for medium and low-income families.

Bill 1850 lends legitimacy to illegal vacation rentals by making the vacation rental broker a "registered agent of the State of Hawaii." This will inspire even more potential conversions of residential homes and apartments into illegal vacation rentals. The bill ***hides the identity of illegal operators and defeats the purpose of Act 204*** that went into effect January 1, 2016, which requires all vacation rental advertisements to post the vacation rental operator's TAT account number on the ad. Now all properties listed by the broker will use the broker's TAT account number, thereby shielding the identity of illegal operators from county enforcement officers. Further, the bill exempts the broker from having to obey county laws at all! The same section in SB2693 states that the broker "...**MAY** (but only if they want to) *inquire and insure whether the transient accommodation is in compliance with all pertinent land use laws,*" which is ridiculous.

We realize these bills (HB 1850 and SB 2693) promise more TAT income and GET income for the state, and less work for the Department of Taxation. But the cost to our communities is not worth the extra monies. Please do not support these bills.

**From:** [Annie Pich](#)  
**To:** [TSI Testimony](#)  
**Subject:** HB 1850  
**Date:** Tuesday, March 15, 2016 12:58:02 PM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

Thank you, I'm supporting HB 1850 bill

Sincerely,

Annie Pich

**From:** [Arik Salvador](#)  
**To:** [TSI Testimony](#)  
**Subject:** I support HB 1850, SB 2693  
**Date:** Tuesday, March 15, 2016 9:49:15 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

Dear Members of the Senate Committee on Tourism and International Affairs,

I support HB 1850 and SB 2693. The bills would be of great benefit as:

Relieving individual hosts of figuring out complicated and burdensome tax regulations

Allowing Airbnb to collect and remit Transient Accommodations Tax (TAT) and General Excise Tax (GET) on behalf of our community

Protecting host privacy and streamlining registration requirements by allowing hosts to post Airbnb's tax registration number in lieu of individual tax ID numbers

Sincerely,

Arik Salvador

Sincerely,

Arik Salvador

**From:** [Arthur Gilmore](#)  
**To:** [TSI Testimony](#)  
**Subject:** Support HB 1850!  
**Date:** Tuesday, March 15, 2016 8:55:45 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

My name is Arthur Gilmore and my wife and I are small property owners in Waikiki. We use home sharing to supplement our income, and provide a budget alternative to families, young people and older couples who want to visit Hawaii. In this way they have more money to spend having fun in Hawaii so we contribute to economic vitality!

Please make it easy for us to remain tax compliant. We have paid thousands of dollars in tourism taxes!

HB 1850 would benefit the home sharing community by:

- Relieving individual hosts of figuring out complicated and burdensome tax regulations
- Allowing Airbnb to collect and remit Transient Accommodations Tax (TAT) and General Excise Tax (GET) on behalf of our community
- Protecting host privacy and streamlining registration requirements by allowing hosts to post Airbnb's tax registration number in lieu of individual tax ID numbers

Sincerely,

Arthur Gilmore

**From:** [Chris Gale](#)  
**To:** [TSI Testimony](#)  
**Subject:** HB 1850/SB2693  
**Date:** Tuesday, March 15, 2016 8:19:41 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

Aloha,

Mahalo for your continued hard service for Hawaii and in particular, Maui County.

I am a retired speech pathologist, who worked for the State for 30 years. I cannot afford to live on Maui for my retirement years, if I cannot share my home with others. I am a welcoming host, who cares deeply for the traveler's well-being and great time.

Please support these bills on my behalf.

Sincerely,

Chris Gale

**From:** [Damaris Palmer](#)  
**To:** [TSI Testimony](#)  
**Subject:** HB 1850  
**Date:** Tuesday, March 15, 2016 9:25:44 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

My name is Damaris Palmer. A year and a half ago we moved back to Hawaii so that my children could grow up close to their extended family. Upon moving back we were able to purchase our first home. We rent out part of our home to vacation renters and it's been such an incredible experience. Not only has it helped us financially but it has made us feel more connected to a larger community. Right now we are hosting a family from Oakland. Before that it was a family from Arizona. We have hosted families from France, Poland, Germany, Mexico, Japan, and many other countries. My children have met people from all over the world and we love it!

Since my husband grew up here and since we live here we have been able to introduce our guests to local businesses, which we feel is a huge benefit to our community.

Since starting our rental we have paid all of the correct taxes. This is something my husband and I have done on time and consistently. However, it would be a much smoother process if HB 1850 passed so that this process can be automated.

Thanks for your time!  
Palmer Family from Hau'ula

Sincerely,

Damaris Palmer



**From:** [Deborah Aldrich](#)  
**To:** [TSI Testimony](#)  
**Subject:** HB1850  
**Date:** Wednesday, March 16, 2016 6:55:53 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health

I am writing to you in support of HB 1850. I urge you to support this bill and I'd like to tell you why.

I am a 66 year old , recently retired Registered Nurse. I have taken care of Hawaii's people for 38 years. I was a single mom and able to buy an older home. My mortgage runs until I'm 93! I also have a second mortgage because I made many improvements to this home. My children have left the island. Since retiring I am living on about one of my former income. I would like to be able to not stress about "what if this happens, what if that happens," etc.

Being able to rent out part of my home would enable me to have enough income for a successful retirement. I do not want someone for a permanent tenant. I want to be able to take care of myself and not have to sell and leave. Being able to rent to vacationers would enable me to do this.

None of us who live here and have worked here should be told to whom we have to rent. If we are able to be on site or nearby, have off-street parking, keep the noise down, we should be legal. As well, visitors should not be told they have only hotels to stay in. They really enjoy other places and sampling what the area has to offer in the way of restaurants, shops, surfboard rentals and hiking or whatever they enjoy.

As many vacation rentals are referred to as if they are criminals, they have chosen to be discreet. Some collect only cash and don't pay taxes. Yet, daily, the City and County, State are in the newspaper and news about wanting income for various needs. Vacation rentals can generate a lot of income if they are made legal. Airbnb would like to facilitate that by collecting TAT and GET. Please enable them. It's a win-win.

Respectfully Yours,  
Deborah Aldrich

Sincerely,

Deborah Aldrich

**From:** [Delia Garcia](#)  
**To:** [TSI Testimony](#)  
**Subject:** HB 1850 and SB 2593  
**Date:** Tuesday, March 15, 2016 8:17:36 PM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

I strongly support the above bills. I am a retired RN and have enjoyed hosting for Airbnb. I believe that by passing the bills above that we will improve tourism in this State and will consequently generate more employment .

Sincerely,

Delia Garcia

**From:** [Evans McGowan](#)  
**To:** [TSI Testimony](#)  
**Subject:** AirBnb to Collect GET and/or TAT  
**Date:** Tuesday, March 15, 2016 8:36:42 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

It would be very helpful to have AirBnb collect GET and TAT on our behalf as owners who legally rent out registered businesses to tourists. We enjoy welcoming guests to an island experience, and the clearer and simpler we can make the payment process, the more likely they will continue to utilize a homestay experience. As many people want more choices beyond the traditional resort experience, this is imperative to keeping money locally and strengthening the economy without simply exporting dollars to big, off-island corporations.

Sincerely,

Evans McGowan

**From:** [Helen Petrovitch](#)  
**To:** [TSI Testimony](#)  
**Subject:** HB 1850  
**Date:** Tuesday, March 15, 2016 1:26:44 PM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

I strongly support HB 1850. Airbnb is willing and able to effectively collect and submit GE taxes and TA taxes for the hosts on their website. This will make it easier for hosts to pay taxes and will ensure that all hosts pay the state and city what is required. This should significantly increase much needed revenues for the city and state.

Sincerely,  
Helen Petrovitch

Sincerely,  
Helen Petrovitch

**From:** [Jason Woll](#)  
**To:** [TSI Testimony](#)  
**Subject:** Supporting HB 1850  
**Date:** Tuesday, March 15, 2016 9:10:02 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

I support HB 1850

Sincerely,

Jason Woll

**From:** [Jennifer Gonzales](#)  
**To:** [TSI Testimony](#)  
**Subject:** We need Main stream travel options  
**Date:** Tuesday, March 15, 2016 9:05:58 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

I feel that this is the 21st century we need options for travelers. They feel safer, have more involvement with the local business and feel like a part of the community. This bill HB 1850 would be sure to get the tax dollars that you want and desperately need . All the news in HI talks about all the funds they need and do not have schools are hot,teachers are short of supplies,and programs are cut .You need more money with better spending. HB1850 will give it to you vacation rentals give you millions ask Maui. Jennifer Gonzales

Sincerely,

Jennifer Gonzales

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [jlilly@unitehere5.org](mailto:jlilly@unitehere5.org)  
**Subject:** \*Submitted testimony for HB1850 on Mar 17, 2016 09:30AM\*  
**Date:** Tuesday, March 15, 2016 4:23:39 PM

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**HB1850**

Submitted on: 3/15/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Judy Lilly	Individual	Support	No

Comments:

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**From:** [Kathy Dinman](#)  
**To:** [TSI Testimony](#)  
**Subject:** Support of HB 1850  
**Date:** Monday, March 14, 2016 3:10:22 PM

---

Please pass HB 1850.

I am a widow with one child at University of Hawaii and one in the 6th grade is college bound. I need as much extra income I can get from renting my apartment. Also, the expenses to repair this house are ongoing. Please pass HB 1850. Thank you.

Aloha,  
Kathy Dinman  
(808)780-6325 cell



**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [micahalameda@gmail.com](mailto:micahalameda@gmail.com)  
**Subject:** \*Submitted testimony for HB1850 on Mar 17, 2016 09:30AM\*  
**Date:** Saturday, March 12, 2016 10:35:19 AM

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**HB1850**

Submitted on: 3/12/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Micah Alameda	Individual	Support	No

Comments:

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**From:** [Nenif Kacho](#)  
**To:** [TSI Testimony](#)  
**Subject:** HB 2850  
**Date:** Tuesday, March 15, 2016 9:19:49 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

We support the senate to approve and pass this subject HB 1850

Sincerely,

Nenif Kacho

**From:** [Nina Reppun Carney](#)  
**To:** [CPH Testimony](#); [TSI Testimony](#); [Sen. Will Espero](#); [Sen. Roz Baker](#); [Sen. Michelle Kidani](#); [Sen. Les Ihara, Jr.](#); [Sen. Clarence Nishihara](#); [Sen. Russell Ruderman](#); [Sen. Sam Slom](#); [Sen. J. Kalani English](#); [Sen. Brickwood Galuteria](#); [Sen. Josh Green](#); [Sen. Kaialii'i Kahele](#); [Sen. Donna Mercado Kim](#); [Sen. Jill Tokuda](#)  
**Subject:** Opposition to SB2693\_SD3  
**Date:** Wednesday, March 16, 2016 4:08:15 PM

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Dear Senators,

As a tax paying resident, I am in opposition to visitor accommodations being encouraged in our residential neighborhoods. I believe [SB2693\\_SD3](#) does just that. I want zoning laws enforced not weakened; I want enforcement efforts supported not hindered.

Regarding [SB2693\\_SD3](#), illegal businesses remitting taxes - whether directly or indirectly - are still illegal. Unlicensed short-term rentals in residential areas are breaking our laws – conferring registered agent status to their brokers doesn't change that. We must know who is *actually* paying those taxes.

Further, Act 204's intention for operators to display their TAT is undermined by this proposed legislation. It is well known there are many more illegal vacation rentals than there are law abiding licensed ones. Requiring the owner/operator's TAT to be displayed on advertisements helps enforcement efforts to stop such unlawful activity. It seems to me language in the bill that shifts TAT disclosure to a broker is a transparent effort to conceal illegal operations. Operators should still display their own TAT even when paying taxes through a broker.

I am all for people paying their fair share of taxes and brokers becoming registered agents may well be a valid idea. But client/operators engaged in illegal businesses in residential neighborhoods mustn't be enabled to hide from enforcement officers just because they're using a broker to pay their taxes.

Please vote against [SB2693\\_SD3](#) as written. An operator must display their own TAT not someone else's.

Mahalo,  
Nina Reppun Carney  
632 Ulili Street  
Honolulu 96816

**From:** [Noni Floyd](#)  
**To:** [TSI Testimony](#)  
**Subject:** HB1850  
**Date:** Wednesday, March 16, 2016 11:05:42 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

I am in support of HB1850 for the following reasons:

Residents of Hawaii who run any business should be responsible for paying their taxes. Due to fear of exposure, many tourist rentals within the communities are being run via “cash only” payments that are not claimed as income. That is wrong.

The State of Hawaii has been collecting transient rental income taxes from vacation rental business owners for years, long after the City and County of Honolulu’s zoning law came into being in 1989. Although most counties in Hawaii value tourism and welcome vacationers to stay among residents in their community, the City and County of Honolulu’s strict zoning regulations (coupled with tourism opponents) have caused a growing problem for the DPP who find the enforcement of this very difficult. By allowing another platform to collect and remit TAT and GET, the tax-collecting portion of their enforcement responsibilities will be off the table.

Hawaii’s industry is tourism and the rental business can and should provide huge revenue to our state. By implementing HB1850, the state will be receiving that revenue from ALL of the rental business owners, not just those that are currently paying their taxes.

Sincerely,

Noni Floyd

**From:** [Patricia El-Gasseir](#)  
**To:** [TSI Testimony](#)  
**Subject:** Airbnb and HB 1850  
**Date:** Tuesday, March 15, 2016 3:16:08 PM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

Please pass HB 1850. Renting our home brings us needs money and brings tourist dollars to the town of Honokaa and surrounding area. Collecting tax money and submitting it to the state really complicates life. Guest complain about having to pay it in cash or check after they arrive. It is especially troublesome for foreign travelers who prefer to pay one time through Airbnb. Please simplify the system and let Airbnb collect and pay the TAT and GE.

Sincerely,

Patricia El-Gasseir

**From:** [Ralph Hernandez](#)  
**To:** [TSI Testimony](#)  
**Subject:** State of Hawaii needs the added revenue support HB 1850  
**Date:** Tuesday, March 15, 2016 4:25:43 PM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

Dear State of Hawaii legislature,

With the constant increase of State-wide expenses from rail to school board we need and added relieve. Why not tap into the revenue made from the shared economy and have them pay the state the funds!! The hosts are willing to pay, AirBnB is willing to collect so why should the State not be willing to collect? HB 1850 is a WIN-WIN proposal. Regardless if regulated or not this will ensure steady stream of income to the state and its people.

Sincerely,

Ralph Hernandez

**From:** [Regina delosReyes](#)  
**To:** [TSI Testimony](#)  
**Subject:** Kookier.. HB1850  
**Date:** Wednesday, March 16, 2016 11:13:51 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

In today's economy, living in Hawaii is getting really unaffordable to many, thus, even to hardworking people in the middle class. Such a beautiful paradise like our island would be a dream to a lot of people around the world, to visit--this is what I experience as an AirBnB Host. I have met several people that are so excited and extremely happy to be here. I feel so privilege to be their host, as I see their enthusiasm.

I'm so lucky I live in Hawaii and experience this awesome paradise. And for me to afford it, I need to find extra income will tending to my children, one of which has a special need. AirBnB have helped us to stay in our home and stay in a good community and good public school.

To our dear politicians who have the power to help the economy of our island and community, please help us passed HB1850. My guests would buy a lot of gifts for their friends and family before going home, our local restaurants are benefiting from their business as well and not only the enriching cultural exchange benefits me, but a little help to pay medical bills and add a bit of income to pay our mortgage.

In light of all of these, we at the AirBnB community ask for your kind support to make HB1850 passed on the floor.

Aloha for your kind Kokua

Sincerely,

Regina delosReyes

**From:** [Ronald Steiner](#)  
**To:** [TSI Testimony](#)  
**Subject:** HB 1850  
**Date:** Tuesday, March 15, 2016 4:02:34 PM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

March 15, 2016

Ronald W, Steiner  
289 Portlock Rd.  
Honolulu, HI 96825  
steiner289@gmail.com

I am in support of Airbnb and their request to collect and disburse all taxes for homeowners like myself who provide accommodations for short term rentals. Although I do collect and pay respective taxes on my own, having Airbnb provide this service, eliminates confusion for both the renters and homeowners and will ensure taxes owed are indeed collected and paid... And my belief about the issue regarding short term rentals is as follows.

I realize that this is a hot issue for both sides of the equation but it is not only the Waikiki hotels that provide accommodations for families and tourists who travel to Oahu. It is also folks like myself who are tax paying (income, property, excise and TAT), and law abiding homeowners who are part of the Island experience. We who house family members for short term visits provide the only viable alternative to the tourist centric Waikiki; which does not meet their needs at all. Local families for the most part live in the suburbs, in all parts of Oahu, and their visiting families desire to be as close as possible; they have no need or desire to be within the Waikiki district with the noise, expense and travel times incurred to get to and from local addresses....in many cases they also do not need a rental car.

It really defeats the purpose of supporting our local population who have family and friends traveling from the Mainland by forcing them into the crowded place with the only "approved" accommodations on the Island. ...Think about it, if you were on the Mainland, you would have dozens of choices from which to select a motel, hotel, or a Bed and Breakfast that was close to your destination. Here, our State and County officials have not come to grips with this issue at all, and the only solution City and County is offering, is to hire more inspectors to find violators. Our community and elected officials are not facing the issues at hand nor meeting the needs this community.

My second point is that the dynamics of today's tourist is vastly different from those of 20 or 30 years ago.....Some visitors today don't want or crave the world of Waikiki, the massive retail shopping or crowds....they want to mingle with local residents, enjoy the quiet and be close to nature....which is exactly what living with residents can provide...I believe our leaders would do a great disservice to our community and our future growth in tourism by eliminating "Short Term Rentals", altogether, without looking at viable solutions.

Bills or legislation to eliminate short term rentals would produce a substantial reduction in tax revenues, hurt the many fixed income retirees, such as myself who depend on this additional income and would most certainly give the Island a black eye as being anti tourist, out of touch and regressive. It seems such a short sighted position to take, when we project that Hawaii is a progressive and welcoming State and a "class" destination to come to...

In closing, I agree something should be done to regulate the industry. Possibly issuing a license, with rules to abide by and enforced by property owners, but we need to deal with the issues that are frustrating neighbors and come up with compromise solutions. There is always a way to make this work for the good of all.

Sincerely

Ronald W. Steiner

Sincerely,



Ronald Steiner

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [bpacker@maui.net](mailto:bpacker@maui.net)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Wednesday, March 16, 2016 11:09:52 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
SharLyn Foo	Individual	Comments Only	No

Comments: Aloha, Once again. Is the state legalizing vacation rentals for the city? Is collecting taxes on illegal activity alright? Shall we collect from brothels and gambling places as well. Seems taxes or money supercedes laws.

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**From:** [Susan Bixler](#)  
**To:** [TSI Testimony](#)  
**Subject:** Pass HB1850  
**Date:** Wednesday, March 16, 2016 8:52:13 AM

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Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

Bill HB 1850 Aloha

I am Susan L. Bixler in support of HB 1850

I am a lifetime resident of Kailua 55 years and have raised my family in Kailua. I am a host for Airbnb (3 /12 years) and absolutely love it. I take my hosting very seriously and I am dependent on the income and I know without this income I could not afford to stay here. I have hosted for 14 years total.

“Sharing” and “trust” are the operative words for me in this new economy that many hosts are discovering. I have met a host that lives in Salt Lake and has paid off her college loans while making new friends and yes, paying TAT and GET taxes happily. There are hundreds of similar stories. Meanwhile her parents are worried out of their minds that their daughter has listed on airbnb a room in her apartment. For the past 4 years she has had wonderful guests while traveling the world via airbnb and now her parents and siblings have joined this sharing economy and loving all the experiences. This is more than money, it is a culture of sharing.

I have met the most amazing guests.

I am an ambassador for Kailua and Hawaii in that I share my local knowledge and love of Hawaii. I educate my guests on locally made products and local produce. I advise them on restaurants, shopping and farmer’s markets. I serve as a concierge. B&B guests are spending \$ throughout the islands in places that are not usually patronized by tourists.

I am fortunate to interact with people who are so incredibly happy to be in Hawaii. My guests seek out B&Bs as their preferred mode of travel. They do not want to stay in Waikiki and are grateful for an alternative to hotels and crowds.

Most importantly the majority of my guests are visiting their children, grandchildren, parents, aunts and uncles in Kailua and don’t want the Waikiki commute. Many guests are attending weddings or reunions on the windward side and don’t want the Waikiki commute. Many of my guests are returning multiple times, and exemplary visitors in our neighborhood. I provide a safe and important service by providing a B&B. Some of my guests are related to vocal opposers of B&Bs and visit them while in Kailua.

Think about it, if your family was visiting Oahu and they had an opportunity to stay near you, wouldn’t you prefer that than the Waikiki commute?

My B&B would not be a long term rental as I need the flexibility for my family to stay with me. I am not taking a long term rental off the market.

I know that the Airbnb service that makes it easier to collect taxes is going to benefit Hawaii with additional revenue. Oahu tax revenues will definitely increase significantly because all Airbnb hosts will be in tax compliance. Hosts will be relieved of the task of navigating complicated tax forms. All hosts will now have tax registration streamlined and again in compliance.

Making B&Bs legal is a perfect moneymaker for the state. All hosts are entrepreneurs bringing in revenue that requires nothing from the state. The state hires no one and no infrastructure is required. B&Bs bring revenue to the local communities through shopping and patronizing local restaurants. B&Bs provide an assortment of associated employment; cleaning services, yard services, window cleaners, and in general improved maintenance of properties. B&Bs have a

huge positive trickle down effect on the local economies.

Mahalo  
Susan L. Bixler

Sincerely,

Susan Bixler



**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [tcroly@maui.net](mailto:tcroly@maui.net)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Tuesday, March 15, 2016 6:59:50 PM

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**HB1850**

Submitted on: 3/15/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Thomas Croly	Individual	Support	No

Comments: This measure is about effective tax collection and not about zoning enforcement. As a way to more effectively obtain tax compliance, it makes perfect sense. And this is exactly what it will do for the vast majority of Legal short term vacation rentals advertized on airbnb, VRBO and a host of up and coming online vacation rental brokers. For those who feel that this measure emboldens illegal vacation rentals, I cannot agree. While there are, and always will be, vacation rentals that exist outside compliance with zoning regulations. It is incumbent upon county zoning to regulate such non compliant uses. But these non compliant operations are outnumbered by 20 to 1 or more in Maui County by the 11,000 legally permitted condos, B&Bs and short term rentals and the benefits of facilitating complete tax compliance by these legal short term rentals far outweighs concerns about regional zoning regulation compliance.

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**From:** [Thomas DiGrazia](#)  
**To:** [TSI Testimony](#)  
**Subject:** airbnb  
**Date:** Tuesday, March 15, 2016 3:07:53 PM

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Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

Please pass HB 1850. As an airbnb host, it would simplify the collection and reporting of our vacation rental income. We vacation rental owners are part of the 21st century sharing economy, and we want to do our part to pay for our fair share of taxes.

Sincerely,

Thomas DiGrazia

**From:** [Walter Wright](#)  
**To:** [TSI Testimony](#)  
**Subject:** Airbnb  
**Date:** Tuesday, March 15, 2016 11:25:49 AM

---

Dear Joint Senate Committees on Tourism and International Affairs and Consumer Protection and Health,

As a resident and owner of beachfront properties in Kailua and Kaneohe, I do all long term rentals but I am used to having vacation rentals nearby. I believe they are a great contributor to the economy and one of the most attractive "cottage industries"

you can imagine, without burdening our schools, our police, our social welfare systems. In my experience it is Hawaii residents of such areas, some with many children and as many cars, that contribute more than anyone else to congestion and noise in our neighborhoods. Please support this bill for orderly tax revenue collection from this very positive economic activity.

Sincerely,

Walter Wright

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [bautista.aprilk@icloud.com](mailto:bautista.aprilk@icloud.com)  
**Subject:** \*Submitted testimony for HB1850 on Mar 17, 2016 09:30AM\*  
**Date:** Wednesday, March 16, 2016 7:24:36 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
April Bautista	Individual	Oppose	No

Comments:

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**From:** [Barbara K](#)  
**To:** [TSI Testimony](#)  
**Subject:** Fwd: Testimony in Strong Opposition to HB1850HD1  
**Date:** Tuesday, March 15, 2016 10:12:38 PM

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> Aloha,

>

> My name is Barbara Krasniewski and I am a longtime resident of Kailua. I strongly oppose HB1850HD1 and request the bill be held. Over the years I have witnessed the transformation of my community from predominantly residential to one where encountering tourists is more common than seeing a neighbor in the stores or on the streets. Our community now has a limited number of rentals for local folks and those that are available are renting at inflated prices. Illegal transient vacation rentals and illegal bed and breakfast vacation rentals proliferate and have changed the fabric of our neighborhood. Now I have tourists instead of neighbors.

>

> HB1850HD1 will interfere with the City and County of Honolulu Department of Planning and Permitting's plan to locate and close the illegally operating vacation rentals. Even illegal operators will be able to have their GET and TAT filed under the umbrella of a transient vacation broker making it impossible for DPP to identify exact properties. While it is important for the state and the counties to receive the funds from GET and TAT, it is even more important to save our residential neighborhoods by preserving housing for local residents and closing illegal rental businesses. It really isn't all about the money. It is about doing the right thing by not allowing illegal rentals to continue to operate. Ultimately, the trickle down effect of using residential properties as businesses yields more homelessness.

>

> In an article in the StarAdvertiser on March 7th, Councilman Ron Menor, who opposes this bill, was quoted, "Problems related to illegal transient accommodations affect both the state and the counties. Prior to approving this legislation, there should be considerable discussion and coordination between the numerous parties involved, including the appropriate state and county agencies. Passing this legislation during this session would be premature." He's absolutely right. This bill and the companion bill SB2693 should be held.

>

> In the same StarAdvertiser article, Mufi Hannemann was quoted, "Making sure we are collecting taxes from vacation rentals is a No.1 priority". That shouldn't be the No.1 priority. It's not all about the money. What about making sure only legal vacation rentals are operating? How about protecting communities from becoming resort rental areas? And what about having residential housing for residents rather than tourists!

>

> Do the right thing and hold HB1850 HD1. Thank you.

>

> Barbara Krasniewski  
> 124 Kuulei Road  
> Kailua

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [bianca@kahea.org](mailto:bianca@kahea.org)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Tuesday, March 15, 2016 3:00:20 PM

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**HB1850**

Submitted on: 3/15/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bianca Isaki	Individual	Oppose	No

Comments: Aloha e Representatives, Please OPPOSE HB1850. It would allow brokers to collect and remit taxes without any way of verifying that the amount they remit is anywhere near what the owners/operators owe. This bill provides no means to identify of the owners/operators. It also provides no responsibility on the broker to ensure that all of its listings are legal. AIKEA submitted many reasonable recommendations for amending this bill to become an effective regulatory measure. Please either vote against this bill or adopt those recommended amendments.

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**From:** [Bob Watts](#)  
**To:** [CPH Testimony](#); [TSI Testimony](#); [Sen. Will Espero](#); [Sen. Roz Baker](#); [Sen. Michelle Kidani](#); [Sen. Les Ihara Jr.](#); [Sen. Clarence Nishihara](#); [Sen. Russell Ruderman](#); [Sen. Sam Slom](#); [Sen. J. Kalani English](#); [Sen. Brickwood Galuteria](#); [Sen. Josh Green](#); [Sen. Kaiali'i Kahele](#); [Sen. Donna Mercado Kim](#); [Sen. Jill Tokuda](#)  
**Date:** Wednesday, March 16, 2016 2:21:08 PM

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I am adamantly AGAINST HB1850. Please stop this terrible bill....

Bob Watts

Testimony Submitted to the Senate Committee on Tourism and International Affairs and Senate  
Committee on Commerce, Consumer Protection, and Health  
in **Strong Opposition to HB 1850 HD1**

Hearing: Thursday, March 17, 2016, 9:30 am, House Conference Room 229

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March 16, 2016

Aloha Committee Chairs and Committee Members,

I strongly urge you to **oppose HB 1850 HD1**.

As written, HB 1850 HD1 would promote the operation and proliferation of illegal transient accommodation rentals. Under the guise of facilitating tax collection, the bill would grease the wheels for illegal activities by allowing companies like Airbnb to act as shields between illegal businesses and state and county government.

Throughout the state, neighborhoods are under siege as entities like Airbnb make it easier and easier for businesses to violate the County zoning ordinances that have been enacted to ensure that residential neighborhoods remain residential (with actual residents and neighbors!) rather than being converted to resorts filled with tourists.

Regardless of what one feels about the impacts of transient accommodations in residential neighborhoods, it is incredible that the state legislature is even considering legislation that would severely undermine the counties' ability to enforce lawfully-enacted ordinances by facilitating transient accommodations operators' ability to violate those ordinances.

Yet HB 1850 HD1 would do precisely that. As written, the bill's "anonymity" and "no responsibility" provisions would enable "registered transient accommodations broker tax collection agents" ("Agents") to shield the operators of illegal transient accommodations from county government scrutiny and enforcement actions. And by providing a veil of secrecy as to the locations and identities of operators of illegal transient accommodations, these Agents will entice the creation of even more illegal transient accommodation operators.

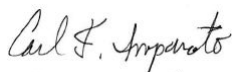
Agents such as Airbnb should not be allowed to profit from the illegal activities of their rental listings. They should be held responsible to ensure that their listings are legal, and they should be penalized for abetting illegal activities if they allow non-licensed owners to post listings on their websites.

-----  
The state's tax collection goals can be achieved without HB1850 HD1's language that would enable Agents to act as shields and money launderers for the operators of illegal lodgings.

First: the bill should be amended to require that Agents provide each County with detailed data for any rentals represented by the Agents, for the purpose of facilitating the enforcement of local zoning ordinances. Any language, including the language in Sections 237(g) and Section 237-D(g), that allows Agents to provide anonymity, must be stricken from the bill.

Second: language should be added that creates an affirmative duty on the part of Agents to verify that each rental represented by the Agent is in compliance with all county zoning ordinances. At a minimum, Section 237(j) and Section 237-D(i) should be amended to read that "all registered transient accommodations broker tax collection agents **MUST** inquire and ensure that the transient accommodation is in compliance with all pertinent land use laws."

Please do not sabotage our neighborhoods: oppose this bill or amend it as outlined above.



Carl Imperato  
PO Box 1102  
Hanalei, HI 96714  
carl.imparato@juno.com

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [dejamarie@gmail.com](mailto:dejamarie@gmail.com)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Wednesday, March 16, 2016 10:01:06 AM

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## **HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Deja Ostrowski	Individual	Oppose	No

Comments: I am personally concerned about this bill and OPPOSED to allowing brokers to register as tax collection agents to remit taxes, while exempting them from disclosure. I believe this bill will facilitate the conversion of rental units on the Leeward Coast to be vacation rentals, encourage land speculation, and investment use of properties, rather than allowing local families to purchase housing that can be used to build family equity and assets. In addition, it removes any duty on behalf of an agent, who may be remitting taxes, to provide information to help with enforcement, or affirmatively ensure that operators for which they are acting as agent, comply with existing land-use regulations or permitting requirements. My entire family, including myself, my parents and grandparents, have been renters on the Leeward Coast for many years. When my grandparents required full-time care, my family decided to pool resources and try to purchase a house. My family also went through state and federal programs to receive down-payment assistance for first-time homebuyers. Even with downpayment assistance and a traditional mortgage, it took my family over three years to purchase a two-bedroom house in Leeward O'ahu. We were continually and repeatedly out-bid by cash investors. We were only able to purchase a house in Waianae after the local family selling the house accepted our lower bid out of the goodness of their hearts, knowing the family property they were selling would go to a local resident rather than a cash investor. Only a few months after moving in and feeling part of the community, my parents also received a card in the mail from AirBnB, soliciting them to rent their house as a vacation rental. My parents were completely unaware of the land-use ordinances that do not allow vacation rentals in their area. The AirBnB solicitation card they received said that AirBnB would help them take professional photos of the house and assist them in making extra money to pay their rent. It did not indicate that they must have special land-use permits in their area. My parents were unaware of the law and that they would possibly face fines for renting an illegal vacation rental. Unfortunately, neighborhoods in the Leeward coast, where the only affordable housing exists on Oahu, is rapidly changing to have many more vacation rentals rather than long term local renters. I feel that we should not further allow entities like AirBnB solicit and ask our Leeward Coast residents to turn residential property into vacation rentals, take a 12% fee for the listing, then also remit taxes on their behalf, but have no affirmative duty to check on the legality of vacation rentals in a specific land-use district, or

permit status of a property. Additionally, it goes against the 'ohana spirit to require neighbors to complain about neighbors to assist with enforcement. Additionally, we should not be collecting taxes on, and encouraging illegal land uses and land speculation in the Leeward Coast. We need to ensure the residences in our Leeward Coast are available for our residents, and require corporate entities and transient brokers take responsibility for knowingly soliciting operators to violate land-use ordinances with no accountability. Please HOLD this bill, and ensure families on the Leeward Coast continue to have housing opportunities, rather than a community rapidly becoming home to vacation renters.

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**From:** [Elen Stoops](#)  
**To:** [CPH Testimony](#); [TSI Testimony](#); [Sen. Will Espero](#); [Sen. Roz Baker](#); [Sen. Michelle Kidani](#); [Sen. Les Ihara, Jr.](#); [Sen. Clarence Nishihara](#); [Sen. Russell Ruderman](#); [Sen. Sam Slom](#); [Sen. J. Kalani English](#); [Sen. Brickwood Galuteria](#); [Sen. Josh Green](#); [Sen. Kaialii Kahele](#); [Sen. Donna Mercado Kim](#); [Sen. Jill Tokuda](#)  
**Subject:** OPPOSE HB1850  
**Date:** Wednesday, March 16, 2016 5:44:43 AM

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Dear Legislators,

Thank you for the opportunity to provide testimony.

As written, I OPPOSE this measure.

I am a non-resident owner of a legal vacation rental on Maui in a hotel-zoned district.

For nearly five years I and many other vacation rental owners have been actively involved in voicing our concerns to the legislation on issues affecting owners who are legally zoned for operation and are tax compliant operators of vacation rentals.

With extensive cooperation between many key participants, Act 237 and then Act 204 were created, that require all VR owners to display their individual and unique identification for operation and to remit their taxes.

In the backdrop of our efforts has remained the unattended situation that is most severe on Oahu relative to unabated operation of a very large number vacation rentals that do not possess the granted permits to operate within residential districts.

Passing HB1850 as written shall do a disservice to both the residents of Oahu as well as all legally compliant vacation rental owners. It takes us even FURTHER AWAY from the RIGHT solution.

It creates a negative precedent relative to the legislative role to protect its citizens and HARMS nearly ALL parties concerned. The result of this bill is to essentially condone operation of vacation rentals in non-permitted zones.

I ask the legislators to carefully reflect on how this proposed bill and its companion bill SB2693 interact with existing law, and affect law enforcement efforts.

Passage of HB1850 or companion bill SB2693 should only be considered when first evaluated against compliance with US Antitrust Commerce Law, as well as lack of consistency and compatibility to certain parts of Hawaii State Act 204.

Perhaps not the legislative intention, this bill contains provisions that nevertheless portray favoritism for a specific individual provider of online listings. Further it should be noted that the long-term result may not be one of increased tax collections. A more careful review would reveal the potential for this to be the case.

HB1850 and SB2693 may be interpreted as intending certain exemptions from Act 204. Law enforcement efforts at the County and State level should be supported and not hampered by a loophole endorsed by HB1850 and SB2693 that proposes the option of anonymity of the rental operator. This obscures the need for all operators to post GE/TA tax IDs on any online advertisement for a vacation rental or to comply with others aspects of Act 204.

Removal of consistent application of Act 204, that requires every operator to post their tax registration ID on their unique online rental advertisements, interferes with the intended support for enforcement of zoning and tax compliance law.

This takes us backwards and will only serve to perpetuate an opportunity for the housing problem on Oahu to get worse. It also serves to support a generalized animosity towards vacation rentals (by some groups in Hawaii), which when otherwise operated legally provide an asset to the state's overall welfare and the tourism related economy.

Worse yet, law enforcement problems should not be amplified as an unintended consequence of poorly crafted new laws.

Please Defer this poorly conceptualized bill.

Mahalo.



**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [emandbillk@earthlink.net](mailto:emandbillk@earthlink.net)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Wednesday, March 16, 2016 8:46:13 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Emilia Thomas	Individual	Oppose	No

Comments: Please don't allow any bills to be passed that will allow illegal vacation rentals to continue to operate with impunity in Hawaii. Allowing companies like Airbnb to do business without full disclosure is wrong.

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**From:** [Heather Shank](#)  
**To:** [TSI Testimony](#); [CPH Testimony](#)  
**Subject:** OPPOSE HB1850 HD1 why would neighborhoods ever want this??  
**Date:** Wednesday, March 16, 2016 9:28:16 AM

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I am writing to strongly oppose HB1850 HD1. I live next to an illegal rental that sleeps 16-18 people and vacation renters think it is OK to party all the time. This is bad for our community and bad for my family's sleep, let alone our feeling of security.

WHY would we want to mask the illegal rentals of houses further? This bill seems to hurt not help enforcement of current law.

Bad, mean idea. Please vote no!

Thanks,  
Heather Shank  
118 S Kalaheo Ave  
Kailua HI 96734

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [mendezj@hawaii.edu](mailto:mendezj@hawaii.edu)  
**Subject:** \*Submitted testimony for HB1850 on Mar 17, 2016 09:30AM\*  
**Date:** Wednesday, March 16, 2016 10:45:08 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

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**To:** [TSI Testimony](#)  
**Cc:** [jeannine@hawaii.rr.com](mailto:jeannine@hawaii.rr.com)  
**Subject:** \*Submitted testimony for HB1850 on Mar 17, 2016 09:30AM\*  
**Date:** Tuesday, March 15, 2016 9:38:59 PM

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**HB1850**

Submitted on: 3/15/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeannine Johnson	Individual	Oppose	No

Comments:

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**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [johnmoore55@gmail.com](mailto:johnmoore55@gmail.com)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Wednesday, March 16, 2016 9:27:28 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John Moore	Individual	Oppose	No

Comments: We oppose the proposed HB 1850 for the simple reason that it puts greed ahead of the interests of the people of Hawaii. A few rich people are getting richer by violating the laws and destroying our zoning. The illegal vacation rental situation has ruined communities and removed vast amounts of housing from the market. An AirBNB house rental can be \$10,000 to \$12,000 for a single week on the beach in Kailua. Smaller units are similarly priced compared to long term rentals. No one can legally afford this for housing. This illegal behavior has driven up the prices of houses to about 2-4 times their legal value. Are the banks making loans for this activity? Are the bankers making a fortune from the destruction of our communities? Are the mortgage loans based on this type of activity? Who is providing the financing for purchasing homes that are then converted into illegal money machines? Stop HB 1850. It makes it easier for this type of activity to continue. How about enforcing the zoning codes before it's too late. Auwe, too much greed and no housing for the residents of Hawaii. Mahalo.

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**To:** [TSI Testimony](#)  
**Cc:** [yourvoiceinkailua@gmail.com](mailto:yourvoiceinkailua@gmail.com)  
**Subject:** \*Submitted testimony for HB1850 on Mar 17, 2016 09:30AM\*  
**Date:** Wednesday, March 16, 2016 10:14:36 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Judy Fujimoto	Individual	Oppose	No

Comments:

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**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [kandis@mcengineer.com](mailto:kandis@mcengineer.com)  
**Subject:** \*Submitted testimony for HB1850 on Mar 17, 2016 09:30AM\*  
**Date:** Wednesday, March 16, 2016 11:29:53 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kandis McNulty	Individual	Oppose	No

Comments:

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**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [lynellewthompson@gmail.com](mailto:lynellewthompson@gmail.com)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Wednesday, March 16, 2016 4:31:56 PM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lynelle Thompson	Individual	Oppose	No

Comments: I strongly oppose HB1850 because Will give an aura of legitimacy to their illegal vacation rentals by making them a "registered agent of the State of Hawai'i". This will lend legitimacy to the illegal rentals they advertise and inspire even more waiting-in-the-wings potential illegals to convert residential homes and apartments into illegal vacation rentals. Will hide the identity of illegal operators and defeat the purpose of Act 204 that went into effect January 1, 2016, which requires all vacation rental advertisements to post the vacation rental operator's TAT account number on the ad. Now all properties listed by the broker will use the broker's TAT account number, thereby shielding the identity of illegal operators from county enforcement officers. This anonymity will inspire even more waiting-in-the-wings potential illegals to convert residential homes and apartments into illegal vacation rentals.

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**From:** [Marisa Nguyen](#)  
**Subject:** Oppose HB 1850\_HD1 and Oppose SB 2693\_SD3  
**Date:** Tuesday, March 15, 2016 9:57:26 PM

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Instead of encouraging our neighborhoods to be rented out to the highest (short-term, illegal tourist renter) bidder, block these bills and send a clear message that neighborhoods are for NEIGHBORS.

Don't open Pandora's Box. Once we ruin our residential neighborhoods, who will want to live here? Hawaii's brain drain will be at an all-time high.

Thank You for Listening,  
Marisa Nguyen

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [maryannm@marciel.com](mailto:maryannm@marciel.com)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Wednesday, March 16, 2016 3:28:57 PM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary Ann Marciel	Individual	Oppose	No

Comments: This gives the state tax money but does not protect neighborhoods from the problems. Example: excess parking problems, noise, etc. This bill allows illegal practices to continue.

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**Cc:** [michael@mcengineer.com](mailto:michael@mcengineer.com)  
**Subject:** \*Submitted testimony for HB1850 on Mar 17, 2016 09:30AM\*  
**Date:** Wednesday, March 16, 2016 11:32:23 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael McNulty	Individual	Oppose	No

Comments:

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**From:** [farwest](#)  
**To:** [CPH Testimony](#); [TSI Testimony](#); [Sen. Will Espero](#); [Sen. Roz Baker](#); [Sen. Michelle Kidani](#); [Sen. Les Ihara, Jr.](#); [Sen. Clarence Nishihara](#); [Sen. Russell Ruderman](#); [Sen. Sam Slom](#); [Sen. J. Kalani English](#); [Sen. Brickwood Galuteria](#); [Sen. Josh Green](#); [Sen. Kaiali'i Kahele](#); [Sen. Donna Mercado Kim](#); [Sen. Jill Tokuda](#)  
**Subject:** HB1850\_HD1 & SB2693\_SD3  
**Date:** Wednesday, March 16, 2016 2:39:03 PM

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I am adamantly against these bills, they have the potential to destroy the fabric of our neighborhoods and they support scofflaws, criminal and crooks & encourage them to engaged in illegal activity. These bills will help reduce the availability of affordable housing for our residents. Delete jobs in the hospitality industry and promote a shadow economy. Please stop their progression now!

Per a poll conducted by Sen. Laura Thielen, the majority of people on Oahu appose these bills, please hear your constituents.

Sincerely,  
Michael Morelli  
33 Kalaka Pl  
Kailua, HI 96734

**From:** [Neil Frazer](#)  
**To:** [CPH Testimony](#); [TSI Testimony](#); [Sen. Will Espero](#); [Sen. Roz Baker](#); [Sen. Michelle Kidani](#); [Sen. Les Ihara, Jr.](#); [Sen. Clarence Nishihara](#); [Sen. Russell Ruderman](#); [Sen. Sam Slom](#); [Sen. J. Kalani English](#); [Sen. Brickwood Galuteria](#); [Sen. Josh Green](#); [Sen. Kaialii Kahele](#); [Sen. Donna Mercado Kim](#); [Sen. Jill Tokuda](#)  
**Subject:** Opposing HB1850 HD1, SB2693 SD3  
**Date:** Wednesday, March 16, 2016 7:35:16 AM

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Aloha Representatives and Senators,

I hope you will vote down this misguided move to make brokers of illegal vacation rentals registered tax collection agents of the state of Hawaii. It would be like making brokers of illegal drugs registered tax collection agents of the state of Hawaii, or brokers of child pornography registered tax collection agents of the state of Hawaii.

Mahalo for your unselfish service to us all,

Neil Frazer  
112 Haokea Drive  
Kailua, HI 96734  
808-366-6458

March 15, 2016

Re: Testimony to **OPPOSE** HB 1850 HD1

Aloha, Members of the Senate's Tourism and International Affairs Committee and the Commerce, Consumer Protection, and Health Committee:

My name is Paola Rodelas and I am an Organizer for the AiKea Movement. I **strongly oppose** HB 1850 HD1.

It is disturbing to me that this bill would allow companies like Airbnb to collect and remit taxes on behalf of the operators using their services, without any way for the State to verify that the amount they remit is anywhere near what they actually owe.

HRS §237-9 allows private individuals to register as tax collection agents for multi-level marketing, but multi-level marketers are required to provide a list of names for all individual direct sellers for who they are remitting taxes. HB1850 HD1 would NOT require companies like Airbnb to disclose information on their hosts. Why does Airbnb get special treatment, especially when it is clear that many of their hosts are operating illegally?

Other municipalities that have passed similar legislation are now struggling to get Airbnb to pay its fair share of taxes. Portland, San Francisco, and New York City—just to name a few—passed similar legislation and immediately received pushback from Airbnb when these cities asked for more information to verify that they are remitting their fair share of taxes.

This bill also doesn't do anything about the growing problem of illegal vacation rentals. This bill would not hold Airbnb or its hosts responsible if they are running illegal operations. Illegal vacation rentals take away affordable housing inventory for local residents. On Oahu alone, 69.6% of Airbnb listings are listed as the "entire place" vs. a private or shared room in someone's home. These are 3,000 housing units being rented to tourists that could be rented long-term to local residents.

Furthermore, this bill will make it even harder for the counties to enforce illegal vacation rentals. The amendment made by Rep. Sylvia Luke added language to the bill which could undermine county efforts to enforce vacation rentals by making it optional for companies like Airbnb to make sure their listings follow local laws.

My husband and I are registered voters who rent in Kapahulu. We are both fortunate to have good, full-time jobs, but it is still a struggle to find affordable rentals on Oahu. On our street alone, there are 3 listings on Airbnb. All 3 are for the entire home, are 1-2 bedrooms, and go for \$240-\$330 a night. Their hosts have multiple listings. This is clearly a lucrative business, and it is

scary to think that landlords could be enticed by this—especially since there is no enforcement of illegal vacation rentals.

Please listen to your constituents and the community and kill this bill.

Aloha,  
Paola Rodelas  
Organizer, The AiKea Movement and Kapahulu Resident

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [TSI Testimony](#)  
**Cc:** [dearpauline@hotmail.com](mailto:dearpauline@hotmail.com)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Wednesday, March 16, 2016 8:38:00 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pauline Mac Neil	Individual	Oppose	No

Comments: HB1850 HD1 would create a veil of secrecy for home owners to turn their residential property into hotel rooms for strangers. The bill's disregard of community efforts to use identification by tax records to regulate the illegal vacation rental industry will weaken the public's acceptance of the rule of law, and the social cost of reducing available rental housing will outweigh any tax benefit. Please oppose this short-sighted and irresponsible bill. Mahalo, Pauline Mac Neil

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**Cc:** [richard.p.mcclellan@gmail.com](mailto:richard.p.mcclellan@gmail.com)  
**Subject:** \*Submitted testimony for HB1850 on Mar 17, 2016 09:30AM\*  
**Date:** Wednesday, March 16, 2016 10:28:58 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard McClellan	Individual	Oppose	No

Comments:

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**To:** [TSI Testimony](#)  
**Cc:** [svilliger@aol.com](mailto:svilliger@aol.com)  
**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Wednesday, March 16, 2016 5:21:41 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
steve villiger	Individual	Oppose	No

Comments: This bill will help the proliferation of illegal vacation rentals by giving them a sense of legitimacy. I am strongly opposed. I am a voter and a tax payer and have live full time on the North Shore of Oahu since 1983. Illegal Vacation Rentals are destroying the Aloha spirit of the Islands.

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**From:** [Stu Simmons](#)  
**To:** [TSI Testimony](#); [CPH Testimony](#)  
**Subject:** Strongly Oppose HB1850HD1  
**Date:** Wednesday, March 16, 2016 7:30:08 AM

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*Dear Representatives,*

*HB1850HD1 promotes the proliferation of illegal vacation rentals in residential zoning by masking their identity via the transient accommodations brokers TAT license. Why is this necessary?*

*The State of Hawaii is facing housing shortage of over 55,000 home within nine years. Why are we displacing local residents from their long-term rentals to accommodate tourists who already have ample lodging opportunities?*

*Furthermore, the recent added amendment in HB 1850 HD1, Section 2, Chapter 237, "(j) All registered transient accommodations broker tax collection agents **may** inquire and insure whether the transient accommodation is in compliance with all pertinent land use laws."*

*At best, this language is unnecessary because it does not require companies like Airbnb to make sure its listings comply with local laws; it simply states that Airbnb may do this.*

*At worst, it undermines county laws that enforce vacation rentals by making it optional for companies like Airbnb to follow local laws if the Counties required them too!*

*Please kill HB1850HD1.*

*Stu Simmons  
Oahu Resident*

Senator Kalani English, Vice Chair  
Senate Tourism and International Affairs Committee

Senator Rozalyn Baker, Chair  
Commerce, Consumer Protection and Health Committee

Re: HB 1850 HD1      Thursday, March 17, 2016 9:30 am

Honorable Senators:

I oppose HB 1850. The bill is fundamentally flawed and those flaws are unlikely to be addressed satisfactorily through the amendment process.

I applaud the effort to address the concerns of unregulated vacation rentals which is negatively impacting housing for local people and our local economy by bypassing the legitimate hospitality providers. HB 1850, however, allows companies like Airbnb to self-determine their share and their degree of accountability.

HB1850 would allow brokers to collect and remit taxes without any way of verifying that the amount they remit is the amount they owe. The measure does not provide for accountability in regards to ensuring the listings are legal and would not provide a means to identify the owners and operators. The bill should be killed and a new piece of legislation should be crafted thoughtfully and carefully to address these concerns. Should the bill be allowed to move forward, it needs to include verifiable means for tracking and reporting advertised rentals, their legal status, their tax liability and their compliance. Furthermore, the bill should not undermine state and local legislation, existing or proposed that would be more favorable to neighbors and neighborhoods.

Rental Ads should include both a Tax ID number and the address of the property and brokers should be required to publicly report tax ID and address information on all listings as well as the tax liability. The question of enforcement and consequences of non-compliance must also be addressed.

Thank you,  
Susan Milton  
1634 Makiki St.  
Honolulu, HI 96822

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**Subject:** Submitted testimony for HB1850 on Mar 17, 2016 09:30AM  
**Date:** Tuesday, March 15, 2016 9:49:03 PM

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**HB1850**

Submitted on: 3/15/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Thinh Nguyen	Individual	Oppose	No

Comments: Please oppose HB 1850. Don't take any steps that help turn residential neighborhoods into an ever-changing flood of unrecognizable tourists.

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**Date:** Wednesday, March 16, 2016 9:28:00 AM

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**HB1850**

Submitted on: 3/16/2016

Testimony for TSI/CPH on Mar 17, 2016 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Wayne Tanaka	Individual	Oppose	No

Comments: Please oppose this problematic measure, which lacks enforcement accountability and may further legitimize the proliferation of transient vacation rentals that have exacerbated our housing and cost of living challenges. Mahalo!

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**From:** [ewben56@gmail.com](mailto:ewben56@gmail.com)  
**To:** [TSI Testimony](#)  
**Subject:** HB 1850 HD1 and SB 2693 5D3  
**Date:** Wednesday, March 16, 2016 10:41:49 AM

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You were elected to uphold the laws of the state of Hawaii! I cannot vote for a legislator who agrees to the sleazy "tax collector" designation for landlords who are operating ILlegally IN OUR NEIGHBORHOODS. I THINK THAT IS "AIDING AND ABETTING" not acting to enhance the good of the constituency!

Winifred A. Bennett

436 iliaina

Street

Kailua, Hi, 96734

Sent from [Mail](#) for Windows 10