



# County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 713, Los Angeles, California 90012  
(213) 974-1101  
<http://ceo.lacounty.gov>

SACHI A. HAMAI  
Chief Executive Officer

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October 11, 2018

To: Supervisor Sheila Kuehl, Chair  
Supervisor Hilda L. Solis  
Supervisor Mark Ridley-Thomas  
Supervisor Janice Hahn  
Supervisor Kathryn Barger

From: Sachi A. Hamai  
Chief Executive Officer

## **SHORT-TERM RENTALS (ITEM NO. 10, AGENDA OF FEBRUARY 27, 2018)**

On February 27, 2018, the Board of Supervisors (Board) adopted a Motion (February Motion) by Supervisors Kuehl and Barger directing the Chief Executive Officer (CEO) in conjunction with County Counsel, the Departments of Regional Planning (DRP) and Public Health (DPH), and the Treasurer and Tax Collector (TTC) to report back to the Board within 180 days with recommendations for regulating short-term rentals. On August 30, 2018, the CEO requested an additional 30 days to respond to the Motion. In the sections that follow, the CEO presents its findings as they relate to the following: 1) the impact of short-term rentals on affordable residential rental stock in the unincorporated areas; 2) other jurisdictions' short-term rental ordinances; 3) stakeholder opinions; and 4) costs to regulate and enforce short-term rentals, and an estimate of potential new revenues from the transient occupancy tax (TOT).

## **THE IMPACT OF SHORT-TERM RENTALS ON AFFORDABLE RESIDENTIAL RENTAL STOCK AND ON THE LOCAL ECONOMY**

In the last several years, there has been a significant increase in short-term rentals or "STR" – whereby a property, or a portion of the property is rented out for occupancy for 30 or less consecutive days. The rapid increase in STR usage has been fueled by host-listing platform companies such as: Airbnb, FlipKey, HomeAway, Onefinestay, and VRBO (among many others). The phenomenal growth occurring in the STR market presents both challenges and opportunities for local jurisdictions.

To determine the impact of short-term rentals on affordable residential rental stock in the Los Angeles County Unincorporated Areas (Unincorporated Areas) requires an analysis of the breadth of the existing short-term market within the area. Yet to ascertain an exact count of unique short-term rental units (Rental Units) can be challenging since addresses

are not specified on listings (i.e., online advertisements for short-term rentals), and one unit can have multiple listings on one or more listing platforms. To expeditiously obtain the STR data necessary for this report back, the CEO contracted with Host Compliance, a software, data, and consulting service provider exclusively focused on assisting local governments on short-term rental related topics.

#### STR Market in the Unincorporated Areas

Host Compliance reported that the Unincorporated Areas have experienced an approximate 30 percent increase in listings over the one-year period from May 2017 to May 2018. As of May 2018, there were 2,425 active listings within the Unincorporated Areas - an active listing (Active Listing) is one that is currently listed on a host platform and has demonstrated some level of rental activity within the prior year. After the process of de-duplication, the number of active listings was reduced to 2,155 unique Rental Units. Though dispersed throughout the Unincorporated Areas, the most frequented communities for STRs are those in Rowland Heights, the Santa Monica Mountains, Altadena, Marina Del Rey, and Hacienda Heights, with a combined total of close to 70 percent of all Rental Units in the Unincorporated Areas. In comparison to other cities in the County, the Unincorporated Areas are second in terms of popularity to the City of Los Angeles, which is by far the most active with over 31,000 active Rental Units at any given time. The two cities that are closest to the Unincorporated Areas in terms of volume are Long Beach and Santa Monica, with 1,520 and 1,076 Rental Units respectively, as of July 2018.

In terms of the type of STRs listed in the Unincorporated Areas, 1,573 (73 percent) are single-family homes, and 582 (27 percent) are units within a multi-family housing property. The majority (74 percent) of all active Rental Units are rented out for a total 90 days or less over a one-year period, and half of the units rent for \$100 or less per night. More than 85 percent of the STR listings in the Unincorporated Areas are made on Airbnb. A summary of these statistics, and other relevant STR data, is provided in the tables on Exhibit A. Information by Supervisorial District is also included in Exhibit A, Table A-6.

#### Impact on Affordable Rental Units

There is a concern that long-term rental units are being converted to STRs, thus diminishing the supply of rental housing generally, and affordable rental housing more specifically. Though there is no sure method for determining the full impact of STRs on affordable rental units within the Unincorporated Areas, the CEO sought to approximate the number of short-term Rental Units that would otherwise be available for long-term rental, and what this number represents relative to the total amount of rental housing stock.

Based on Host Compliance data, approximately 1,200 of the 2,155 active Rental Units in the Unincorporated Areas are rented as Entire-Home Rental Units where the host is not physically present during the guest stay ("Un-Hosted"). Within this group of Un-Hosted Rental Units, only 364 of the 1,200 units were rented out for more than 90 days in a one-year period. The CEO has estimated that for a home to be effectively removed from the rental market, it would need to be an Un-Hosted Rental Unit that is rented out for a

substantial portion of the year. Rental Units that are rented for 90 days or more in a given year are often considered to be more profitable than if the unit were rented on a monthly basis throughout the year. Therefore, the 364 Un-Hosted Rental Units can be considered as potentially being removed from the current rental housing stock.

To further evaluate the 364 Rental Units referenced above, the CEO took into consideration the average rental rate for these homes. Again, using STR data as a proxy for the long-term rental value of a property, the CEO estimated that any Rental Unit that costs an average of \$200 or more per night, is unlikely to be affordable to low-income renters that typically occupy affordable housing units in the Unincorporated Areas. Of the 364 Un-Hosted Rental Units that are rented for 90 or more days in a year, a total of 62 units had an average rental rate of greater than \$200 per night. The 302 remaining STR properties that rent for less than \$200 per night can be viewed as one possible measure of the impact to the affordable housing stock in the Unincorporated Areas.

The potential for STRs to impact affordable housing stock remains an area of concern for local jurisdictions, and could potentially have a material impact on the Unincorporated Areas should there be continued growth in the number of homes converted to full-time STRs. Exhibit B illustrates at what point a short-term rental option could prove to be more beneficial to a homeowner than renting out the unit long-term.

#### Economic Impact of STRs

A recent study done by Los Angeles Economic Development Corporation (LAEDC) Institute for Applied Economics on the impact of Airbnb in the City of Los Angeles (City of LA) supports the idea that home-sharing provides benefits to the local economy. While no comparable study has been commissioned for the Unincorporated Areas specifically, many of the conclusions reached by the LAEDC have general applicability for other regions within the County. In addition, even though the LAEDC report is focused exclusively on Airbnb rentals within the City of LA, the economic effects of this STR activity would be expected to flow throughout the County, as the spending will not be confined solely to one geographic area.

Based on Airbnb data analyzed in the LAEDC report, City of LA hosts booked over 4.7 million guest nights, and earned approximately \$280 million in lodging revenue during the 12-month period from May 2016 through April 2017. For this same 12-month period, Airbnb reported that 1.2 million guests stayed with an Airbnb host in the City of LA, and spent an estimated \$391 million during their stay. According to a survey done by Airbnb, a majority (58.7 percent) of these guests would not have stayed in the City of LA for as many nights if Airbnb were not available. The LAEDC report claims that the visitor and household spending generated by Airbnb served to increase expenditures on local goods and services, which in turn supports jobs, which further increases spending. Overall, the Airbnb-related economic activities were estimated to generate over \$600 million economic output during the one-year period, and supported over 5,000 jobs in Los Angeles County. Furthermore,

according to the LAEDC report, the City of LA could be expected to collect approximately \$24 million in transient occupancy tax based on the Airbnb activity over a 12-month period.

While there is likely a positive economic impact brought on by the short-term rental activity in the Unincorporated Areas, it would be markedly less than that observed in the City of LA. As stated earlier in this report, the number of STRs in the Unincorporated Areas (2,155) is only 7.0 percent of the 31,000 Rental Units listed in the City of LA.

## **OTHER JURISDICTION SHORT-TERM RENTAL ORDINANCES**

The proliferation of STRs, and the potentially negative impact on affordable rental units and quality of life within affected neighborhoods, have led many jurisdictions to take steps to regulate this market. The most common issues affecting quality of life are nuisances related to loud noise, trash, and parking impacts, which are most common with those STRs being used as "Party Houses." Other concerns relate to safety hazards due to a lack of familiarity by guests, and the lack of rental property requirements for smoke/carbon monoxide alarms, fire extinguishers, and first-aid kits. To address these issues, some jurisdictions have adopted regulations that establish eligibility requirements, set limitations on rental days per year or length of stay, impose host/owner registration requirements, and generally seek to limit the potential negative impacts of STRs. Shown below is a summary of common regulations/policies implemented by some of the local jurisdictions:

- Registration practices and business license/permit requirements;
- Property eligibility in relation to primary vs. non-primary residence and other host property characteristics;
- Limits on the number of rental days per year;
- Host requirements related to notification, inspection, and contact information;
- Host platform requirements related to data sharing and adherence to registration provisions;
- STR exclusions based on geography or property type.

In defining non-primary residences, it should be noted that the most common definition among other jurisdictions is one based on the number of short-term rental days within a given year. For example, a home that rents for more than six months annually through one or more host platforms is often defined as a non-primary residence. A matrix of the various regulatory practices for select California cities is attached as Exhibit C to this report.

## **SURVEY OF STAKEHOLDER OPINIONS**

To assess County constituent views on STRs, DRP conducted a survey targeting a wide range of stakeholders, such as town council members, homeowner association members, persons directly involved with housing and homelessness issues, and others who participated in recent community plan outreach efforts in the Unincorporated Areas.

Over the 45 days that the survey was active, DRP received a total of 1,750 responses, with 652 responses coming from the Unincorporated Areas, and 1,098 from within local cities. A total of 42 different communities were represented by the 652 responses from individuals that live, or visited the Unincorporated Areas. The majority of these responses were from homeowners (81 percent), with the remaining coming from renters (14 percent), property managers (3 percent), and guests (2 percent).

Consistent with the Host Compliance data, Airbnb surpassed all other platforms in terms of popularity, with approximately 95 percent of the respondents indicating familiarity with Airbnb. Other platforms cited were: VRBO (50 percent), Craigslist (42 percent), HomeAway (34 percent) and Flipkey (7 percent). Additionally, the top reason cited by hosts for utilizing the STR market was to generate additional income to: 1) help pay the rent/mortgage, or to make ends meet; and 2) pay down existing debt. The top three common concerns reported by the respondents relate to parking issues, loss of privacy, and loud/all-night parties. When asked whether the County should adopt regulations for home-sharing, 45 percent (nearly half) believe there should be strict regulations, 25 percent prefer minimal or flexible regulations, and the remaining 30 percent are either undecided, or would prefer no regulations at all. Exhibit D provides a summary of the pertinent outcomes of the DRP survey.

## **REGULATION AND ENFORCEMENT COSTS AND POTENTIAL NEW REVENUES**

Currently, there are no ordinances within the Los Angeles County Code (County Code) that specifically address the regulation on short-term rental accommodations; although there is an ordinance pending adoption by the Board that would prohibit Accessory Dwelling Units (ADU) from being rented out for a period of less than 30 consecutive days. Should the Board decide to regulate STRs, amendments to the County Code may impact one or all three of the following ordinances: 1) Title 4 – Revenue and Finance, 2) Title 7- Business Licenses, and 3) Title 22 – Planning and Zoning. Relevant portions of these ordinances can be found in the following examples:

- Title 4 defines the imposition of the TOT for operators that rent for periods of 30 consecutive days or less;
- Title 7 addresses business license requirements for operators that provide accommodations to five or more persons at a given time; and
- Title 22 currently regulates “bed and breakfast” establishments, guest houses, and room rentals for up to four persons as accessory uses to primary residences in all residential zones.

The applicability of TOT and licensing requirements to STRs was previously addressed in a report to the Board submitted by the TTC in October 2016. In this report, the TTC provided background on online hosting platforms and how they differ from the more traditional online travel companies such as Expedia. The report also explained the difference between

hosts/operators and the online hosting platforms, and included a chart illustrating the relative applicability of the TOT Ordinance and the Business License Ordinance. Finally, the report summarized the regulatory challenges and the various legislative proposals at that time. A copy of the TTC's October 28, 2016 report is attached as Exhibit E to this report.

In addition to the regulatory framework that might be addressed in the County Code, any new ordinances would also need to consider the current practices of the California Coastal Commission (CCC) in relation to unincorporated coastal communities. As background, the CCC partners with coastal cities and counties to plan and regulate the use of land and water in the coastal zone, to ensure that these regulations follow the strict guidelines laid out in the California Coastal Act of 1976. The Coastal Act policies address issues that include shoreline public access and recreation, and lower cost visitor accommodations. The County unincorporated areas of Marina Del Rey, Santa Catalina Islands, and the Santa Monica Mountains each have certified Local Coastal Programs (LCPs) that could be affected by the adoption of an ordinance regulating STRs. Any amendments to LCPs must be approved by the CCC before it can become effective. Therefore, the CEO recommends that any amendment to the County Code be aligned with the intent of the CCC policies.

#### Costs to Regulate

Among the major costs expected in relation to STR regulation and enforcement are the collection and administration of reliable rental data, and the need to monitor STR activities for compliance purposes. These tasks can be highly challenging given the transient nature of the data, and the fact that owner addresses are not included with the online listing. In their October 2016 report to the Board, the TTC also referenced its staff's exercise to determine the magnitude of online listings that were not registered with the TTC. This process included reviewing several websites, comparing locations to a map of the Unincorporated Areas, and proved to be both time-consuming and difficult. In July 2017, the TTC put forth a press release related to STRs, Frequently Asked Questions, and a TOT Decision Steps Flowchart to inform constituents of the applicability of the TOT to STRs. Since that time, the TTC has received 48 new TOT registration applications from STR hosts. This figure is considerably lower than the 2,155 unique listings in the Unincorporated Areas that were identified by Host Compliance in May 2018.

Many cities facing the challenges discussed above have decided to outsource certain administrative tasks to vendors providing specialized services to the regulators of the STR market. Based on an initial review of the cost for such consultant services, the CEO estimates that the expense for the Unincorporated Areas would be between \$200,000 and \$250,000 annually. This cost would then be augmented by the additional staff expense required to monitor the data collection and compliance reporting, which would be another \$100,000 or more annually.

With respect to the specific issues of TOT registration, collection and remittance processing, many cities have also entered into Voluntary Tax Collection Agreements (VTCAs) with

Airbnb, and are considering similar agreements with other host platforms. VTCA's are made available at no cost to the local government, but they are limited solely to TOT-related services. The benefit of VTCA's is that they allow a host platform, such as Airbnb, to collect TOT directly from their host listings and then transmit this revenue to the local agency. Airbnb does not take a share of the TOT amount and provides the entire payment to the city or county that is party to the VTCA. One challenge with a VTCA, however, is that host platforms typically do not share or provide municipalities with individual host information or specific rental records. There are also limits and restrictions on the governmental entity's ability to audit the host platform. To ascertain this information, the County would need to assign staff to perform the research and tracking required, or outsource these tasks to a service provider.

#### Potential New Revenue

Although it isn't possible to determine the exact amount of future TOT collections for the County, Host Compliance analysis suggests that in 2017 a total of \$23 million in short-term rental revenue was generated for properties listed in the Unincorporated Areas. Given the County's 12 percent TOT rate, this would generate approximately \$2.8 million of additional tax revenue for the County. This amount is expected to exceed the administrative cost for TOT regulation.

### **CONCLUSION/RECOMMENDATIONS**

The rapid growth of the STR market in recent years has created a need for informed regulation by local jurisdictions. Host properties provide many of the same benefits commonly associated with the hotel and motel industry. Yet the STR properties do not experience any comparable form of regulation in the Unincorporated Areas, and are generally not remitting TOT payments to the County. Recognizing the fact that effective regulation of the STR market would likely coincide with enhanced TOT collections, the CEO recommends that the Board establish regulations and practices that strike a proper balance between the interests of STR hosts, and the potential impacts to affordable housing stock and quality of life for neighboring residents. A summary of the CEO recommendations is as follows:

#### Primary vs. Non-Primary Residences

- Recommend ability for hosts to rent any primary residence property
- Establish specific limitations for hosts to rent non-primary residence (or vacation) properties

Hosted vs. Un-Hosted Units (length-of-stay)

- Recommend no limit, or a limit of no less than 120 days on the number of days a hosted property can be rented on an annual basis
- Recommend a maximum limit of no less than 90 days on the number of days an un-hosted property can be rented on an annual basis

General Provisions by Housing Type

- Allow STR listings for both owner-occupied and renter-occupied properties
- Require any renter household to obtain landlord approval before listing a renter-occupied property on a STR host platform
- Require Homeowners Association approval, wherever applicable, that STRs are allowed within the buildings or neighborhoods
- Prohibit any STR listing for properties with existing affordable housing covenants

General Quality of Life Provisions

- Require hosts to provide a local contact person
- Establish appropriate limits on the number of guests, and ability to manage parking requirements and trash removal
- Consider requirements for a host property to notify adjacent neighbors of the intent to use the property as an STR

Registration of Hosts and Requirements for Host Platforms

- Recommend a single no-cost registration requirement (that includes TOT registration) for hosts that participate in the STR market
- Require host platforms to remove hosts that do not have an active registration through the County

Code Enforcement for Health and Safety Violations

- Recommend a code enforcement mechanism to ensure that all reported violations are addressed in a timely manner
- Recommend that failure by a host to remedy a code violation will result in the revocation of host registration

The issues referenced above can serve as the basis for a comprehensive regulatory framework that supports the continued growth of the STR market while addressing the potential impacts to housing supply and neighborhood integrity. To fund the administration and oversight of this regulatory structure, the CEO recommends that the County enter into one, or more VTCAs with host platforms active in the Unincorporated Areas. The use of VTCAs would ensure a reliable source of TOT revenue that will not only finance program administration, but will also provide funding for an active code enforcement mechanism that addresses any health and safety concerns at individual host residences.



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Should the Board direct County departments to implement a regulatory framework for STRs in the Unincorporated Areas, the CEO will work with the TTC, DRP, and County Counsel to identify the appropriate sections of the County Code to be amended by ordinance. At present, the CEO recommends that any STR ordinance be applied equally across the Unincorporated Areas, and not establish different rules for individual communities. This recommendation is made with the understanding that a properly managed registration system for hosts will enable the County to enforce its regulatory system across all neighborhoods. Host residences that cause health and safety concerns within a community will be at risk of having their registration revoked and may no longer be eligible to rent through participating host platforms.

If you have any questions regarding this report, please contact Doug Baron at (213) 974-8355, or [dbaron@ceo.lacounty.gov](mailto:dbaron@ceo.lacounty.gov).

SAH:JJ:DSB  
LS:acn

#### Attachments

c:     Executive Office, Board of Supervisors  
       County Counsel  
       Health Agency  
       Public Health  
       Regional Planning  
       Treasurer and Tax Collector

## Los Angeles County Unincorporated Area Short-Term Rental Market

Table A-1

	<i>Unincorporated Area</i>	<i>Supervisory District</i>	<i>Active Rental Units<sup>1</sup></i>	<i>Percentage</i>
1	Rowland Heights	4	466	22%
2	Santa Monica Mountains	3	455	21%
3	Altadena	5	213	10%
4	Marina Del Rey	4	180	8%
5	Hacienda Heights	4	143	7%
6	View Park/Windsor Hills	2	88	4%
7	East Los Angeles	1	63	3%
8	Northern San Gabriel	5	46	2%
9	Ladera Heights	2	46	2%
10	East Pasadena	5	29	1%
11	West Carson	2	27	1%
12	La Crescenta-Montrose	5	23	1%
13	South Whittier	4	19	1%
14	Del Aire	2	19	1%
15	Arcadia	5	19	1%
16	Castaic	5	18	1%
17	Stevenson Ranch	5	18	1%
18	Athens-Westmont	2	17	1%
19	Agua Dulce	5	16	1%
20	West LA	3	15	1%
21	All Other Statistical Areas <sup>2</sup>	Various	235	11%
<b>Total</b>			<b>2,155</b>	<b>100%</b>

<sup>1</sup> Active Rental Units. A unique rental unit with a listing that has either shown evidence of a booking or received a review in the last year.

<sup>2</sup> Areas with 13 or less Active Rental Units, aggregated for simplification purposes.

Table A-2

<b>Types of Rental Units ( % )</b>	
<i>Single-Family</i>	73%
<i>Multi-Family</i>	27%
<i>Entire Home Rental<sup>3</sup></i>	56%
<i>Partial Home Rental<sup>4</sup></i>	44%

Table A-2

<sup>3</sup> Entire Home Rental units are rented out in their entirety where the host is not physically present during the stay ("Un-Hosted").

<sup>4</sup> Partial Home Rental units are private or shared room rentals where the host is typically present onsite during the stay ("Hosted").

## Los Angeles County Unincorporated Area Short-Term Rental Market (continued)

Table A-3

Estimated Annual Rental Frequency (%)	
<b>All Rental Units</b>	<b>%</b>
<i>Rented for 0-30 Nights</i>	48%
<i>Rented for 31-90 Nights</i>	26%
<i>Rented for 90+ Nights</i>	26%
<b>Entire Home Rental Units</b>	<b>%</b>
<i>Rented for 0-30 Nights</i>	42%
<i>Rented for 31-90 Nights</i>	27%
<i>Rented for 90+ Nights</i>	30%

Table A-3

90 days is a common rule-of-thumb for when short-term renting becomes more profitable than long-term renting. It is often used as the threshold for differentiating between 'casual' and 'commercial' short-term rental operators.

Entire Home Rentals that are rented over 90 days are most likely not available for long-term monthly rentals.

Table A-4

Table shows the transitory nature of the short-term rental market and the importance of continuously monitoring for compliance should the County decide to regulate.

Data on the table includes active and inactive listings over all host platforms, prior to de-duplication.

Table A-4

LISTINGS TURNOVER RATE	
<b>Total Listings as of May 2017</b>	<b>2,038</b>
<i>Plus: New Listing added since May 2017</i>	1,725
<i>Plus: Listings re-activated since May 2017</i>	120
<i>Less: Listings that became inactive since May 2017</i>	(1,282)
<b>Total Listings as of May 2018</b>	<b>2,601</b>

Table A-5

Online Host Platform		# of Active Listing	% of Total Active Listings
1	Airbnb	2,094	86.4%
2	VRBO	146	6.0%
3	FlipKey	92	3.8%
4	HomeAway	85	3.5%
5	travelmob	5	0.2%
6	Vacation Rentals	2	0.1%
7	FeWo-direckt	1	0.0%
<b>Total</b>		<b>2,425</b>	<b>100.0%</b>

Table A-5

An active listing is a listing that has either shown evidence of a booking or received a review in the last year. This is a strong indicator that a host is still actively managing the listing.

Some rental units may be advertised simultaneously on multiple online platforms. These numbers reflect active listings prior to de-duplication. After de-duplication, the number across all host platforms is reduced to 2,155 unique rental units.

## Los Angeles County Unincorporated Area Short-Term Rental Market (continued)

Table A-6

SUPERVISORIAL DISTRICT LEVEL							
SHORT-TERM RENTAL MARKET DATA		DISTRICT 1	DISTRICT 2	DISTRICT 3	DISTRICT 4	DISTRICT 5	TOTAL UNINCORPORATED
R E N T A L  U N I T S	Active Listings <sup>1</sup>	128	252	580	882	586	2,425
	Active Listings %	5%	10%	24%	36%	24%	100%
	Unique Active Rental Units <sup>1</sup>	120	243	480	833	482	2,155
	Unique Active Rental Units %	6%	11%	22%	39%	22%	100%
	Single-Family Homes	72%	69%	81%	63%	83%	73%
	Multi-Family Dwellings	28%	31%	19%	37%	17%	27%
	Entire Home Rental <sup>2</sup>	55%	50%	81%	46%	61%	59%
	Partial Home Rental <sup>3</sup>	45%	50%	19%	54%	39%	41%
	Rented for 0-30 Nights	36%	43%	50%	52%	46%	48%
	Rented for 31-90 Nights	22%	26%	28%	25%	27%	26%
F R E Q U E N C Y	Rented for 90+ Nights <sup>4</sup>	43%	30%	22%	24%	27%	26%
	Rented for 0-30 Nights	23%	39%	48%	44%	39%	43%
	Rented for 31-90 Nights	24%	25%	27%	28%	28%	27%
	Rented for 90+ Nights <sup>4</sup>	53%	36%	25%	29%	33%	30%
#  O F  R O O M S	Studios	19%	14%	12%	8%	12%	11%
	1 Bedroom	37%	29%	31%	28%	28%	30%
	2 Bedrooms	29%	26%	22%	35%	23%	27%
	3 Bedrooms	10%	18%	15%	11%	20%	15%
	4 Bedrooms	3%	10%	11%	10%	8%	10%
	5+ Bedrooms	1%	4%	7%	6%	6%	6%
	Unknown	1%	1%	3%	2%	2%	1%
R A T E S	\$0 - \$50	31%	23%	2%	35%	16%	21%
	\$51 - \$100	45%	40%	17%	26%	35%	28%
	\$101 - \$200	22%	22%	33%	24%	26%	26%
	\$201 - \$400	2%	8%	22%	11%	12%	13%
	\$400+	0%	6%	22%	4%	7%	9%
	Unknown	0%	1%	4%	0%	5%	3%

<sup>1</sup> The sum total for Active Listings and Unique Active Rentals Units will not equal the total shown in the Total Unincorporated column due to the small discrepancies in supervisorial district mapping boundaries.

<sup>2</sup> Entire Home Rental units are rented out in their entirety where the host is not physically present during the stay ("Un-Hosted").

<sup>3</sup> Partial Home Rental units are private or shared room rentals where the host is typically present onsite during the stay ("Hosted").

<sup>4</sup> 90 days is a common rule-of-thumb for when short-term renting becomes more profitable than long-term renting. It is often used as the threshold for differentiating between 'casual' and 'commercial' short-term rental operators. Entire Home Rentals that are rented over 90 days are most likely not available for long-term monthly rentals.

# EXHIBIT A

## Los Angeles County Unincorporated Area Short-Term Rental Market (continued)

Table A-7

LOS ANGELES COUNTY SHORT-TERM RENTAL MARKET						
TOP 20 CITIES						
City Name		Active Rental Units <sup>1</sup>	Total Active Listings <sup>2</sup>	Partial Home Listings <sup>3</sup> %	Entire Home Listings <sup>4</sup> %	Airbnb %
1	Los Angeles	31,027	35,123	28%	72%	80%
*	LAC - Unincorporated <sup>5</sup>	2,155	2,425	41%	59%	86%
2	Long Beach	1,520	1,705	30%	70%	82%
3	Santa Monica	1,076	1,252	18%	82%	69%
4	West Hollywood	937	1,132	19%	81%	77%
5	Beverly Hills	704	811	19%	81%	73%
6	Pasadena	539	697	31%	69%	80%
7	Malibu	507	909	5%	95%	53%
8	Glendale	490	588	28%	72%	75%
9	Redondo Beach	430	479	34%	66%	73%
10	Burbank	389	433	38%	62%	82%
11	Culver City	340	362	35%	65%	88%
12	Manhattan Beach	333	403	10%	90%	54%
13	Avalon	294	592	1%	99%	31%
14	Inglewood	286	298	58%	42%	90%
15	Torrance	276	297	51%	49%	85%
16	Monterey Park	265	279	72%	28%	95%
17	Alhambra	230	267	58%	42%	94%
18	Arcadia	230	231	59%	41%	94%
19	Hermosa Beach	228	274	13%	87%	58%
20	San Gabriel	205	210	77%	23%	96%

<sup>1</sup> Active Rental Units - A unique rental unit with a listing that has either shown evidence of a booking or received a review in the last year.

<sup>2</sup> Some rental units may be advertised simultaneously on multiple online platforms. These numbers reflect active listings prior to de-duplication.

<sup>3</sup> Partial Home Rental units are private or shared room rentals where the host is typically present onsite during the stay ("Hosted").

<sup>4</sup> Entire Home Rental units are rented out in their entirety where the host is not physically present during the stay ("Un-Hosted").

<sup>5</sup> Active Rental Units in the Los Angeles County Unincorporated Areas amount to only 7% of the rental units listed in the City of Los Angeles.

## STR Impact on Affordable Rental Housing

Table B-1

Renter Occupied Units - Rental Rate				
Monthly Rent	Total Units	Unit %	Annual Rent	
			From	To
<i>Units With No Cash Rent</i>	4,621	4%	\$0	\$0
<i>Rent less than \$500</i>	6,504	6%	\$0	\$5,988
<i>Rent \$500 to \$999</i>	38,043	33%	\$6,000	\$11,988
<i>Rent \$1,000 to \$1,499</i>	39,487	34%	\$12,000	\$17,988
<i>Rent \$1,500 to \$1,999</i>	16,653	14%	\$18,000	\$23,988
<i>Rent \$2,000 or more</i>	10,763	9%	\$24,000	-
<b>Total</b>	<b>116,071</b>	<b>100%</b>		

\* Source: "2010 and 2015 American Community Survey (ACS), 5-Year Estimates"

Table B-2

Short-Term Rental Nightly Rates									
Nightly Rent	Total Units	30 Annual Rental Days		90 Annual Rental Days		120 Annual Rental Days		180 Annual Rental Days	
		From	To	From	To	From	To	From	To
\$0 - \$50	453	\$0	\$1,500	\$0	\$4,500	\$0	\$6,000	\$0	\$9,000
\$51 - \$100	625	\$1,530	\$3,000	\$4,590	\$9,000	\$6,120	\$12,000	\$9,180	\$18,000
\$101 - \$200	560	\$3,030	\$6,000	\$9,090	\$18,000	\$12,120	\$24,000	\$18,180	\$36,000
\$201+	474	\$6,030	-	\$18,090	-	\$24,120	-	\$36,180	-
Unknown	43	-	-	-	-	-	-	-	-
<b>Total</b>	<b>2,155</b>								

Table B-3

Renter Occupied Housing Stock Vs. Entire Home Rentals Rented 90+ Days							
Housing Units				Short-Term Rental			
Total Housing Units	Owner Occupied	Renter Occupied	Vacant	Total STR Units	STR Entire Home Units	Units Rented > 90 Days	% to Renter Occupied Units
310,189	174,783	116,071	19,335	2,155	1,207	364	0.3%

Table B-4

Entire Home Rentals > 90 Days					
Nightly Rental Rates	Number of Units Within Specified Ranges (Rental Rates and Annual Rental Days)				
	91 - 120 Days	121 - 150 Days	151 - 180 Days	180+ Days	Total Units
\$0 - \$50	7	3	1	2	13
\$51 - \$100	31	36	26	40	133
\$101 - \$150	34	33	17	18	102
\$151 - \$200	16	10	17	11	54
\$201 - \$250	9	4	4	5	22
\$251 - \$300	4	-	-	3	7
\$301 - \$350	4	4	1	3	12
\$351+	13	7	1	-	21
<b>Total</b>					<b>364</b>

= 62

Note: 90 days is a common rule-of-thumb for when short-term renting becomes more profitable than long-term renting. It is often used as the threshold for differentiating between 'casual' and 'commercial' short-term rental operators. Entire Home Rentals that are rented over 90 days are most likely not available for long-term monthly rentals.

## Regulatory Framework in Other Jurisdictions

Short-Term Rental Regulatory Framework (Other Jurisdictions)								
Regulations	Long Beach	Los Angeles	Malibu	Palm Springs	Pasadena	Sacramento	San Francisco	Santa Monica
<b>Status of the Ordinance</b>	Initial Stages (Stakeholder Outreach)	Draft	Draft	Adopted	Adopted	Adopted	Adopted	Adopted
<b>Primary / Non-primary</b>	<u>Primary Only</u> (current zoning)	<u>Primary Only</u> (reside 6 mos/yr)	<u>Primary</u> (reside 185 days/yr) <u>Non-primary</u> (allowed only 6 mos/yr) <u>Multi-Family</u> (banned on buildings with three or more units, except for home-sharing)	Primary and Non-primary	<u>Primary Only</u> (reside 9 mos/yr)	<u>Primary</u> (reside 184 days/yr) <u>Non-primary</u> (CUP required on stays > 90 days/yr)	<u>Primary Only</u> (reside 275 nights/yr, and at least 60 days before applying)	Primary Only
<b>Days Permitted</b>	TBD	120 days/yr - possible extension for qualifying hosts up to 240 days via: <u>Administrative review</u> (for compliant hosts) <u>Discretionary review</u> (for hosts with reported violation)	<u>Primary</u> (allowed year-round) <u>Non-primary</u> (allowed only from Apr to Sep)	<u>Homesharing (hosted)</u> (28 days consecutive days); <u>Vacation Rentals (un-hosted)</u> (28 days, except for timeshare and other contractual arrangements)	<u>Hosted</u> (Unlimited) <u>Un-hosted</u> (90 days/yr)	<u>Primary</u> (No limit) <u>Non-primary</u> (up to 90, CUP required on Stays > 90 days/yr)	<u>Hosted</u> (Unlimited) <u>Un-hosted</u> (90 days/yr)	Unlimited
<b>Hosted / Un-hosted</b>	Hosted Only (current zoning)	Hosted and Un-hosted (not distinguished)	Hosted and Un-hosted (not distinguished)	<u>Homesharing (Hosted)</u> <u>Vacation Rental (Un-hosted)</u>	Hosted and Un-hosted	Hosted and Un-hosted	Hosted and Un-hosted	Hosted Only
<b>Business License</b>	TBD	N/A	N/A	N/A	N/A	Business Tax (Hotel Rate) - \$50 plus \$.075 per unit over 4 annually	Business Registration Certificate; (annual renewal)	Business License (taxed @ \$75 on first \$60,000 income, plus 3% on every \$1,000; income ≤ \$40,000 exempt)
<b>Registration / Permit</b>	TBD	<u>Home Sharing Registration</u> (annual renewal) (Fee TBD) (Hosts that register through platform do not need a separate TOT registration)  - Maximum two violations	<u>Host registration required</u> (\$25 one-time fee) <u>Short-term Rental Permit</u> (\$400 fee; annual renewal) <u>Primary Permit</u> (maximum two violations/yr) <u>Non-Primary Permit</u> maximum on violation/yr <u>Multi-family Permit</u> (maximum two units, and only if all other units are rented out long-term)	<u>Homeshare Registration Certificate</u> (one rental/certificate; \$225 registration; \$231 annual renewal);  <u>TOT Registration</u> (one-time fee - \$25)	Short-term Rental Permit (\$100 permit fee, plus 3% record management and payment fee)	<u>STR Permit</u> (New - \$125, Renewal - \$90) or <u>CUP on Non-primary</u> (with Stays > 90 days/yr); <u>Rental Housing Program</u> (Fee - \$16); <u>Unit Inspection</u> (Fee - \$127)	<u>OSTR Registration</u> (\$250 initial; annual renewal) <u>Certificate of Authority</u> (for City to Collect taxes)	<u>Home-Sharing Registration Package</u> (must be completed)

**KEYS:** ADU-Accessory Dwelling Unit; CUP-Conditional Use Permit; RSO-Rent Stabilization Ordinance; OSTR-Office of Short-Term Rentals (San Francisco); STR - Short-Term Rental; TOT-Transient Occupancy Tax; VTCA-Voluntary Tax Collection Agreement

## Regulatory Framework in Other Jurisdictions (continued)

Short-Term Rental Regulatory Framework (Other Jurisdictions)								
Regulations	Long Beach	Los Angeles	Malibu	Palm Springs	Pasadena	Sacramento	San Francisco	Santa Monica
<b>TOT Rate</b>	12% (charged to Hotels)	14%	12%	11.5%	12.11%	12%	14%	14%
<b>Host Platform Agreement (VTCA)?</b>	N/A	Yes	Yes	N/A	Yes	Yes	Yes	Yes
<b>Host Requirements</b>	TBD	<ul style="list-style-type: none"> <li>- Transient Occupancy Registration Certificate;</li> <li>- Landlord approval (if tenant);</li> <li>- Provide STR income info to City on a monthly basis;</li> <li>- Need to keep record for STR 3 years;</li> <li>- Provide Code of Conduct to guests;</li> <li>- \$500-\$2,000 fine/day (or twice nightly rate)</li> </ul>	<ul style="list-style-type: none"> <li>- Grant City access to property and records;</li> <li>- Provide STR Code of Conduct to guests;</li> <li>- Provide 24/7 contact info;</li> <li>- Attestation to comply with STR ordinance</li> </ul>	<ul style="list-style-type: none"> <li>- Meet with and obtain from guest signature on rules and regulations;</li> <li>- Update trash service to "walk-up";</li> <li>- Provide contact person;</li> <li>- When rented, must occupy from 12am - 6am or must be at property within 30 minutes to address any issues</li> </ul>	<ul style="list-style-type: none"> <li>- Quarterly report of STR activity;</li> <li>- Property Inspection/Self Certification;</li> <li>- Neighborhood notification;</li> <li>- If renter/tenant, must notify landlord/property owner;</li> <li>- Keep 3-year STR records;</li> <li>- Provide contact info</li> </ul>	<ul style="list-style-type: none"> <li>- Inform guests of applicable regulations;</li> <li>- Adhere to Rental Housing Program;</li> <li>- Permit number on ads/listing</li> </ul>	<ul style="list-style-type: none"> <li>- 1 STR per resident (if tenant, monthly revenues cannot exceed rent);</li> <li>- Quarterly report of STR activity;</li> <li>- File and pay (if applicable) annual Business Personal Property Tax</li> </ul>	<ul style="list-style-type: none"> <li>- No advertisements on dwelling exterior;</li> <li>- Business License;</li> <li>- Number on ads/listings;</li> <li>- Affidavit certifying compliance with regulations</li> </ul>
<b>Host Platform Requirements</b>	TBD	<ul style="list-style-type: none"> <li>- Remove listings that violate Ordinance;</li> <li>- Provide STR info to City;</li> <li>- Abide by TOT Ordinance - \$1,000 fine/day on violations for host platforms;</li> </ul>	STR Permit Number displayed on advertisements	Display Host Registration Certificate on listings	Display STR permit on advertisements/listings	<ul style="list-style-type: none"> <li>- Keep register of guests;</li> <li>- Ensure all listings are permitted</li> </ul>	<ul style="list-style-type: none"> <li>- Verify host registration with OSTR;</li> <li>- Submit monthly affidavit to OSTR affirming reasonable care taken to verify host registration;</li> <li>- Remove unregistered listings</li> </ul>	<ul style="list-style-type: none"> <li>- Disclose City STR ordinance to potential hosts;</li> <li>- Provide STR info to City;</li> <li>- If VTCA exists, host and hosting platform is responsible to collect and remit monthly</li> </ul>
<b>Other Provisions</b>	<ul style="list-style-type: none"> <li>- Current zoning allows for hosted rentals up to two rooms, and not whole house</li> </ul>	<ul style="list-style-type: none"> <li>- STR banned on RSO properties;</li> <li>- Dwelling for residential use;</li> <li>- No Multi-family building conversion to STR</li> </ul>	<ul style="list-style-type: none"> <li>- Notification to neighbors (including 24/7 contact);</li> <li>- Only approved dwelling units;</li> <li>- Limit to 2 more than 2xs number of rooms (14 maximum);</li> <li>- Onsite parking for all guests/street parking limited to 1, otherwise permit is required;</li> <li>- Violations subject to fines \$1,000/day or violation;</li> <li>- Onsite Wastewater Treatment System;</li> <li>- Permit/Agreement in place</li> </ul>	<ul style="list-style-type: none"> <li>- \$500,000 minimum property liability insurance</li> <li>- Prohibited on apartments;</li> <li>- Property subject to inspection;</li> <li>- Good Neighbor Brochure and Rules and Regulations posted on property;</li> <li>- Vacation Rentals are considered STRs, with additional regulations not applicable to Homesharing;</li> <li>- HOA (if applicable) letter required</li> </ul>	<ul style="list-style-type: none"> <li>- Banned on: ADU, Non-permitted structures, commercial units, non-habitable structures;</li> <li>- Limited to 2 guests/room plus 2 additional guests;</li> <li>- Onsite parking only;</li> <li>- No Commercial events/gathering;</li> <li>- Permit revoked after 3 violations</li> </ul>	<ul style="list-style-type: none"> <li>- Limited to 6 guests at any one time;</li> <li>- City notifies property owners within 200 feet and provides contact of STR permittee</li> </ul>	<ul style="list-style-type: none"> <li>- \$500,000 minimum property liability insurance;</li> <li>- Prohibited in The Presidio, Fort Mason, and Treasure Island;</li> <li>- No STR in affordable housing units</li> <li>- Dwelling must be for residential use</li> </ul>	<ul style="list-style-type: none"> <li>- Limited to one Home-Share per person/entity;</li> <li>- Only on human habitable space</li> </ul>

**KEYS:** ADU-Accessory Dwelling Unit; CUP-Conditional Use Permit; RSO-Rent Stabilization Ordinance; OSTR-Office of Short-Term Rentals (San Francisco); STR - Short-Term Rental; TOT-Transient Occupancy Tax; VTCA-Voluntary Tax Collection Agreement



## Stakeholder Opinions

45-Day Survey Results	
<i>List of Stakeholders</i>	Town Council Members Homeowners Association Members Persons involved with Housing and Homelessness issues Constituents who participated in recent community plan outreach
<i>Number of Respondents</i>	Number of respondents: 1,750 Number of respondents that visited or live in LA County Unincorporated Areas: 652 (at least 42 unincorporated communities in all five SD)
<i># of Days Booked Via Online Platforms</i> <i>(% of those responders who used host platforms)</i>	1. 100+ days (23%) 2. 0-9 days (12%) 3. 50-99 days (7%) 4. 10-29 days (6%) 5. 30-49 days (5%)
<i>Top 5 Communities Where Respondents Live</i>	1. Altadena (105) 2. Rowland Heights (100) 3. Topanga/Topanga Canyon (45) 4. Hacienda Heights (25) 5. Kagel Canyon (23)
<i>Top 5 Most Common Positive Experiences</i>	1. Meet interesting and diverse people from all over the world 2. Extra income - in some cases, enabled hosts to afford their homes/stay financially afloat 3. More affordable than a hotel or motel, and offers amenities, such as cooking own meals 4. Cheaper/easier to rent a home for a large group 5. Helps guests experience the neighborhood like a local, in ways that would not be possible in a hotel or motel stay
<i>Top 5 Most Common Negative Experiences</i>	1. Increased traffic in the neighborhood created parking problems (spillover parking, illegal parking, parking blocking neighbors' driveways, etc.) 2. The units were being rented out for parties that attracted a large number of people, creating a nuisance 3. Makes the neighborhood feel unfamiliar and difficult for the Neighborhood Watch programs to distinguish strangers as guests or trespassers 4. Unruly or uncourteous guests 5. Increased noise affecting adjacent neighbors
<i>Top 3 Most Common Concerns</i>	1. Spill-over parking, illegal or improper parking, or cars blocking access to the respondent's home 2. Loss of peace, quiet, and privacy 3. Loud or all-night parties
<i>Top 5 Regulatory Choices</i> <i>(Note: "Complete ban" and "No regulations" were among the choices, but neither made it to the top 5)</i>	1. Impose penalties on hosts for problematic or non-compliant guests staying in hosted homes (45%) 2. Require 24-hour contact for any problems regarding a short-term stay or rental (40%) 3. Require all hosts to register each short-term rental (38%) 4. Require host to notify adjacent property owners when a short-term rental is being registered/licensed (36%) 5. Impose Cap limit on the number of days per year a short-term rental may be used for guests (36%)
<i>Top Preferences of Type of Units Allowed to be Used as Short-term Rentals</i>	1. Room within an occupied single-family house (68%) 2. Room within an occupied apartment (62%) 3. Whole single-family house or vacation house (58%) 4. Whole apartment unit within a multi-family building (45%) 5. Accessory Dwelling (45%) 6. None (22%)

Note: Only the data for the 652 respondents that visited or live in an Unincorporated community is included in the data analysis. Data for other respondents (approximately 1,100) has been excluded, since these respondents will not be affected by any action the County may take regarding short-term rentals.



JOSEPH KELLY

TREASURER AND TAX COLLECTOR

# COUNTY OF LOS ANGELES TREASURER AND TAX COLLECTOR

KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET, ROOM 462  
LOS ANGELES, CALIFORNIA 90012  
TELEPHONE: (213) 974-2139 FAX: (213) 626-1701



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October 28, 2016

TO: Supervisor Hilda L. Solis, Chair  
Supervisor Mark Ridley-Thomas  
Supervisor Sheila Kuehl  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich

FROM: Joseph Kelly *JKelly*  
Treasurer and Tax Collector

SUBJECT: **ANALYSIS OF THE APPLICABILITY OF THE COUNTY'S TRANSIENT  
OCCUPANCY TAX AND BUSINESS LICENSE ORDINANCE TO  
ONLINE HOSTING PLATFORMS**

This report documents our review of the applicability of the Los Angeles County's Transient Occupancy Tax (TOT) Ordinance, Business License Ordinance and Zoning Code to peer-to-peer online hosting platforms, such as Airbnb, VRBO, Homeaway, and Flipkey, and to Online Travel Companies, such as Expedia. The Treasurer and Tax Collector (TTC) proposes to perform targeted outreach to areas of concern after further discussion with Board offices, and will report back in six months and one year after the efforts commence. In addition, the TTC, in coordination with the Department of Regional Planning (DRP), may seek Board direction on creating a more comprehensive regulatory framework for online hosting platforms.

## **Background**

The County's TOT is codified in Title 4 of the County Code (Code). The TOT is a tax for the privilege of occupying a room for transient use, i.e., for stays of 30 consecutive calendar days or less. The TOT rate is 12% of the rent charged by hotel/motel operators in the unincorporated areas of the County.

The following chart lists the Fiscal Year 2015-16 TOT revenue and number of remitters by Supervisorial District. Over half of the TOT revenue is generated from eight hotels in Marina del Rey, which is located in the Fourth District.



**Transient Occupancy Tax Revenue Collection  
For Fiscal Year 2015-2016**

	Amount of Revenue	Number of Remitters
District 1	\$ 1,580,588	19
District 2	\$ 1,385,907	22
District 3	\$ 132,999	3
District 4	\$ 11,609,572	19
District 5	\$ 5,128,463	32
<b>Total</b>	<b>\$ 19,837,529</b>	<b>95</b>

Online hosting platforms, such as Airbnb, utilize a peer-to-peer business model through which a software platform facilitates rentals of lodging space, such as rooms in personal residences, rooms in bed-and-breakfasts, or entire homes or apartments. In general, the online hosting platform allows an “operator/host” to make the property available for rent in exchange for compensation from a “transient/guest.” The rentals can be short-term or long-term, and may be for shared rooms where guests share the entire space with the host or others; private rooms where guests may share common areas but have a private room for sleeping; or entire homes or apartments where guests rent the entire unit and do not share any space with others. The online hosting platform provides the listing service, reservation system, and handles the payments between the hosts and guests. As well, the platform typically keeps 3% of each reservation as a host service fee. Airbnb, which commenced operations in 2008, has forecasted revenues of \$900 million this year, with over one million listings in over 190 countries.

The Online Travel Companies business model has been in existence longer than, and is different from, the peer-to-peer business model. Online Travel Companies, such as Expedia, work with hotels and motels to purchase blocks of rooms at a discount, and/or serve as an intermediary, then markets those rooms online. The guests pay the room rate and applicable taxes to the Online Travel Companies. The Online Travel Companies collect the TOT and forward the TOT to the hotels to remit to the County. The hotel/motel maintains all the records. The County has the authority to audit the records of the hotel/motel. In 2007-08, the TTC contracted audits of 60 hotel/motel operators with reported gross rents of \$93.8 million, and \$11.3 million in TOT. The audits determined that 19 operators had receipts from Online Travel Companies and remitted the applicable TOT to the County. Twelve of those operators separately accounted for rents received from Online Travel Companies; these operators received \$2.9 million in gross rents and remitted \$344,000 in TOT related to online rentals. The other seven operators combined online rents received with their overall rental income, remitted the appropriate TOT, but could not separately report the TOT related to online rentals. The remaining 41 operators did not use Online Travel Companies.



#### **Title 4 – TOT Ordinance**

##### **Operator vs. Online Hosting Platforms**

Title 4, Section 4.72.020 defines the “Operator” to mean the person who is the (1) proprietor of the hotel either as an owner, lessee, sublessee, or in some other capacity, or a person who is the (2) managing agent of the structure. Title 4, Section 4.72.020 defines “Hotel” to mean “any structure in the unincorporated territory of the county, or any portion of any such structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes.”

County Counsel has confirmed that given these definitions, the person or authorized agent who lists lodging space with Airbnb for shared rooms, private rooms, or entire homes or apartments, can be considered an Operator under the Code. Operators are subject to the TOT ordinance, are required to register with the TTC for purposes of obtaining a TOT certificate, and are required to collect and remit the TOT to the County. In addition, certain Operators are required to obtain a business license, as discussed below in Title 7 – Business License Ordinance.

Airbnb provides a software platform that connects a person wanting to rent lodging space with a person who has such a space for rent. Since Airbnb is providing a software platform for purposes of introducing these two parties, it is not the proprietor or managing agent of the lodging, and it is not considered to be an Operator within the definition of the Code. Similarly, Expedia provides a software platform that sells hotel/motel rooms online. As such, it is also not considered an Operator under the Code since it is not the proprietor or managing agent of the hotel/motel room. Consequently, software platform providers like Airbnb and Expedia are not subject to the TOT ordinance, and are not required to register with the County or collect and remit TOT to the County.

#### **Title 7 - Business License Ordinance**

Title 7, Chapter 7.50-Housing, requires every person conducting a hotel, motel, apartment house, or certain boarding houses to obtain a business license before operating.

These provisions are not applicable to Airbnb because Airbnb provides a software platform that connects interested parties; it does not operate hotel, motel or apartment businesses. These provisions are applicable to the person or authorized agent who lists lodging space with Airbnb because such persons are the ones conducting a hotel, motel, apartment house or boarding house.



Prior to accepting a business license application, the TTC refers the application to the DRP. DRP confirms the type of business based on their records and Title 22 – Planning and Zoning Ordinance, which has its own definitions for apartment house, hotel, motel, and rooming/boarding house.

The following are definitions from Title 22, Chapter 22.08, of the Code:

- "Apartment house" means a building, or a portion of a building, designed or used for occupancy by three or more families living independently of each other, and containing three or more dwelling units.
- "Hotel" means any building containing six or more guest rooms or suites of guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied on a temporary basis by guests.
- "Motel" means a group of attached or detached buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage attached or automobile parking space conveniently located on the lot or parcel of land, and which is designed, used or intended to be used wholly or in part for the accommodation of automobile transients. Motels include auto courts, motor lodges and tourist courts.
- "Rooming house" or "boarding house" means a lodging house, or other building or structure maintained, advertised or held out to the public as a place where sleeping or rooming accommodations are furnished to the whole or any part of the public, whether with or without meals. "Rooming house" includes fraternity and sorority houses.

Section 22.20.080, which regulates accessory uses in zone R-1 (single family zone), states "if the residence is not used for either a home for children, foster family, or home for the aged, rooms may be rented to not more than four roomers, with or without table board in a single-family residence." Under this language, DRP currently considers a single-family residence that accommodates more than four "roomers" as a "Rooming house," which are limited to zone R-3 and higher.

Section 7.50.010 states that "places which provide sleeping and living accommodations to five or more persons unrelated to the operator, which are not otherwise licensed under this title as an apartment house, hotel or motel, shall be required to obtain a license as a boarding house."

Accordingly, a person who lists with Airbnb sleeping and living accommodations that can house five or more guests is required to obtain a business license. If the type of business does not qualify under apartment house, hotel, or motel, then the person who offers accommodations for five or more guests must obtain a business license as a boarding house. A business license is not required if the accommodations are for up to

four guests. The first year fee for a boarding house business license is \$282. The annual renewal fee is \$200 thereafter.

The following chart illustrates the current applicability of the TOT and Business License ordinances to the peer-to-peer online hosting platform, the Online Travel Company, and the operator of a residence, hotel or motel, apartment house, or boarding house.

**Applicability of TOT and Business License Ordinances**

	<b>Subject to Transient Occupancy Tax? (For stays of 30 days or less)</b>	<b>Subject to Business License?</b>
Airbnb (Peer-to-peer online hosting company)	No, does not meet definition of Operator per the Code. Provides software platform that connects operators of rooms/accommodations and travelers.	No, does not conduct hotel, motel, apartment house, or boarding house businesses. Provides software platform that connects persons who conduct a hotel, motel, apartment house, or boarding house business with persons seeking lodging.
Airbnb Host (Proprietor or managing agent of residence/lodging space)	Yes. Operator, pursuant to Title 4, Section 4.72.020 F.	No, if provides accommodations to less than 5 persons.
		Yes, if provides accommodations to 5 or more persons. Person providing rooming accommodations to 5 or more persons requires a business license, pursuant to Title 7, Section 7.50.010.
Expedia (Online Travel Company)	No, does not meet definition of Operator per Code. Provides software platform that connects operators of rooms/accommodations and travelers.	No, does not conduct hotel, motel, apartment house, or boarding house businesses. Provides software platform that connects persons who conduct a hotel, motel, or apartment house business with persons seeking lodging.
Hotels/Motels that sell to Online Travel Companies	Yes. Operator, pursuant to Title 4, Section 4.72.020 F.	Yes. Hotels/Motels are required to procure a business license, pursuant to Title 7, Section 7.50.030 and 7.50.040.



Apartment House	Yes. Operator, pursuant to Title 4, Section 4.72.020 F.	Yes. Apartment Houses are required to procure a business license, pursuant to Title 7, Section 7.50.030.
Boarding House	Yes. Operator, pursuant to Title 4, Section 4.72.020 F.	Yes. Boarding Houses are required to procure a business license, pursuant to Title 7, Section 7.50.020.

### **Magnitude of Online Hosting Platform Utilization**

The peer-to-peer online hosting platform opened up a new market of renting out personal residences. Staff performed an exercise to determine if anyone who lists online was remitting TOT to the County. Currently, we have eight TOT remitters that are smaller operators with less than five units. Staff confirmed through a review of listings on a hosting platform that two of the eight listed with the platform, and therefore determined that we did receive TOT from some of those who list online.

In addition, staff performed an exercise to determine the potential magnitude of online listings that were not registered with the TTC and the extent of potential revenue foregone by the County. Staff reviewed one unincorporated area in each Supervisorial District, and attempted to choose the areas that might yield the most listings. Below is a chart of the results.

### **Online Listings Not Registered with the TTC**

	<b>Unincorporated Area</b>	<b>Online Listings</b>
District 1	Valinda	2
District 2	Westmont	1
District 3	Calabasas (adjacent)	3
District 4	Marina del Rey	19
District 5	Altadena	25
<b>Total</b>		<b>50</b>

Staff's exercise uncovered 50 online listings that were not registered with the TTC, and that have not paid TOT to the County. However, the potential TOT that was not remitted from 50 listings does not pose a material revenue stream to the County. If the 50 listings were rented 365 days of the year with an average listing rate of \$100, the incremental TOT revenue would be \$219,000.

### **Regulatory Environment (State)**

Due to the increasing number of municipalities determining that Airbnb type listings are subject to the local TOT, state legislation has been proposed to facilitate the collection of TOT from the online hosting platforms.

#### **Senate Bill (SB) 1102**

In February 2016, SB 1102 introduced legislation that would allow online platforms to collect and remit TOT on behalf of the operators to the taxing jurisdiction. The proposed legislation resulted from Airbnb's desire to comply with local TOT ordinances and attempted to address some of the challenges of complying with differing ordinances, such as audit requirements from each municipality. The proposed legislation granted the State Controller the authority to audit the collection and remittance of the TOT, but certain information reviewed in audits (e.g., taxpayer information, operator information, and property address) would be confidential and not subject to release. The audit provision takes away the County's current authority to audit, and grants it to the State Controller. Property addresses are needed for regulatory and enforcement purposes such as for registration, licensing, and land use.

The proposed legislation allows for the platforms to opt in if they wish to participate in the program. The legislation as written requires the County to opt out if the County does not wish to participate.

TTC staff participated in a conference call with the authoring Senator's office, representatives from several online hosting platforms, as well as staff from other county Treasurer and Tax Collectors. The municipalities represented were uniformly concerned over the loss of local authority to audit, and the lack of information provided. In addition, the municipal representatives wanted to change the language to offer local jurisdictions the option to opt-in as well, as opposed to needing to take Board action if we chose to opt-out.

SB 1102 was held in the Senate Appropriations committee in May 2016, and is not expected to move forward this year.

#### **Senate Bill (SB) 133**

In June 2016, SB 133 replaced SB 1102, and considered some of the concerns with SB 1102, such as shifting from an "opt out" requirement for local jurisdictions to a voluntary "opt in" option.

SB 133 requires the platforms to remit taxes directly to the local jurisdictions, but the platforms will not be subject to the reporting requirements of the local jurisdictions. SB 133 is not clear on the reporting requirements that would govern. However, the State Controller will audit the platforms and will submit a report to each jurisdiction, which



implies that the platforms will need to report information to the State Controller so the State Controller may perform audits.

In addition, the proposed legislation states that the participating platforms “shall not be required to provide personally identifiable information to any city, county, or city and county, ... except pursuant to an order by a court of competent jurisdiction.” The State Controller will be the only entity entitled to review personally identifiable information obtained during the course of the audit. The local jurisdictions will not be able to independently validate whether the TOT remittances were appropriate, or have access to address information, which is necessary for regulatory or enforcement purposes.

The author subsequently pulled this bill before it was heard in the Assembly Local Government Committee.

### **Difference from Mobile Telephony Services Model (MTS) Model**

Last year, new legislation granted the State collection authority for Utility Users Tax (UUT) on sales of Mobile Telephony Services (MTS) from retail locations. The business model used for MTS required the State to be involved with the entire process. The retail stores remit the UUT collected to the State, in the same manner as they remit sales tax. The State then distributes and reports the UUT to the appropriate local jurisdiction where the sales occurred. In addition, the State performs audits. The local jurisdictions have the authority to review the State’s audit records, subject to certain confidentiality provisions. The State is responsible for the entire MTS process, and may recoup its administrative costs from the UUT collected.

The legislation as proposed in SB 1102 and SB 133 splits responsibility. The platforms will remit taxes to the local jurisdictions without reporting requirements. The State would separately audit the platforms. The local jurisdictions may review the State’s audits, but without details such as property addresses, will be without a mechanism to independently validate the accuracy of the TOT remitted or determine appropriate regulatory or land use.

### **Regulatory Challenges (Local)**

In general, Airbnb hosts have not been complying with the applicable TOT framework statewide. Each municipality’s response to this has varied, and responses are generally dependent on the potential revenue from compliance with their TOT frameworks. The cities with the high tourism areas are the cities that encounter the most issues and have focused on expanding their regulatory framework.

For example, the City and County of San Francisco classifies Airbnb as a “Qualified Website Company” which allows it to collect TOT from the online platforms. Airbnb participates in that program, and collects and remits TOT on behalf of the operators/hosts. The City and County of San Francisco also requires the registration of



Airbnb hosts, and recently required that Airbnb disallow hosts that are not registered. In response, Airbnb filed a lawsuit against the City and County of San Francisco in June 2016.

In May 2014, the City of Anaheim permitted the use of residential units as Short-Term Rentals (STRs) for occupancies of less than 30 consecutive days. Due to the large number of rental applications, the City of Anaheim issued a temporary moratorium on granting new licenses in September 2015. Based on community concerns about the incompatibility of the vacation rentals and the neighborhood impacts, in June 2016, the City Council voted to ban new Short-Term Rentals. The City Council implemented an 18-month phase-out period for existing Short-Term Rentals, which they call the "STR Amortization Ordinance." The City of Anaheim is now reviewing other options, such as implementing a "Home Sharing Pilot Program" in which permits are only issued to the legal owner of the home who must reside in the home as his/her primary residence. In addition, no more than half the bedrooms in the home may be used for "home sharing" purposes.

In July 2016, the City of Los Angeles signed an agreement with Airbnb for Airbnb to collect and remit TOT on behalf of rental hosts to the City. In the meantime, the City is finalizing regulations for its proposed Home-Sharing Ordinance. Some of the provisions in the home-sharing program include a Primary Residence requirement, maximum rental limit of 120 days per year, ban against renting units subject to the Rent Stabilization Ordinance, prohibition against concurrent guest stays, and no full-time vacation rentals.

DRP has also made us aware in recent months that at least one of the Supervisorial Districts has received complaints regarding homeowners who rent out an entire house through these online marketplaces.

Although the Zoning Code currently contains definitions and regulations, which can be applied to short term rentals, it did not anticipate that short-term rental of homes, townhouses and apartments would be as popular as they have now become and that online services would create the marketplace they now have. The Zoning Code does not adequately address the impact that this land use may have on communities, such as late night noise, a strain on parking resources and an increase in trash.

Due to the complexity of issues with online hosting platforms, the TTC and the DRP may seek Board direction on creating a more comprehensive regulatory framework for peer-to-peer online hosting platforms.

### **Findings and Recommendations**

The person or authorized agent who lists lodging space with Airbnb for shared rooms, private rooms, entire homes or apartments, is considered an Operator under the Code. Operators are subject to the TOT ordinance, are required to register with the TTC for



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purposes of obtaining a TOT certificate, and are required to collect and remit the TOT to the County. In addition, certain Operators are required to obtain a business license.

Recommendations:

Within the next 60 days, the TTC will publish a fact sheet and Frequently Asked Questions regarding the applicability of the County's TOT Ordinance to Airbnb hosts, will update the TTC website with this material, and will consult with your offices and related County departments on its distribution. Importantly, this material will also inform constituents of the procedures to report unlicensed activity. Upon receipt of such report, staff will gather as much information as possible and assign the complaint to a Tax and License Field Inspector for investigation. If the inspector determines that a business license is required, the inspector will issue a Field Inspection Report advising the property owner to apply for a business license. Staff will also notify DRP of such reports for DRP to identify any land use and zoning issues. My office will report back to your Board, six months and one year after this effort commences, to keep you informed of developments.

If the Board decides that Title 22 amendments are necessary to address this issue, clear objectives should be established including the following considerations: balancing the character and enjoyment of low density neighborhoods with the activities associated with short term rentals, the preservation of housing for the local population, fair and balanced regulations which would allow property owners to supplement their income, the potential for added revenue from applying the Transit Occupancy Tax to these uses, and the potential impact to traditional short term rentals such as motels and hotels.

Attempts at consolidating audit compliance at the State level through legislation are likely to continue, and my office will participate in the legislative review process as appropriate.

Should you have any questions, please contact me directly or your staff may contact Nai-len Ishikawa, Assistant Treasurer and Tax Collector, of my staff at (213) 974-2139 or [nishikawa@ttc.lacounty.gov](mailto:nishikawa@ttc.lacounty.gov), or for questions regarding land use, please contact Richard Bruckner, Director of the Department of Regional Planning at (213) 974-6401 or [rbruckner@planning.lacounty.gov](mailto:rbruckner@planning.lacounty.gov).

JK:RB:NWI:htb

c: Chief Executive Officer  
County Counsel  
Director, Department of Regional Planning  
Executive Officer, Board of Supervisors