

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **ZONING & PLANNING - FLORIDA**

### **City of Miami v. AIRBNB, Inc.**

**District Court of Appeal of Florida, Third District - December 5, 2018 - So.3d - 2018 WL 6332240 - 43 Fla. L. Weekly D2700**

Online hosting platform that matches guests with short-term rentals filed action against city, seeking temporary injunction in response to city's adoption of resolution affirming enforcement of zoning regulations as to short-term and vacation rentals.

The Circuit Court entered order granting emergency motion for temporary injunction, enjoining city from prohibiting any vacation or short-term rental in suburban residential zone, and from requiring public to provide names and addresses as condition of right to make public comment at City Commission meetings. City appealed.

The District Court of Appeal held that:

- City ordinance prohibiting certain short-term and vacation rentals in suburban residential zone was not preempted by statute precluding prohibition of vacation rentals;
- City's official interpretation of city ordinance was preempted by statute to extent such interpretation went beyond restrictions in city ordinance;
- Temporary injunction, enjoining city from prohibiting any vacation or short-term rental in suburban residential zone, was overbroad; and
- Temporary injunction, enjoining city from requiring public to provide names and addresses as condition of right to make public comment at City Commission meetings, was overbroad.

City ordinance prohibiting short-term and vacation rentals in suburban residential zone that convert a property's use to anything other than "predominantly permanent housing," was not preempted by statute precluding prohibition of vacation rentals, and regulation of frequency or duration of vacation rentals, where ordinance was identical in its material provisions to zoning code in effect prior to effective date of statute.

City's official interpretation of city ordinance, prohibiting short-term and vacation rentals in suburban residential zone that convert a property's use to anything other than "predominantly permanent housing," was preempted by statute precluding prohibition of vacation rentals, and regulation of frequency or duration of vacation rentals, to extent such interpretation went beyond restrictions in city ordinance; official interpretation declared that using a single family residence or two family-housing within a single family neighborhood to provide rental accommodations for anything less than one month violated city ordinance.

Temporary injunction, enjoining city from prohibiting any vacation or short-term rental in suburban residential zone, was overbroad; state law did not preempt city ordinance prohibiting short-term and vacation rentals in suburban residential zone that convert a property's use to anything other than "predominantly permanent housing," and city's official interpretation of ordinance was only preempted to extent it went beyond restrictions in city ordinance.

Temporary injunction, enjoining city from requiring public to provide names and addresses as condition of right to make public comment at City Commission meetings, was overbroad, where injunction was intended to address concern that city, which had adopted resolution affirming enforcement of zoning regulations as to short-term and vacation rentals, would take heightened enforcement measures against property owners who spoke in favor of vacation rentals.