

THE EVOLVING HOME-SHARING MARKET PROMPTS A VARIETY OF LOCAL REGULATIONS

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The growing popularity of short-term rentals (STRs) has raised public concerns over issues like safety, taxation and the privacy of long-term residents. In response, various municipalities in California are reviewing or have enacted regulations that could have a substantial impact upon the STR market. Notably, however, the regulations already enacted or under consideration vary widely between differing municipalities and jurisdictions, meaning STR providers, including institutional providers, face uncertain compliance requirements and deadlines, depending upon the jurisdictions in which they intend to operate.

Navigating a Sea of Varied Regulations

Regulators generally view the STR market as falling into two primary categories: (1) hosted rentals, where the resident or owner is present during the rental period; and (2) unhosted rentals, where no permanent resident is present while the property is rented. In Santa Monica, where there has been some strong resistance to STRs, recent ordinances, including Santa Monica's Home-Sharing Ordinance, effective June 12, 2015 (Santa Monica, Cal., Muni. Code art. 6, ch. 6.20 [2015]), essentially prohibit unhosted rentals (with express carve-outs for hotels, motels and traditional bed-and-breakfasts), while regulating hosted rentals to compel hosts to obtain licenses and permits, collect and remit transient taxes and satisfy a number of related obligations. By prohibiting unhosted rentals, the Home-Sharing Ordinance effectively bars institutional landlords from entering the local market as STR providers.

Other cities, including San Francisco, are also grappling with the issue but have not prevented unhosted STR providers from conducting business in the city. This is reflected in the recent submission and defeat of San Francisco's Proposition F, which sought, among other things, to impose significant restrictions on STRs, including limiting STRs to a maximum of 75 days per year, for both hosted and unhosted rentals, and providing neighbors with a private right of action against offending hosts. With the rejection of Proposition F, existing regulations in San Francisco continue to allow unhosted rentals for up to 90 days, and unlimited hosted rentals. (San Francisco, Cal., Ord. No. 218-14 [Oct. 7, 2014].)

Although San Francisco's Proposition F was rejected, it is clear that public concern over STRs remains a prominent is-



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sue in cities across California. For example, in San Diego, the city developed a draft code framework, circulated in a memorandum on Aug. 12, 2015, to revise existing ordinances to accommodate hosted and unhosted STRs. The code revision proposed would define and authorize both hosted and unhosted STRs, with unhosted STRs being limited to specific geographic zones. Following a public hearing on Sept. 22, 2015, the proposed code revision was rejected, leaving unhosted STRs grouped more closely with traditional bed-and-breakfast establishments, which require a lengthy permit application process for approval.

Anti-STR sentiment also appears to have motivated the City of Anaheim to act. On Oct. 22, 2015, the city council unanimously voted to extend to May 2016 a previously adopted moratorium on issuing permits for STRs in response to growing public concern. On the other hand, and as a reflection of the variation in regulation faced by STR providers, the city council of neighboring Santa Ana, which issued a similar temporary moratorium on STRs in September 2015, met again in October 2015 and unanimously voted against extending the ban for an additional 10 months.

In a sea of changing regulations, institutional landlords considering STR programs face some difficult challenges. Given that larger players are more likely to hold property located throughout the state, or even the country, the task is particularly daunting, but the opportunity is clearly there for those willing to invest the time, money and energy. Here, individual owners/hosts (rather than STR platform operators) are typically responsible for compliance with federal, state and local laws, as well as community regulations, but platform operators do offer solid advice: get a good lawyer!