

ATTACHMENT C - PART 1

STAKEHOLDER FEEDBACK SUMAMRY

- A number of existing and prospective STR operators are interested in learning the rules and obtaining a business licence.
- The conversion of long-term renters to short-term rentals may impact affordable rental opportunities for seniors.
- The Tenancy Act does not apply to boarders and lodgers or Short-Term Rentals.
- STRs are frequently used to provide accommodation to hospital residency staff and traveling physicians. NRGH staff noted a number of trained physicians that do shifts in Nanaimo each month and stay for about a week at a time. Other physicians and medical professionals frequent Nanaimo through learning programs including six to ten rural physician learners that come in for a week or two of training throughout the year and up to 50 medical students that come to Nanaimo for a period of two to eight weeks.
- STR's are used by students who may be unable to find long-term accommodation or only need to attend the Nanaimo campus for a short period of time. Students may stay in a STR when they first arrive in Nanaimo until they are able to find long-term accommodation.
- The Nanaimo Hospitality Association supports licensing requirements for STRs and encourages the City to include a strong bylaw enforcement mechanism that includes fines and penalties for non-compliance by both the local hosts and the operators of the different platforms. The hospitality association's full responses is included as page 2 of this attachment.

ATTACHMENT C - PART 2



Mayor & Council
City of Nanaimo
450 Wallace Street
Nanaimo, BC

February 8, 2021

Re: Comments on Short Term Rentals

Dear Mayor Krog and members of Council

Thank you for allowing me the opportunity to present you with input from the Nanaimo Hospitality Association (NHA) on the subject of **Short Term Rentals** (STR) and the pending bylaw. The NHA does support the city bringing in a bylaw that will regulate STR's and level the "playing field" between the hotels and motels and the short term property rentals within the City of Nanaimo. This bylaw is long overdue in our opinion as there are a number of issues including the issue of Fire and Safety and the impact that unregulated and unlicensed STR's have on neighbourhoods that need to be addressed.

If you do vote in favour of a bylaw regulating STR's it will be imperative that the City also puts in place a strong bylaw enforcement mechanism that includes fines and penalties for both the local hosts and the operators of the different platforms for non-compliance. **Airbnb** and the other **Online Accommodation Platforms** (OAP) associated with STR's have a history of not always working with municipal governments when it comes to helping to enforce the regulations that municipalities have put in place.

The following is a list of Best Practices that is based on the learnings of cities such as San Francisco, Santa Monica, New York and Vancouver which have brought in bylaws to address the proliferation of unregulated and unlicensed STR's in their cities. I have also included at the end of this letter a case study of the City of Vancouver on this issue that was shared with me by the BC Hotel Association.

Best Practice #1: That it becomes mandatory for all short term rental platforms to show a valid Business License number for each individual host property on all listings,

- a. The City of Vancouver has encountered difficulties with unlicensed hosts entering fake license numbers on the different platforms without any suffering any consequences as the MOU between the City of Vancouver and Airbnb has a clause that indemnifies Airbnb from prosecution for what people do on their platform. Airbnb will not remove hosts from the site that are showing invalid or false license numbers. Due to this approach enforcement becomes the responsibility of the City. A legally binding agreement with Airbnb will be vital to avoid this happening in Nanaimo.

Best Practice #2: That the legal agreement includes a requirement that the different OAP's regularly provides the City of Nanaimo with a database that contains all of the listings for Nanaimo along with all of their current listing information.

Best Practice # 3: That the City of Nanaimo be able to provide the different platforms with a list of hosts deemed to be ineligible for registration and/or display on their platforms and that the platforms must be legally obligated to delist the unlicensed hosts.

Best Practice # 4: That the legal agreement stipulates that the hosting platforms will be subject to fines for non-compliance. Establishing legally binding punitive measures such as hefty fines will ensure that the short term rental platforms comply with their legal responsibilities.

Best Practice # 5: That all local host properties be subject to a Fire & Safety inspection prior to being able to host overnight guests and prior to them being able to list their properties on the different OAP's. This is vital to ensuring guests safety as most if not all properties currently listed on Airbnb and VRBO are either full houses or independent suites in a house. All of these units will have separate cooking facilities from those of the host cooking facilities.

With the dramatic downturn in the number of properties listed on the different OAP's due to the impact of Covid-19 and with a large number of regular businesses now closed and/or operating from home this is a perfect time for the city inspectors to shift their focus away from inspecting those businesses that they would normally inspect and instead take the opportunity to inspect the less than 275 STR's currently listed in Nanaimo. STR's should not be treated differently than other licensed businesses as STR's are in the business of housing overnight guests in accommodations. This is a Life & Safety issue.

Best Practice # 6: Guest, neighbours and bylaw staff must have a way in which to be able to get in contact with the host within six hours. 24 hours' notice as is currently being suggested is not sufficient to deal with noise complaints and or bylaw infractions that will need to addressed

Case Study on next page:

Vancouver Case Study: Why Memorandum of Understanding (MOU)s don't work

Typically, Airbnb claims to endeavor to comply with municipal regulations to the best of their ability, however, past lawsuits against municipalities with short-term rental regulations prove otherwise. One of the tactics that Airbnb typically employs is to push for a Memorandum of Understanding (MOU) with cities. Notably, in Canada the MOU between the city of Vancouver and Airbnb has noticeable gaps which make enforcement of short-term rental regulations less effective.

In 2018, the City of Vancouver and Airbnb signed off on an MOU that was intended to help City officials with enforcement of Vancouver's short-term rental bylaw. The key portions of the bylaw include a principle residence requirement and mandatory operator licenses with strict standards that hosts must uphold. However, platform accountability, with legally binding terms, is needed to ensure greater success of the bylaws. To date, 30% of STR units have yet to acquire a business license. Of the approximately 70% of listings that now have a license, roughly 20-25% of those have been flagged as potentially non-compliant.

It is important to note that Vancouver's MOU with Airbnb absolves the company of all legal responsibilities in the enforcement of Vancouver's bylaw. The lack of platform accountability places all the responsibility of enforcement on the city of Vancouver and its staff. The result? A flawed enforcement process with significant loopholes that could have easily been corrected had the platforms been held accountable.

A primary loophole is the enforcement of the mandatory business license number requirements for Airbnb listings in Vancouver. This provision in the bylaw was included in order to ensure only valid license holders had access to listings, however the enforcement of this requirement has been deeply flawed. For example, Airbnb hosts can enter invalid license numbers or the same license number for multiple listings which is not allowed. It is up to the city staff to undertake the onerous task of manually flagging unlicensed hosts.

A lack of platform involvement also leads to inaccurate or incomplete data for City officials and the province. For example, the provincial requirement to collect provincial sales tax from short-term rental platforms garnered an incredibly high return, much higher than the province was expecting. Critics have pointed out this information gap is likely due to the lack of accurate information on the number of non-compliant hosts that continue to operate in Vancouver.



Particularly, the trouble with MOUs is that they are entirely voluntary in nature. That is, instead of stringent mandatory regulations that encompass all short-term rental platforms, MOUs apply only to a particular company and, as is Vancouver's case, absolve that company of all responsibility to enforce municipal bylaws. Vancouver has realized this blind spot, and in its *One-Year Review Policy Report*, Vancouver City staff have recognized that requiring the platforms to remove illegal listings at the request of the City is the most expeditious way to compliance. To further strengthen their regulations, City staff have now recommended that the City request the province to identify approaches to hold all short-term rental platforms accountable for ensuring their listings and operators comply with applicable municipal and provincial regulations.

Thank you again for allowing the Nanaimo Hospitality Association the opportunity to provide comment on this important Bylaw. If you require further information from me on this matter please do not hesitate to contact me.

Sincerely

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