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april 15, 2011

Statement RE: Memo from
Robert Heil regarding short term
rental of residential structures,

- The Austin Board of REALTORS supports staff's recommendation regarding education & outreach.
- We support registration & compliance if registration information is kept confidential to protect the security ^{+privacy} of the homes, home-owners and guests.
- On the issue of inspection, we believe more stakeholder input should be collected to ensure a fair ~~open~~ and efficient process that will not delay occupancy.

Mandy Dealey, Chair and Members of the Planning Commission Committee on Codes and Ordinances

April 19, 2011

In regards to the letter from Robert Heil dated April 15, 2011

First of all if the City has declared STR/VRBO's not be hotels how can a hotel tax be levied and enforced?

If they are not given a designation how will they be forced to comply with registration and to register with the Controllers office?

I listened to the report to the Audit and Finance report. What I heard is that the City is currently not enforcing and collecting hotel taxes which is against the (State of Texas) law.

If Code Compliance is truly enforcing current code, should they not have someone "on call" for the weekends when most violations are occurring? This could be rotated among staff such as any medical group does.

The letter does not address that SF2 and SF3 zoning does not allow for commercial use. The transient hotels that are not owner occupied are clearly commercial businesses operating in residential neighborhoods.

Property rights and zoning. If I have a kitchen can I open a restaurant?

The owners are asking to City to accommodate them after they have opened a business in an area that does not allow it.

When I bought my house in SF3 I have an implied contract with the City to follow zoning laws and for the City to enforce those codes to protect my property values.

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Summary of Restrictions on Transient Residential Rentals

Excerpts	Source
TRANSIENT. Occupancy of a dwelling or sleeping unit for not more than 30 days.	2009 International Building Code, Section 310.2 Definitions. City Code 25-12-1 BUILDING CODE. (A) The 2009 International Building Code is adopted and incorporated into this section.
"Residential" does not have the character of a facility used for the accommodation of transient guests.	Texas Local Government Code, Chapter 214 MUNICIPAL REGULATION OF HOUSING AND OTHER STRUCTURES. Sec. 214.211 DEFINITIONS.
The purposes of the residential district: reserve areas for residential occupancy consistent with the Comprehensive Plan and standards of public health, safety, and welfare.	City Code 25-2-51 PURPOSES OF RESIDENTIAL DISTRICTS
Residential uses include the occupancy of living accommodations on a nontransient basis.	City Code 25-2-3 RESIDENTIAL USES DESCRIBED.
(11) SINGLE-FAMILY RESIDENTIAL use is the use of a site for only one dwelling unit.	City Code 25-2-3 RESIDENTIAL USES DESCRIBED.
In making a determination under this section, the director of the Neighborhood Planning and Zoning Department shall consider the characteristics of the proposed use and the similarities, if any, of the use to other classified uses.	City Code 25-2-2 DETERMINATION OF USE CLASSIFICATION.
While these uses are still classified as single family residential uses, the frequent rental of a single family home for short durations, . . .	Use Classification Determination letter of March 12, 2011 by PDR Director Guernsey
HOTEL means a building in which members of the public may obtain sleeping accommodations for consideration. The term includes a building where a room is furnished for a consideration.	City Code 11-2. HOTEL OCCUPANCY TAX. 11-2-1 DEFINITIONS.
Single family detached or two family residential uses. Purpose. (1) Preserve the future viability of existing neighborhoods; (3) Protect residential neighborhoods from incompatible business and the loss of existing housing.	City of Austin <i>Neighborhood Planning Guide Land Use Standard</i> May 2008.
Land Use Planning Principles. (2) Ensure an adequate and diverse supply of housing for all income levels; (3) Minimize negative effects between incompatible land uses; (13) Avoid creating undesirable precedents.	City of Austin <i>Neighborhood Planning Guide Land Use Standard</i> May 2008.
Austin is livable. One of Austin's foundations is its safe, well-maintained, stable, and attractive neighborhoods, where community needs and values are recognized. Development occurs while protecting and enhancing neighborhoods. People across all parts of the city and of all ages and income levels live in safe, stable neighborhoods.	<i>Imagine Austin Comprehensive Plan Vision Statement.</i>

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April 14, 2011

Hey, Short-Timer, Park It Here

By HILARY STOUT

FOUR adults, 3-year-old twins and a new baby in a two-bedroom Manhattan apartment?

No way, thought Arnhold Fox.

But that was precisely the situation Mr. Fox and his wife were facing when they arrived in Manhattan from Melbourne, Australia, to lend a hand to their daughter and her husband, who were about to have their third child. A few days of multigenerational cohabitation confirmed that they needed to find a roof of their own. (And the baby hadn't even been born yet.)

Manhattan hotel prices were prohibitive — the tab could have approached \$20,000 for their three-month stay, even for the most modest of rooms in an inconvenient neighborhood. So they set out to rent a place of their own.

With that, the couple became consumers in a vast but underrecognized market in New York City. The short-term rental business is diverse, encompassing everything from a cluttered closet-sized walk-up in the outer reaches of Queens to an impeccably restored 1840s town house with 18-foot ceilings, seven bedrooms and a roof deck at 11 Cranberry Street in Brooklyn Heights. Most properties are available for as briefly as a night or for as long as a year.

A weekend at a short-term can cost anywhere from \$250, for a garden apartment in Harlem, to many thousands of dollars for an entire town house. At 11 Cranberry, said Vicki Negrón of the Corcoran Group, who has the listing, a weekend could run you \$4,000 to \$5,000. (Want it for a month? That will be \$22,000.)

The city's temporary denizens include actors in town for an Off Broadway run, student interns, business consultants on assignment, Hollywood stars on location, and tourists from all over the world. Corporate types often bunk at the "extended stay" residences operated by large hotel chains, including the luxury AKA Suites, the Marriott ExecuStay apartments and the Sutton Court Hotel Residences.

And that doesn't count the short-term renters who already live in the city but need somewhere to crash as a consequence of marital discord, an extended renovation project, or even an illicit tryst — brokers say they've seen it all.

They also say demand for short-term leases has been growing stronger recently. Paul Macapagal, a vice president of the Real Estate Group NY, said he had represented many clients who bought condos as investment properties for the purpose of renting them short-term. "The clients I deal with — their business is flourishing," Mr. Macapagal said. "They don't have enough properties to meet the need. I have one client who picked up two properties last month and is looking to pick up three or four next month."

To explain the heightened demand, brokers point to a curious mix of economic vitality and caution. Employers are starting to hire again, so people are moving to the city and need short-term housing while they look for a permanent home, said Gary L. Malin, the president of Citi Habitats, which has a division called Citi Furnished that offers short-term rentals. At the same time employers and tourists are looking for ways to avoid hotel costs.

Asher Alcobi, the president of Peter Ashe Real Estate, said he had clients — both prospective buyers and prospective sellers — who were beset with lingering uncertainty about the real estate market. He recalled the owners of an alcove studio in the East 60s who were so unhappy with the price they were likely to get for it — considering what it might have fetched three years ago — that they opted for Plan B: renting it out for a time. They leased the studio for eight months to a couple from New Jersey who wanted to sample living in the neighborhood before taking the plunge and buying.

Ms. Negron, the Corcoran Group's top rental broker in Brooklyn, said 20 percent of her rental business was in short-term leases. It used to be about 5 percent, she said, but it picked up sharply over the past two years, at a time when the economy was sputtering.

But the increased demand is coming as short-term rentals are subject to greater scrutiny and control. Mr. Macapagal said more condo boards were taking steps to ban subleases. But what could really crimp the practice is a state law scheduled to take effect next month that prohibits rentals of less than 30 days in most apartment buildings.

The legislation was heavily promoted by the hotel industry. Other supporters, including Mayor **Michael R. Bloomberg**, say it will help crack down on illegal hotels as well as preserve quality of life and safety for permanent residents of apartment buildings.

Two Upper West Side single-room occupancy buildings filed suit in February to block the law. A coalition called Protect Vacation Rentals — which it says includes property owners and managers, bed-and-breakfast proprietors and brokers — has been disseminating information about the law and urging members to sound off against it.

It will be difficult to enforce the new law, if enacted, and there are many signs that short-term rental businesses are poised to proceed as usual. Web sites like [HomeAway.com](#) and [VRBO.com](#) (which stands for “vacation rentals by owner”) are packed with New York properties renting by the night or the week and available well after the law takes effect.

“It’s going to be very interesting because a lot of companies, that’s all they do,” said Marie-Claire Martineau, an owner of Maison International, a brokerage that focuses on finding short-term rentals for celebrities who are in town to shoot movies.

For property owners, she said, profit is often considerably less if the lease is for a month at a time. “We have people calling us now because they are getting ready to try to rent their apartments for more than 30 days. But the problem is that they are used to charging \$250 per night. I say, I can get you \$3,500 for the month.” (Do the math: \$250 per night comes out to \$7,750 over 31 days.)

But especially in condo buildings with only scattered units under sublease, it will be hard to police the practice. In fact, it has long been mostly unregulated.

As the Foxes found, there are many individual players, some offering less-than-ideal deals. Before the couple left for New York, they poked around the Internet on sites like [Craigslist](#). But they were wary of committing to a place without seeing it first. “They paint a very pretty picture,” Mr. Fox said. “But it isn’t always the truth.”

Indeed. After they arrived in New York, they contacted five or six landlords (“No one had an agent,” Mr. Fox said). The apartments they saw seemed to them to be astoundingly expensive for what they were. Mr. Fox shuddered to recall one particular place. “It was a five-floor walk-up,” he said. “You open the front door and, honestly, you had to push yourself in to get past the bed.” The closets were spilling over. “There was no light, no nothing,” he added. And it could be had for \$3,000 a month.

Another apartment, in a nice building near Central Park, looked beautiful in the listing photograph. But it actually was in a dark basement.

They decided to secure an agent to help them navigate. They found Crystal Cave, an agent with Platinum Properties, on a corporate rental Web site, Mr. Fox said. Ms. Cave questioned them carefully about what they were looking for, sent them five or six options, and within a few days they had located a large alcove studio with nice light and a view of a pretty garden. The building, on West 57th Street, was close to Central Park — very convenient for taking the 3-year-old grandchildren on trips to the playground.

The rent, at \$2,600 per month, was within their price range and cheaper than what was being asked for many of the unprepossessing places they had seen.

But as is the case with many short-term rentals, the transaction wasn't that simple. For one thing, it wasn't taking place at a hotel. "You can't just say here's my credit card, let me check in for two months," Ms. Cave said.

They had to supply character references and proof of income, and submit to a credit check — basically anything that a tenant entering into a long-term lease would have to provide. "They wanted my first born; they wanted everything," Mr. Fox said. He wondered why he had to supply proof of income: "I was paying it all right then. I paid the whole three months plus the security."

Though landlords may require prospective tenants to jump through numerous hoops, Mr. Malin of Citi Habitats emphasized that there are few enforceable checks on the market, so prospective renters need to look out for themselves as well. For example, he said: "If someone says I'm willing to give you a guest agreement, that's a first sign of potential problem. It should be a short-term lease."

Also, he said, dealing with a large provider is usually safer than doing business with individual landlords. Clients would be well advised to contact the managing agent of any condo where they plan to rent, to make sure the arrangement is allowable under the building's rules, he said.

"A lot of times people are trying to get around the rules of their boards," he said. "You need to be very leery about that." Otherwise, he said, "the next thing you know, you will be evicted."

Brokers say that because short-term rentals are almost always furnished (and some leases include cleaning services), monthly rents usually are 20 percent to 40 percent higher than unfurnished long-term rentals — a premium that can sometimes come as a shock.

But for \$12,000 to \$22,000 a month at the Chelsea Mansion, 436 West 20th Street, you get antique chandeliers and 21st-century appliances like Liebherr refrigerators and Viking wine

coolers. All five units at the mansion, a 19th-century town house, are short-term rentals.

The ambience appealed to Vanda Nascimento, a house-hunter from Monaco, who looked at a lot of short-term options that did not suit her taste. "Inside they were terrible," she said.

She is now renting a two-bedroom apartment at Chelsea Mansion with her husband and young son. The inviting atmosphere of their temporary place has allowed them to relax and take their time searching for a new home.

"Chelsea Mansion was different," Ms. Nascimento said. "It's a good place, well decorated. We want to stay here until we find something that really changes our lives."

This article has been revised to reflect the following correction:

Correction: April 15, 2011

In an earlier version of this article, a picture caption misstated the address of a two-bedroom that rents for \$5,900 a month. It is on West 45th Street, not West 46th Street.



New Vacation Rental License is effective January 1, 2011

December 7, 2010

A new business license was enacted by the Chicago City Council that regulates a growing trend of homeowners that rent out their property on a daily or weekly basis to travelers looking for alternative accommodations. The Ordinance ensures the health and safety of the renter by requiring insurance and inspections. The new Vacation Rental license is effective **January 1, 2011**.

What is a "Vacation Rental"?

A "Vacation Rental" is a dwelling unit with up to six (6) sleeping rooms that are available for rent, or for hire, for transient occupancy by guests, and must NOT be owner-occupied. A limit of six (6) dwelling units per building can be licensed as a vacation rental at the same time.

APPLICATION & LICENSE FEE: \$500.00 PER LOCATION (renewable every two years)

The Vacation Rental license does NOT include the following business activities:

- Single-Room Occupancy buildings
- Bed-and-Breakfast establishments
- Hotels
- A dwelling unit which a tenant has a month-to-month rental agreement
- Corporate Housing

License Requirements:

Review by the Department of Zoning:

- The following zoning districts allow Vacation Rentals: B1, B2, B3, C1, and C2.
- The following zoning districts require a Zoning Special Use approval for Vacation Rentals: RM 4.5, RM 5-5.5, RM 6-6.5, DC, DX, DR, and DS.
- The following zoning districts require a Nonconforming Use* approval for Vacation Rentals: RS 3, RT 3.5 and RT (SF/MP)

Onsite, or administrative, inspection by the Department of Buildings.

Application documents required by BACP:

- Business entity registration documents; FEIN & IBT Number (Sole Proprietors – SSN).
- Proof of ownership of the business property.
- Floor plan of the dwelling unit.
- An affidavit from the local contact person attesting that the person is designated for service of process; is authorized by the owner to take remedial action and respond to any violation(s); and maintains a residence or office located in the City.
- An affidavit, executed by an authorized representative of the homeowners association or the board of directors, which attests that the homeowners association or board of directors has approved the dwelling unit to be used as a vacation rental and specifically identifies all the other dwelling units approved to be used as vacation rentals; and the bylaws are in compliance with subsection 4-207-060 (a)(6) of the vacation rental ordinance.
- A certificate of insurance evidencing homeowner's fire, hazard and liability insurance, and general commercial liability insurance with limits of not less than \$1,000,000 per occurrence.
- Any City debt must be resolved prior to the issuance, or renewal, of any business license.

Taxes

On November 17, 2010, the Chicago City Council amended the Hotel Accommodations tax to eliminate the threshold of seven units per building in the definition of the term "hotel accommodation". The change will have the effect of subjecting all vacation rentals, as the term "vacation rentals" is defined in Code Chapter 4-202, to the city's 3.5% Hotel Accommodations Tax, regardless of how many such units are in a given building.

Vacation Rental Resources

- Vacation Rental License Ordinance
- Vacation Rental License Fact Sheet
- Workshops will be held on Friday, November 5, 2010 at 9:30 AM – 11:00 AM and Wednesday, December 8, 2010 at 3:00 PM – 4:30 PM. Please call 312-744-5344 to confirm your attendance.

Vacation Rental License Application Forms

- BIS
- Certificate of Insurance (sample)
- Floor Plan (sample)
- Local Contact Person Affidavit
- Authorized Representative of HOA/BOD Affidavit

For More Information

- Call 312-74-GOBIZ (744-6249).
- Make an Appointment with a Business Consultant.
- Apply in Person: City of Chicago Department of Business Affairs & Consumer Protection, Business Assistance Center at 121 N. LaSalle Street, City Hall – Room #800, Chicago, IL 60602.

* 17-15-0307 Vacation rentals-nonconforming use

a) Notwithstanding any other provision of this Zoning Ordinance, any vacation rental located in a RS3, RT3.5 or RT4 District shall be considered as a legal nonconforming use for purposes of this Zoning Ordinance if the Zoning Administrator determines that the vacation rental was in existence and operating for more than one year prior to the effective date of this 2010 ordinance. The owner of the vacation rental shall have the burden to prove that the vacation rental meets the qualifications of this section. Proof of existence and operation shall include payment of any hotel tax, or similar, if applicable, and any other evidence required by the Zoning Administrator which demonstrates the existence and operation of the vacation rental. The owner of any vacation rental seeking a determination under his section shall provide such proof no later than 90 days after the effective date of this 2010 ordinance.

b) ~~Notwithstanding subsection (a), any expansion of the vacation rental shall be considered a new use.~~
