

# Regulating Short-term Rentals

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## The Sharing Economy

- Generally, online, peer-to-peer type exchange of goods and services.
  - Focus on underused assets
- Car/ride sharing
  - Uber, Lyft
  - Zipcar
- Sharing of services
  - Taskrabbit
  - Skillshare
- Goods
  - Ebay
- Accommodations
  - Airbnb
  - VBRO
  - HomeAway



## What are short-term rentals?

- Sometimes called vacation rentals.
- Tenancies for less than 30 days in traditionally residential dwelling units.
- Marketed on websites or apps like Airbnb, VBRO, HomeAway.
  - Typically advertised by the owner or tenant of homes and apartments, customers scan available properties for lodging.
- In many cases cheaper than traditional hotels and may allow for the use of a larger home.



## Basic Information on Airbnb

- In 2007, two roommates could not afford their San Francisco Rent. They put air mattresses in their living room and turned their apartment into a bed and breakfast.
- Founded in 2008
- Company headquartered in San Francisco
- 4,000,000 listings worldwide (660,000 in the US)
- 191+ countries
- 200,000,000 guest arrivals since 2008
- Fastest growing demographic: seniors
- Accommodations ranging from castles to small apartments, and more!



## Snow Igloo

Finland - \$127/night

"Snow igloo with real beds inside. Nice atmosphere with led lights and white walls. Outside the igloo is possibility to see northern light if you are lucky. Come to Lapland and explore the wilderness.

Warm apartment available 24h in case of cold feet."



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## Geo dome on farm upstate Catskills

\$350/night – BYOBed policy

"If you like to cook, hike, swim, visit farmers markets and be surrounded by animals, this is the place for you. Woodridge is a rural community located in the southern Catskill Mountains. It is the place to get away from it all."



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## The Bed in a Cave

\$53/night – China

A bed located in a 300-year-old manmade cave.



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## Ultimate Tipi Experience

\$1,500/night – BC Canada

(also includes 4 music festival tickets)

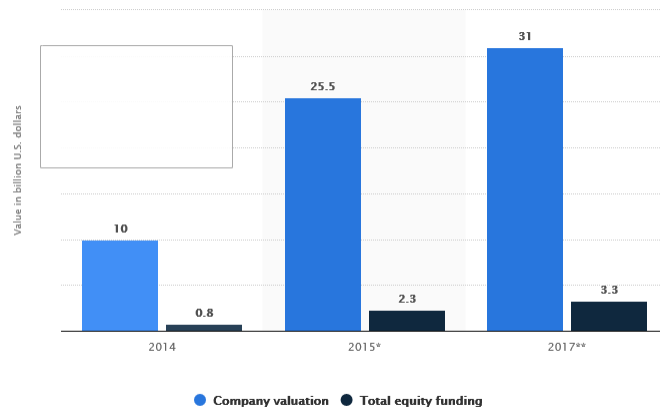
Imagine spending 3 nights in a Tipi on the banks of the Kettle River in your very own private Tipi.. And wait there's more! You and your friends are also smack dab in the middle of one of the freshest new independent music festivals in BC, Ponderosa!



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## Continued Growth

- Airbnb is growing rapidly...



## The Good Parts

- Easy way to generate additional income from other wised unused room, house, or property
  - Property owners can make much more than with long-term rentals.
- Guests contribute to economies of municipalities where they are staying
- Tourists using Airbnb tend to stay longer and spend more money at local businesses (ex. \$200 more per traveler in New York City)
- Guests report feeling much more “like a local” when they use Airbnb



## The Bad Parts

- “In the history of the world, no one has ever washed a rented car.” - Lawrence Summers
  - Transforms a residential community into something else.
  - You don't rent an Airbnb NOT to party.
  - Impacts to neighboring residents.
  - Increase in rental costs for residents.
  - Noise, traffic, debris, litter, fire, trespassing, theft, crime, safety.



## More Short-term Rental Problems

- Guests discover hidden cameras in a smoke detector pointed at the bed while staying at an Airbnb in Florida.
- Host arrested for video voyeurism.
- Video and computer storage devices seized in a search of the host's property.
- "Experts recommend that people untrained in such matters look for hidden cameras by using the camera light on a smartphone to spot the reflection from a lens. There are also apps that claim they can detect hidden cameras. In addition, if you are extremely concerned about your privacy, you can also purchase an RF detector, which checks for wireless signals and may be able to detect hidden cameras."
  - <http://abcnews.go.com/US/couple-find-hidden-camera-florida-airbnb/story?id=50402059>



## And more . . .

- Teenager lies about age and holds huge NYE party of hundreds of friends. Homeowners property in Oakland was trashed.
  - Tons of booze, broken glass, cigarettes
- <http://abc7news.com/news/oakland-home-trashed-by-airbnb-renter-who-threw-wild-party/1144601/>



## And more . . .

- Airbnb renter hosts a porn shoot at a California mansion
- <http://www.dailymail.co.uk/news/article-3333658/Inside-California-AirBnB-mansion-left-covered-bodily-fluids-scattered-condoms-enemas-needles-adult-filmmakers-fraudulently-hired-shoot-gay-porno.html>



## Examples of Efforts to Regulate Airbnbs

- **New York City**
  - First major city to enter into a legal/political battle with Airbnb
  - In 2014, Eric Schneiderman asserts that Airbnb is providing people with a means to avoid the requirements of New York City regulations
  - AG issues reports that suggests Airbnb short-term rentals increased tenfold between 2010-2014
  - Report finds that Airbnb and its hosts saw \$282 million in revenue in this four year span
  - Commercial users (people who controlled 10 or more unique Airbnb units) dominated the rental market
  - Airbnb had a significant effect on displacing long-term renters and 72 percent of rentals violated New York City laws





## Examples of Efforts to Regulate Airbnbs

### ▪ New York City

- AG report suggested Airbnbs were violating the NY Multiple Dwelling Law, which governed how “Class A” multiple dwellings
  - Prior to 2010, a Class A multiple dwelling was defined as “a multiple dwelling which is occupied as a rule, for permanent residence purposes.”
    - Following litigation, the First Department determined that the phrase “as a rule” could mean at least some measure of short-term occupancy is permitted.
  - 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, an apartment in a Class A multiple dwelling cannot be rented for less than 30 days unless a permanent resident is present.
- Many of the Airbnb rentals in New York City were for fewer than 30 days and were taking place at Class A multiple dwellings
- The AG also noted that the NYC Administrative Code prohibits changes to the use and occupancy of a building without an updated certificate of occupancy.



## Examples of Efforts to Regulate Airbnb

### ▪ New York City: Continuing Problems

- New York also has an interest in supporting its local hotels
  - Hotels hospitality taxes and additional money to comply with various City laws
  - Airbnb represents a total departure from this traditional business model
- City officials are thinking about potential regulations and taxes to help with this problem



## Examples of Efforts to Regulate Airbnbs

### ▪ New York City

- Airbnb and New York a currently at a stale mate
- It will be important to monitor this battle going forward
- Because this is the most populous city in the United States, it gets the most Airbnb traffic
- Knowing the ways in which the City has tried to tax Airbnb's and the way it adjusts its housing laws will be at the forefront of Airbnb's regulatory challenges



## Examples of Efforts to Regulate Airbnbs

### ▪ San Francisco

- Initially, Airbnb had mixed reactions from residents of San Francisco
- Some residents valued the opportunity for additional income that Airbnb provided
- Other residents other residents were worried landlords would evict them to rent rooms full time on Airbnb
- San Francisco came up with a plan to balance these competing concerns



## Examples of Efforts to Regulate Airbnbs

- San Francisco
  - City Board required potential Airbnb properties to acquire a business license from the City
  - Property owners were required to show they occupied their homes for 275 days out of the last year
  - Additionally, homeowners were limited to 90 days of occupancy by Airbnb renters



## Examples of Efforts to Regulate Airbnbs

- San Francisco (Additional Steps)
  - San Francisco also developed a special department to assist with the regulation and enforcement of regulation of short term rentals
  - The City also passed additional regulations on reporting, recordkeeping and safety for short term rentals.
  - The City also passed a law prohibiting landlords from evicting tenants to make makeshift hotels



## Examples of Efforts to Regulate Airbnbs

- San Francisco
  - Airbnb responded to regulations by adding a section to their website on how to comply with San Francisco's regulations
  - San Francisco was able to accomplish its regulatory goals by amending outdated laws, enacting a series of new requirements, and developing a special regulatory board
  - Many think believe San Francisco should serve as a model for how municipalities should deal with Airbnb



## Examples of Efforts to Regulate Airbnbs

- Los Angeles
  - LA is experiencing unique issues with Airbnb because of the severity of its housing crisis
  - L.A. lawmakers first proposed regulating short-term rentals nearly three years ago, seeking to regulate a practice that has boomed in the area
  - Many owners of large residential properties jacked rent prices up leading to the eviction of permanent tenants in order to receive higher rent payments from Airbnb users



## Examples of Efforts to Regulate Airbnbs

- Los Angeles
  - City lawmakers have proposed a regulation that would prevent residents from renting out a house or apartment if it is not their primary residence
  - This rule is meant to prevent homes from being turned into de facto hotels
  - The draft regulations also cap rentals to 120 days annually
  - Hosts can get special permission to exceed cap
  - Regulations are currently pending and need approval from full city council



## Examples of Efforts to Regulate Airbnb

- Examples from Washington State
  - Clyde Hill addressed short term rentals in its municipal code. Property owners are required to obtain a permit, the owner must have a business license, and properties must meet minimum safety standards
  - Spokane makes a distinction between two kinds of short term rentals:
    - Type A, which requires an administrative permit, where bedrooms or an entire dwelling unit can be rented but commercial meetings are prohibited
    - Type B, which requires a type III conditional use permit, where bedrooms or an entire dwelling unit can be rented and commercial meetings are allowed



## Examples of Efforts to Regulate Airbnb

- **Examples from Colorado**
  - Boulder has a short-term rental webpage which includes a short term rental license packet that must be filled out if someone is to rent their home out on Airbnb.
  - Durango, Colorado maintains a Vacation Rental Information webpage that details a relatively strict rental code, including a maximum number per block/intersection for designated residential areas.
  - These two examples show how utilizing a website can make regulation of Airbnb simpler for municipalities



## Examples of Efforts to Regulate Airbnb

- **Foreign Cities...**
  - **Barcelona**
    - In 2014, Airbnb was fined €30,000 (\$33,913) by the Catalan government for a "serious" breach of laws, which stipulate that any residence rented to tourists must also be registered with the Tourism Registry of Catalonia.
  - **Reykjavik**
    - As of January 1, 2017, people can rent out their apartments for up to 90 days per year before needing a hospitality license. They can also earn a maximum of one million Icelandic kronor (\$8,785) per year.
    - However, prospective Airbnb hosts will still need to get their property registered, which requires meeting health and safety regulations.
  - **Amsterdam**
    - In February of 2016, city officials allocated more than \$1 million to gather facts about illegal rentals via "dating scraping," in which they pull information from various websites.
    - One year later, in February 2017, the city levied a record €297,000 (\$334,000) fine on a landlord and agency.



## Zoning Concerns

- Are short-term rentals commercial uses? Or residential uses?
  - There is a “business” aspect, as the property owner is renting a room similar to a hotel.
  - But, guests may be using the property in a similar manner as any long-term resident would.
- Some municipalities caught off guard. Many do not routinely update their zoning codes.



## Real Life Zoning Saga



## The Zoning Complaint

- Neighbor filed a complaint
  - Noise
  - Parked Cars
  - Trespassing
  - Debris thrown around property
- Is the use allowed under the zoning code?
  - Residential Zoning District allowed “single family dwelling”
  - Code defined dwelling as: “Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, erected on a permanent foundation.”
  - A “Dwelling Unit” is similarly defined as: “A residential unit other than a mobile home, with one or more rooms, including cooking facilities and sanitary facilities in a dwelling structure, designed as a unit for occupancy by not more than one family for living and sleeping purposes.”



## Code Compliance

- “Prohibited uses: any use not specifically listed as an approved as-of right or specifically permitted use is not allowed in the Town.”
- Tourist Homes – Require a License. Tourist Home definition: “any private dwelling or dwellings customarily used as a residence which regularly or seasonably offer overnight accommodations to tourists or transients.”
- Uniform Code Compliance – “No change shall be made in the nature of the occupancy of an existing building unless a certificate of occupancy authorizing the change has been issued.”





## Code Interpretation

### ▪ Who interprets the zoning code in the first instance?

- *Quentin Rd. Development, LLC v. Collins*, 150 A.D.3d 859 (2d Dep’t 2017).
  - NYDOB determined that a provision of the zoning ordinance setting forth a maximum permitted floor-to-area ratio for a portion of a building applied.
  - Following the DOB determination, the NYC Board of Standards and Appeals upheld the DOB determination.
  - The Court held that a determination of the BSA may not be set aside in the absence of illegality, arbitrariness, or abuse of discretion.



## Code Interpretation

### ▪ What is the remedy for an aggrieved party?

- *Sullivan v. Albany Bd. of Zoning*, 144 A.D.3d 1480 (3d Dep’t 2016).
  - Church notified City of its intention to establish a “home base” for up to 14 homeless individuals in its parsonage. Church asked the City whether it needed a use variance.
  - City ZEO responded that the proposed use was not for a “house of worship” and stated that a use variance was required.
  - Thereafter, the church sought an interpretation from the ZBA whether this use was permitted.
  - ZBA found that the proposed use is consistent with the mission and actions of a house of worship and that no additional zoning exemptions or permissions are necessary.
  - Neighbor commenced an Article 78 proceeding.
  - Supreme Court annulled the ZBA’s determination.
- Holding: Reversed. Zoning Board’s decision was reinstated.
  - ZBA’s interpretation is afforded great deference, only disturbed if unreasonable or irrational
  - Pure interpretation vs. factual issue
  - If no defined term, court will afford the term its plain or ordinary meaning
  - Ambiguity resolved in favor of the property owner.
  - What is the meaning of “worship”? Black’s Law Dictionary “any act of religious devotion”



## Case Law

- *Atkinson v Wilt*, 94 A.D.3d 1218 (3d Dep't 2012).
  - Petitioners own lakeshore property in the Town of Arietta
  - Property located in a single- or multi-family residential zoning district.
  - The structure is a 6-bedroom residence.
  - Petitioners bought the property in 2009, joined the Chamber of Commerce, and began marketing their property for short-term rentals on the internet.
  - Neighbors complained. The ZEO determined Petitioners were operating a tourist accommodation in violation of the zoning code.
  - The ZBA affirmed, Petitioners commenced an Article 78 proceeding.



## Case Law

- *Atkinson v Wilt*, 94 A.D.3d 1218 (3d Dep't 2012).
  - “Although a reviewing court typically will grant great deference to the ZBA's interpretation of a zoning ordinance — disturbing that interpretation “only if it is irrational or unreasonable — where, as here, the issue presented is one of pure legal interpretation of the underlying zoning law or ordinance, deference is not required.”
  - “Further, zoning regulations, being in derogation of the common law, must be strictly construed against the municipality which has enacted and seeks to enforce them, and any ambiguity in the language used must be resolved in favor of the property owner.”
  - Town definitions.



## Case Law

- **Spilka v. Town of Inlet, 8 A.D.3d 812 (3d Dep't 2004)**
  - Plaintiff owns a single family dwelling and rents it out. Located in an R-1 zoning district.
  - 1966 Zoning Ordinance was amended to restrict short-term rentals (less than four months).
  - Is there a non-conforming use?
    - Did the 1966 zoning ordinance permit short-term rental of a single-family dwelling?
    - Strict construction against municipality. Ambiguity resolved in favor of property owner.
    - "one-family dwelling or camp" allowed in R-1 district in 1966.
  - Short term rental was restricted by later amendment.



## Case Law

- **Soule v. Scalci, 288 A.D.2d 585 (3d Dep't 2001)**
  - Petitioner commenced an Article 78 proceeding against the ZBA which interpreted the definition of "tourist accommodation" as including petitioner's 5-unit apartment house.
  - "A building intended, designed, and used as a private residence within which [rooms] are rented from time to time for the overnight accommodation of guests. Includes Tourist Homes and Bed and Breakfast Establishments."
  - ZEO issued a notice of violation once units were rented out on a short-term basis. ZBA affirmed the ZEO's interpretation.
  - ZBA reversed: Multi-family dwelling allowed. The building meets the definition. Multiple-family dwelling is defined therein as "[a] residence designed for or occupied by three or more families, living independently of one another, with separate housekeeping and cooking facilities for each."
  - **Town could have easily included a limitation on duration of rental, but it didn't.**



## Case-Law involving Airbnb

- In re *Fruchter v. Zoning Bd. of Hurley*, 133 A.D.3d 1174 (3d Dep't 2015).
  - Property owner brought article 78 proceeding and action for a declaratory judgment to review determination of town's zoning board of appeals (ZBA) requiring owner to obtain special use permit for renting out residence on Airbnb.
  - The Court held that owner's use of property did not require special use permit.
  - Property owner's activity did not "fit neatly into the definitions in the Town Code."



## Case Law

- *DeVogelaere v. Webster ZBA*, 87 A.D.3d 1407 (4th Dep't 2011)
  - In 2010 the Town amended its zoning ordinance to prohibit transient rental, i.e., "[r]ental of a dwelling unit for a period of less than 28 continuous days."
  - Petitioner owns a SFR in a residential district and conducted short-term rentals.
  - ZEO issued a determination that Petitioner was violating the ordinance.
  - Petitioner appealed to the ZBA, which affirmed the ZEO's interpretation.
  - "Here, respondent reasonably determined that petitioner's serial rental of the subject property was prohibited under the zoning ordinance and that it did not constitute a legal nonconforming preexisting use, and thus petitioner had no right to continue such use."



## Takeaways

- Can't rely on old zoning codes to regulate short-term rentals.
  - Even where you have a solid basis, courts are siding with property owners.
  - Can't rely on traditional deference to municipalities
- You can prohibit them by specifically defining them.
- In many cases will need to develop a comprehensive ordinance



## Back to our Zoning Saga

- Residential Zoning District allowed "single family dwelling"
- Code defined dwelling as: "Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, erected on a permanent foundation."
- A "Dwelling Unit" is similarly defined as: "A residential unit other than a mobile home, with one or more rooms, including cooking facilities and sanitary facilities in a dwelling structure, designed as a unit for occupancy by not more than one family for living and sleeping purposes."
- "Prohibited uses: any use not specifically listed as an approved as-of right or specifically permitted use is not allowed in the Town."
- Tourist Homes – Require a License. Tourist Home definition: "any private dwelling or dwellings customarily used as a residence which regularly or seasonably offer overnight accommodations to tourists or transients."
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## Municipal Authority

- Zoning – Regulation of the use of land
- Police Powers, regulate to protect the health, safety, and welfare of the community.
- Town Law § 130(20) – “Hotels, inns, boarding houses, etc. Regulating hotels, inns, boarding houses, rooming houses, lodging houses, associations, clubs or any building or part of a building used in the business of renting rooms, individual or several, and also private sanatoriums, convalescent homes, homes for aged or indigent persons, day nurseries, hospitals, rest homes or any building or part of a building used for similar purposes, containing a total number of beds, cots or similar equipment providing sleeping accommodations for more than five persons; specifying the type of construction, the manner of their running and operation and prescribing regulations assuring proper sanitation, cleanliness and fire protection.”



## Zoning Requirements

- “Because Zoning is a legislative act, zoning ordinances and amendments enjoy a strong presumption of constitutionality and the burden rests on the party attacking them to overcome that presumption beyond a reasonable doubt. [ ] In claims such as this, the analysis follows traditional due process rules: if the zoning ordinance is adopted for a legitimate governmental purpose and there is a ‘reasonable relation between the end sought to be achieved by the regulation and the means used to achieve that end,’ it will be upheld. [ ] An amendment which has been carefully studied, prepared and considered meets the general requirement for a well-considered plan and satisfies the statutory requirement. [ ] The court will not pass on its wisdom.”
- Asian Americans for Equality v. Koch, 72 N.Y.2d 121, 131-32 (1988).



## Regulating Land Use/Operational Details

- *Bonefish Grill, LLC v. Zoning Bd. of Rockville Centre*, 153 A.D.3d 1394 (2d Dep't 2017)
- ZBA conditioned the variance from parking requirements on limiting hours of operation to those where use of the adjacent parking lot were allowed and upon use of valet parking.
- Request to annul conditions put in place by Zoning Board was denied.
- “Here, the ZBA's conditions requiring valet parking and limiting the petitioner's hours of operation to coincide with the hours of access to the 40 off-street parking spaces granted in the license agreement were proper because the conditions related directly to the use of the land and were intended to protect the neighboring commercial properties from the potential adverse effects of the petitioner's operation, such as the anticipated increase in traffic congestion and parking problems”



## Regulating Land Use/Operational Details

- “[Z]oning boards may not impose conditions which are unrelated to the purposes of zoning. Thus, a zoning board may not condition a variance upon a property owner's agreement to dedicate land that is not the subject of the variance application. Nor may a zoning board impose a condition that seeks to regulate the details of the operation of an enterprise, rather than the use of the land on which the enterprise is located.” *St. Onge v. Donovan*, 71 N.Y.2d 507, 516 (1988).
- “We find the imposition of this condition was no more than an impermissible attempt to regulate the details of the operation of the petitioner's enterprise” - *Old Country Burgers Co. v. Town Bd. of Town of Oyster Bay*, 160 A.D.2d 805, 806 (2d Dep't 1990)



## Back to the Real Life Zoning Saga

- Adopt a new law zoning out “short-term rentals”
- How do you deal with non-conforming uses?
  - Provide for termination
  - Administrative remedies to exhaust
- Article 78 proceedings
- Be prepared for use variance applications



## Nonconforming Use Problem

- What are they?
- “Nonconforming uses, though lawful, are disfavored.”
  - *Gernatt Asphalt Prods, v. Town of Sardinia*, 87 N.Y.2d 668, 676, n.1 (1996).
- The Court of Appeals has reaffirmed that the “overriding public policy of zoning in New York State and elsewhere is aimed at their reasonable restriction and eventual elimination.”
  - *Toys “R” Us v. Silva*, 89 N.Y.2d 411, 417 (1996).
- Is there a vested right?
- How do you get rid of them lawfully?





## Nonconforming Use Problem

### ▪ Termination

- The Court of Appeals has stated that if the “zoning ordinance provides a sufficient period of permitted nonconformity, it may further provide that at the end of such period the use must cease . . . .”
  - Harbison v. City of Buffalo, 4 N.Y.2d 553, 561 (1958).
- “When the termination provisions are reasonable in the light of the nature of the business of the property owner, the improvements erected on the land, the character of the neighborhood, and the detriment caused the property owner, we may not hold them constitutionally invalid.”



## Nonconforming Use Problem

### ▪ Amortization

- One year for asphalt plant upheld
- “The validity of an amortization period depends on its reasonableness. We have avoided any fixed formula for determining what constitutes a reasonable period. Instead, we have held that **an amortization period is presumed valid**, and the owner must carry the heavy burden of overcoming that presumption by demonstrating that the loss suffered is so substantial that it outweighs the public benefit to be gained by the exercise of the police power.”
  - Suffolk Supply, Inc. v. Board of Trustees of Village of Westhampton Beach, 59 A.D.3d 429 (2d Dep’t 2009).
- **Administrative remedies**
  - Provisions for extensions



## Initial Questions

- Do you want them? Is it important for your community?  
Comprehensive Plan?
- What kinds do you want?
- Where do you want them?
- If you allow them, how should they be regulated? How should the regulations be enforced?
- What do you want to do with the existing operations?



## Tips on Fashioning Regulations

- Develop legislative findings.
- Must be specific as to the treatment of “short-term rentals.”  
Have a good definition.
- Develop a fee structure to administer/enforce the program.
  - Jewish Reconstructionist Synagogue of North Shore, Inc. v. Incorporated Village of Roslyn Harbor, 40 N.Y.2d 158 (1976).
- Determine what zoning/police power mechanisms to use in regulating short-term rentals.
  - Consider requiring a special use permit and/or license to operate, which will require an application process and review of the proposal.
  - Site plan?



## Tips on Fashioning Regulations

- Application requirements
  - Minimum requirements
- Consider a residency requirement
- Guest registry
- Cap on the number of days the property may be rented as a short-term rental.
- Parking requirements.
- Allow in higher-density neighborhoods, but limit for single-family neighborhoods.



## Tips on Fashioning Regulations

- Designation of ***local*** contact person who will be responsible for handling any problems that arise with the property.
- Noise and nuisance provisions, or reference to other ordinances addressing such situations.
- Garbage collection issues.
- Minimal required spacing between short term rentals, to ensure the entire area does not get inundated with short-term rentals.
- Requirements for notifying neighbors.
  - Caution
- Limitations on the number of guests.
- Limitations on the turnover. Minimum stay of a week.



## Enforcement Challenges

- Late night issues
  - Personnel limitations
- Administrative enforcement, revocation of license/permit
  - Due process required
- Noise/nuisance laws
  - Vague
  - Court challenges



## Use Variance Applications

- Area variance vs. Use Variance
- Use variance test
  - (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence (dollars and cents proof);
  - (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; ***and***
  - (4) that the alleged hardship has not been self-created.



Questions?

