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Short Term Rental, Long Term Impact: Municipal Regulation of AirBnb and Homesharing.

Travelers across the world have embraced short term rentals from platforms such as AirBnb, VRBO, and HomeAway as a unique option for accommodations. These homesharing websites offer travelers an opportunity to stay in a place with all the comforts of home, often for a much cheaper price than a few nights at a chain hotel. Hundreds of short term rental listings are currently posted online for stays in neighborhoods around Pittsburgh and Allegheny County.

While homesharing provides a valuable benefit to short-stay travelers, it poses numerous concerns for local municipalities. For example, parking and noise complaints from the neighbors of short term rental properties have poured into municipal meetings. Borough councils and township boards of commissioners, with assistance from their municipal solicitor, are challenged to come up with a system to regulate short term rentals within their communities.

Attempts to regulate short term rentals most often begin through enforcement of a local zoning ordinance. A typical municipal zoning ordinance might establish where a hotel or bed and breakfast may be operated as a principal permitted use or by special exception within certain zoning districts. The Pennsylvania Commonwealth Court, however, has held that a short term rental use for a residence is distinguishable from a hotel or bed and breakfast. The Court has recently reversed four trial court decisions and held in favor of property owners' operation of short term rentals, where the local zoning ordinance did not specifically address a short term rental use.

In one of these cases, *Slice of Life, LLC v. Hamilton Twp. Zoning Hearing Board*, an appeal was granted in February 2018 by the Pennsylvania Supreme Court. 180 A.3d 687. In *Slice of Life*, the property owner did not live at the property and used it solely as an income-producing short term rental. The township zoning officer issued an enforcement notice, citing the owner for violating the zoning ordinance by operating the single family dwelling as "transient lodging."

The trial court upheld the zoning hearing board's denial of appeal of the enforcement notice. The Commonwealth Court reversed, and held that the owner's use of the property was consistent with its existence as a single family dwelling. 164 A.3d 633 (Pa. Cmwth. Jun. 21, 2017). Because the township zoning ordinance did not define the terms "single family," "transient tenancy," or "transient lodging," the Court held that the ordinance was ambiguous and should be interpreted in favor of the owner and against any restriction on his use of the property.

The Pennsylvania Supreme Court's forthcoming opinion in this case will be instructive to municipalities in confirming whether zoning ordinances should be amended to address short term rental uses. In the meantime, many municipalities are heeding the advice of the Commonwealth Court, which stated in *Slice of Life* that "[e]nterprises such as AirBnB have expanded the possible uses of single-family dwellings and a township can address such uses in the zoning ordinance." Id. at 642. In other words, if a municipality is concerned about the existence of short term rentals within its borders, it should proactively regulate their existence through amendments to the zoning ordinance.

Outside of its zoning ordinance, a municipality can regulate problem short term rental properties through enforcement of its parking or noise control ordinances. Standalone ordinances can also be enacted to regulate permitting and inspection of homes that are marketed as short term rentals.

Before listing a property for rent on homesharing websites, homeowners should check with their local municipality to ensure compliance with any recently enacted requirements for short term rentals. Furthermore, the Allegheny County Treasurer requires that all owners operating a short term rental register for the collection of the County's Hotel Room Rental Tax. In 2016, Allegheny County amended its Hotel Room Rental Tax ordinance to allow for booking agents such as AirBnb to collect and remit the required Hotel Room Rental Tax directly on behalf of the homeowner.

As homesharing grows in popularity, municipalities and their solicitors will continue to work on finding the best means to regulate the long term community impact of short term rentals.

Tucker Arensberg, P.C.

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