



# City of Santa Fe, New Mexico

# memo

**DATE:** February 4, 2016 for February 10, 2016 Meeting

**TO:** The Mayor and Governing Body

**VIA:** Randy Randall, Executive Director Tourism Santa Fe   
Lisa Martinez, Director, Land Use Department

**FROM:** Noah Berke, CFM, Senior Planner, Current Planning Division 

At the September 30, 2015 Regular Meeting of the Governing Body of the City of Santa Fe, Resolution number 2015-89 was passed. The resolution called on City Staff to analyze the current Land Development Code and make recommendations with respect to short term rentals. The purpose of this paper is to address the requests of the Governing Body and provide recommended changes to the existing Short Term Rental Ordinance.

This resolution stated there has been an increased demand and popularity for short term rentals; there appears to be many unpermitted short term rentals being offered through online sources; unpermitted short term rentals do not contribute lodgers' or gross receipts tax, and the fiscal 2014 Lodgers' Tax Agreed-upon Procedures Report by Barraclough & Associates, P.C. recommended: "The City of Santa Fe should reconcile the number of licenses for short term renters with those paying taxes. The City of Santa Fe should reevaluate the limit on short term licenses of 350 to ensure that this number is still appropriate today."

Southwest Planning, LLC researched and analyzed information from Airbnb, VRBO, HomeAway, FlipKey, and Rent by Owner. This analysis notes that Rent By Owner and Airbnb were not quantifiable due to lack of property/owner information being provided:

Rental Organization	Number of Rentals Listed
Airbnb	612
VRBO	616
Home Away	557
FlipKey	300
Rental By Owner	658
	2743

Southwest Planning performed their research and analysis over the summer of 2015. The methodology utilized by Southwest Planning is defined in attachment Exhibit B of this packet. The analysis and data provided in the following chart is from the properties that could be identified and duplicates removed, however it does not include the 1270 rentals listed on Airbnb and Rent By Owner:

<b>Total Properties Researched</b>	<b>1,473</b>
<b>Total Properties after Duplicates were Removed</b>	<b>817</b>
<b>Total Properties That Could Not Be Identified (NA)</b>	<b>78</b>
<b>Total Properties with Short Term Rental License</b>	<b>330</b>
<b>Total Properties without Short Term Rental License</b>	<b>487</b>
<b>Total Properties Obligated to Pay Lodger's Tax</b>	<b>280</b>
<b>Total Properties Paying Lodger's Tax</b>	<b>52</b>

Reconciling the total number of rentals available in Santa Fe is somewhat of a challenge, as many owners list their rental on multiple sites which makes it hard to evaluate duplicate listings; however, staff research and the report by Southwest Planning supports the belief there are many more than 600 short term rentals being offered without permits despite the limitation of 350 permits in the current ordinance. Southwest Planning's report was able to eliminate some of the duplicate property listings and verify some of the properties that were paying taxes and have a valid Short Term Rental permit (Exhibit B). For the purpose of this analysis we have used the conservative assumption of 600 additional, non-permitted short term rentals.

Staff further compared this data to the permitted short term rentals on file with the City of Santa Fe. Staff was unable to pinpoint whether all of the data collected from the online rental organizations is permitted or unpermitted, as many of the online organizations do not provide exact addresses of the rentals listed. However, staff was able to conclude the total number of rentals from all the online rental organizations exceeds the total number of permitted short term rentals by a significant number.

Staff researched several cities around the United States to see how regulation of short term rentals differs from the current City of Santa Fe short term rental ordinance. Staff researched Sedona AZ, Vail CO, Austin TX, Bend OR, Truckee CA, Malibu CA, and San Francisco CA. The following provisions are the primary differences between how several other cities regulate short term rentals versus the City of Santa Fe regulations:

- 1.) Other cities do not impose caps on number of short term rentals permitted.
- 2.) Other cities do not attempt to restrict the number of arrivals per week or the number of rentals per year as this is determined to be a generally

unenforceable restriction.

- 3.) Other cities impose penalties for non-compliance with short term rental ordinances.
- 4.) Other cities require all short term rentals in all zoning districts to obtain short term rental permits and pay appropriate taxes.
- 5.) The cities that were researched are unable to associate amounts of Short Term Rentals with the amount of available long term housing. An area of concern for larger cities, such as San Francisco and New York, has been that short term rentals take away from the available long term rental housing market. Staff believes that many of the people with short term rentals prefer to rent out a room or two rooms in their homes for less than 30 days because it provides more rental income than renting it out long term.
- 6.) After researching other cities, staff was unable to find correlation between lack of affordable housing and short term rentals. Short term rentals tend to be located in areas of the communities with higher tourism.

In response to Resolution 2015-89, staff has studied and analyzed data available to answer the Governing Bodies' requests regarding the following:

- 1.) *The amount of short term rentals, including both permitted and unpermitted, believed to be offered and used within Santa Fe.*

The City of Santa Fe currently has 418 short term rentals that are licensed and have paid the appropriate license and permitting fees. The difference between the 350 short term rental permits allowed by the current ordinance and the number issued is due to the provision that properties on contiguous lots owned by the same property owner are also permitted. Staff believes, based on staff research and the report by Southwest Planning, that there are in excess of 600 unpermitted short term rentals operating in the City of Santa Fe.

- 2.) *The revenue lost to the City by means of gross receipts tax and lodgers' tax.*

In the fiscal year of 2014-2015, the City of Santa Fe collected \$136,580 from license and permit fees and \$465,502 in short term rental lodgers' tax. Lodgers' tax is 7% of the revenue generated by the short term rentals and gross receipts tax is 8.1% (2014-2015). Each short term rental permit and license fee averages \$326.75 using the current variable fee structure. Based on this fee, the 600 short term rentals not currently paying taxes would generate an additional \$671,882 in lodgers' tax, \$195,309.40 in license and permitting, and \$796,661 in GRT.

A third party analysis (Southwest Planning) of the short term rental situation in Santa Fe confirms that these numbers are both conservative and realistic. Their report (see attached), suggests the loss of revenue to the city in lodgers' tax could exceed \$2.5 million. The Southwest Planning report makes some very aggressive assumptions as to rate and occupancy, both of which are unknown factors in our own current data collection process.

It should also be noted the short term rental tax collections for the first four months of the fiscal year 2015-2016 is 22.3% ahead of the prior fiscal year. If this trend continues, the estimated lost revenue increases by \$150,000 for lodgers' tax and \$178,000 for GRT.

3.) *The violations of the current ordinance, the City's response to the violations, and how the City can encourage greater compliance.*

The staff analysis of online rental organizations provides evidence of the violations of the current ordinance. There appears to be a large disparity between the amount of short term rentals advertised on the online sites and how many permits have been issued by the City for short term rentals. Compliance with the short term rental ordinance requires higher penalties, increased management support and more strict enforcement. However, if more permits are made available, enforcement increased, and penalties heightened, owners and operators are more likely to come into compliance.

During the period from January 1, 2008 when the short term rental ordinance was put into place until the present, there have been 93 recorded complaints and violations. In the current version of the Short Term Rental Ordinance, strict penalties do not exist to encourage compliance. The short term rental compliance officer estimates that this represents about 50% of the total volume of complaints over time. An analysis of the recorded complaints is as follows:

Complaint	Number	Percent
<b>Too many people in rental</b>	<b>10</b>	<b>10.8%</b>
<b>Too many rentals per year/week</b>	<b>2</b>	<b>2.2%</b>
<b>Neighborhood Notice</b>	<b>10</b>	<b>10.8%</b>
<b>No Insurance</b>	<b>9</b>	<b>9.7%</b>
<b>Permit/Listing/advertising</b>	<b>27</b>	<b>29.0%</b>
<b>No Fire Inspection</b>	<b>1</b>	<b>1.1%</b>
<b>Nuisance/other</b>	<b>7</b>	<b>7.5%</b>
<b>No permit</b>	<b>27</b>	<b>29.0%</b>
	<b>93</b>	

4.) *The staff required to provide necessary enforcement.*

In the current operation of the short term rental ordinance, enforcement is provided by one individual in the Land Use Department and collections are completed through the Finance Department. One individual is needed to manage and oversee all aspects of the short term rental program; an additional enforcement officer would also be needed. The total operational costs for the short term rental program are estimated to be \$350,000 annually. There will be

an estimated \$279,000 in salary and benefits, and \$71,000 in operating expenses. There will be one-time startup costs of \$61,000. Additional revenue collected from new licenses and Lodgers' Tax would be used to fund staffing, enforcement, and managerial operations.

5.) *The penalty structure for operating without a business license and short term rental permit.*

Staff recommends a strict penalty structure for operating without a short term rental permit. The first violation would carry an initial \$500 penalty and would include 14 business days for the rental owner to comply with the ordinance and obtain permits. If action is not taken and the violations continue, then a \$250 per day penalty would be assessed and the city would have the authority to put a lien on the property.

6.) *Changes to the code that would produce increased efficiency in operation and regulation, and greater compliance with adopted regulations.*

1. There is a demand for short term rental permits that is not met by the current regulations due to a limited number of permits. There is a current waiting list of 87, for short term rental licenses, but as already documented, it appears there are over 600 short term rentals being offered and most owners are simply operating without a permit, due to limited permits and the inability to enforce the cap. Staff recommends the ordinance be changed from 350 licenses to determine the depth of the current STR market. The removal of the cap would appear to satisfy the demand for more short term rentals and encourage greater compliance with the ordinance.
2. It is recommended that the Mayor and City Council determine the number of short term rental permits to be issued. Staff recommends an initial issuance of 1000 permits.
3. Require all short term rental owners to register with the city (as required in section 18-11.6 of the Lodgers' Tax Ordinance) and obtain proper licenses and permits.
4. The changes are recommended for a period of 18 months to examine if the increase in licenses results in greater compliance with the ordinance. Staff would deliver a report in 18 months to the Mayor and Governing Body which would outline short term rental permits issued, compliance and enforcement operations and recommendations moving forward.
5. Create a Short Term Rental Task Force or Advisory Committee made

up of City Councilors, City Officials, Neighborhood Representatives, Realtors, Tourism Industry Representatives, and Lodgers' Group Representatives to meet regularly throughout the next 18 months. This group will compile data and deliver a report to the Mayor and Governing Body at the end of the 18 month period.

6. Eliminate the current restriction of 17 rentals per year maximum. This is unenforceable by the city and complicates the administration of the short term rental ordinance.
7. Change the structure of the permit fees to a flat \$325 per permit plus an initial application and processing fee of \$100. Renewals would be for the amount of \$325. The only exception would be for short term rentals located in commercial districts, which would now pay an annual fee of \$150. This would change the current fee schedule as shown below:

<b>Annual Permit Fees*</b>		
<b>Short-term Rental Type</b>	<b>Current Fee</b>	<b>Proposed Fee</b>
§14-6.2A(5)(b)(i) — Primary Residence; 2 rental periods per year	\$0.00	\$325.00
§14-6.2A(5)(b)(ii) — Accessory Dwelling Units	\$175.00	\$325.00
§14-6.2A(5)(b)(iii) — Unit(s) on Contiguous Lot	\$175.00	\$325.00
§14-6.2A(5)(b)(iv) — Resort Units	\$150.00	\$150.00
§14-6.2A(5)(b)(v) — Residential Units	\$350.00	\$325.00
*The annual permit fee shall not be prorated for a portion of the year.		\$325.00 *Fees apply to all properties in all Zoning Districts.

8. Provide a 90 day grace period to allow short term rental owners to come into compliance without being subject to penalties. Staff would undertake public notices such as press releases and media advertisements, and perform an enforcement operation to alert violators of the ordinance to obtain proper permits.
9. Add a late fee charge of \$50 to short term rental permit owners who fail

to renew on time. The charge will allow them 30 days to renew after March 15.

10. Clarify that there are no transfers of Short Term Rental Permits. If a property owner fails to renew a Short Term Rental Permit or sells a property where a Short Term Rental Permit has been issued; the Short Term Rental Permit is returned to the City of Santa Fe and therefore does not stay with the property or owner.
11. The administrative cost for refunds be \$100.00.
12. All short term rentals, regardless of zoning district within the City be required to pay lodgers' tax and gross receipts tax.
13. Enforcement penalties' be increased as suggested in this report. The first violation would carry an initial \$500 penalty and would include 14 business days for the rental owner to comply with the ordinance and obtain permits. If action is not taken and the violations continue, then a \$250 per day penalty would be assessed and the city would have the authority to place a lien on the property. These penalties would encourage greater compliance with the short term rental ordinance.
14. Short term rental owners, who have a valid license and fail to correct violations or pay proper taxes; risk loss of license in addition to the penalties' listed.
15. The Lodgers' Tax Ordinance be revised to include a definition of "room" as recommended by the City Attorney to allow staff to address with the issuance of exemptions.
16. All short term rental owners are required to register their property. As part of the registration the owner will be required to identify where they market their rental and apply for an exemption on the collection of the lodgers' tax if they are entitled to this under the provisions of the Lodgers' Tax Ordinance. Without an approved exemption, all short term rental owners will be required to collect and remit lodgers' tax
17. After initial licensure and for each renewal consider requiring a notarized self-compliance statement by the owner with regard to fire, health and safety issues. This would include proof of service for all fire safety devices including fire extinguishers and smoke detectors. City would perform random inspections.
18. Execute a Voluntary Collection Agreement with Airbnb. The City and Airbnb are currently negotiating a Voluntary Collection Agreement where Airbnb will collect and remit Lodgers' Tax on behalf of their hosts

(rental owners). The agreement will provide for an audit opportunity to ensure that all taxes are being properly collected and submitted. The agreement would not address GRT collection as this is the City's responsibility and further, cannot include taxes submitted to the State. We anticipate having a finalized agreement for Governing Body approval within the first quarter of 2016.

A similar agreement with most other referral sites is not probable as those sites do not typically collect rents on behalf of the owner.

19. Add a provision to the Short Term Rental Ordinance that the City will not issue a Short Term Rental Permit for properties that are located in an area where legally binding covenants by a registered Home Owner's Association do not allow for short term rentals. The Short Term Rental Application will be revised to include a question asking if there are any covenants that do not allow for short term rentals and include a statement that any fraudulent information given to the city will result in loss of any Short Term Rental Permits issued.
20. Add a line to the application that requires the applicant to list where they advertise or market their short term rental.
21. Staff will modify administrative procedures regarding the implementation of the ordinance in accordance with approved changes.

After the Public input meetings on January 7 and January 28, the following additional changes were made to the staff recommendations:

22. The application for a Short Term Rental Permit, along with a listing of Short Term Rental Permits issued with the owner's name and city of residence will be available on a new web site [www.oursantaferental.com](http://www.oursantaferental.com). This web site will be maintained by the short term rental office with support from TOURISM Santa Fe and the Land Use Department. This website will also be used application submittal and payments of fees.
23. Current permits and short term rental uses will be grandfathered. However, in the future, for the protection of the neighborhoods, permits will not be issued to allow more than two short term rentals directly adjacent to each other on a residentially zoned street. The only exception to this would be for condominiums, apartment complexes, and residential compounds.
24. Short term rentals in areas with commercial zoning will be required to register with the city and pay an annual \$150 registration fee; however a short term permit will not be required.

25. Short term rentals in gated communities will be required to register with the city and pay an annual \$150 registration fee; however a short term permit will not be required.
26. Advertisement and marketing of short term rentals will require the use of the registration or permit number. This number should be placed in a visible area of all advertising. This will enable staff to verify legal short term rentals being advertised.
27. Short term rentals will not be permitted to be used for non-residential purposes. This excludes the use of Short Term Rentals Permits for outdoor events, weddings and the like.
28. Add provision to the ordinance that prohibits the City from issuing short term rentals permits to areas where CC & R's prohibit use of properties or homes for short term rentals.

**ACTION REQUEST:**

Staff requests that the Mayor and Governing Body provide specific direction on the recommendations made in this report resulting in revisions to the current Short Term Rental Ordinance.

**ATTACHMENTS:**

**EXHIBIT A:**

2014 Lodgers' Tax Agreed-upon Procedures Report by Barraclough & Associates, P.C

**EXHIBIT B:**

Southwest Planning Report

**EXHIBIT C:**

Map of Permitted Short Term Rentals and Unpermitted Short Term Rentals

**EXHIBIT D:**

Current Short Term Rental Ordinance with proposed changes

**EXHIBIT E:**

Notes from Short Term Rental Public Meetings on January 7 & 28, 2016  
Public Correspondence (Emails and Letters)

# City of Santa Fe, New Mexico

## Exhibit A

### **1. 2014 Lodgers' Tax Agreed-Upon Procedures Report by Barraclough & Associates, P.C.**

**CITY OF SANTA FE**

**LODGERS' TAX AGREED-UPON  
PROCEDURES REPORT**

**FISCAL YEAR ENDED JUNE 30, 2014**



*Barraclough & Associates, P.C.*  
Certified Public Accountants & Consultants

**City of Santa Fe**  
**Lodgers' Tax Agreed-Upon Procedures Engagement**  
**Executive Summary**

**Background:** A 7% tax is collected by lodging facilities located within the City of Santa Fe for rooms rented 30 days or less. The lodging facilities remit the tax collected to the City of Santa Fe on a monthly basis. These facilities include hotels, motels, bed and breakfasts, and houses.

**Objective:** Were lodging facilities collecting and remitting lodgers' tax in accordance with 18-11.9 SFCC 1987?

Barraclough & Associates, P.C. reviewed the records of 8 commercial lodging facilities during July 1, 2013 through June 30, 2014 (FY14) and noted:

- Two facilities over paid their taxes by \$1,591.
- One facility owes the City \$1,139 in back Lodgers' Tax.
- One facility owes the City penalties and interest of \$1,059.
- Three facilities were noncompliant in our request for an audit (Entity #5, Entity #8, and Entity #10).
- One facility did not provide the additional documents requested, and we were unable to complete our procedures (Entity #7).
- The City's spreadsheet containing lodgers' tax payments received had 1 error, see pg. 6 for details.

Barraclough & Associates, P.C. reviewed the records of 8 short-term renting facilities during July 1, 2013 through June 30, 2014 (FY14) and noted:

- Six facilities owe the City penalties and interest of \$3,581.
- Six facilities owe the City \$4,569 in back Lodgers' Tax.
- Two facilities over paid their taxes by \$166.
- Two facilities were noncompliant in our request for an audit (Entity #18 and Entity #20).
- One facility did not provide the additional documents requested, and we were unable to complete our procedures (Entity #11).
- The City's spreadsheet containing lodgers' tax payments received had 18 errors see pages 6-8 for details.

**Recommendations:**

- The City of Santa Fe should collect \$10,348 in interest, penalties, and back taxes from the facilities tested.
- The City of Santa Fe should credit customer accounts for \$1,757 in taxes overpaid.
- The City of Santa Fe should review their receipts of payments received and reconcile differences mentioned in this report with their spreadsheet.
- The City of Santa Fe should pursue legal action against those facilities mentioned who were noncompliant with our requests for inspection of their records in accordance with 18-11.11 SFCC 1987.
- The City of Santa Fe should reconcile the number of licenses for short term renters with those paying taxes.
- The City of Santa Fe should reevaluate the limit on short term licenses of 350 to ensure that this number is still appropriate today.

# Exhibit B

# City of Santa Fe, New Mexico

## **Exhibit B**

### **1. Southwest Planning Report**

# Santa Fe Tourism

## Santa Fe Tourism Short Term Rental Property Audit

**Prepared for:**

TOURISM Santa Fe  
201 W. Marcy St.  
Santa Fe, NM 87501

**Prepared by:**

Southwest Planning, LLC  
Nicole Jeffries (Santa Fe Tourism Intern)  
P.O. Box 1506  
Santa Fe, NM 87504

*Submitted August, 2015*

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Santa Fe, NM 87504  
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# Santa Fe Tourism Lodging Audit

**Overview:** Santa Fe Tourism conducted an audit in order to estimate the loss to the city of Santa Fe in uncollected lodgers tax. The focus was short term rental properties in the city of Santa Fe. The main objectives were to:

- Identify how many short term rental properties exist in Santa Fe, NM
- Of those properties, how many owners have a license to rent
- Of those who have a license, how many of them should be paying Lodger's Tax
- How many of them are not paying Lodger's Tax
- How much Gross Receipts Tax these properties are liable for in the city of Santa Fe

**Methodology:** See Appendix A

**Findings:** The Santa Fe Tourism lodging audit conservatively identified 228 properties with 692 available rooms for rent that are not currently paying lodgers tax to the City of Santa Fe. This equates to 252,580 available room nights. Scenarios were generated for three levels of average annual occupancy and three average room rates.

**Estimated Revenues Generated:** Revenues generated from short term rentals not currently paying lodgers tax range from a low of \$6.3 million (based on \$100 room rate at 25% occupancy) to a high of \$30.3 million (based on a \$200 room rate at 60% occupancy).

**Estimated Lodgers Tax Revenues:** Lost revenues from short term rentals not currently paying lodgers tax range from a low of \$442,000 (based on \$100 room rate at 25% occupancy) to a high of \$2.1 million (based on a \$200 room rate at 60% occupancy).

Based on average annual occupancy levels for the City of Santa Fe and average room rates it is likely that short term rentals generate a 50% occupancy at an average room rate of \$150. **This equates to \$1.3 million in unreported lodgers tax.**

**Estimated Gross Receipts Tax Revenues:** Gross Receipts Tax Revenues generated by short term rentals not currently paying lodgers tax range from a low of \$524,893 (based on \$100 room rate at 25% occupancy) to a high of \$2.5 million (based on a \$200 room rate at 60% occupancy).

The table below provides the impact of varying occupancy and room rate scenarios

	Room Nights	Revenue (avg \$100 a night)	Revenue (avg \$150 a night)	Revenue (avg \$200 a night)
Rooms (per SFT audit)	692	692	692	692
Available Room Nights (365)	252,580	252,580	252,580	252,580
<b>Revenue Generated</b>				
Average Occupancy (25%)	63,145	\$ 6,314,500	9,471,750	12,629,000
Average Occupancy (50%)	126,290	\$ 12,629,000	18,943,500	25,258,000
Average Occupancy (60%)	151,548	\$ 15,154,800	22,732,200	30,309,600
<b>Revenue Generated from lodgers tax @ 7%</b>				
Average Occupancy (25%)	63,145	\$ 442,015	\$ 663,023	\$ 884,030
Average Occupancy (50%)	126,290	\$ 884,030	\$ 1,326,045	\$ 1,768,060
Average Occupancy (60%)	151,548	\$ 1,060,836	\$ 1,591,254	\$ 2,121,672
<b>Revenue Generated from Gross Receipts Tax @ 8.3125%</b>				
Average Occupancy (25%)	63,145	\$ 524,893	\$ 787,339	\$ 1,049,786
Average Occupancy (50%)	126,290	\$ 1,049,786	\$ 1,574,678	\$ 2,099,571
Average Occupancy (60%)	151,548	\$ 1,259,743	\$ 1,889,614	\$ 2,519,486

## **Appendix A - Methodology**

## Methodology

**Step 1: Initial research.** Browse top rental sites, and find the number of Santa Fe properties listed for each site.

- HomeAway: 557 properties
- VRBO: 616 properties
- FlipKey: 300 properties
- RBO: 658 properties
- AirBnb: 612 properties

\*\*Note: RBO and AirBnb were not quantifiable due to lack of property/owner information being provided.

**Steps 2-6** do not apply to these sites. It can be assumed that there are 400 unique properties out of the combined 1270 properties.

**Step 2: Pull data from each site.** Pull information such as owner name, property ID, phone number, and number of rooms. If none of the stated is provided, properties are categorized as "NA". Sort alphabetically by first name.

**Step 3: Eliminate duplicates.** This was done two ways. HomeAway and VRBO are partner sites and use the same property ID on both sites. Duplicates were identified and eliminated if two identical property IDs existed. To eliminate duplicates from FlipKey, names in the data sheet were cross-referenced with one another.

**Step 4: Reach out to "NA" properties.** All of the owners of these properties were emailed and inquired about their property. The goal was to obtain either the owner name and/or property address. Initially, 200 "NA" properties existed. After further investigation, 78 properties remain "NA" which indicates the owner did not respond.

**Step 5: Cross-reference list of licenses with the data spreadsheet.** First, names were cross-referenced. Furthermore, cell phone numbers were cross-referenced if there was no owner name provided, or if the owner was registered under a different name than the one used for various rental sites. Those who have a license were marked with a "Y" for yes in the license column of the spreadsheet.

**Step 6: Determine who needs to pay Lodger's Tax.** According to the law, one must pay Lodger's Tax if their property has three or more rooms, or if they have multiple properties in which there are three or more rooms combined. The properties on the spreadsheet that fit this criterion were categorized as needing to pay Lodger's Tax. Once this was established, these names were cross-referenced with the list of those who are currently paying Lodger's Tax. From this it was determined that **out of the 280 properties that we identified and are obligated to be paying Lodger's Tax, 52 properties are paying the tax.**

**Step 7: Analyze the data.** As of Wednesday, August 4, 2015 the data is as follows:

- **Total properties researched: 1,473**
- **Total unique properties (after duplicates were eliminated): 817**
- **Total properties that could not be identified (NA): 78**
- **Total properties w/ a license: 330**
- **Total properties w/ out a license: 487**
- **Total properties obligated to pay Lodger's tax: 280**
- **Total properties paying Lodger's tax: 52**

\*\*This data is from those properties that could be identified and quantified. It is not inclusive of the assumed 400 unique properties from RBO and AirBnb.

# City of Santa Fe, New Mexico

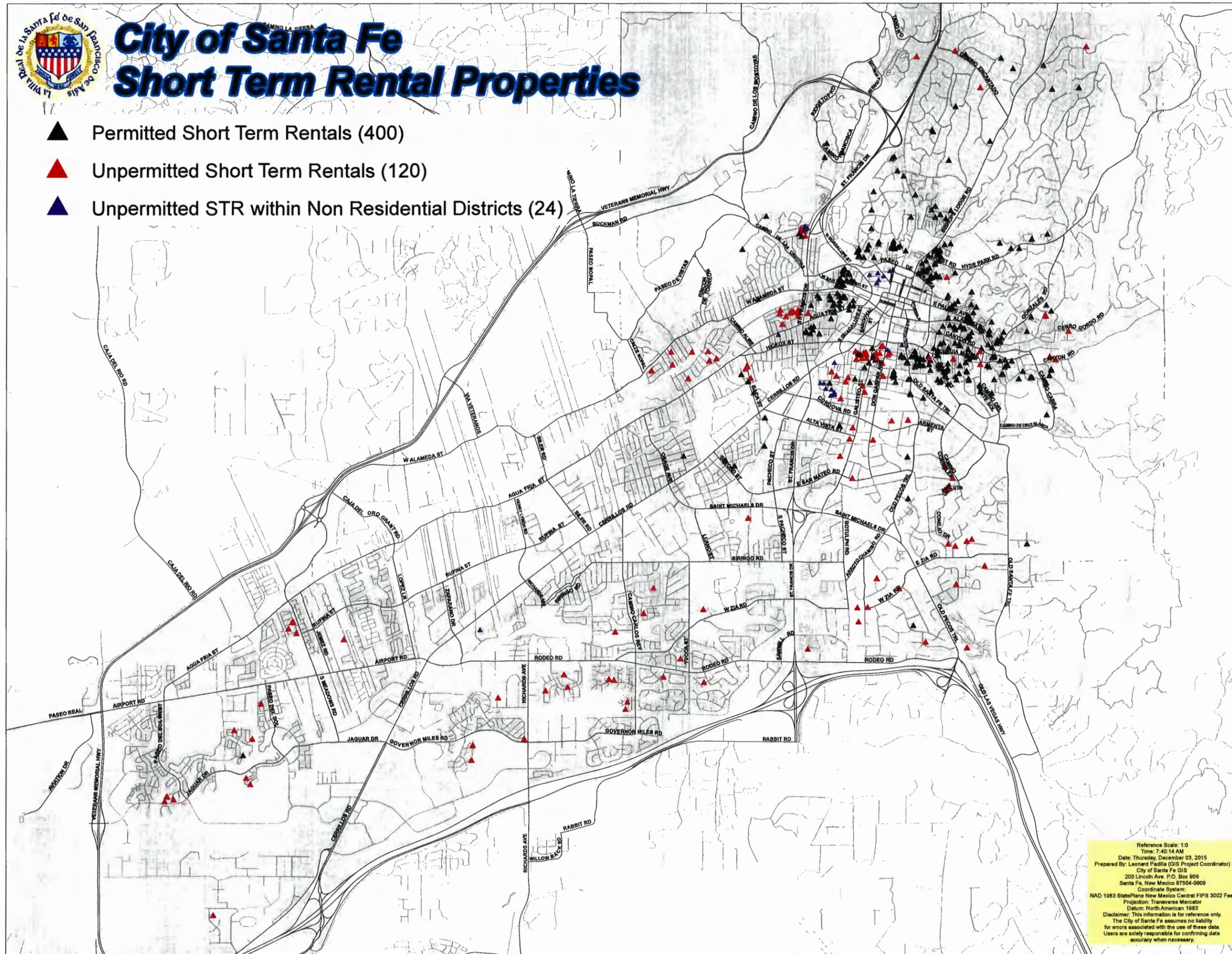
## Exhibit C

### 1. Map of Permitted Short Term Rentals and Unpermitted Short Term Rentals



# City of Santa Fe Short Term Rental Properties

- ▲ Permitted Short Term Rentals (400)
- ▲ Unpermitted Short Term Rentals (120)
- ▲ Unpermitted STR within Non Residential Districts (24)



Reference Scale: 1:0  
Time: 7:40:14 AM  
Date: Thursday, December 03, 2015  
Prepared By: Leonard Padilla (GIS Project Coordinator)  
City of Santa Fe GIS  
200 Lincoln Ave. P.O. Box 909  
Santa Fe, New Mexico 87504-0909  
Coordinate System:  
NAD 1983 StatePlane New Mexico Central FIPS 3002 Feet  
Projection: Transverse Mercator  
Datum: North American 1983  
Disclaimer: This information is for reference only.  
The City of Santa Fe assumes no liability  
for errors associated with the use of these data.  
Users are solely responsible for confirming data  
accuracy when necessary.

# City of Santa Fe, New Mexico

## Exhibit D

### 1. Current Short Term Rental Ordinance with Proposed Changes

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**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2016-\_\_**

**INTRODUCED BY:**

**AN ORDINANCE**

**AMENDING SECTION 14-6.2 OF THE LAND USE DEVELOPMENT CODE TO REMOVE CERTAIN LIMITATIONS ON SHORT-TERM RENTAL DWELLING UNITS; AMENDING THE FEE SCHEDULE FOR A SHORT-TERM RENTAL PERMIT; AND REQUIRING THAT PERMIT HOLDERS PAY ALL APPLICABLE TAXES OR BE SUBJECT TO CERTAIN PENALTIES.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

**Section 1. Subsection 14-6.2 of the Land Use Development Code (being Ord. #2011-37 (as amended)) is amended to read:**

**14-6.2 USE-SPECIFIC STANDARDS**

**(A) Residential Uses**

**(1) Continuing Care Community**

**(a) Density**

Independent *dwelling units* are subject to the *density* standards of the district in which the *continuing care community* is located.

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(b) Compliance with state and federal law  
*Continuing care communities* must comply with all applicable *state* and federal laws and regulations.

(2) Mobile Home, Permanent Installation

In any district in which permanent single-*family* occupancy of a *mobile home* on an individual *lot* is allowed as a special use *permit* by the board of adjustment, the following minimum standards apply:

- (a) the *mobile home* shall be anchored to a concrete foundation and skirted as specified by the *land use director*;
- (b) the rental or lease of *mobile homes* used as single-*family* residences on individual *lots* is prohibited; and
- (c) minimum requirements for *lot size, front, side and rear yards*, and all other standards pertaining to single-*family residential* land use set forth in Chapter 14 apply.

(3) Mobile Home Park

(a) Applicability

New *mobile home parks* are prohibited as of December 10, 2012 (effective date of this Ordinance No. 2012-37). In a district in which *mobile home parks* are allowed, the minimum standards set out in this section apply.

(b) License

Prior to beginning operation, a *mobile home park* owner or operator must obtain a business license from the *city* under the provisions of Article 18-1 SFCC 1987.

(c) Inspection

1                   The *city* may inspect a *mobile home park* for conformance with the  
2                   provisions of this section.

3                   (d)     Transfer of License

4                   The *city* may issue a transfer of the license only after the following:

5                   (i)     *application* in writing for transfer of a license and payment of  
6                   the transfer;

7                   (ii)    an inspection report by the *land use director* has been submitted  
8                   to the *governing body*, stating conformance or nonconformance  
9                   with the provisions of this section;

10                  (iii)   approval by the *governing body*.

11                  (e)     Revocation of License

12                  The *governing body* may revoke a license to maintain and operate a  
13                  *mobile home park*, as provided in Article 18-1 SFCC 1987 when the  
14                  *licensee* has violated any provision of this section.

15                  (f)     Posting

16                  The license certificate shall be conspicuously posted in the office of or  
17                  on the *premises* of the *mobile home park* at all times.

18                  (g)     Standards

19                  *Mobile home parks* shall comply with the standards set forth in  
20                  Subsection 14-7.2(1).

21                  (4)     Manufactured Homes

22                  *Manufactured homes*:

23                  (a)     are permitted in any district in which site-built, *single-family dwellings*  
24                  are allowed;

25                  (b)     shall meet all requirements of other site-built, *single-family dwellings* in

1 the same district and all applicable historic or aesthetic standards set  
2 forth in Chapter 14; and

3 (c) shall be constructed according to the Manufactured Home Construction  
4 and Safety Standards, 24 CFR Section 3280.

5 (5) Short-Term Rental of Dwelling Units – Residentially Zoned Property

6 (a) Dwelling Units

7 *Dwelling units* located on *residentially zoned property* may not be rented  
8 for less than thirty days except as set forth in this Subsection 14-  
9 6.2(A)(5).

10 (b) Short-Term Rental Units

11 *Short-term rental units* are prohibited on *residentially zoned property*  
12 except as provided in this Subsection 14-6.2(A)(5)(b).

13 (i) ~~[An owner may rent the *dwelling unit* that the owner normally~~  
14 ~~resides in for two rental periods within a calendar year. The~~  
15 ~~general provisions set forth in Subsection 14-6.2(A)(5)(c) do not~~  
16 ~~apply and a *permit* is not required.~~

17 ~~[(ii)] i~~ *Short-term rental units* that are operated in compliance with  
18 Subsection 14-6.3(D)(1) (Accessory Dwelling Units) and in  
19 compliance with this Subsection 14-6.2(A)(5)(b)~~[(ii)](i)~~ are  
20 allowed.

21 ~~[(iii)]~~ *Short term rental units* owned by the *property owner* who  
22 resides on a *contiguous lot* and in compliance with this  
23 paragraph are allowed. The operation of the short-term rental  
24 shall cease immediately upon sale of either or both *properties* or  
25 if the *property owner* no longer resides on the *contiguous lot*.]

1           ~~[(iv)]~~ ii *Short-term rental units* located in a *development* containing  
2           resort facilities approved pursuant to a special use *permit* prior to  
3           January 30, 2008, which are owned in common by the *owners*  
4           within the *development*, are allowed. As used in this item,  
5           "resort facility" means any combination of swimming pools, spa  
6           facilities, golf courses, restaurants and tennis facilities. The  
7           general provisions set forth in Subsection 14-6.2(A)(5)(c) shall  
8           not apply except for Item (ix) regarding applicable taxes.

9           ~~[(v)]~~ iii The *land use director* may issue [~~up to three hundred fifty short-~~  
10           ~~term~~] permits as approved by the governing body in an initial  
11           quantity of one thousand rental permits for residential units not  
12           otherwise qualifying for *permits* under Items (i) (ii) [~~(iii) or~~  
13           ~~(iv)]~~ above.

14           ~~[(vi)]~~ iv Whenever the [~~number of~~] demand for short-term rental units  
15           permitted in accordance with Item ~~[(v)]~~ iii above [~~falls below~~  
16           ~~three hundred fifty~~] exceeds one thousand, additional [~~new~~]  
17           permits may be authorized by the governing body and issued by  
18           the *land use director*. New *permits* shall be issued in the order  
19           that qualifying *applications* are received.

20           ~~(vii) — Permit holders who have been issued a permit prior to October~~  
21           ~~14, 2009 are not required to reapply for a permit; provided,~~  
22           ~~however, if the permit expires pursuant to Subsection 14-~~  
23           ~~6.2(A)(5)(d)(x), a new application may be submitted to the land~~  
24           ~~use director in accordance with Item (vi) above.]~~

25           (c) General Provisions

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Unless otherwise stated, the following general provisions apply to *short-term rental units*:

(i) no more than one rental is allowed within a seven consecutive day period;

~~{(ii) *short term rental units* described in Subsection 14-6.2(A)(5)(b)(v) are limited to seventeen rental periods per calendar year;}~~

(ii) short term rental permits will not be issued to allow more than two short term rentals units directly adjacent to each other on a residentially zoned street. The only exception would be for condominiums, apartment complexes and residential compounds;

(iii) *off-street parking* shall be provided on site as follows: 1) one bedroom, one parking space; and 2) two or more bedrooms; two parking spaces

(iv) all applicable building and fire life safety codes shall be met and all toilets, faucets and shower heads shall meet the water conservation requirements described in Section 25-2.6 SFCC 1987;

(vi) occupants shall not park *recreational vehicles* on site or on the *street*;

(iv) Short term rentals will not be permitted to be used for non-residential purposes. This excludes the use of Short Term Rentals Permits for outdoor events, weddings and the like.

(vii) the total number of persons that may occupy the short-term

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- rental unit is twice the number of bedrooms;
- (viii) noise or other disturbance outside the short-term rental unit is prohibited after 10:00 p.m., including *decks, portals, porches, balconies or patios*;
  - (ix) all occupants shall be informed in writing of relevant *city* ordinances, including the *city's* nuisance and water conservation ordinances, by the *owner/operator* of the short-term rental unit.  
All occupants shall comply with all relevant *city* ordinances and comply with all provisions of the lodger's tax ordinance;
  - (x) the *owner/operator* shall pay all applicable local, *state* and federal taxes, including lodgers' tax, gross receipts tax and income taxes;
  - (xi) should the *owner/operator* neglect to pay all applicable taxes, the City shall exercise all enforcement authority permissible under the City Ordinance and any applicable County, State, or Federal law or ordinance.;
  - ~~[(xi)]~~(xii) the *owner/operator* shall make available to the *city* for its inspection all records relating to the operation of the short-term rental unit to determine compliance with this paragraph~~[- The *owner/operator* shall report to the *land use director* on a monthly basis in a format provided by the *land use director*]; and~~
  - ~~[(xii)]~~(xiii) the *owner* shall maintain adequate *property* insurance coverage for the *short-term rental unit*. Proof of insurance shall be required at the time the *permit* is issued and such other times as requested by the *land use director*.

1                    (xiv) should ownership of a short-term rental unit transfer from one  
2                    owner to the other, the short-term rental permit shall revert to the  
3                    land use department. If the new owner wishes to continue using  
4                    the property as a *short-term rental unit*, a new application shall  
5                    be made with the land use department.

6                    (x) the land use department will not issue a short-term rental permit  
7                    for properties that are governed by legally registered covenants  
8                    that do not permit the presence of *short-term rental units*.

9                    (d) Applications

10                    Unless otherwise stated, an *application* for a *permit* for a short-term  
11                    rental shall be submitted to the *city* as follows:

12                    (i)      the *application* shall include the name and phone number of the  
13                    *owner/operator* who is available twenty-four hours per day,  
14                    seven days per week to respond to complaints regarding the  
15                    operation or occupancy of the short-term rental unit as well as  
16                    the name and phone number of *city* staff responsible for  
17                    enforcing this section;

18                    (ii)     the *application* shall include a verified, notarized statement  
19                    signed by the *owner/operator* that the short-term rental shall be  
20                    operated in compliance with this paragraph and all other  
21                    applicable *city* codes and that the operation of the short-term  
22                    rental is in compliance with any applicable private covenants;

23                    (iii) all applicants must submit proof of all required inspections with  
24                    their initial application. Renewal applications for the same  
25                    property may submit proof of all required inspections in the form

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of a notarized statement attesting to self-compliance of all fire, health and safety requirements. The city shall perform random inspections to ensure compliance.

~~[(iii)](iv)~~ prior to issuance of a *permit*, a *certificate of occupancy* is required to ensure compliance with this paragraph and all applicable codes;

~~[(iv)](v)~~ the *permit* is not transferable to another *person* or *property*;

~~[(v)](vi)~~ within ten days of the issuance of the *permit*, the *owner/operator* shall mail notice by first class mail, with certificate of mailing, to the *owners* of *properties* within two hundred (200) feet of the subject *property*, exclusive of *rights of way*, as shown in the records of the *county* ~~[treasurer]~~ assessor, and by first class mail to the physical addresses of such *properties* where such address is different than the address of the *owner* and the land use department. Notice shall be on a form approved by the *land use director*, and shall contain the name and phone number of the *owner/operator* who will be available twenty-four hours per day, seven days per week to respond to complaints regarding the operation or occupancy of the short-term rental as well as the name and phone number of *city* staff responsible for enforcing this paragraph. Copies of all required mailing lists and mailing certificates shall be provided to the *land use director* within ten days of the mailing. Failure to notify neighbors as described will result in the revocation on the

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permit;

~~(vi)~~(vii) each *application* shall be accompanied by a fee of one hundred fifty dollars (~~[\$150]~~ 100) to cover *application* processing and inspections. This application fee is non-refundable.

~~(vii)~~(viii) The annual *permit* fee schedule is as follows:

<b>Annual Permit Fees*</b>	
<b>Short-term Rental Type</b>	<b>Fee per Unit</b>
§14-6.2A(5)(b)(i) — Primary Residence; 2 rental periods per year	<del>[\$ 0.00]</del> <u>\$325.00</u>
§14-6.2A(5)(b)( <del>(ii)</del> ) <u>(i)</u> — Accessory Dwelling Units	<del>[\$175.00]</del> <u>\$325.00</u>
§14-6.2A(5)(b)( <del>(iii)</del> ) <u>(ii)</u> — Unit(s) on Contiguous Lot	<del>[\$175.00]</del> <u>\$325.00</u>
§14-6.2A(5)(b)( <del>(iv)</del> ) <u>(iii)</u> — Resort Units	<del>[\$150.00]</del> <u>\$100.00</u> <u>\$150.00 for entire resort</u>
§14-6.2A(5)(b)( <del>(v)</del> ) <u>(iv)</u> — Residential Units	<del>[\$350.00**]</del> <u>\$325.00**</u>
<u>Initial Application and Processing Fee (one-time)</u>	<u>\$100</u>
*The annual permit fee shall not be prorated for a portion of the year.	
* **If there is more than one short-term rental unit on a lot, the permit fee is <del>[\$140.00]</del> <u>\$350.00</u> for each additional unit.	

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~~[(viii)]~~(ix) The annual fee includes the *city's* business registration fee and inspections related to issuance of the short-term rental *permit*. Revenue from fees imposed pursuant to this paragraph shall be used only to administer, manage, and enforce this section.

~~[(ix)]~~(x) If payment of a *permit* fee was in excess of that for which a *person* was liable, the *person* may claim a refund by directing to the city ~~[treasurer]~~finance director a written claim for refund no later than one year from the date payment was made. Every claim for refund shall state the amount and basis for the claim. The *city* ~~[treasurer]~~finance director may allow the claim in whole or in part or may deny it. If the claim is not allowed in whole, the *person* may appeal the decision pursuant to Section 14-3.17.

~~[(x)]~~(xi) Unless revoked as set forth in Subsection 14-6.2(A)(5)(e), a *permit* holder may renew the *permit* annually. If not renewed by March 15 of each year, the ~~[permit expires]~~ the owner/operator may pay late fee of fifty dollars (\$50) which will permit them an additional 30 days to renew. An *owner* of an expired *permit* may submit a new *application* for a short-term rental *permit* to the *land use director* in accordance with Subsection 14-6.2(A)(5)(b)(vi) subject to availability of *permits* ~~[within the three hundred fifty limit]~~.

~~[(xi)]~~(xii) ~~[The]~~A valid *permit* number shall be included in all advertising of the short-term rental, including listings on web-

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based rental sites.

(e) Violations

- (i) The *land use director* shall document all alleged violations of this paragraph and shall pursue enforcement through the municipal court as set forth in Article 1-3 SFCC 1987 or in another appropriate court of law. Upon conviction of a third violation, the *land use director* shall revoke the *permit* and operation of the short-term rental shall cease within thirty days.
- (ii) An *owner* who offers for rent as a short-term rental a *dwelling unit* that is not permitted for use as a short-term rental is in violation of this paragraph and is subject to penalties, property lines and/or prosecution.
- (iii) An agent who knowingly assists an *owner* in advertising or renting a *dwelling unit* as a short-term rental unit that is not permitted under this paragraph is subject to penalties and prosecution [~~and the agent's business license is subject to revocation~~].
- (iv) An *owner* shall be given ninety (90) days from the date of adoption of this Section to come into compliance of this Section without being subject to penalties and/or fines.

(f) Penalties

- (i) If an *owner* fails to report their lodgers' tax, they shall be subject to the provisions of the Lodgers' Tax Ordinance, Section 18-11.11 SFCC 1987, and shall be subject to revocation of their short term rental permit at the discretion of the *land use director*.

1 (ii) If an owner is found to be operating a short term rental without a  
2 valid permit, they shall be fined an initial five hundred dollars (\$500). If  
3 the owner has not complied with the provisions of Section 14-6.2(A)(5)  
4 within fourteen (14) business days, they shall face a two hundred and  
5 fifty dollar (\$250) fine per day until the violation is corrected, or until  
6 they cease operations. If action is not taken, and violations continue, the  
7 city shall have the authority to place a lien on the property, at the  
8 discretion of the land use director.

9 ~~(f)~~(g) Private restrictive covenants, enforceable by those governed by  
10 the covenants, may prohibit short-term rental units.

11 ~~(g)~~(h) Real estate brokers listing *residential property* in Santa Fe shall  
12 provide prospective buyers a current copy of this ~~paragraph~~ ordinance.

13 ~~(h)~~(i) The *land use director* shall establish administrative procedures  
14 necessary to implement, manage and enforce this paragraph.

15 (6) Short-term Rental of Dwelling Units – Non-residentially Zoned Property

16 Short-term rental of *dwelling units* on non-residentially zoned property is  
17 permitted ~~[as set forth in Table 14-6.1-1]~~ required to register, pay \$100 fee,  
18 inspection and comply with gross receipts tax and lodger's tax.

19 (7) Dwelling Units in Specified Commercial Districts

20 In the C-2 and SC Districts, *dwelling units* do not include *mobile homes* or  
21 *recreational vehicles* and shall be either:

- 22 (a) *accessory dwelling units* for occupancy only by *owners, employees* or  
23 *tenants of nonresidential* uses that are operated on the same *premises*;  
24 (b) part of a planned *development*; or  
25 (c) part of a use for which a *development plan* or special use *permit* is

1 required.

2 (8) Effective Date. The provisions of Article 14-6.2(A)(5) of the Land Use  
3 Development Code shall go into effect immediately upon approval of the governing body with a  
4 ninety (90) day grace period for compliance.

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6 APPROVED AS TO FORM:

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KELLEY A. BRENNAN, CITY ATTORNEY

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25 *M/Legislation/Bills 2016/Short Term Rental Update (nb & rr edits)*

# **City of Santa Fe, New Mexico**

## **Exhibit E**

- 1. Notes from Short Term Rental Meetings  
on January 7 and 28, 2016**
- 2. Public Correspondence (Emails and  
Letters)**

## Short Term Rental Meeting 1/7/16

- Discussed: County vs City dups
- Question: Planning on informal gathering later?
- Question: What does VRBO stand for?
- Question: Rent by owner a site?
- Comment: 52.... # believe zero is missing.....explanation for why the numbers
- Questions: No permits with commercial Zone.....why?
- Question: All Rentals BCD Zone paid taxes....why wouldn't that be changed? When clear that Business' have licenses to change them in different category. Randy: explained to even the plain.
- Comment: Commercial Zone is different issue than Vacation Rentals
- Comment: Coordination important – Not changing zoning. Randy: important to even plain and to track where these rentals area. Noah- compared to other Cities.....times have changed
- Comment: Not sure if this is fair to downtown
- Commercial vs Vacation Rental....feels like a double whammy
- Question: Fees 4000 rooms in Santa Fe? 150 application fee, 500-100 per year license  
What do hotels pay?.....attendee noted it was discrimination
- Comment: 2% of (2) feels as this is wrong, city didn't follow complaints...How will city manage this change/scale? Randy: increase staff and manage need.
- Comment: Home owner should be treated differently
- Comment/Suggestion: 2008 ordinance promised enforcement but never followed through-  
suggestion don't note disclosure
- Question: what is the difference between Short Term Rental vs Long Term Rental? Randy: 30  
day
- Question: definition of a B & B?
- Question: Long Term Rental Suite for Air B&B will City oversees?
- Question: What do we get back from Tourism SF? Randy: money received will go to use.
- Comment: Neighborhoods will not be happy-because if issues such as resale/real estate,  
garbage, **Parking**.
- Question: code- Number of people to a home?
- Comment: Noah-1 year trial
- Comment: Randy-1 year trial but to revisit after one year
- Suggestion: Publish List of rentals
- Comment: One uniform Zone will not work
- Comment: This also effects affordable housing
- Comment: Bushee-2008 Regulation was designed to assist neighborhood and does not see  
Randy's approach. Feels money is the motivator of this new ordinance. Also, noted hotels are  
too expensive and that is why there is need for Vacation Rentals.
- Comments: regarding Neighborhood issues – Noah Comment: numbers of complaint numbers  
do not reflect the complaints people are saying are happening. Also, numbers are in alliance  
with other cities.
- Comment: Cohesion of homes in SF is changing affecting long term rental.
- Question: Randy-ideas/suggestions how to cut 1000 units to 350?
- Comment: Chamber of Commerce-from 2008 to current – technology has changed...
- Suggestion: Tax advantages for a home owner who lives on the property.

- Suggestion: Limit on homes at least 50ft from neighbor. Randy: Density can be looked at in future
- Question: Rentals transferable? Randy: Nontransferable but can stay with property contradictory and that is why we are changing things.
- Question: Exercise to use zoning?
- Question/Comment: opening business permit could level plain field as well. Believe that Lodger's tax is the main objective. Randy: yes, to get all legal.
- Question: what about hospitality?
- Comment: Affordable Housing mention again and how this will be affected
- Comment: B&B name tarnished from past ordinances.
- Question: where can additional comments go to? Randy.
- Question: don't you think the penalties are too strict? Randy-Yes it was designed to enforce – This is the treat of penalty.
- Question: How many professional management agencies? And should we manage in the same regards?
- Question: Should the ones not in compliance be part of the ordinances?
- Penalty 500/300 a day after 14 days is that excessive? Randy: Yes, to get Vacation Rentals Legal
- Suggestion: Remove Cap
- Suggestion: Stricter Standards...don't understand resistance not to pay lodgers tax
- Comment: Properties are purchased for short term rental....creating in fluctuation
- Suggestion: 1000 Cap suggested
- Question: will this task being under Tourism SF? Randy - No under land use but one person to manage will report to Tourism Santa Fe.

**Short Term Rental Meeting - Minutes**  
**1/28/16**

Randy- Introduction to include definition of rooms, taxes, analysis sheet, changes from last meeting, and cost of penalties and permits.

Audience - asked for an explanation of one per week and noted that it would be hard to manage. suggested 2 per week would be better.

Stephanie Benito- Configuration of Short term rentals (Small to Large), opposed to taxes, create zone, contract to clear sidewalks

Randy- noted that no lodger's pay lodger's taxes it is the guests who pay.

Randy - Explanation of exemption – under 3 rooms = City Attorney to determine

Audience- quests will not come to SF due to cost – slippery sloop – government being involved.

Audience- (Burke) Data of complaints to low. When you buy a home you expect to be in a neighborhood with other houses. Density by block and still call it a neighborhood.

Randy – Overlay of density (agree) wait for data-inventory.

Karen Hyldemyer – Discussion on neighbor rules, No more than 5 unrelated in a home, exempt of rooms /air B&B how will you inforce?

Randy- Air B&B to sign agreement/deal.

Karen Hyldermyer – worried about enforcement and loop holes.

Randy- Better but not perfect.

Rental Property owner- Remember this is to affect us ALL and our neighborhoods.

Audience- Where is the County in this?

Randy- County is waiting to see what we do

Audience- By law no short term rentals. Randy to address on Application “Acknowledge” no short Term Rentals. House sold permit shall not be transferable

Noah – Defined home owner assoc. and neighborhood Assn.

Stephanie Benito - Single in house and Single unit rental Management companies OK gross receipt tax NOT Lodgers Tax

Randy- Lodgers Tax state law

Audience- Suggestion – no permit for a small number?

Randy- restrictions on ordinance didn't work last time – best if we know they exist.

Audience – 325.00 fee is steep for 1<sup>st</sup> timer. What about 250.00?

Randy – Budget Downfall

Noah – clarified 2 adults/2 people

Audience- #18 on Analysis (Current Permits/Short Term use will be grandfathered in) – why not a percentage of streets can handle.

Noah – write you councilors

Randy – Good thought/point

Audience- How do you determine who gets this or not?

Audience- Condo Assoc.?

Noah – change Bi laws

Audience- Suggestion – city different why not follow other cities....be city different.

Audience- advertisement – where are you on application – number of parking spaces

Audience- Insurances do not cover these people – point is you have certain responsibilities

House Keeper- for air B&B and rentals will be good thing for everyone at the end.

Air B&B host- 80 years in Santa Fe want to pay taxes

25 year Santa Fean/Vacation Rental owner – notes her application for permit in process and believe taxes are part of doing business., insurance is a must, responsible for rules, traveler enjoy renting from us because they are Truly experiencing Santa Fe living. Support the ordinance.

Licensed Permit Holder- B&B is afraid to show up to these meetings. Discussed the type of people that come to Santa Fe. Fees going up 325.00 is a big thing.

Discussion- of startup, renewal fees (dwelling/Commercial)

Air B&B Host- wanted to note that they Love their neighborhood and sympathize with neighborhoods plagued with bad behavior or bad guests.

Randy- Separates this problem as two issues Bad quest and effect of neighborhood (annoyance)

Audience- Suggest city ordinances printed on Sheet of paper.

Randy- If we know who are rentals we know who to give them to.

Santa Fean of 44 years and 36 years as vacation rental owner – noted type of people that visit Santa Fe, repeat quests. Hope that this information is relayed to Councilors. Feels that V/R are ambassadors for visitors.

Santa Fean of 22 years & on Historic Assoc. – big difference owner vs. Vacation Rental

Kurt Hill- 1000 unit limit.....350.00 permit wait list....permit for dwelling?

Randy – explained late fee's.....Notice sent by City.

Noah - Penalty/Violations in-line with standard

November 2, 2015

To: Members of Chamber of Commerce Short Term Rentals Committee

I have spoken with a number of interested parties and the current situation/sentiment is as follows:

AIRBNB, VRBO, etc. is a reality and it is a growing industry. It is especially popular in towns and cities that have "walkability" i.e. houses are in close vicinity of downtown/areas of interest. Santa Fe has approximately 1,200+/- houses/homes listed on various websites including the 350 "legal/registered" units plus 600+/- AIRBNBS units, etc. Included in the Santa Fe short term rental ordinance is a limitation of 17 rentals per annum with an additional limitation of only one arrival per week!! Communities including San Francisco, Asheville, North Carolina, New York, etc. are pursuing various options.

I enclose some "bedtime reading" on studies with "challenges and solutions" with the telling final sentence - "there doesn't yet seem to be a definitive solution!!" - also enclosed are some newspaper articles.

The initial suggested solution for Santa Fe at this time is as follows:

1. Remove cap on permitted licenses from the current 350 to "unlimited" for a period of 12 months.
2. Require all homeowners to register with an annual fee of \$35 - this will provide \$350,000+/- to cover inspections, management and enforcement.
3. All homes will require a fire (and possible health?) inspection to obtain registration.
4. A license lapses on the sale of a house - cannot be transferred - this would be a modification to the existing ordinance.
5. An official license will authorize/limit the number of parking spaces/cars permitted.
6. Trash collection and the number of trash bins allowed per household needs to be determined.

It is my understanding that AIRBNB in discussion with the City has tentatively agreed to collect and remit the 7% Lodger's Tax to the City.

AIRBNB has also tentatively agreed to remit Gross Receipts Tax (8.3125%) to the homeowners to forward to the state, which in turn will require homeowners to obtain a business license!

All past transgressions will be forgiven, but failure to comply with these new regulations effective \*a date to be determined\* will bring about a fine of \$500 per week.

November 2, 2015

Page 2

We still have the problem with the State Legislature as current code on the books does not require homeowners to charge/collect taxes if they have three rooms or less! The interpretation of three rooms is vague/misleading and could mean kitchen, bedroom (X1) and sitting dining room and not specifically X3 bedrooms.

All of the above apart, it is time to have a gathering of this committee. I am proposing 4pm on Thursday, November 12<sup>th</sup>. Please reply ASAP.

Many thanks,

Paul Margetson  
Committee Short Term Rentals Chair

## BERKE, NOAH L.

---

**From:** RANDALL, RANDY  
**Sent:** Wednesday, February 03, 2016 4:00 PM  
**To:** BERKE, NOAH L.  
**Subject:** FW: Short term rentals

---

### RANDY RANDALL

EXECUTIVE DIRECTOR

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**From:** suzscapes [mailto:[suzscapes@gmail.com](mailto:suzscapes@gmail.com)]  
**Sent:** Tuesday, February 02, 2016 6:21 PM  
**To:** RANDALL, RANDY; Sue Marquez  
**Subject:** RE: Short term rentals

Thanks Randy. I will repeat that I am opposed to short term rentals in residential neighborhoods as they will eventually destroy the fabric of the city which is comprised of the stalwart, caring local residents who are vested in their homes. There is a definite element regarding maintenance, too. If the city must tolerate them, at least regulate them, requiring inspections annually and requiring a valid property manager, not someone out of state seeking a tax writeoff. Keep them out of residential neighborhoods. I was very touched by the testimony of the downtown owners who are now surrounded by tourists, including one 20 year resident who now has no permanent neighbor on her street any more. Yes, people are being chased out of down town. I am looking for a neighborhood which forbids short term rentals in its CC@Rs. Would I recommend the city partner with airbnb? Absolutely not. It would be a desperate act to earn revenues.

Sent from my Galaxy Tab® A

----- Original message -----

From: "RANDALL, RANDY" <[rrandall@ci.santa-fe.nm.us](mailto:rrandall@ci.santa-fe.nm.us)>

Date: 02/02/2016 5:43 PM (GMT-07:00)

To: suzscapes <[suzscapes@gmail.com](mailto:suzscapes@gmail.com)>

Subject: RE: Short term rentals

Thanks for sharing. From the reading of your email, your purchase was indeed an unfortunate experience, but not necessarily related to short term rentals. From discussion with many of the rental management companies in the city, your situation is not typical of what is offered. I am not a defender of Short Term Rentals. I am, however, a realist and understand that a situation has been allowed to grow without the proper oversight and regulation. That is something we, as a city, can and should do something about. If short term rentals was something that was unique to Santa Fe, we could probably make it go away. To the contrary, it is described in a national hotel trade publication as a paradigm shift in how the public travels and is something that is better managed than resisted.

Anyway, as I said, thanks for sharing and I certainly am sorry about your own situation in purchasing a property that was not well maintained, without regard to its prior use.

Please let me know if you would like to discuss further as I am not sure there is much we can do to address your situation.

Randy

---

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**From:** suzscapes [mailto:suzscapes@gmail.com]  
**Sent:** Tuesday, February 02, 2016 12:06 PM  
**To:** RANDALL, RANDY; Sue Marquez  
**Subject:** Short term rentals

Randy,

Thank you for returning my call. Unfortunately I did not find a meeting notice for the meeting of last week on short term rentals as I had planned to attend.

I recently bought a property used as a short term rental for 12 years to use as my permanent home. The property inspector failed to reveal that it needs 50k in renovations and I paid a premium for it. The best way to describe it is that nothing worked either outside or inside the house and there was no landscaping but an out of control wisteria that took over every surface of the front of the house so I could barely squeeze through the front gate. In 15 months I have done nothing but pour money into this money pit sold to me by out of state owners who allowed the property to deteriorate for years. Claiming they self managed it, they were simply ignoring repairs and raking in the cash, taking income tax deductions while using it as a hotel. The roof is leaking and after 15 roof inspections I am told the roof is shot and cannot be repaired. The inspector whom I paid \$400 did not inform me that it needed replacement. In addition, he failed to reveal that another house he inspected was uninhabitable! But for a quirk of fate, I would be the owner and endure 6 months of rebuilding an uninhabitable house while engaging in court proceedings. The inside of the home I bought was so filthy that I felt great sympathy for all the renters who paid thousands in rent for their dream vacation only to discover that they had booked a filthy dump, sight unseen, over the Internet and have no recourse. In the mean time the owner next door who rents that property is threatening to sue me because apparently she did not successfully sue the previous owner of 12 years.

Let me tell you, those of us residing in residential neighborhoods do not want hotels next door to us and that is what a short term rental is, a hotel.

The idea that the City would inspect them yearly is not credible because even so called licensed building inspectors do a terrible job in this City. In the mean time, residential neighborhoods deteriorate and neighbor. In essence, former residential neighborhoods are consist of nothing but temporary occupant strangers who care nothing about the properties they occupy.

It appears that the City is bent on destroying itself by destroying residential neighborhoods. Only permanent residents lovingly care for the exterior landscape of their homes. Landlords and tenants destroy them. Is this what the City wants?

Turning over tax collection to airbnb is a revolting idea, inviting further destruction of existing housing inventory, inviting scandal on the scale of San Francisco.

Sue Marquez

(562) 544-2844

Sent from my Galaxy Tab® A



February 2, 2016

Dear Senators and Delegates,

The hotel industry, with roughly 45,000 employees in Virginia at nearly 1,500 properties statewide, urges support for legislation that fairly and effectively levels the playing field between our members and short-term rentals (STR) offered through online platforms such as Airbnb. Legislation offered by Sen. Bill DeSteph (SB 751) and Del. Scott Taylor (HB 1268) are reasonable solutions that our industry supports. STR companies and hosts should have to follow the same basic rules as the rest of the industry in order to protect guests and support their communities.

If Virginia is going to establish rules for Airbnb and other STR companies, a system should be established that makes it possible to enforce those rules. Enforcement of those rules can only happen if prolific hosts register as a business, which will generate trackable data. Without the registration and data collection, the rules are unenforceable. Simply put, the honor system proposed under SB 416 (Vogel) and its companion bill HB 812 (Peace) won't work. They do not provide for a transparent process to verify that the correct taxes are being paid and hosts are in fact registering.

Local governments must also have the ability to determine business activities in their jurisdiction, and at a minimum put in place a way for local governments to ensure they are receiving the right amount of taxes and that rules associated with quiet enjoyment of property and safety are enforced. Unfortunately, the Vogel/Peace legislation takes communities out of that process by preempting their authority to regulate these lodging businesses.

No longer a way for homeowners to make ends meet by renting out a spare room or garage apartment, a growing number of hosts are using STRs to operate unregulated, full-time businesses. In fact, a recent study by the Pennsylvania State University, which used the largest player in this market by far, Airbnb, as a proxy for the industry, revealed an explosion of multi-unit operators, who account for nearly 40 percent of the total revenue of Airbnb.<sup>1</sup> Full-time hosts, those renting out their units 360+ days a year, accounted for \$325 million in revenue for Airbnb. The study made it abundantly clear that STRs are becoming increasingly dominated by full-time corporate landlords, intent on skirting tax laws and flouting health and safety standards.

We believe competition is the hallmark of the lodging industry; in fact we embrace and thrive in a highly competitive marketplace. We are constantly exploring new ways to

improve the guest experience, promote innovation, drive growth and increase jobs – but it must be done on a level playing field and in a legal manner that safeguards consumers. SB 751 and HB 1268 take necessary steps to ensure that STR companies and the unregulated commercial businesses they are facilitating follow the law and protect consumer safety and, the character and security of residential neighborhoods, as well as meet their tax and regulatory obligations.

Sincerely,

American Hotel & Lodging Association

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<sup>i</sup> [http://www.ahla.com/uploadedFiles/Common/pdf/PennState\\_AirBnbReport\\_.pdf](http://www.ahla.com/uploadedFiles/Common/pdf/PennState_AirBnbReport_.pdf)

## BERKE, NOAH L.

---

**From:** RANDALL, RANDY  
**Sent:** Wednesday, February 03, 2016 4:00 PM  
**To:** BERKE, NOAH L.  
**Subject:** FW: URGENT RESPONSE REQUESTED: Virginia Short-term Rental Letter  
**Attachments:** AHLA Member Group Letter VA.docx

---

### RANDY RANDALL

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**From:** Troy Flanagan [<mailto:tflanagan@ahla.com>]  
**Sent:** Monday, February 01, 2016 4:37 PM  
**Cc:** Madeline Lee; Craig Kalkut; Vanessa Sinders  
**Subject:** URGENT RESPONSE REQUESTED: Virginia Short-term Rental Letter

Dear Members,

As you may know, the Virginia General Assembly is considering several pieces of legislation during its ongoing session that address the proliferation of short-term online rentals. Two of the bills are being advanced by Airbnb, seeking to codify that platform's preferred method of tax collection and remittance while preempting local governments from further regulation of their business model. Two bills supported by AH&LA, our Partner State Association and other allied groups would go further in leveling the playing field between the legitimate hotel industry and the commercial activity taking place on sites like Airbnb.

In recent days, local governments have begun speaking out against the Airbnb-backed legislation:

[Editorial: A fair proposal to regulate online rentals](#)

[Williamsburg officials lobby against Airbnb bills](#)

In addition to the statehouse lobbying, public relations support and an AH&LA "Call to Action" that was distributed earlier today, we feel our efforts to advance strong legislation would be aided by a letter to legislators from Virginia-based members, key properties and national brands with strong in-state presences. To that end, please see the attached

sign-on letter we plan to submit to members of the Virginia General Assembly tomorrow. **Please let us know by 2pm Tuesday, Feb. 2 if your company will cosign this letter.**

Let us know if you have any questions. And thanks in advance for your consideration.

**Troy Flanagan** | Vice President, State & Local Government Affairs | American Hotel & Lodging Association | 1250 I Street, NW, Suite 1100, Washington, DC 20005

Direct: 202-289-3125 | Cell: 202-285-4371 | [tflanagan@ahla.com](mailto:tflanagan@ahla.com)



**BERKE, NOAH L.**

---

**From:** RANDALL, RANDY  
**Sent:** Wednesday, February 03, 2016 3:59 PM  
**To:** BERKE, NOAH L.  
**Subject:** FW: Quite a few articles

RANDY RANDALL  
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-----Original Message-----

From: Bruce Kuehnle [<mailto:casitas@swcp.com>]  
Sent: Friday, January 22, 2016 12:25 PM  
To: RANDALL, RANDY  
Subject: Re: Quite a few articles

\$ 100 per unit

Who will have to pay ?

Condos like Fort Marcy?

Bed and Breakfasts ?

Hotels ?

Is that per business or per unit in the business ?

On 1/22/2016 11:10 AM, RANDALL, RANDY wrote:

> We are - it is just not a part of this discussion and would only confuse the issue. This is tough enough as it is! We have convinced land use, by the way, to go back to not requiring commercial zoning STR's not to be permitted - just registered with a onetime \$100 per unit registration fee.

>

> Randy



## BERKE, NOAH L.

---

**From:** RANDALL, RANDY  
**Sent:** Wednesday, February 03, 2016 3:59 PM  
**To:** BERKE, NOAH L.  
**Subject:** FW: ....looks like Javier might be getting an earful about AirBnB

---

### RANDY RANDALL

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**From:** John Smallwood [<mailto:jsmallwood@traveloutlook.com>]  
**Sent:** Thursday, January 21, 2016 4:01 PM  
**To:** RANDALL, RANDY  
**Subject:** ....looks like Javier might be getting an earful about AirBnB

<http://www.nytimes.com/2016/01/22/technology/airbnb-takes-its-case-to-us-mayors-conference.html?hpw&rref=business&action=click&pgtype=Homepage&module=well-region&region=bottom-well&WT.nav=bottom-well&r=0>

John Smallwood  
[jsmallwood@traveloutlook.com](mailto:jsmallwood@traveloutlook.com)  
Mobile: 505-470-3241

**BERKE, NOAH L.**

---

**From:** RANDALL, RANDY  
**Sent:** Wednesday, February 03, 2016 3:59 PM  
**To:** BERKE, NOAH L.  
**Subject:** FW: Airbnb accused of listing many illegal properties: Travel Weekly

RANDY RANDALL  
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-----Original Message-----

From: Jen Schroer [<mailto:jen@newmexicohospitality.org>]  
Sent: Thursday, January 21, 2016 8:59 AM  
To: RANDALL, RANDY  
Subject: Airbnb accused of listing many illegal properties: Travel Weekly

FYI...

<http://www.travelweekly.com/Travel-News/Hotel-News/Airbnb-accused-of-listing-many-illegal-properties#.VqD5um2q1Ls.email>

Short n' sweet from my iPhone.

**BERKE, NOAH L.**

---

**From:** RANDALL, RANDY  
**Sent:** Wednesday, February 03, 2016 3:58 PM  
**To:** BERKE, NOAH L.  
**Subject:** FW: in case you missed it....

---

**RANDY RANDALL**

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**From:** John Smallwood [<mailto:jsmallwood@traveloutlook.com>]  
**Sent:** Thursday, January 21, 2016 5:58 AM  
**To:** RANDALL, RANDY  
**Subject:** in case you missed it....

<http://www.businesstravelnews.com/Lodging/AH-LA-Airbnb-Gains-From-Illegal-Hotel-Operators>

John Smallwood  
[jsmallwood@traveloutlook.com](mailto:jsmallwood@traveloutlook.com)  
Mobile: 505-470-3241

## BERKE, NOAH L.

---

**From:** RANDALL, RANDY  
**Sent:** Wednesday, February 03, 2016 3:58 PM  
**To:** BERKE, NOAH L.  
**Subject:** FW: Short-term rentals

---

### RANDY RANDALL

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**From:** Mary-Charlotte Domandi [mailto:mcdomandi@gmail.com]  
**Sent:** Friday, January 29, 2016 1:43 PM  
**To:** RANDALL, RANDY  
**Subject:** Re: Short-term rentals

Thank you for writing back.

I see the bind you're in. Honestly, I don't fully understand the perspective of those opposing short-term rentals, and am not sure that they were represented at the meeting last night. It will be interesting to see what evolves. If I can be of any help as this goes forward, please let me know.

Also let me know if you would like to discuss doing a radio program on tourism. As you may know, I host a daily interview show on KSFR.

Best,  
MC

On Jan 29, 2016, at 9:20 AM, RANDALL, RANDY wrote:

Thank you for the most thoughtful communication on short term rentals. The mission is to keep it simple, but since we are dealing with an existing ordinance, every point in that document must be reviewed and considered. And it is anything but simple – therefore the lack of ability to enforce with a staff of one. The current price for a standard permit is \$350 per year plus a \$150 application fee. The proposed price is \$325 per year with a \$100 application fee. We will

take a further look at this, but I fear there is not a lot of elasticity in what we need to charge to do the job. That is the current problem – to much regulation and too little staffing. But we will look at it.

Your note covers a lot and brings in a lot of clarity. Those against Short Term Rental growth will not agree with some of the thoughts, but most seem right on and should be (but will not be) indisputable.

Thanks for your interest and putting your thoughts on paper.

Randy

<image001.png>

**RANDY RANDALL**

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<image002.jpg><image003.jpg><image004.jpg><image005.jpg><image006.jpg><image007.png>

<image008.jpg><image009.png>

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**From:** Mary-Charlotte Domandi [<mailto:mcdomandi@gmail.com>]

**Sent:** Thursday, January 28, 2016 11:03 PM

**To:** RANDALL, RANDY

**Cc:** BERKE, NOAH L.

**Subject:** Short-term rentals

Thank you for moderating the discussion on the Short Term Rental Ordinance, and for being so open to community concerns.

Here are some thoughts I've had. Please feel free to share them with the City Council and any other concerned parties.

**Overview:**

- Any rental ordinance should address two main areas:

1. **Bring fair tax revenue to the city**, making sure that the ordinance generates more tax revenue than it costs in enforcement and regulation.

2. **Fix substantive problems**, such as violations of the noise ordinance, problems with trash, and disturbances of this nature.

It should *not* try to address subjective concerns like the “feel” of the neighborhood, or “people coming and going.” The fact is that you talk forever about how a neighborhood feels, or “should” feel, and never reach any agreement. Long-term residents and renters also come and go every day, and some residents are less neighborly than the short-term guests. Some people think we should all mingle with our neighbors; others want keep to themselves. All this is beyond the purview of the law. It is significant that the total number of actual “nuisance” complaints over the last eight years, according to your Jan. 22, 2016 memo, has been seven—less than one per year, out of many thousands of nights of rentals.

• **Short-term rental landlords should not have vastly more stringent regulations than long-term landlords.** It seems punitive to require a much higher bar for one group than the other. I'm not sure what the assumption is here. It is not clear to me that short-term rental landlords earn more income per year than long-term landlords; I suspect that it's actually the opposite in many cases, as short-term rentals are often empty in the off-season.

• **An ordinance should aim to spend the least amount of city money possible on enforcement.** A badly written or overly strict ordinance will cost the city unnecessary money and will miss possible revenue sources. Enforcement focus should be primarily on dealing with nuisance situations that disturb the peace of the neighborhood, and not bureaucratic minutiae or subjective concerns.

To put it another way: make it easy for people to enter the system and pay taxes into it. Minimize enforcement, punishments, and fines; maximize participation. *In the current budget reality, the city cannot afford for this ordinance to cost more money than it generates.*

### **Cost of Permit:**

The \$325 annual cost of the rental license seems, from the feedback I heard at the meeting, to be a disincentive to participation for many. I know that you said that it represents the cost of running the department. I would respond in two ways. First: bring down the cost of running the department by minimizing unnecessary provisions and regulations (more on this below). Second: Think about this as a price point problem: i.e. how much money are you losing because people are operating without a permit because of the high permit cost? In order to maximize permit revenue, I would suggest that you survey the market and see what price point would generate the maximum amount of buy-in. It is not lost on potential short-term landlords that the permit price is almost ten times as high as that of a regular business license.

If you keep the price high, you run the following risk: people will continue to stay out of the system. They you'll spend a lot of man-hours on enforcement and charge fines. People will become resentful and you'll have a hard time collecting. They could decide not to do business, which would lower potential tax revenue. The whole thing could be a downward spiral. Instead, it makes sense to bring them into the system, charge a lower price and regulate as little as possible, while collecting taxes.

That said, I would suggest that if you keep the \$325 permit fee, then allow an exemption for people who rent their property for fewer than a specified number of nights per year. (See below\*) You said that this would be difficult to enforce. However it is just as hard, if not harder, to enforce the current situation, in which a large number of people fly under the radar. If they are in the system but exempt from the fee, the city will still collect taxes.

(\* You can calculate the break-even point by dividing \$325 by average price per room plus lodgers tax and GRT. Then add a few nights so that the owner can make some specified amount, say \$500 per year, without paying a permit fee. My rough calculations put this at something like 10 or 15 nights per year.)

### **Number of arrivals per week/minimum night stay:**

The vast majority of attendees at the meeting thought there should be no limit on arrivals per week, nor a minimum number of nights permitted. I think you will find that regulation here is unnecessary, and here is why: very few landlords will want to make beds and do laundry every night. It is in their interest to have three- and five- and ten-day rentals, which is also what most renters want. In fact many Airbnb renters specify their own minimum night stays. However, if there is an unusual opportunity for a high-turnover week, landlords should be allowed to take advantage of it. The landlord will have more work, and the neighbors will notice only a different car outside the residence each day, if they notice anything at all. And in any case it will never be the norm.

It was brought up, and I think it is true, that people staying for only a night or two tend to stay at a hotel or motel, whereas people seeking a home or casita rental are here for a Santa Fe experience, which is more than a day or two.

### **Quotas:**

It was suggested that there be a limit on percentage of short-term rental properties per area. I am not sure what problem you are trying to solve by doing this. It seems to me that you're dealing with subjective issues here. Some will say that an area with more short-term than long-term rentals doesn't "feel" like their old neighborhood. Other will say that their short-term renters are wonderful people who come back every year and contribute to the neighborhood and to the economy and life of the city.

If you go down the quota road, you have the problem of deciding who gets permits and who doesn't, and on what basis, not to mention what constitutes an "area." I would recommend not having quotas, as it opens up a giant regulatory can of worms, and does not appear to solve any definable problem.

### **Neighborhood Associations:**

Neighborhood associations (a distinct from homeowners associations) should have NO say in whether short-term rentals are allowed in their neighborhood. Neighborhood associations are voluntary associations that encompass a subset of any entire neighborhood, and do not have legal standing. They are wonderful for organizing, but I believe that your attorneys will confirm that their bylaws do not have the force of law and cannot supersede municipal ordinances.

Homeowners associations with legal covenants can do whatever they want, and it is their duty to enforce their own covenants; I believe the city should have nothing to do with this. Your attorney will weigh in on this.

### **Comments on the Recommendations for a "New Approach" memo:**

I believe that some of the requirements in the new set of recommendations on the memo are overly strict and punitive toward short-term rental owners, and would discourage participation. Do you require home inspections and courses in "hospitality industry" for long-term landlords? My sense is that you are creating way too much work for city employees, and wasting a lot of city money. A thousand permits means a thousand house inspections. Course requirements means instructors for a thousand students. How many new employees will you need, and how much will that cost the city compared to the revenue it brings in? It looks to me like a giant loss of city cash, toward the end of trying to solve a problem that it is not clear even exists. Have there been any kitchen fires at short-term rentals? Other health problems? Have you compared such problems, if there even are any, to long-term rental properties?

Keep in mind that **there is a self-regulating aspect to short-term rentals** that long-term rentals don't have: landlords are incentivized to have their houses be in excellent working order because their entire business lives or dies on the basis of on-line reviews. If their bathrooms or kitchens are dirty or unsafe, you can be sure that their renters will give them a bad review.

If you want to make sure that landlords have fire extinguishers, include such things on the list of responsibilities.

Here's what I would suggest:

- An application comparable to that of a business license for a home business.
- A signed acknowledgment of landlord responsibilities.
- A permit price point calculated to bring in maximum buy-in.
- 1000 permits but if there is more demand then more permits without a long bureaucratic process.

- Lodgers tax and GRT should conform to the existing city and state laws--no more, no less.
- To address the problem of irresponsible landlords and nuisance tenants, there should be language in the ordinance that states the conditions under which the permit will be withdrawn: e.g. a specified number of verified complaints about noise, trash, and whatever other problems are of real concern to neighbors.

Final thought: **Keep it simple.**

Thank you for your consideration.

Sincerely,

Mary-Charlotte Domandi

**BERKE, NOAH L.**

---

**From:** RANDALL, RANDY  
**Sent:** Wednesday, February 03, 2016 3:58 PM  
**To:** BERKE, NOAH L.  
**Subject:** FW: Short-term rentals

---

**RANDY RANDALL**

EXECUTIVE DIRECTOR  
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**From:** Mary-Charlotte Domandi [mailto:mcdomandi@gmail.com]  
**Sent:** Thursday, January 28, 2016 11:03 PM  
**To:** RANDALL, RANDY  
**Cc:** BERKE, NOAH L.  
**Subject:** Short-term rentals

Thank you for moderating the discussion on the Short Term Rental Ordinance, and for being so open to community concerns.

Here are some thoughts I've had. Please feel free to share them with the City Council and any other concerned parties.

**Overview:**

- Any rental ordinance should address two main areas:

1. **Bring fair tax revenue to the city**, making sure that the ordinance generates more tax revenue than it costs in enforcement and regulation.

2. **Fix substantive problems**, such as violations of the noise ordinance, problems with trash, and disturbances of this nature.

It should *not* try to address subjective concerns like the “feel” of the neighborhood, or “people coming and going.” The fact is that you talk forever about how a neighborhood feels, or “should” feel, and never reach any agreement. Long-term residents and renters also come and go every day, and some residents are less neighborly than the short-term guests. Some people think we should all mingle with our neighbors; others want keep to themselves. All this is beyond the purview of the law. It is significant that the total number of actual “nuisance” complaints over the last eight years, according to your Jan. 22, 2016 memo, has been seven—less than one per year, out of many thousands of nights of rentals.

• **Short-term rental landlords should not have vastly more stringent regulations than long-term landlords.** It seems punitive to require a much higher bar for one group than the other. I’m not sure what the assumption is here. It is not clear to me that short-term rental landlords earn more income per year than long-term landlords; I suspect that it’s actually the opposite in many cases, as short-term rentals are often empty in the off-season.

• **An ordinance should aim to spend the least amount of city money possible on enforcement.** A badly written or overly strict ordinance will cost the city unnecessary money and will miss possible revenue sources. Enforcement focus should be primarily on dealing with nuisance situations that disturb the peace of the neighborhood, and not bureaucratic minutiae or subjective concerns. To put it another way: make it easy for people to enter the system and pay taxes into it. Minimize enforcement, punishments, and fines; maximize participation. *In the current budget reality, the city cannot afford for this ordinance to cost more money than it generates.*

#### **Cost of Permit:**

The \$325 annual cost of the rental license seems, from the feedback I heard at the meeting, to be a disincentive to participation for many. I know that you said that it represents the cost of running the department. I would respond in two ways. First: bring down the cost of running the department by minimizing unnecessary provisions and regulations (more on this below). Second: Think about this as a price point problem: i.e. how much money are you losing because people are operating without a permit because of the high permit cost? In order to maximize permit revenue, I would suggest that you survey the market and see what price point would generate the maximum amount of buy-in. It is not lost on potential short-term landlords that the permit price is almost ten times as high as that of a regular business license.

If you keep the price high, you run the following risk: people will continue to stay out of the system. They you'll spend a lot of man-hours on enforcement and charge fines. People will become resentful and you'll have a hard time collecting. They could decide not to do business, which would lower potential tax revenue. The whole thing could be a downward spiral. Instead, it makes sense to bring them into the system, charge a lower price and regulate as little as possible, while collecting taxes.

That said, I would suggest that if you keep the \$325 permit fee, then allow an exemption for people who rent their property for fewer than a specified number of nights per year. (See below\*) You said that this would be difficult to enforce. However it is just as hard, if not harder, to enforce the current situation, in which a large number of people fly under the radar. If they are in the system but exempt from the fee, the city will still collect taxes.

(\* You can calculate the break-even point by dividing \$325 by average price per room plus lodgers tax and GRT. Then add a few nights so that the owner can make some specified amount, say \$500 per year, without paying a permit fee. My rough calculations put this at something like 10 or 15 nights per year.)

#### **Number of arrivals per week/minimum night stay:**

The vast majority of attendees at the meeting thought there should be no limit on arrivals per week, nor a minimum number of nights permitted. I think you will find that regulation here is unnecessary, and here is why: very few landlords will want to make beds and do laundry every night. It is in their interest to have three- and five- and ten-day rentals, which is also what most renters want. In fact many Airbnb renters specify their own minimum night stays. However, if there is an unusual opportunity for a high-turnover week, landlords should be allowed to take advantage of it. The landlord will have more work, and the neighbors will notice only a different car outside the residence each day, if they notice anything at all. And in any case it will never be the norm.

It was brought up, and I think it is true, that people staying for only a night or two tend to stay at a hotel or motel, whereas people seeking a home or casita rental are here for a Santa Fe experience, which is more than a day or two.

### **Quotas:**

It was suggested that there be a limit on percentage of short-term rental properties per area. I am not sure what problem you are trying to solve by doing this. It seems to me that you're dealing with subjective issues here. Some will say that an area with more short-term than long-term rentals doesn't "feel" like their old neighborhood. Other will say that their short-term renters are wonderful people who come back every year and contribute to the neighborhood and to the economy and life of the city.

If you go down the quota road, you have the problem of deciding who gets permits and who doesn't, and on what basis, not to mention what constitutes an "area." I would recommend not having quotas, as it opens up a giant regulatory can of worms, and does not appear to solve any definable problem.

### **Neighborhood Associations:**

Neighborhood associations (a distinct from homeowners associations) should have NO say in whether short-term rentals are allowed in their neighborhood. Neighborhood associations are voluntary associations that encompass a subset of any entire neighborhood, and do not have legal standing. They are wonderful for organizing, but I believe that your attorneys will confirm that their bylaws do not have the force of law and cannot supersede municipal ordinances.

Homeowners associations with legal covenants can do whatever they want, and it is their duty to enforce their own covenants; I believe the city should have nothing to do with this. Your attorney will weigh in on this.

### **Comments on the Recommendations for a "New Approach" memo:**

I believe that some of the requirements in the new set of recommendations on the memo are overly strict and punitive toward short-term rental owners, and would discourage participation. Do you require home inspections and courses in "hospitality industry" for long-term landlords? My sense is that you are creating way too much work for city employees, and wasting a lot of city money. A thousand permits means a thousand house inspections. Course requirements means instructors for a thousand students. How many new employees will you need, and how much will that cost the city compared to the revenue it brings in? It looks to me like a giant loss of city cash, toward the end of trying to solve a problem that it is not clear even exists. Have there been any kitchen fires at short-term rentals? Other health problems? Have you compared such problems, if there even are any, to long-term rental properties?

Keep in mind that **there is a self-regulating aspect to short-term rentals** that long-term rentals don't have: landlords are incentivized to have their houses be in excellent working order because their entire business lives or dies on the basis of on-line reviews. If their bathrooms or kitchens are dirty or unsafe, you can be sure that their renters will give them a bad review.

If you want to make sure that landlords have fire extinguishers, include such things on the list of responsibilities.

Here's what I would suggest:

- An application comparable to that of a business license for a home business.
- A signed acknowledgment of landlord responsibilities.
- A permit price point calculated to bring in maximum buy-in.
- 1000 permits but if there is more demand then more permits without a long bureaucratic process.
- Lodgers tax and GRT should conform to the existing city and state laws--no more, no less.
- To address the problem of irresponsible landlords and nuisance tenants, there should be language in the ordinance that states the conditions under which the permit will be withdrawn: e.g. a specified number of verified complaints about noise, trash, and whatever other problems are of real concern to neighbors.

Final thought: **Keep it simple.**

Thank you for your consideration.

Sincerely,

Mary-Charlotte Domandi

## BERKE, NOAH L.

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**From:** Sue Marquez <suzscapes@gmail.com>  
**Sent:** Tuesday, February 02, 2016 3:15 PM  
**To:** BERKE, NOAH L.  
**Subject:** Fwd: Short term rentals

----- Forwarded message -----

From: **suzscapes** <suzscapes@gmail.com>  
Date: Tue, Feb 2, 2016 at 12:05 PM  
Subject: Short term rentals  
To: rrandall@santafenm.gov, Sue Marquez <suzscapes@gmail.com>

Randy,

Thank you for returning my call. Unfortunately I did not find a meeting notice for the meeting of last week on short term rentals as I had planned to attend.

I recently bought a property used as a short term rental for 12 years to use as my permanent home. The property inspector failed to reveal that it needs 50k in renovations and I paid a premium for it. The best way to describe it is that nothing worked either outside or inside the house and there was no landscaping but an out of control wisteria that took over every surface of the front of the house so I could barely squeeze through the front gate. In 15 months I have done nothing but pour money into this money pit sold to me by out of state owners who allowed the property to deteriorate for years. Claiming they self managed it, they were simply ignoring repairs and raking in the cash, taking income tax deductions while using it as a hotel. The roof is leaking and after 15 roof inspections I am told the roof is shot and cannot be repaired. The inspector whom I paid \$400 did not inform me that it needed replacement. In addition, he failed to reveal that another house he inspected was uninhabitable! But for a quirk of fate, I would be the owner and endure 6 months of rebuilding an uninhabitable house while engaging in court proceedings. The inside of the home I bought was so filthy that I felt great sympathy for all the renters who paid thousands in rent for their dream vacation only to discover that they had booked a filthy dump, sight unseen, over the Internet and have no recourse. In the mean time the owner next door who rents that property is threatening to sue me because apparently she did not successfully sue the previous owner of 12 years.

Let me tell you, those of us residing in residential neighborhoods do not want hotels next door to us and that is what a short term rental is, a hotel.

The idea that the City would inspect them yearly is not credible because even so called licensed building inspectors do a terrible job in this City. In the mean time, residential neighborhoods deteriorate and neighbor. In essence, former residential neighborhoods are consist of nothing but temporary occupant strangers who care nothing about the properties they occupy.

It appears that the City is bent on destroying itself by destroying residential neighborhoods. Only permanent residents lovingly care for the exterior landscape of their homes. Landlords and tenants destroy them. Is this what the City wants?

Turning over tax collection to airbnb is a revolting idea, inviting further destruction of existing housing inventory, inviting scandal on the scale of San Francisco.

Sue Marquez  
(562) 544-2844

Sent from my Galaxy Tab® A

- **Violations of Rental Restrictions (Article 5 of CC&Rs)**

- ▶ Up to \$100 for failure to respond to an inquiry from the Board regarding occupancy by the deadline established by the Board
- ▶ Up to \$1,000 for failure to apply for and receive Board approval to rent
- ▶ \$300 per month for rental of Lot and Residence without approval from Board

The Board is authorized, but is not required, to prorate fines when a Lot and Residence are rented without the prior written approval of the Board for a portion of a month.

- **Other Violations of the Governing Documents**

- ▶ First violation Up to \$100.00
- ▶ Second violation of same nature or subject matter Up to \$200.00
- ▶ Third violation of same nature or subject matter Up to \$300.00

Multiple violations of the same nature or provision will be subject to increased fines of up to \$300.00 per repeated violation. Fines for repeated or continuing violations may be imposed without further hearing before the Board and may be imposed on a periodic basis (i.e., daily, weekly or monthly).

- **Fines for Violence to Persons or Damage to Property**

For any violation of the Governing Documents that involves: actual or threatened violence to persons; vandalism or intentional damage or destruction of property; or behavior that threatens the health, safety or security of Association members or their tenants, guests or invitees, the Board of Directors shall have the authority to levy a fine of up to \$500.00 per occurrence.

6. Penalties in Addition to Corrective Measures. The imposition of fines and/or Reimbursement Assessments and the suspension of Member rights are not alternatives to compliance with the Governing Documents. Compliance may include but is not limited to correcting, repairing or replacing non-complying conditions, all at the Owner's cost.

7. Violation of Law. The Association may treat any violation of state, municipal or local law by an Owner or his or her tenant in the same manner as a violation of the Governing Documents if the Owner's violation creates a nuisance to other Owners, Residents and/or the Association.

8. Other Remedies. The Association reserves the right to avail itself of any other remedy permitted by law and the Governing Documents and to enforce the provisions of the Governing Documents, Rules, regulations and policies of the Association. These remedies include, but are not limited to, bringing an action in Small Claims or Superior Court or requesting that the matter be

Joe,

Thank you for the opportunity to provide some input on the short-term rental program within the City of Santa Fe.

Setting aside the political question of whether or not 350 licenses is appropriate, I would like to state at the outset that unless the City is prepared to make a sincere effort to enforce its short-term rental (“STR”) regulations, the hoped for improvement in revenues will not occur.

As an examiner with the IRS, I understand the difficulties of obtaining compliance. Non-compliance can be the result of ignorance or intentional disregard. But whatever the cause, it is clear that unless there are sanctions for failure to comply, obtaining voluntary compliance is very difficult if not impossible. The City’s problem is further complicated by limited resources, which have prevented it from establishing an effective (and sizable) enforcement staff.

I was shocked to read the Memo of January 6, 2016 saying it would cost the City an estimated \$350,000 annually to have two dedicated workers for the STR program. Current collections cannot justify the addition of these two employees (\$136,580 from licenses and \$465,502 in lodgers tax for 2014-2015). The Memo lays out a justification for the staff increase (e.g., Southwest Planning suggests the lost revenues in lodgers’ tax could exceed \$2.5M), as well as suggesting changes to the STR program to enhance voluntary compliance. The existing compliance results reported in the Memo are very disappointing: Total Properties (excluding duplicates) is 817; Properties with an STR License 330 (40.39%); Properties without an STR License 487 (59.61%); Properties Obligated to Pay Lodgers’ Tax 280 (34.27%); and the # of Properties Paying the Lodgers’ tax 52 (18.57% compliance).

Following are my thoughts on changes to the STR program that should increase compliance with the law and increase revenues to the City.

As suggested in the Memo, compliance with the STR ordinance requires higher penalties, increased management support, and strict enforcement. I agree with the thrust of the statement – however, I would propose the following:

- Rather than a first violation penalty of \$500, I would propose a \$1,000 penalty for operating an STR without a license. A \$1,000 penalty for being caught without a license should make it too expensive to risk conducting an STR without first obtaining a \$325 license.
- In addition, any owner who fails to obtain a license should be penalized an additional \$1,000 for failing to file a Lodgers’ Tax return. This would be accomplished by amending the City’s regulations to require all holders of an STR license to file a Lodgers’ Tax return, whether or not any taxes are due.

This gives the City an easy means of monitoring property owner compliance by simply comparing the holders of a license with the filed tax returns – and the cost of not complying would be an additional \$1,000 penalty. Further revenues could be generated by assessing a minimum \$50/year for each Lodger’s Tax return – call it a “filing fee”. This is often done by taxing authorities, since just processing returns has a cost.

- The proposal to give non-compliant businesses 14 business days to cure would likely result in no compliance, where an owner claims that he will no longer conduct short-term rentals. This is why it is critical to raise the initial penalty to \$1,000 and to assess an additional \$1,000 for failing to report all activities. This may seem severe to Councilors but given the low degree of compliance there is a need to put teeth into the law. The obviously high profits in short-term rentals, as evidenced by the existence of over 600 unpermitted operators, justify strict enforcement penalties. Now, not having a license and failing to file a Lodging Tax return will result in up to a \$2,000 penalty to an owner, plus the taxes owed. This should have a dramatic impact on voluntary compliance – if caught, the owner faces a \$2,000 penalty versus the current \$375 cost (\$325 license and \$50 annual filing fee).
- Finally, it is important that these penalties are clear and easy to determine, and well publicized. The owner must comply by applying for the license and filing a tax return or face a penalty. Do not allow relief for unusual facts and circumstances – the City does not have the manpower or the time to offer exceptions to compliance with the program.

#### Other Comments

I honestly do not see how removing the cap on STR licenses will “encourage greater compliance with the ordinance.” The record shows there are currently 817 owners operating STRs but only 330 have obtained a license. Moreover, of the 330 “honest owners”, only 52 paid the Lodgers’ Tax!

Obtaining compliance with the Ordinance requires significantly higher penalties than proposed. The revenue from higher penalties should justify the addition of personnel to enforce the ordinance, and even with limited enforcement, the high chance of being identified and penalized should have a very motivating effect on dishonest owners.

I do not see the need or benefit of providing a refund fee if an owner receives a permit and decides not to pursue the activity (item 7 at page 6 of the Memo). The application is made for a business purpose – the fact that the owner subsequently

decides it is too difficult, no longer feels like it, or whatever, is no justification for a refund from the City. It is a sunk cost for a business decision made before the application was filed.

Requiring owners to submit a notarized self-compliance statement with regards to fire, health and safety issues – subject to random inspections - is not enough. The self-compliance statement should be signed under penalty of perjury and subject to another fine (e.g., \$500/violation) if a problem is found at the time of inspection. This provision is very important since the STR program's true objective is to protect the tourist coming to visit Santa Fe. The STR program is permitting individual owners to compete against the commercial hotels and motels in Santa Fe who must meet more regulations and compliance standards – so it is very important that the City get compliance with the STR program if it sanctions this activity. Should a visitor be injured or seriously hurt at a licensed residence, the City's authorization (the granting of a license) can be a significant factor if it is brought into a civil action for damages. A litigant will look for the defendant with the deepest pockets, so the City must be cautious about giving its stamp of approval to private owners who rent their properties.

Hope you find this helpful. Please feel free to contact me if you'd like to discuss.

rkwc @ January 24, 2016