

# THE GROWTH OF COMMERCIAL SHORT-TERM RENTALS

HOW BOSTON CAN PROTECT  
AFFORDABLE HOUSING  
AND QUALITY OF LIFE

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Community Labor United's mission is to drive forward strategic campaigns with grassroots organizations and labor unions that stabilize and strengthen working class families and communities of color in Greater Boston.

Through a program of coalition building, research and policy development, public education, and grassroots mobilization, we advance policies that promote quality jobs, secure healthcare, affordable housing, and environmental justice for all.

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# INTRODUCTION

Boston's working class is struggling. The cost of housing continues to skyrocket even as the median wage has declined.<sup>1</sup> The latest Greater Boston Housing Report Card found families with children especially are experiencing "an alarming growth of housing insecurity and homelessness."<sup>2</sup> Meanwhile, developers continue to pursue more luxury housing instead of the low- and middle-income housing that Boston residents need.<sup>3</sup>



Now, there is a new threat to Boston's scarce stock of affordable housing. Commercial short-term rentals are spreading across the city, and increasingly encroaching on permanent housing for Boston residents and squeezing an already-tight housing market. On top of that, commercial short-term rentals are undermining the character and safety of neighborhoods and communities for those permanent residents who have been able to stay.

"Commercial short-term rentals" in this report refers to the dedicated use of residential housing units as short-term rental units. Operators of commercial short-term rentals typically control multiple units of residential housing, which they keep off the housing market in order to use them as *de facto* hotels. Commercial short-term rentals are different from conventional *non-residential* establishments meant to host travelers for fewer than 30 nights at a time, such as properly licensed and permitted hotels, motels, hostels, and certain bed and breakfast establishments. They are also different from household short-term rentals, where the unit being rented is primarily used as a full-time residence for a Boston household.

Short-term rentals recently exploded in number across the globe, driven in large part by short-term rental company Airbnb's new technological platform, business model, and branding efforts. Airbnb listings now include 3 million residences in 191 countries.<sup>4</sup> The number of Airbnb listings in Boston has grown rapidly, up 44 percent from last year. More than a quarter of all listings are likely commercial short-term rentals.

It is time to create a strong policy framework for the City to address this growing industry that, unregulated, has emboldened commercial operators to capture housing for non-housing use and profit at the expense of ordinary residents. Given Boston's ongoing crises of affordable housing and stark inequality, the City must establish a comprehensive regulatory framework to prohibit commercial short-term rental operations, and it must pursue aggressive and innovated enforcement measures to protect affordable housing for Bostonians and support the right of residents to respect and safety in their own homes and communities.

This report investigates the prevalence and growth of commercial short-term rentals in Boston using datasets derived from the Airbnb platform. It focuses on how commercial short-term rentals dominate the local short-term rental market, how they affect neighborhood rental housing markets, and how the guests of commercial short-term rentals in particular could affect neighborhood character and resident safety. The report reviews the considerable challenges that many different cities across the country have faced in trying to curb or control commercial short-term rental activity. Finally, the report recommends several critical components for a regulatory framework for Boston.

**Below are four key findings on the threat of commercial short-term rentals:**

- **Finding #1: Commercial operators are dominant in the short-term rental market:** Across all listings on Airbnb in Boston, 45 percent of all revenue is earned by 12 percent of operators. The largest fifty operators earn 25 percent of all revenue. Commercial operators—landlords, property management firms, or investors—have discovered how lucrative short-term rentals are in this city and they can take advantage of our lack of an effective regulatory framework. They significantly outearn the ordinary residents renting out their own homes that the Airbnb platform was first meant to support. Industry analysts and Airbnb's growth strategy indicate that short-term rentals, and especially commercial rentals, are likely to continue growing in number.
- **Finding #2: Commercial short-term rentals exacerbate Boston's housing shortage:** There is a powerful financial incentive to convert and acquire whole housing units in Boston for use as short-term rental units rather than as permanent housing for Boston residents. Research across several cities, including Boston, suggests commercial short-term rental activity is substantial enough to affect tight, local housing markets. Airbnb's growth strategy of expanding its share of the corporate travel and luxury rental markets makes it likely that the financial incentives to commercialize whole housing units will remain strong.
- **Finding #3: Commercial short-term rentals may draw more disruptive guests:** Airbnb's short-term rental model can bring frequent visitors into residential areas where the coming and going of even the most well-behaved guests can disturb the neighborly quality of communities. The occasional ill-behaved guests can be a real menace, threatening resident safety and polluting and disrupting neighborhoods with trash, property damage, excessive noise, and parking violations. Commercial operators in particular may be more responsible for inviting disruptive guests into residential neighborhoods.
- **Finding #4: Cities are struggling to control commercial short-term rental activity:** Airbnb's new business model has catalyzed an explosion of short-term rental activity well beyond what traditional means of regulation and enforcement can address. Months and even years after various legalizing regulations were passed, compliance rates have remained low with only around 20 to 25 percent of operators registering with their respective city. Cities are heavily dependent on the goodwill-based participation of private platforms to protect the public interest—a situation that gives Airbnb undue influence over the regulations addressing its own business model, and that is ultimately unreliable in the longer term.

**Below are four recommendations for regulating short-term rentals in order to control commercial operations, preserve housing for Boston residents, and protect neighborhood character and safety.**

- **Recommendation #1: Restrict short-term rental operation to primary residents:** Boston should prioritize the protection of resident housing against being converted into short-term rental units. A primary residence requirement for all short-term rentals is the strongest tool to ensure that short-term rentals are not displacing permanent housing for city residents. Although specific exceptions to the primary residence requirement might not negatively impact housing availability, an essential precondition to issue such exceptions is access to more regular and reliable data on short-term rental activity in the city.
- **Recommendation #2: Create clear systems of accountability for guest behavior:** Short-term rental operators should be required to notify neighbors of the rental and provide contact information to

establish community accountability and provide neighbors with a means for immediate recourse in case of disruptions. Additionally, Boston should maintain records of complaints in order to respond quickly and appropriately to units generating repeated, substantiated complaints. Boston should retain the right to revoke permission for operators to provide short-term rentals based on the number and severity of complaints against their guests.



→ **Recommendation #3: Dedicate attention and resources to strong enforcement measures:**

Although it may require a clarification of federal law to hold Airbnb more fully accountable for the impact of its business model, Boston must do all it can until that happens to confront the ongoing and growing use of residential housing by commercial short-term rental operators. Because regulatory and enforcement approaches adopted across the country are still untested, Boston must adopt a stance of committed and aggressive innovation to curb illegal activity and hold platforms accountable. This threat to Boston residents will not be resolved through a one-time effort to craft the right regulation.

→ **Recommendation #4: Allocate short-term rental revenue to affordable housing:** There are several active statewide proposals to enable both the statewide and local collection of taxes on short-term rentals. Because of Boston's tight housing market, and the continuing uncertainty around the capacity of existing measures to protect housing from conversion into short-term rentals, the City should allocate short-term rental tax revenue to support the expansion of affordable housing. Boston should also consider establishing a special impact fee on short-term rental transactions as an additional source of funding for affordable housing.

# THE PROBLEM

Until recently, the options for travelers seeking accommodations for fewer than 30 nights at a time were mostly limited to properly licensed and permitted hotels, motels, hostels, and certain bed and breakfast establishments. These are dedicated, non-residential establishments for transient occupancy. They are forbidden in most of Boston's residential neighborhoods by the Boston Zoning Code, or permitted only on a case-by-case basis.

In contrast, a **short-term rental** involves the use of a residential housing unit to host travelers on a short-term basis (fewer than 30 nights). In this report, the term **household short-term rental** refers to an arrangement where the listing is a housing unit actively used as a primary residence. Since the unit is already home to a city resident, listing it on a short-term rental platform does not impact the local housing market.

A **commercial short-term rental**, on the other hand, is not used primarily as a residence. Commercial operators often control multiple listings, keeping full homes off the housing market to take advantage of their greater profit potential as short-term rentals. Commercial short-term rentals constrict already-tight local rental housing markets and can undermine neighborhood character and resident safety. They account for a disproportionate amount of activity on the Airbnb platform, and continue to grow in number.

The figures in this report are based on datasets derived from the Airbnb platform. **Commercial operators** are identified as operators that list multiple **whole units**, where guests can stay without a host or another guest party present. Some commercial operators use their units as hostels, dividing them into separate **private room** listings, where guests share common spaces with other guests. **Household operators**, on the other hand, are identified on the Airbnb platform as never operating more than one active listing at a time, so it is more likely the operator is only renting space in their own primary residence. It is impossible to tell from the datasets used here whether household operators are **present** or **absent** during the short-term rental bookings. Notably, **shared room** listings—representing the “airbed and breakfast” origin story of Airbnb—consistently account for less than 2 percent of listings over time. For that reason they are not included in the analysis here.

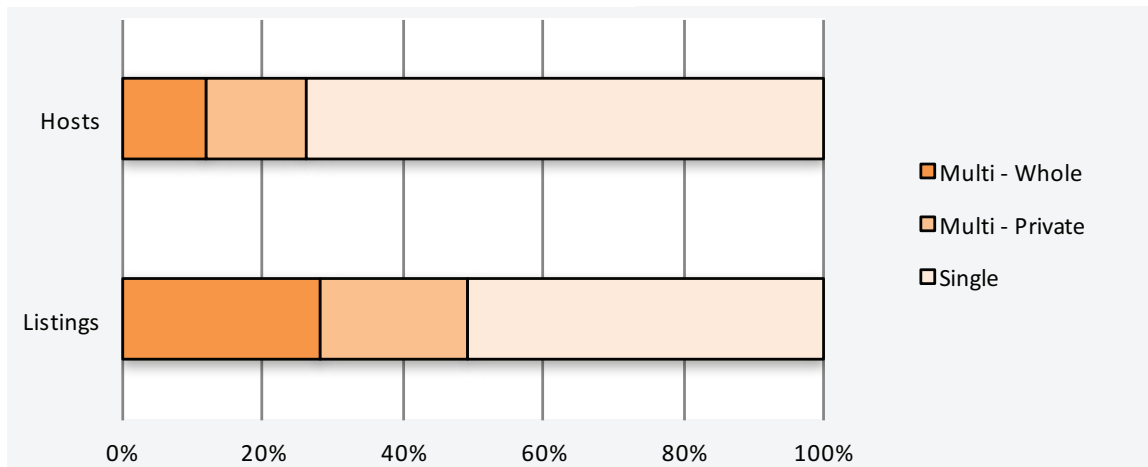
Note that, with limited data, it is almost impossible to distinguish hostel-style commercial operators from household operators who happen to have several available rooms in their own homes. And it is impossible to determine whether operators with only one listing are actually listing their own primary residence, or a secondary residence they own. For this report, operators with multiple listings that consist entirely of private rooms are presented as a separate category, and all operators with only one listing are treated as household operators. This means the figures here representing the prevalence of commercial short-term rentals are conservative. See the methodology section at the end for more information.

## Commercial operators have taken over the short-term rental market

Vacation rentals, bed and breakfast establishments, lodging houses — all specific kinds of commercial activity that overlap to varying degrees with short-term rentals — are thriving on and in fact dominate platforms meant to enable regular private residents to transact with one another.

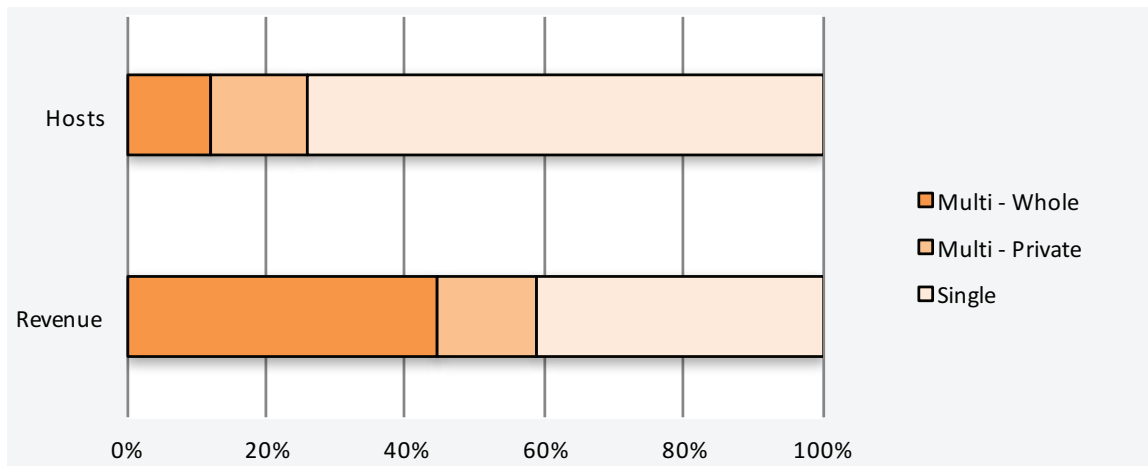
There are over 4,500 listings on Airbnb in Boston, as of June 2017 . The chart below shows that in Boston, operators with multiple listings account for almost half of all the listings active in a one-year period. Operators with multiple whole units (commercial operators) make up only 12 percent of all operators but control more than 28 percent of listings.

**Hosts with Multiple Listings, Annual Share of Listings (Dec 2015 – Nov 2016)**



In Boston’s currently unregulated environment, the commercial operators on the Airbnb platform are earning the greatest share of revenue. The chart below shows that commercial operators make up only 12 percent of all operators, but earn 45 percent of all the revenue.

**Commercial Operators, Annual Share of Revenue (Dec 2015 – Nov 2016)**



A review of the largest fifty operators in Boston exposes the type of activity fueling this substantial portion of operations on the Airbnb platform. The table below shows the number of listings each of these operator controls. This is in most cases a low estimate, as listings that are unavailable to be booked do not show up in the dataset used. The table also indicates whether the operator is a known business, a possible business, or a possible primary residence. These categories were assigned based on a direct examination of the listings and rental activity associated with each operator on the Airbnb platform, with additional corroboration from other publicly available websites where relevant.

These largest 50 operators control more than 1,000 listings and earn more than 25 percent of all the revenue generated in Boston. Out of the largest 50 operators, 22 are named business entities—some even present themselves as businesses transparently on their profile pages. Another 22 are possible official business fronts even though their profiles and photos do not provide enough information to determine if so. In fact, many make no mention of their multiple listings, and instead promote the fiction that they are sharing their own homes. While several of these entities represent legitimate licensed businesses that use Airbnb's platform for increased visibility, just as many are potential unlicensed and/or illegal outfits. Notably, only six of the top fifty operators are potential household operators.

#### Top Fifty Operators, by Number of Listings (February 2017)

Operator Listings	Business	Possible Business	Possible Primary Residence
134	Global Luxury Suites		
97	Sonder		
81	Seamless		
65		Whole units.	
54	Maverick Empire		
39	Prudential Lyons Group		
39		Whole units, private rooms.	
28		Mostly whole units.	
28	Bluebird		
25		Whole units.	
24	Stay Alfred		
23		Residential hostels.	
22	BnB Associates Bay Colony		
20		Residential hostels.	
19		Residential hostels.	
19	Meridian Realty Group		
19	Beantown Suites		
19		Residential hostels.	
16	Bed and Breakfast Agency		
14	Compass		
14	Signature Properties Elite		

**Top Fifty Operators, by Number of Listings (February 2017) cont'd**

Operator Listings	Business	Possible Business	Possible Primary Residence
13		Residential hostels.	
12			Residential hostel.
11	Boston Reservations		
10	Swank Properties		
10		Whole units, residential hostel.	
10	Boston Vacation Homes		
10		Whole units.	
10		Residential hostels.	
9	Sassmorr Realty Group		
9		Whole units.	
9		Whole units, residential hostels.	
8	Charlesgate Realty Group		
8	Voyage Management LLC		
8		Whole units.	
8			Residential hostel.
8	Furnished Quarters		
8		Whole units.	
8	Boston Rentals		
8			Residential hostel.
8	Lyons Organization		
8			Residential hostel.
8		Whole units.	
7		Whole units.	
7		Whole units.	
7			Residential hostel.
7			Residential hostel.
7		Residential hostels.	
7		Residential hostels.	
6		Whole unit, residential hostel.	
<b>TOTAL:</b>	22	22	6

## Commercial short-term rentals exacerbate Boston's housing shortage

There is a shortage of affordable housing in Boston. The city is one of the most expensive places to live in the country, and rental costs keep increasing. The average market rent in the core Boston metro area was \$2,975 in 2016, up 46 percent from 2010.<sup>5</sup> Meanwhile, median wages have been declining.<sup>6</sup> The Mayor's Boston 2030 report found there are 28,400 low-income households (earning less than \$50,000/year) with burdensome housing costs. This includes 23,800 households paying more than 50 percent of their income on housing and 4,600 families with children paying more than 35 percent on housing.<sup>7</sup>

Boston's shortage of affordable housing has been unmitigated by the recent surge in development of luxury housing. There is a growing housing gap that the working class falls into when they do not qualify for affordable housing but still cannot afford the skyrocketing costs of market-rate housing.<sup>8</sup> While Mayor Walsh's citywide targets for new housing for households at 30 to 60 percent of area median income are being met, the city is still behind its construction benchmarks for households at 60 to 120 percent of area median income.<sup>9</sup> Housing experts do not predict that relief will come soon, but instead that rent in the core Boston metro area will continue to increase and "working families in Greater Boston will continue to face a tough housing market with high housing-cost burdens."<sup>10</sup>

Several independently conducted analyses in the last two years have found that growing short-term rental activity, especially commercial short-term rental activity, can make housing shortages worse. They include:

- A study in New York City that found commercial listings were prevalent enough to exacerbate the city's low vacancy rates;<sup>11</sup>
- A report in Los Angeles that found short-term rentals had a likely impact on rental costs, with the most popular Airbnb neighborhoods seeing rental increases more than double that of the city average;<sup>12</sup>
- A paper on San Francisco that found a correlation between areas with more evictions and areas with more commercial short-term rentals;<sup>13</sup> and
- An analysis of Airbnb listings in Boston that found a higher density of listings is correlated with higher rents and fewer rental units available.<sup>14</sup>

Airbnb and its advocates invoke Boston's tight housing market to justify fewer regulations on short-term rentals, arguing that household operators rely on the platform to generate supplemental income to remain in their homes. While that may be true for a minority of homeowners renting out a room in their homes, a closer look reveals that the primary beneficiaries of the unregulated environment for short-term rentals are the commercial operators. It is these commercial operators that would have the most to gain by far from a weak regulatory framework.

Several landlords and real estate management firms in Boston recently reported having "bought and remodeled second, third, or fourth properties apparently just to list on the short-term rental site."<sup>15</sup> One landlord "said that he and his business partner recently converted 13 of the 100 apartments they own across Boston, Everett, and Chelsea from standard yearlong rentals into short-term rentals... [because] It's more profitable for us... and we don't have to deal with the hassle of a regular tenant."<sup>16</sup>

Boston City Councilor Sal LaMattina reported residents in his own district who hold Section 8 vouchers that are having trouble finding housing because of landlords converting rentals into commercial Airbnb properties.<sup>17</sup> Several Boston residents agreed to share their own stories for this report:

Tom Hilsee lives in Chinatown in a building with seven two- to three-bedroom units. At least two of these units appear to have been converted into dedicated Airbnb rentals as they are occupied by Airbnb guests “at least 70 percent of the year.” Hilsee reports, “In the summer it is a madhouse, visitors every day, sometimes a different check-in and check-out each day.” Although there are times during the year that are quieter, he says it is a “common experience and expectation to encounter Airbnb people.” Hilsee’s landlord does not live in the building and operates several other Airbnb listings throughout the city.<sup>18</sup>

Mei Qun Huang, also of Chinatown, reported being pushed out from her two-bedroom apartment where she lived with her family for over 20 years. A new owner acquired the four-unit residence and immediately increased her rent 56 percent to \$1,450/month. Another tenant in the building was already pushed out by a similar, major rent increase, and Huang reported seeing several different short-term visitors using the unit after the original tenant left. Huang fears her family is also being pushed out for the new landlord to use the apartment as a short-term rental.<sup>19</sup>

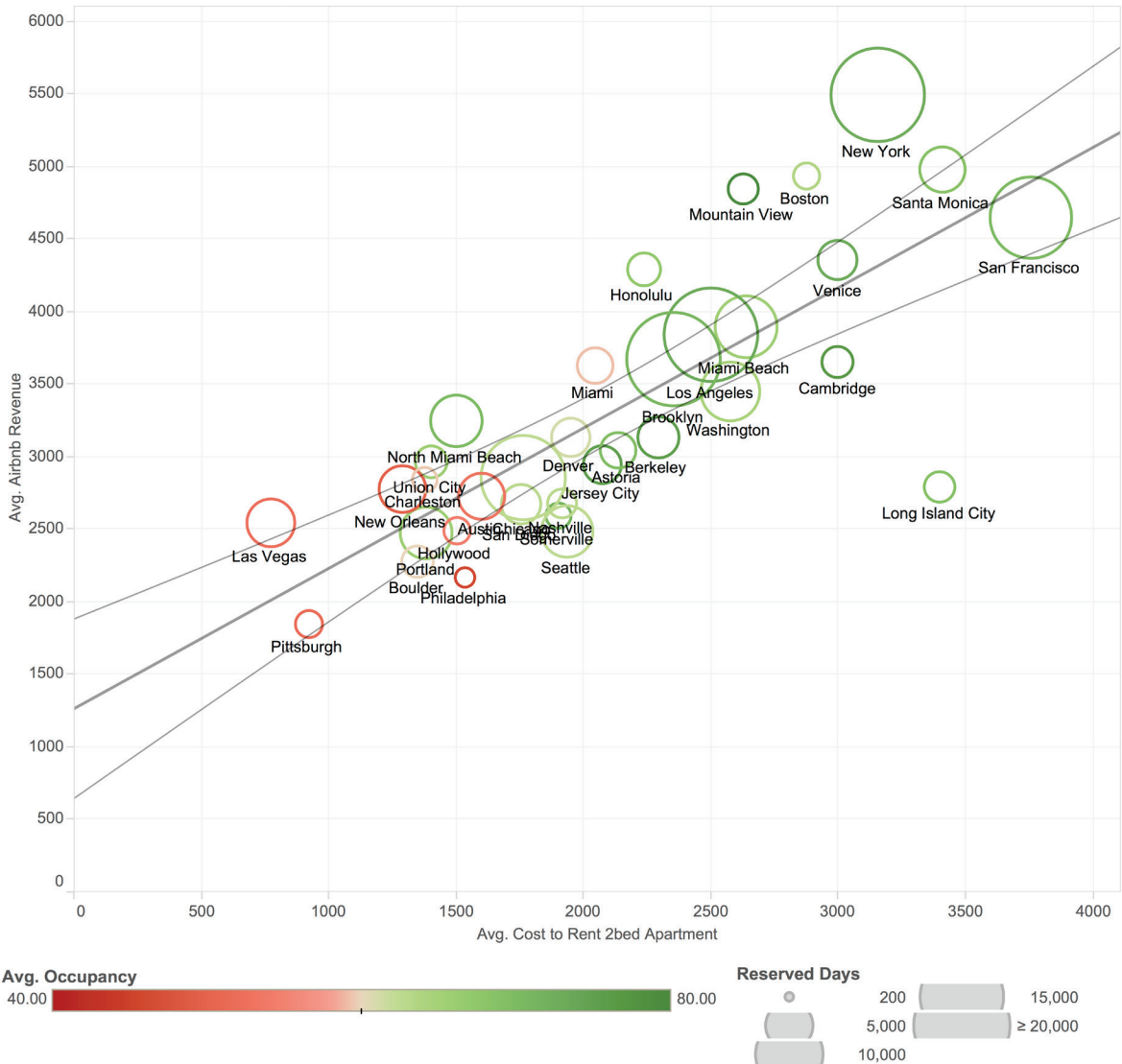
The financial incentive for property owners to use properties as short-term rentals rather than for long-term housing seems to be particularly strong in Boston. Boston is a popular destination for both tourist and business travel. The local hotel industry enjoys a high occupancy rate (between 70 to 80 percent for the past several years<sup>20</sup>) so short-term rental operators can set prices relatively high while remaining competitive relative to conventional hotels.

Moreover, an analysis of the difference between housing costs and short-term rental rates city by city found Airbnb revenue in Boston can easily reach twice what long-term rentals charge. In the chart below, Boston is located in the upper right-hand quadrant, one of the top cities in terms of Airbnb profitability relative to rental costs for a two-bedroom apartment.



**Airbnb Conversion Profitability, by City**

**2 Bed Apartment - Monthly Airbnb Revenue vs Rental Cost**



Source: Scott Shatford, Airdna, 2015. [<http://blog.airdna.co/most-profitable-airbnb-cities-in-america/>]

This analysis was published by Airdna, a site that “provides data and analytics to vacation rental entrepreneurs and investors.”<sup>21</sup> It is one of many complementary services that have emerged to take advantage of the surge of short-term rental activity through Airbnb’s platform. Short-term rental management companies offer a combination of real estate and rental administration services—from handling communications with guests, to leasing a whole property and paying a fixed monthly amount for the right to rent it out short term. There are several in Boston, including South End Hospitality, Guesty, MyUrbanBnB, Urban Vacation Homes, HostKick, Stay Alfred, and Sonder. The value-add of this support industry can encourage property owners to convert housing for short-term rental use who might not have otherwise done so, and encourage the acquisition of properties specifically for short-term rental use. Airdna reported in August 2015 “a HUGE volume of enquiries from folks looking for the best place to invest in Airbnb rental properties,”<sup>22</sup> and this past March published an article on “3 Steps in Investing in Out of State Airbnb Rental Property.”<sup>23</sup>

The overall prevalence of commercial operators on the Airbnb platforms is consistent with the concern that Airbnb’s model is making some housing units in desirable areas more profitable to their owners as full-time short-term rental properties than as permanent housing for local residents. But the ultimate impact of commercial short-term rental activity on housing should be considered on the neighborhood level. Housing pressure in one area of the city may not be so easily alleviated by less pressure in another area. Housing stock and costs of living vary significantly from one neighborhood to the next. And for many permanent city residents, their home neighborhood is intrinsically related to their personal identity and concretely tied to the kinship networks they rely on for mutual aid and support.

The table below ranks Boston’s neighborhoods by the prevalence of commercial short-term rental listings relative to the overall stock of vacant rental housing, a ratio that gives a sense of how commercial short-term rentals may be squeezing the rental housing market. The focus is on rental housing because 64 percent of households in Boston are renters and homeownership rates are falling.<sup>24</sup> The table also includes the rental vacancy rate of each neighborhood,<sup>25</sup> which is a critical indicator of the condition of the rental housing market. It indicates space for normal turnover in the rental housing market. If a neighborhood’s rental vacancy rate is low, then further constricting that space by using housing units for non-housing purposes could aggravate the problems associated with a tight housing market, such as housing insecurity, homelessness, and gentrification.

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**Multi-Listing Units vs. Vacant Rental Units, by Neighborhood**

<b>Neighborhood</b>	<b>Commercial Listings (Dec 2015 – Nov 2016)</b>	<b>Vacant For Rent</b>	<b>Commercial Listings / Vacant for Rent</b>	<b>Rental Vacancy Rate</b>
Beacon Hill	118	17	694.1%	0.4%
North End	79	47	168.1%	1.2%
Back Bay	253	177	142.9%	2.5%
Chinatown	92	72	127.8%	3.1%
Seaport	84	78	107.7%	9.2%
South End	191	187	102.1%	1.9%
Leather District	7	7	100.0%	4.9%
Fenway	206	221	93.2%	2.1%
South Boston	80	92	87.0%	0.9%
Downtown	211	257	82.1%	8.0%
Jamaica Plain	71	94	75.5%	1.1%
<b>Boston</b>	<b>1850</b>	<b>5,844</b>	<b>31.7%</b>	<b>3.3%</b>
West End	51	178	28.7%	6.6%
East Boston	60	241	24.9%	2.1%
Mission Hill	52	240	21.7%	4.2%
Charlestown	29	137	21.2%	2.7%
Longwood	1	5	20.0%	2.0%
Allston	78	420	18.6%	6.6%
West Roxbury	9	79	11.4%	1.6%
Roxbury	58	674	8.6%	4.1%
Roslindale	13	172	7.6%	3.3%
Dorchester	57	832	6.9%	2.8%
Brighton	44	1,181	3.7%	6.7%
Hyde Park	5	185	2.7%	3.6%
Mattapan	1	251	0.4%	4.3%

In eleven neighborhoods, the number of commercial listings is equivalent to more than half of the vacant rental stock—and in seven of those neighborhoods it exceeds 100 percent of the vacant rental stock. Most of those neighborhoods have rental vacancies below the city average of 3.3 percent. The neighborhoods that have a high prevalence of commercial listings relative to the overall stock of vacant rental housing AND have a low vacancy rate include: Beacon Hill, North End, Back Bay, Chinatown, South End, Fenway, South Boston, and Jamaica Plain. In these neighborhoods, the housing crisis is most likely worsened by commercial short-term rentals.

This table considers only whole-unit commercial listings, and not private room listings held by operators with multiple listings, some of which are hostel-style commercial operators. Thus, with respect to the negative impact of short-term rental activity on housing, the table's figures represent a conservative measure. Boston is home to 36,000 students living off-campus because local universities have not constructed enough campus housing to accommodate them.<sup>26</sup> A third of Boston's population falls in the 20- to 34-year-old age bracket, young professionals who are less likely to be able to afford their own homes. Aside from Boston residents who may choose to use their extra rooms for short-term rentals instead of for local students, landlords controlling significant housing portfolios who once converted their properties into more lucrative housing for students and young professionals might again chase even higher profits through the room-by-room, hostel-style short-term rental model. In this way, all private room listings could potentially reflect further tightening of Boston's housing market.

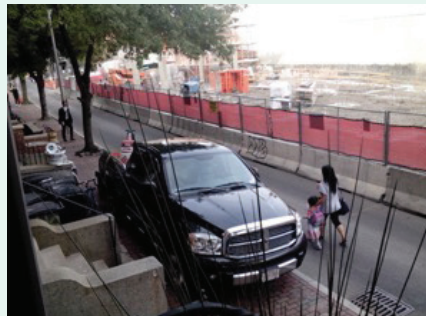
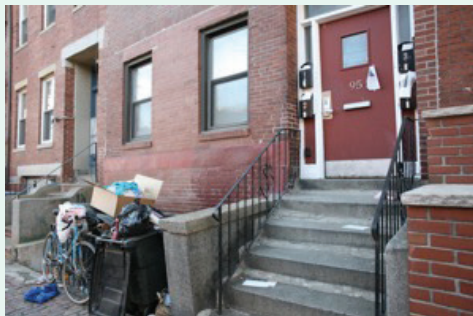
## Commercial short-term rentals may draw more disruptive guests

The rapid and continuing growth of short-term rental activity in residential areas in Boston violates the intent of zoning policy, which is meant to protect neighborhood- and city-level public interests. These public interests are summarized by urban planning scholars as “to spatially cluster tourist facilities and services; the management of traffic, parking, and waste; building and urban design requirements to attenuate noise and privacy impacts; appropriate fire, safety, emergency, and disability access requirements; and likely levels of occupancy and potential overcrowding.”<sup>27</sup> In Boston, zoning ordinances forbid or only conditionally allow transient occupancy in many residential areas. Unlike conventional hotels and other transient accommodations in commercial or mixed-zone areas, short-term rentals located in residential areas can more directly affect the safety and quality of life in neighborhoods and communities.

Residents often notice when a short-term rental is active in their neighborhood not simply because of the continuous rotation of new faces, but even more because of new and unpredictable disruptions to the character of their streets and even the livability of their own homes. Residents in city after city, from London<sup>28</sup> to Los Angeles,<sup>29</sup> have shared myriad stories of misbehaving guests. Although not representative of the majority of short-term rental guests, these horror stories are so consistent from place to place that they have become a distinct blog and media genre.<sup>30</sup> They have led Airbnb to create a complaint system for neighborhoods, called Airbnb Neighbors, and they are a common reason for municipalities to move to regulate short-term rental activities.

Indeed, neighborhood disruptions are a key driver of Boston City Councilor Sal LaMattina’s determination to establish a strong regulatory framework for short-term rentals. LaMattina, who represents East Boston, has heard concerns from many residents in his district about trash violations, noise disturbances, and effective “impromptu hostel districts.”<sup>31</sup> An East Boston resident and member of the Jeffries Point Neighborhood Association was quoted in the Eastie Times saying, “It’s getting out of control... some of the people renting the Airbnb are not the people you want to live next to.” He mentioned being disturbed by loud parties, trash around his building, and a constant stream of strangers week after week.<sup>32</sup>

In Chinatown, residents like Arturo Gossage say the increase of Airbnb units in their neighborhood has been accompanied by unwelcome disruptions such as heaping trash on the sidewalks, or visitors in flagrant violation of parking regulation (pictured below).<sup>33</sup>



Tom Hilsee of Chinatown shared stories about short-term rental guests in his apartment building, saying they “[treat] the building as if it is a hotel—in some instances even throwing loud and obnoxious parties all night.” The partying guests did not behave as if they had any respect for or responsibility toward the residents in the building; as Hilsee reported, they “spit at my roommate when asked to be quiet, and someone urinated off the fire escape in front of my bedroom window.” When Hilsee confronted the landlord, “the landlord refused my (and others’ in the building) request to prohibit Airbnb in the building.”<sup>34</sup>

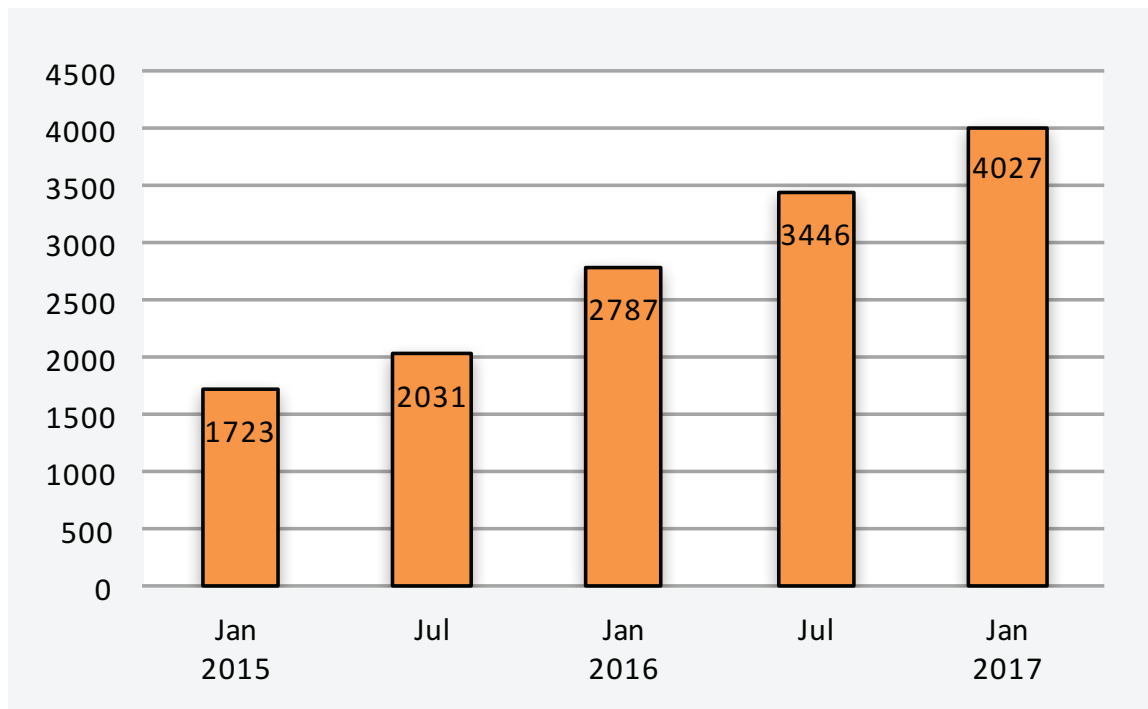
While there is currently no way to determine whether disruptive guests are being hosted by primary residents or commercial operators, there is reason to suspect that commercial operators are more likely to bring disruptive guests into residential neighborhoods. Commercial operators may be less concerned about the behavior of their guests if they live elsewhere and do not feel they have a personal stake in the community or a responsibility to their neighbors. They may not be able to monitor or intervene in their guests’ behavior in the same way household operators (who occupy the home alongside their guests) are naturally able to. And they may be more interested in maximizing the number of bookings for their short-term rental portfolios and less interested in being selective of guests than household operators are, especially if managing generically furnished units rather than homes that they themselves live in.

## The growth of commercial short-term rentals is likely to continue

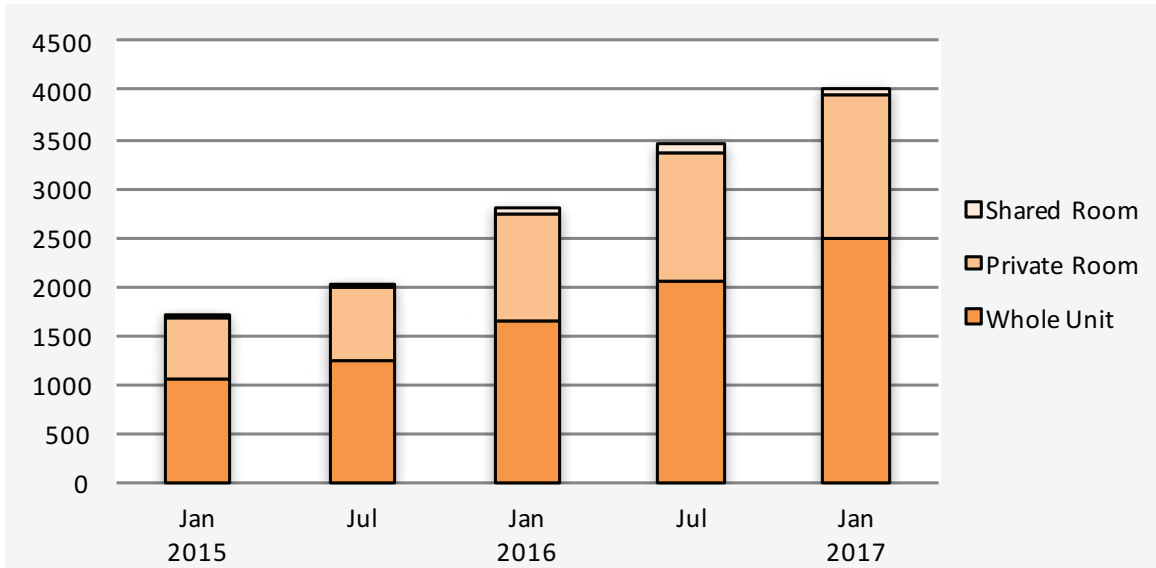
Airbnb has reached a \$31 billion valuation in less than a decade.<sup>35</sup> Industry analysts expect this growth spurt to continue. One report projected the growth of Airbnb's supply of rooms will significantly outpace that of the hotel industry for several more years to come.<sup>36</sup> Airbnb reported a record 31 percent increase in rooms booked per night ("room-night") at the end of 2016 and project up to 25 percent room-night growth in the beginning of 2017.<sup>37</sup> Projections for the full short-term rental industry almost all predict "immense growth" in the coming years relative to the hotel industry.<sup>38</sup>

Consistent with this outlook, the overall number of listings and hosts on the Airbnb platform in Boston has been increasingly rapidly over the past few years, slowing somewhat but showing no sign of ceasing. In Boston, the number of active listings grew by 44 percent in the last year, and by 62 percent in the year before that. Whole unit listings have remained a consistent majority, generally around 60 percent of all listings. And the number of operators with multiple listings—potential commercial operators—has also grown over that same period, maintaining a steady proportion relative to the overall number of operators. While the overall growth of the short-term rental sector is itself enough to maintain the incentive to convert housing into short-term rentals, Airbnb's specific growth strategies threaten to increase that incentive significantly.

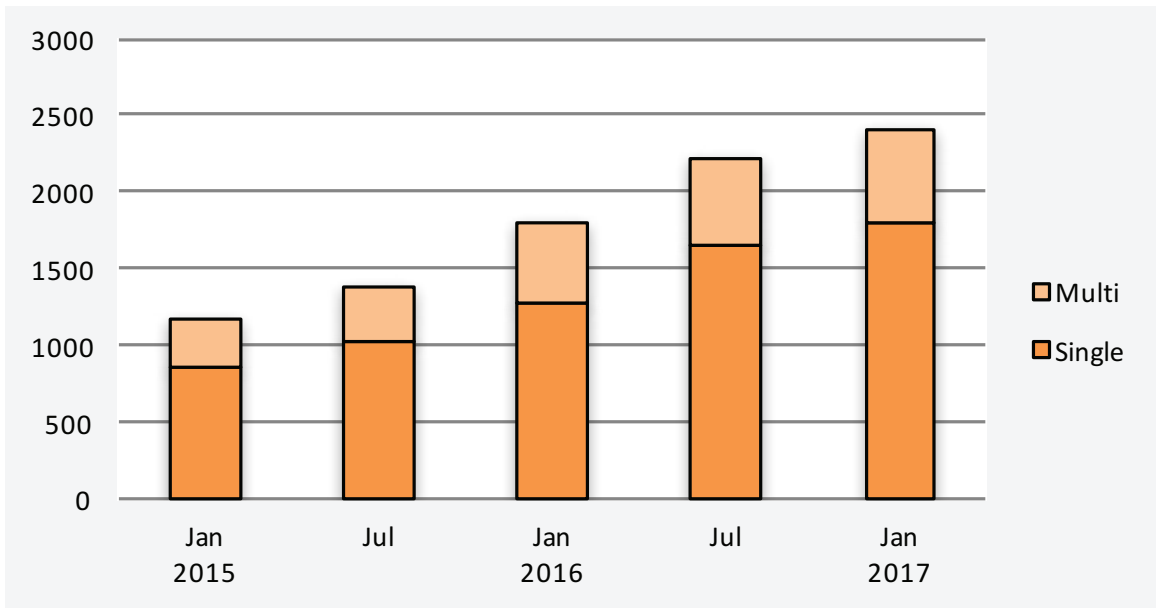
### Active Listings, Growth over Two Years



Active Listings, Growth over Two Years, by Unit Type



Active Operators, Growth over Two Years, by Operator Type



Currently, ten percent of Airbnb stays are booked by business travelers, an increase by triple from last year that Airbnb believes it can increase even further.<sup>39</sup> The platform already provides the ability to filter searches for listings with characteristics considered appropriate for business travel, including listings for whole units that have hotel-like amenities, and operators with a 90% response rate in 24 hours.<sup>40</sup> Meanwhile, Airbnb recently moved (officially) into the luxury rental market with its purchase of Luxury Retreats, a high-end rental company.

These advances into the corporate travel and luxury rental markets do not merely move Airbnb even further beyond the shared room model that marked the company's beginning and the private room model that it still promotes publicly. They also increase the likelihood that the incentive to convert whole units of permanent Boston resident housing into commercial short-term rentals, and perhaps even the incentive to develop luxury housing instead of low- or middle-income housing for use as commercial short-term rentals, will remain strong.

## Cities are struggling to monitor short-term rental activity and enforce policy

The recent surge of short-term rental activity, facilitated especially through Airbnb, has been difficult to ignore. Hundreds of municipalities across the United States have taken official positions on the recent increase in residentially situated short-term rentals. Although some municipalities have opted to enforce existing restrictions on short-term rental activity in residential areas, many have responded by developing new regulatory frameworks to legalize at least some forms of short-term rentals.

While much attention falls on the difficult balance between supporting permanent residents who wish to provide household short-term rentals, and protecting the public interest against the loss of affordable housing and other negative externalities, a more fundamental challenge has begun to emerge: effective enforcement.

Airbnb's new business model seems to have catalyzed an explosion of short-term rental activity well beyond what traditional means of regulation and enforcement can address. Transactions are conducted entirely online, and services transpire in the private domain of residential homes, all at the massive and continually expanding scale enabled by Airbnb's platform. Various cities have found it effectively impossible to identify and monitor short-term rental activity, and have been frustrated to find compliance remaining low several months or even years after new legalizing regulations were established. Two years after Portland passed its legalizing framework, less than a fourth of operators had registered.<sup>41</sup> In San Francisco, roughly one year after short-term rentals were legalized, only about one in five operators had registered.<sup>42</sup> Compliance in Denver reached only 20 percent after six months,<sup>43</sup> and Madison has reached only 15 to 20 percent compliance.<sup>44</sup>

Moreover, while Airbnb was happy to help co-develop the regulations that legalized its business model, the corporation has proven far more reluctant to provide any meaningful assistance to enforce them. This is not surprising—after all, Airbnb benefits financially from *all* transactions and so has no incentive to prevent illegal transactions. In many municipalities where officials have sought some level of access to their database for purposes of enforcing registration and other requirements, Airbnb's initial response was to push back vigorously and refuse to share data to help cities identify operators breaking the law.<sup>45</sup> It has only been in the last half year that Airbnb has begun to offer some access, to only some data, in only some cities.<sup>46</sup>

Several cities including San Francisco and New York City have resorted to targeting regulations and penalties at Airbnb itself, as the centralized platform for the majority of short-term rentals, for its role in enabling illegal commercial short-term rentals. Federal law concerning the liability of online platforms for third-party content, established over twenty years ago, has been frequently invoked to shield Airbnb from meaningful accountability for its business model.<sup>47</sup> Although the technological landscape has changed somewhat over the last two decades, and judges have recently demonstrated an inclination towards greater accountability in various cases concerning other large online platforms (such as Yelp, Twitter, and Match.com<sup>48</sup>), the specific question of Airbnb's accountability remains unresolved. One of the most high profile cases litigating that matter, Airbnb's lawsuit against San Francisco for assessing platform fines, ended in a settlement rather than a ruling.

Until federal law can be clarified, cities will remain heavily dependent on the goodwill-based participation of private platforms to protect the public interest. Without the cooperation of Airbnb, cities cannot monitor short-term rental activity thoroughly, efficiently, or cost-effectively enough to counteract the overwhelming financial incentive to convert housing into commercial operations. Furthermore, Airbnb is in a unique position, as the centralized curator of operators and travelers and facilitator of every transaction, to build administrative and enforcement mechanisms directly into its platform. This includes many tempting possibilities for cities, such as coordinated registration processes; automatic tax collection and remittance; restrictions on the number of units a host may list; restrictions on the number of nights a listing may be booked; and a rich and relevant set of data to help cities fully understand the prevalence and behavior of short-term rental operations.

This forced reliance on private platforms for effective administration and enforcement gives rise to two serious policy concerns. First, it gives platforms undue leverage in influencing the regulations that address their own business model. Airbnb has been able to secure a formal seat at many short-term rental policymaking tables because of how challenging administration and enforcement is without Airbnb's cooperation. Airbnb spokesperson Chris Lehane was said to have noted explicitly that partnerships are necessary specifically because cities cannot regulate or enforce without access to platform data.<sup>49</sup>

Second, the voluntary nature of platform agreements makes them inherently unreliable. Airbnb has worked hard to maintain a "compliance image" and indeed, as noted above, in several cities it has agreed to provide information and services that are not legally required. But the concessions Airbnb has made in recent months, including its settlement with San Francisco,<sup>50</sup> are seen by some as motivated particularly by the company's immanent Initial Public Offering.<sup>51</sup> Airbnb is a for-profit corporation. Its behavior over the last few years includes many episodes demonstrating the limits of their willingness to cooperate with public efforts that would threaten their profitability. After Airbnb is taken public, with an infusion of cash and a legal obligation to maximize shareholder return, there is little certainty as to what kind of "partner" cities will be facing.

## THE SOLUTION

Commercial short-term rentals have flourished in the current unregulated environment. If the City fails to prohibit commercial operations and establish meaningful measures of enforcement, the incentive to acquire and convert long-term housing into commercial short-term rental units will be effectively solidified into law.

In the longer term, the ability of cities to protect affordable housing, safety, and quality of life will depend on winning greater power to hold platforms like Airbnb more fully accountable for facilitating the illegal activity that threatens those things. Until that happens, Boston must do all it can to crack down on the illegal use of residential housing by commercial short-term rental operators, with or without the assistance of the platforms enabling them.

Critically, because the various regulatory and enforcement approaches adopted across the country are still relatively new and untested, Boston must be prepared to adopt a stance of committed and aggressive innovation to curb illegal activity and hold platforms accountable. This threat to Boston residents will not be resolved through a one-time effort to craft the right regulation.

The recommendations below pertain specifically to resident housing and neighborhood safety. They should be treated not just as components of, but rather as explicit priorities of a comprehensive regulatory framework for short-term rentals in Boston.

### Limit the legalization of short-term rentals to primary residents

A primary residence requirement for all short-term rentals is the strongest tool to ensure that short-term rentals are not displacing city residents from permanent housing. Boston must create a clear regulatory framework to legalize short-term rentals only as an accessory use to a primary residence, and re-affirm that all other short-term rental activity in residential neighborhoods is still subject to the same restrictions as they always have been per Boston's Zoning Code.

The primary residence requirement is a more effective means of protecting housing than a rule that would limit operators to listing only one unit, as Airbnb's One Host, One Home policy does. Airbnb's policy, implemented in only three cities in the country, prohibits operators from having more than one listing address (though exceptions might be granted for monthly rentals, licensed hotels or bed and breakfasts, or management services). It theoretically allows for operators to use a second property as a short-term rental, rather than their own primary residence.

There are several tools cities have used to restrict short-term rentals to primary residences. Portland and New Orleans both use the concept of "accessory use" to indicate the primary use of the dwelling unit is for permanent resident living. Portland requires the resident to occupy the home for 270 days out of the year. In New Orleans the mechanism used is the homestead exemption, a tax exemption that requires primary residency. San Francisco's ordinance not only requires residents to occupy their homes for 275 days per year,

but also requires would-be operators to establish 60 days of residence before using their residence for short-term rentals.

Additional mechanisms that cities have adopted or proposed include accessory dwelling restrictions, which prohibit or limit the use of accessory dwellings like in-law suites or converted garages for short-term rentals, and conversion restrictions, like Los Angeles' planning department's proposal to prohibit the conversion of housing units into short-term rental units through an otherwise legal conditional permitting process. These additional mechanisms are meant to bolster a primary residence requirement by eliminating any technical loopholes.

It may be that specific exceptions to the primary resident requirement could be allowed in Boston without threatening the city's scarce stock of affordable housing. However, given the stakes, the City should take a conservative stance in evaluating the potential impact of such exceptions on the housing market, and maintain the primary resident requirement until it can remedy the lack of access to reliable and comprehensive data on the characteristics and behaviors of short-term rental operators and their listings in the city.

## Create clear accountability systems for disruptive guest behavior

Regular occurrences of disruptive guest behavior may indicate an illegal commercial operation, or simply a primary resident not doing enough to monitor and control guest behavior. Either way, accountability can be established at two points:

First, Boston short-term rental operators should be required to notify nearby neighbors when they establish a short-term rental, to provide their own contact information in case of problems with guests, and to provide contact information for a city-based complaint system if contacting the operator does not lead to resolution. Boston should consider requiring operators to formally designate in-town contacts (or even on-site management) so that neighbors or others can reach someone local and address disruptions immediately instead of being forced to file a complaint after the fact.

Second, Boston should maintain its city-based complaint system with records of complaints, tracked by both unit and operator, so the City can access the full information necessary to respond to units generating repeated, substantiated complaints. The City should retain the right to revoke permission to operators based on the number and severity of complaints against their guests. A city-based system is necessary because the Airbnb Neighbors complaint system itself does not provide sufficient recourse to neighboring residents who feel unsafe or uncomfortable because of disruptive guests. Airbnb does not guarantee that the complaint will be forwarded to the host, nor that the neighbor issuing the complaint will receive a response.<sup>52</sup>

## Commit attention and resources to strengthening enforcement efforts

Boston must draw upon all the means at its disposal to enforce the definitions, restrictions, and systems of accountability recommended above. Because enforcement is so difficult and different approaches are still emerging and being tested, the City should make use of pilots or experiments to evaluate different methods of encouraging compliance and penalizing egregious noncompliance. It will take dedicated resources and determined innovation to find the combination of monitoring and enforcement tools that can best protect the interests of ordinary Boston residents. In this endeavor, Boston can learn from the experiences of other cities across the United States that have been fighting for years now to protect their own scarce housing stock against increasing conversion to commercial short-term rental use.

Because platform-based administration and enforcement measures have the powerful potential to effectively automate short-term rental operator compliance with local regulations, Boston should certainly seek to secure a platform agreement, and to do so without compromising on matters of public interest. However, since platform-based administration and enforcement may have their own limitations, and voluntary agreements are not entirely reliable in the longer term, the City should also pursue separate and complementary enforcement approaches.

### **Platform-based instruments**

Pass-through registration. In New Orleans and San Francisco, Airbnb has committed to implementing a “pass-through” registration system in collaboration with city officials, such that short-term rental operators can register for permits directly through the Airbnb platform. To be most effective, such a system would need to be implemented consistently across all platforms and listing websites. Management services like Guesty and AirGMS allow operators to easily manage listings across platforms, so it is a valid concern that operators could bypass restrictions set on one platform by listing on another.

Automatic tax collection and remittance. In many cities, Airbnb collects and remits taxes automatically at the point of transaction through its platform. This arrangement represents a particularly compelling financial value for cities because the alternative solution of leaving tax collection and remittance up to individual operators does not achieve nearly the same level of compliance and revenue.

Platform-enacted restrictions. In a small number of cities, Airbnb uses its platform to enforce restrictions in accordance with local regulations. This includes enforcing annual caps on the number of nights a short-term rental can be booked in Amsterdam and London,<sup>53</sup> a restriction that would seem to be particularly difficult to enforce without access to platform data.

Platform-enacted restrictions also include Airbnb’s One Host, One Home policy, enacted in New York City, San Francisco, and Portland. The policy limits each individual operator to listing only one housing unit on the Airbnb platform. Although Airbnb reports that it has removed thousands of listings as part of this policy, observers note that commercial operators have simply begun to create separate accounts to list their

portfolios without detection.<sup>54</sup> Both New York and San Francisco have continued to seek strong enforcement tools in spite of having the One Host, One Home policy active in their cities.<sup>55</sup> One recent case in New York City involved a short-term rental operator who was found to be “openly and deceptively using at least nine different identities and 33 distinct Airbnb accounts” to advertise 12 units in three buildings as short-term rentals.<sup>56</sup>

### **Deterrent penalties**

Several cities with tight housing markets and high levels of commercial short-term rental activity have sought to use large financial penalties, increasing with each additional violation, as a deterrent to illegal operators. This includes but is not limited to San Francisco, Portland (which recently increased the level of its penalties<sup>57</sup>), Miami Beach (with fines up to \$20,000<sup>58</sup>), and New York City (where the mayor recently proposed added \$2.9 million to the budget for expanded enforcement efforts<sup>59</sup>). The limitations to this approach, by itself, are clear. Although New York City has been very proactive with this form of enforcement, it has issued only 139 fines to date, and one estimate suggests it could take more than 40 years for New York City investigators to reach all units that need to be inspected.<sup>60</sup>

### **Third-party support**

Because short-term rentals are so numerous, several cities have considered working with third parties, including professional consultants, nonprofit organizations, and regular residents, to help monitor short-term rental activity and put a stop to illegal operations. Nashville<sup>61</sup> and Madison<sup>62</sup> have considered contracting HOST Compliance, a company that offers enforcement services specifically tailored to address the Airbnb short-term rental model. San Francisco’s short-term rental regulations empowers certain residents with legal standing to sue short-term rental ordinance violators.<sup>63</sup> And in New Orleans, an informal association of stakeholders proposed establishing a private right to action law that would allow residents to sue neighboring short-term rental property owners for damages.<sup>64</sup>

## **Commit short-term rental revenue to affordable housing**

In Massachusetts, there are currently several active proposals to enable both statewide and local collection of taxes on short-term rentals. Because of the tight housing market in Boston, and the continuing uncertainty around the capacity of existing measures to protect housing from conversion into short-term rentals, the City should allocate short-term rental tax revenue toward the funding of affordable housing.

One estimate of the amount of tax revenue Boston’s short-term rentals could generate was \$3 million.<sup>65</sup> In the range of the low millions, this tax revenue could make a non-negligible contribution to Boston’s efforts to fund the construction of affordable housing. Boston should also consider establishing a special impact fee on short-term rental transactions as an additional source of funding for affordable housing.

## METHODOLOGY

The statistics presented here on Airbnb listings in Boston is based on data provided by researcher and author Tom Slee, available for download on his personal blog [tomslee.net](http://tomslee.net). The method used to collect the data results in a dataset that is not a perfect representation of Airbnb activity but is suitable for policymaking discussions. Importantly, statistics based on this dataset systematically underestimate the overall scope of short-term rental activity by undercounting hosts, listings, and revenue.

**Underestimating hosts and listings:** The exact makeup of the active listings fluctuates from moment to moment. Listings do not appear if they are not available to be booked, or if they are already fully booked for the nights they are available. Over a period of two and a half years, at least 8,300 listings appeared as active on the platform. The limitations of the data used suggest the real number of unique listings could be considerably higher than that.

**Underestimating revenue:** Revenue here is estimated based on a listing's number of reviews, price per night, and required minimum stay. Reviews represent a low-end estimate of activity because not all guests will leave a review. Similarly, relying on the required minimum stay also results in a low estimate because guests may and often do stay for more nights than is required but rarely, if ever, for fewer nights. The revenue estimates here also do not include cleaning fees, fees charged for additional guests, or any last-minute discounts offered by the host.



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