

Municipal Regulation of Short-Term Rentals

In the Dirt: A Real Estate Legal Update

By Lisa Johnson on April 12, 2023

Short-term rentals have become a complex topic for many municipalities, which in turn affects homeowners or Homeowner Associations interested in the issue.

Various objectives of the governing body in regard to regulating short-term rentals may affect their treatment of this issue. While one municipality may want to revitalize its vibrant downtown by encouraging short-term rentals, another may prefer to crack down on short-term rentals altogether to preserve neighborhoods with single-family homeowners.

The interests of property owners who wish to earn extra income from short-term rentals must be weighed against their neighbors who desire calm and predictable surroundings. Municipalities making decisions regarding short-term rentals must also consider the following:

Applicable State Law

In recent years, some state legislatures have enacted laws preventing municipalities from strictly regulating short-term rentals. For example, some of these laws prohibit municipal zoning ordinances that regulate short-term rentals if the dwelling is primarily used for “residential purposes” or such regulations may be imposed only to serve limited interests such as public safety.

Where such laws exist, a municipality may limit short-term leases by providing for additional requirements. Examples are requiring owners to provide notice of zoning ordinances to tenants or requiring a home inspection before being used for short-term rental purposes.

Municipal Discretion

The zoning ordinance of a municipality may permit restriction or an outright ban on short-term rentals. If not prohibited, municipalities may implement a permitting system for regulating and tracking short-term rentals in their communities. Permitting systems can be difficult to enforce by a municipality due to lack of public information when such rentals occur, and would rely upon reporting of such activities by neighbors or by HOAs that become aware of such violations. . For example, services such as Airbnb often do not provide property addresses for rentals, providing a means of avoiding enforcement of regulation

in these situations

Permanent residency requirements can also be used to restrict the amount of time the property may be used for short-term rentals.

Municipal Enforcement

In the absence of permissible HOA restrictions, HOAs must rely upon municipal regulation to restrict short-term rentals. In that situation, enforcement by the municipality is necessary; however, municipalities may lack manpower to strictly enforce regulations to the satisfaction of affected homeowners.

A clear and enforceable consequence should be set out in the governing ordinance, such as a schedule of fines or other penalty should be set out in the municipal ordinance. It is also important that such ordinances are clear, comprehensible, and communicated to the public to improve the effectiveness of enforcement efforts.

**This blog was written with assistance from law clerk Adrianna Northrop.

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