



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Administrative Code Text Change HEARING DATE: APRIL 23, 2015

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Project Name: **Amendments Relating to Short-Term Rentals**
Case Number: **2014-001033PCA, 2015-003861PCA, and 2015-004765PCA**
[Board File No. 141036, 150295, 150363]
Initiated by: Supervisor Kim/ Introduced October 7, 2014
Supervisor Campos/ Introduced April 14, 2015
Mayor Edwin Lee, Supervisor Farrell/ Introduced April 14, 2015
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ADMINISTRATIVE CODE AMENDMENTS

Sponsors Supervisors Kim and Breed: Short Term Rental Ordinance, Duplicated File.

The proposed Ordinance sponsored by Supervisors Kim and Breed (hereinafter “Kim Ordinance”) would amend the Administrative Code’s provisions on Short-Term Rentals (hereinafter “STR”) (Chapter 41A) to prohibit certain residential units that have been the subject of an Ellis Act Eviction from use as short-term residential rentals and provide for private right of action to enforce the requirements of Admin Code Chapter 41A; and making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

The Way It Is Now:

1. Units that have been subject to an Ellis Act Eviction¹ are not prohibited from being used as a STR.
2. The City may institute civil proceedings against a Hosting Platform², Business Entity³, or Owner⁴, but only following the filing of a complaint and the determination of a violation by the Planning Department.

¹ Administrative Code Section 37.9(a)(13)

² **Hosting Platform** is defined as “A person or entity that provides a means through which an Owner may offer a Residential Unit for Tourist or Transient Use. This service is usually, though not necessarily, provided through an online platform and generally allows an Owner to advertise the Residential Unit through a website provided by the

- Interested Parties⁵ may only institute civil proceedings against a Business Entity or Owner and only following the filing of a complaint and the determination of a violation by the Planning Department.

The Way It Would Be:

- Units that had been subject to an Ellis Act Eviction within the last five years could not be used as a STR.
- The City could institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time.
- Interested Parties could still only institute civil proceedings against a Business Entity or Owner and only following the filing of a complaint and the determination of a violation by the Planning Department; however two additional private rights of action would be allowed, which are as follows:
 - Non-profit Organization that has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws may institute a civil action against the Owner or Business Entity, if within 5 years prior to the date of the filing of the Complaint, the Owner or Business Entity terminated the tenancy of one or more tenants in the building using the Ellis Act, where the tenant was served with a notice of eviction after October 7, 2014. An Interested Party may institute a civil action under this subsection only if (1) the Interested Party has filed a Complaint with the Department; (2) 30 days have passed since the filing of the Complaint; (3) after such 30-day period has passed, the Interested Party has provided 30 days' written notice to the Department and the City Attorney's Office of its intent to initiate civil proceedings; and (4) the City has not initiated civil proceedings by the end of that 30-day period.
 - Non-profit organization that has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws and has existed as such for no less than five years from February 1, 2015, may institute civil proceedings against an Owner or Business Entity of a rent-controlled building of at least three Residential Units for injunctive relief. An Interested Party may institute a civil action under this subsection only if the Interested Party has (1) filed a Complaint with the Department; (2) 45 days have passed since the filing of the

Hosting Platform and provides a means for potential tourist or transient users to arrange Tourist or Transient Use and payment, whether the tourist or transient pays rent directly to the Owner or to the Hosting Platform."

³ **Business Entity** is defined as "A corporation, partnership, or other legal entity that is not a natural person that owns or leases one or more residential units."

⁴ **Owner** is defined as "Any person who is the owner of record of the real property. For the purposes of the City's STR regulations, the term "Owner" includes a lessee where the lessee is offering a Residential Unit for Tourist or Transient use."

⁵ **Interested Parties** is defined as "A Permanent Resident of the building in which the Tourist or Transient Use is alleged to occur, any homeowner association associated with the Residential Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur, the City and County of San Francisco, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws."

Complaint; and (3) after such 45-day period has passed, the Interested Party has provided written notice to the Department and the City Attorney's Office of its intent to initiate civil proceedings.

Sponsors Supervisors Campos, Mar and Avalos: Amendments to the STR Ordinance

The proposed ordinance sponsored by Supervisors Campos, Avalos, and Mar (hereinafter the "Campos" ordinance) would amend the Administrative Code to revise the Residential Unit Conversion Ordinance to: limit short-term rental of a Residential Unit to no more than 60 days per calendar year; require Hosting Platforms to verify that a Residential Unit is on the City Registry prior to listing, remove a listing once a Residential Unit has been rented for Tourist or Transient Use for more than 60 days in a calendar year, and provide certain usage data to the Planning Department; prohibit short-term rental of certain "in-law" units; revise the definition of Interested Parties who may enforce the provision of Chapter 41A through a private right of action to include Permanent Residents residing within 100 feet; amend the private right of action provisions to allow for a private right of action against Hosting Platforms and create an additional private right of action against Owners, Business Entities, and Hosting Platforms under certain circumstances; and provide for criminal penalties against Hosting Platforms in violation of this Chapter 41A; and affirming the Planning Department's determination under the California Environmental Quality Act.

The Way It Is Now:

1. An Interested Party is defined as *"A Permanent Resident of the building in which the Tourist or Transient Use is alleged to occur, any homeowner association associated with the Residential Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur, the City and County of San Francisco, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws."*
2. The City may institute civil proceedings against a Hosting Platform, Business Entity, or Owner, but only following the filing of a complaint and the determination of a violation by the Planning Department.
3. Interested Parties may only institute civil proceedings against a Business Entity or Owner and only following the filing of a complaint and the determination of a violation by the Planning Department.
4. Non-hosted rentals are limited to 90-days a year and hosted rentals are unlimited⁶.
5. Hosting Platforms are not prohibited from listing a Residential Unit that does not maintain good standing on the City's Short-term Residential Registry⁷.

⁶ The actual text states that The Permanent Resident must occupy *"the Residential Unit for no less than 275 days out of the calendar year in which the Residential Unit is rented as a Short-Term Residential Rental,"* the effect of which is to limit non-hosted rentals to 90-day.

⁷ **Short-Term Residential Rental Registry** is defined as "A database of information maintained by the Planning Department that includes information regarding Permanent Residents who are permitted to offer Residential Units for Short-Term Residential Rental. Only one Permanent Resident per Residential Unit may be included on the

6. The Permanent Resident must submit a report to the Department every year regarding the number of days the Residential Unit or any portion thereof has been rented as a Short-Term Residential Rental; however, Hosting Platforms are not required to report the number of nights a Residential Unit was occupied as a Short-Term Residential Rental.
7. Dwelling Units authorized under Section 207.3 of 715.1 of the Planning Code, also known as Accessory Dwelling Units (ADUs) or in-laws, are not prohibited from being used as a STR.
8. The Planning Department is required to redact the name of the Permanent Resident included in the STR register for records available for Public Review.
9. Existing law provides for misdemeanor criminal penalties against an Owner or Business Entity who violates Chapter 41A and unlawfully rents a unit as a short-term rental.

The Way It Would Be:

1. For the definition of Interested Party, "*Permanent Resident or owner residing within 100 feet*" would be added to the definition and "*the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur*" would be deleted from the definition.
2. The City could institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time (the same change as prescribed in the Kim Ordinance').
3. An Interested Party would be able to institute a civil action against the Owner, Business Entity or Hosting Platform for injunctive and monetary relief prior to the Department finding that a violation has occurred if the Interested Party has filed a Complaint with the Department; 60 days have passed since the filing of the Complaint; after such 60-day period has passed, the Interested Party has provided 30 days' written notice to the Department and the City Attorney's Office of its intent to initiate civil proceedings; and the City has not initiated civil proceedings by the end of that 30-day period.
4. Both non-hosted and hosted rentals would be limited to 60-days a year.
5. Hosting Platforms would be prohibited from listing any unit that did not maintain good standing on the City's Short-term Residential Registry.
6. Permanent Residents would still be required to report to the Department how many times their unit had been rented over the past year as a STR, and the Hosting Platforms would now be required to report quarterly to the Planning Department the number of nights the Residential Unit was occupied as a Short-Term Residential Rental. Further, if a Hosting Platform has information that a unit has been used as a STR for more than 60 days, they would be required to immediately remove such listing from its platform.
7. ADUs or in-laws approved under Section 207.3 or 715.1 of the Planning Code would be prohibited from being used as a STR.
8. The Planning Department would be required to redact the street and unit numbers of any residences included in the STR register, in addition to the name of the Permanent Resident.

Registry at any given time. The Registry shall be available for public review to the extent required by law, except that, to the extent permitted by law, the Department shall redact any Permanent Resident names from the records available for public review."

9. The proposed ordinance would allow for misdemeanor criminal penalties against a Hosting Platform, as well as an Owner or Business Entity, who violates the requirements of Chapter 41A.

Sponsor Mayor Edwin Lee, Supervisor Farrell: Amendments to the STR Ordinance

The proposed ordinance Sponsored by Mayor Edwin Lee and Supervisor Farrell (hereinafter the "Mayoral" Ordinance) would amend the Administrative Code to revise the Residential Unit Conversion Ordinance to limit short-term rental of a Residential Unit to no more than 120 days per calendar year, revise the definition of Interested Parties who may enforce the provisions of Chapter 41A through a private right of action to include Permanent Residents residing within 100 feet of the Residential Unit, create an additional private right of action under certain circumstances, and direct the Mayor to create an Office of Short-Term Residential Rental Administration and Enforcement staffed by the Planning Department, Department of Building Inspection, and Tax Collector's Office.

The Way It Is Now:

1. Non-hosted rentals are limited to 90-days a year and hosted rentals are unlimited.
2. An Interested Party is defined as *"A Permanent Resident of the building in which the Tourist or Transient Use is alleged to occur, any homeowner association associated with the Residential Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur, the City and County of San Francisco, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation or improvement of housing as a stated purpose in its articles of incorporation or bylaws."*
3. All STR functions, including registration and enforcement, are administered by the Planning Department.
4. The Planning Department is required to redact the name of the Permanent Resident included in the STR register for records available for Public Review.
5. The Planning Department is not required to include information on the Department's website about any pending or resolved Complaints regarding violations of Chapter 41A.
6. The City may institute civil proceedings against a Hosting Platform, Business Entity, or Owner, but only following the filing of a complaint and the determination of a violation by the Planning Department.
7. Interested Parties were eligible for civil penalties if the Interested Party won a lawsuit against a violation of Chapter 41A.
8. Interested Parties may only institute civil proceedings against a Business Entity or Owner and only following the filing of a complaint and the determination of a violation by the Planning Department.

The Way It Would Be:

1. Both non-hosted and hosted rentals would be limited to 120 days.
2. The definition of Interested Party would be amended to include *"Permanent Resident or owner residing within 100 feet,"* the same languages that is proposed in Campos ordinance.

3. The proposed Ordinance includes a provision directing the Mayor to set up a STR Office that would be staffed by the Planning Department, Department of Building Inspection and The Tax Collector's office.
4. The Planning Department would be required to redact the street and unit numbers of any residences included in the STR register, in addition to the name of the Permanent Resident.
5. The Planning Department would be required to include information on the Department's website about any pending or resolved complaints regarding violations of Chapter 41A.
6. The City could institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time (the same change as prescribed in the Kim ordinance and the Campos ordinance).
7. Only the City may be entitled to civil penalties if it wins the lawsuit, not an Interest Party.
8. Interested Parties would be able to institute civil proceedings against a Business Entity or Owner if the following conditions are met: (1) The Interested Party has filed a Complaint with the City; (2) The Planning Director has not made a determination that there is no violation of Chapter 41A or no basis for an investigation; (3) 105 days have passed since the filing of the Complaint and an administrative hearing officer has not issued a final determination regarding the Complaint; (4) After the 105-day period passes, the Interested Party notifies the City of its intent to file a lawsuit; and (5) The City does not file its own lawsuit by the end of the 30 day notice period.

BACKGROUND

Existing Regulations

With a valid Short-Term Residential Rental Registration number, a Permanent Resident⁸ may rent out their Primary Residential Unit for periods of less than 30 nights without violating the requirements of the City's Residential Unit Conversion and Demolition Ordinance (Administrative Code Chapter 41A) or the Planning Code. This includes renting a portion or the entire unit while the permanent resident is present for an unlimited number of nights per year and renting a portion of the entire unit while the permanent resident is *not* present for a maximum of 90 nights per year.

In order to obtain a Short-Term Residential Rental Registration number, the following conditions must be met:

1. The applicant must be the Permanent Resident (owner or tenant) of the residential unit that they intend to rent short-term.
2. The applicant must obtain a San Francisco Business Registration Certificate from the San Francisco Treasurer and Tax Collector's Office.
3. The applicant must obtain liability insurance in the amount of no less than \$500,000 or provide proof that liability coverage in an equal or higher amount is being provided by any and all hosting platforms through which the applicant will rent the unit.

⁸ To be a **Permanent Resident**, the applicant must live in that specific residential unit for at least 275 nights of any given calendar year. New residents must have occupied the specific unit for at least 60 consecutive days prior to applying for the Short-Term Residential Registration. Applicants may only register the specific residential unit in which they reside.

4. The applicant's residential unit must not have any outstanding Planning, Building, Housing, Fire, Health, Police, or other applicable City code violations.
5. The applicant may only register one residential unit.
6. Residential units that are subject to the Inclusionary Affordable Housing Program and residential units designated as below market rate (BMR) or income-restricted under City, state, or federal law are not eligible to register. Units subject to San Francisco's Rent Stabilization (Rent Control) Ordinance are able to register, but may charge tourists no more than a proportional amount of the residential rent.

Planning Commission's Original Recommendation

The Planning Commission heard the original STR ordinance introduced by Supervisor Chiu⁹ on August 7, 2014 and voted four (Antonini, Fong, Hillis, and Johnson) to two (Moore and Sugaya) with Commissioner Wu absent to recommend approval with modifications to the Board of Supervisors. In making their recommendation, Commission found that allowing residents to rent their units on a limited basis was of reasonable, that STRs needed to be limited in order to preserve the City's housing stock, to reduce impacts on affordable housing, and to protect the livability of residential neighborhoods.

The Commission's recommendation sought to create a legal avenue for hosts who want to occasionally rent their primary residence on a short-term basis, while balancing concerns over housing affordability and neighborhood character. Consequently, the Commission's recommendations mainly focused on improving the enforcement and monitoring of STRs; however the Commission also believed that the Ordinance needed to be expanded to regulate both hosted and non-hosted rentals and that all of the City's non-subsidized dwelling units should be treated the same under the new restrictions.

Of the Commission's 16 recommendations, six were not incorporated into the final ordinance. Those include:

1. Modify the Ordinance so that the proposed city-run registry tracks the number of nights a unit has been rented.
2. Require any STR platform or company doing business in San Francisco to provide information on the number of nights a property was rented. Information should be reported back to the city on a quarterly basis at a minimum.
3. Grant citation authority to the Planning Department if it is chosen to be the enforcement agency for STRs, and provide for increased penalties for repeat violators.
4. Limit hosted rentals by nights rented, similar to the restrictions placed on non-hosted rentals, or by limiting the number of rooms that can be rented at any one time.
5. Require the property owner's consent in tenant occupied units and/or a 30-day notification by the Department to the owner prior to listing a unit on the STR registry.
6. Require the Planning Department to maintain a list of registered hosting platforms.

The final ordinance did include a requirement similar to recommendation five that requires the Department to send a letter to the property owner notifying them that the permanent resident of the unit has applied to be on the STR registry; however, a property owner's consent is not required before listing a unit on the short-term rental ordinance.

⁹ Board File 140381, Ordinance Number 218-14, Final Action 10/27/2014

Budget and Finance Committee Hearing

Since the Board adopted the STR Ordinance, the Department also participated in a public hearing before the Budget and Finance Sub-Committee on March 4, 2015¹⁰. This hearing was at the request of Supervisors Farrell and Christensen and focused on the Planning Department's capabilities to enforce the STRs Ordinance, and the financial resources necessary for effective enforcement. At the hearing, Department staff presented an overview of the new law; the process for registration; some of the stats on how registration is progressing; and then provided our assessment of what's working and what could work better.

During the presentation, staff emphasized that the Planning Commission felt that if housing and neighborhood character could be preserved, it would be reasonable to allow STRs. So while the Commission felt comfortable with permitting the use in a way that did not reduce our housing, this use is predicated on this limits being enforced.

Staff also acknowledged that while some potential applicants complained about the burden of registering in person, appointments save both applicants and planners from a chaotic intake situation. The face-to-face meetings allow for applicants to ask important questions and learn about the program in greater detail. Staff believes the face-to-face, scheduled appointments also help to reduce the occurrence of fraudulent applications being filed.

The members of this Committee are typically Chair Farrell, Tang, and Mar. At the March 4 hearing, Supervisors Christensen, Campos, and Kim joined in for the hearing. Supervisor Farrell restated his commitment to ensuring sufficient resources to enforce this law. Supervisor Campos stated that he has asked the Board's Budget Analyst to report on the issue and that the City may need to subpoena some hosting platforms to increase our understanding. Supervisor Christensen wanted to increase motivation for registry and thought the City should get clear about our goals and develop a timeline for hosts to register. Supervisor Mar expressed his disappointment that a local, successful corporation was failing to cooperate. He said he liked the idea of adding a cap to the registry. Supervisor Kim again stated that the law has put the Planning Department in a difficult position of enforcing a law that is inherently difficult to enforce. As this was a hearing, no action was taken.

ISSUES AND CONSIDERATIONS

Planning Department's Short-Term Rental Data

As of April 3, 2015, 455 Short-Term Residential Rental Applications have been submitted to the Planning Department for review. While staff is currently reviewing these applications, the following is a summary of our current disposition of these applications:

Certificates Issued: 170 applications out of 455 applications (37%) have been reviewed by staff and found to be complete and accurate, resulting in the issuance of a registration certificate. This process involves 1) creating the record in the Project and Permit Tracking System (PPTS); 2) verifying accuracy and completeness of application materials; 3) checking for open enforcement violations with the Planning Department and Department of Building Inspection; 4) mailing notices to property owners when necessary; and, 5) creating/issuing the registration certificate and mailing registration packet to the applicant.

Ineligible Applications: 27 of the 455 applications (6%) have been reviewed by staff and appear to be

¹⁰ Board File 150198

ineligible. Ineligible applicants are those who do not appear to be permanent resident of the unit in question. This is often determined by information the applicant has provided during their appointment or information available as a result of previous enforcement action. These applicants have been issued a Notice of Intent to Deny Based Upon Incomplete or Ineligible Short-Term Residential Rental Application (“Notice”). The Notice provides 30 days for the applicant to submit additional materials. Failure to respond will result in denial of the application.

Incomplete Applications: Staff has found that at least 53 of the 455 (12%) applications include inadequate or inconsistent information. This includes documents that show ownership of the property with different mailing addresses for supporting materials. Staff has also received applications for multi-unit buildings where the owner claims residency in one unit (the unit they are also applying to rent short-term), while also submitting documentation revealing that they live in another unit in the same building. These inconsistencies prevent staff from being able to process and issue certificates. During the intake appointment, applicants are informed of the missing or inaccurate documents and are given the opportunity to email or physically drop off the missing documentation (avoiding the need for a separate appointment). Those applicants that have not submitted missing documentation have been issued a Notice of Intent to Deny Based Upon Incomplete or Ineligible Short-Term Residential Rental Application (“Notice”). The Notice provides 30 days for the applicant to submit additional materials. Failure to respond will result in denial of the application.

“No-Show” and Canceled Appointments: Since the program first began accepting appointments on February 2, 2015; staff has experienced a no-show/cancellation rate of 26%. Over time, staff has observed that a greater number of applicants fail to show up for their scheduled appointment. Staff believes that the high no-show/cancellation rate may decrease if applicants are charged a no-show/cancellation fee. The Department has begun offering after-hours drop-in application sessions (without need for appointment) once per month and plans to introduce business-hours drop-in sessions (beginning in May) to increase opportunities for the public to submit applications and optimize staff time for application intake.

	Number	Ratio
Applications Submitted	455	--
Certificates Issued	170	170/455
Applications Found to be Ineligible	27	27/455
Submitted Applications Currently Missing Materials	53	53/455
“No-Show” and Canceled Appointments	132	132/515* <small>*number of scheduled appointments</small>

Housing Affordability

The Planning Department’s paramount concern continues to be limiting the impact that STRs have on the availability and affordability of the City’s housing stock. This concern is derived from Objectives Two and Three of the City’s Housing Element, which seek to “retain existing housing units” and “protect the affordability of the existing housing stock” respectively. Many hosts (56%) say the tourist use enables

them to pay their rent or mortgage¹¹. The concern is that the financial assistance for hosts may be coming at the expense of residential tenants' opportunity for permanent housing.

The critical questions for policy makers seeking to protect housing are: when does STR make more efficient use of unused resources and when does it incentivize the conversion of residential space to tourist use? While this report reviews a fair amount of new data, these fundamental questions remain unanswered.

This section of the staff report will review available data in relation to how tourist use of housing may affect housing availability and affordability.

Newly available data, specific to San Francisco since the August 2014 Commission hearing:

- 2014 August- datascape of Airbnb by an independent journalist¹²
- 2014 December- datascape of Airbnb by an independent journalist¹³
- 2015 February- datascape of Airbnb by an independent journalist¹⁴
- PENDING- Controller's Report by the Office of Economic Analysis
- PENDING- Board of Supervisors Budget and Legislative Analyst

New comparative reports on STR in other cities:

- 2014 October- NY State Attorney General Study, "Airbnb in the City"¹⁵
- 2015 March- LAANE, "Airbnb, Rising Rent, and the Housing Crisis in Los Angeles"¹⁶

In 2015, the Planning Department benefited from the graduate research of Alex Marqusee at the UC Berkeley Goldman School of Public Policy. A detailed memorandum summarizing this work to date is attached as Exhibit B. The attached memorandum collaborates multiple data sources to provide the most complete and transparent window yet into San Francisco's STR market. Highlights of the "Marqusee Memorandum" include:

1. Extent of San Francisco's STR Market. Using multiple sources, the memo reaffirms previous estimates that approximately 4000-5000 Airbnb listings currently exist in San Francisco. To understand how listings may translate into tourist stays and/or the loss of housing, this memo notes that:

- an estimated 130,000 tourists stayed in STRs in 2014, according to the San Francisco Travel Association;

¹¹ [Economic Impact Analysis](#). HR&A Associates, commissioned by Airbnb. 2012.

¹² Data collected and published by Tom Slee. Retrieved from <https://www.google.com/fusiontables/DataSource?docid=1WvonuxK6oy6c6gi7iIvLDIaJtcyHXbx8t0KKGh1p#map:id=3> in February 2015.

¹³ Data collected by: Murray Cox of <http://insideairbnb.com/> (personal communication with staff in March 2015).

¹⁴ Data collected by: Guss Dolan (<http://darkanddifficult.com/>) & Anti-Eviction Mapping Project (<http://www.antievictionmappingproject.net/>) (personal communication with staff in March 2015)

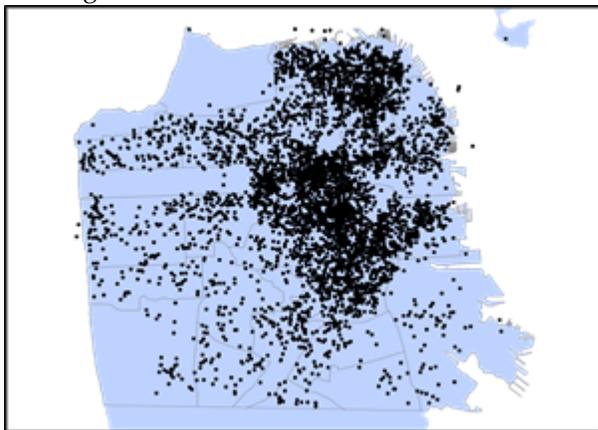
¹⁵ New York State Attorney General, Eric T. Schneiderman. "Airbnb in the city". October 2014. Retrieved from <http://www.ag.ny.gov/pdfs/Airbnb%20report.pdf> in November 2014.

¹⁶ LAANE, A New Economy for All. "Airbnb, Rising Rent, and the Housing Crisis in Los Angeles", March 2015. Retrieved from <http://www.laane.org/wp-content/uploads/2015/03/AirBnB-Final.pdf> in April 2015.

- the majority of hosts rent out their units less than once per month; however, a few hosts rent more frequently, there are about 500 listings that are booked at least 3.5 times per month; and
- Airbnb estimated that the average stay per booking is 5 nights per trip in 2011. This estimate is collaborated with a survey by the SF Travel Association Visitor Survey that found short-term rental stays averaged 5.1 nights.

2. Revenue and Economic Incentives for San Francisco Hosts. The memo estimates revenue of hosts by counting post-rental reviews and increasing this number by 28% to account for the percentage of bookings that Airbnb has said do not result in reviews. This estimation technique shows that most units generate little revenue per month (\$495 monthly revenue for 50% of hosts) but some hosts make a sizable income (\$1894 monthly revenue for the top 10% of hosts and \$2500 monthly revenue for the top 5% of hosts). When considering when the economic incentives that the STR market may provide to convert residential use to tourist use, it's important to compare the prices of similar units from both the residential and STR market. While a perfect comparison is not possible, the memo explores current Craigslist rental rates by neighborhood against STR rates by neighborhood. This data show that the median number of days where STR use would outcompete residential use is about 257 days¹⁷. This provides assurance that the highest STR cap proposed (120 day limit) in the pending ordinances would still protect housing by ensuring that residential use would be more lucrative than STR.

3. Description of STR Listings: Entire Units in the Northern and Eastern Neighborhoods. All three datascrapes cited in the memo confirm that a majority of hosts (61%) rent their entire unit. Private rooms account for about a third of the listings (35%). And, shared rooms represent the smallest fraction of San Francisco listings (4%). The density map below shows that STR units are concentrated where the City's housing is concentrated.



Note: Map points for listings are imprecise as the data available on Airbnb's website obscures the exact location by about ¼ mile. This obfuscation likely accounts for dots in the ocean and parks.

San Francisco Analysis. The data shows that the average, minimum booking per month is slightly less than once per month. If Airbnb's 2011 statement that bookings typically are for 5 rental days is still accurate; then the median tourist use of a listing represents 54 days per year or about 15% of the year. Allowing for tourist use of a unit for 15% of the year falls squarely within policymaker expectations. The current law allows tourist use of a full unit for 25% of the year. However, the most active 25% of listings average 2 bookings per month which results in tourist use for approximately 33% of the year and the top

¹⁷ This number overestimates the profitability of Airbnb by not accounting for some fees and operating costs. The Office of the Controller is expected to explore this topic in more detail in an upcoming report.

Conclusions Beyond San Francisco. In addition to the Marqusee Memorandum, staff reviewed the New York Attorney General Report on New York City; the LAANE report on Los Angeles and a report commissioned by Airbnb as summarized in the Wall Street Journal¹⁸.

Together, the conclusions in these three reports seem to mirror the local public dialogue:

- 1) *While the majority of hosts may be offering units in a manner that aligns with public policy goals in San Francisco; a minority of commercial users dominate the market and*
- 2) *Although STRs likely have limited effect on the citywide housing market, the effect is more pronounced in high-demand neighborhoods.*

Highlights from these three reports on STRs include:

- **NY Attorney General Report:** This report analyzes Airbnb bookings from January 1, 2010 to June 2, 2014. It provides the first exploration of how users in NYC use the hosting platform. The intent of the report is to inform decision-makers on how to “best embrace emerging technology while protecting the safety and well-being of our citizens”.
 - **Effects on Housing Supply.** “Thousands of residential units in New York City were dedicated primarily or exclusively to private STRs. In 2013, over 4,600 unique units were each booked as private STRs for three months of the year or more. Of these, nearly 2,000 units were each booked as private STRs on Airbnb for at least 182 days—or half the year. While generating \$72.4 million in revenue for hosts, this rendered the units largely unavailable for use by long-term residents. Notably, more than half of these units had also been booked through Airbnb for at least half of the prior year (2012).” (pg. 12)
 - **Neighborhood Concentration.** “The majority of units converted to private STRs are in popular neighborhoods in Brooklyn and Manhattan. A dozen buildings in those same neighborhoods had 60% or more of their units used at least half the year as private STRs, suggesting that the buildings were operating as de facto hotels.” (pg. 12)
 - **Rate of Growth.** “Private STRs in New York City have grown at a staggering pace. The number of unique units booked for private STRs through Airbnb has exploded, rising from 2,652 units in 2010 to 16,483 in just the first five months of 2014. Private bookings in New York City saw a nearly twelvefold spike, rising from 20,808 in 2010 to an estimated 243,019 in 2014.” (pg. 6)
 - **Commercial Users.** “While commercial users represented a minority of hosts, they dominated the private STR market in units, reservations, and revenue. Commercial Users [represent only 6% of all hosts, but] controlled more than one in five unique units in New York City booked on Airbnb, accepted more than one in three private reservations, and received more than one of every three dollars in revenue from private STRs on Airbnb—for a total of \$168 million.” (pg. 10)

¹⁸ Kusisto, Laura. Wall Street Journal. “Airbnb Pushes Apartment Rents Up Slightly, Study Says” March 30, 2015. Retrieved from <http://blogs.wsj.com/developments/2015/03/30/airbnb-pushes-up-apartment-rents-slightly-study-says/> in April 2015.

New York City Commercial Users Accounted for a Disproportionate Share of Private STRs

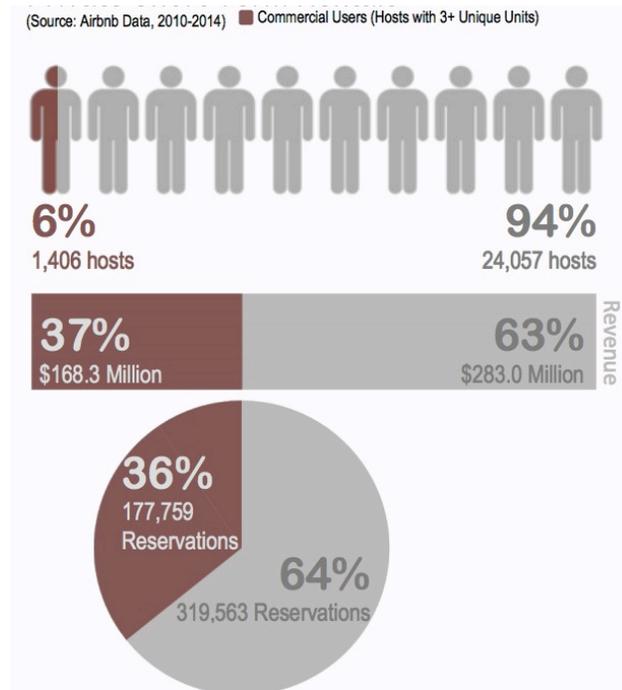


Image from NY Attorney General report illustrating that a minority of hosts garner the a high percentage of revenue and reservations.

- **LAANE Report on Los Angeles.** This report completed by a nonprofit that seeks to “build a new economy based upon: good jobs, thriving communities, and a healthy environment” is the most critical. It concludes with four principals for regulating short-term rentals 1) protect housing; 2) require approval for each STR; 3) hosting platforms should share the burden of enforcement; and 4) hosts should only be able to rent STR when they are present during the rental period.
 - **Characterization of STR in LA.** “these units are not, by and large, the “shared” space implied by terms like host or sharing economy. Instead, nearly 90 percent of AirBnB’s Los Angeles revenues are generated by lessors with whole units and leasing companies who rent out two or more whole units.” (pg. 3)
 - **Loss of Housing.** “AirBnB has created a nexus between tourism and housing that hurts renters. The 7,316 units taken off the rental market by AirBnB is equivalent to seven years’ of affordable housing construction in Los Angeles.” (pg. 3)
 - **Impact Varies by Neighborhood.** “In Venice, as many as 12.5% of all housing units have become AirBnB units, all without public approval.” (pg. 3)

- **Wall Street Journal.** This article¹⁹ summarizes a report commissioned by Airbnb and written by Thomas Davidoff of the University of British Columbia.
 - **Citywide Impacts on Housing May Be Limited.** “Airbnb increases the price of a one-bedroom unit by about \$6 a month. In San Francisco, he found that it increases rents by on average about \$19 a month... Even without relying on Airbnb’s estimates, Mr. Davidoff said that if one assumes that all listings are investors renting out units solely on Airbnb, the increases are modest. In New York, rents would likely go up around \$24 a month and San Francisco around \$76 a month.”
 - **Neighborhood Impacts May Be More Pronounced.** “Airbnb listings aren’t evenly spread across most cities but tend to be concentrated in prime neighborhoods, meaning that popular places could face more pressure on rents than others. Mr. Davidoff said it is difficult to measure how much Airbnb drives up rents in places like Venice Beach, which has about 200 places available for this Friday evening, because some people may just move to a different area, lessening the rent increase. He said in that case, the criticism of Airbnb is less about citywide affordability than the right of people to stay in desirable neighborhoods. ‘It’s not an affordability issue. It’s a luxury neighborhood issue or a bohemian neighborhood issue,’ he said.”

Since the Planning Commission hearing in August, decision-makers and the public benefit from much greater availability of data on STRs. Both the San Francisco data and the data from other reports point to limited impacts from the average host, while a small number of commercially-minded hosts disproportionately colonize the listing market. For this reason, a key need is to identify the apparently small number of hosts who provide year-round lodging to tourists at the expense of potential residents. Further, the current level of STRs likely has a limited effect on citywide housing prices and availability. However, certain neighborhoods that provide the City’s most affordable housing may also provide a ripe incentive to illegally convert housing to tourist use. Targeting legislative and enforcement efforts towards those commercial hosts and vulnerable neighborhoods may provide the greatest protections of the City’s precious housing resources. The pending reports to be published by the Controller’s Office of Economic Analysis and the Budget & Legislative Analyst may very well provide such data. Without such data, a broader legislative approach may be advisable given the current housing affordability crisis.

Neighborhood Character

There have been concerns raised that STRs are impacting neighborhood character and quality of life for residents. Many of the complaints that the Department receives about STRs have to do with the hours of activity that tourists keep compared to long-term residents. The Department believes that this may be a concern in some neighborhoods that have a concentration of units being used as STRs full time, but in most neighborhoods where occasional use is the norm this is not likely to be as much of a problem.

Hotels, Inns and Bed & Breakfast Uses in Residential Districts

In addition to STR provisions in the Administrative Code, the Planning Code also allows small hotel uses in Residential Districts with Conditional Use authorization. They are historically known as bed and breakfast inns or small hotels, and are limited to 5 rooms in all RH Districts except in RH-1 Districts,

¹⁹ The Wall Street Journal. “Airbnb Pushes Up Apartment Rents Slightly, Study Says”, Kusisto, Laura. March 30, 2015.

where the use is prohibited. Because the existing STR law doesn't place any restrictions on the number of days for hosted rentals, the law essentially allows small hotels in RH districts as of right. Prior to the recent legislative change hotels with less than six rooms required a Conditional Use authorization, which is accompanied by notice to the neighbors and a discretionary public hearing. There is clearly a difference between renting out a home while on vacation verses a fulltime bed and breakfast; however, as the Department's enforcement team has found, and subsequent studies have affirmed²⁰, a number of owners are using STR sites to circumvent traditional oversight processes and are effectively adding high-intensity hotel-like uses in a residential neighborhood.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinances and adopt the attached Draft Resolution to that effect.

The Department recommends approval on the following aspects of the three proposed Ordinances:

1. Remove the distinction between hosted and un-hosted rentals, per the Campos and Mayoral ordinances.
2. Prohibit units that have been subject to an Ellis Act Eviction within the last 5 years from registering on the STR registry, per the Kim ordinance.
3. Allow the City to institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time, per all three ordinances.
4. Allow private right of action for non-profits as outlined in the Kim ordinance.
5. Add "Permanent Resident or owner residing within 100 feet" to the definition of Interested Party per the Campos ordinance and the Mayoral ordinance.
6. Prohibit Hosting Platforms from listing any unit that did not maintain good standing on the City's STR registry, per the Campos ordinance.
7. Add a provision to the STR law directing the Mayor to set up a STR Office that would be staffed by the Planning Department, Department of Building Inspection and The Tax Collector's office, per the Mayoral ordinance.
8. Make the maximum number of nights a unit can be used as a hosted or un-hosted STR at 120 days. Adjust as needed if future studies can confirm the point where such use would incentive the illegal conversion of residential units to fulltime tourist use, per the changes proposed in the Mayoral ordinance.

²⁰ "Window into Airbnb's hidden impact on S.F." (June 16, 2014) Retrieved from www.SFChronicle.com on July 1, 2014.

The Department is proposing the following modifications, which are not proposed in any ordinance.

9. Remove the provision in the Administrative Code that requires an Administrative Hearing if a violation is found.
10. Remove the provision in the Administrative Code that allows cross-examination of witnesses during the Administrative Hearing.

The Department does not recommend approval of the following items:

11. Do not Require Hosting Platforms to report quarterly to the Planning Department the number of nights the Residential Unit was occupied as a Short-Term Residential Rental, per the Campos ordinance.
12. Do not remove “the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur” from the definition of Interested Party, per the Campos ordinance.
13. Do not allow private rights of action for any Interested Party after 90 days if the Department has not instituted civil action, as proposed in the Campos ordinance.
14. Do not prohibit units that have been approved under Section 207.3 of 715.1 of the Planning Code from being used as a STR, per the Campos ordinance.

BASIS FOR RECOMMENDATION

Generally, the Department supports efforts to amend the law now that the City has a better understanding of STR and now that implementation of the STR program has begun. The Department continues to believe that STRs should be allowed within a reasonable regulatory structure. Many of the proposed amendments in these three ordinances would add regulation that enables limited STR while seeking to protect the public interest by minimizing the potential effects on neighborhoods and the housing stock. The proposed amendments generally increase the City’s capacity for enforcement either by adding additional resources, data for checks and balances or more easily verified limits. However, some proposed changes would undermine the City’s enforcement ability and rights the rights of landlords.

Recommendation 1: Remove the distinction between hosted and un-hosted rentals, per the Campos ordinance and Mayoral ordinance.

Both Supervisor Campos’s and the Mayoral ordinances would remove the distinction between hosted and non-hosted rentals. The current law permits hosted rentals 365 days per year and limits un-hosted rentals to 90 days per year. Removing this distinction is a great improvement to the current law. Without this change, enforcement of the law would continue to be compromised as the Department has not identified an effective method to determine if a rental is truly hosted or not. Further, the distinction between hosted and un-hosted rentals creates an avenue to operate a fulltime bed and breakfast type use in their home without public notice or Planning Commission review.

Recommendation 2: Prohibit units that have been subject to an Ellis Act Eviction within the last 5 years from registering on the STR registry, per the Kim ordinance.

Paramount to the Department’s recommendations is protecting the existing housing stock for San Francisco’s residents and workers. An Ellis Act Eviction, by its very nature, is the property owner’s statement that they are exiting the rental market. The existing and proposed versions of the law seek to keep the unit as primarily residential by limiting STR to the occupant of the unit. An owner move-in eviction is another eviction type that would allow the owner to move in and engage in STR. By allowing

STR in owner-move in evictions; the owners' rights to STR are maintained. Removing the capacity for STR in the circumstance of Ellis Act Eviction removes a potential enforcement problem and removes the incentive to evict tenants when STRs may be more lucrative.

Recommendation 3: Allow the City to institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time, per the Kim ordinance and Campos ordinance.

This provision increases the Department's enforcement powers and gives the City more power in prosecuting the most egregious cases by allowing the City to take immediate action against repeat offenders. It also helps restore balance between the City and other Interested Parties, which under the various proposal, would be allowed to act before the Department has found that a violation has occurred.

Recommendation 4: Allow private right of action for non-profits as outlined in the Kim ordinance.

This limited provision increases the Department's enforcement capacity by allowing non-profits that have in their bylaws a focus on housing the ability to go after some of the city more vulnerable housing, including units where an Ellis Act Eviction has occurred within the last five years and in buildings with three or more rent-controlled units. Further these entities' main focus is on the preservation or improvement of housing and have an inherent interest in ensuring that the City's housing stock is protected.

Recommendation 5: Add "Permanent Resident or owner residing within 100 feet" to the definition of Interested Party per the Campos ordinance and the Mayoral ordinance.

This modification will add those that are most directly impacted by STRs, those living within the immediate vicinity of the unit in question, to initiate civil proceedings once the Department has found a violation. Protecting neighborhood character is one of most important issues that the Department is concerned about when it comes to allowing STRs in residential districts, and the department finds that this modification is in line with that concern.

Recommendation 6: Prohibit Hosting Platforms from listing any unit that did not maintain good standing on the City's STR registry, per the Campos ordinance.

This amendment would prohibit Hosting Platforms from listing a STR property on their service without a valid STR registration number. The Department believes that this provision is essential to improving the City's enforcement capacities as it would prevent anyone from listing a unit without a registration number, and it makes the Hosting Platforms an active partner in ensuring that hosts are abiding by the City's rules.

Recommendation 7: Add a provision to the STR law directing the Mayor to set up a STR Office that would be staffed by the Planning Department, Department of Building Inspection and The Tax Collector's office, per Mayoral ordinance.

While this proposal is not outlined in detail, the Department understands that this new office will act as a one stop shop for all STR issues in the city, including enforcement, administration, and outreach. The office will allow a host to apply for the business license, sign up for the registry and get answer to their questions in one office. Having three agencies share in the responsibilities for the STR program will add more resources to enforcement and provide enhanced customer service to the City's residents.

Recommendation 8: Make the maximum number of nights a unit can be used as a hosted or un-hosted STR at 120 days. Adjust as needed if future studies can confirm the point where such use would incentivize the illegal conversion of residential units to fulltime tourist use, per the changes proposed in the Mayoral ordinance.

As mention on page 10, two pending reports (one each by the Controller's Office and Budget Analyst) may shed more light onto the financial aspects of STRs in the City. As part of that analysis, the Department understands the Controller may be looking at the number of days at which STRs become more profitable than renting a unit out full time to a permanent resident. When this item first came to the Planning Commission, the Department supported the 90-day limit because it was consistent with the accessory uses limits for dwelling units in the Code, which is currently one-fourth of the floor area (90 days is one-fourth of the year), and still maintained the unit as primarily residential. 120 days is one-third of the year, which still fits within the definition of an accessory use for other non-residential uses, and the units would still be primarily residential for the majority of the year. The Marqusee Memo estimates that the median days of STR needed to outcompete residential use is about 257 days²¹. This provides assurance that the recommended 120 day cap would still protect housing by ensuring that residential use would be more lucrative than STR. That said, the Department is hesitant to recommend further changes to the number of days until we better understand what impact the change will have on the City's housing stock. In particular, it is unclear if STR listings that are frequently booked would be put to residential use if STR were further limited. For example, even in cases where STRs are not as lucrative as residential uses and where the STR merely provides the host with a marginal funding source, the question remains: would the space be offered for another tenant if STR were not available? The answer to this question lies in individual living preferences as to whether it's easier to live with a roommate or intermittent tourists.

Recommendation 9: Remove the provision in the Administrative Code that requires an Administrative Hearing if a violation is found.

This amendment is not proposed in any of the pending ordinances. Existing law requires a mandatory administrative review hearing once the Department has found there is a violation. The Department is recommending that this be modified to make the hearing voluntary, so that if the Department finds there is a violation, it could be abated without a hearing. If the violation is contested, then a hearing could be requested by person or entity charged with a violation.

Recommendation 10: Remove the provision in the Administrative Code that allows cross-examination of witnesses during the Administrative Hearing.

This amendment is not proposed in any of the pending ordinances. Existing law allows for cross-examination of witnesses during the Administrative Hearing. This provision is a holdover from the administrative hearing processes that was in place prior to the STR program. The Department finds that cross-examination is unnecessary for a hearing of this type and removing cross-examination would reduce the potential for needless acrimony.

Recommendation 11: Do not require Hosting Platforms to report quarterly to the Planning Department the number of nights the Residential Unit was occupied as a Short-Term Residential Rental, per the Campos ordinance.

²¹ This number overestimates the profitability of Airbnb by not accounting for some fees and operating costs. The Office of the Controller is expected to explore this topic in more detail in an upcoming report.

The Department originally recommended this provision be added to the STR ordinance when it was first heard by the Planning Commission last August. At the time, the Department was concerned that without this information the ordinance could not be effectively enforced. However, if Recommendation 6 listed above is added to the City's STR program the Department believes that the law will be more enforceable. Further, not all Hosting Platforms are involved with the booking or the financial transaction between the host and the renter, making the information the City would get from these Hosting Platforms incomplete. This requirement would also subject those Hosting Platforms that do collect this information to a higher standard and scrutiny than those that do not, and these reporting requirements may shift hosts to other platforms that do not collect the information in order to circumvent the law.

Instead the Department believes that the City should pursue improved data collection and technologic solutions to inform policy-makers and assist with enforcement, and explore collaboration with other city agencies that may provide better information across hosting platform types. Certainly hosts who maintain booking information should be encouraged to share this data with the City, especially when a violation is alleged; however the Department does not believe that it should not be requirement of the STR program for the reasons stated above.

Recommendation 12: Do not remove "the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur" from the definition of Interested Party, per the Campos ordinance.

This modification would remove the owner of the unit from the definition of Interested Party. Interested Parties are currently allowed to seek civil action against a tenant (Owner²²) or Business Entity once the Planning Department has found in violation. Removing owners of the unit from the definition of Interested Party would remove the unit owner's ability to seek civil action under Admin Code Section 41A. While the unit owner has other legal avenues to address violations of a lease agreement, the Department believes that unit owners have an inherent interest in the unit that they own and therefore should not be removed from the definition of Interested Party.

Recommendation 13: Do not allow private rights of action for any Interested Party after 90 days if the Department has not instituted civil action, as proposed in the Campos ordinance.

Supervisor Campos's ordinance proposes to allow anyone who is defined as an Interested Party to initiate civil proceedings if the Department has not determined if a violation has happened within 90-days. While the Department supports the limited expansion of private rights of action in Supervisor Kim and Breed's Ordinance; the Department finds that the provision in Supervisor Campos's ordinance is overly broad. The Department believes that the City should be responsible for enforcing its own laws, and allocate resources accordingly. Allowing any Interested Party, which is proposed to include everyone within 100 feet of the property, to initiate civil proceedings before the Department has determined if a violation has occurred could open up the entire process for abuses. Further, it would limit the Department's ability to bring decisive action against violators.

Recommendation 14: Do not prohibit units that have been approved under Section 207.3 of 715.1 of the Planning Code from being used as a STR, per the Campos ordinance.

Units approved under 207.3 and 715.1 are not subject to any income restrictions, and for all intents and purpose they are units like any other in the City. The Department believes that the current regulation, which only allows the primary resident to register the unit as a STR, is sufficient enough to ensure that

²² For the purposed of the City's STR regulations, the term "Owner" includes a lessee where the lessee is offering a Residential Unit for Tourist or Transient use.

these units are not illegally converted to a permanent hotel use. The Department does not see a policy reason to prohibit the permanent residents of these units from the City's STR program.

ENVIRONMENTAL REVIEW

The proposed Ordinance is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any comments of support or opposition to the proposed ordinances.

RECOMMENDATION: Recommendation of Approval with Modifications

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Memo from Alex Marqusee, UC Berkeley Goldman School of Public Policy
- Exhibit C: Board of Supervisors File No. 141036
- Exhibit D: Board of Supervisors File No. 150295
- Exhibit E: Board of Supervisors File No. 150363



Exhibit A
**SAN FRANCISCO
PLANNING DEPARTMENT**

Planning Commission Draft Resolution

HEARING DATE APRIL 23, 2015

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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Project Name: **Amendments Relating to Short-Term Rentals**
Case Number: **2014-001033PCA, 2015-003861PCA, and 2015-004765PCA**
[Board File No. **141036, 150364, 150363**]
Initiated by: Supervisor Kim/ Introduced October 7, 2014
Supervisor Campos/Introduced April 14, 2015
Mayor Edwin Lee, Supervisor Farrell/ Introduced April 14, 2015
Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Reviewed by: AnMarie Rodgers, Senior Policy Advisor
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS THE THREE PROPOSED ORDINANCES THAT WOULD AMEND CHAPTER 41A OF THE ADMINISTRATIVE CODE; AND MAKING ENVIRONMENTAL FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

WHEREAS, on October 7, 2014, Supervisors Kim and Breed introduced a proposed Ordinance (hereinafter "Kim ordinance") under Board of Supervisors (hereinafter "Board") File Number 141036, which would amend the Administrative Code, Chapter 41A, to prohibit certain residential units that have been the subject of an Ellis Act eviction from use as short-term residential (hereinafter STR) rentals and provide for private rights of action to enforce the requirements of this Chapter; and

WHEREAS, on April 14, 2015, Supervisor Campos introduced a proposed Ordinance (hereinafter "Campos" ordinance) under Board File Number 150364, amending the Administrative Code, Chapter 41A, to revise the Residential Unit Conversion Ordinance to: limit short-term rental of a Residential Unit to no more than 60 days per calendar year; require Hosting Platforms to verify that a Residential Unit is on the City Registry prior to listing, remove a listing once a Residential Unit has been rented for Tourist or Transient Use for more than 60 days in a calendar year, and provide certain useage data to the Planning Department; prohibit short-term rental of certain "in-law" units; revise the definition of Interested Parties who may enforce the provision of Chapter 41A through a private right of action to include Permanent Residents residing within 100 feet; amend the private right of action provisions to allow for a private right of action against Hosting Platforms and create an additional private right of action against Owners, Business Entities, and Hosting Platforms under certain circumstances; and provide for criminal penalties against Hosting Platforms in violation of this Chapter 41A; and

WHEREAS, on April 14, Mayor Edwin Lee and Supervisor Farrell introduced a proposed Ordinance (hereinafter “Mayoral” ordinance) under Board File Number 150364 amending the Administrative Code, Chapter 41A, to revise the Residential Unit Conversion Ordinance to limit short-term rental of a Residential Unit to no more than 120 days per calendar year; revise the definition of Interested Parties who may enforce the provisions of the Administrative Code, Chapter 41A, through a private right of action to include Permanent Residents residing within 100 feet of the Residential Unit; create an additional private right of action under certain circumstances; and direct the Mayor to create an Office of Short-Term Residential Rental Administration and Enforcement staffed by the Planning Department, Department of Building Inspection, and Tax Collector’s Office; and

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinances on April 23, 2015; and,

WHEREAS, the three proposed Ordinances have been determined not to be a project under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinances.

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinances.

The Planning Commission recommends approval on the following aspects of the three proposed Ordinances:

1. Remove the distinction between hosted and un-hosted rentals, per the Campos and Mayoral ordinances.
2. Prohibit units that have been subject to an Ellis Act Eviction within the last 5 years from registering on the STR registry, per the Kim ordinance.
3. Allow the City to institute civil proceedings against a Hosting Platform, Business Entity, or Owner at any time, per all three ordinances.
4. Allow private right of action for non-profits as outlined in the Kim ordinance.
5. Add “Permanent Resident or owner residing within 100 feet” to the definition of Interested Party per the Campos ordinance and the Mayoral ordinance.
6. Prohibit Hosting Platforms from listing any unit that did not maintain good standing on the City’s STR registry, per the Campos ordinance.

7. Add a provision to the STR law directing the Mayor to set up a STR Office that would be staffed by the Planning Department, Department of Building Inspection and The Tax Collector's office, per the Mayoral ordinance.
8. Make the maximum number of nights a unit can be used as a hosted or un-hosted STR at 120 days. Adjust as needed if future studies can confirm the point where such use would incentive the illegal conversion of residential units to fulltime tourist use, per the changes proposed in the Mayoral ordinance.

The Department is proposing the following modifications, which are not proposed in any ordinance.

9. Remove the provision in the Administrative Code that requires an Administrative Hearing if a violation is found.
10. Remove the provision in the Administrative Code that allows cross-examination of witnesses during the Administrative Hearing.

The Department does not recommend approval of the following items:

11. Do not Require Hosting Platforms to report quarterly to the Planning Department the number of nights the Residential Unit was occupied as a Short-Term Residential Rental, per the Campos ordinance.
12. Do not remove "the Owner of the Residential Unit in which the Tourist or Transient Use is alleged to occur" from the definition of Interested Party, per the Campos ordinance.
13. Do not allow private rights of action for any Interested Party after 90 days if the Department has not instituted civil action, as proposed in the Campos ordinance.
14. Do not prohibit units that have been approved under Section 207.3 of 715.1 of the Planning Code from being used as a STR, per the Campos ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. Generally, the Commission supports efforts to amend the law now that the City has a better understanding of STR and now that implementation of the STR program has begun. The Commission continues to believe that STRs should be allowed within a reasonable regulatory structure. Many of the proposed amendments in these three ordinances would add regulation that enables limited STR while seeking to protect the public interest by minimizing the potential effects on neighborhoods and the housing stock. The proposed amendments generally increase the City's capacity for enforcement either by adding additional resources, data for checks and balances or more easily verified limits. However, some proposed changes would undermine the City's enforcement ability and rights the rights of landlords.
2. The Commission finds that removing the distinction between hosted and un-hosted rentals is a great improvement to the current law. Without this change, enforcement of the law would continue to be compromised as the Planning Department has not identified an effective method to determine if a rental is truly hosted or not. Further, the distinction between hosted and un-

hosted rentals creates an avenue to operate a fulltime bed and breakfast type use in their home without public notice or Planning Commission review.

3. Paramount to the Commission's recommendations is protecting the existing housing stock for San Francisco's residents and workers. An Ellis Act Eviction, by its very nature, is the property owner's statement that they are exiting the rental market. The existing and proposed versions of the law seek to keep the unit as primarily residential by limiting STR to the occupant of the unit. An owner move-in eviction is another eviction type that would allow the owner to move in and engage in STR. By allowing STR in owner-move in evictions; the owners' rights to STR are maintained. Removing the capacity for STR in the circumstance of Ellis Act Eviction removes a potential enforcement problem and removes the incentive to evict tenants when STRs may be more lucrative.
4. The Commission finds that the proposed Ordinance increases the Department's enforcement powers and gives the City more power in prosecuting the most egregious cases by allowing the City to take immediate action against repeat offenders.
5. The Commission finds that the proposed ordinances increases the Department's enforcement capacity by allowing non-profits that have in their bylaws a focus on housing the ability to go after some of the city more vulnerable housing, including units where an Ellis Act Eviction has occurred within the last five years and in buildings with three or more rent-controlled units.
6. The Commission finds that including in the definition of Interested Party "residents and owners within 100" of the unit in questions allows those most directly impacted by STR to initiate civil proceedings once the Department has found a violation.
7. The Commission finds that prohibiting Hosting Platforms from listing any unit that did not maintain good standing on the City STR registry is essential to improving the City's enforcement capacities as it would prevent anyone from listing a unit without a registration number, and it makes the Hosting Platforms an active partner in ensuring that hosts are abiding by the City's rules.
8. The Commission finds that it is better to wait on changing the number of days a unit can be rented out as a STR until the City has a better understanding of what impact the change will have on the City's housing stock.
9. The Commission finds that the City should pursue improved data collection and technologic solutions to inform policy-makers and assist with enforcement, and explore collaboration with other city agencies that may provide better information across hosting platform types rather than requiring Hosting Platforms to provide quarterly report to the City on the number of nights units listed on their serves are rented.
10. The Commission finds that unit owners have an inherent interest in the unit that they own and therefore should not be removed from the definition of Interested Party.

11. The Commission finds that allowing any Interested Party to initiate civil proceedings before the Planning Department has determined if a violation has occurred could open up the entire process for abuses. Further, it would limit the Planning Department's ability to bring decisive action against violators.
12. The Commission finds that the current regulation, which only allows the primary resident to register the unit as a STR, is sufficient enough to ensure that Accessory Dwelling Units are not illegally converted to a permanent hotel use. The Commission does not find a policy reason to prohibit the permanent residents of these units from participating in the City's STR program.
13. **General Plan Compliance.** The proposed amendments to the Planning Code are consistent with the following Objectives and Policies of the General Plan.

HOUSING ELEMENT

OBJECTIVE 2

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

As amended, the proposed Ordinances would be consistent with Object two of the Housing Element because they would limit the number of days that a unit could be utilized as a short term rental and how much that could be charged for a short-term rental, helping to preserve the City's existing housing stock.

OBJECTIVE 3

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

POLICY 3.1

Preserve rental units; especially rent controlled units, to meet the City's affordable housing needs.

With the proposed amendments, the proposed Ordinances would help preserve rental units by ensure that they are not converted into full time short-term rentals.

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

POLICY 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

While not an entirely new use, short-term rentals are proliferating within the City like never before and having a new and distinct impact on the City's residential neighborhoods. With the Commission's proposed amendments, the proposed Ordinances would help preserve the distinct residential character of

the City's residential neighborhoods by limiting the number of nights a residential unit can be rented out as a short-term rental.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

POLICY 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Short-term rentals are commercial activity and these Ordinances seeks to retain that commercial activity in the City while providing sufficient regulatory controls to ensure that any negative impacts are addressed.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED

Policy 3.4

Assist newly emerging economic activities

Short-term rentals and short-term rental hosting platforms are an emerging economic activity; the proposed Ordinances would maintain the legality of this activity within San Francisco.

14. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinances would not have a negative effect on neighborhood-serving retail uses.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The Commission's proposed amendments to the proposed Ordinances seek to minimize any impacts that this proposal would have on existing housing and neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinances would not negatively affect the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or

neighborhood parking;

The proposed Ordinances would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinances would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinances would not have an impact on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinances would not have an impact on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinances would not have an impact on the City's parks and open space access to sunlight and vistas.

- 8. Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT WITH MODIFICATIONS the proposed Ordinances as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 23, 2015.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: April 23, 2015

Airbnb and San Francisco: Descriptive Statistics and Academic Research

Alex Marqusee - Masters Candidate at GSPP U.C.
Berkeley, Planning Department Intern

The author conducted this study as part of the program of professional education at the Goldman School of Public Policy, University of California at Berkeley. This memorandum serves as the foundation for a paper to be submitted in partial fulfillment of the course requirements for the Master of Public Policy degree. The judgments and conclusions are solely those of the author, and are not necessarily endorsed by the Goldman School of Public Policy, by the University of California or by any other agency.

Alex Marqusee – 04/15/15 – Airbnb and San Francisco: Descriptive Statistics and Academic Research

To: AnMarie Rodgers, Senior Policy Advisor, San Francisco Planning Department
From: Alex Marqusee, Goldman School of Public Policy Masters Student, Planning Department Intern
RE: Airbnb and San Francisco: Descriptive Statistics and Academic Research
Date: 4/15/15

Purpose: This memorandum seeks to inform the debate around short term rentals by describing the characteristics of the short term rental (STR) market in San Francisco through descriptive statistics on Airbnb, the largest hosting platform for short term rentals. The second half presents a summary of the limited academic literature on STR markets. The appendix offers detailed information on methods and complete data tables for further review. This memorandum builds the foundation for a larger analysis of the impact of STRs on the price and availability of rental housing in San Francisco to be released in May 2015.

What are the available data sources?

The following statistics on the San Francisco STR market draw from several sources but only pertain to units listed on Airbnb:

1. A fact sheet provided by Airbnb in 2012 and included in the SF Planning Department's public record on STRs (cited as 'Airbnb 2012');
2. [A consulting report](#) by Rosen Consulting Group who had access to Airbnb data for 2012 but offer no transparency into their methodology. The website 'Journalist's Resource' described this study as an internal Airbnb report¹ (cited here as RCG);
3. An economic impact analysis by HR&A associates for Airbnb that was reported on but not released² to the public ([2012 Study](#) cited as HR&A 2012);
4. [Data scraped](#) and mapped in August 2014 by an independent journalist³ (cited as '8/14 Scrape');
5. [A news story](#) by Carolyn Said in the San Francisco Chronical relying on data scrapped from the Airbnb website on May 19, 2014, by the data mining company Connotate⁴ (cited as SFC);
6. Data scraped and in December 2014 by an independent journalist⁵ and provided to author (cited as '12/14 Scrape');
7. Data scraped on 02/09/15 by an independent journalist⁶ and provided to author (cited as '2/15 Scrape').

¹ Penn, Joanna and John Wihbey (2015, January 29th). *Uber, Airbnb and consequences of the sharing economy: Research roundup*. Retrieved from <http://journalistsresource.org/studies/economics/business/airbnb-lyft-uber-bike-share-sharing-economy-research-roundup>

² Airbnb contracted HR&A Advisors to create this report. The author contacted HR&A on 3/18/15 for a copy of the report and was told that the report could not be released since it is Airbnb's proprietary information.

³ Data collected and published by Tom Slee. Retrieved from <https://www.google.com/fusiontables/DataSource?docid=1WvonuxK6oy6c6gi7ilvLDIaJtcyHXbx8t0KKGh1p#map:id=3> in February 2015.

⁴ Said, C. Window into Airbnb's hidden impact on S.F. *San Francisco Chronical*. Retrieved from <http://www.sfchronicle.com/business/item/Window-into-Airbnb-s-hidden-impact-on-S-F-30110.php>

⁵ Data collected by: Murray Cox of <http://insideairbnb.com/> (personal communication with staff in March 2015).

⁶ Data collected by: Guss Dolan (<http://darkanddifficult.com/>) & Anti-Eviction Mapping Project (<http://www.antievictionmappingproject.net/>) (personal communication with staff in March 2015)

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8. A data summary brief, 'San Francisco: Visitor Industry Economic Impact Summary, 2014' by the San Francisco Travel Association provided to the author (cited as 'SFTA').
9. Long term rental data scraped from Craigslist and provided to the author by the San Francisco Planning Department. This dataset includes approximately 8,500 rental listings from Craigslist posted during 2014. This data was cleaned to remove duplicates and outliers.

How reliable is this information?

Overall, this data provides a reliable description of the general characteristics and size of the Airbnb market in San Francisco but can not provide exact figures due to unverified methodologies and imperfections in the data scraping process. The consulting reports by HR&A and the Rosen Consulting Group provide no methodology nor means of verification. It is impossible to tell whether or not their conclusions are biased or interpreted objectively. Data collected from webscrapes may omit some listings or may over-count duplicated listings and so the resulting statistics are inexact. These limitations in the data reinforce the need to corroborate each source against the others.

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Describing the Airbnb Market in San Francisco

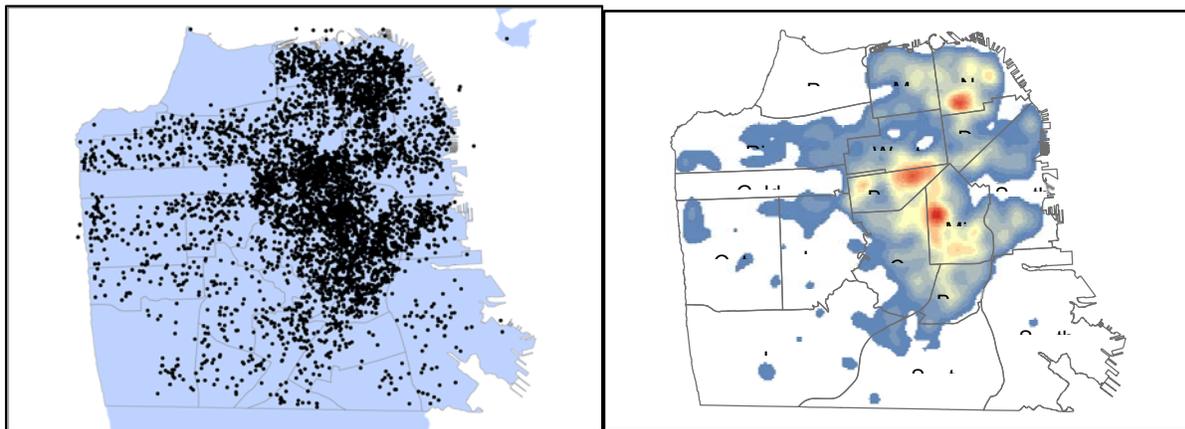
How many total Airbnb listings are there in San Francisco?

The data do not allow for an exact estimate of the number of unique listings. Enforcement staff at the Planning Department report, and a review of the scraped data corroborates, some hosts will list the same bedroom separately as both an entire unit and as a private room. In addition, some hosts list the exact same unit multiple times under different descriptions. The total number of rentals listed on the Airbnb website likely overstates the true number of active, unique listings but it is unclear by what degree. There are an estimated 4000 to 5000 unique Airbnb listings in San Francisco.

- 4798 listed rentals as of May 2014. (SFC)
- 4058 rentals with at least one review as of August 2014. (8/14 Scrape)
- 5148 listed rentals, 4262 units with at least one review, and 5057 listings updated in the last six months as of December 2014. (12/14 Scrape)
- 5095 listed rentals, 3889 units with at least one review, and 4880 listings updated in the last six months as of February 2015. (2/15 Scrape)

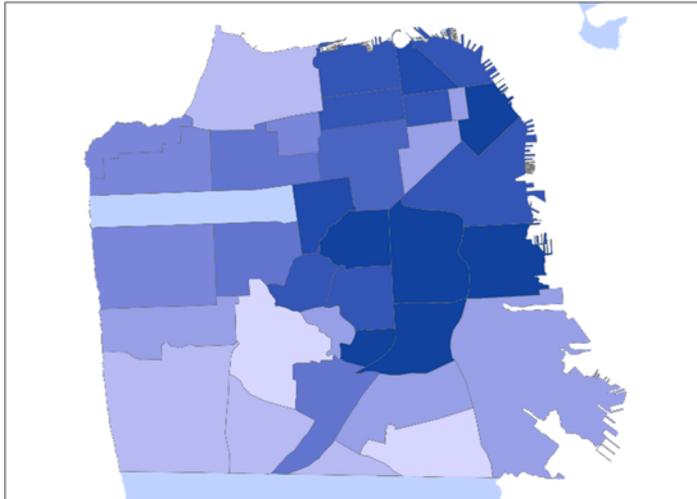
Where are the Airbnb Units in San Francisco?

There are Airbnb units in all neighborhoods in San Francisco but these units are not distributed evenly. The maps below show the location of the Airbnb units in San Francisco as well as a heat map (kernel density distribution) of Airbnb units in San Francisco. The higher concentrations of Airbnb units appear as brighter red areas.



As the maps above show, Airbnb units appear to be concentrated in the northern and eastern neighborhoods of the city. However, this map merely shows where units are located and does not take into account the fact that those parts of the city have a higher density of all housing units. It is necessary to control for the density of housing units in order to identify if there are areas of the city with higher concentrations of Airbnb units. The map below controls for neighborhood density by dividing the number of Airbnb units by the total number of housing units for each neighborhood.

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The map to the left shows the number of Airbnb rentals by neighborhood as a percentage of the total housing stock. The darker colors indicate higher concentrations of Airbnb listings. This map confirms that there are higher concentrations of Airbnb units in the northern and eastern neighborhoods.

How much do visitors use Airbnb in San Francisco?

Currently, there are no available sources to precisely calculate the demand for Airbnb

or other short term rentals in San Francisco. However, a comparison of statistics issued from reports commissioned by Airbnb and a recent survey of visitors to San Francisco conducted for the San Francisco Travel Association offers a general approximation.

1. Reports commissioned by Airbnb indicate that demand for Airbnb tracks the seasonal demand of hotel occupancy rates. These Airbnb reports also state that in 2011 and 2012 there were at most approximately 1500 bookings per month and those bookings average about five nights in length.
 - Demand for Airbnb reportedly varies by season and tracks hotel occupancy rates. In 2012, the highest demand in any one month was 1,576 individual bookings in August. (RCG)
 - Between 2011 and 2012, guests stayed an average of 5.5 nights per trip. (HR&A 2012)
 - Guests stayed an average of 5 nights per trip in 2011. (Airbnb 2012)
2. In 2014, a survey of 4,682 visitors to San Francisco found that 76 were staying in “peer-to-peer lodging” of some kind through Airbnb, VRBO, Homeaway or a related service. From this number, the survey estimated that 130,000 visitors stayed in peer-to-peer lodging in 2014. (SFTA) This same survey also asked the length of stay for visitors. The results from the 67 responses to this question reports that the average length of stay is about five nights which confirms the earlier studies. The full distribution also confirms that the majority of peer-to-peer lodgings are in fact short term rentals of fewer than thirty days in duration:

Nights in San Francisco by Place of Stay (2014 Survey Data)

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	Overnight Anywhere in San Francisco	San Francisco Hotels	Peer-to-peer lodging in SF (AirBNB, etc.)	Private Homes in San Francisco	Private Home or Hotel Outside SF	Bay Area Residents on Leisure Day Trips
Five or more	33.4%	31.7%	46.3%	38.5%	15.5%	0.0%
Four	20.9%	21.4%	20.9%	19.0%	6.3%	0.0%
Three	22.0%	22.9%	11.9%	19.6%	12.6%	0.0%
Two	15.5%	15.7%	10.4%	15.1%	6.4%	0.0%
One	7.9%	8.2%	7.5%	6.7%	8.7%	0.0%
Zero	0.3%	0.0%	3.0%	1.1%	50.4%	100.0%
Mean	4.3	3.9	5.1	5.4	2.3	0.0
Sample size	3,210	2,964	67	179	340	263

(Source: San Francisco Travel Association 2014 Visitor Profile: Final Report of Findings. Nights in San Francisco Detail by Place of Stay. Survey and report by Destination Analytics)

How often are Airbnb rentals booked?

Currently, there are no publicly available and verifiable sources to precisely identify the occupancy rate of Airbnb units. However, statistics from reports commissioned by Airbnb and an analysis of data scraped from the Airbnb website create a general picture of occupancy rates:

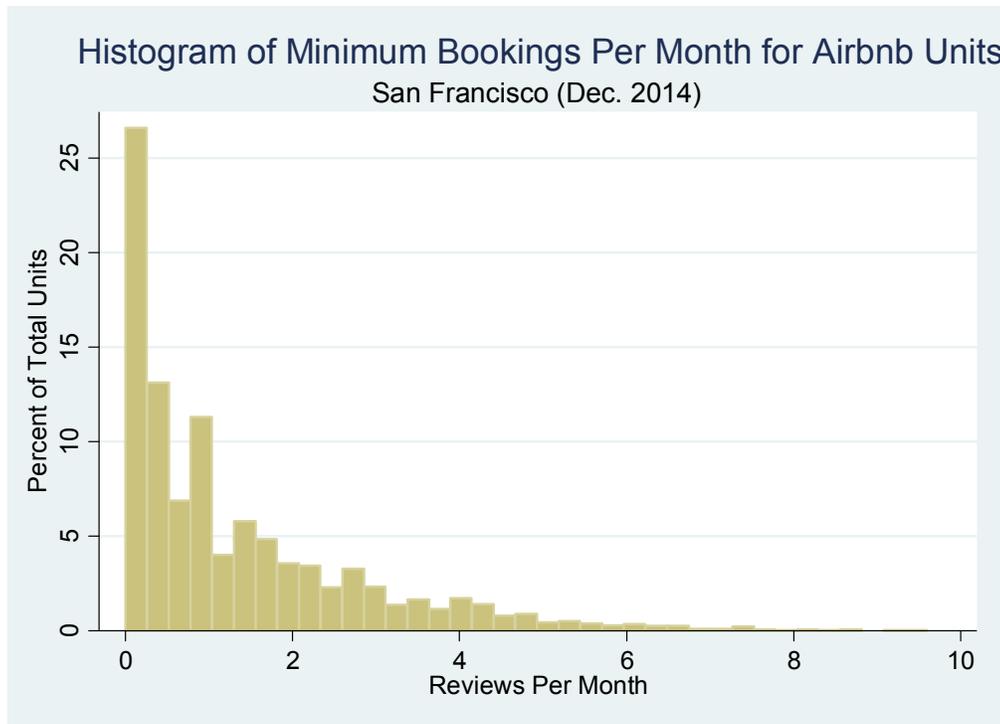
- Two reports commissioned by Airbnb offer statistics on usage but these reports’ methodologies are undisclosed and so can’t be verified. In addition, these statistics represent either the median or the mean occupancy rate and do not provide any information on the distribution of bookings per unit.
 - The average listing was occupied for 53 days during 2012. This translates into a 14.5% occupancy rate.⁷ (RCG)
 - The occupancy rate was 13.4% for the month of December 2011. Over an entire year, this translates to approximately 49 days of occupancy. (Airbnb 2012)
- Data scraped from Airbnb’s websites provides the number of times each unit has been reviewed as well as the length of time each unit has been listed on the website. These data points allow a calculation of the minimum number of times each unit has been booked.⁸ The following data represent the minimum reviews per month since guests are not required to leave reviews. A 2014 online comment by the CEO of Airbnb stated that “72% of guests leave a review for hosts.”⁹ In truth, it is impossible to know exactly by how much this metric underreports usage for each individual unit. The histogram below shows the distribution of Airbnb units in San Francisco by the minimum reviews per month for each unit since it received its first review.

⁷ More specifically, this data point represents the number of nights the unit was occupied over the previous 12 months at the time of analysis and not the 2012 calendar year. RCG do not provide an exact date of analysis.

⁸ The Reviews per Month metric is calculated by dividing the number of reviews by the length of time between when the unit received its first review and the date the unit’s information was scraped from Airbnb’s website. This number is then expressed in terms of months.

⁹ Chesky, B. (9/7/2012) *What percent of Airbnb hosts leave reviews for their guests*. Retrieved from: <http://www.quora.com/What-percent-of-Airbnb-hosts-leave-reviews-for-their-guests>

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The distribution suggests that the majority of hosts rent out their units less than one time a month at minimum. However, this distribution skews to the right meaning there are some hosts who rent out their units far more times per month. The table below shows the minimum bookings per month for the hosts with the highest occupancy rates:

Minimum Bookings per Month by Type of Unit: All Airbnb Units (Dec. 2014)

Type of Unit	Number of Units	Median	75 th Percentile	90 th Percentile	95 th Percentile
Entire home/apt	3,228	0.8	1.9	3.4	4.3
Private room	1,795	0.9	2.3	3.8	4.9
Shared room	125	0.9	1.6	2.6	3.1
All Units	5,148	0.9	2	3.5	4.5

The table above shows that a small number of hosts rent out their units very often. There are approximately five hundred units that are rented at least three and a half times per month.

There are also alternate methods of estimating the actual distribution of occupancy rates for Airbnb units in San Francisco. Assuming that the occupancy rate for all bookings were for the average length of stay of 5.1 nights (SFTA) results in the following distribution of estimated¹⁰ occupancy rates for Airbnb units:

¹⁰ Estimated Occupancy rates are calculated by multiplying the number of reviews per month by the average length of stay for a visitor staying in a short term hotel (5.1 nights). This number is converted to a percentage by annualizing the estimated number of nights the unit is occupied each month and dividing by 365.

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Estimated Occupancy Rates by Type of Unit: All Airbnb Units (Dec. 2014)

Type of Unit	Number of Units	25 th Percentile	Median	75 th Percentile	90 th Percentile	95 th Percentile
Entire home/apt	3,228	3%	14%	33%	58%	74%
Private room	1,795	3%	15%	40%	65%	84%
Shared room	125	0%	15%	28%	45%	53%
Total	5,148	3%	15%	34%	60%	77%

These occupancy percentages should be viewed as rough approximations of the true distribution. However, the top ten percent of units appear to have occupancy rates close to the U.S. national average occupancy rate for commercial hotels (65.1%)¹¹ and the top five percent of users are approaching the San Francisco hotel occupancy rate of 84.1%.¹²

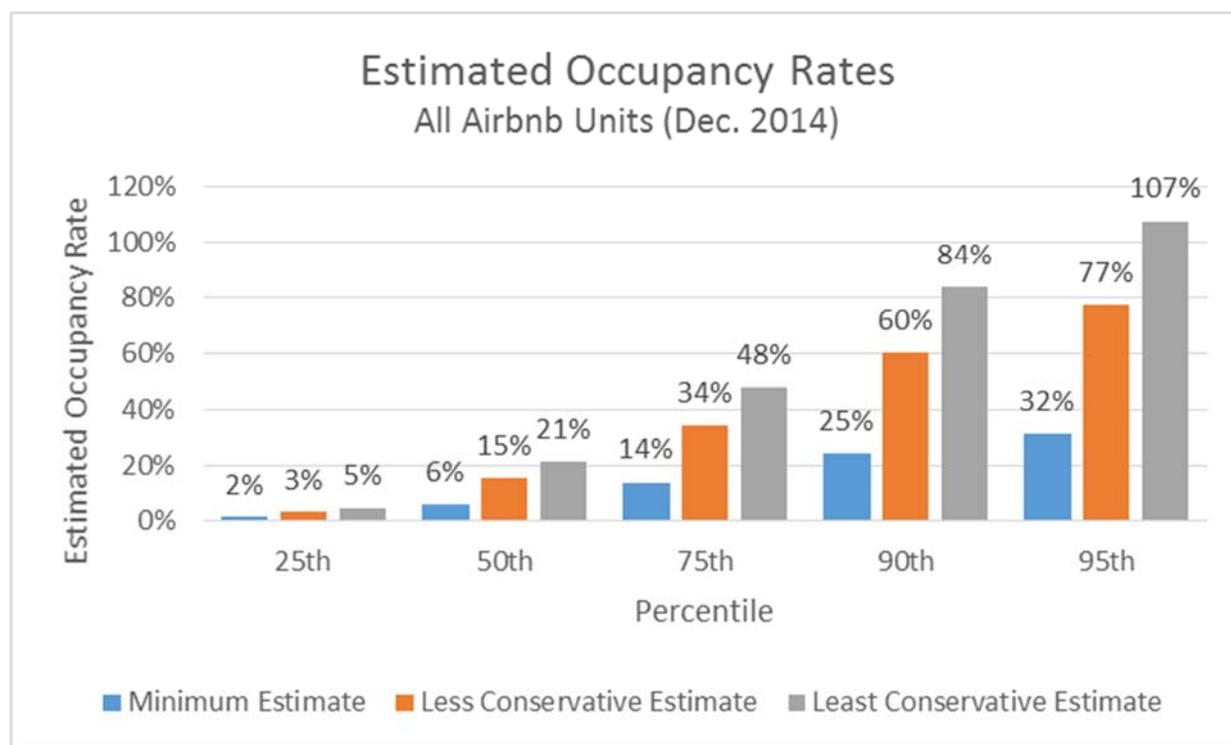
Methods for Estimating Occupancy Rates	
1.	Calculate the minimum number of reviews per month with the observed total number of reviews, the minimum required length of stay and the length of time since the STR was first reviewed.
2.	Inflate the minimum number of reviews per month by: <ul style="list-style-type: none"> a) Multiplying by the average length of stay instead of minimum required stay. Three sources from 2012 and 2014 state approximately 5 nights as the average length of stay. b) Multiply by the average length of stay and by how many users did not leave reviews. Airbnb stated in 2012 that only 72% of guests leave reviews.

By comparing all three estimates of occupancy rates, it is possible to compare the most and least conservative predictions of the actual occupancy rates of short term rentals in San Francisco:

¹¹ hotelnewsnow.com. Occupancy rate of the United States hotel industry from 2001 to 2015. In *Statista - The Statistics Portal*. Retrieved April 13, 2015, from <http://www.statista.com/statistics/200161/us-annual-accomodation-and-lodging-occupancy-rate/>

¹² PKF Econometric Forecast of US Lodging Markets, March-May 2015 Edition for San Francisco.

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The above chart shows how difficult it is to accurately estimate occupancy rates for Airbnb units with the very highest occupancy units. It is possible to say that the top ten percent of most frequently used Airbnb Units are likely occupied a quarter of the year, but concluding anything else more precisely isn't well supported by these estimates. For instance, the recent survey presented on page 5 reported that the 67 visitors to San Francisco staying in peer-to-peer lodging stayed for an average of 5.1 nights. In reality, this average reflects a distribution that might be different for different types of rentals. For instance, it's possible that the units with the most reviews have shorter stays than units with fewer reviews. In that scenario, the less conservative estimates would be overstating the occupancy rate for units with many reviews and understating the occupancy rate for units with few reviews.

How much does an Airbnb listing cost per night?

The cost of an Airbnb rental depends on the type of listing. On average, entire apartments and homes rent for approximately \$250 per night, private rooms rent for approximately \$120 per night, and shared rooms rent for approximately \$85 per night. (SFC, 8/14 Scrape, 12/14 Scrape and 2/15 Scrape) In comparison, the average hotel room currently rents for \$200 per night.¹³

¹³ *San Francisco Hotel Room Rates Reach All-Time High, Average \$200 A Night.* (2014, June 30th). Retrieved from <http://sanfrancisco.cbslocal.com/2014/06/30/san-francisco-hotel-room-rates-reach-all-time-high-average-200-a-night-travel-tourism-vacation/>

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Prices depend on the size and quality of the unit as well as the location. Airbnb rentals located in houses also appear to charge a slight premium of approximately \$20 per night compared to similar units located in apartment buildings.

These averages mask a wide range of prices for Airbnb rentals. The standard deviations for the price per night of each type of short term rental are as large as the mean. A full accounting of the distribution can be found in the Appendix. The appendix also includes the results of a regression model for short term rentals of ‘Entire Place’ units that identifies the average difference in prices based on the number of bedrooms, bathrooms and the location. As an example, the bar chart below illustrates the differences in price for the most expensive, least expensive and median expensive neighborhoods:



How much do Airbnb hosts make?

Currently, there are no publicly available and verifiable sources to precisely identify how much revenue or income hosts make each year. However, reports commissioned by Airbnb and an analysis of data scraped from Airbnb’s website include enough information to estimate hosts’ average annual incomes and revenues.

The only exact data on average incomes come from reports commissioned by Airbnb that do not disclose their data sources or methodology. These reports are also at least three years old and might not reflect current market conditions. Additionally, it’s impossible to draw any conclusions from the average annual revenue since we do not know the shape of the underlying distribution.

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- Average annual income from Airbnb in 2012 was \$6,772¹⁴ or about \$560 per month. (RCG)
- Per Airbnb in 2012, hosts of entire apartments earned on average \$9,300 annually and hosts of shared or private rooms on average earned \$6,900 annually. (HR&A 2012)
- The average host earned \$5,490 in revenue in 2011. (Airbnb 2012)

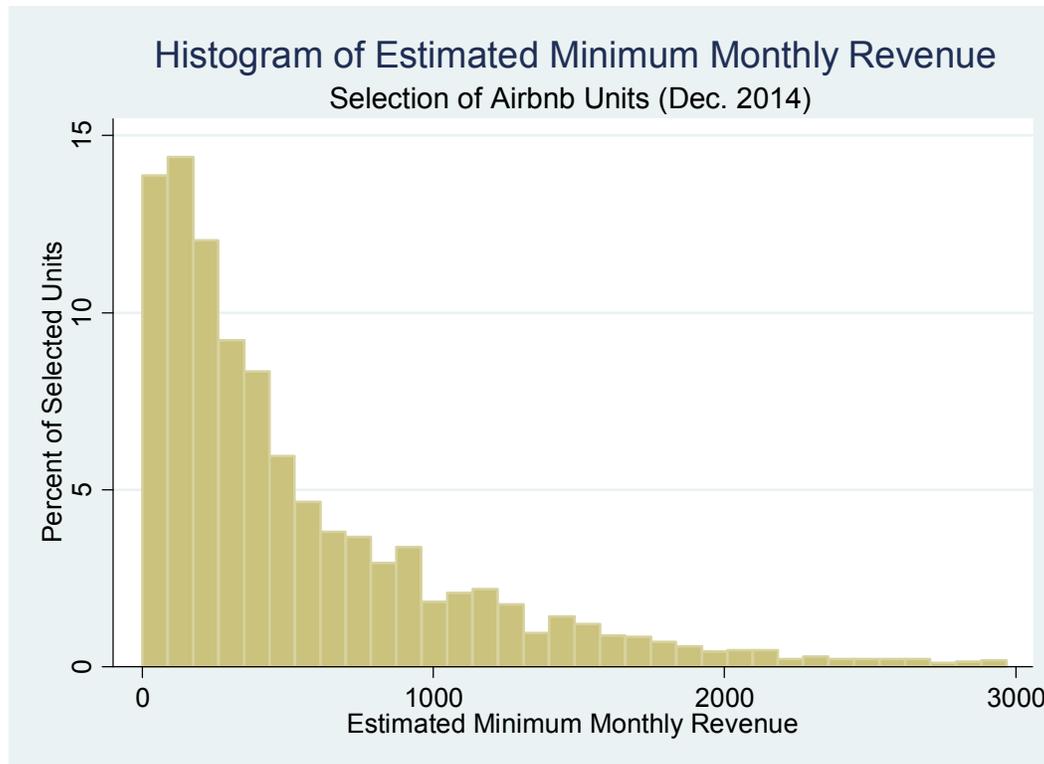
The estimated minimum monthly revenue for each unit can be calculated from information scraped from Airbnb's website including: the number of reviews, the nightly price, the minimum required stay and how long the unit has been listed. However, the resulting metrics understate the true gross revenue and are inexact approximations. The metric understates the true revenue since not all guests leave reviews. In addition, assuming that all guests stayed for the minimum number of nights only provides the minimum revenue. Finally, some guests might have changed their prices and minimum stay requirements over the lifetime of the rental. This makes the resulting statistics less accurate. Overall, these numbers should be interpreted as only general approximations of the magnitude of the revenue that listings generate. In addition, this statistic creates misleading results when applied to some units and so the dataset is restricted for this part of the analysis.¹⁵

The histogram below shows the distribution of estimated minimum monthly revenue for the subset of Airbnb units in San Francisco that were active for at least six months by December of 2014 and did not have a minimum required stay of five or more days:

¹⁴ This data point actually represents the average revenue realized by Airbnb hosts over the last 12 months and not over the 2012 calendar year. It is unclear whether this represents gross revenue or revenue net of fees, taxes and Airbnb charges listed on the website.

¹⁵ The following statistics are misleading when calculated for certain units and so the data is restricted to avoid biasing these results. First, these statistics exclude units that have been offered for fewer than six months to remove revenue numbers that might only reflect the occupancy rates during San Francisco's high tourist season during the summer.¹⁵ In addition, it is clear that some units have changed their minimum nights required for a reservation since the unit's reviews per month multiplied by the minimum nights for reservation exceed the number of days in a month. So, these statistics exclude units with a minimum required stay of more than five days to very conservatively avoid the potential for including these inaccurate estimations. These two restrictions reduce the total units for this analysis from 5148 units to 2752 units.

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The above histogram shows that most units have generated little revenue per month but that there are a number of hosts who make at least a few thousand dollars per month. The true revenue numbers may be dramatically higher if we inflate the number of bookings by how much Airbnb claims reviews are underreported.

Methods for Estimating Hosts' Revenue

1. Calculate the most conservative estimated monthly revenue (number of reviews per month times minimum required stay times price per night)
2. Calculate progressively less conservative estimates of monthly revenue by:
 - a) Multiply by the minimum length of stay and inflate by how many users did not leave reviews. Airbnb stated in 2012 that only 72% of guests leave reviews
 - b) Multiplying by the average length of stay instead of the minimum required stay but use the original number of reviews per month. Sources from 2012 and 2014 state approximately 5 nights as the average length of stay.
 - c) Adjust for both the average length of stay instead of the minimum and for the underreporting of reviews.

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The following table presents the distribution of monthly revenues from the four different estimation techniques and are in order from most to least conservative. Please note that these are estimates meant to give an approximation of how much revenue listings generate each month on average:

Estimates for Hosts’ Monthly Revenue: Select Airbnb Units (Dec. 2014)

Adjustment to Estimate:	25th Percentile	50th Percentile	75th Percentile	90th Percentile	95th Percentile
Nothing (Most Conservative Estimate)	\$150	\$356	\$780	\$1,364	\$1,800
Number of bookings inflated for missing reviews	\$208	\$495	\$1,083	\$1,894	\$2,500
Average stay of 5 nights instead of minimum requirement	\$398	\$956	\$1,964	\$3,189	\$4,137
Both increased length of stay and inflated for missing reviews (Least Conservative Estimate)	\$553	\$1,328	\$2,727	\$4,429	\$5,746

Is it more profitable to rent an apartment as an Airbnb unit or as a long term rental?

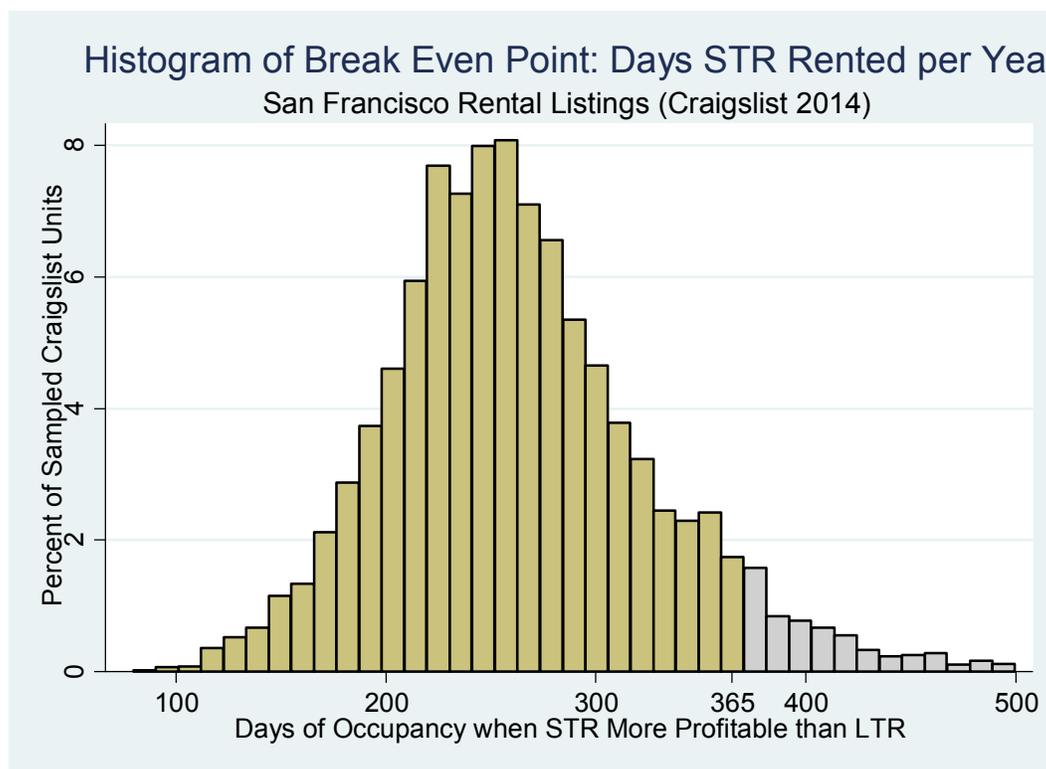
Current data limitations make it impossible to perfectly determine whether it is more profitable to rent apartments in San Francisco as a long term or short term rental. However, we can approximate the distribution of how many days a short term rental needs to be rented until its more profitable than a long term rental (the ‘Break Even Rate’) by comparing actual, advertised long term rental prices to short term rents calculated to match the unit’s attributes (location, bedrooms and bathrooms). A full explanation of the methods, the regression for fitted short term rents, the ‘Break Even Rate’ model and the results of a simulation analysis confirming these statistics is available in the Appendix.

Methods for Calculating “Break Even Occupancy Rate”	
1.	Compare short term rents and long term rents for 8500 apartments listed on Craigslist in 2014. A regression analysis created a predicted short term nightly rate for each listing based on its location, number of bedrooms and number of bathrooms.
2.	Assume that operating a short term rentals costs 32% of total revenue. Airbnb charges at least a 3% fee, hotel tax is 14% and one prominent management company (Pillow.com) charges 15% to manage all aspects of running a short term rental. This underestimates the true cost of running a short term rental.
3.	Calculate the occupancy rate required for each short term rental to generate the same income as the apartment listed on Craigslist. Expressed as ‘Days Occupied until STR is More Profitable’ which multiplies the occupancy rate by 365 to convert into number of days out of the year.

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The resulting analysis suggests that there are many properties that are vulnerable to conversion to a short term hotel because they would be more profitable as a full time short term rental than as a long term rental.¹⁶ This is especially true considering that traditional hotels currently boast an occupancy rate of approximately 85%¹⁷ in San Francisco.

Applying the estimated short term rents to a sample of apartments listed on Craigslist creates the following distribution of 'Break Even' occupancy rates expressed as the number of days in a year a short term rental would have to be rented to be more profitable than the comparable long term rental. In the graph below, any 'Break Even' points below 365 (tan columns) indicate that it is possible for that percentage of apartments listed on Craigslist to be rented more profitably as a short term rental than as a long term rental. Any bars above 365 days (grey columns) indicate that it is impossible for that percentage of Craigslist apartments to be more profitably run as a short term rental. This analysis overestimates the profitability of Airbnb as it does not include a small proportion of fees and operating costs.

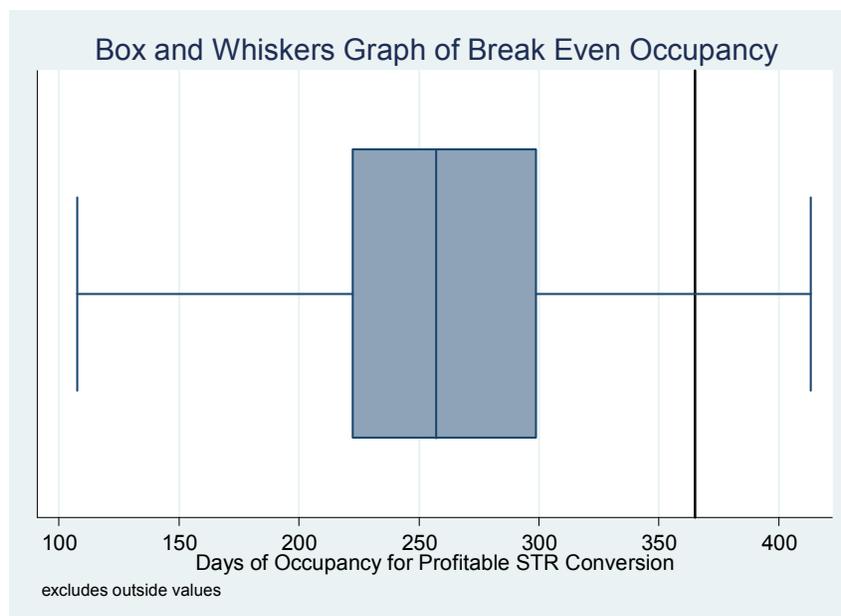


¹⁶ This calculation is only as good as the estimated short term rent. The analysis included simulations of a selection of neighborhoods to confirm that these findings are not due to poor estimates. This method ran two thousand versions of this same analysis by altering the estimated short term rents each time by a random amount of the margin of error. The resulting distributions confirm these findings and can be found in the Appendix.

¹⁷ March-May 2015 Econometric Forecasts of US Lodging Markets, San Francisco/San Mateo shows an average of 84.1 occupancy rate for 2014. However, over the past four years, the occupancy rate spikes to 90% during the third quarter each year to over 90% and then falls back to at or below average occupancy. The average daily room rate (ADR) similarly spikes during the third quarter to about \$20 over the average annual ADR which was about \$207 in 2014.

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The histogram above illustrates that for most of these sampled apartments, there is an incentive to rent the unit as a short term rental rather than as a long term rental. It is unclear how many landlords are currently converting long term units into short term rentals. That question is addressed in a later section entitled “How many residential units are taken off the market to be used as Airbnb rentals”. The median value suggests that, on average, there is an incentive for landlords to convert long term units to short term rentals if the unit could be rented for more than 257 days out of the year. The distribution also shows that nearly all of the rental units sampled would have to be rented for more than 100 days a year to be more profitable as a short term rental. The following box plot (also known as a box and whiskers plot) shows that the majority of sampled Craigslist units would need at least between two and three hundred days of short term reservations per year to justify converting the property from a long term rental (the two shaded boxes represent the middle fifty percent of observations and the dark vertical line is at 365 days):



In addition, the potential profitability of short term rental hotels is unevenly distributed across the city. The map below shows the median of the number of days per year that apartments would have to be rented as a short term rental to be more profitable than as long term rentals. Again, this metric underestimates the profitability of Airbnb rentals and so the true medians are most likely higher.

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- Shared rooms comprised 3.4% of Airbnb listings in May of 2014, 3.5% in August of 2014, 2.4% in December 2014¹⁸ and 4.3% in February 2015. (SFC, 8/14 Scrape, 12/14 Scrape, and 2/15 Scrape)

Why do Airbnb hosts rent out their units?

Currently, there are no public and verifiable sources to know. The only exact data on this subject come from reports commissioned by Airbnb that do not disclose their data sources or methodology.

- A survey of users by Airbnb presented by the Rosen Consulting Group in 2013 found that “the money generated by short-term rentals was viewed by hosts as extra spending money (48%) or supplementary income for living expenses (42%).” (RCG Page 5)
- An online survey of 344 hosts found that 56% of them use Airbnb to pay for part of their rent or mortgage. (HR&A 2012)

Do Airbnb hosts usually live in the units they rent?

There are no data at this time to answer this question with any certainty and all statistics on the subject should be interpreted with great care. A survey commissioned by Airbnb stated that 90% of hosts live in the home they offer as a STR but offers no means of verifying its methodology. (RCG)

In addition, an analysis of data scraped from Airbnb’s website shows that the vast majority (approximately 85%) of hosts only list one unit. However, it is incorrect to therefore say that 85% of hosts live in the unit they list since an unknown proportion of those listings are for second homes. (8/14 Scrape and 2/15 Scrape)

How many hosts list multiple units?

There are no data at this time to answer this question with any certainty. Approximately 550 Airbnb hosts (approximately 14% of all hosts) list multiple units. However, this does not explain how many hosts list multiple units as staff believe it is likely that some of those hosts are actually booking agents.

- There were 513 hosts (13.6%) with multiple listings in May 2014, 535 hosts (13.8%) in August 2014, 604 (14.5%) and 550 hosts (13.4%) in February 2015. (SFC, 8/14 Scrape, 12/14 Scrape and 2/15 Scrape)

There are also a few hosts with a large number of listings. The top ten hosts offered approximately 190 listings. Staff do not believe it is appropriate to identify a downward trend over time in the number of listings by the most active hosts due to the inaccuracies of data scraping.

- The top ten offered 248 Airbnb listings in May, 2014, 185 in August, 2014, 133 in December, 2014 and 141 in February, 2015. (SFC, 8/14 Scrape, 12/14 Scrape and 2/15 Scrape)

¹⁸ The method used to remove duplicated data most likely disproportionately removed shared rooms that were in fact unique listings.

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How many residential units are taken off the market to be used as ‘entire place’ Airbnb rentals?

There are no data at this time to answer this question with any certainty. There are two different reasons why it is impossible to get an answer with any certainty:

1. Lack of precise data: data scraping offers a large amount of useful information to understand the Airbnb market but does not offer data on the exact number of bookings or the length of those bookings. It is possible to get a general sense of the distribution of commercial users through estimated occupancy rates but these estimates rely on assumptions about the number of guests that leave reviews and the length of each stay. These assumptions mean that the resulting statistics are merely suggestive of the true distribution of units already converted to full time Airbnb rentals.
2. Additionally, some percentage of apartments being used as Airbnb rentals might not have been used as long term rentals. Even before the creation of Airbnb, some percentage of rental units were held off the market each year.¹⁹

With these caveats in mind, it is possible to identify the number of commercial users by filtering the estimated occupancy rates for only those units with a greater than 50% occupancy rate:

Estimated Number of Commercial Airbnb Units: All Airbnb Units (Dec. 2014)

Type of Unit	Occupancy Rate Above 50% (Average of 5.1 Days per Stay)	Conservative Calculated Occupancy Rate (Days of Stay is Minimum Required)
Entire home/apt	413	23
Private room	303	10
Shared room	9	0
Total	725	33

However, some of these units may only reflect a high occupancy rate because they have been listed for a very short amount of time and had a few bookings early on. The next table only looks at Airbnb rentals that have been listed for at least six months:

Estimated Number of Commercial Airbnb Units: Airbnb Units Listed for Minimum Six Months (Dec. 2014)

Type of Unit	Occupancy Rate Above 50% (Average of 5.1 Days per Stay)	Conservatively Estimated Occupancy Rate Above 50% (Days of Stay is Minimum Required)
Entire home/apt	282	18
Private room	211	8
Shared room	4	0
Total	497	33

¹⁹ Please also see SPUR’s excellent report on non-permanent residents for an more complete review of the complexities around estimating rental vacancies. Retrieved at:
http://www.spur.org/sites/default/files/publications_pdfs/SPUR_Non-Primary_Residences.pdf

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Existing Academic Research on the STR Market

How does the STR market work?

The STR market comprises consumers (“guests”) renting entire apartments, private rooms, or access to a shared room from property owners or lease holders (“hosts”). Online hosting platforms such as Airbnb facilitate the connections between hosts and guests and earn a fee from both parties for each booking (i.e. the fee per booking model). Others hosting platforms such as Homeaway and VRBO also facilitate the connection between guest and host for a fee but in addition offer hosts a subscription service to only advertise their rentals (i.e. the fee per listing model). Still other hosting platforms such as Craigslist do not generate revenue from either hosts or guests. Hosts and guests are encouraged by hosting platforms to provide reviews of each other. Most municipalities define short term rentals as lasting fewer than thirty days and prohibit any leases that are less than 30 days, as this is typically categorized as a transient or tourist use. STRs may provide a close substitute to hotel rooms or may provide a new type of lodging product by providing additional amenities such as full kitchens, easy access to different neighborhoods, and a more local and authentic experience of an area.

Is there any impact from STRs on housing prices, housing availability/capacity or the quality of life in residential neighborhoods?

There is no conclusive evidence to answer this question at this time.

One of the most contentious questions remains the least studied by academics. Teasing out the impacts of a phenomenon on rents is tricky when a clear change occurs (i.e. if a density bonus policy starts tomorrow and is always applied or a natural disaster displaces many residents) but nearly impossible when an activity slowly enters a market over time and is spread across all comparable geographies.

- Airbnb hired the Rosen Consulting Group to answer that question among others. In their response, they claimed that macroeconomic factors (strong job market, constrained housing supply, and a changing preference for living in urban areas) swamp out any impact on prices from the comparatively small number of short term rentals. They also argued that turning units into hotels through STRs doesn’t pencil out although did not provide any methodology to verify this result.
- Airbnb commissioned a study by Thomas Davidoff from the University of British Columbia that found that in San Francisco, Airbnb “increases rents by on average about \$19 a month.”²⁰ The methodology behind this estimate has not been released and so it is impossible to evaluate this claim.

Why do hosts engage in the short term rental market?

Hosts rent units primarily for money but some hosts may also be motivated to continue because they enjoy the process or want to avoid having a permanent roommate. There may also be a subset of users

²⁰ Kusisto, L (3/30/15). *Airbnb Pushes Up Apartment Rents Slightly, Study Says*. The Wall Street Journal. Retrieved from <http://blogs.wsj.com/developments/2015/03/30/airbnb-pushes-up-apartment-rents-slightly-study-says/>

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who believe that it achieves sustainability goals. There is very little independent empirical work to support this.

- A few empirical studies have found that people engage in ‘collaborative consumption’ for economic benefits, personal satisfaction, and because they believe it contributes to ecological sustainability by better utilizing idle resources.^{21,22}

Does the STR market “self regulate” with respect to the quality of units and ensuring fully informed transactions?

The evidence is unclear but suggests that online marketplaces do not fully self-regulate. It is possible that the reputation system pushes out the worst units eventually. However, Airbnb ratings provide little differentiation between units and have almost no relationship with ratings of identical units on other websites. Online rating systems are positively biased because everyone wants a good review from everyone else. Also, one study points to racial discrimination by users on Airbnb.

Many proponents of the sharing or collaborative economy maintain that user reviews ensure a high quality of products. This along with controls by the hosting platform ‘self regulates’ the market and lessens the need for government intervention in the name of consumer protection.

- Online marketplaces that rely on profiles and digital reputations may facilitate racial discrimination. A study of Airbnb in New York City found that non-black hosts charge 12% more for rentals controlling for all information visible on the website.²³
- Airbnb’s rating system fails to differentiate listings through their reputation based system since nearly 95% of ratings are 4.5 or 5 stars (Airbnb’s rating system has a maximum of 5 stars). A recent webscrape of Airbnb in San Francisco confirmed that 91.6% of listings have 4 or 5 stars. (2/15 Scrape) Moreover, it is unclear what these ratings really mean. There is only a very weak correlation between the ratings of properties listed on both Airbnb and TripAdvisor.²⁴
- In general, users of reputation based marketplaces seek out reciprocal positive reviews. In this way, these reputations are probably upwardly biased.^{25,26}

²¹ Tussyadiah, I. (2015). An exploratory on drivers and deterrents of collaborative consumption in travel. In Tussyadiah, I. & Inversini, A. (Eds.), *Information & Communication Technologies in Tourism 2015*. Switzerland: Springer International Publishing. Retrieved from <http://www.tussyadiah.com/ENTER2015-Tussyadiah.pdf>

²² Hamari, Juho and Sjöklint, Mimmi and Ukkonen, Antti, *The Sharing Economy: Why People Participate in Collaborative Consumption* (2015). Available at SSRN: <http://ssrn.com/abstract=2271971> or <http://dx.doi.org/10.2139/ssrn.2271971>

²³ Edelman, Benjamin G. and Luca, Michael, *Digital Discrimination: The Case of Airbnb.com* (January 10, 2014). Harvard Business School NOM Unit Working Paper No. 14-054. Available at SSRN: <http://ssrn.com/abstract=2377353> or <http://hbswk.hbs.edu/item/7429.html>

²⁴ Zervas, Georgios and Proserpio, Davide and Byers, John, *A First Look at Online Reputation on Airbnb, Where Every Stay is Above Average* (January 28, 2015). Available at SSRN: <http://ssrn.com/abstract=2554500>

²⁵ Overgoor, J., Wulczyn, E. & Potts, C. (2012). Trust Propagation with Mixed-Effects Models. In J. G. Breslin, N. B. Ellison, J. G. Shanahan & Z. Tufekci (eds.), *ICWSM*, : The AAAI Press. Retrieved from <http://web.stanford.edu/~cgpotts/papers/OvergoorWulczynPotts.pdf>

²⁶ Bolton, Gary E. and Greiner, Ben and Ockenfels, Axel, *Engineering Trust - Reciprocity in the Production of Reputation Information* (March 8, 2009). UNSW Australian School of Business Research Paper No. 2009 ECON 02. Available at SSRN: <http://ssrn.com/abstract=1355583> or <http://dx.doi.org/10.2139/ssrn.1355583>

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- Airbnb has acknowledged potential problems of bias and has instituted new structures to encourage more honest reporting.²⁷

Does the Americans with Disabilities Act (ADA) apply to short term rentals?

It depends on the circumstances and will be determined by future lawsuits. Owner-occupied residences are exempt from ADA requirements but units rented out full time for STRs may have to be ADA compliant.

Title III-1.300 of the ADA exempts residential dwelling units. However, time shares and vacation homes which are commercial in nature are sometimes covered by the act. The Department of Justice rules stress that “the extent to which the operations resemble those of a hotel, motel or inn” dictate whether or not a vacation home or time-share should be ADA compliant.²⁸ It is possible that hosts who rent their entire units frequently may have obligations under the ADA. Airbnb advises its hosts that most are not ‘a place of public accommodation’ and so are exempt from the ADA. However, it warns that the ADA may apply to hosts who offer more than five rooms.²⁹

Some legal analysts believe that although it is unclear whether hosts are covered by the ADA, it is only a matter of time before ADA lawsuits begin.³⁰ Other analysts claim the short term rentals will most likely be covered by the ADA and similar state laws because of their similarity to timeshares which the DOJ has recently found to be “places of lodging.”³¹

Does the Fair Housing Act (FHA) apply to short term rentals?

Yes, it is illegal to discriminate against a potential renter based on race, religion, national origin, gender, familial status or disability. Both federal and California state laws (i.e. the Unruh Act) apply.^{32,33,34}

²⁷ McGarry, C. (2014, July 11). Airbnb revamps reviews to encourage more honesty. *TechHive*. Retrieved from <http://www.techhive.com/article/2452750/airbnb-revamps-reviews-to-encourage-more-honesty.html>

²⁸ *Americans with Disabilities Act ADA Title III Technical Assistance Manual Covering Public Accommodations and Commercial Facilities*. Retrieved from <http://www.ada.gov/taman3.html>

²⁹ Airbnb. *ADA and FHA Compliance*. Retrieved from https://www.airbnb.com/support/article/898?cdn_spdy=1

³⁰ Wilson, M. (2014, August 14). Could Housing-Sharing Open the Door for ADA Litigation? [Web log post]. Retrieved from <http://blogs.findlaw.com/strategist/2014/08/could-house-sharing-open-the-door-for-ada-litigation.html>

³¹ Gladstone, M. B. (2014, October 15). *What the Final New Airbnb Legislation Means for You, Your Tenants and Your Liabilities*. Retrieved from <http://www.hansonbridgett.com/Publications/articles/2014-10-landuse-term-rentals.aspx>

³² Eichner, M. (2013, November 28). Are temporary rentals covered by fair housing laws?. *Los Angeles Times*. Retrieved from <http://articles.latimes.com/2013/nov/28/business/la-fi-rentwatch-20131201>

³³ Fishman, S. *How to Screen Renters on Airbnb, VRBO, and Other Short-Term Hosting Sites*. Retrieved from <http://www.nolo.com/legal-encyclopedia/how-screen-renters-airbnb-vrbo-other-short-term-hosting-sites.html>

³⁴ *Unruh Civil Rights Act*. Retrieved from http://www.dfeh.ca.gov/Publications_Unruh.htm

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Appendix:

Distribution of Airbnb Units by Neighborhood and Type of Unit as of December 2014

This table provides information on the number of listings on Airbnb in each neighborhood in San Francisco and the availability of different types of units.

San Francisco Planning Department Neighborhoods	Entire home/apt		Private room		Shared room		Total	
	No.	%	No.	%	No.	%	No.	%
Bayview	21	35.60%	37	62.70%	1	1.70%	59	100.00%
Bernal Heights	187	64.00%	102	34.90%	3	1.00%	292	100.00%
Castro/Upper Market	230	63.50%	130	35.90%	2	0.60%	362	100.00%
Chinatown	23	59.00%	12	30.80%	4	10.30%	39	100.00%
Crocker Amazon	5	29.40%	12	70.60%	0	0.00%	17	100.00%
Diamond Heights	6	60.00%	4	40.00%	0	0.00%	10	100.00%
Downtown/Civic Center	101	67.30%	40	26.70%	9	6.00%	150	100.00%
Excelsior	21	35.60%	34	57.60%	4	6.80%	59	100.00%
Financial District	35	67.30%	9	17.30%	8	15.40%	52	100.00%
Glen Park	43	75.40%	14	24.60%	0	0.00%	57	100.00%
Golden Gate Park	16	66.70%	8	33.30%	0	0.00%	24	100.00%
Haight Ashbury	176	62.00%	107	37.70%	1	0.40%	284	100.00%
Inner Richmond	89	56.00%	69	43.40%	1	0.60%	159	100.00%
Inner Sunset	76	69.10%	31	28.20%	3	2.70%	110	100.00%
Lakeshore	8	27.60%	15	51.70%	6	20.70%	29	100.00%
Marina	193	83.20%	37	15.90%	2	0.90%	232	100.00%
Mission	437	57.80%	309	40.90%	10	1.30%	756	100.00%
Nob Hill	153	70.20%	60	27.50%	5	2.30%	218	100.00%
Noe Valley	136	67.70%	64	31.80%	1	0.50%	201	100.00%
North Beach	88	69.80%	33	26.20%	5	4.00%	126	100.00%
Ocean View	19	45.20%	23	54.80%	0	0.00%	42	100.00%
Outer Mission	40	53.30%	33	44.00%	2	2.70%	75	100.00%
Outer Richmond	72	67.30%	33	30.80%	2	1.90%	107	100.00%
Outer Sunset	62	56.90%	42	38.50%	5	4.60%	109	100.00%
Pacific Heights	106	72.10%	40	27.20%	1	0.70%	147	100.00%
Parkside	23	50.00%	20	43.50%	3	6.50%	46	100.00%
Potrero Hill	127	62.30%	71	34.80%	6	2.90%	204	100.00%
Presidio	3	50.00%	3	50.00%	0	0.00%	6	100.00%
Presidio Heights	26	66.70%	13	33.30%	0	0.00%	39	100.00%
Russian Hill	118	72.00%	43	26.20%	3	1.80%	164	100.00%
Seacliff	7	87.50%	1	12.50%	0	0.00%	8	100.00%

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South of Market	214	61.80%	107	30.90%	25	7.20%	346	100.00%
Treasure Island/YBI	3	42.90%	4	57.10%	0	0.00%	7	100.00%
Twin Peaks	36	67.90%	16	30.20%	1	1.90%	53	100.00%
Visitacion Valley	6	40.00%	8	53.30%	1	6.70%	15	100.00%
West of Twin Peaks	30	55.60%	24	44.40%	0	0.00%	54	100.00%
Western Addition	276	58.60%	184	39.10%	11	2.30%	471	100.00%
Total	3212	62.60%	1792	34.90%	125	2.40%	5129	100.00%

Price of Airbnb Units by Neighborhood and Type of Unit as of December 2014

This table provides information on the mean price of Airbnb units in different neighborhoods separated by the types of units.

Neighborhood	Entire Home			Private Room			Shared Room		
	Mean Price	Stand. Dev.	Count	Mean Price	Stand. Dev.	Count	Mean Price	Stand. Dev.	Count
Bayview	170.4	99.9	21	90	22.1	37	70	0	1
Bernal Heights	201.3	101.7	187	112	97.7	102	44.3	19.1	3
Castro/Upper Market	248.9	140.9	230	121.6	37.5	130	67.5	17.7	2
Chinatown	178.7	40.5	23	126.7	29.5	12	55.5	18.3	4
Crocker Amazon	120.2	24.4	5	79.8	70.5	12	N/A	N/A	0
Diamond Heights	228.2	153.3	6	114.3	81.8	4	N/A	N/A	0
Downtown/Civic Center	172.7	61.8	101	124.8	38.5	40	72.6	25.7	9
Excelsior	170.1	52.9	21	65.3	25.5	34	35.8	26.2	4
Financial District	220.7	100.6	35	128.9	43.4	9	45.5	23.6	8
Glen Park	225.9	102	43	101.4	24.3	14	N/A	N/A	0
Golden Gate Park	159.9	41.9	16	96.8	25.9	8	N/A	N/A	0
Haight Ashbury	261.4	160.9	176	113	41.5	107	45	0	1
Inner Richmond	213.7	117.2	89	100.8	27	69	80	0	1
Inner Sunset	192.6	91.8	76	96.4	22.5	31	76.7	2.9	3
Lakeshore	161	49	8	122.3	144.6	15	83.3	10.3	6
Marina	265.1	188.7	193	131.3	47.2	37	67	11.3	2
Mission	230.2	149.1	437	110.4	34.7	309	98.9	84.6	10
Nob Hill	251.6	164.3	153	118	38.5	60	118.6	55.5	5
Noe Valley	242.7	172.2	136	116.1	33.8	64	90	0	1
North Beach	272.1	189.4	88	120	51.1	33	41.6	13.1	5

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Ocean View	185.4	116.6	19	91.7	33.8	23	N/A	N/A	0
Outer Mission	193.1	83.7	40	93.9	32.3	33	65	14.1	2
Outer Richmond	179.6	79.8	72	108.7	32.6	33	81.5	19.1	2
Outer Sunset	191.3	101.1	62	97.3	25.2	42	72.8	48.3	5
Pacific Heights	344.9	382.7	106	131.5	68.1	40	250	0	1
Parkside	196.4	101	23	95.3	31.1	20	89.7	36.6	3
Potrero Hill	245.2	224.2	127	119.5	36	71	131.5	157.2	6
Presidio	161	69.2	3	158.3	45.4	3	N/A	N/A	0
Presidio Heights	276.8	195.6	26	121.8	36.7	13	N/A	N/A	0
Russian Hill	278.4	186	118	146.7	56.5	43	73.3	45.1	3
Seacliff	184.6	78.7	7	80	0	1	N/A	N/A	0
South of Market	267.9	175.2	214	134.5	82.5	107	90.6	99.2	25
Treasure Island/YBI	214.3	66.6	3	84.8	7.1	4	N/A	N/A	0
Twin Peaks	241.5	181.1	36	108.6	21.1	16	85	0	1
Visitacion Valley	129.2	64.7	6	103.5	63.8	8	83	0	1
West of Twin Peaks	254.7	130.1	30	110.2	55	24	N/A	N/A	0
Western Addition	219.4	103	276	114.4	31.8	184	101.9	101	11
Total	236.4	163.8	3212	113.5	50.1	1792	82.6	73.4	125

Methodology for Breakeven Analysis

This section explains the methodology for determining the break even occupancy rate between short term rentals and long term rentals in San Francisco. This analysis seeks to answer the question: how many days of the year would a short term rental need to be rented to be as profitable as a long term rental? This analysis uses the data set of Airbnb units scraped in December 2014 as it appears to be the most complete and accurate data available.

The following variables are included in this calculation:

P_{LT} = Annualized rent of an apartment rented as a long term rental. This is the actual monthly price listed on craigslist for an apartment in San Francisco multiplied by 12. Craigslist units with a price per bedroom below \$700 are removed since they all appear to be advertising for roommates instead of for entire units.

P_{ST} = Estimated annualized price of an apartment rented at 100% occupancy as a short term rental on Airbnb. This is a value fitted to the specifics of one of the craigslist apartments. A number of regressions were run to test different functional forms using the number of bedrooms, number of bathrooms and a dummy variable for each of the 38 planning department defined neighborhoods. These regressions were only run on the subset of the Airbnb units that are listed as entire units (as

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opposed to just private rooms or shared rooms). For craigslist units that did not list information about a bathroom, the functional form specification is:

$$P_{ST} = \alpha + \beta \text{Bedrooms} + \beta \text{Bedrooms}^2 + \beta \text{Neighborhood}_i + \varepsilon$$

Where α is the intercept, Bedrooms is the number of bedrooms that a short term rental has, Bedrooms squared is the squared number of bedrooms in a short term rental, $\beta \text{Neighborhood}_i$ represents a set of dummy variables for all but one of the neighborhoods defined by the planning department and ε is the error term. For craigslist units whose listings included information about the number of bathrooms, the functional form is:

$$P_{ST} = \alpha + \beta \text{Bedrooms} + \beta \text{Bedrooms}^2 + \beta \text{Bathrooms} + \beta \text{Neighborhood}_i + \varepsilon$$

The coefficients from these regressions are used to estimate what each craigslist apartment would be able to charge as a short term rental. This gives an estimated nightly short term rental rate which I then multiply by 365 to create an estimated annualized short term revenue.

C_{ST} = annual cost to running a short term rental over and above normal maintenance costs. This includes fees, cleaning and maintenance costs and hotel taxes. The highest profile provider of short term rental management and cleaning services charges 15% of gross revenue.³⁵ This service provides cleaning services, pre-reservation home preparation, managing guest interactions, price optimization, screening potential guests, and emergency support. In addition, Airbnb charges a 3% fee to the landlord for the booking and the City and County of San Francisco charge the hotel occupancy tax of 14%. This leads to a total short term operating cost of 32%. However, none of these costs are included in the normal maintenance of an apartment a landlord must pay each year which include more major repairs, building management, depreciation, and property taxes among others. This is operationalized as a percentage of total revenue.

M = Annual long term maintenance costs for being a landlord. The 2013 Survey of Operating Income & Expenses In Rental Apartment Communities found that the average annual operating expenditure for multifamily units in the San Francisco-Oakland-Fremont MSA is \$7.68 per square foot.³⁶ This figure applies to both long term and short term rentals and so drops out from the model. It is possible that it does not apply evenly to both long term and short term rentals but this analysis assumes that they are the same.

Model

The research question is concerned about the expected income a landlord stands to gain or lose by choosing to withhold her unit from the long term market and instead rent it out as a short term rental. The outcome of interest is the breakeven occupancy rate that leads to equivalent short term rental income and long term rental income for the next year:

³⁵ Retrieved from <https://www.pillowhomes.com/>

³⁶ Lee, C. 2013 Survey of Operating Income & Expenses In Rental Apartment Communities. National Apartment Association. Retrieved from <http://www.naa.org/sites/default/files/naa-documents/income-expenses-survey/2013-Income-Expenses-Summary.pdf>

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$$[P_{ST} \times (1 - C_{ST}) \times O] - M = P_{LT} - M$$

Simplifying and rearranging terms leads to our model:

$$O = \frac{P_{LT}}{P_{ST} \times (1 - C_{ST})}$$

The resulting values are used to evaluate the occupancy rates based on the fitted model. However, in this equation, P_{LT} and C_{ST} are known values but P_{ST} is a constructed variable subject to uncertainty. The regression results that led to this constructed variable can be found in the next Appendix section. The regression model explains approximately half of the variation in short term rental prices. This uncertainty is included in the model through a simulation of the average one and two bedroom unit listed on Craigslist for five neighborhoods. So, instead of using single values, the simulation analysis incorporates the following distributions:

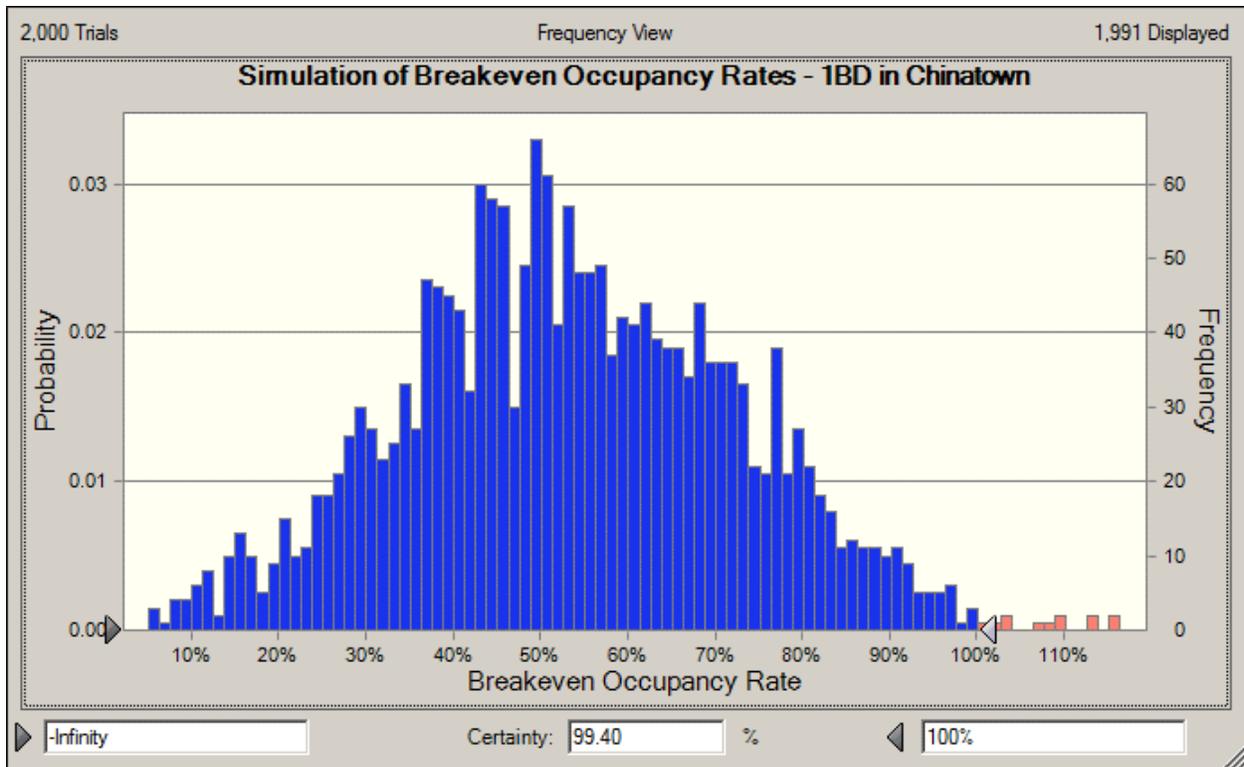
P_{LT} = normally distributed with a mean equal to the average rent and with a standard deviation from the data used to calculate the mean. This is calculated by neighborhood separately for one and two bedroom units.

P_{ST} = the fitted value equal to characteristics of the apartment under consideration in the simulation. This is also assumed to be normally distributed with a standard deviation equal to the standard error of the regression.

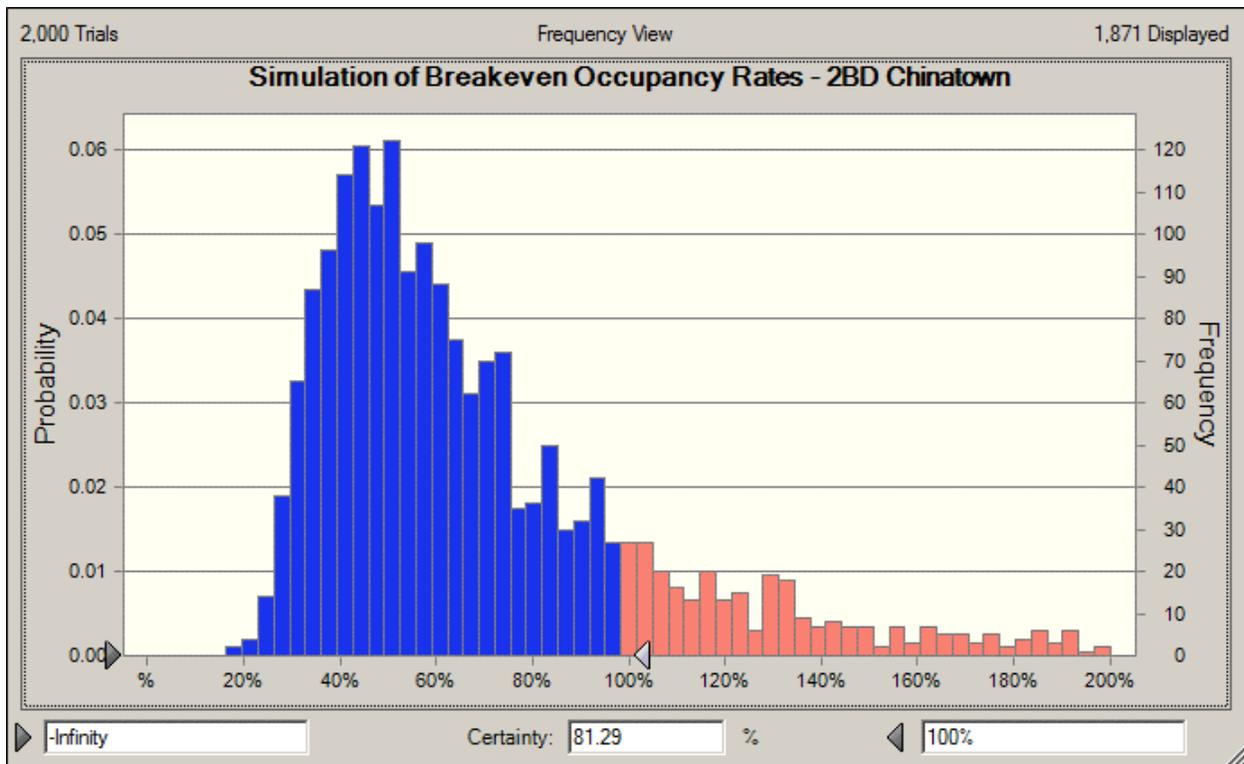
With the same model, two thousand trials were run using those distributions to estimate the breakeven occupancy rate for each typical one and two bedroom unit in five different neighborhoods of interest. The results confirm the general distribution of breakeven occupancy rates. The simulation additionally provides a measure of confidence for predicting whether units are more profitable as a short term unit rather than a long term unit. This resulted in the following simulations

Typical 1 Bedroom Apartment in Chinatown:

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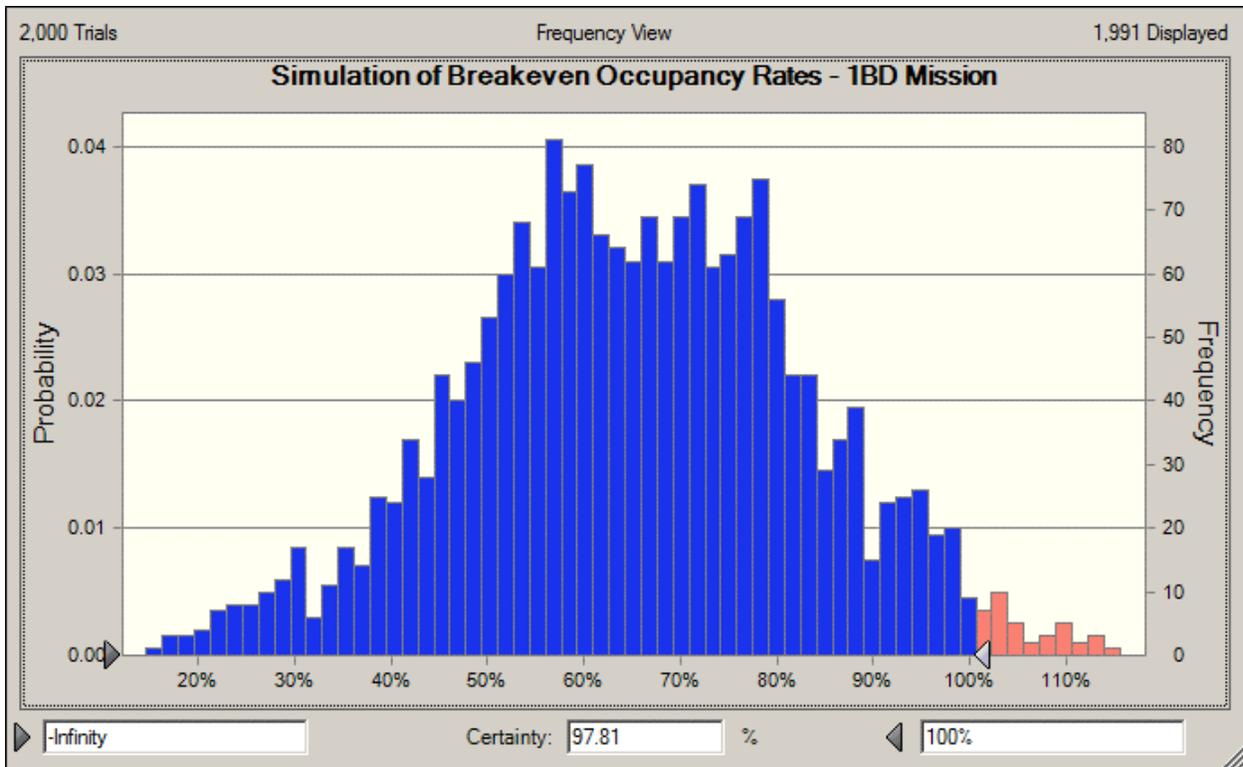


Typical 2 Bedroom Apartment in Chinatown:

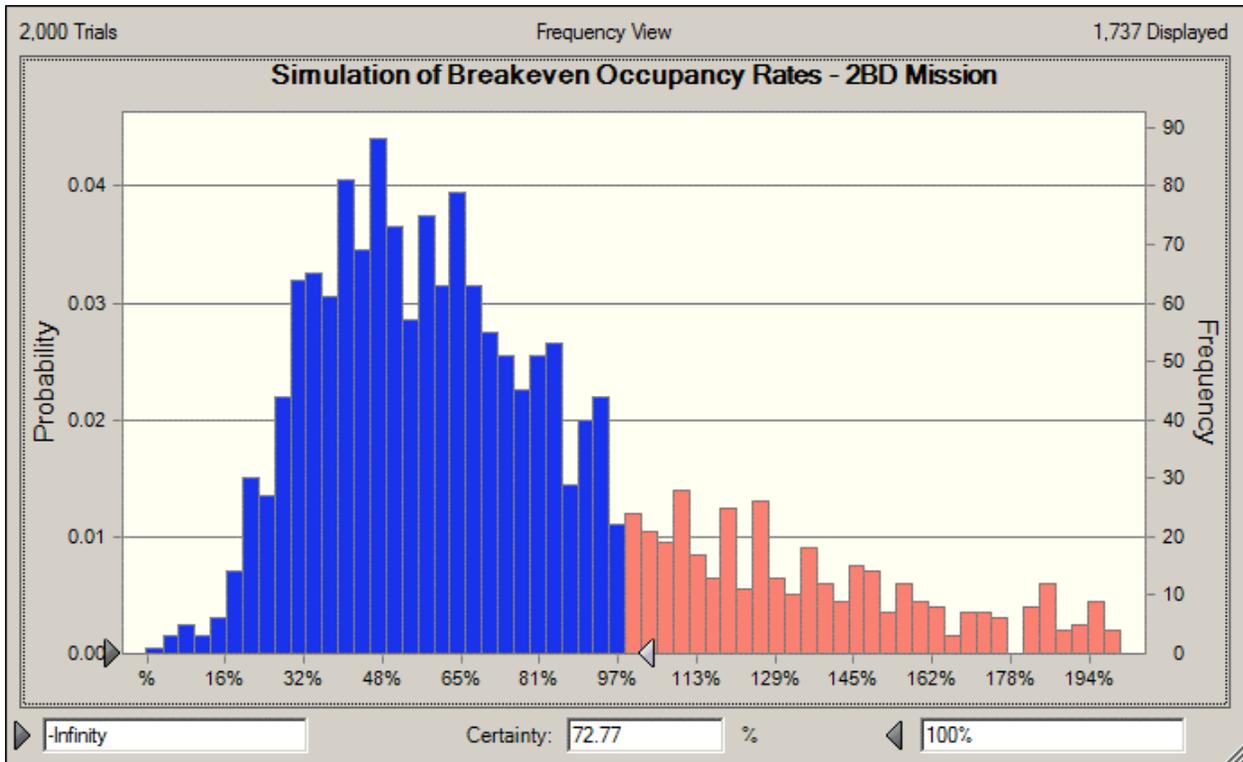


Typical 1 Bedroom Apartment in Mission:

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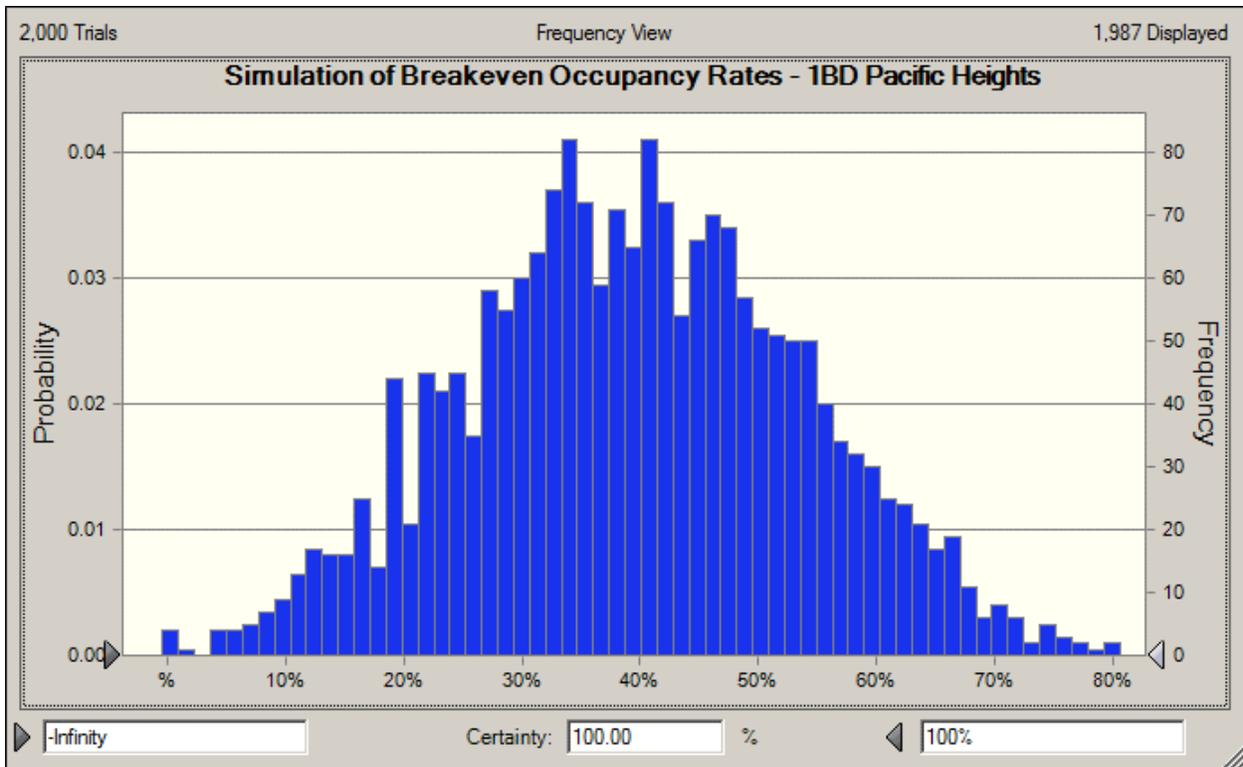


Typical 2 Bedroom Apartment in the Mission:

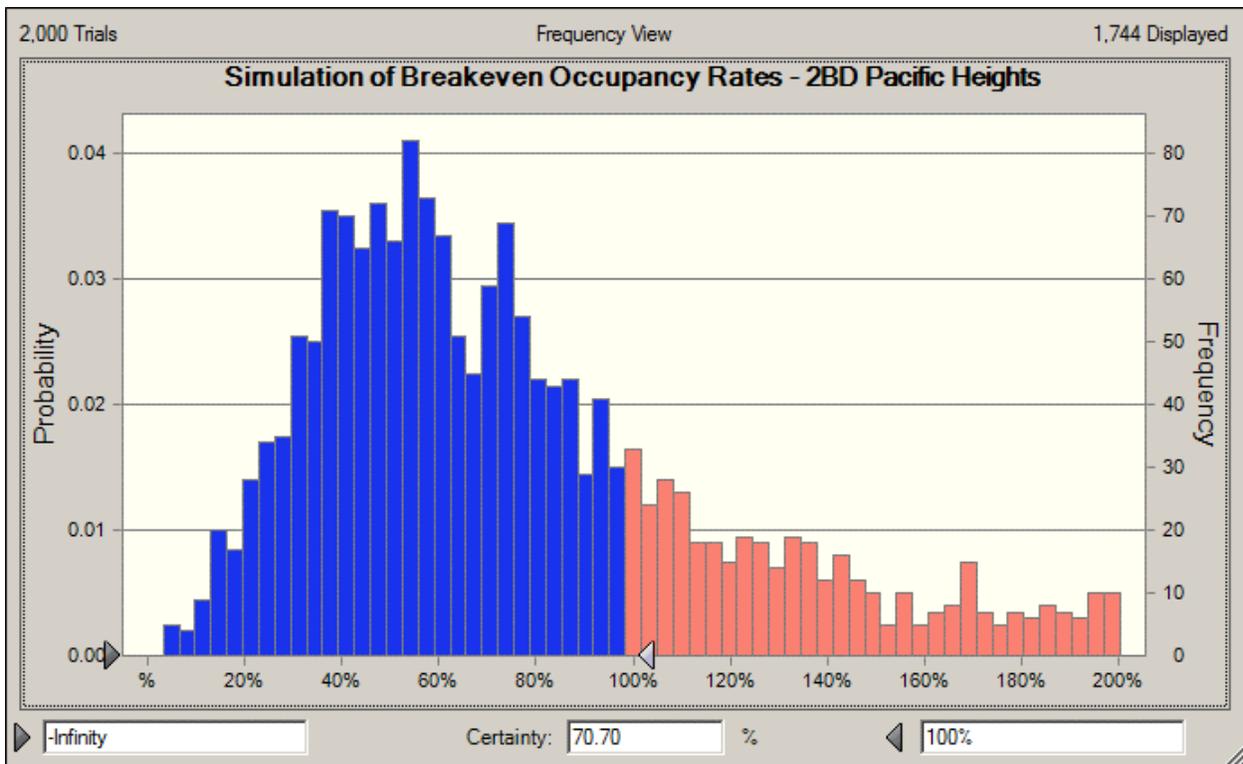


Typical 1 Bedroom Apartment in Pacific Heights:

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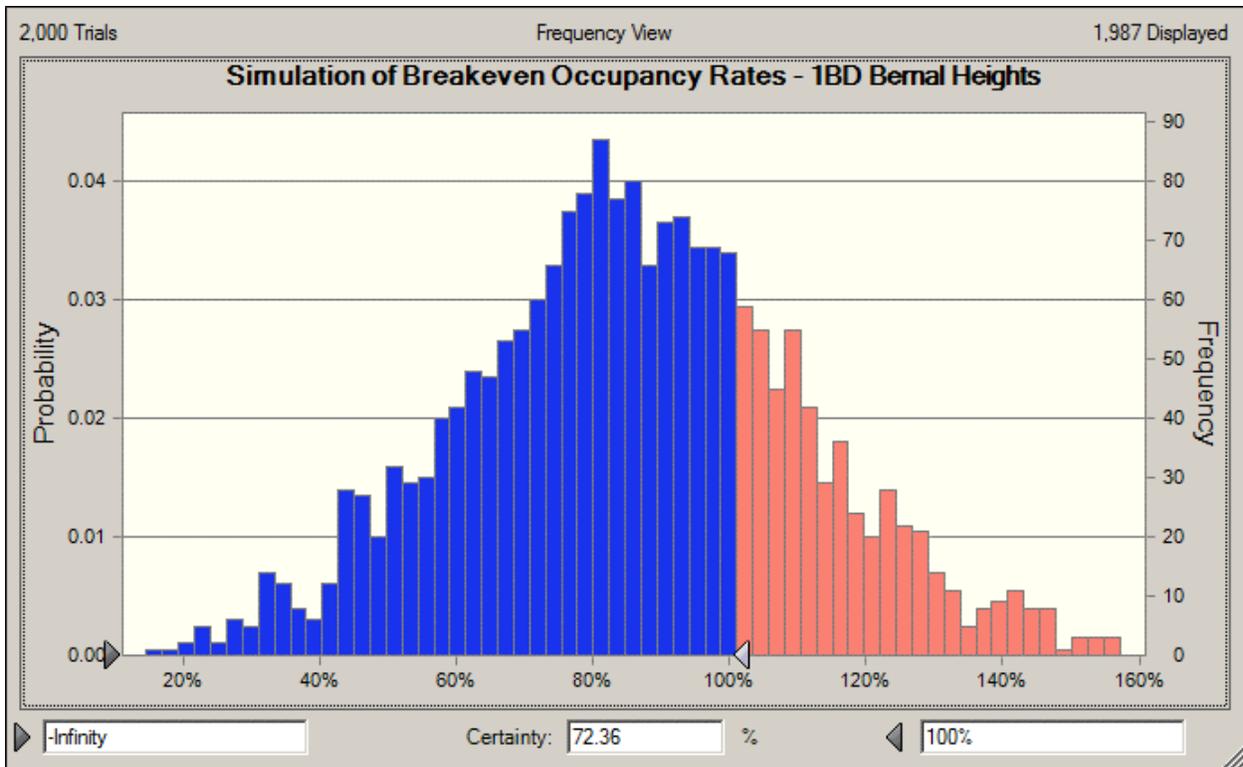


Typical 2 Bedroom Apartment in Pacific Heights:

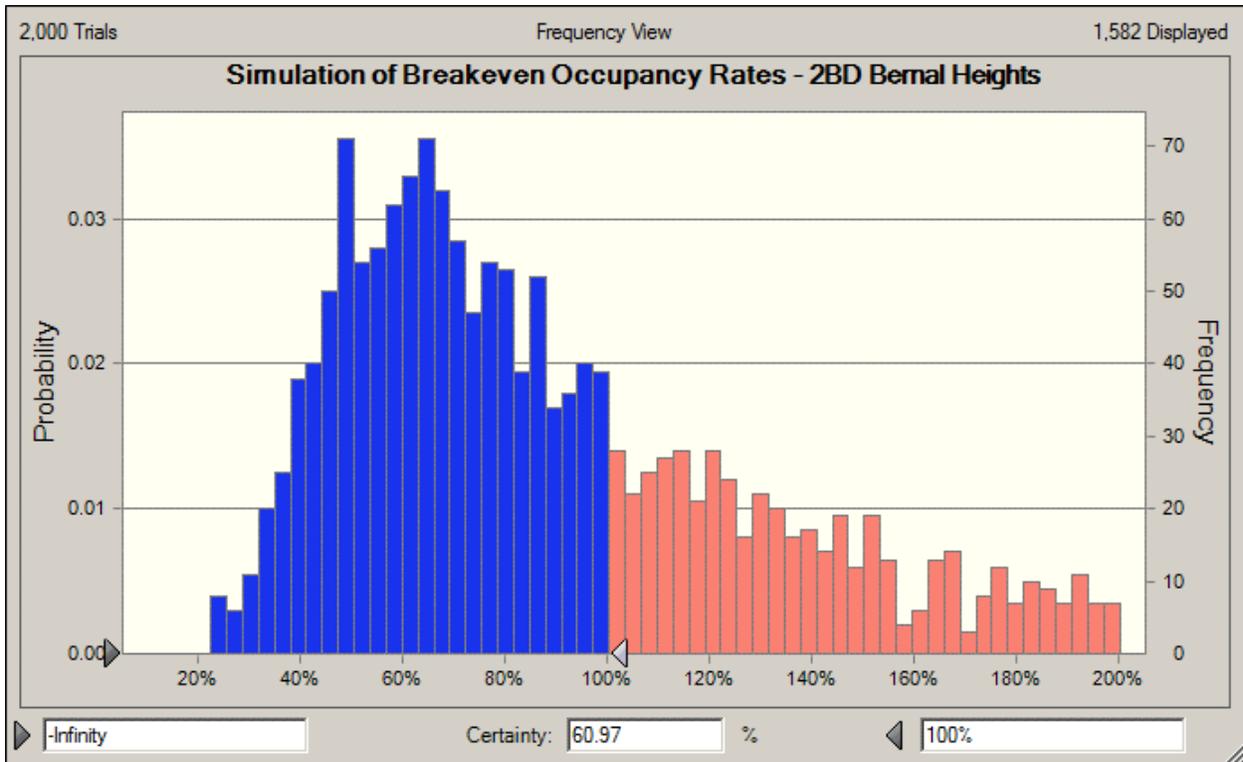


Typical 1 Bedroom Apartment in Bernal Heights:

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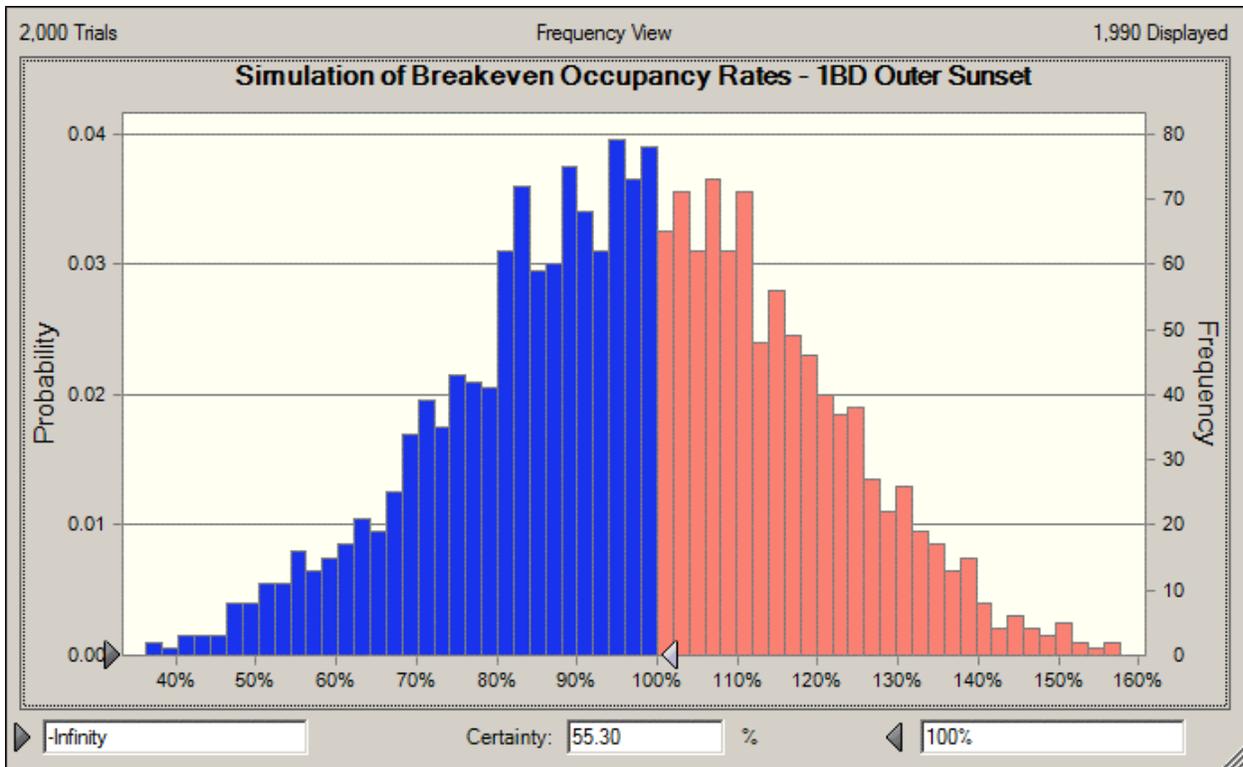


Typical 2 Bedroom Apartment in Bernal Heights:

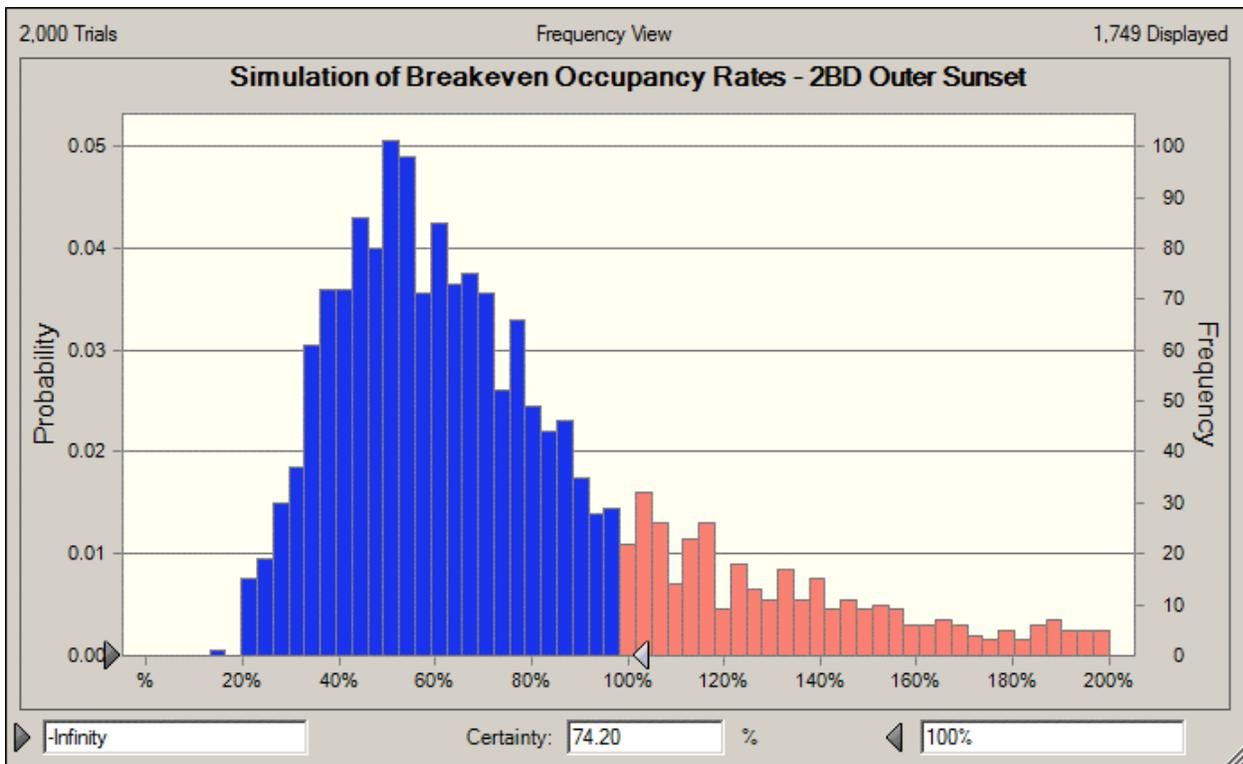


Typical 1 Bedroom Apartment in the Outer Sunset:

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Typical 2 Bedroom Apartment in the Outer Sunset:



Alex Marqusee – 04/15/15 – Airbnb and San Francisco: Descriptive Statistics and Academic Research

Model and Regression Results for Predicting Prices of ‘Entire Place’ on Airbnb as of December 2014

Short term rents are predicted for rental units listed on craigslist by regressing the available attributes of Airbnb rentals on their nightly price. The full model is:

$$P_{ST} = \alpha + \beta \text{Bedrooms} + \beta \text{Bedrooms}^2 + \beta \text{Bathrooms} + \beta \text{Neighborhood}_i + \varepsilon$$

Where α is the intercept, Bedrooms is the number of bedrooms that a short term rental has, Bedrooms squared is the squared number of bedrooms in a short term rental, $\beta \text{Neighborhood}_i$ represents a set of dummy variables for all but one of the neighborhoods defined by the planning department and ε is the error term. For units on Craigslist whose listings included information about the number of bathrooms, the functional form is:

$$P_{ST} = \alpha + \beta \text{Bedrooms} + \beta \text{Bedrooms}^2 + \beta \text{Bathrooms} + \beta \text{Neighborhood}_i + \varepsilon$$

These regressions gave the following predictive values:

VARIABLES	(1) price	(2) price
Bedrooms	30.54*** (8.938)	51.08*** (13.86)
Bedrooms Squared	8.457*** (2.681)	11.41*** (3.820)
Bathrooms	90.19*** (8.645)	
Bayview	-39.76** (19.84)	-47.68** (19.88)
Bernal Heights	-46.76*** (7.125)	-49.46*** (7.140)
Castro/Upper Market	13.77* (7.191)	14.96* (7.884)
Chinatown	24.94** (10.37)	27.89** (11.73)
Crocker Amazon	-95.99*** (32.17)	-98.32*** (31.40)
Diamond Heights	-46.71 (37.12)	-15.39 (29.41)
Downtown/ Civic Center	4.957 (7.051)	11.55 (7.641)
Excelsior	-80.63*** (15.45)	-92.95*** (13.87)
Financial District	44.06*** (12.86)	48.17*** (14.87)
Glen Park	-37.22** (14.56)	-35.09*** (13.35)

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Golden Gate Park	-22.80*	-35.67**
	(12.82)	(16.33)
Haight Ashbury	-0.866	-9.038
	(8.191)	(8.866)
Inner Richmond	-32.92***	-35.90***
	(8.936)	(9.027)
Inner Sunset	-44.50***	-44.87***
	(8.614)	(8.066)
Lakeshore	-33.27	-35.59
	(27.88)	(24.64)
Marina	58.52***	57.99***
	(10.96)	(11.87)
Mission	-6.772	-11.09
	(6.961)	(7.323)
Nob Hill	49.38***	47.77***
	(9.519)	(10.46)
Noe Valley	9.124	9.359
	(10.41)	(10.82)
North Beach	58.47***	58.28***
	(14.57)	(16.14)
Ocean View	-65.71***	-66.81***
	(19.26)	(18.88)
Outer Mission	-76.76***	-79.44***
	(13.91)	(13.25)
Outer Richmond	-54.92***	-59.24***
	(11.18)	(10.26)
Outer Sunset	-56.46***	-65.12***
	(13.24)	(12.96)
Pacific Heights	85.06***	98.63***
	(24.24)	(26.25)
Parkside	-46.29**	-51.60**
	(20.12)	(21.25)
Potrero Hill	11.16	19.06
	(20.32)	(20.39)
Presidio	4.979	6.567
	(25.75)	(22.68)
Presidio Heights	38.65	41.98
	(26.10)	(30.68)
Russian Hill	62.68***	56.06***
	(13.26)	(13.62)
Seacliff	-63.78***	-80.13***
	(21.40)	(30.27)
South of Market	55.13***	67.26***
	(11.24)	(11.71)
Treasure Island/YBI	-27.66	-25.42
	(90.16)	(83.26)

Alex Marqusee – 04/15/15 – Airbnb and San Francisco: Descriptive Statistics and Academic Research

Twin Peaks	19.80 (23.40)	20.90 (26.71)
Visitacion Valley	-100.7*** (29.63)	-92.56*** (22.87)
West of Twin Peaks	-80.74*** (20.48)	-61.91*** (19.87)
Western Addition	-	-
Constant	39.83*** (12.89)	112.8*** (10.57)
Observations	3,212	3,212
R-squared	0.488	0.434

Robust standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

[Administrative Code – Amending Regulation of Short-Term Residential Rentals]

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Ordinance amending Chapter 41A of the Administrative Code to prohibit certain residential units that have been the subject of an Ellis Act eviction from use as short-term residential rentals and provide for private rights of action to enforce the requirements of this Chapter; and affirming the Planning Department’s determination under the California Environmental Quality Act.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference. The Board affirms this determination.

Section 2. The Administrative Code is hereby amended by revising Sections 41A.4 and 41A.5, to read as follows:

SEC. 41A.4. DEFINITIONS.

1 Whenever used in this Chapter 41A, the following words and phrases shall have the
2 definitions provided in this Section:

3 * * * *

4 **Short-Term Residential Rental.** A Tourist or Transient Use where all of the following
5 conditions are met:

6 (a) the Residential Unit is offered for Tourist or Transient Use by the
7 Permanent Resident of the Residential Unit;

8 (b) the Permanent Resident is a natural person;

9 (c) the Permanent Resident has registered the Residential Unit and
10 maintains good standing on the Department's Short-Term Residential Rental Registry; and

11 (d) the Residential Unit: is not subject to the Inclusionary Affordable Housing
12 Program set forth in Planning Code Section 415 et seq.; is not a residential hotel unit subject
13 to the provisions of Chapter 41, unless such unit has been issued a Permit to Convert under
14 Section 41.12; is not otherwise designated as a below market rate or income-restricted
15 Residential Unit under City, state, or federal law; has not been the subject of an eviction
16 pursuant to the Ellis Act and Administrative Code Section 37.9(a)(13) within the five year
17 period prior to applying for the Registry if such eviction occurred after November 1, 2014; and
18 no other requirement of federal or state law, this Municipal Code, or any other applicable law
19 or regulation prohibits the permanent resident from subleasing, renting, or otherwise allowing
20 Short-Term Residential Rental of the Residential Unit.

21 **Short-Term Residential Rental Registry or Registry.** A database of information
22 maintained by the Department that includes information regarding Permanent Residents who
23 are permitted to offer Residential Units for Short-Term Residential Rental. Only one
24 Permanent Resident per Residential Unit may be included on the Registry at any given time.
25 The Registry shall be available for public review to the extent required by law, except that, to

1 the extent permitted by law, the Department shall redact any Permanent Resident names from
2 the records available for public review.

3 * * * *

4 **SEC. 41A.5. UNLAWFUL CONVERSION; REMEDIES.**

5 (a) **Unlawful Actions.** Except as set forth in subsection 41A.5(g), it shall be
6 unlawful for

7 (1) any Owner to offer a Residential Unit for rent for Tourist or Transient Use;

8 (2) any Owner to offer a Residential Unit for rent to a Business Entity that will
9 allow the use of a Residential Unit for Tourist or Transient Use; or

10 (3) any Business Entity to allow the use of a Residential Unit for Tourist or
11 Transient Use.

12 * * * *

13 (c) **Determination of Violation.** Upon the filing of a written Complaint that an
14 Owner or Business Entity has engaged in an alleged unlawful Conversion or that a Hosting
15 Platform is not complying with the requirements of subsection (g)(4)(A), the Director shall take
16 reasonable steps necessary to determine the validity of the Complaint. The Director may
17 independently determine whether an Owner or Business Entity may be renting a Residential
18 Unit for Tourist or Transient Use in violation of this Chapter 41A or whether a Hosting Platform
19 has failed to comply with the requirements of subsection (g)(4)(A). To determine if there is a
20 violation of this Chapter 41A, the Director may initiate an investigation of the subject property
21 or Hosting Platform's allegedly unlawful activities. This investigation may include, but is not
22 limited to, an inspection of the subject property and/or a request for any pertinent information
23 from the Owner, Business Entity, or Hosting Platform, such as leases, business records, or
24 other documents. The Director shall have discretion to determine whether there is a potential
25 violation of this Chapter 41A and whether to conduct an administrative review hearing as set

1 forth below. Notwithstanding any other provision of this Chapter 41A, any alleged violation
2 related to failure to comply with the requirements of the Business and Tax Regulations Code
3 shall be enforced by the Treasurer/Tax Collector under the provisions of that Code.

4 (d) **Civil Action.**

5 (1) The City may institute civil proceedings for injunctive and monetary relief,
6 including civil penalties, against an Owner, Business Entity, or Hosting Platform for violations
7 of this Chapter 41A at any time. Following the filing of a Complaint and the determination of a
8 violation by the Director through an administrative review hearing as set forth in this Chapter
9 41A, ~~the City may institute civil proceedings for injunctive and monetary relief against a~~
10 ~~Hosting Platform for violation of subsection (g)(4)(A) or the City or any other Interested Party~~
11 may institute civil proceedings for injunctive and monetary relief against an Owner or Business
12 Entity.

13 (2) Notwithstanding subsection (d)(1), an Interested Party that is a non-profit
14 organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code
15 that has the preservation or improvement of housing as a stated purpose in its articles of
16 incorporation or bylaws may institute a civil action against the Owner or Business Entity in the
17 timeframe provided in this subsection (d)(2) if, within 60 months prior to the date of the filing of
18 the Complaint, the Owner or Business Entity terminated the tenancy of one or more tenants in
19 the building pursuant to Administrative Code Section 37.9(a)(13) where the tenant was served
20 with a notice of eviction after October 7, 2014. An Interested Party may institute a civil action
21 under this subsection (d)(2) only if:

22 (A) The Interested Party has filed a Complaint with the Department;

23 (B) 30 days have passed since the filing of the Complaint;

1 (C) After such 30-day period has passed, the Interested Party has
2 provided 30 days' written notice to the Department and the City Attorney's Office of its intent
3 to initiate civil proceedings; and

4 (D) The City has not initiated civil proceedings by the end of that 30-
5 day period.

6 (3) Notwithstanding subsection (d)(1), an Interested Party that is a non-profit
7 organization exempt from taxation pursuant to Title 26, Section 501 of the United States Code
8 that has the preservation or improvement of housing as a stated purpose in its articles of
9 incorporation or bylaws and has existed as such for no less than five years from February 1,
10 2015, may institute civil proceedings against an Owner or Business Entity of a rent-controlled
11 building of at least three Residential Units for injunctive relief. An Interested Party initiating
12 civil proceedings under this subsection (d)(3) shall not be entitled to damages. An Interested
13 Party may institute a civil action under this subsection (d)(2) only if:

14 (A) The Interested Party has filed a Complaint with the Department;

15 (B) 45 days have passed since the filing of the Complaint; and

16 (C) After such 45-day period has passed, the Interested Party has
17 provided written notice to the Department and the City Attorney's Office of its intent to initiate
18 civil proceedings.

19 (4) In addition, if the City is the prevailing party in any civil action under this
20 subsection (d), an Owner or Business Entity in violation of this Chapter or a Hosting Platform
21 in violation of subsection (g)(4)(A) may be liable for civil penalties of not more than \$1,000 per
22 day for the period of the unlawful activity; other Interested Parties may not seek civil penalties.
23 If the City or any other the Interested Party is the prevailing party, the City or the Interested
24 Party shall be entitled to the costs of enforcing this Chapter 41A, including reasonable
25 attorneys' fees pursuant to an order of the Court. Any monetary award obtained by the City

1 and County of San Francisco in such a civil action shall be deposited in the Department to be
2 used for enforcement of Chapter 41A. The Department, through the use of these funds, shall
3 reimburse City departments and agencies, including the City Attorney's Office, for all costs
4 and fees incurred in the enforcement of this Chapter 41A.

5 * * * *

6 (g) **Exception for Short-Term Residential Rental.**

7 * * * *

8 (4) Requirements for Hosting Platforms.

9 (A) **Notice to Users of Hosting Platform.** All Hosting Platforms shall
10 provide the following information in a notice to any user listing a Residential Unit located
11 within the City and County of San Francisco through the Hosting Platform's service. The
12 notice shall be provided prior to the user listing the Residential Unit and shall include the
13 following information: that Administrative Code Chapters 37 and 41A regulate Short-Term
14 Rental of Residential Units; the requirements for Permanent Residency and registration of the
15 unit with the Department; and the transient occupancy tax obligations to the City.

16 (B) A Hosting Platform shall comply with the requirements of the
17 Business and Tax Regulations Code by, among any other applicable requirements, collecting
18 and remitting all required Transient Occupancy Taxes, and this provision shall not relieve a
19 Hosting Platform of liability related to an occupant's, resident's, Business Entity's, or Owner's
20 failure to comply with the requirements of the Business and Tax Regulations Code. A Hosting
21 Platform shall maintain a record demonstrating that the taxes have been remitted to the Tax
22 Collector and shall make this record available to the Tax Collector upon request.

23 (C) Any violation of a Hosting Platform's responsibilities under
24 subsection (g)(54)(A) shall subject the Hosting Platform to the administrative penalties and
25 enforcement provisions of this Chapter, including but not limited to payment of civil penalties

1 of up to \$1,000 per day for the period of the failure to comply, with the exception that any
2 violation related to failure to comply with the requirements of the Business and Tax
3 Regulations Code shall be enforced by the Treasurer/Tax Collector under that Code.

4 * * * *

5
6 Section 3. Other Uncodified Provisions.

7 (a) Effective Date. This ordinance shall become effective 30 days after enactment.
8 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance
9 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
10 Supervisors overrides the Mayor's veto of the ordinance.

11 (b) Undertaking for the General Welfare. In enacting and implementing this
12 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
13 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
14 would be liable in money damages to any person who claims that such breach proximately
15 caused injury.

16 (c) No Conflict with State or Federal Law. Nothing in this ordinance shall be
17 interpreted or applied so as to create any requirement, power, or duty in conflict with any
18 State or federal law.

19 (d) Severability. If any of section, subsection, sentence, clause, phrase or word of
20 this ordinance is for any reason held to be invalid or unconstitutional by a decision of any
21 court of competent jurisdiction, such decision shall not affect the validity of the remaining
22 portions of the ordinance. The Board of Supervisors hereby declares that it would have
23 passed this ordinance and each and every section, subsection, sentence, clause, phrase, and
24 word not declared invalid or unconstitutional without regard to whether any other portion of
25 this ordinance would be subsequently declared invalid or unconstitutional.

1 (e) Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the "Note" that appears under
6 the official title of the ordinance.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: 
11 MARLENA G. BYRNE
12 Deputy City Attorney

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Exhibit D

1 [Administrative Code - Short-Term Residential Rentals]

2

3 **Ordinance amending the Administrative Code to revise the Residential Unit Conversion**
 4 **Ordinance to: limit short-term rental of a Residential Unit to no more than 60 days per**
 5 **calendar year; require Hosting Platforms to verify that a Residential Unit is on the City**
 6 **Registry prior to listing, remove a listing once a Residential Unit has been rented for**
 7 **Tourist or Transient Use for more than 60 days in a calendar year, and provide certain**
 8 **usage data to the Planning Department; prohibit short-term rental of certain “in-law”**
 9 **units; revise the definition of Interested Parties who may enforce the provision of**
 10 **Chapter 41A through a private right of action to include Permanent Residents residing**
 11 **within 100 feet; amend the private right of action provisions to allow for a private right**
 12 **of action against Hosting Platforms and create an additional private right of action**
 13 **against Owners, Business Entities, and Hosting Platforms under certain**
 14 **circumstances; provide for criminal penalties against Hosting Platforms in violation of**
 15 **this Chapter 41A; and affirming the Planning Department’s determination under the**
 16 **California Environmental Quality Act.**

17 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 18 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 19 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 20 **Board amendment additions** are in double-underlined Arial font.
 21 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 22 **Asterisks (* * * *)** indicate the omission of unchanged Code
 23 subsections or parts of tables.

21

22 Be it ordained by the People of the City and County of San Francisco:

23

24 Section 1. Environmental Findings. The Planning Department has determined that the
 25 actions contemplated in this ordinance comply with the California Environmental Quality Act

1 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
2 the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein
3 by reference. The Board affirms this determination.
4

5 Section 2. The Administrative Code is hereby amended by revising Sections 41A.4,
6 41A.5 and 41A. 6, to read as follows:

7 **SEC. 41A.4. DEFINITIONS.**

8 Whenever used in this Chapter 41A, the following words and phrases shall have the
9 definitions provided in this Section:

10 * * * *

11 **Complaint.** A complaint submitted to the Department, or to the Department and the City
12 Attorney on the same day, alleging a violation of this Chapter 41A and that includes the
13 Residential Unit's address, including unit number, date(s) and nature of alleged violation(s),
14 and any available contact information for the Owner and/or resident of the Residential Unit at
15 issue.

16 * * * *

17 **Director.** The Director of the Planning Department, or his or her designee.

18 * * * *

19 **Interested Party.** A Permanent Resident of the building in which the Tourist or
20 Transient Use is alleged to occur, any homeowner association associated with the Residential
21 Unit in which the Tourist or Transient Use is alleged to occur, ~~the Owner of the Residential~~
22 ~~Unit in which the Tourist or Transient Use is alleged to occur,~~ a Permanent Resident of a property
23 within 100 feet of the property containing the Residential Unit in which the Tourist or Transient Use is
24 alleged to occur, the City and County of San Francisco, or any non-profit organization exempt
25 from taxation pursuant to Title 26, Section 501 of the United States Code, which has the

1 preservation or improvement of housing as a stated purpose in its articles of incorporation or
2 bylaws.

3 * * * *

4 **Short-Term Residential Rental.** A Tourist or Transient Use where all of the following
5 conditions are met:

- 6 (a) the Residential Unit is offered for Tourist or Transient Use by the Permanent
7 Resident of the Residential Unit;
- 8 (b) the Permanent Resident is a natural person;
- 9 (c) the Permanent Resident has registered the Residential Unit and maintains good
10 standing on the Department's Short-Term Residential Rental Registry; and
- 11 (d) the Residential Unit: is not subject to the Inclusionary Affordable Housing Program
12 set forth in Planning Code Section 415et seq.; is not a residential hotel unit subject to the
13 provisions of Chapter 41, unless such unit has been issued a Permit to Convert under Section
14 41.12; is not otherwise ~~a~~ designated as a below market rate or income-restricted Residential
15 Unit under City, state, or federal law; is not a dwelling unit authorized under Planning Code Section
16 207.3 or 715.1 (commonly referred to as "in-law units"); and no other requirement of federal or
17 state law, this Municipal Code, or any other applicable law or regulation prohibits the
18 permanent resident from subleasing, renting, or otherwise allowing Short-Term Residential
19 Rental of the Residential Unit.

20 **Short-Term Residential Rental Registry or Registry.** A database of information
21 maintained by the Department that includes a unique registration number for each Short-Term
22 Residential Rental and information regarding Permanent Residents who are permitted to offer
23 Residential Units for Short-Term Residential Rental. Only one Permanent Resident per
24 Residential Unit may be included on the Registry at any given time. The Registry shall be
25 available for public review to the extent required by law, except that, to the extent permitted by

1 law, the Department shall redact any Permanent Resident names and street and unit numbers
2 from the records available for public review.

3 * * * *

4 **SEC. 41A.5. UNLAWFUL CONVERSION; REMEDIES.**

5 (a) **Unlawful Actions.** Except as set forth in subsection 41A.5(g), it shall be unlawful
6 for

- 7 (1) any Owner to offer a Residential Unit for rent for Tourist or Transient Use;
- 8 (2) any Owner to offer a Residential Unit for rent to a Business Entity that will
9 allow the use of a Residential Unit for Tourist or Transient Use; or
- 10 (3) any Business Entity to allow the use of a Residential Unit for Tourist or

11 Transient Use.

12 (b) **Records Required.** The Owner and Business Entity, if any, shall retain and make
13 available to the Department records to demonstrate compliance with this Chapter 41A upon
14 written request as provided herein. ~~Any Permanent Resident offering his or her Primary Residence
15 as a Short-Term Residential Rental shall retain and make available to the Department records to
16 demonstrate compliance with this Chapter 41A, including but not limited to records demonstrating
17 Primary Residency, the number of days per calendar year he or she has occupied the Residential Unit,
18 and the number of days per calendar year, with dates and duration of each stay, the Residential Unit
19 has been rented for Short-Term Residential Rental Use.~~

20 (c) **Determination of Violation.** Upon the filing of a written Complaint that an Owner
21 or Business Entity has engaged in an alleged unlawful Conversion or that a Hosting Platform
22 is not complying with the requirements of subsection s (g)(4)(A), (C), or (D), the Director shall
23 take reasonable steps necessary to determine the validity of the Complaint. The Director may
24 independently determine whether an Owner or Business Entity may be renting a Residential
25 Unit for Tourist or Transient Use in violation of this Chapter 41A or whether a Hosting Platform

1 has failed to comply with the requirements of subsection (g)(4)(A), (C), or (D). To determine if
2 there is a violation of this Chapter 41A, the Director may initiate an investigation of the subject
3 property or Hosting Platform's allegedly unlawful activities. This investigation may include, but
4 is not limited to, an inspection of the subject property and/or a request for any pertinent
5 information from the Owner, Business Entity, or Hosting Platform, such as leases, business
6 records, or other documents. The Director shall have discretion to determine whether there is
7 a potential violation of this Chapter 41A and whether to conduct an administrative review
8 hearing as set forth below. Notwithstanding any other provision of this Chapter 41A, any
9 alleged violation related to failure to comply with the requirements of the Business and Tax
10 Regulations Code shall be enforced by the Treasurer/Tax Collector under the provisions of
11 that Code.

12 (d) **Civil Action.**

13 (1) The City may institute civil proceedings for injunctive and monetary relief, including
14 civil penalties, against an Owner, Business Entity, or Hosting Platform for violations of this Chapter
15 41A under any circumstances, without regard to whether a Complaint has been filed or the Director
16 has made a determination of a violation through an administrative review hearing as set forth in this
17 Chapter 41A.

18 (2) Private Rights of Action.

19 (A) Following the filing of a Complaint and the determination of a violation
20 by the Director through an administrative review hearing ~~as set forth in this Chapter 41A, the City~~
21 may institute civil proceedings for injunctive and monetary relief against a Hosting Platform for
22 violation of subsection ~~(g)(4)(A) or the City~~ or any other Interested Party may institute civil
23 proceedings for injunctive and monetary relief against an Owner, ~~or~~ Business Entity, or Hosting
24 Platform.

1 (B) An Interested Party may institute a civil action for injunctive and monetary
2 relief against an Owner, Business Entity, or Hosting Platform if:

3 (i) The Interested Party has filed a Complaint with the Department;

4 (ii) 60 days have passed since the filing of the Complaint;

5 (iii) The Director has not made a written determination pursuant to
6 subsection 41A.6(a) that there is no violation of this Chapter 41A or basis for an investigation for an
7 unlawful activity;

8 (iv) After such 60-day period has passed, the Interested Party has
9 provided 30 days' written notice to the Department and the City Attorney's Office of its intent to initiate
10 civil proceedings; and

11 (v) The City has not initiated civil proceedings by the end of that 30-day
12 notice period.

13 (3) ~~In addition,~~ Civil Penalties. If the City or an Interested Party is the prevailing party
14 in any civil action under this subsection (d), an Owner or Business Entity in violation of this
15 Chapter 41A or a Hosting Platform in violation of subsection (g)(4)(A), (C), or (D) may be liable
16 for civil penalties of not less than \$250 or more than \$1,000 per day for the period of the
17 unlawful activity.

18 (4) Costs and Attorneys' Fees. If the City or any other ~~the~~ Interested Party is the
19 prevailing party, the City or the Interested Party shall be entitled to the costs of enforcing this
20 Chapter 41A, including reasonable attorneys' fees pursuant to an order of the Court.

21 (5) Any monetary award obtained by the City and County of San Francisco in such
22 a civil action shall be deposited in the Department to be used for enforcement of Chapter 41A.
23 The Department, through the use of these funds, shall reimburse City departments and
24 agencies, including the City Attorney's Office, for all costs and fees incurred in the
25 enforcement of this Chapter 41A.

1 (e) **Criminal Penalties.** Any Owner or Business Entity who rents a Residential Unit for
2 Tourist or Transient Use in violation of this Chapter 41A or a Hosting Platform who provides a
3 listing for a Residential Unit for Tourist or Transient Use in violation of subsections (g)(4)(A), (C), or
4 (D) without correcting or remedying the violation as provided for in subsection 41A.6(b)(7)
5 shall be guilty of a misdemeanor. Any person convicted of a misdemeanor hereunder shall be
6 punishable by a fine of not more than \$1,000 or by imprisonment in the County Jail for a
7 period of not more than six months, or by both. Each Residential Unit rented for Tourist or
8 Transient Use shall constitute a separate offense.

9 * * * *

10 (g) **Exception for Short-Term Residential Rental.**

11 (1) Notwithstanding the restrictions set forth in this Section 41A.5, a Permanent
12 Resident may offer his or her Primary Residence as a Short-Term Residential Rental if:

13 (A) ~~The Permanent Resident occupies the Residential Unit for no less than 275~~
14 ~~days out of the calendar year in which the Residential Unit is rented as a Short-Term Residential~~
15 ~~Rental or, if the Permanent Resident has not rented or owned the Residential Unit for the full preceding~~
16 ~~calendar year, for no less than 75% of the days he or she has owned or rented the Residential Unit~~ The
17 Residential Unit is rented for Tourist or Transient Use for no more than 60 days during any calendar
18 year;

19 (B) The Permanent Resident maintains records for two years
20 demonstrating compliance with this Chapter 41A, including but not limited to information
21 demonstrating Primary Residency, ~~the number of days per calendar year he or she has occupied the~~
22 ~~Residential Unit,~~ the number of days per calendar year the Residential Unit has been rented as
23 a Short-Term Residential Rental, and compliance with the insurance requirement in
24 Subsection (D). These records shall be made available to the Department upon request;

25 * * * *

1 (3) **Short-Term Residential Rental Registry Applications, Fee, and**
2 **Reporting Requirement.**

3 (A) **Application.** Registration shall be for a two-year term, which may be
4 renewed by the Permanent Resident by filing a completed renewal application. Initial and
5 renewal applications shall be in a form prescribed by the Department. The Department shall
6 determine, in its sole discretion, the completeness of an application. Upon receipt of a
7 complete initial application, the Department shall send mailed notice to the owner of record of
8 the Residential Unit, informing the owner that an application to the Registry for the unit has
9 been received. If the Residential Unit is in a RH-1(D) zoning district, the Department shall also
10 send mailed notice to any directly associated homeowner association that has previously
11 requested such notice.

12 Both the initial application and any renewal application shall contain information
13 sufficient to show that the Residential Unit is the Primary Residence of the applicant, that the
14 applicant is the unit's Permanent Resident, and that the applicant has the required insurance
15 coverage and business registration certificate. In addition to the information set forth here, the
16 Department may require any other additional information necessary to show the Permanent
17 Resident's compliance with this Chapter 41A. Primary Residency shall be established by
18 showing the Residential Unit is listed as the applicant's residence on at least two of the
19 following: motor vehicle registration; driver's license; voter registration; tax documents
20 showing the Residential Unit as the Permanent Resident's Primary Residence for home
21 owner's tax exemption purposes; or utility bill. A renewal application shall contain sufficient
22 information to show that the applicant is the Permanent Resident ~~and has occupied the unit for at~~
23 ~~least 275 days of each of the two preceding calendar years.~~ Upon the Department's determination
24 that an application is complete, the unit shall be entered into the Short-Term Residential
25 Rental Registry and assigned an individual registration number.

1 (B) **Fee.** The fee for the initial application and for each renewal shall be
2 \$50, payable to the Director. The application fee shall be due at the time of application.
3 Beginning with fiscal year 2014-2015, fees set forth in this Section may be adjusted each
4 year, without further action by the Board of Supervisors, as set forth in this Section. Within six
5 months of ~~the operative date of this ordinance~~ February 1, 2015 and after holding a duly noticed
6 informational hearing at the Planning Commission, the Director shall report to the Controller
7 the revenues generated by the fees for the prior fiscal year and the prior fiscal year's costs of
8 establishing and maintaining the registry and enforcing the requirements of this Chapter 41A,
9 as well as any other information that the Controller determines appropriate to the performance
10 of the duties set forth in this Chapter. After the hearing by the Planning Commission, but not
11 later than August 1, 2015, the Controller shall determine whether the current fees have
12 produced or are projected to produce revenues sufficient to support the costs of establishing
13 and maintaining the registry, enforcing the requirements of this Chapter 41A and any other
14 services set forth in this Chapter and that the fees will not produce revenue that is significantly
15 more than the costs of providing such services. The Controller shall, if necessary, adjust the
16 fees upward or downward for the upcoming fiscal year as appropriate to ensure that the
17 program recovers the costs of operation without producing revenue that is significantly more
18 than such costs. The adjusted rates shall become operative on July 1.

19 (C) **Reporting Requirement.** To maintain good standing on the
20 Registry, the Permanent Resident shall submit a report to the Department on January 1 of
21 each year regarding the number of days the Residential Unit or any portion thereof has been
22 rented as a Short-Term Residential Rental since either initial registration or the last report,
23 whichever is more recent, and any additional information the Department may require to
24 demonstrate compliance with this Chapter 41A.

25 (4) **Requirements for Hosting Platforms.**

1 (A) **Notice to Users of Hosting Platform.** All Hosting Platforms shall
2 provide the following information in a notice to any user listing a Residential Unit located
3 within the City and County of San Francisco through the Hosting Platform's service. The
4 notice shall be provided prior to the user listing the Residential Unit and shall include the
5 following information: that Administrative Code Chapters 37 and 41A regulate Short-Term
6 Rental of Residential Units; the requirements for Permanent Residency and registration of the
7 unit with the Department; and the transient occupancy tax obligations to the City.

8 (B) A Hosting Platform shall comply with the requirements of the
9 Business and Tax Regulations Code by, among any other applicable requirements, collecting
10 and remitting all required Transient Occupancy Taxes, and this provision shall not relieve a
11 Hosting Platform of liability related to an occupant's, resident's, Business Entity's, or Owner's
12 failure to comply with the requirements of the Business and Tax Regulations Code. A Hosting
13 Platform shall maintain a record demonstrating that the taxes have been remitted to the Tax
14 Collector and shall make this record available to the Tax Collector upon request.

15 (C) Prior to listing a Residential Unit within the City to be rented for Tourist or
16 Transient Use, a Hosting Platform shall verify with the Planning Department that the Residential Unit
17 is listed on the Registry. A Hosting Platform shall not provide any such listing unless the listing
18 includes a registration number and the Hosting Platform has verified that the Residential Unit is listed
19 on the Registry. Additionally, if a Hosting Platform has information that a Residential Unit has been
20 rented for Tourist or Transient Use for more than 60 days within a calendar year, the Hosting Platform
21 shall immediately remove such listing from its platform.

22 (D) **Reporting Requirement.** A Hosting Platform that collects data indicating
23 whether a Residential Unit has been rented for a given day, shall submit a quarterly report to the
24 Department indicating the number of nights a Residential Unit in the City was rented for Tourist or
25 Transient Use. This report shall include the street address, including unit number, of the Residential

1 Unit and the number of days, with dates and duration of stay, the Residential Unit was rented for
2 Tourist or Transient Use.

3 Any violation of a Hosting Platform's responsibilities under subsection s (g)(~~54~~)(A), (C) or
4 (D) shall subject the Hosting Platform to the administrative penalties and enforcement
5 provisions of this Chapter 41A, including but not limited to payment of civil penalties of up to
6 \$1,000 per day for the period of the failure to comply, with the exception that a violation
7 related to failure to comply with the requirements of the Business and Tax Regulations Code
8 shall be enforced by the Treasurer/Tax Collector under that Code.

9 (5) The exception set forth in this subsection (g) provides an exception only to
10 the requirements of this Chapter 41A. It does not confer a right to lease, sublease, or
11 otherwise offer a residential unit for Short-Term Residential Use where such use is not
12 otherwise allowed by law, a homeowners association agreement or requirements, any
13 applicable covenant, condition, and restriction, a rental agreement, or any other restriction,
14 requirement, or enforceable agreement. All Owners and residents are required to comply with
15 the requirements of Administrative Code Chapter 37, the Residential Rent Stabilization and
16 Arbitration Ordinance, including but not limited to the requirements of Section 37.3(c).
17 Additionally, this Chapter 41A shall not be construed as precluding an otherwise lawful application to
18 conduct a Tourist or Transient Use where such use is permitted or conditionally permitted under the
19 Planning Code.

20 * * * *

21 **SEC. 41A.6. PROCEDURES FOR DETERMINING ADMINISTRATIVE PENALTIES.**

22 **(a) Notice of Complaint.**

23 (1) Within 30 days of the filing of a Complaint and upon the Director's
24 independent finding that there may be a violation of this Chapter 41A, the Director shall notify
25 the Owner by certified mail that the Owner's Residential Unit is the subject of an investigation

1 for an unlawful use and provide the date, time, and place of an administrative review hearing
2 in which the Owner can respond to the Complaint. If the Director finds there is no violation of
3 this Chapter or basis for an investigation for an unlawful activity, the Director shall so inform
4 the complainant within 30 days of the filing of the Complaint.

5 (2) If the Complaint concerns the failure of a Hosting Platform to comply with the
6 requirements of subsections 41A.5(g)(4)(A), (C), or (D), within 30 days of the filing of the
7 Complaint and upon the Director's independent finding that there may be a violation of this
8 Chapter, the Director shall notify the Hosting Platform by certified mail that the Hosting
9 Platform is the subject of an investigation for failure to comply with the requirements of that
10 subsection and provide the date, time, and place of an administrative review hearing in which
11 the Hosting Platform can respond to the Complaint.

12 * * * *

13 **(c) Imposition of Penalties for Violations and Enforcement Costs.**

14 **(1) Administrative Penalties.** If the Hearing Officer determines that a violation
15 has occurred, an administrative penalty shall be assessed as follows:

16 (A) For the initial violation, not more than four times the standard hourly
17 administrative rate of \$121.00 for each unlawfully converted unit, or for each identified failure
18 of a Hosting Platform to comply with the requirements of subsections 41A.5(g)(4)(A), (C), or
19 (D), per day from the notice of Complaint until such time as the unlawful activity terminates;

20 (B) ~~f~~For the second violation by the same Owner(s), Business Entity, or
21 Hosting Platform, not more than eight times the standard hourly administrative rate of \$121.00
22 for each unlawfully converted unit, or for each identified failure of a Hosting Platform to comply
23 with the requirements of subsections 41A.5 (g)(4)(A), (C), or (D), per day from the day the
24 unlawful activity commenced until such time as the unlawful activity terminates; and
25

1 (C) ~~f~~For the third and any subsequent violation by the same Owner(s),
2 Business Entity, or Hosting Platform, not more than twelve times the standard hourly
3 administrative rate of \$121.00 for each unlawfully converted unit or for each identified failure
4 of a Hosting Platform to comply with the requirements of subsection 41A.5 (g)(4)(A), (C), or
5 (D) per day from the day the unlawful activity commenced until such time as the unlawful
6 activity terminates.

7 (2) **Prohibition on Registration and Listing Unit(s) on Any Housing**
8 **Platform.** In the event of multiple violations, the Department shall remove the Residential
9 Unit(s) from the Registry for one year and include the Residential Unit(s) on a list maintained
10 by the Department of Residential Units that may not be listed on any Hosting Platform until
11 compliance. Any Owner or Business Entity who continues to list a Residential Unit in violation
12 of this section shall be liable for additional administrative penalties and civil penalties of up to
13 \$1,000 per day of unlawful inclusion. Any Hosting Platform that continues to list a Residential Unit
14 in violation of this subsection and subsection 41A.5(g)(4)(C) shall be liable for additional
15 administrative and civil penalties of up to \$1,000 per day of unlawful inclusion.

16 * * * *

17
18 Section 3. Effective Date. This ordinance shall become effective 30 days after
19 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
20 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
21 of Supervisors overrides the Mayor's veto of the ordinance.

22
23 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

1 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
2 additions, and Board amendment deletions in accordance with the “Note” that appears under
3 the official title of the ordinance.

4

5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7

8 By: _____
9 MARLENA G. BYRNE
Deputy City Attorney

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Exhibit E

1 [Administrative Code – Short-Term Residential Rentals]

2

3 **Ordinance amending the Administrative Code to revise the Residential Unit Conversion**
 4 **Ordinance to limit short-term rental of a Residential Unit to no more than 120 days per**
 5 **calendar year, revise the definition of Interested Parties who may enforce the**
 6 **provisions of Chapter 41A through a private right of action to include Permanent**
 7 **Residents residing within 100 feet of the Residential Unit, create an additional private**
 8 **right of action under certain circumstances, and direct the Mayor to create an Office of**
 9 **Short-Term Residential Rental Administration and Enforcement staffed by the Planning**
 10 **Department, Department of Building Inspection, and Tax Collector’s Office; and**
 11 **affirming the Planning Department’s determination under the California Environmental**
 12 **Quality Act.**

13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 14 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 16 **Board amendment additions** are in double-underlined Arial font.
 17 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 18 **Asterisks (* * * *)** indicate the omission of unchanged Code
 19 subsections or parts of tables.

17

18 Be it ordained by the People of the City and County of San Francisco:

19

20 Section 1. Environmental Findings. The Planning Department has determined that the
 21 actions contemplated in this ordinance comply with the California Environmental Quality Act
 22 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
 23 the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein
 24 by reference. The Board affirms this determination.

25

1 Section 2. The Administrative Code is hereby amended by revising Sections 41A.4,
2 41A.5, 41A. 6, and 41A.7 and adding Section 41A.8, to read as follows:

3
4 **SEC. 41A.4. DEFINITIONS.**

5 Whenever used in this Chapter 41A, the following words and phrases shall have the
6 definitions provided in this Section:

7 * * * *

8 **Director.** The Director of the Planning Department, or his or her designee.

9 * * * *

10 **Interested Party.** A Permanent Resident of the building in which the Tourist or
11 Transient Use is alleged to occur, any homeowner association associated with the Residential
12 Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the Residential
13 Unit in which the Tourist or Transient Use is alleged to occur, a Permanent Resident or Owner of
14 a property within 100 feet of the property containing the Residential Unit in which the Tourist or
15 Transient Use is alleged to occur, the City and County of San Francisco, or any non-profit
16 organization exempt from taxation pursuant to Title 26, Section 501 of the United States
17 Code, which has the preservation or improvement of housing as a stated purpose in its
18 articles of incorporation or bylaws.

19 * * * *

20 **Short-Term Residential Rental Registry or Registry.** A database of information
21 maintained by the Department that includes information regarding Permanent Residents who
22 are permitted to offer Residential Units for Short-Term Residential Rental. Only one
23 Permanent Resident per Residential Unit may be included on the Registry at any given time.
24 The Registry shall be available for public review to the extent required by law, except that, to
25

1 the extent permitted by law, the Department shall redact any Permanent Resident names and
2 street and unit numbers from the records available for public review.

3 * * * *

4 **SEC. 41A.5. UNLAWFUL CONVERSION; REMEDIES.**

5 (a) **Unlawful Actions.** Except as set forth in subsection 41A.5(g), it shall be unlawful
6 for

- 7 (1) any Owner to offer a Residential Unit for rent for Tourist or Transient Use;
- 8 (2) any Owner to offer a Residential Unit for rent to a Business Entity that will
9 allow the use of a Residential Unit for Tourist or Transient Use; or
- 10 (3) any Business Entity to allow the use of a Residential Unit for Tourist or

11 Transient Use.

12 (b) **Records Required.** The Owner and Business Entity, if any, shall retain and make
13 available to the Department records to demonstrate compliance with this Chapter 41A upon
14 written request as provided herein. ~~Any Permanent Resident offering his or her Primary Residence
15 as a Short-Term Residential Rental shall retain and make available to the Department records to
16 demonstrate compliance with this Chapter 41A, including but not limited to records demonstrating
17 Primary Residency, the number of days per calendar year he or she has occupied the Residential Unit,
18 and the number of days per calendar year, with dates and duration of each stay, the Residential Unit
19 has been rented for Short-Term Residential Rental Use.~~

20 (c) **Determination of Violation.** Upon the filing of a written Complaint that an Owner
21 or Business Entity has engaged in an alleged unlawful Conversion or that a Hosting Platform
22 is not complying with the requirements of subsection (g)(4)(A), the Director shall take
23 reasonable steps necessary to determine the validity of the Complaint. The Director may
24 independently determine whether an Owner or Business Entity may be renting a Residential
25 Unit for Tourist or Transient Use in violation of this Chapter 41A or whether a Hosting Platform

1 has failed to comply with the requirements of subsection (g)(4)(A). To determine if there is a
2 violation of this Chapter 41A, the Director may initiate an investigation of the subject property
3 or Hosting Platform's allegedly unlawful activities. This investigation may include, but is not
4 limited to, an inspection of the subject property and/or a request for any pertinent information
5 from the Owner, Business Entity, or Hosting Platform, such as leases, business records, or
6 other documents. The Director shall have discretion to determine whether there is a potential
7 violation of this Chapter 41A and whether to conduct an administrative review hearing as set
8 forth below. Notwithstanding any other provision of this Chapter 41A, any alleged violation
9 related to failure to comply with the requirements of the Business and Tax Regulations Code
10 shall be enforced by the Treasurer/Tax Collector under the provisions of that Code.

11 (d) **Civil Action.**

12 (1) The City may institute civil proceedings for injunctive and monetary relief, including
13 civil penalties, against an Owner, Business Entity, or Hosting Platform for violations of this Chapter
14 41A under any circumstances, without regard to whether a Complaint has been filed or the Director
15 has made a determination of a violation through an administrative review hearing as set forth in this
16 Chapter 41A.

17 (2) **Private Rights of Action.**

18 (A) Following the filing of a Complaint and the determination of a violation
19 by the Director through an administrative review hearing ~~as set forth in this Chapter 41A, the City~~
20 ~~may institute civil proceedings for injunctive and monetary relief against a Hosting Platform for~~
21 ~~violation of subsection (g)(4)(A) or the City or~~ any other Interested Party may institute civil
22 proceedings for injunctive and monetary relief against an Owner or Business Entity.

23 (B) An Interested Party who is a Permanent Resident of the building in which
24 the Tourist or Transient Use is alleged to occur, is a Permanent Resident of a property within 100 feet
25 of the property containing the Residential Unit in which the Tourist or Transient Use is alleged to

1 occur, or is a homeowner association associated with the Residential Unit in which the Tourist or
2 Transient Use is alleged to occur may institute a civil action for injunctive and monetary relief against
3 an Owner or Business Entity if:

4 (i) The Interested Party has filed a Complaint with the Department;

5 (ii) The Director has not made a written determination pursuant to subsection
6 41A.6(a) that there is no violation of this Chapter 41A or basis for an investigation for an unlawful
7 activity;

8 (iii) An administrative hearing officer has not issued a final determination
9 pursuant to subsection 41A.6(b) regarding the Complaint within 105 days of the filing of the Complaint
10 with the Department;

11 (iv) After such 105-day period has passed, the Interested Party has provided 30
12 days' written notice to the Department and the City Attorney's Office of its intent to initiate civil
13 proceedings; and

14 (v) The City has not initiated civil proceedings by the end of that 30-day notice
15 period.

16 Under this subsection 41A.5(d)(2)(B), the prevailing party shall be entitled to the costs of suit,
17 including reasonable attorneys' fees, pursuant to an order of the Court.

18 (3) ~~In addition,~~ **Civil Penalties.** If the City is the prevailing party in any civil action
19 under this subsection (d): an Owner or Business Entity in violation of this Chapter 41A or a
20 Hosting Platform in violation of subsection (g)(4)(A) may be liable for civil penalties of not
21 more than \$1,000 per day for the period of the unlawful activity. Interested Parties other than the
22 City may not seek or obtain civil penalties.

23 (4) **Attorneys' Fees and Costs.** If the City or any other ~~the~~ Interested Party is the
24 prevailing party, the City or the Interested Party shall be entitled to the costs of enforcing this
25 Chapter 41A, including reasonable attorneys' fees, pursuant to an order of the Court.

1 (5) Any monetary award obtained by the City and County of San Francisco in
2 such a civil action shall be deposited in the Department to be used for enforcement of Chapter
3 41A. The Department, through the use of these funds, shall reimburse City departments and
4 agencies, including the City Attorney's Office, for all costs and fees incurred in the
5 enforcement of this Chapter 41A.

6 * * * *

7 **(g) Exception for Short-Term Residential Rental.**

8 (1) Notwithstanding the restrictions set forth in this Section 41A.5, a Permanent
9 Resident may offer his or her Primary Residence as a Short-Term Residential Rental if:

10 (A) ~~The Permanent Resident occupies the Residential Unit for no less than 275~~
11 ~~days out of the calendar year in which the Residential Unit is rented as a Short-Term Residential~~
12 ~~Rental or, if the Permanent Resident has not rented or owned the Residential Unit for the full preceding~~
13 ~~calendar year, for no less than 75% of the days he or she has owned or rented the Residential Unit~~ The
14 Residential Unit is rented for Tourist or Transient Use for no more than 120 days during any calendar
15 year;

16 (B) The Permanent Resident maintains records for two years
17 demonstrating compliance with this Chapter 41A, including but not limited to information
18 demonstrating Primary Residency, ~~the number of days per calendar year he or she has occupied the~~
19 ~~Residential Unit,~~ the number of days per calendar year the Residential Unit has been rented as
20 a Short-Term Residential Rental, and compliance with the insurance requirement in
21 Subsection (D). These records shall be made available to the Department upon request;

22 * * * *

23 **(4) Requirements for Hosting Platforms.**

24 (A) **Notice to Users of Hosting Platform.** All Hosting Platforms shall
25 provide the following information in a notice to any user listing a Residential Unit located

1 within the City and County of San Francisco through the Hosting Platform's service. The
2 notice shall be provided prior to the user listing the Residential Unit and shall include the
3 following information: that Administrative Code Chapters 37 and 41A regulate Short-Term
4 Rental of Residential Units; the requirements for Permanent Residency and registration of the
5 unit with the Department; and the transient occupancy tax obligations to the City.

6 (B) A Hosting Platform shall comply with the requirements of the
7 Business and Tax Regulations Code by, among any other applicable requirements, collecting
8 and remitting all required Transient Occupancy Taxes, and this provision shall not relieve a
9 Hosting Platform of liability related to an occupant's, resident's, Business Entity's, or Owner's
10 failure to comply with the requirements of the Business and Tax Regulations Code. A Hosting
11 Platform shall maintain a record demonstrating that the taxes have been remitted to the Tax
12 Collector and shall make this record available to the Tax Collector upon request.

13 (C) Any violation of a Hosting Platform's responsibilities under
14 subsection (g)(~~54~~)(A) shall subject the Hosting Platform to the administrative penalties and
15 enforcement provisions of this Chapter 41A, including but not limited to payment of civil
16 penalties of up to \$1,000 per day for the period of the failure to comply, with the exception that
17 a violation related to failure to comply with the requirements of the Business and Tax
18 Regulations Code shall be enforced by the Treasurer/Tax Collector under that Code.

19 * * * *

20 **SEC. 41A.6. PROCEDURES FOR DETERMINING ADMINISTRATIVE PENALTIES.**

21 **(a) Notice of Complaint.**

22 (1) Within 30 days of the filing of a Complaint and upon the Director's
23 independent finding that there may be a violation of this Chapter 41A, the Director shall notify
24 the Owner by certified mail that the Owner's Residential Unit is the subject of an investigation
25 for an unlawful use and provide the date, time, and place of an administrative review hearing

1 in which the Owner can respond to the Complaint. ~~If the Director finds there is no violation of this~~
2 ~~Chapter or basis for an investigation for an unlawful activity, the Director shall so inform the~~
3 ~~complainant within 30 days of the filing of the Complaint.~~

4 (2) If the Complaint concerns the failure of a Hosting Platform to comply with the
5 requirements of subsection 41A.5(g)(4)(A), within 30 days of the filing of the Complaint and
6 upon the Director's independent finding that there may be a violation of this Chapter, the
7 Director shall notify the Hosting Platform by certified mail that the Hosting Platform is the
8 subject of an investigation for failure to comply with the requirements of that subsection and
9 provide the date, time, and place of an administrative review hearing in which the Hosting
10 Platform can respond to the Complaint.

11 (3) Once a Complaint has been filed, the Department shall include information
12 regarding the Complaint, including whether the Complaint is pending or resolved and, if resolved, any
13 final determination, on the Department's website.

14 (4) If the Director finds there is no violation of this Chapter or basis for an
15 investigation for an unlawful activity, the Director shall so inform the complainant within 30 days of
16 the filing of the Complaint.

17 (b) **Administrative Review Hearings.** In the event the Director determines that an
18 administrative review hearing shall be conducted, the Director's appointed hearing officer will
19 hold an administrative review hearing within 45 days of the Director's finding that there may
20 be a violation of this Chapter 41A to review all information provided by the Interested Party,
21 members of the public, City staff, and the Owner or Hosting Platform for the investigation and
22 the hearing officer shall thereafter make a determination whether the Owner or Hosting
23 Platform has violated this Chapter.

1 (1) For hearings regarding alleged unlawful conversions, notice of the hearing
2 shall be conspicuously posted on the building that is the subject of the hearing. The Director
3 shall appoint a hearing officer to conduct the hearing.

4 (2) **Pre-hearing Submission.** No less than ten days prior to the administrative
5 review hearing, parties to the hearing shall submit written information to the Director including,
6 but not limited to, the issues to be determined by the hearing officer and the evidence to be
7 offered at the hearing. Such information shall be forwarded to the hearing officer prior to the
8 hearing along with any information compiled by the Director.

9 (3) **Hearing Procedure.** If more than one hearing is requested for Residential
10 Units located in the same building at or about the same time, the Director shall consolidate all
11 of the hearings into one hearing. The hearing shall be recorded. Any party to the hearing may
12 at his or her own expense cause the hearing to be recorded by a certified court reporter.
13 Parties may be represented by counsel and shall have the right to cross-examine witnesses.
14 All testimony shall be given under oath. Written decisions and findings shall be rendered by
15 the hearing officer within 30 days of the hearing. Copies of the findings and decision shall be
16 served upon the parties by certified mail. A notice that a copy of the findings and decision is
17 available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday
18 shall be posted by the Owner or the Director in the building in the same location in which the
19 notice of the administrative review hearing was posted.

20 (4) **Failure to Appear.** In the event the Owner, authorized Hosting Platform
21 representative, or an interested party fails to appear at the hearing, the hearing officer may
22 nevertheless make a determination based on the evidence in the record and files at the time
23 of the hearing, and issue a written decision and findings.

1 (5) **Finality of the Hearing Officer's Decision and Judicial Review.** The
2 decision of the hearing officer shall be final. Within 20 days after service of the hearing
3 officer's decision, any party may seek judicial review of the hearing officer's decision.

4 (6) **Hearing Officer Decision and Collection of Penalties.** Upon the Hearing
5 Officer's decision, the Director may proceed to collect the penalties and costs pursuant to the
6 lien procedures set forth in Subsection 41A.6(d), consistent with the Hearing Officer's
7 decision.

8 (7) **Remedy of Violation.** If the Hearing Officer determines that a violation has
9 occurred, the Hearing Officer's Decision shall:

10 (A) Specify a reasonable period of time during which the Owner,
11 Business Entity, or Hosting Platform must correct or otherwise remedy the violation;

12 (B) Detail the amount of any administrative penalties the Owner or
13 Hosting Platform shall be required to pay as set forth in Subsection 41A.6(c); and,

14 (C) For violations by Owners, state that if the violation is not corrected or
15 otherwise remedied within this period, the Department shall remove or prohibit the registration
16 of the Residential Unit from the Short-Term Residential Registry for one year even if the
17 Residential Unit otherwise meets the requirements for Short-Term Residential Rental.

18 (8) If the Hearing Officer determines that no violation has occurred, the
19 determination is final.

20 (c) **Imposition of Penalties for Violations and Enforcement Costs.**

21 (1) **Administrative Penalties.** If the Hearing Officer determines that a violation
22 has occurred, an administrative penalty shall be assessed as follows:

23 (A) For the initial violation, not more than four times the standard hourly
24 administrative rate of \$121.00 for each unlawfully converted unit, or for each identified failure
25

1 of a Hosting Platform to comply with the requirements of subsection 41A.5(g)(4)(A), per day
2 from the notice of Complaint until such time as the unlawful activity terminates;

3 (B) ~~f~~For the second violation by the same Owner(s), Business Entity, or
4 Hosting Platform, not more than eight times the standard hourly administrative rate of \$121.00
5 for each unlawfully converted unit, or for each identified failure of a Hosting Platform to comply
6 with the requirements of subsection 41A.5 (g)(4)(A), per day from the day the unlawful activity
7 commenced until such time as the unlawful activity terminates; and

8 (C) ~~f~~For the third and any subsequent violation by the same Owner(s),
9 Business Entity, or Hosting Platform, not more than twelve times the standard hourly
10 administrative rate of \$121.00 for each unlawfully converted unit or for each identified failure
11 of a Hosting Platform to comply with the requirements of subsection 41A.5 (g)(4)(A) per day
12 from the day the unlawful activity commenced until such time as the unlawful activity
13 terminates.

14 (2) **Prohibition on Registration and Listing Unit(s) on Any Housing**
15 **Platform.** In the event of multiple violations, the Department shall remove the Residential
16 Unit(s) from the Registry for one year and include the Residential Unit(s) on a list maintained
17 by the Department of Residential Units that may not be listed on any Hosting Platform until
18 compliance. Any Owner or Business Entity who continues to list a Residential Unit in violation
19 of this section shall be liable for additional administrative penalties and civil penalties of up to
20 \$1,000 per day of unlawful inclusion.

21 * * * *

22 **SEC. 41A.7. OFFICE OF SHORT-TERM RESIDENTIAL RENTAL ADMINISTRATION**
23 **AND ENFORCEMENT.**

24 The Mayor shall establish an Office of Short-Term Residential Rental Administration and
25 Enforcement, which shall provide a single location to receive and process applications for the Registry

1 and which shall be staffed by the Department, the Department of Building Inspection, and the Tax
2 Collector's Office as needed to process applications for the Registry and enforce the requirements of
3 this Chapter 41A in a timely and efficient manner. It is the intent of this Board in directing the
4 establishment of this office to streamline both the process of administering the Registry and enforcing
5 the requirements of this Chapter 41A to protect residential housing from unlawful conversion to Tourist
6 or Transient Use.

7 **SEC. 41A.8 CONSTRUCTION.**

8 (a) Nothing in this Chapter may be construed to supersede any other lawfully enacted
9 ordinance of the City and County of San Francisco.

10 (b) Clauses of this Chapter are declared to be severable and if any provision or clause
11 of this chapter or the application thereof is held to be unconstitutional or to be otherwise
12 invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions of
13 this Chapter.

14
15 Section 3. Effective Date. This ordinance shall become effective 30 days after
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
18 of Supervisors overrides the Mayor's veto of the ordinance.

19
20 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
21 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
22 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
23 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
24 additions, and Board amendment deletions in accordance with the "Note" that appears under
25 the official title of the ordinance.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3
4 By: _____
5 MARLENA BYRNE
6 Deputy City Attorney

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