

NetChoice Promoting Convenience, Choice, and Commerce on The Net

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Chairman Phil Mendelson
DC City Council
1350 Pennsylvania Avenue NW
Washington, DC 20004

April 24, 2017

RE: Opposition to Bill 22-92, "Short-term Rental Regulation and Affordable Housing Protection Act of 2017"

Dear Chairman Mendelson and Members of the Committee of the Whole,

While well intentioned, we worry that the breadth of 22-92 will effectively eliminate the presence of Short-term rentals (STR) in DC.

We do, however, agree with reasonable registration requirements for STR hosts and regularly advocate for use of such registrations.

Nonetheless, we welcome the opportunity to work on new legislation so that it achieves the goals of registration and tax collection without undermining a burgeoning industry in which hundreds of DC residents partake.

Benefits to constituents of short-term rentals

Short-term rental services provide necessary income to many of DC's residents. Over 52 percent of hosts nationwide live in low-to-moderate income households. More than 48 percent of the income hosts earn through certain short-term rental services is used to cover household expenses.

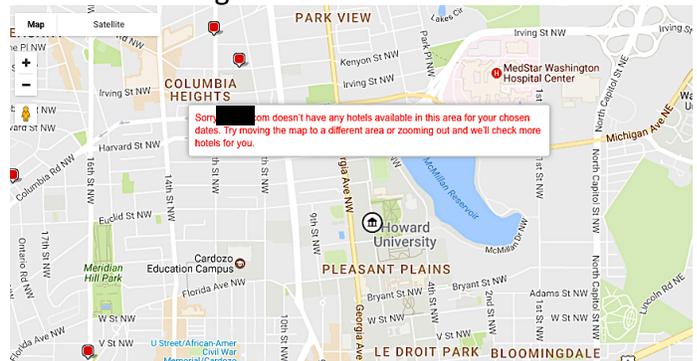
Consider, for example, families coming from across the country for graduation ceremonies at Howard University or visiting family at MedStar Washington Hospital Center or Children's National Hospital. Short-term rental services allow your residents to earn income by sharing their homes.

The presence of short-term rental services also brings new money into areas of DC unserved or underserved by hotels. Since there are few hotels in many parts of DC, travelers are not likely to encounter those Ward's businesses. Conversely, guests who stay in your Ward via short-term rental services, bring income to your Ward as they visit restaurants, grocery stores, and businesses in the underserved parts of DC.

STR listings in and around Howard Univ



Hotel listings in and around Howard Univ



Big hotel chains benefit most from passage

Big hotel chains are backing 22-92 for entirely selfish reasons. Big hotel chains see short-term rentals are a threat to their business model – however, it's not for the reasons you may think.

Presently, the hotel industry enjoys record setting occupancy and pricing. However, the presence of short-term rental services is seen by some in the hotel industry as forcing hotels to keep prices at reasonable levels. For instance, LaSalle Hotel Properties's CEO told investors that a law curtailing short-term rental services would allow hotels to boost their prices by eliminating competition.¹

Lower hotel room prices mean that visitors to DC have more money to spend with DC businesses. Likewise, when your constituents travel, short-term rental services help them find more reasonably priced accommodations.

As you can see from the image above, the area around Howard University is underserved by hotels. However, short-term rentals are available for as little as \$30/night. It's important to keep short-term rental services and a competitive market as a check on hotel price inflation.

As written 22-92 would undermine a key benefit of the internet and would likely be unconstitutional

22-92 forces hosting intermediaries like HomeAway, Airbnb, and VRBO to know if a host is licensed. However, there is no clear mechanism for them to achieve this knowledge with certainty.

Moreover, much like the Classified ads listing in the Washington Post, these hosting platforms are just that, platforms for hosts to list their short-term rental availability. It would be absurd to impose these requirements on the Post's classified section and we ask that you not do so for short-term rental services.

Also, the strict liability requirement is surely unconstitutional as it is preempted by federal law.

The internet is an open resource that enables people from all parts of DC to publish their views and pursue their goals. While some nations discourage user-generated content, the United States created a fertile ground for business models that have transformed the world.

Moreover, this openness is bolstered by Section 230 of the federal Communications Decency Act, which says platforms can't be held strictly liable for content posted *by others*.

However, this section fails to recognize Section 230. This not only threatens a core tenet of the internet, but is at odds with federal law – resulting in the likely injunction of the 22-92.

As written 22-92 exposes the privacy of DC residents and short-term rental guests to law enforcement

Protection under the 4th Amendment of the Constitution from unlawful search and seizure is a core privacy protection. Unfortunately, 22-92 could require platforms to disclose records and information about hosts and guests to the government. Moreover, this disclosure does not require law enforcement to first obtain a warrant.

We worry that these investigations by law enforcement could be abused.

Rather than advance 22-92 as written, which would effectively ban short-term rentals, we instead encourage you to look to reasonable regulations that have proven beneficial in other jurisdictions.

¹ Gaby Del Valle, *Hotel CEO: New Airbnb Regulations Should Allow A 'Big Boost' In Hotel Room Rates*, Gothamist (Oct. 27, 2016) (Passage of a law limiting short-term rental services "should be a big boost in the arm for the business, certainly in terms of the pricing.")

We've seen high compliance rates when localities create reasonable registration and regulation for short-term rentals.

A more reasonable approach to home-sharing by creating a registration process would benefit all DC residents. Such an approach would also ensure the home-sharing boon to homeowners and visitors also benefits non-participating residents through revenue collection that is funneled back into the local economy and city initiatives.

We welcome the opportunity to work with you on reasonable regulations that allow all to prosper.

Sincerely,



Carl Szabo

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NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org