



THE SHARING ECONOMY

Short-Term Rentals



What is a short-term rental?

- Typically, refers to a transient use of a residence.
- Can be hosted or non-hosted.
- Short-term rentals have been common in tourist destinations for decades, and have been regulated.
- Growth of the sharing economy, and online platforms, like Airbnb, has brought short-term rentals to almost every jurisdiction.

Common Impacts from Short-Term Rentals

- Noise/parties
- Parking
- Loss of residential character of neighborhood
- Loss of housing stock
- Other public safety concerns



Benefits from Short-Term Rentals

- Provides supplemental income to operators.
- Possible to generate transient occupancy tax.
- Facilitate tourism.



Ewing v. City of Carmel-By-The-Sea
(1991) 234 Cal.App.3d 1579



Ewing v. City of Carmel-By-The-Sea

- Facts: Owners of a single-family home in a residentially zoned area challenged the City's adoption of an ordinance prohibiting transient use (defined as less than 30 days by code) in the neighborhood.
- Holding: Preservation of the residential character of a neighborhood is sufficient reason to prohibit short term rentals in that neighborhood.

Ewing v. City of Carmel-By-The-Sea

- *“Whether or not transient rentals have the other ‘unmitigatable, adverse impacts’ cited by the Council, such rentals undoubtedly affect the essential character of a neighborhood and the stability of a community. Short-term tenants have little interest in public agencies or in the welfare of the citizenry.”*

How should cities balance the benefits against the impacts of short-term rentals?

- Benefits and impacts vary from community to community.
- Solicit community input regarding short-term rentals.
- There is no model ordinance.

Transient Occupancy Tax

- Revenue and Taxation Code section 7280, et seq., authorizes cities to levy a tax on the “privilege of occupying a room or rooms” including that in a house, provided the period of occupancy is for less than 30 days.
- *In re Transient Occupancy Tax Cases* (2016) 2 Cal. 5th 131: held that online travel companies were not operators within the meaning of the city’s transient occupancy tax ordinance.

Enforcement of Short-Term Rental Regulations



- Cities struggle with enforcement of regulations governing short-term rentals.
- Short-term rentals can generate numerous complaints.
- Enforcement may present evidentiary challenges.

Emerging Issues

- Cities are exploring regulations that go beyond traditional land use regulations to facilitate enforcement.
- What role, if any, should online platforms assume in the regulation of short-term rentals?



THE END

