City of Kingston  
Report to Administrative Policies Committee  
Report Number AP-20-011

To: Chair and Members of the Administrative Policies Committee  
From: Paige Agnew, Commissioner of Community Services  
Resource Staff: Same as above  
Date of Meeting: February 13, 2020  
Subject: Supplemental Short-Term Rental Licensing Program

Council Strategic Plan Alignment:

  Theme: 2. Increase housing affordability  
  Goal: See above

Executive Summary:

On December 3, 2019, Council deferred the recommendation of A By-Law to License and Regulate Short-term Rentals in the City of Kingston and the related licensing program, from Report Number 20-001. The report was deferred to the Administrative Policies Committee in order to allow staff an opportunity to provide the Committee with some additional information including the following; rationale for the number of total days and duration of stay, permitted number of guests per unit per stay, rationale for number of total days that units can be rented out, fairness relative to a host who may not reside in the City of Kingston versus someone who has their primary residence in Kingston, how existing bookings past the implementation date will be addressed, searching out a Canadian company for the purpose of monitoring compliance, and issues with respect to human trafficking & short-term rentals.

After further public engagement, City staff are proposing some changes to the original short-term rental licensing program from what was presented in December of 2019. The revised by-law focuses on the licensing of short-term rentals to ensure units meet safety requirements and collection of the municipal accommodation tax.

Staff will closely monitor the implementation of this program and bring an update report back to the Administrative Policies Committee a year after its implementation.
Recommendations:

That the Administrative Policies Committee recommends to Council:

That the recommendation presented to Council on December 3, 2019, Report Number 20-001 be deleted and replaced with the following:

That the draft by-law (A By-Law to License and Regulate Short-term Rentals in the City of Kingston) attached as Exhibit A to Report Number AP-20-011, be approved; and

That By-Law Number 2005-10, “A By-Law to Establish Fees and Charges to be collected by The Corporation of the City of Kingston”, as amended, be further amended, as per Exhibit B (Draft By-Law to Amend By-Law Number 2005-10, A By-Law to Establish Fees and Charges to be collected by The Corporation of the City of Kingston) to Report Number AP-20-011; and

That By-Law Number 2018-095, A By-Law of the City of Kingston to establish the Municipal Accommodation Tax, be amended, as per Exhibit C (Draft By-Law to Amend By-Law Number 2018-095, A By-Law of the City of Kingston to establish the Municipal Accommodation Tax) to Report Number AP-20-011; and

That Council approve a budget of $17,939, plus HST, to be funded from the existing Building & Enforcement Services technology capital envelope for 2020; in future year costs will be funded by license fees; and

That Council authorize the Mayor and Clerk to execute a contract for a period of up to 1 year, with the Host Compliance Technology Platform, for the provision of Address Identification related to Short-term Rental Accommodations, in a form satisfactory to the Director of Legal Services.
Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

Paige Agnew, Commissioner, Community Services

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Lanie Hurdle, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Peter Huigenbos, Commissioner, Business, Environment & Projects Not required

Brad Joyce, Acting Commissioner, Corporate Services

Jim Keech, President & CEO, Utilities Kingston Not required

Desirée Kennedy, Chief Financial Officer & City Treasurer

Sheila Kidd, Commissioner, Transportation & Public Works Not required
Options/Discussion:

Since the December 3, 2019 Council deferral of the passing of A By-Law to License and Regulate Short-term Rentals in the City of Kingston and the related licencing program from Report Number 20-001, several changes have been made to the proposed by-law (Exhibit A) removing specific regulations that were intended to protect long-term rental and housing supply. These include a previous recommendation to limit Short-term Rentals (STRs) to 180 days per calendar year and also restrict STRs to principal residential units. Staff are proposing to monitor the market closely in the first year of the licensing program implementation. Should the long term rental housing market continue to erode, the following are options Council can consider adding to the licensing program at a future date:

1. In order to prevent the erosion of the long-term rental market or home buying market, entire-unit rentals were originally limited to a maximum of 180 days per calendar year in order to prevent the conversion of long-term rental housing to Frequently Rented Entire Housing Units. Entire-unit rentals were intended to be limited to circumstances where operators were either out of town due to work, or seasonal travel so as to not restrict the opportunity to make additional income, while balancing the negative impact of Frequently Rented Entire Housing Units on the long-term rental and housing markets. If the City’s rental vacancy rate (currently 1.9% - https://www.thewhig.com/news/local-news/kingston-rental-vacancy-rate-increases-but-so-does-rent) worsens, then this regulation may be considered to help protect the long-term rental housing market.

2. The initial recommendation to limit STRs to principal residential units was an option meant to ensure immediate stimulus to the housing and long-term rental market. This regulation was intended to prevent hosts from operating multiple properties and thereby removing units from the long-term rental market. Feedback was received from short-term rental operators and members of Council following the December 3, 2019 meeting on this regulation specifically, identifying the positive impacts on tourism that STR investment properties can create as matter requiring greater consideration and a concern related to fairness relative to hosts who want to operate short-term rentals, but whose primary residences are not in Kingston. This element of the regulation was removed from the proposed by-law but could be added to the by-law by Council in the future if the rental vacancy rate further erodes or if the City starts to experience the emergence of ‘dark streets’ as other communities have. ‘Dark Streets’ is the industry term used to refer to streets with no long-term housing units available for occupancy (either rental or ownership) as they are dominated by STRs.

Public Consultation & Feedback

Since Council’s deferral on December 3, 2019, City staff have been meeting with City Councillors along with public stakeholders to gain insight into the concerns identified with the proposed regulations. Staff have modified the proposed program in response to the feedback with a more simplistic approach to regulating short-term rentals, which included a commitment to monitor and report back to Council in one year on the licensing program.
On January 6, 2020, the City reviewed a submission from the Kingston Air BNB group with Questions, Comments & Concerns (Exhibit D). Some additional articles as well as an STR study from the City of Ottawa were provided by Kingston Accommodation Partners and can be found at the following links:

- Study on Short-Term Rentals from the City of Ottawa
- Airbnb is not disrupting hotels. For cities, it’s much worse than that, by Chris Fair

As part of the deferral motion and through follow-up discussions with members of Council the following were key questions/items requiring further information and clarification:

a. rationale for the number of total days and duration of stay
   - The decision to limit STRs to terms of equal to or less than 30 consecutive days is a categorical decision. Seeing as all Municipalities, which have regulated short-term rental activity have chosen to limit this type of rental activity to approximately 30 consecutive days, it is consistent with national best practices. Without limiting STRs to approximately one month consecutively, the City would be imposing associated licensing fees, regulations and the 4% MAT tax on rental activity already being regulated by the Residential Tenancies Act- pertaining to the rights and responsibilities of landlords and tenants rentals.

b. permitted number of guests per unit per stay
   - STRs shall have no more than three (3) rooms individually rented or no more than four (4) persons for use as sleeping accommodation, except where the STR consists of the entire single detached dwelling rented under a single tenancy, which are not limited to the occupancy provisions. These standards come directly from the Ontario Building Code.

c. rationale for number of total days that units can be rented out
   - In order to prevent the erosion of the long-term rental market or home buying market, entire-unit rentals were originally proposed to be limited to a maximum of 180 days to prevent cases of operators falsely licensing a home as their principal residential unit, while renting it in its entirety and living in a secondary property. This is a scenario linked to an emerging situation of some communities referred to as ‘dark streets’. This rental type is meant to be limited to circumstances where operators are out of town due to work, or seasonal travel so as to not restrict the opportunity to make additional income, while balancing the negative impact of Frequently Rented Entire Housing Units, which are rented with such frequency that they are likely detracting from long-term rental and housing markets (Short-term Rental in Canada).
   - Due to concern from the public and external stakeholders, staff have removed the 180 day limit per calendar year for entire-unit rentals. This has been added to the list of future options consideration.
d. fairness relative to a host who may not reside in the City of Kingston versus someone who has their primary residence in Kingston
   • The decision to initially limit STRs to principal residential units was a strategic decision meant to ensure immediate stimulus to the housing and long-term rental market. Considering Kingston’s current rental vacancy rate and the potential stimulus to Kingston’s rental market that this regulation can achieve, staff have earmarked this as a future option for consideration.

e. how existing bookings past the implementation date will be dealt with
   • To start, the City of Kingston Building & Enforcement Services will focus on public awareness and voluntary compliance for a period of 3 months. Once this period has concluded, all unlicensed short-term rental activity will be held to the regulations contained in the by-law. Staff are recommending a period of education rather than writing complicated transition clauses into the by-law for simplicity and clarity. The Kingston Accommodation Partners (KAP) will lead the collection of the 4% municipal accommodation tax (MAT), paid by the guest, which will be applicable to bookings made in advance of the approval of this by-law. The approach will be the same as the approach used when the MAT was implemented for all hotels, motels and bed & breakfasts. KAP will provide information, education and transition support to property owners.

f. searching out a Canadian company for the purpose of monitoring compliance
   • The City of Kingston was able to contact a Toronto based company named Harmari that performs the same technology based strategies to discover STRs as Host Compliance. Staff have been in discussions with KAP, who will be paying for their own portion of the technology platform to collect the MAT. KAP has concluded that Harmari does not provide the required information to effectively collect the MAT. The City of Kingston intends to work with KAP on exchanging information to effectively implement regulations and collection of the MAT. Therefore, staff are recommending that the City and KAP move forward to establish an agreement with Host Compliance.

g. issues with respect to human trafficking & STRs
   • Kingston Police Force’s Sex Crimes Unit has done many training sessions in recent years to educate traditional hotel/motels and inns on the warning signs of human trafficking. Kingston is a perfect storm for this type of crime due to the location between Toronto and Montreal, proximity to US borders, as well as its specific position on the 401. There have also been incidents of violent crimes associated with STRs more recently as reported through the City of Ottawa and City of Toronto. Human trafficking cases are growing with the use of STRs, of which there are over 500 registered properties in Kingston due to the fact that:
     ▪ there is little to no oversight upon check in;
     ▪ usually these properties are in neighbourhoods; which makes the person that is paying for these acts feel even more comfortable and disguised (i.e.
going into a home versus having to cross a front desk with video cameras etc.);
- the booking process for short-term rentals is very ambiguous versus a traditional hotel; and
- home owners are not generally trained on these types of crimes versus traditional hotels/motels/inns, so the owners - even if they sense something is off, don’t have a Standard Operating Procedure on whom to contact/what to do.

Host Compliance Selection
Based on the City’s review, Host Compliance is an industry leader in this space with over 250 cities and counties in North America. Through our interactions with the company to date, as of July 2019, they were able to identify 587 listings representing 575 unique rental units in Kingston. Potential competitors that were identified and researched have either been recently absorbed by Host Compliance or identified 150 less rental units available then Host Compliance and have not yet obtained clients in Canada.

Host Compliance’s principal focus is on STRs and working with municipalities to work towards compliance. Competitors, even though they were able to identify STR properties, were more focused on supporting the tax remittance component as this makes up the majority of their clients. KAP has been engaged to discuss any need for tax remittance support and to date have stated the functionality offered by Host Compliance is required at this time.

Staff worked with the Manager of Purchasing to comb the market, looking for Canadian-based compliance monitoring companies at Council’s request. Staff came to the conclusion of three technology based companies that deliver a similar product to what the program requires. Those three companies were Harmari (a Canadian based company), LODGINGRevs and Host Compliance. Staff pursued online demonstrations with all companies and have decided to recommend Host Compliance in collaboration with KAP who expressed concerns with the other two platforms and provided the City with supporting documentation (Exhibit F - Host Compliance Letter from KAP).

Host Compliance & Data Security

Address Identification
- Address Identification is a tool that will allow the municipality to continuously monitor the relevant short-term rental platforms to help the City identify the locations of the listings while also being a core module to the platform that the other modules build off of, including the modules required by KAP to collect the MAT on STRs. By continuously monitoring STR listings, the City will better understand the density of STRs in neighborhoods, the trends of the listings over time and the percentage of licensed listings.

STR operators have expressed concerns with the City of Kingston using STR compliance monitoring tools such as Host Compliance as they feel there are privacy concerns associated
with how these platforms determine the locations of STR listings and the information that they collect about STR operators.

Despite Host Compliance collecting certain data points in order to monitor compliance, there are no legitimate privacy concerns associated with the use of Host Compliance as they are compliant with the California Consumer Privacy Act (CCPA), the General Data Protection Regulation (GDPR) and Canada's Personal Information Protection and Electronic Documents Act (PIPEDA). City staff worked with the City of Kingston Chief Information Officer to identify concerns from a privacy or ethical standpoint and determine compliance of this platform with respect to the City’s Information Technology policies.

Host Compliance hosts all of its data on System and Organizational Controls 2 (SOC2) compliance servers, which are the highest standard of privacy security available on the market. These servers are also located within Canada.

Effective By-Law Enforcement
If the City was to rely on the licensing program and the STR By-Law alone for monitoring and regulating STR’s in the City, the following challenges would be anticipated:

- Projected low compliance rates – STR operators will see little to no benefit in getting licensed until their property has received attention through a complaint as our monitoring capacity will be severely limited.
- Enforcement level of effort – when STR complaints are received, the level of effort to verify a violation will be time consuming and inefficient, especially without additional staff trained for this area.
- Collecting evidence - Staff will require a significant amount of time and effort to be dedicated to monitoring STR platforms in order to determine if unlicensed properties are being listed, knowing that addresses are not listed on STR platforms.
- Education - targeted education and information for STR operators regarding the licensing program and the STR By-Law regulations will be difficult if we don’t know where they are located.
- Market size – there is no way to reliably determine how many STR’s are currently active in the City of Kingston and therefore no way to determine the rate of compliance.
- Length of stay - inability to systematically determine if operators are compliant with the rental term limits of 30 consecutive days.
- MAT collection - unable to validate the rental activity submission from an STR operator on a property to verify MAT owed. The modules required by KAP to accurately collect the MAT require the Address Identification module also needed by City staff to successfully enforce the STR licensing program.

Paying for Host Compliance Technology Platform
This report recommends the purchase of the Address Identification from Host Compliance. The City will require Address Identification to identify the locations of STRs operating within the City at any given time. Further purchase of this module after year one or any further modules is a matter for future consideration once the program is implemented and monitored for volume.
Staff have also been acknowledging that a multi-year contract with Host Compliance, if the decision is made to move forward after review, would be beneficial.

The address identification module will cost $17,939, plus HST, which will be funded from the existing Building & Enforcement Services technology capital envelope for 2020. In future years, costs will be funded through the generated licensing fees.

Modules required by KAP to collect the MAT from the licensed STRs will be paid for by KAP.

STR Enforcement Plan
Staff intends to provide a three month grace period for compliance. Licensing staff will attempt to gain voluntary compliance during the grace period.

At the end of the three month grace period in 2020, the City would commence following up with unlicensed and/or known short-term rentals that have not completed the licensing process.

MAT
In 2018, the City of Kingston endorsed a by-law to authorize the collection of a 4% MAT paid by visitors for hotels, motels and bed & breakfasts. At the time of passing this by-law, it was indicated that the intent would be to apply the MAT to STRs once a program had been established to license these residential units. Exhibit C proposes an amendment to the MAT By-Law (By-Law Number 2018-095) to include STRs. Based on feedback from the public, the amendment also proposes an exemption for STRs that are required for medical purposes.

Existing Policy/By-Law:
None

Notice Provisions:
None

Accessibility Considerations:
None

Financial Considerations:
There will be a cost of $17,939, plus HST, to be funded from the existing Building & Enforcement Services technology capital envelope to pay for the first year of the Host Compliance Technology Platform, with the understanding that future costs for the Platform will be paid from license fees and a contribution from the MAT program.

Contacts:
Kyle Compeau, Manager, Licensing & Enforcement 613-546-4291 extension 1343
Other City of Kingston Staff Consulted:

Stewart Waldron, IS Project Manager, Information Systems & Technology

Dan Hazell, Supervisor, Licensing & Enforcement Services

Jenna Morley, Associate Legal Counsel, Legal Services

Soren Christianson, Research Assistant, Business, Environment & Projects

Ahmed Zayan, Manager, Purchasing, Financial Services

Exhibits Attached:

Exhibit A  Draft By-Law, “A By-Law to License and Regulate Short-term Rentals in the City of Kingston”

Exhibit B  Draft By-Law to Amend By-Law Number 2005-10, “A By-Law to Establish Fees and Charges to be Collected by the Corporation of the City of Kingston”

Exhibit C  Draft By-Law to Amend By-Law Number 2018-095, “A By-Law of the City of Kingston to establish the Municipal Accommodation Tax”

Exhibit D  Questions, Comments, Concerns from Kingston Air BNB Group

Exhibit E  “New Business Models in the Accommodation Industry-Benchmarking of Rules” By The World Tourism Organization

Exhibit F  Host Compliance Letter from Kingston Accommodation Partners
By-Law Number 2020-XX

A By-Law to License and Regulate Short-term Rentals in the City of Kingston

Passed: [Meeting Date]

Whereas Section 10(2) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws respecting: health, safety and well-being of persons; protection of persons and property, including consumer protection; and business licensing; and

Whereas Section 151(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that, without limiting Sections 9, 10 and 11 of the Act, a municipality may provide for a system of licences with respect to a business and may:

(a) prohibit the carrying on or engaging in the business without a licence;
(b) refuse to grant a licence, or revoke or suspend a licence;
(c) impose conditions as a requirement of obtaining, continuing to hold, or renewing a licence;
(d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold, or renew a licence;
(e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
(f) license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it; and

Whereas Section 429(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may establish a system of fines for offences under a by-law of the municipality passed under the Act; and

Whereas the Council of The Corporation of the City of Kingston considers it necessary and desirable to regulate Short-term Rentals;

Therefore be it resolved that the Council of The Corporation of the City of Kingston enacts as follows:
1 Definitions

1.1 For the purposes of this By-Law:

“Appeals Committee” means a committee duly appointed by by-law to conduct hearings under this By-Law.

“Bed and Breakfast” means an operator-occupied detached dwelling offering short-term lodging for compensation to the travelling and vacationing public, in which guest rooms or suites may include a private bath, but do not include cooking facilities.


“Building Code” means Ontario Regulation 332/12 established under the Building Code Act, as amended.

“City” and “City of Kingston” mean The Corporation of the City of Kingston.

“Council” and “City Council” mean the Council of The Corporation of the City of Kingston.

“Director” means the Director of Planning, Building and Licensing Services for the City of Kingston, or his or her designate, or, in the event of organizational changes, the director of the appropriately titled department.

“Dwelling Unit” means a suite operated as a housekeeping unit, used or intended to be used by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.

“Fees and Charges By-Law” means City of Kingston By-Law Number 2005-10, “A By-Law to Establish Fees and Charges to be Collected by The Corporation of the City of Kingston”, as amended from time to time.


“Fire Code” means Ontario Regulation 213/07 established under the Fire Protection and Prevention Act, as amended.
“Hotel” means floor areas, a floor area or part of a floor area that contains four (4) or more suites and that provides sleeping accommodation for the travelling public or for recreational purposes, but does not include a Bed and Breakfast.

“Licence” means a licence issued under this By-Law.

“Licensing and Enforcement Division” and “Division” means the Licensing and Enforcement Division, Planning, Building, Licensing and Enforcement Department, Community Services Group or, in the event of organizational changes, another unit designated by Council to carry out the Division’s responsibilities for the administration and enforcement of this By-Law.

“Market” means to offer, promote, canvass, solicit, advertise, or facilitate a Short-term Rental accommodation, and includes placing, posting or erecting advertisements, either physically or online.


“Municipality” means the land within the geographic limit of the City of Kingston.

“Officer” means any person who has been assigned the responsibility of administering and enforcing this By-Law and includes a Provincial Offences Officer, a Municipal Law Enforcement Officer, and an Officer of the Kingston Police or other police force assisting the Kingston Police.

“Operator” means any Person who operates or permits the operation of a Short-term Rental.

“Person” means an individual, a corporation, a partnership, a sole proprietorship or an association.

“Property Standards By-Law” means the Property Standards By-Law of the City of Kingston, enacted under Section 15.1 of the Building Code Act that prescribes minimum standards for the maintenance and occupancy of property within the City of Kingston.

“Short-term Rental” means all or part of a Dwelling Unit used to provide sleeping accommodations for a period equal to or less than thirty (30) consecutive days in exchange for payment, and includes a Bed and Breakfast but does not include a Hotel, motel, inn or resort.
“Zoning By-Law” means a by-law enacted by the City under Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended.

2 Administration

2.1 The City’s Licensing and Enforcement Division is responsible for the administration of this By-Law.

2.2 Every application for a new Licence or a renewal of an existing Licence shall be submitted to the Division in the form as prescribed by the Director.

2.3 Every application for a new Licence or a renewal of an existing Licence shall be accompanied by the full Licence Fee, as set out in the Fees and Charges By-Law.

2.4 A Person whose application for a new Licence or a renewal of an existing Licence has been refused, or a Person whose Licence has been suspended or revoked, may, within fifteen (15) days of being notified of the Division’s decision, apply to the Appeals Committee for a review of the decision.

2.5 A Person who wishes to appeal the Division’s decision to the Appeals Committee shall file an application for a hearing and pay a One Hundred Dollar ($100) fee to the Committee, to be collected by the City.

2.6 A Person who has applied to the Appeals Committee for a review of the Division’s decision will be given an opportunity to make written representations to or to appear before the Appeals Committee when it reviews the matter.

2.7 The Appeals Committee will review the matter and may affirm the decision of the Division or may direct the Division to issue, renew or reinstate the Licence.

2.8 Decisions of the Appeals Committee are final.

3 Interpretation

3.1 This By-Law shall not be interpreted as exempting any Person from the requirement to comply with any other City by-law or federal or provincial
legislation. In the event of conflict between the provisions of this By-Law and any other City by-law, the provision that establishes the higher legislative or safety standard shall apply.

3.2 Any reference herein to any by-law or Act of any government shall be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto then in force.

4 Prohibitions

4.1 No Person shall Market or permit the Marketing of a Short-term Rental without holding a valid Licence issued under the provisions of this By-Law.

4.2 No Person shall operate or permit to be operated a Short-term Rental without holding a valid Licence issued under the provisions of this By-Law.

4.3 No Person shall submit an application for or obtain a Licence by providing mistaken, false or incorrect information.

5 Licensing Requirements

5.1 The requirements of this By-Law apply to every Short-term Rental within the Municipality.

5.2 Every Operator shall obtain a Licence, and no more than one Licence per Operator is permitted.

5.3 Any Person seeking to obtain or renew a Licence under this By-Law shall:

a. be the registered owner of the Short-term Rental;

b. complete an application in the form prescribed by the Director, including setting out such information and attaching such additional documentation as may be required by the Director;

c. submit a completed application to the City’s Licensing and Enforcement Division; and
d. pay the applicable fee as prescribed by the Fees and Charges By-Law.

5.4 A Licence under this By-Law is valid for one (1) year only, and shall be renewed each year by the anniversary of the date on which the Licence was first issued, as applicable, by paying the applicable annual Licence fee.

5.5 Where a Licence issued under this By-Law is not renewed by the date required in Section 5.4 above, the Licence shall be cancelled.

6 Licence Issuance

6.1 The Director shall issue or renew a Licence to any Person who meets the requirements of this By-Law, except where:

a. the past conduct of the Person affords the Director reasonable grounds to believe that the Person has not or will not carry on the Short-term Rental business in accordance with applicable law or with honesty and integrity;

b. the Director reasonably believes that the issuing of a Licence to a Person could be adverse to the public interest;

c. the lot and/or building on which the Short-term Rental is situated is subject to an order, or orders, made pursuant to (or by):

   i) the Property Standards By-Law;

   ii) the Building Code Act or any regulations made under it, including the Building Code;

   iii) the Fire Protection and Prevention Act or any regulations made under it, including the Fire Code; or

   iv) Kingston, Frontenac, Lennox & Addington (KFL&A) Public Health;

d. the Short-term Rental, the building in which it is situated, or the lot on which the building is situated is not in compliance with the applicable Zoning By-Law; or
e. the Person or the subject lot is indebted to the City by way of fines, penalties, judgments and or outstanding (past due) property or municipal accommodation taxes.

6.2 The Director may deny the issuance or renewal of a Licence where the applicant has been convicted within the past five (5) years of a criminal offence for which a pardon has not been granted.

6.3 The Director may, at any time, when issuing or renewing a Licence under this By-Law, impose such terms or conditions on the aforementioned Licence as the Director considers appropriate.

6.4 Should the Director refuse to issue or renew a Licence under this By-Law or, should the Director impose terms or conditions on a Licence, the Director shall provide written reasons therefor.

6.5 A Short-term Rental Operator shall notify the Director, in writing, within fourteen (14) days of any change to the information or documentation submitted with the Operator's application, and as soon as is practicable, provide such updated information or documentation as may be required by the Director.

7 Regulations

7.1 Short-Term Rentals shall:

(a) have no more than three (3) rooms individually rented;
(b) have a maximum occupancy of four (4) Persons for use as sleeping accommodation;
(c) consist of the entire single-detached dwelling rented under a single tenancy are not limited to the occupancy provisions in sentences (a) and (b).

7.2 A Short-term Rental and the Operator thereof shall comply with the Building Code Act and any regulations made under it, including the Building Code, and the Fire Protection and Prevention Act and any regulations made under it, including the Fire Code.

7.3 A Short-term Rental is not permitted in a Dwelling Unit in combination with Bed
and Breakfast accommodation.

7.4 A Short-term Rental Operator shall adhere to and require renters to comply with parking regulations contained in the Zoning By-Law and the City’s Parking By-Law 2010-128, “A By-Law to Regulate Parking”, as amended from time to time.

7.5 A Short-term Rental Operator shall:

a. provide to every guest of the Short-term Rental the emergency contact information of a person available during the guest’s entire rental period, and ensure that such information is prominently displayed in the Short-term Rental at all times when the Short-term Rental is operated;

b. post a copy of the Licence in a prominent place near the entry to the Short-term Rental at all times when the Short-term Rental is operated; and

c. include the Operator’s Licence number in a conspicuous place in any medium or material used to Market the Short-term Rental.

7.8 Every Operator shall keep a record of each concluded transaction related to the Operator’s short-term rental for three years following the date of the transaction. A transaction is concluded on the last day of the rental period. The records retained shall include the following:

a. The number of nights the Short-term Rental was rented;

b. The nightly and total price charged for each rental;

c. Whether the rental was an entire-unit rental or partial-unit rental; and

d. Any other information required by the Director.

7.6 Every Operator shall provide the information referred to in section 7.8 to the Director within 30 days of being requested to do so by the Division.
8 Exemptions

8.1 This By-Law does not apply to:

a. a group home;

b. a Hotel, motel, inn or resort;

c. a residence operated by a post-secondary institution;

d. a charitable, non-profit philanthropic corporation organized as a shelter for the relief of the poor or for emergency;

e. accommodation supplied by employers to their employees in Dwelling Units operated by the employer;

f. a hospital referred to in the list of hospitals and their grades and classifications maintained by the Minister of Health and Long-Term Care under the Public Hospitals Act, R.S.O 1990, C. P.40, as amended, and a private hospital operated under the authority of a licence issued under the Private Hospitals Act, R.S.O. 1990, c. P.24, as amended;

g. a home for special care operated under the authority of a licence issued under the Homes for Special Care Act, R.S.O. 1990, c.H.12, as amended;

h. a long-term care home operated under the authority of a licence issued under the Long-Term Care Homes Act, 2007, S.O. 2007, c.8, as amended;

i. a retirement home operated under the authority of a licence issued under the Retirement Homes Act, 2010, S.O. 2010, c.11, as amended; and

j. a boarding, lodging or rooming house, as defined in the Building Code.
9 Enforcement

9.1 The provisions of this By-Law may be enforced by an Officer, or other authorized employee or agent of the City.

9.2 No Person shall obstruct or hinder or attempt to obstruct or hinder an Officer or other authorized employee or agent of the City in the exercise of a power or the performance of a duty under this By-Law.

9.3 Subject to Section 9.6 below, every Officer shall have the right to enter lands to conduct an inspection to determine whether the provisions of this By-Law and any order(s) issued hereunder are being complied with in accordance with the provisions of Sections 435 and 436 of the Municipal Act.

9.4 Where an Officer has reasonable grounds to believe that an offence under this By-Law has been committed by a Person, the Officer may require the name, address, and proof of identity of that Person.

9.5 Failure to provide proof of identification satisfactory to an Officer when requested to do so pursuant to Section 9.4 of this By-Law shall constitute obstruction of an Officer under Section 9.2 of this By-Law.

9.6 No Person exercising a power of entry on behalf of the City shall enter or remain in any room or place actually being used as a Dwelling Unit unless:

a. the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of an order issued under Section 438 of the Municipal Act, a warrant issued under Section 439 of the Municipal Act or a warrant under Section 386.3 of the Municipal Act;

b. an order issued under Section 438 of the Municipal Act is obtained;

c. a warrant issued under Section 439 of the Municipal Act is obtained;
d. a warrant issued under Section 386.3 of the *Municipal Act* is obtained;

e. the delay necessary to obtain an order under Section 438 of the *Municipal Act*, to obtain a warrant under Section 439 of the *Municipal Act*, or to obtain the consent of the occupier would result in an immediate danger to the health or safety of any Person; or

f. the City has given notice of its intention to enter to the occupier of the land as required under Subsection 435(2) of the *Municipal Act* and the entry is authorized under Sections 79, 80 or 446 of the *Municipal Act*.

9.7 A refusal of consent to enter or to remain in a room or place actually used as a Dwelling Unit does not constitute hindering or obstruction within the meaning of Section 9.2 unless the City is acting under an order under Section 438 of the *Municipal Act* or a warrant under Section 439 of the *Municipal Act* or in the circumstances described in clause 437 (d) or (e) of the *Municipal Act*.

10 Orders

10.1 If the Director and/or Officer determines that a person has contravened a provision of this By-Law, the Director and/or Officer may make an order requiring the person who contravened the By-Law or who caused or permitted the contravention, to discontinue the contravening activity and to do work to correct the contravention. No person shall fail to comply with an Order issued pursuant to Section 10.1 of this By-Law. An Order issued under the proposed By-Law shall set out:

a. reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and

b. the work to be done and the date by which there must be compliance with the order.
10.2 An order under Section 10.1 of the proposed By-Law may require work to be done even though the facts which constitute the contravention of this By-Law were present before this By-Law came into force. Any person who contravenes an order issued under Section 10.1 of this proposed By-Law would be guilty of an offence.

10.3 If a person fails to do a matter or thing, including comply with an order under the proposed By-Law, as directed or required by the proposed By-Law, the City may, in default of it being done by the person directed or required to do it, do the matter or thing at the person’s expense. The City may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.

11 Offence and Penalty Provisions

11.1 Every Person who contravenes any provision of this By-Law is guilty of an offence as provided for in Section 429 of the Municipal Act, and all such offences are designated as continuing offences. In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed $500 and a maximum fine shall not exceed $10,000.

11.2 Upon conviction, every Person who contravenes any provision of this By-law is liable to a fine of not more than Ten Thousand Dollars ($10,000) for a first offence and not more than Twenty-Five Thousand Dollars ($25,000) for any subsequent offence.

11.3 Where a corporation contravenes any provision of this By-law, every director or officer who commits, assents to, or acquiesces to such contravention is guilty of an offence and is liable to a fine of not more than Ten Thousand Dollars ($10,000) for a first offence and not more than Twenty-Five Thousand Dollars ($25,000) for any subsequent offence.

11.4 As provided for in Section 431 of the Municipal Act, if a Person has been convicted of an offence under this By-Law, the Ontario Court of Justice or any
Court of competent jurisdiction may, in addition to any penalty imposed on the Person convicted, issue an order:

a.  prohibiting the continuation or repetition of the offence by the Person convicted; and

b. requiring the Person convicted to correct the contravention in the manner and within the period that the Court considers appropriate.

11.5 In accordance with Section 351 of the Municipal Act, the treasurer of the City may add unpaid fees and charges under this By-Law to the tax roll and collect them in the same manner as property taxes.

12  Validity

12.1 If a Court of competent jurisdiction declares any provision, or any part of a provision, of this By-Law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-Law that each and every provision of this By-Law authorized by law, be applied and enforced in accordance with its terms to the extent possible according to law.

13  Short Title of By-Law

13.1 This By-Law may be referred to as the “Short-term Rental Licensing By-Law”.

14  Commencement

14.1 This By-Law shall come into force and take effect on the date of its passing.

Given First and Second Readings [Meeting Date]
Given Third Reading and Passed [Meeting Date]
John Bolognone
City Clerk

Bryan Paterson
Mayor
By-Law Number 2020-XX

A By-Law to Amend By-Law Number 2005-10, “A By-Law to Establish Fees and Charges to be collected by the Corporation of the City of Kingston (Short-Term Rental Fee)

Passed: [Meeting Date]

The Council of The Corporation of the City of Kingston enacts as follows:

1. By-Law 2005-10 “ A By-Law to Establish Fees and Charges to be collected by the Corporation of the City of Kingston, as amended, is hereby further amended as follows:

   1.1 Schedule A, Building & Licensing, is hereby amended by adding the following:

   2020 Fees

<table>
<thead>
<tr>
<th>Short-Term Rentals Licensing Fee</th>
<th>Flat Fee ($)</th>
<th>HST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Short-Term Rentals Licensing Fee</td>
<td>$180.00</td>
<td>No</td>
</tr>
</tbody>
</table>

2. This by-law shall come into force and take effect on the date of its passing.

Given all Three Readings and Passed: [Meeting date]

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John Bolognone  
City Clerk

Bryan Paterson  
Mayor
By-Law Number 2020-XX

A By-Law of the City of Kingston to establish the Municipal Accommodation Tax (Short-Term Rentals)

Passed: [Meeting Date]

The Council of The Corporation of the City of Kingston enacts as follows:

1. By-Law Number 2018-095 “A By-Law of the City of Kingston to establish the Municipal Accommodation Tax”, is hereby amended by amending the following:

   1.1 Add the following Definition:

   “Short-term Rental” means all or part of a Dwelling Unit used to provide sleeping accommodations for a period equal to or less than thirty (30) consecutive days in exchange for payment, and includes a Bed and Breakfast but does not include a Hotel, motel, inn or resort.

   1.2 Application of Tax Delete Section 2 (b) and insert the following:

   (b) A purchaser shall pay to the provider of transient accommodation an accommodation tax, at the time of purchase, in the amount of four (4) percent and any associated tax of the purchase price of the transient accommodation which is provided for a continuous period of less than 30 nights and is provided within a hotel, motel, inn, bed and breakfast, resort, hostel, or short-term rental.

   1.3 Exemptions Delete Section 3 (i) and insert the following:

   (i) Short Term Medical Accommodations – These accommodations support out of town individuals that have medical appointments in Kingston. They can be less than 30 days and must be on a roster with the Kingston Health Science Centre. Occupants must provide a proof of medical appointment to the property owner. Failure to obtain proper documentation could result in the property owner paying the 4% MAT.

2. This by-law shall come into force and take effect on the date of its passing.

Given First and Second Readings: [Meeting date]

Given Third Reading: [Meeting date]
John Bolognone  
City Clerk  

Bryan Paterson  
Mayor
Questions, Comments and Suggestions

with respect to

Report Number 20-001

Submitted to the

City of Kingston
Planning and Building Department

on

January 5, 2020

by:

Ron Hartling,
Heather Ramsay,
Simon Andrew, and
Cynthia McQueen

on behalf of the Kingston Airbnb Hosts Group
Comments, Questions and Suggestions from Kingston Airbnb Hosts With Respect to By-law Document 20-001

Please note that “we” in the following document refers to Kingston Airbnb hosts, which the chart in the by-law document suggests represent on the order of 85% of Kingston short-term rental accommodation providers. We obviously can’t speak for the other 15%.

1. OBJECTIVES [as stated in Executive Summary, Para 5]

“The proposed by-law seeks to license and regulate short-term rental licenses in order to:

1.1 “help provide a healthy variety of accommodation options to support Kingston’s tourist industry” [Comment: Kingston already has a very healthy variety of such options in its existing Airbnb offerings. The proposal violates this objective through measures which would seriously curtail that variety.] [Question: Has any cost/benefit analysis been undertaken to quantify the current value of that healthy variety of accommodation options to the Kingston economy, the impact of those measures on that variety (including small businesses patronized by Airbnb guests), and the economic costs of curtailing it?] [Suggestion: That Council not proceed in the absence of such analysis.]

1.2 “allow residents to use their properties to earn additional income to offset their housing costs” [Comment: Kingston Airbnb hosts are already using their properties to offset their housing costs, including both young families who would otherwise be unable to afford home ownership and seniors on fixed incomes who would otherwise be unable to keep up with the rising costs of maintaining their homes. The proposal violates this objective through measures which would severely curtail the incomes of those hosts, undermining their ability to keep their homes.] [Question: Has any analysis been undertaken to identify who would be negatively impacted and to quantify the impact of each of the proposed restrictive measures?] [Suggestion: That Council not proceed in the absence of such analysis, and of measures to fairly ameliorate the identified negative impacts.]

1.3 “protect our community’s existing stock of long-term rental housing” [Comment: We view this as the only one on the four stated objectives which is actually addressed by the proposed measures. However, as discussed in Section 3 below, those measures appear to be based on certain assumptions which may be insufficiently supported by Kingston-specific evidence.] [Question: Are City staff prepared to share for critical scrutiny all of the evidence collected to date in support of the proposed measures?] [Suggestion: That Council await the report of the Mayor’s Task Force on Housing to see if there is real evidence that the proposed restrictions on Airbnbs would constitute a sufficient solution to Kingston’s affordable rental housing challenge to fully justify the above-referenced costs.]

1.4 “respond to concerns with noise, garbage, parking and safety.” [Comment: Kingston already has by-laws which provide tools to adequately address all of those concerns. The guest satisfaction ratings published by Airbnb are critical to hosts’ success and hence provide a huge incentive to consistently out-perform the standards set by those by-laws.] [Question: Has any comparative analysis been undertaken to quantify the incidence of such complaints for Airbnb hosts versus other forms of accommodation?] [Suggestion: That, in the absence of convincing evidence, this statement is irrelevant to the proposal and should be deleted.
2. **Consultations** [re the By-law document’s Background Information section]

We have come to recognize this by-law process as having been flawed from the outset by virtue of being driven by the understandable desire of Canada’s hotel lobby to engage regulators for the purpose of suppressing the growing threat to its lucrative business model represented by ordinary citizens empowered by Airbnb technology. Given the complete absence of Airbnb hosts’ perspectives through most of the by-law development process, it is not surprising that the proposed by-law reflects the hotel lobby’s self-interested view that we constitute a problem to be controlled rather than an asset to our community. That view is so baked into the proposal as to require a deep rethink as opposed to a few minor tweaks.

Lest the above statement be viewed as unnecessarily harsh, we note that the portion of the document tabled for Council that was written by the by-law team (the body and Exhibit A) totals 12,472 words. Of those, text which speaks positively about Airbnb’s, their hosts and their benefits to the community amount to only 57 words (one phrase written twice). That represents less than 0.05% of the total!

While some of us had followed the initial process which the Background Information states was launched by Council in 2017 and participated in the 2018 public consultations, the relevant City minutes confirm a near-exclusive focus on long-term rental licensing. While the November 8, 2018 motion directing staff to develop a short-term rental licensing by-law in 2019 provided no explicit guidance and was adopted with no discussion, it is stated to be based upon “consultation with the hotel and tourism industry”. The process didn’t even come to our attention until the brief August 2019 public consultation, by which point the proposed restrictive measures were largely cast in stone. Hence we very much appreciate Council’s December 3rd decision to not accept the recommendation for immediate approval, choosing instead to defer for a broader consultation.

Our comments, questions and suggestions with respect to consultations are as follows:

2.1 *We wish to know whose interests and concerns have driven the process to date.* [Comment: Contrary to the statement in the Background Information section that Report AP-18-016 details consultation with the hotel and tourism industry, that document provides absolutely no details beyond stating the fact of that consultation.] [Questions: 1. What persons and/or organizations represented the industry in those consultations? 2. Which of the restrictive measures in the by-law were proposed by them? 3. Why weren’t those whose livelihoods would be impacted by the proposed measures considered equal stakeholders deserving of proactive opportunities for full consultation?]

2.2 *More specifically, we wish to better understand the influence of Canada’s hotel lobby in the development of the by-law proposal.* [Comment: The correlation between the proposed restrictions and the recommendations of the Hotel Association of Canada’s 17-page July 2018 anti-Airbnb Framework for Canadian Regulators is too strong to be coincidental.] [Questions: 1. Was this document used in the development of the proposed by-law? 2. If so, who recommended it?] [Suggestion: That all future stakeholder discussions, including those with the hotel lobby, with respect to the by-law proposal be fully disclosed.]

2.3 *We are concerned that those drafting the proposed by-law restrictions may have been influenced by the hotel lobby’s negative depiction of Airbnb*. [Comment: Kingston’s Airbnb hosts are mostly local entrepreneurs of relatively modest means, not agents or franchisees of a multinational corporation. To us, Airbnb is a very effective booking and accounting service, one which charges a minimal $2 to $3 daily fee for multi-day bookings and $15 for a single-night booking. Virtually every other dollar spent by our guests remains in Kingston.] [Question: Is the City by-law team’s understanding of Airbnbs consistent with the hotel lobby’s negative depiction of Airbnbs?] [Suggestion: If so, it would be worthwhile for the team to better understand how Kingston Airbnbs actually operate and how we benefit other Kingston small businesses.]
2.4 We are concerned that the process leading to the February 13th Administrative Policy Committee meeting may be insufficient for full consultation. [Comment: We were informed after the December 3rd decision that any changes to the current proposal would have to be agreed and finalized by around January 20. Given the holidays, this provides less than three working weeks for Airbnb hosts and City staff to explore, debate and come to detailed agreements on a variety of complex issues.] [Suggestion: If consensus on those issues cannot be reached in time to meet that deadline, in keeping with comments made by some Councillors on December 3rd on the importance of getting this by-law right, Council may wish to be open to whatever further deferral may be required in order to do so.]

3. **The Preservation of Long-Term Rental Housing Argument**

While preservation of long-term rental housing stock is the primary argument made in the by-law document to support the proposed restrictive licensing regime, it is worth noting that the November 2018 Council motion mandating this process did not specify it as an objective and Council minutes do not include any related discussion. Hence we can only assume that this objective was either articulated by the by-law enforcement team or during the initial consultations with the hotel lobby (or other unnamed parties). Either way, the argument is critical to the case for proceeding with this by-law. Given that restrictive licensing would undercut the livelihoods of many Kingston residents, this is not an academic debate. The argument must be supported by far more than its advocates’ personal opinions. Rather, it requires both conclusive evidence that the proposed licensing regime is in fact a viable solution to Kingston’s current shortage of affordable long-term housing, and the regime must make a sufficient difference to fully justify the harm done to the affected residents. That constitutes a high but necessary bar which, for the reasons enumerated below, we have concluded that the current by-law proposal fails to meet.

3.1 The implied assumption that Airbnb hosts who are driven out of the short-term market by the proposed licensing restrictions will be forced into long-term rentals is manifestly false. [Comment: The reasons are obvious to anyone who has actually spoken with hosts. Individuals of modest means with a single unit available for rental have been leaving the long-term market simply because the risks are ruinously high. Insurance coverage for tenant vandalism (as well as for loss of income due to any other cause than an insured risk) is quite simply not available in Ontario. Landlords victimized by “tenants from hell” have essentially no recourse. By contrast, Airbnb hosts are 100% covered for damage done by guests. The financially sensible alternative for such individuals who could not continue as Airbnb hosts under the proposed by-law would be to sell their units to investors for gentrification, which does nothing to solve the affordable housing problem and adds to Kingston’s carbon footprint.] [Question: Does the by-law team have any hard, Kingston-based evidence as to the number of Airbnb hosts who would be driven out of the short-term market if this by-law were adopted and, if so, will they table it for critical review?] [Suggestion: Shift the application of the by-law to investor-owned operations with multiple units at a scale for which the assumption may actually have some validity.]

3.2 The by-law proposal seeks to control through a single restrictive licensing framework two very different categories of short-term rental providers which are advertised through the Airbnb website: home-based businesses and larger-scale commercial operators. [Comment: Given that essentially all of the legitimate concerns about Airbnbbs expressed in the by-law document relate to the commercial operators but not to the home-based businesses, it would arguably have made more sense to focus the by-law on the problematic category.] [Question: Can the by-law team provide credible evidence that licensing home-based Airbnb hosts would sufficiently ameliorate Kingston’s affordable long-term housing problem to justify their inclusion in the by-law?] [Suggestion: If not, we suggest that the by-law be rescoped.]
4. DISCUSSION ON SPECIFIC RESTRICTIVE MEASURES

Following are more specific comments, questions and suggestions regarding the specific licensing restrictions (Regulations) proposed in the by-law document (utilizing the numbering from Exhibit A to Report Number 20-001):

7.1 “A Short-term Rental shall only be permitted in the Operator’s Principal Residential Unit.”
   [Comment: For the reasons stated in 3.1 above, hosts who own a single income-generating unit are sufficiently unlikely to enter the long-term rental market because they cannot afford the unacceptable risks. Hence, an outright ban on non-principal-residence units would be damaging to the livelihoods of Kingston residents without serving any useful purpose. By the same token, investors with multiple units available are far more likely to make those available to long-term tenants, thereby meeting the objective of protecting our community’s existing stock of long-term rental housing. ] [Question: Has the by-law team undertaken this level of cost-benefit analysis?] [Suggestion: That, in full consultation with Airbnb hosts, criteria be developed for categorizing hosts owning single units not contiguous with their principal residences as either home-based businesses or commercial operators.]

7.2 “The maximum occupancy of any Short-term Rental shall be four (4) Persons in the aggregate, and a Short-term Rental shall not contain more than three (3) rooms” [Comments: 1. This measure would be harmful to Kingston tourism because it would preclude families with more than two children and/or, for example, with elderly parent or a caregiver from availing themselves of congenial, affordable accommodation, many of whom would choose instead to stay in another, more welcoming community. 2. It would seriously reduce Airbnb hosts’ income because such families preferentially choose Airbnbs. 3. On questioning this restriction, we were told by the by-law team that it was required by the Ontario Building Code. We disagree on the grounds that duplicating regulatory text from a superior jurisdiction is superfluous and can cause difficulties when the superior text is amended or interpreted differently in response to changing circumstances and legal decisions.] [Question: Where does the Ontario Building Code require municipalities to replicate its text in their by-laws? In response to an earlier question along these lines, the reply from the by-law team quoted four sections of the Code, none of which supported including this more absolute provision in the by-law.] [Suggestion: That this regulation be removed on the grounds of insufficient cost-benefit.]

7.3 “No Operator shall rent a Short-term Rental as an entire unit rental for a total of more than one hundred and eighty (180) nights per calendar year aggregate, and a Short-term Rental shall not contain more than three (3) rooms.” [Comments: 1. The three-room restriction appears in both 7.2 and 7.3, which suggests a drafting error. 2. There is no real evidence that the application of the 180-night restriction when applied to home-based Airbnb hosts would significantly address Kingston’s shortage of affordable long-term rentals. 3. In fact, given that some 15% of Airbnb bookings are long-term, it could actually be counterproductive by reducing LTR availability (hence the term “to negative” in the table below). The obvious explanation for why a landlord would become an Airbnb host and advertise on Airbnb is that doing so provides the equivalent of 100% insurance coverage.] [Question: Does such evidence exist and, if so, will the by-law team share it for critical evaluation? [Suggestion: That, in the absence of conclusive supporting evidence, the 180-night restriction not apply to home-based hosts.]
7.4 “A Short-term Rental and the Operator thereof shall comply with the Building Code Act and any regulations made under it, including the Building Code, and the Fire Protection and Prevention Act and any regulations made under it, including the Fire Code.” [Comment: As all buildings in Ontario are already legally required by provincial law to adhere to those provisions, it is difficult to imagine how this regulation adds to the proposed by-law.] [Question: What is the value of replicating measures already dictated by superior legislation? ] [ Suggestion: That this regulation be removed on the grounds of redundancy.]

7.5 “A Short-term Rental is not permitted in a Dwelling Unit in combination with Bed and Breakfast accommodation.” [Comment: The rationale for this Regulation, its impacts on hosts and its intended contribution to protecting Kingston’s long-term rental supply are undefined in the proposal document.] [Question: What is that rationale and what evidence is there of the problems it is intended to address? ] [ Suggestion: That, in the absence of a compelling, well-substantiated argument for its inclusion, this regulation be removed.]

7.6 “A Short-term Rental Operator shall adhere to and require renters to comply with parking regulations contained in the Zoning By-Law and the City’s Parking By-Law 2010-128, ‘A By-Law to Regulate Parking’, as amended from time to time.” [Comment: As all Kingston residents and visitors are already obligated to comply with By-Law 2010-128, there is no apparent purpose for including this proposed regulation in the proposed by-law.] [Question: What is the intended purpose of this regulation? ] [ Suggestion: That it be removed.]

7.7 A list of documents to be posted in short-term rental units [Comment: The first item (host contact information) is already provided to every guest as part of Airbnb booking process. The other items represent housekeeping for this particular by-law, which may or may not be required depending on the by-law’s final form.] [ Suggestion: That the need for this regulation be reviewed prior to finalizing the by-law.]

For purposes of assessing costs versus benefits, it is helpful to compare the degree to which proposed measures advance a policy objective (in this case, affordable housing) against the negative burden on stakeholders (home-based and commercial). Proposed measures which have a minimal impact on the objective are arguably superfluous. Our comparative analysis of the negative impacts of each of the proposed regulations on the two distinct categories of stakeholders versus positive impacts on the availability of affordable rental housing are summarized in the following table:

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Home-based Airbnb hosts</th>
<th>Commercial Operators</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Impact on hosts</td>
<td>Impact on affordable rental housing</td>
</tr>
<tr>
<td>7.1</td>
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<tr>
<td>7.7</td>
<td>Minimal</td>
<td>Minimal</td>
</tr>
</tbody>
</table>
5. Privacy, Surveillance and the Municipal Accommodation Tax (MAT)

5.1 “The knowledge and consent of the individual are required for the collection, use, or disclosure of personal information.” [Comment: This quote, from the Office of the Privacy Commissioner of Canada, demonstrates that the City, should it proceed with its proposed contract with Host Compliance, a foreign “doxxing” firm, would knowingly violate the privacy rights of hundreds of Kingston residents. The by-law team replied to a question posed by one of our hosts by stating “When you post an ad for an Air bnb, you are now posting on the internet which is public access. Host Compliance does not gain any information that is not already public information that you, as the consumer, have posted yourself willingly”. That assumption is entirely incorrect! Hosts’ names, addresses and other protected personal information are not made available through the Airbnb website without each host’s prior consent to each and every instance of such information being shared. Consent is given when the host accepts a proposed booking. The host retains full control with whom they wish to share their personal information by virtue of being able to first review prior ratings by previous hosts of the individual seeking to make a booking. That control, which is especially valuable to more vulnerable hosts such as single mothers and LGBTQ, is precisely what Host Compliance is in the business of violating.] [Question: Will the by-law team revisit its assumption that hosts have given implied consent?] [Suggestion: That the City not proceed with the proposed contract.]

5.2 Council’s December 3 motion to defer the proposed by-law included direction to staff to “search out a Canadian company for the purpose of monitoring compliance.” [Comment: A Canadian company offering services similar to those offered by Host Compliance would at least afford Kingston residents the protection of Canadian privacy legislation and, depending on where such a firm stores its data, would reduce the risk of personal information being accessible to foreign governments. That said, it would do nothing to address either the above privacy violations or the questionable ethics and legality of the City using tax dollars to contract with a firm to access a third-party (Airbnb) website for the explicit purpose of violating a legally binding terms of service contract with the website owner (including having agreed that “you will not and will not assist or enable others to…copy, store or otherwise access or use any information, including personally identifiable information about any other Member, contained on the Airbnb Platform in any way that is inconsistent with Airbnb’s Privacy Policy or these Terms or that otherwise violates the privacy rights of Members or third parties”).] [Question: In proposing to outsource by-law enforcement in this radically new matter, did the by-law team seek a formal opinion from the Ontario Privacy Commissioner and/or consult with policy experts such as the Queen’s University Surveillance Studies Centre?] [Suggestion: Given that most Kingstonians whom we have informed about the proposed contract to Host Compliance were shocked, considering it to be a “creepy” move in the direction of a surveillance society, we urge Council to resolve that no such contract be given to any organization for any reason, prior to full public consultation, including open public meetings involving privacy and surveillance experts to gauge Kingstonians’ appetite for such enforcement measures.]

5.3 The contract proposed in the by-law document includes a costed option to pay Host Compliance $9,200 per year for 3 years) to perform “rental activity monitoring”. [Comment: This is more problematic than it sounds. As we understand it, Host Compliance uses dummy guest accounts to capture the availability calendars for units listed on the Airbnb sites. Its algorithms convert the dates blocked as unavailable to estimate booking revenue and hence MAT-equivalent taxes owing, which is then used to send billing notices to hosts, ostensibly from the client municipality. The problem is that algorithms have no way to
accurately distinguish between the unit actually being rented on those days versus the host making it unavailable for a myriad of other reasons (e.g. maintenance, taking holidays, being overtired from too much work, using the unit for visiting family, etc.) While none of those reasons are anyone’s business, when the algorithm guesses wrong, the burden is on the hosts to prove their “innocence”, which is yet another invasion of privacy. In US cases that we’ve seen, hosts have had to pay legal fees to dispute in court liens on their properties. The by-law document contained an egregious example (since removed) of the folly of client municipalities expecting that companies founded on violating people’s privacy could have corporate cultures of protecting residents’ private information. Specifically, the by-law document included an actual tax notice letter from a California town containing an actual resident’s full name, address and amount supposedly owing.\[Question: Did the by-law team fully research the methodology used, the error rate in the resulting assessments and absolute guarantees that the resulting personal information could never be sold, used for any other purpose or improperly disposed of?\] \[Suggestion: That no outsourcing contracts for by-law enforcement ever be approved without full public consultation.\]

5.4 According to the Councillor involved, the urgency behind the November 2018 motion directing staff to produce a licensing by-law for short-term rentals by the end of 2019 stemmed from fairness concerns to the effect that Airbnb hosts should pay Kingston’s 4% MAT. \[Comment: For the record, we fully agree that we should pay that tax. That said, we contend that outsourcing the calculation and collection to a private company using ethically questionable methods is inappropriate, inefficient and quite unnecessary. Springing that on the community five days before Council was expected to approve the by-law with absolutely no consultation added insult to injury, leaving hosts feeling like our city regards us as no better than criminals. Given that nothing so intrusive has ever previously been proposed to collect all manner of other fees and taxes, we see absolutely no justification for being thus singled out. To anyone who has ever stayed in an Airbnb in a jurisdiction which levies a MAT, the patently superior alternative is for the City to sign an agreement with Airbnb to collect the tax on its behalf upon each and every booking: no cost, 100% accuracy, rapid payment and absolutely no accounting/administrative overhead for busy hosts whose time is far better spent maximizing their guests’ Kingston accommodation experience. The only drawback is that we understand that Airbnb currently has an implementation backlog (unlike other provinces which collect the MAT centrally, every Ontario municipality has to be separately programmed, which includes the non-trivial challenge of accurately programming municipal boundaries). However, it’s a fact that the vast majority of Kingstonians habitually pay taxes owing, and there’s no basis for assuming that our hosts are any different. As an interim measure, it would be easy for the City to put up a MAT payment page for Airbnb hosts.] \[Question: Has the by-law team done a comparative business case for outsourcing versus the above alternative?\] \[Suggestion: That the above alternative be actively pursued as being ethically more in line with Kingston values.\]

5.5 The proposed by-law specifies that the 4% MAT be administered by the Kingston Accommodation Partners (KAP). \[Comment: While the genesis of the proposed by-law is surprisingly hard to discern in Council documentation, KAP appears to have been involved from the outset and references to it in the by-law document constitute evidence that it has chosen to be an advocate for the Hotel Association of Canada’s anti-Airbnb playbook. While KAP appears to play some role as a quasi-City agency, its website gives no information about its formal charter or mandate, the composition of its board or even whether it is a non-profit or for-profit organization.] \[Question: What has KAP’s actual role
been in the development of this by-law and what position has it taken on Airbnbs?]
[Suggestion: That, since Airbnbs will be contributing their fair share of the taxes to be
administered by KAP, we expect full, audited transparency on how those funds will be
used, representation on its board proportional to our contribution, and some assurance of
even-handedness in who benefits from those expenditures. KAP should therefore not be
permitted to administer the proceeds until those governance issues are resolved.]

6. OTHER CONCERNS

6.1 Airbnbs have been portrayed in the by-law document as a hotbed of human trafficking, a
portrayal which has been cited as an urgent rationale for restrictive licensing.

[Comments:]
1. It is telling that the stark statements about Airbnbs in this context are directly drawn
from the Hotel Association of Canada’s anti-Airbnb playbook. That Association is most
definitely not an impartial public-service organization. Rather it is a well-funded lobby
group dedicated to advancing the interests of its international hotel chain members who
see the Airbnb phenomenon as an unwelcome threat to their traditional business model,
one to be suppressed with the help of municipal government regulation. Hence their
materials should be critically viewed in that light.

2. The write-up (which appears to have been provided by KAP) is written in such a way as
to imply that Kingston Police view Airbnbs as a growing problem with respect to human
trafficking here in Kingston. The reality, as the Deputy Chief of Kingston Police stated to
Council in response to a question, out of 20 human trafficking investigations conducted
here in Kingston over the past year, not one of them has been in any way Airbnb-
related. That is not at all surprising because most Kingston Airbnbs are traditional home-
based businesses whose hosts usually interact in person with their guests. For those who
wish to engage in illicit activities, motels would be far more anonymous and hence more
attractive. That said, we accept that commercial Airbnb listings operated by property
managers could present comparable risks.

3. The statements in the write-up to the effect that Airbnbs have little to no oversight upon
check-in and that the booking process is very ambiguous versus a tradition hotel are both
factually incorrect. Host contact is the norm for traditional home-based Airbnbs’ check-
ins. Airbnb bookings require a credit card and prospective guests need to show
government id to gain access to the booking site. It is possible to pay anonymous cash at
hotels and motels and, as motels may have video surveillance at check-in but not room
doors, signs of possible illicit behavior may not be apparent at check-in time.

4. It isn’t hard to find media stories from metropolises like Toronto or Ottawa on the kinds
of bad things that happen in cities everywhere having occurred in a particular Airbnb. As
a society, we’ve become used to seeing reports of such incidents. However, because
Airbnb is a new phenomenon, when such incidents happen to occur in an Airbnb, that
becomes big news, thereby receiving far more attention than similar events occurring in a
hotel or motel room. Responsible policy makers should look objectively at the facts rather
than the hype. Airbnbs should be targeted for preventative measures if and only if police
data show that the rate of such incidents is higher in Airbnbs than in other forms of
temporary accommodation. As is the case here in Kingston, the reverse is likely to be
true. It would also be good to obtain real data from those cities on the breakdown of such
incidents between home-based Airbnbs and commercial operations. We suggest that the
rate of Airbnb-related incidents would turn out to be comparatively low.
5. Restrictive licensing is not necessary to raise human trafficking awareness. We only learned about the availability of awareness training at the December 3 Council meeting, followed up with Kingston Police almost immediately, and already have two training sessions booked for January as a result of enthusiastic response from hosts.

[Question: Has the by-law team requested statistics on human trafficking investigations from Kingston Police directly or were they relying on the KAP write-up?] [Suggestion: That the section on human trafficking be re-written to more accurately convey Kingston reality.]

6.2 The proposed licensing regime imposes a $180 annual licensing fee per unit. [Comment: This would be a flat fee regardless of the nature of the unit or the annual income which it generates. With respect to home-based business, a previous Council considered a licensing regime for all home-based businesses but decided not to proceed with such a regime. In retrospect, that appears to have been a wise decision given that few if any significant problems have since arisen in the absence of licensing and many small businesses have been spared unnecessary costs and administrative overheads. The majority of Airbnb hosts are in fact home-based businesses so would be singled out if the proposed short-term rental by-law were adopted in its current form. As has been demonstrated above, licensing them would not contribute to advancing any of the four stated objectives of this by-law and would not contribute significantly to addressing any of the identified problems. They would therefore not receive any value from the licensing regime, which suggests that it is unfair to expect them to pay the associated costs.] [Question: Has the by-law team performed an analysis of the costs and benefits of including home-based Airbnbs in the licensing regime?] [Suggestion: 1. That, in the absence of compelling evidence requiring their inclusion, that home-based Airbnbs be explicitly excluded from compulsory licensing; and 2. That objective criteria be defined for determining whether a host whose single unit not contiguous with his/her primary residence be considered a home-based business or a commercial operation.]

6.3 Much of the evidence presented in the by-law proposal document consists of comparisons with the restrictive provisions set out in the by-laws of other municipalities which have chosen to regulate short-term rentals. [Comment: Such comparisons may be useful for generating ideas but they don’t constitute evidence that a particular restriction is either necessary in the Kingston context, nor that its estimated benefits would justify the economic costs to our local economy and/or to the impacted hosts. That evidence is especially needed given that most of the examples cited are either large metropolises or smaller, rural communities. If the cited municipalities are the only ones which have passed or are considering restrictive by-laws, they certainly fail to constitute a representative sample given that Ontario has 444 municipalities. Another example of cherry-picking the data is that there is no mention of municipalities which have considered licensing regimes and have chosen not to go down that road (e.g. Orillia, which is closer in size to Kingston than the other examples cited). There is also no information cited about how effective those measures have been in the municipalities which have adopted them. Another good reason for caution in modeling our by-law on the selected examples is that doing so can result in a domino effect. It is reasonable to assume that the Hotel Association of Canada has used its anti-Airbnb playbook to lobby most if not all of the municipalities which have to date passed such by-laws. The tendency therefore, would be for each successive generation of by-laws to become ever more restrictive as their authors pick measures from amongst the menu provided by their predecessors. We understand that the proposed by-law is among the most restrictive to date. [Question: Has the by-law team assembled any evidence as to how economically costly and how successful in achieving the cited municipalities' stated objectives each of the proposed measures has turned out to be in retrospect?] [Suggestion: That Kingston seriously consider alternative models more directly based on our particular environment rather than blindly following what has been done in other, very different municipalities.]
6.4 The by-law proposal is almost exclusively focused on urban Kingston. [Comment: The Airbnb website contains many cottages located in the rural portion of our municipality.] [Question: Has the by-law team given any consideration to whether or not the proposed measures are applicable to and/or actually useful in rural areas?] [Suggestion: That consideration be given to exempting Countryside District from the by-law.]

7 CONCLUSIONS AND RECOMMENDATIONS

The above comments, questions and suggestions point to a by-law that lumps together home-based businesses, which are not a problem and for which the proposed licensing regime does essentially nothing to further its stated objectives, with commercial operators, a category for which it is reasonable to fear could result in Toronto-like problems and for which licensing may therefore be justified. We suggest a Kingston-specific solution which would neither burden nor erode the home-based sector, which constitutes a highly under-appreciated asset to Kingston and its economy, while appropriately licensing the commercial sector, for which there is evidence from Toronto and elsewhere that it could exacerbate Kingston’s shortage of affordable long-term housing.

For all of the multitudinous reasons cited above, we recommend that the home-based Airbnbs be excluded from the proposed licensing by-law and that criteria be developed for categorizing hosts owning single units not contiguous with their principal residences as either home-based businesses or commercial operators. We further recommend that the by-law document be pared down to essentials, rewritten in a far more balanced fashion, and focused on measures for which Kingston-specific evidence substantiates the likelihood of advancing the stated objectives sufficiently to justify the associated costs to all concerned.
New Business Models in the Accommodation Industry

Benchmarking of Rules and Regulations in the Short-term Rental Market

Executive Summary
Acknowledgments

This project was carried out by the Tourism Market Intelligence and Competitiveness Department of the World Tourism Organization (UNWTO). The information included in this report was revised and edited by Ms. Sandra Carvão, Chief, Tourism Market Intelligence and Competitiveness, together with Ms. Bernadett Papp, Ms. Diana Oliveira and Ms. Hee-Jin Cho under the supervision of Mr. Manuel Butler Halter, UNWTO Executive Director.

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- Chile: Servicio Nacional de Turismo – Chile
- Costa Rica: Costa Rica Tourism Board
- Czech Republic: Ministry of Regional Development
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- Portugal: Turismo de Portugal
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- Slovakia: Tourism Section, Ministry of Transport and Construction of the Slovak Republic
- Spain (Catalonia, Barcelona): Tourism Department – Barcelona City Council
- United Arab Emirates (Dubai): Department of Tourism and Commerce Marketing of Dubai
Digitalization, new technology, the 2008 global economic crisis and changing travellers’ behaviour and preferences: All of these have had a profound effect on the global tourism sector over recent years. In particular, they have led to the rise of the so-called “sharing economy”, with new digital platforms and business models emerging in almost every part of the tourism sector.

However, these changes have been particularly evident in the accommodation industry. With the emergence of new online platforms for short-term rentals, the market has been growing at an unprecedented rate. According to projections, it will continue to outperform the growth of traditional accommodation providers in the coming years.

The exponential growth of new business models in the accommodation industry, led by the expansion of platforms such as Airbnb or HomeAway and more recently the inclusion of short-term rentals on platforms such as Booking.com, has raised a number of questions related to fair competition, consumer protection, safety and security and the impact that such holiday rentals can have on destinations.

This UNWTO report on rules and regulations for the short-term rental market provides the first systematic overview of how governments at national, regional and local level are addressing new business models in the accommodation industry, drawing on 21 case studies from around the world.

We trust the information provided will be useful to destinations looking to better understand or address the regulatory framework of new business models in the accommodation industry.

I would like to thank the Secretariat of Tourism of Mexico for their kind support for this project, as well as all those who contributed their case studies for use in this pioneering report.

Zurab Pololikashvili
Secretary-General
Destinations are reinventing themselves under the paradigm of technological innovation. Digital platforms constitute singular ecosystems that enhance interactions and extended behaviours. Not only do they enable the development of direct relations, they generate robust multilateral markets. However, the immersion and adoption of digital ecosystems does not occur in a uniform manner for businesses, governments and local communities.

The comparative analysis of the corresponding regulatory frameworks of the Member States contributes with valuable inputs to reflect about the challenges posed by the digital economy, such as planning the future of work, understanding and adaptability to deal with potentially destabilizing events, pressure for short-term gains and limited resources.

Thus, the study presented hereunder by UNWTO represents an opportunity to strengthen initiatives and strategies aimed at supporting government efforts to shape regulatory frameworks that approach and anticipate the impact of emerging technology whilst ensuring an innovative environment, within which will be undoubtedly created the future and new scenarios for the development of tourism.

Miguel Torruco Marqués
Secretary of Tourism, Mexico
Several factors explain the rise and growth of the so-called “sharing economy” in the tourism sector in the past years, including the 2010 global economic crisis, digitalization and new trends in travellers’ behaviour and preferences. The practise of sharing goods and services amongst members of a community is not an entirely new phenomena, however the appearance of digital platforms, powered by the latest technologies, has provided a new global dimension and led to the emergence of new business models in different areas.

In the tourism sector, this has been particularly relevant in the accommodation industry. With the emergence of new online platforms for short-term rentals, the market has been growing at an unprecedented rate and according to projections it will continue to outperform the growth of traditional accommodation providers in the coming years.

Building upon UNWTO’s 2017 report New Platform Tourism Services (or the so-called Sharing Economy) – Understand, Rethink and Adapt,1 this report provides an analysis and examples from 21 case studies on the rules and regulations applied to the short-term rental market focusing on three areas:

1. Fair competition;
2. Consumer protection; and
3. Planning and sustainability.

The analysis of the case studies included in the report reveals that most of the measures implemented refer to ‘fair competition’ and ‘customer protection’ while measures on the field of ‘planning and sustainability’ are somewhat lagging behind. In terms of governance, the examples studied show that there is a wide diversity in terms of the scope of application with regulations existing at national, state, regional or local level or a combination of these. One of the key challenges identified in the analysis is the enforcement of these rules and regulations. Implementation is often hindered by lack of capacity, clear division of responsibilities and cooperation between the different responsible entities.

To create a regulatory environment that allows communities to benefit from the opportunities offered by digital platforms while tackling issues of fair competition, safety and security, consumer and workers protection, as well as sustainable destination planning and management it is clear that it is imperative for stakeholders to strengthen their cooperation.

Below is a summary of the typology of rules and regulations per case study and area.

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1 World Tourism Organization (2017). New Platform Tourism Services (or the so-called Sharing Economy) – Understand, Rethink and Adapt, UNWTO, Madrid. DOI: https://doi.org/10.18111/9789284419081.
<table>
<thead>
<tr>
<th>Country</th>
<th>Fair competition</th>
<th>Consumer protection</th>
<th>Planning and sustainability</th>
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<td>Registration / permit / licence</td>
<td>Rental period limit</td>
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<td>Austria (Vienna)</td>
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Introduction

The concept of the so-called “sharing-economy” has been continuously evolving for the past decade. The modern interpretation of the term was developed following the appearance of the leading digital platforms in the accommodation and transportation sectors. In line with the key societal and technological trends, these new platform services have gained significant ground in the past years. Forecasts indicate that global revenues from the key sectors of the sharing economy (online staffing, peer-to-peer (P2P) accommodation, car sharing, P2P finance, video / music streaming) will grow from USD 15 billion (2014) to USD 335 billion by 2025.

Tourism is one of the fastest growing and most important economic sectors in the world. In 2018 and for the eighth consecutive year, the sector has seen uninterrupted growth in international tourist arrivals and exports from tourism. Alongside tourism’s growth, the sector has also experienced disruptive change as a result of developments in technology, digitalization and consumer behaviour.

In the past years, the growth of tourism has been closely interlinked with the rapid development of so called “peer-to-peer” (P2P) services. In 2017, the UNWTO report New Platform Tourism Services (or the so-called Sharing Economy) – Understand, Rethink and Adapt, defined new platform tourism services as “business models in which products or services are offered to visitors through digital platforms” and identified five main fields of activity:

1. Information;
2. Accommodation;
3. Transport;
4. Food; and
5. Other tourism activities.

These products or services can be offered by private individuals or by commercial entities and distributed (intermediate) via digital platforms that match demand and supply.

Amongst the aforementioned fields of activity, short-term home rental is one of the fastest growing new business models. With the help of new technologies, the traditional cost of doing business has decreased significantly, allowing these to grow at an unprecedented pace. The rapid expansion of the short-term rental platforms can also be related to societal changes. Millennials are said to be the leading generation active on these platforms due to their familiarity with the latest technological innovations, shifting value system from materialism to experientialism and their willingness to share with others.

The emergence of the new platform tourism services however, has not come without a contentious debate over its impacts. Some of the major issues that emerged include ‘touristification’, gentrification, changing city-scape, nuisances caused by tourists and increasing...
New Business Models in the Accommodation Industry – Executive Summary

real estate prices. Further to the societal impacts, new business models are said to create a policy disruption. Legal questions have been raised in terms of taxation, employment and labour laws, safety and health regulations, insurance, anti-discrimination law and consumer protection, amongst others.

In order to tackle the issues mentioned above, governments across the world have been revising their regulations to adapt to this new reality. Building upon the previous UNWTO report New Platform Tourism Services, this report aims to provide examples of the different rules and regulations applied to the short-term rental market in three areas:

1. Fair competition;
2. Consumer protection; and
3. Planning and sustainability.

Under these categories, a total of 14 typology of measures were defined. The destinations were asked to indicate, based on this structure, whether a measure was currently in effect, the related control and enforcement mechanisms, fines and penalties applied, and specify the responsible entities.

Key Findings

The online platform economy is not new or unique – the model has been in use since the 1990s –, however, it was applied mainly to the sale of goods. The emergence of digital platforms offering tourism services has brought about a range of new challenges that the sector did not have to face before. The provision of services is more complex than the provision of goods, due to their unique characteristics such as intangibility, heterogeneity, inseparability and perishability. This complexity means that the importance of security and trust is somewhat higher and is more sought after.

Besides security and safety concerns, the emergence of digital platforms, such as the short-term accommodation rental platforms, has led to a contentious debate in terms of their impact on the social, economic and physical environment of destinations and its competitive position within the accommodation industry. In practical terms, in many cases the new business models do not fit the existing regulatory framework and there is a considerable grey area between private and commercial providers. This grey zone causes most disputes in existing regulatory regimes and lead to concerns of unfair competition.

Based on the 21 case studies, a cross case analysis has been carried out to provide an overview on the type of measures being implemented. It is important to mention that only measures applied on a compulsory basis were taken into consideration and voluntary actions were excluded from the analysis. Rules and regulations
that may be in effect only in specific states / regions / cities were also taken into consideration as much of the regulation is originating from local authorities.

As described in the below table, the most common typology of measures refers to:

- **Taxation (95% of the cases):** ensuring that taxes are collected and remitted to the authorities is seen as a priority and one of the basic pillars of fair competition;

- **Categorization of rentals (95%):** e.g., renting part of the house, a private room or the entire house - in some cases renting a property is only possible if it is shared with the permanent resident who is present at the time of rental;

- **Consumer protection (91%):** requirements concerning health and safety are in place in almost all the cases. These include obligations concerning basic hygiene and safety standards as well as fire protection;

- **Permits and registration (81%):** registration with the local authorities, obtaining a license, a registration number or a permit is required to ensure the efficient monitoring and regulation of operations. Having a registration system in place is often seen as the first step for control and enforcement as it provides the authorities with the necessary information on available supply;

- **Contract rules (76%):** the written consent of the owner in case the tenant wants to sub-let the property as a short-term vacation rental is frequently required. Subletting without the owner’s permission may have significant consequences such as losing the right to live in the property;

- **Complaint mechanisms (76%);** and

- **Rental requirements (71%):** rental requirements relate to factors such as the general condition, size, furnishing, ventilation, etc. of the property.

Hence, most prevalent rules and regulations focus on the competitive environment and consumer protection. On the other hand, measures linked to ‘planning and sustainability’ (zoning, limitations on the number of units per building / neighbourhood etc.) are amongst the least common in the cases studied.

### Frequency of typology of rules and regulations across case studies

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<th>Typology</th>
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<td><strong>Fair competition</strong></td>
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<tr>
<td>1. FCOMP1 Permit requirements</td>
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<td>2. FCOMP2 Rental period limit</td>
<td>38</td>
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<tr>
<td>3. FCOMP3 1st and 2nd residence restrictions</td>
<td>52</td>
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<td>4. FCOMP4 Rules by tenant associations</td>
<td>38</td>
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<td>5. FCOMP5 Types of rentals</td>
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<td>6. FCOMP6 Taxes</td>
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<td>7. FCOMP7 Rental contract rules</td>
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<td><strong>Consumer protection</strong></td>
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<td>8. CONPRO1 Safety and health regulations</td>
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<td>9. CONPRO2 Rental requirements</td>
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<td>10. CONPRO3 Insurance</td>
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<td>11. CONPRO4 Complaint mechanisms</td>
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<td>12. CONPRO5 Reporting requirements</td>
<td>62</td>
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<tr>
<td><strong>Planning and sustainability</strong></td>
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<tr>
<td>13. PLANSUS1 Rental restrictions</td>
<td>33</td>
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<tr>
<td>14. PLANSUS2 Special requirements</td>
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</table>

Looking at the data from a country / destination perspective, cities such as Paris, Amsterdam, Barcelona and New York are among the more active. However, in this group we can also find countries like Japan, with 13 out of the 14 listed measures. The United Arab Emirates (Dubai) and Belgium (Flanders) are also amongst those who have created a wide range of rules and regulations. Berlin and London have a lower range of measures in place.
New Business Models in the Accommodation Industry – Executive Summary


5 Ibid.


13 Ibid.
Several factors explain the growth of the so-called “sharing economy” in the tourism sector over recent years, including the 2010 global economic crisis, digitalization and new trends in travellers’ behaviour and preferences. This growth has been particularly notable in the accommodation industry. With the emergence of online platforms for short-term rentals, the market has been expanding at an unprecedented rate.

Building upon UNWTO’s 2017 publication New Platform Tourism Services (or the so-called Sharing Economy) – Understand, Rethink and Adapt, this report provides an analysis and benchmarking of 21 case studies in terms of the rules and regulations applied to the short-term rental market, focusing on three key areas: (i) fair competition; (ii) consumer protection; and (iii) planning and sustainability.

With the kind support of:

The World Tourism Organization (UNWTO), a United Nations specialized agency, is the leading international organization with the decisive and central role in promoting the development of responsible, sustainable and universally accessible tourism. It serves as a global forum for tourism policy issues and a practical source of tourism know-how. Its membership includes 158 countries, 6 territories, 2 permanent observers and over 500 Affiliate Members.
Krista LeClair  
Executive Director  
Kingston Accommodation Partners  
151 Wellington Street, Suite 2  
Kingston, Ontario, K7L 3E1

February 5, 2020

Paige Agnew  
Director of Planning, Building & Licensing Services  
City of Kingston  
216 Ontario Street  
Kingston, Ontario, K7L 2Z3

Dear Paige Agnew,

Kingston Accommodation Partners has decided to enter into an agreement with Host Compliance for the collection of MAT for Short-Term Accommodation’s. Host Compliance was selected for the following reasons:

- Mobile accessibility and registration
- Ability to calculate MAT based on rental activity
- Ability to distribute letters/emails to operators about MAT outstanding
- Accounts Receivable requirements such as invoicing, tracking late payments, taking payments, calculating interest as required
- processing payments and direct deposits

Kingston Accommodation Partners will be paying for the platform module’s related to Rental Activity and Collection and recovering that cost from the MAT collection of the Short-Term Accommodation’s.

Sincerely,

Krista LeClair  
Executive Director  

Kingston Accommodation Partners  
151 Wellington St., Suite 2, Kingston, ON, K7L 3E1

Exhibit F  
Report Number AP-20-011