

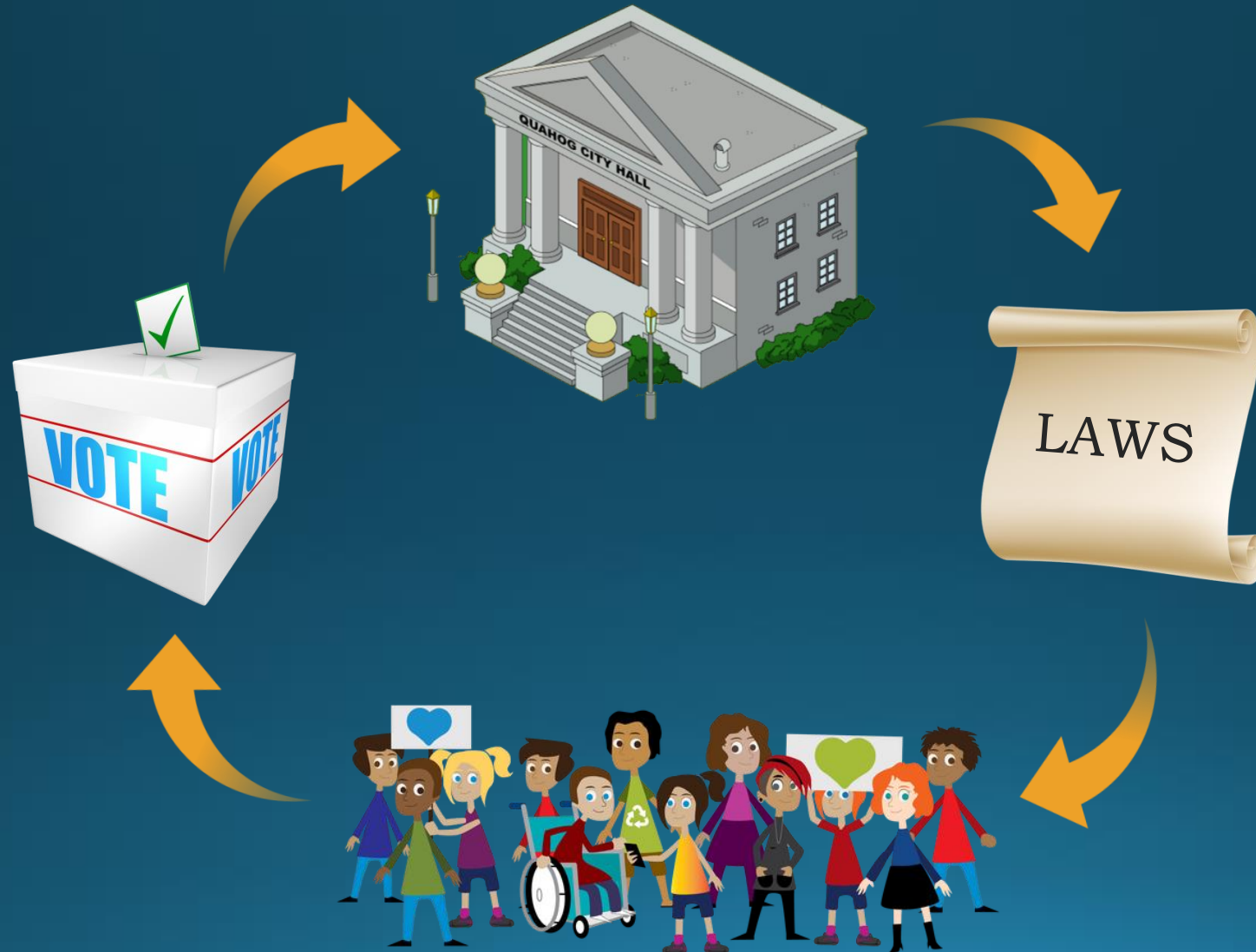
# Invading Our Space: Disruptive Innovators Take On Local Government

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# Outline

- Why is there such conflict between local government and the so-called sharing economy?
- The concept of “disruptive innovation”
- Why disruptive entrepreneurs do what they do
- How to identify companies with a “disruptive” mindset
- What can cities do to defend our ability to regulate business activities and land uses in our communities

# How Local Government Works (Ideally)



# Local Regulation: A Complex Web

- Cities have broad police power to regulate local business activities and land uses unless pre-empted
- Laws have evolved into a complex but relatively stable balance of power, for example:
  - Transient occupancy regulated locally as a business activity
  - Leases are regulated by state as a property right
- Laws are changed through new legislation or court decisions

# Lobbying: It's the American Way

- Over the years, many industries that have successfully lobbied state/feds to limit local regulation
  - For-hire passenger transportation (except for taxis)
  - Use of rights-of-way by public utilities & telecoms
  - Cable television (DIVCA)
- Lobbying is a way to change the law, not violate it
- Most companies don't openly break the law

# So what's happening?

Uber Ignores Mayor Lee's Demand That It Cease  
Unpermitted Self-Driving Ride Service

*SFist, Dec. 16, 2016*

Uber and Lyft Drivers Told to Ignore Regulations

*NBC Bay Area, Oct. 6, 2014*

**Most Airbnb hosts flout SF laws, city report says**

*SF Chronicle, Apr. 7, 2016*

**“DISRUPTION”**



For people in  
government...



This is disruption



# Local Government Values

- Stability
- Predictability
- Fiscal responsibility
- Long-term planning
- Avoiding risks
- Methodical, consensus-based decisions
- Serve the public interest



*Success is taken for granted*  
*Failure can have devastating consequences*



“Citizens to Be Heard”

# Silicon Valley Values

- Experimentation
- Creativity
- Taking risks
- Short-term goals
- Quick decisions
- “Changing the world”
- Maximize shareholder value

*Success brings huge rewards*  
*Failure is a learning opportunity*



“If you want to be a visionary, go out and have some accidents.” Tim Draper



“I’ve probably failed more often than anyone in Silicon Valley. Those don’t matter.” Vinod Kholsa



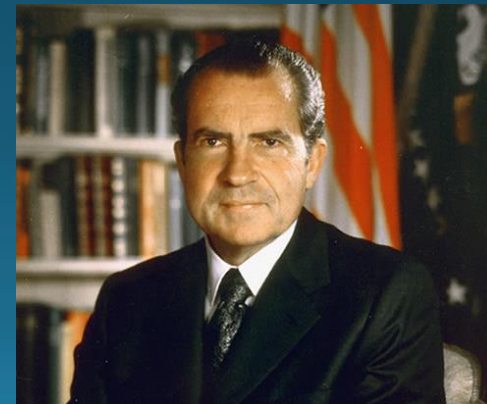
“Sometimes when you innovate, you make mistakes.” Steve Jobs



“If you want to be a visionary, go out and have some accidents.” Fire Chief



“I’ve probably failed more often than anyone. Those don’t matter.” FEMA Director



“Sometimes when you innovate, you make mistakes.” Richard Nixon

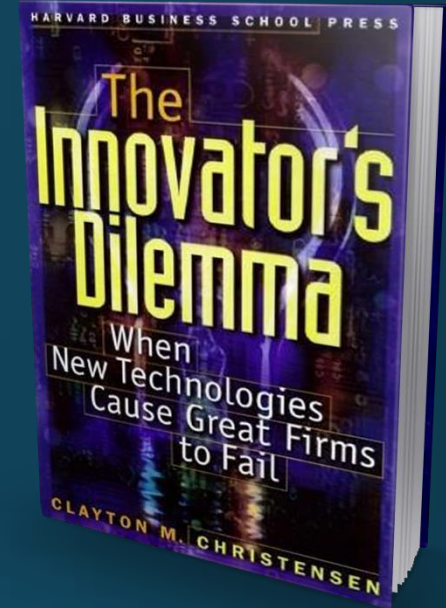
“Failure is growth. Failure is learning. But sometimes failure is just failure.” Gavin Belsen



HBO, *Silicon Valley*

# Disruptive Innovation

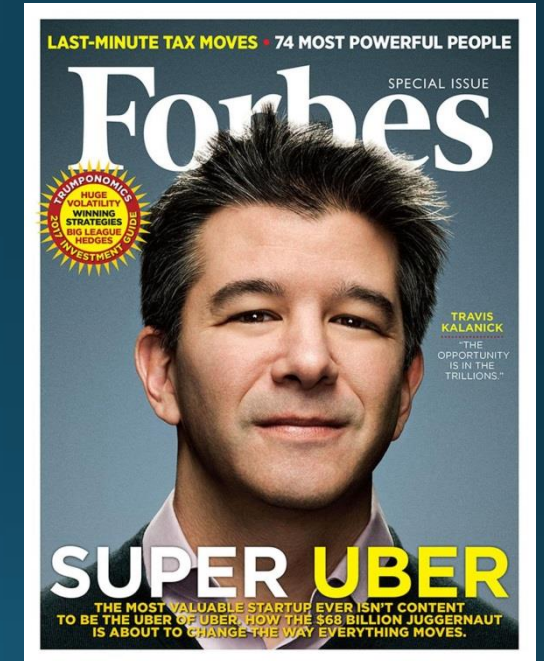
- Concept developed by Harvard Business School professor Clayton Christensen in the 1990's
- Theory: established industries can't adapt to change because they are locked into their way of doing things
- Agile newcomers can exploit "disruptive opportunities" to transform or destroy an existing market





# Who Wants to Be a Billionaire?

- Disruptive innovation has been a hugely influential idea in the tech industry
- Uber legend: Travis Kalanick had to wait for a limo in the snow in Paris and thought “there should be an app for this”
- Kalanick was a billionaire before age 40



# Many industries have been upended by innovation

- Post office
- Newspapers
- Bookstores
- Music
- Movies
- Travel agents
- Accountants
- Secretaries
- Job recruiters
- Lawyers



# Housing & Transportation

- “Disruptive innovators” in the 1990’s-2000’s mostly hit unregulated industries (e.g. newspapers, music)
- Now moving into heavily regulated spaces like housing, transportation, education, employment relationships
- Vulnerable because of structural inefficiencies that lead to consumer frustration
- Laws regulating these industries are deeply embedded and resistant to change
- The law itself becomes the target for disruption

# Identifying the “Disruptive” Mindset

- Unusual degree of pushback and expectation that agency should change rules and processes. “This won’t work for us”
- Insisting that agency sign agreements or issue permits without normal terms and conditions
- Company starts operating without permission or after being expressly denied permission

# Identifying the “Disruptive” Mindset

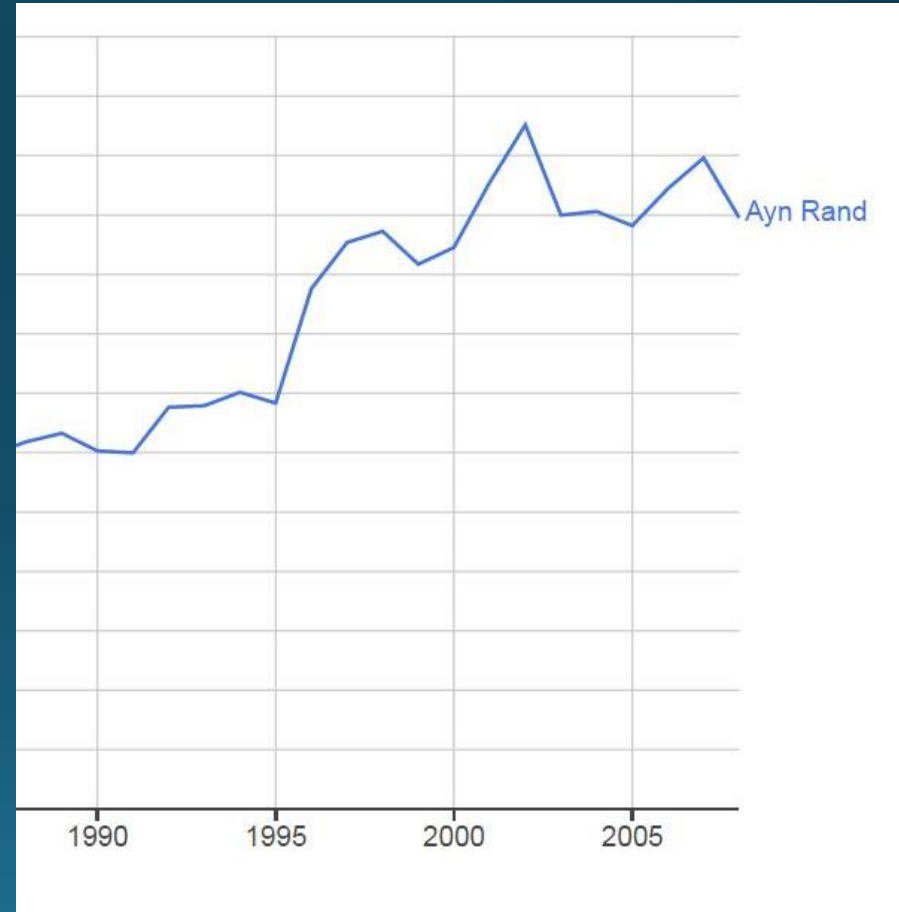
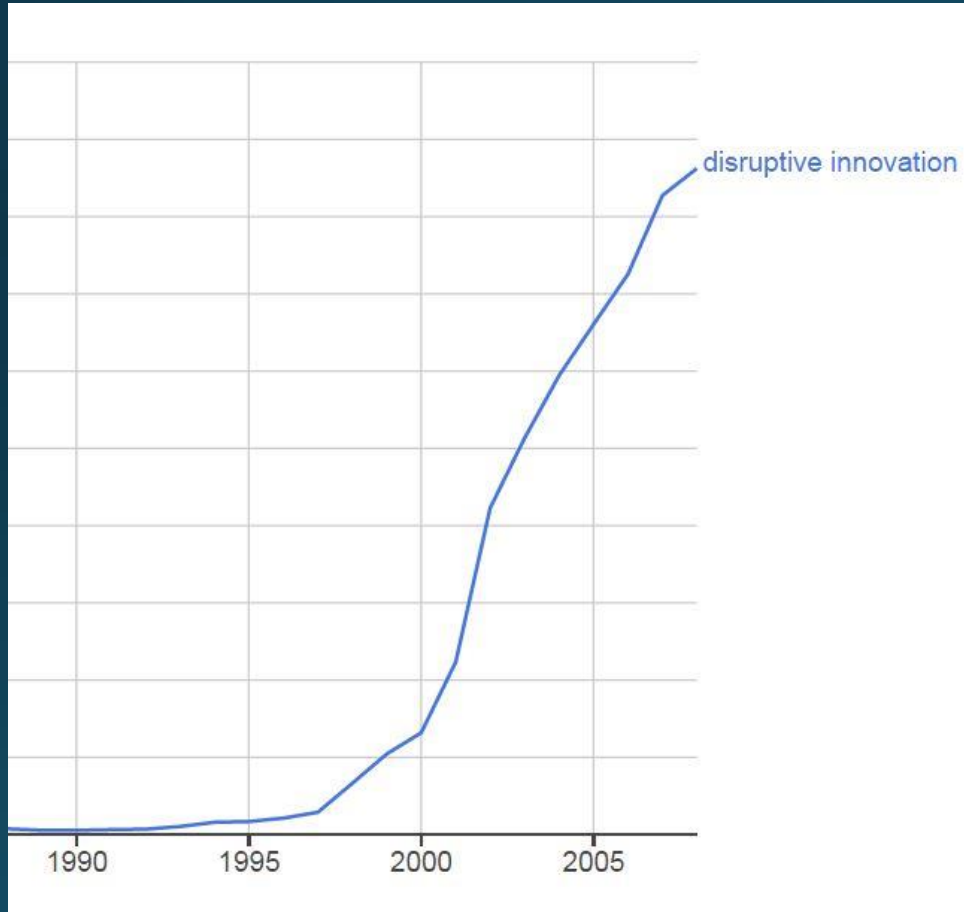
- Company questions widely accepted and understood legal principles (e.g., what is an employee, why does city get to regulate land use)
- May even challenge laws that few would dare to argue with, such as fire codes
- Company appears willing to engage in years-long legal battles rather than comply

# Ayn Rand

- The individual is a “heroic being” who should pursue rational self-interest
- Selfishness is a moral good; altruism rewards failure
- Unregulated capitalism is the only system that fully recognizes individual rights
- Government squelches freedom by trying to serve the public good
- Superior individuals should not have to obey laws that stifle their potential



# Frequency of these phrases in books published between 1990-2008





# More change is coming...

- Fully automated retail/grocery checkout
- Virtual auto dealerships
- Personal delivery robots/drones
- Private bus services
- Personal gasoline delivery
- Alcohol/marijuana delivery
- K-12 education (charters, private schools)
- “Smart contracts” – transaction protocols that function as self-enforcing contracts - no need for lawyers!



# Lessons

- There is often a culture clash between “government space” and “tech space”
- Understand what you are dealing with – from the company’s perspective, you are a bureaucrat standing between them and billions of dollars
- Educate company representatives about how government works
- Focus on the purpose of city’s regulations not just “following our process”

# Lessons

- Be open to being flexible as long as city's interests are met – are we being too bureaucratic? Do our rules make sense?
- Prioritize most critical enforcement issues (pick your battles)
- Be willing to expend resources and take strong enforcement action where necessary
- Play the long game

# Final Thoughts

- Companies like Airbnb and Uber are successful because they are brilliant at providing services that people want.
- Every community has to set its own priorities.
- Positive outcomes are possible, but take patience, time and resources.
- We will likely see more efforts to change laws at the state level and preempt local control. Stay tuned