

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**DRAFT**

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**TO:** All Councilmembers

**FROM:** Chairman Phil Mendelson  
Committee of the Whole

**DATE:** October 2, 2018

**SUBJECT:** Report on Bill 22-92, “Short Term Rental Regulation of 2018”

The Committee of the Whole, to which Bill 22-92, the “Short Term Rental Regulation and Act of 2018” was referred, reports favorably thereon with amendments, and recommends approval by the Council.

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**I. BACKGROUND AND NEED**

On January 21, 2017, Bill 22-92, the “Short Term Rental Regulation Act of 2018” was introduced by Councilmember Kenyan McDuffie. As amended, the bill would require the Department of Consumer and Regulatory Affairs to monitor, investigate, and license short term rentals in the District. The bill increases the maximum number of booked days for a vacation rental to 90 days per calendar year, from the as introduced version of the bill, which had a maximum of 15 days per calendar year. The bill also establishes health and safety standards for short term rentals, by requiring smoke detectors and liability insurance. The bill also reduces the dollar amount of the penalties for hosts who violate the act by half. The bill requires a short term rental to operate out of the primary residence of a host to be eligible for licensing. The bill now includes an additional restriction of only allowing owner-occupied properties to be licensed as a short term rental. Effectively, this provision prohibits tenants from operating short term rentals. Eligible hosts are permitted to operate short term rentals in both the principal dwelling and accessory dwelling units within the primary residence. The Committee’s intent is to strike a balance between

accommodating the demand for short term rentals without commercializing residential neighborhoods and depleting the supply of long term rental housing in the District.

In the last decade, the sharing economy has most notably disrupted the transportation industry and public transit. However, innovations from the sharing economy have also infiltrated the housing market by way of home-sharing via short term rentals. Though the home-sharing concept is not new the emergence of home-sharing web platforms like Airbnb, HomeAway, and VRBO in the last decade have facilitated the popularity of home-sharing again. Today property owners or lessees operate short-term rentals out of their primary residence, accessory units, or even non-owner occupied properties. This has raised concerns among many that the growing supply of short term rentals may be contributing to the severity of the District's housing crisis for permanent housing.

### ***The District's Short Term Rental Landscape***

On a given day, there are approximately 1,000 short term rentals advertising it's availability on a web-based booking service platform such as Airbnb, Homestay, and VRBO. In total there is an estimated 9,000 short term rentals operating in the District<sup>1</sup>. These short term rentals directly compete with the over 31,000<sup>2</sup> hotel rooms in the District. However, the difference between a hotel and short term rental is that the web-based booking services do not own the advertised properties listed on its platform. The booking service merely act as a third party, which facilitates a transaction between a host and a guest for lodging accommodations. The home owner or the tenant of the property is responsible for the operation of the short term rental and the hosting of the guest, which is unlike a hotel that manages both the booking, operation, and hosting. Booking services earn revenues through charging fees based on a per listing basis which is paid by the host or a percentage of each transaction which is paid by the guest.

Short term rentals have emerged as part of the sharing economy, where everyday people open their personal homes to host tourists as a way to earn a supplemental income, known as home-sharing. While others have turned the part-time gig of hosting into a lucrative full-time business. These individuals may have purchased a condominium, single-family home, or even multifamily building with the intent of converting the residential units into transient accommodations for tourists. These types of hosts have found that the business of short term rental can be more profitable and provide little to no regulatory barriers, as compared to a long term rental with a permanent tenant.

Using third-party data obtained from the Airbnb web platform<sup>3</sup>, the Committee was able to analyze a sample dataset that provided more insight into the short term rental landscape in the District. According to the data, 73% of short term rentals listed on Airbnb were located in Wards 1, 2, and 6, with a total of 6,262 listings [Chart 1].

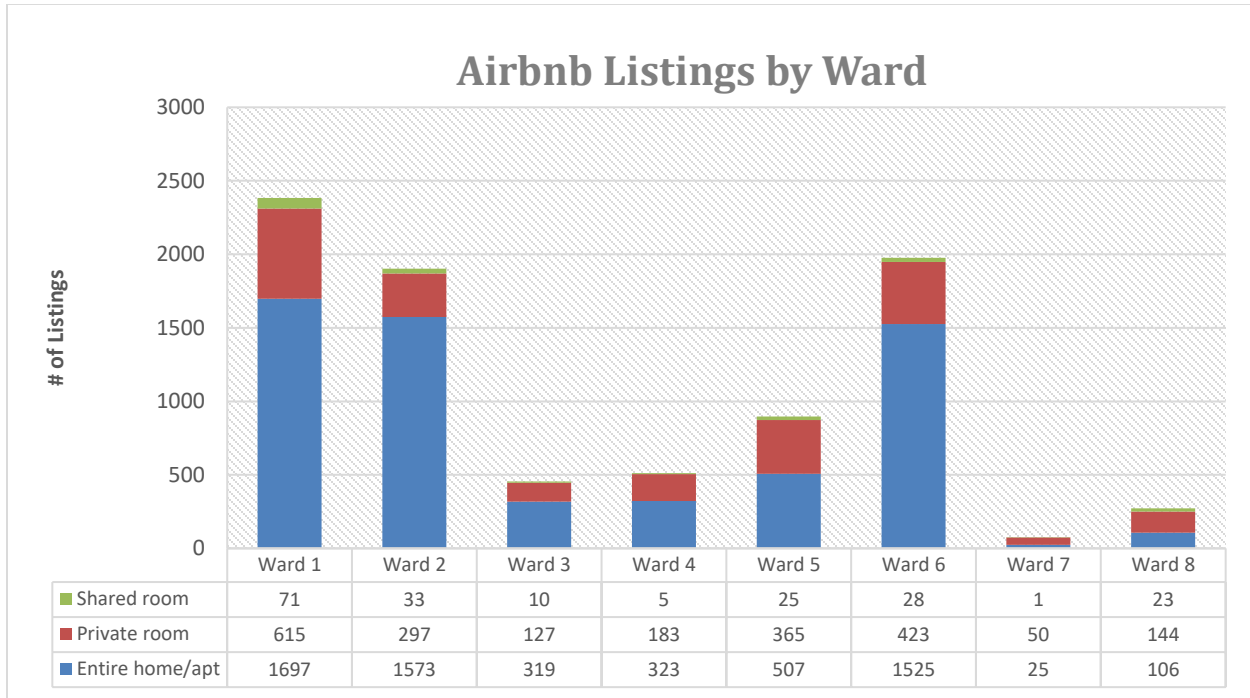
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<sup>1</sup> Kate Rabinowitz, DC Policy Center, <https://www.dcpolicycenter.org/publications/the-knowns-and-unknowns-of-airbnb-in-d-c/>

<sup>2</sup> Events DC, <https://washington.org/dc-information/washington-dc-facts>

<sup>3</sup> Tom Slee, <http://tomslee.net/airbnb-data-collection-get-the-data>

Chart 1



It was found that 65.2% of total listings on Airbnb were offered by a host who only had one listing on the booking service platform (Class A), though it can not be determined whether those single listing hosts operated the short term rental out of their primary residence or not [Chart 2]. What is more important, is that 77.4% of those Class A listings were for the exclusive use of an entire house [Chart 3]. Interestingly, hosts that had 2 to 3 separate listings on the platform (Class B), represented only 19.7% of all listings on Airbnb, yet fewer of those listings were for exclusive use of the entire house, at 55%. It was found that those 2 to 3 listings were often just the offering of a private bedroom, without exclusive use of the entire residence. The data implied that approximately 74% listings on Airbnb were from hosts engaging in intentional home-sharing.

The most interesting insight from this data was that 15.1% of all listings were by commercial hosts (Class C – G). These hosts had anywhere from 4 to 100 distinct listings on Airbnb, yet only represented 2.4% of all hosts on the platform. The Committee found that many of those commercial hosts were temporary corporate housing providers that used Airbnb’s platform to gain greater visibility. These corporate housing providers, through master lease agreements with large residential rental properties, hope to attract visitors who need less than a year-long lease but more than 2 weeks. This group of visitors include the rolling population of interns, diplomats, and consultants that pass through the District for a weeks or months-long assignment.

Chart 2

D.C. Airbnb Listings - February 2017 Snapshot				
Accessed on: 2/16/2017				
Host Classification	# of Hosts	% of Hosts	# of total listings	% of total listings
Class G (50-100+ listings)	2	0.03%	196	2.3%
Class F (26-49 listings)	6	0.09%	203	2.4%
Class E (13-25 listings)	10	0.16%	163	1.9%
Class D (7-12 listings)	22	0.34%	207	2.4%
Class C (4-6 listings)	113	1.76%	512	6.0%
Class B (2-3 listings)	753	11.71%	1667	19.7%
Class A (1 listing)	5527	85.92%	5527	65.2%
<b>TOTAL</b>	<b>6433</b>	<b>100.0%</b>	<b>8475</b>	<b>100.0%</b>

<b>All Commercial Listings</b>	<b>153</b>	<b>2.4%</b>	<b>1281</b>	<b>15.1%</b>
Corporate - Class E-G (13-100+ listings)	18	0.3%	562	6.6%
Enterprise - Class C-D (4-12 listings)	135	2.1%	719	8.5%
Entrepreneurial - Class B (2-3 listings)	753	11.7%	1667	19.7%
Personal - Class A (1 listing)	5527	85.9%	5527	65.2%

Chart 3

D.C. Airbnb Listings - February 2017 Snapshot					
Accessed on: 2/16/2017					
Host Classification	# of Hosts listing Entire home /apt	# of Entire home listings	% Entire home /apt	# Private or Shared Rooms	% Private or Shared Rooms
Class G (50-100+ listings)	2	194	99.0%	2	1.0%
Class F (26-49 listings)	6	188	92.6%	15	7.4%
Class E (13-25 listings)	9	131	80.4%	32	19.6%
Class D (7-12 listings)	16	115	55.6%	92	44.4%
Class C (4-6 listings)	84	254	49.6%	258	50.4%
Class B (2-3 listings)	554	917	55.0%	750	45.0%
Class A (1 listing)	4276	4276	77.4%	1251	22.6%
<b>TOTALS</b>	<b>4947</b>	<b>6075</b>		<b>2400</b>	

### ***Existing Zoning Regulations***

Though, a recent comprehensive update to the Zoning Regulations occurred in September 2016, the issue of short term rentals in residential neighborhoods and its potential impact on available housing was not considered by the Zoning Commission. The current Zoning Regulations do not current permit residential dwellings to be used as lodging as a matter-of-right. Meaning, short term rentals operating in residential zones are doing so illegally. In the Zoning Regulations there are several provisions that outline what uses are allowed in residential zones; if a use is not expressly permitted by the Zoning Regulations, it is prohibited.

The Zoning Regulations state that the use of a “dwelling unit” is exclusively for residential occupancy. The use categories in the Zoning Regulation classifies residential use as offering habitation on a continuous basis of at least 30 days. The continuous basis is established by tenancy with a minimum term of one month or property ownership. Residential zones do not typically include built structures used for lodging purposes. While, the Zoning Regulations define Lodging uses as providing customers with temporary housing for an agreed upon term of less than 30 consecutive days; any use where temporary housing is offered to the public for compensation and is open to transient rather than permanent guests. With this in mind, short term rentals would wholly fall under the definition of a lodging use.

A residential dwelling unit used to accommodate 3 or more guests for less than 30 days is categorized as a “lodging use”, and is allowed only in buildings that are expressly approved (as a commercial use) for a hotel (which is allowed as a matter-of-right in some zoning districts, and requires special exception site plan approval by the Board of Zoning Adjustments (BZA) in other zoning districts).

### ***Existing Permitting & Licensing***

From the perspective of licensing, the District only offers licensing long-term rental housing and transient housing. Licenses for these uses require a certificate of occupancy issued by the Department of Consumer and Regulatory Affairs’ (DCRA) Permitting Operations Division before the Business Licensing Division and the Office of the Zoning Administrator (OZA) will issue a basic business license. However, because no distinct license exist for a short term rental in the District, the only other ways to obtain permission to provide lodging in a residential zone is either obtain relief from the BZA via a special exception (which is a lengthy process that most short-term rental hosts are simply unlikely to complete) or to apply for a Home Occupation Permit (HOP) which will allow a host to rent a primary residence as a bed and breakfast.

The HOP allows for a home occupation or other economic activity to be conducted full- or part-time in the principal residence of the person conducting the business. Providing lodging via a bed and breakfast is a listed allowable home occupation. Hosts would need to complete both a basic business license (BBL) and a HOP application. Once a BBL and a HOP have been issued the host will be required to meet a list of basic conditions that regulate the scope of business activities within the residential dwelling unit. Some of the conditions include restriction on the number guests, employees, and vehicles that are allowed on the property at time. The host would also be required to be present during the guests stay and would not be allowed to rent more than

two rooms at a time, irrespective of the size of the space being rented. Besides for the restrictions related to the HOP, a host would also have to comply with additional requirements and restrictions under the District of Columbia Municipal Regulations (DCMR) related to the operation of the bed and breakfast.

<b>Do you live in the place you're renting on Airbnb?</b>	<b>How many people stay at a time?</b>	<b>How long are you renting your place for?</b>	<b>Here's what you need to be legal</b>
Yes	1-2	29 days or fewer	A Home Occupation Permit [HOP] for a Bed and Breakfast, and a B&B business license
Yes	3 or more	29 days or fewer	Approval from the Board of Zoning Adjustment and a general business license
No	1 or more	29 days or fewer	Not allowed under zoning without a use variance; property owner would need to get general business license

***Existing Enforcement***

Presently, the OZA, which is a division within DCRA, is tasked with enforcing the Zoning Regulations. This includes responding and investigating to any complaints of illegal lodging in a residential zone. However, according to the DCRA Director, OZA does not have the capacity, information, or resources to systematically enforce existing Zoning Regulations to stop the illegal operation of short term rentals. This lack of enforcement has actually aided the unencumbered growth of short term rentals in the District.

***Committee Recommendations***

Widespread conversion of residential housing to short-term rentals, when taken to extremes, could result in the loss of housing for permanent residents. But, with the rise of the sharing economy, and the economic and social benefits to residents of sharing resources, short-term rental activity continues to grow. This has led the Committee to establish regulations for the operation of short-term rentals. Bill 22-92 attempts to create parameters to regulate short term rentals moving forward while also developing a pathway to legalize this activity. This bill attempts to accomplish these goals by establishing both a licensing and enforcement scheme for hosts and booking services.

The Committee believes the next step to comprehensively regulating short term rentals in the District would be for the Zoning Commission to evaluate and update the Zoning Regulations

via text amendment to better manage both the demand and subsequent proliferation of short term rentals in residential zones. The Committee believes, after reviewing this issue for nearly two years, that short term rentals in residential dwelling units are a distinct business model separate from defined transient housing such as hotels, motels, inns, and bed and breakfasts, and should not be regulated as a lodging use, but as an accessory residential use. This approach would support the intended purpose of short term rentals as a owner-occupied home-sharing model.

Bill 22-92 will grant DCRA with the necessary data and legal authority to finally enforce the Zoning Regulations to as well as the provisions of this act, to curb the operation of illegal hotels in residential neighborhoods. This bill will put in place a regulatory scheme for a growing home-sharing market in the District. The Committee therefore recommends approval of Bill 22-92 as reflected in the Committee Print.

## II. LEGISLATIVE CHRONOLOGY

January 31, 2017	Bill 22-92, “Short Term Rental Regulation and Affordable Housing Protection Act of 2017” is introduced by Councilmember McDuffie.
February 7, 2017	Bill 22-92 is officially referred to the Committee of the Whole with comments from the Committee on Business and Economic Development and Committee on Housing and Neighborhood Revitalization.
February 10, 2017	Notice of Intent to Act on Bill 22-92 is published in the <i>District of Columbia Register</i> .
March 10, 2017	Notice of a Public Hearing on Bill 22-92 is published in the <i>District of Columbia Register</i> .
April 26, 2017	The Committee of the Whole holds a public hearing on Bill 22-92.
October 2, 2018	The Committee of the Whole marks-up Bill 22-92.

## III. POSITION OF THE EXECUTIVE

**Melinda Bolling**, *Director of the Department of Consumer and Regulatory Affairs*, testified on behalf of the Executive. Dir. Bolling testified about the current challenges DCRA faces enforcing the Zoning Regulations, and how the bill as introduced may pose additional obstacles and stress to ensure enforcement. Dir. Bolling highlighted foreseen issues related to data access, administrative orders, technology, as well as the agency’s lack of resources to implement this bill.

## IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee comments from the following Advisory Neighborhood Commissions.

## V. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on Bill 22-92 on Wednesday, April 26, 2017. The testimony summarized below is from that hearing. Copies of written testimony are attached to this report.

*Claire Zippel, D.C. Fiscal Policy Institute* testified in support of the bill  
*Valerie Ervin, Working Families Party* testified in support of the bill  
*Dan Bucks, Public Witness* testified in support of the bill  
*Carlos Jimenez, Metro Council AFL-CIO* testified in support of the bill  
*William Burns, Airbnb* testified in opposition of the bill  
*Joseph Montano, Expedia, Inc.* testified in opposition of the bill  
*Solomon Keene, Hotel Association of Washington DC,* testified in support of the bill  
*Lauren Wolfe, Travelers United* testified in opposition of the bill  
*Colin Johnson, DC Association of Realtors* testified in opposition of the bill  
*Melaku Kassa, Local 25* testified in support of the bill  
*Andrew Cassidy, Local 25* testified in support of the bill  
*Regina Welch, Local 25* testified in support of the bill  
*Melissa Starke, Local 25* testified in support of the bill  
*Caroline Petti, Committee of 100 on the Federal City* testified in support of the bill  
*William Rinehart, American Action Forum* testified in opposition of the bill  
*Jim McGrath, TENAC* testified in opposition of the bill  
*Elizabeth Falcon, DC Jobs for Justice* testified in support of the bill  
*Todd Sinkins, Community Association Institute* testified in support of the bill  
*Mattie Sharpless, Town Square Towers Condominium, Inc* testified in support of the bill  
*Orestes del Castillo, Public Witness* testified in opposition of the bill  
*Lisa Shaw, Public Witness* testified in opposition of the bill  
*Mary Bakota, Public Witness* testified in opposition of the bill  
*Fadi Adnan Jaber, Public Witness* testified in opposition of the bill  
*David Levy, Public Witness* testified in opposition of the bill  
*Lenda Washington, Public Witness* testified in opposition of the bill  
*Regina Zopf, Public Witness* testified in opposition of the bill



*Marguerite Rizzoli, Public Witness* testified in opposition of the bill  
*Lauren Spokane, Jews United For Justice* testified in support of the bill  
*Elizabeth Heyman, Jews United For Justice* testified in support of the bill  
*Marguerite Kelly, Public Witness* testified in opposition of the bill  
*Elizabeth Furgurson, Public Witness* testified in opposition of the bill  
*Shaun Johnson, Public Witness* testified in opposition of the bill  
*Johanna Polsenberg, Public Witness* testified in opposition of the bill  
*Kayrn Robinson, Public Witness* testified in opposition of the bill  
*Nicole Ruediger, Public Witness* testified in opposition of the bill  
*Cathy Cook, Public Witness* testified in opposition of the bill  
*Simone Griffin, Public Witness* testified in opposition of the bill  
*Alec Smyth, Public Witness* testified in opposition of the bill  
*Joe Brookman, Public Witness* testified in opposition of the bill  
*Catherine Robinson, Public Witness* testified in opposition of the bill  
*Christina Washington, Public Witness* testified in opposition of the bill  
*Jane Brokstein, Public Witness* testified in opposition of the bill  
*Rev. Ruth Hamilton, Public Witness* testified in opposition of the bill  
*Victoria McKernan, Public Witness* testified in opposition of the bill  
*Amy Rothberg, Public Witness* testified in opposition of the bill  
*Synta Keeling, Public Witness* testified in opposition of the bill  
*Kadija Bangura, ARCH Development* testified in support of the bill  
*Dawn Warner, Public Witness* testified in support of the bill  
*Ari Schwartz, DC Jobs for Justice* testified in support of the bill  
*Leslie Blakey, Public Witness* testified in opposition of the bill  
*Anneliese Bruner, Public Witness* testified in opposition of the bill  
*Chekesha Rashad, Public Witness* testified in opposition of the bill  
*Jonathan Kolo, Public Witness* testified in opposition of the bill  
*Violet Dean, Public Witness* testified in opposition of the bill  
*Brenda Stewart, Public Witness* testified in opposition of the bill  
*Jeremiah Lowery, Public Witness* testified in opposition of the bill  
*Alan Weintraut, Public Witness* testified in opposition of the bill

*Natasha Spivack, Public Witness* testified in opposition of the bill  
*Anthony Sansbury, Public Witness* testified in opposition of the bill  
*Dr. Eugene Gurenko, Public Witness* testified in opposition of the bill  
*Dan Bucks, Public Witness* testified in opposition of the bill  
*Colleen Garibaldi, Public Witness* testified in opposition of the bill  
*Meridith Moldenhauer, Griffin, Murphy, Moldenhaer & Wiggins, LLP* testified in opposition of the bill  
*Jonah Davenport, Public Witness* testified in opposition of the bill  
*Stephen McCulloch, Public Witness* testified in opposition of the bill  
*Kenneth Kimbrough, Public Witness* testified in opposition of the bill  
*Sergei Mikhailov, Public Witness* testified in opposition of the bill  
*Ramah Kudaimi, U.S. Campaign for Palestinian Rights* testified in support of the bill

The Committee received other comments in writing, which are attached.

## VI. IMPACT ON EXISTING LAW

Bill 22-92 requires the Department of Consumer and Regulatory Affairs to license the operation of short term rentals. The bill establishes duties and enforcement powers for the Department. The bill establishes enforcement procedures for short term rental requirements. The bill requires short term rental hosts to obtain a license to operate. The bill creates a new license for short term rentals, to create a new license endorsement for short term vacation rentals and short term accessory rentals. The bill establishes health and safety requirements for hosts. The bill establishes requirements and restrictions for hosts and booking services. The bill permits limited short term vacation rentals. The bill requires short term rental hosts and booking services to maintain records and to require booking services to submit a monthly report of short term rental booking information. The bill requires hosts to pay transient lodging taxes and requires the booking services to collect and remit transient lodging taxes. This bill also establishes penalties for violations of this act by the Department.

## VII. FISCAL IMPACT

The fiscal impact statement from the District's Chief Financial Officer (CFO) to implement Bill 22-92 is pending.

### VIII. SECTION-BY-SECTION ANALYSIS

<u>Section 1</u>	Short Title.
<u>Section 2</u>	Establishes the restrictions and requirements for hosts and booking services.
<u>Section 3</u>	Outlines conforming amendments.
<u>Section 4</u>	Adopts the Fiscal Impact Statement.
<u>Section 5</u>	Establishes the effective date by stating the standard 30-day Congressional review language.

### IX. ATTACHMENTS

1. Bill 22-92 as introduced.
2. Written Testimony.
3. Comparative Print for Bill 22-92.
4. Committee Print for Bill 22-92.

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
WITNESS LIST**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

REVISED DRAFT

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**CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC HEARING**

on

**Bill 22-92, “Short Term Rental Regulation and Affordable Housing Protection Act of 2017”**

on

**Wednesday, April 26, 2017  
10:00 a.m., Room 500, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

WITNESS LIST

- |                      |  |
|----------------------|--|
| 1. Claire Zippel     | D.C. Fiscal Policy Institute             |
| 2. Valerie Ervin     | Working Families Party                   |
| 3. Dan Bucks         | Public Witness                           |
| 4. Carlos Jimenez    | Metro Council AFL-CIO                    |
| 5. William Burns     | Airbnb                                   |
| 6. Joseph Montano    | Expedia, Inc.                            |
| 7. Solomon Keene     | Hotel Association of Washington D.C.     |
| 8. Craig Kalkut      | American Hotel & Lodging Association     |
| 9. Lauren Spokane    | Jews United For Justice                  |
| 10. Elizabeth Heyman | Jews United For Justice                  |
| 11. Lauren Wolfe     | Travelers United                         |
| 12. Colin Johnson    | D.C. Association of Realtors             |
| 13. William Rinehart | American Action Forum                    |
| 14. Jim McGrath      | TENAC (D.C. Tenants’ Advocacy Coalition) |
| 15. Elizabeth Falcon | DC Jobs for Justice                      |

16. Ari Schwartz	DC Jobs for Justice
17. Caroline Petti	Committee of 100 on the Federal City
18. Graylin Presbury	D.C. Federation Civic Association
19. Todd Sinkins	Community Association Institute
20. Jon Stewart	ANC 1D01
21. Melaku Kassa	Local 25
22. Andrew Cassidy	Local 25
23. Regina Welch	Local 25
24. Melissa Starke	Local 25
25. Becky Ogle	Chair, Disability Power & Pride
26. Marc Gersen	Public Witness
27. Dan Rifle	Public Witness
28. Mattie Sharpless	Town Square Towers Condominium, Inc
29. Orestes del Castillo	Public Witness
30. Lisa Shaw	Public Witness
31. Mary Bakota	Public Witness
32. Fadi Adnan Jaber	Public Witness
33. David Levy	Public Witness
34. Lenda Washington	Public Witness
35. Regina Zopf	Public Witness
36. Marguerite Rizzoli	Public Witness
37. Marguerite Kelly	Public Witness
38. Elizabeth Furgurson	Public Witness
39. Shaun Johnson	Public Witness
40. Johanna Polsenberg	Public Witness

41. Kayrn Robinson	Public Witness
42. Nicole Ruediger	Public Witness
43. Cathy Cook	Public Witness
44. Simone Griffin	Public Witness
45. Alec Smyth	Public Witness
46. Joe Brookman	Public Witness
47. Catherine Robinson	Public Witness
48. Christina Washington	Public Witness
49. Jane Brokstein	Public Witness
50. Rev. Ruth Hamilton	Public Witness
51. Victoria McKernan	Public Witness
52. Amy Rothberg	Public Witness
53. Synta Keeling	Public Witness
54. Kadija Bangura	ARCH Development
55. Dawn Warner	Public Witness
56. Leslie Blakey	Public Witness
57. Anneliese Bruner	Public Witness
58. Chekesha Rashad	Public Witness
59. Jonathan Kolo	Public Witness
60. Violet Dean	Public Witness
61. Brenda Stewart	Public Witness
62. Jeremiah Lowery	Public Witness
63. Alan Weintraut	Public Witness
64. Natasha Spivack	Public Witness
65. Anthony Sansbury	Public Witness

66. Dr. Eugene Gurenko	Public Witness
67. Yasemin Zahra	Many Languages One Voice
68. John Settles	Public Witness
69. Colleen Garibaldi	Public Witness
70. Samantha Mazo	Griffin, Murphy, Moldenhaer & Wiggins, LLP
71. Meridith Moldenhauer	Griffin, Murphy, Moldenhaer & Wiggins, LLP
72. Gary Lee	Public Witness
73. Jonah Davenport	Public Witness
74. Stephen McCulloch	Public Witness
75. Thomas Carpenter	Public Witness
76. Matthew Erdman	Public Witness
77. Jonathan Tuke	Public Witness
78. Kenneth Kimbrough	Public Witness
79. Kyle Ward-Dahl	Public Witness
80. Sergei Mikhailov	Public Witness
81. Netta Squires	Public Witness
82. Kanita Williams	Public Witness
83. Ramah Kudaimi	U.S. Campaign for Palestinian Rights
84. Pastor Lionel Edmonds	Washington Interfaith Network
85. Kevin Mullone	Public Witness
86. Alexander Bant	Public Witness
87. Justine Underhill	Public Witness
88. Melinda Bolling	Director, Department of Consumer and Regulatory Affairs

**Testimony of Claire Zippel, Policy Analyst, DC Fiscal Policy Institute  
At the Public Hearing on Bill 22-92,  
Short Term Rental Regulation and Affordable Housing Protection Act of 2017  
DC Council Committee of the Whole  
April 26, 2017**

Chairman Mendelson and members of the Committee, thank you for the opportunity to testify today. My name is Claire Zippel and I am a policy analyst at the DC Fiscal Policy Institute. DCFPI promotes budget and policy choices to expand economic opportunity and reduce income inequality in the District of Columbia, through independent research and policy recommendations.

I would like to focus my testimony today on a recent report about the characteristics of short-term rental listings (STRs), and the potential impact of STRs on DC's housing supply. The report was completed last month by DC Working Families. DCFPI was pleased to be an informal consultant to the report. I would like to share some of the report's key findings today.

In recent years, STRs have grown rapidly in the District. Between 2015 and 2016, for example, the number of listings on Airbnb rose 38 percent, to 5,300 listings. There are three main types of STR listings. A host may list a bedroom or couch in their home to earn some extra income. A host may list their entire home while they are out of town as a "vacation rental." These first two uses are sensible and consistent with the stated purpose of STR platforms, and involve only the use of the host's primary residence—though the DC zoning code prohibits such rentals in multi-unit buildings.<sup>1</sup>

The third type of STR listing is the "commercial listing," in which one host lists multiple units on an STR platform—only one of which could possibly be the host's primary residence. In 2016, about 2,000 of 5,300 listings on Airbnb (37 percent) were commercial listings. These commercial listings are problematic because such listings represent residential units that have been made unavailable to long-term residents, effectively reducing the supply of available housing. With the District's recent population boom, and high and rising housing prices, DC can ill afford to lose units that would otherwise be available for long-term residents. Moreover, it is worth noting that the DC neighborhoods with a high prevalence of commercial STRs are the neighborhoods where rents are rising the fastest, suggesting that the housing units are being lost to STR conversion in the very areas where housing supply is most needed.

There is a strong financial inducement to use apartments as commercial STRs. The potential revenue of an STR unit is far larger than the revenue generated by a residential unit. In the neighborhoods where Airbnb listings are most concentrated,<sup>2</sup> the potential profit margin of an STR is over 100 percent on average.<sup>3</sup> This has undoubtedly contributed to the rise in the number of commercial STR listings: 34 percent growth in the past year. The powerful financial incentive for hosts and the continued popularity of STRs among consumers indicates that barring regulatory action, commercial STRs will continue to proliferate across DC neighborhoods.



The findings of the DC Working Families report demonstrate the need for the District to take steps to limit the commercial use of housing as STRs. The DC Fiscal Policy Institute does not have the specific expertise on STR regulations to comment on the particulars of Bill 22-92, but we strongly support its intent to eliminate commercial STRs and ensure that DC's housing stock is available as homes for DC residents.

Thank you, and I am happy to answer any questions.

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<sup>1</sup> DC Zoning Code, Subtitle U, 251.1(j).

<sup>2</sup> As measured by the ratio of commercial listings to vacant housing units.

<sup>3</sup> Average neighborhood rent minus average Airbnb listing amount, assuming full-time commercial use and a 79 percent (hotel average) occupancy rate.

**TESTIMONY OF VALERIE ERVIN**

**SENIOR ADVISOR, D.C. WORKING FAMILIES**

**BEFORE THE COMMITTEE OF THE WHOLE**

**ON**

**THE SHORT-TERM RENTAL REGULATION & AFFORDABLE**

**HOUSING PROTECTION ACT OF 2017**

**APRIL 26, 2017**

**HONORABLE PHIL MENDELSON, CHAIR**

Thank you Chairman Mendelson, and members of the Council for holding this hearing on the critical issue of protecting affordable housing on behalf of District residents. I am here to testify in strong support of Councilmember McDuffie's bill, the Short-term Rental Regulation & Affordable Housing Protection Act of 2017.

My name is Valerie Ervin. I serve as Senior Advisor at D.C. Working Families, which is dedicated to fighting for social justice for all D.C. residents. I am a previous two-term member of the Montgomery County Council, so I know what its like to be in your position, as you listen and sort through the testimony today to determine how to best resolve the issues before you. Ultimately the decision that you make regarding the Affordable Housing Protection Act will improve the lives of your constituents for many years to come.

There has been tremendous support for Councilmember McDuffie's proposal to address short-term rentals. I have with me today the names of 5,055 D.C. residents who have signed on in support of this legislation and want to see it passed.

I think by now the need for action is clear. As District residents continue to leave the city seeking affordable housing in nearby jurisdictions, we are witnessing some very disturbing trends.

We see party houses taking over residential neighborhoods. We see investors buying one, two, three or more homes at a time and converting them into full-time Airbnbs. Just yesterday we learned about an Armenian company that is being sued by the Office of the Attorney General Office of Consumer Protection in an investigation where apartment managers or owners are treating rent-controlled apartments like hotel rooms and renting them out on sharing-economy platforms. This is in violation of the of the District's Rental Housing Act and the licensing requirements put in place to regulate hotels. Ginosi USA, allegedly collects sales taxes from guests but fails to remit them to the District.

This past December—on what was probably the coldest day we had last winter—I stood with Ward One Councilmember Nadeau and other advocates as we conducted an exposé on an entire rent-controlled building that had been purchased and put up on a short-term rental platform. When we held the event last December, the Latino Economic Development Center had already made DCRA and DHCD aware of this property more than a year beforehand.

It took a major media event and the direct involvement of the Councilmember to bring about any kind of enforcement on this single infraction. Meanwhile, Airbnb alone is illegally taking thousands of homes and apartments off the market. It is clear that our current enforcement regime is broken, and we need the leadership of the Council to demonstrate that the District of

Columbia will not tolerate investors converting our badly-needed housing into commercial operations.

Make no mistake—when not properly regulated, Airbnb and platforms like them are tools for gentrification. As we found in the housing report we commissioned this year, investors have an enormous incentive to set up full-time tourist operations. As we learned recently in New York, the vast majority of Airbnb hosts in African American neighborhoods were white. This is not about creating opportunities for people of color. It's about creating opportunities for investors to speculate in gentrifying neighborhoods and take away housing where it is needed most.

But let me take a step back and address the legislation at hand. Our coalition believes in home sharing. When it's done right, it

allows homeowners the option of renting out space in their homes to make extra money. The homeowners must live in their homes to make home sharing work the way that it is intended. It isn't designed to take affordable housing units off the market.

Councilmember McDuffie's legislation makes that possible. It creates a fair, easy process for hosts to legally share their homes to make extra money. And it creates a system where we know who is renting their homes, for how long, and done properly, neighborhoods remain safe, housing remains affordable and available, and commercial operators follow the intent and the letter of the law.

And, most importantly, it holds hosting platforms like Airbnb accountable.

In some cities, a voluntary corporate policy was put in place, but it wasn't enough. Councilmember McDuffie's bill is fair and equitable for both home owners and commercial operators.

This bill would create a new business license for short-term rental hosts and have a tougher enforcement mechanism than current rules. There is a real need in the District to create a sensible regulatory framework for short-term rentals.

Mister Chairman, members of the Council, this is the right piece of legislation, at the right time. I urge its passage.



**Testimony to the District of Columbia Council Committee of the Whole on Bill 22-92**  
**April 26, 2017**

Chairman Mendelson and Council Members, thank you for this opportunity to testify on Bill 22-92.

My name is Dan Bucks. I am a veteran state tax administrator who, among other positions, served for 17 years as Executive Director of the Multistate Tax Commission, an interstate agency to which the District belongs. In that work, I helped ensure the District received a fair share of taxes from businesses engaged in interstate commerce.

I now consult on public revenue issues and recently studied several agreements between Airbnb and state and local tax agencies. That report, which includes a disclosure statement, is relevant to the issues before you and has been submitted for your consideration as part of the record.

The purposes of this bill—protecting public health and safety and preventing the conversion of residential property into hotels or inns—are vital to the well-being of District citizens. Its core provisions requiring short-term rental licenses and public listing of those licenses by online platforms are critical to any effective regulation and equitable taxation of these rentals.

This Council has a strong record of guaranteeing that every entity selling lodging in the District plays by the same tax rules. Tax equity is crucial because you cannot have misguided tax practices undermining sound regulations by giving some lodging facilities unfair advantages over others. As you work on this bill, you should make certain once again that lodging you authorize for booking through any online platform is subject to uniform tax rules. Financial penalties for illegal lodging is, of course, an additional issue to consider.

In addition, you should examine in public the agreement DC tax officials have signed with Airbnb. It is being kept secret, but should not be. If it is like agreements with Airbnb signed elsewhere in the nation, it undercuts Bill 22-92 by aiding and abetting the conversion of homes and apartments into illegal hotels and inns, concealing Airbnb rentals from agencies that enforce zoning, housing and public safety laws, and giving away unfair tax favors to Airbnb and its lodging network. You and your citizens need to know if this agreement causes the very problems you are trying to solve with this bill. If it does, you should replace that agreement with tax provisions that work for the public good.

I am glad to answer questions and to share, as time allows, suggestions for tax policies that support public health and safety, affordable housing, transparency and tax fairness. Thank you for your time and consideration.



# Metropolitan Washington Council, AFL-CIO

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## Testimony of Carlos Jimenez, Executive Director

### In Support of Bill 22-92, The Short-term Rental Regulation and Affordable Housing Protection Act of 2017

Before the Committee of the Whole

Honorable Phil Mendelson, Chair

26 April 2017

Good morning Chairman Mendelson and members of the Council.

My name is Carlos Jimenez and I am the Executive Director of the Metropolitan Washington Council, AFL-CIO. We are the regional labor federation comprised of 175 local unions representing over 150,000 members, 40,000 of whom live in the District of Columbia. Our mission is to represent the interest of our members and all working families under our jurisdiction.

I am glad to be here today to testify in support of Bill 22-92. Given all of the challenges the city and its residents are facing when it comes to housing and the lack of affordable options, it behooves us to make sure that we are doing everything in our power to have a fair, transparent, and accountable playing field in our rental market – this is especially true on the issue of short-term rentals. We are not here today to be oppositional to technology, entrepreneurship, or of new economies that are emerging across the country. We are here to ensure that we are creating sustainable, safe, and fair frameworks that allow for these new technologies to thrive – and Bill 22-92 presents this council with a mechanism to do just that – while also being responsive and attuned to the needs of all other stakeholders and residents of the District.

I will go further, and say that without government action, we would allow some disturbing trends to go from bad to worse – and it doesn't have to be this way. A recent report by D.C. Working families showed that the rise of short-term rentals, particularly by platforms like AirBnB that are thriving and driving their economies, is creating a dynamic in which their listings are taking out of the market housing units from families that need it. Their review of AirBnB found that more than 1/3 of their listings were controlled by commercial operators – meaning it's not individual homeowners who are trying to make a few extra dollars through the use of their platform, but rather large and sophisticated market actors who are directly competing with D.C. residents for the few and limited rental units in our market. Their share of

the market grew exponentially last year, the study put it at 34%, and being sophisticated commercial operators they know that in the right neighborhoods and units, they can get through their platform up to 2 times what a hard-working D.C. family could afford to pay in rent, if not more than that. At a time when there's a real hard conversation about prosperity, when we are undertaking efforts to ensure that it's shared and felt by all D.C. residents and attempting to keep the District moving in a positive direction, we have to be mindful of how the emergence of new technologies and platforms connects to the existing ecosystem and communities, which is what we believe Bill 22-92 attempts to do.

There's been a lot of rhetoric and information out about this bill, and it bears repeating that this bill is reasonable and attempts to accommodate and speak to the interests of multiple stakeholders. It's predicated in the idea that for legitimate short-term rentals, there is an unlimited number of days a unit can be listed. That's worth underscoring, because no one is trying to deny anyone with space or rooms to share the ability to engage in this economy. It does ask people who want to participate to ensure that it's not done in a way that's inconsistent with basic safety and health laws that the District has in place, which is why it creates a streamlined approval process for residents to get a business license. I won't focus too much on the abuses and the potential of a few bad actors to rig or game the system, but we do know it's happening and an unfortunate reality right now – we've seen some rent-controlled apartment buildings in Adams Morgan and Columbia Heights that had been entirely converted to full-time tourist rental use – and having a license and corresponding number would allow the public to instantly know that the rental is legitimate and operating responsibly and legally.

I will conclude by stating something fairly obvious, which is that we also have an interest in ensuring that commercial operators aren't acting in a way that takes away middle-class jobs, and union jobs, from other sectors of the economy via unfair gaming of the housing market.

In summation, Bill 22-92 is a good step for the District. It creates a fair, safe, and transparent playing field for those wishing to partake in the market. We discussed this issue at length over the past several months, and unanimously agreed that this legislation is something we need to enact. The Metropolitan Washington Council, AFL-CIO urges the Council to vote in favor of Bill 22-92. Thank you for your time and the opportunity to speak before you today.

District of Columbia  
City Council Committee of the Whole  
April 26, 2017

Good morning Chairman Mendelson and members of the District of Columbia's City Council. Thank you for the opportunity to testify on short term rental policy.

In 2015, Airbnb released our Community Compact – which details our commitment to municipal and state government policy makers. In the Compact we stressed our goal to collect and remit taxes on behalf of our hosts and to enact thoughtful regulations on home sharing.

For the last two years our hosts have paid \$14.5M in taxes to the District of Columbia. And for our hosts, the eighty-eight percent of whom who are renting out their primary residence, home sharing has been a lifeline. Four percent of our District hosts note that income from Airbnb has helped them avoid foreclosure or eviction. Frequently, home sharing provides additional income to middle class families that allows them to keep with the rising cost of living in the District - the typical Airbnb host earns an additional \$5,800 per year.

Rather than seeing home sharing as a boon for the middle class, some observers have posited that home sharing is responsible for reducing the number of affordable housing units in the district. To quote Sharebetter D.C., "Airbnb and platforms like it are facilitating the widespread conversion of housing units into illegal hotel rooms, in a bid to profit from the District's already-scarce housing stock."

We take this allegation seriously, and at the request of the Coalition for Neighborhood Housing and Economic Development (CNHED) we conducted a social scientific analysis of our impact on affordable housing in the District.

First, we found that there are only 670 entire homes that are rented for more than 180 days per year. This equates to .22% of the total number of housing units in the District. (There are 303, 000 housing units in D.C.) Hardly the widespread hotel conversions alleged by home sharing opponents.

Second, we tracked the vacancy rate in the District and found that the overall vacancy rate has remained steady for the past several years.

Third, we conducted a bivariate correlation analysis of rental prices and the number of short term rental units. There was no statistically significant relationship between the two variables, therefore we determined that short term rentals have no impact on rental prices.

Notwithstanding the claims regarding affordable housing, we believe that short term rentals should be regulated. We agree that there should be a limit to the number of entire home units that any one person can rent out. We agree that there should be a cap on the number of nights that an entire home can be rented out. We agree that hosts should be licensed, provided that the licensing process is simple and easy for all Washingtonians to comply with so that everyone can participate if they so wish..

We stand ready to work with the Council, the mayor's office, and other policy makers to craft a bill that allows home sharing to exist and to protect public safety and affordable housing. To that end we sent out a redline of the introduced version of the legislation last week to all Councilmembers. Airbnb and all our resident hosts look forward to working with you as this moves forward.



April 26, 2017

Testimony of Joseph Montano, Expedia, Inc. Government Affairs Manager  
In Opposition to Bill 22-92 the "Short Term Rental Regulation and Affordable Housing  
Protection Act of 2017"

Good afternoon Chairman Mendelson and members of the District of Columbia City Council. My name is Joseph Montano and I am the D.C. Government Affairs Manager for Expedia, Inc. Thank you for the opportunity to testify before you today on our strong opposition to Bill 22-92, the "Short Term Rental Regulation and Affordable Housing Protection Act of 2017."

On behalf of the Expedia family of brands that include vacation rental leaders HomeAway and Vacation Rental by Owner, or VRBO, I'm here to express our deep concerns with Bill 22-92 and highlight the dangerous impact it would have on local vacation rental owners and the broader D.C. travel and tourism economy.

HomeAway is the world's leading online marketplace for whole home, short-term and vacation rentals, with over a million listings in 191 countries. HomeAway provides a platform for property owners and managers to list their homes for rent. These short-term rentals serve a broad variety of purposes apart from leisure, including: hosting families that are remodeling their homes, businesspeople staying in town for more than a few days, and accommodating groups or families during university graduations or medical-related stays.

HomeAway supports policies that are fair, effective, and allow the activity of short-term renting to legally operate. As families are traveling more often together and for longer periods of time, it's important that the District of Columbia employ effective and reasonable ways to regulate the industry while not adversely affecting the local tourism economy and undermining the rights of homeowners.

For generations, whole-home vacation rentals have been a critical part of DC's local travel and tourism industry—helping traveling families find a place to stay together and assisting local homeowners cover their mortgage or save for retirement. As written, this bill would eliminate the ability for property owners with a second home from participating in the short-term and vacation rental industry.

Traditional vacation rental owners should be equally protected under any short-term rental legislation as homeowners' property rights should be respected and treated equally,



regardless of whether their home is a primary residence or a secondary residence. Imposing short-term rental bans on secondary rentals, as this legislation would do, could push the activity underground, harming enforcement and revenue collection efforts.

Under this legislation, the hosting platform would be forced to police short-term and vacation rentals by having to verify the validity of a short-term rental business license and maintain records of any transactions that have taken place between the property owner and a short-term rental guest. Today's vacation rental platforms simply do not have the capacity to monitor every individual owner and ensure that each one is in compliance with the requirements laid out in this bill.

Furthermore, this legislation runs in stark opposition to D.C.'s current economic strategy of attracting and retaining businesses in what has been identified as the "Hospitality Innovation" sector. The March 2017 D.C. Economic Strategy plan defines hospitality innovation as "including technology, services, and entrepreneurship that augment or disrupt the hospitality sector." The hospitality innovation sector has been identified as an area of opportunity that "offers high potential for tax revenue growth and industry development."

Lastly, since this legislation has been introduced, we've received an enormous number of calls and letters from District residents who are HomeAway property owners and managers who've expressed concern with the potential ramifications of Bill 22-92. Fifty-four percent of homeowners who rent out their homes on HomeAway earn enough income to cover three-quarters of their mortgage. Without the extra income that HomeAway enables them to earn, these District residents could be left without a vital source of income and will need to make some hard economic choices.

We welcome the opportunity to work with you and your staff to craft a fair and sensible policy to regulate short-term rentals but ask that you oppose this legislation. In order to fully understand the short-term and vacation rental industry, I would ask that you consider creating a task force or study committee that would allow for the input of home sharing platforms, property owners and managers, and the business community at-large who have been able to grow because of the short-term and vacation rental industry.

Thank you for your consideration, and please do not hesitate to contact me with any questions, or if I can provide you any additional information.

Joseph Montano  
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**PUBLIC HEARING**  
**BEFORE THE**  
**THE COUNCIL OF THE DISTRICT OF COLUMBIA**  
**RE: BILL 22-92, THE “SHORT-TERM RENTAL REGULATION**  
**AND AFFORDABLE HOUSING PROTECTION ACT OF 2017”**

**TESTIMONY**  
**OF:**

**SOLOMON KEENE**  
**PRESIDENT & CEO**  
**HOTEL ASSOCIATION OF WASHINGTON DC**

**Wednesday, April 26, 2017**

**1350 Pennsylvania Avenue, NW**  
**Washington, DC 20004**

Good Morning, Chairman Mendelson, and Members and Staff of the Committee of the Whole. I am Solomon Keene, President & CEO of the Hotel Association of Washington, D.C., a trade association representing the interests of hotels in the District of Columbia with over 90 plus members. Hotels in the District generate over \$273 million dollars in tax collections to our city each year, employ over 15,000 employees and pay over \$780 million dollars in wages.

I am here to testify in support of Bill 22-92, the "Short-Term Rental Regulation and Affordable Housing Protection Act of 2017." The bill would require the Department of Consumer and Regulatory Affairs ("DCRA") to inspect short-term rentals for violations of health and safety, establish requirements governing the use of short-term rentals, and require short-term rental hosts to obtain a basic business license.

Airbnb may have been created as a home-sharing platform in which owners chose to rent out a room or part of their property to guests to make extra money, what many refer to as "mom and pop" hosts. However, as the research indicates, Airbnb's business in Washington, D.C. is moving away from that original design. Without any legislation or regulations controlling these rentals, short-term rental platforms have experienced a significant growth of commercial operators many of them operating in residential neighborhoods.

The study shows that 24% of Airbnb's revenue in Washington, D.C. comes from hosts with 20 or more units. These are not your traditional mom and pop hosts. These are rentals where the owner is not present at any time during the rental period. They are entire houses or apartments in which many of them were purchased with the sole intent of listing on short-term rental platforms to rent to transient guests with little to no regard for the impact on neighbors or the neighborhoods in which they operate. The lack of regulations incentivizes property investors to purchase properties and convert them into de facto hotels, without having to abide by the myriad of regulations that legitimate hotels are required to follow to ensure guest safety, cleanliness, and adherence to zoning requirements. Further, by forgoing the option to rent these units to long-term tenants, these commercial operators do not have to abide by the District's landlord-tenant laws completely ignoring longstanding public policy around rentals in the District.

The hotel industry does not seek to prevent District residents from sharing their homes with travelers that come to our city. It is important to make clear that any District homeowner would be allowed to continue to rent their property on a

home-sharing website, as long as they are also present in the home during the short-term rental stay (the true meaning of home-sharing) and they receive a license from the District.

The intent of the legislation is to rid the market of illegal hotels—not mom and pop operators. The bill would clarify that homeowners simply need to obtain the appropriate licenses to continue to engage in home-sharing activity. It would also give DCRA enforcement capabilities to ensure that homeowners obtain the license and abide by District regulations regarding health and safety standards. The bill does not seek to prevent the average homeowner seeking to rent their property to earn extra income by listing their property on a home-sharing website.

Another area of concern is the issue of taxation. Hotels are mandated to charge a 14.5% occupancy tax on all rooms rented – 10% of that goes to the District's General Fund and 4.5% goes to operate the Convention Center and help market our city. Anyone renting an accommodation to a transient guest should be required to charge the occupancy tax and remit it to the city.

I'm certain that you have heard or will hear today that Airbnb is paying taxes in the District. However, it is unclear if they are indeed doing that in accordance with existing District tax policy. It has been reported that Airbnb has entered into a tax agreement with the District government and is remitting the 14.5% occupancy tax. Unfortunately, this agreement is private and not subject to public scrutiny. This secret agreement shields commercial property owners from audits and potential back taxes. Moreover, this agreement only extends to operators listing their properties on the Airbnb platform. There are many online platforms in which an owner can list their property and because they are not part of the agreement that Airbnb entered into, they are not required to collect and remit the appropriate tax. Amending the code to make it explicit that all short-term rentals are required to charge the occupancy tax is the only way to ensure full compliance.

This bill should be amended to amend Section 47.2002 of the District Code to clarify that short-term rentals are also required to collect and remit the occupancy tax. This would give the District government the ability to audit owners operating these units to determine if they are complying with the tax code and remitting the proper taxes. Merely remitting the tax to the District through these secret tax agreements should not be enough to allow these short-term rentals to operate.

Allowing these short-term rentals to operate free of any regulatory structure gives them an unfair advantage in the lodging industry. The District needs to set

HAWDC Testimony: Bill 22-92, the "Short-Term Rental Regulation and Affordable Housing Protection Act of 2017"

clear guidelines for owners listing their properties, as well as the companies operating home-sharing websites.

I'd like to reiterate that HAWDC's intent is not to eliminate traditional home-sharing rentals, but to ensure that there is an equitable environment to operate with those providing lodging accommodations. For these reasons, HAWDC supports this bill and we urge the Council to pass legislation that provides a reasonable and commonsense framework that is fair to travelers, hotel operators, and homeowners. Thank you for the opportunity to testify regarding this important issue to our industry and city and I welcome any questions that you may have.



**Testimony of Craig Kalkut  
Vice President, Government Affairs  
American Hotel & Lodging Association**

**Council of the District of Columbia  
Committee of the Whole  
Bill 22-92, "Short Term Rental Regulation and Affordable Housing Protection Act of 2017  
April 26, 2017**

Chairman Mendelson and members of the committee, thank you for hosting this important hearing today on short-term rental (STR) websites.

I would like to start by setting the record straight about two key points that have been repeatedly misrepresented by STR companies, including Airbnb, in cities and states around the country.

- First, competition is the hallmark of the lodging industry. We are not – and never have been – “against” competition. In fact, it’s quite the opposite. With more than 54,000 properties across the country, our industry embraces the opportunity to compete for guests. We thrive when everyone – all 54,000 of us – plays by the same set of commonsense rules designed to ensure the safety of our guests and our communities.
- Second, the hotel industry is not against home sharing. The occasional rental of a primary residence – the true spirit of the “sharing economy” – is the type of activity that generates positive benefits to tourism across the country and here in the District of Columbia.

However, our position as an industry has been clear for a long-time now, we are -- and have always been -- concerned by the growing number of commercial operators using websites like Airbnb to essentially operate multi-unit, full-time lodging businesses without any oversight.

Airbnb contends that their hosts are just “mom and pops” looking to rent out a back room to earn some extra income. Once upon a time, that may have been the case, but today it’s just a fairy tale.

In reality, Airbnb has grown because commercial operators are listing residential properties that have no regular occupant, removing important housing stock from a city that already faces a serious affordable housing crisis.

The scope and scale of commercial activity on Airbnb in the DC area is vast.

- 77% of Airbnb’s DC area revenue comes from entire-home rentals.
- Even worse, in the DC metro area, revenue generated by hosts who rent out *multiple*, entire units increased by 134% between 2015 and 2016 to now total more than \$31 million.



- But far more disturbing and disruptive to DC's communities is the fact that hosts who *list 20 or more units* earned 24% of the total revenue generated by multi-unit hosts. That's not home sharing, that's big business.

To put a finer point on this, according to a recent story in the Washington Post<sup>1</sup>, there are "more than 500 homeless families" that the District currently pays \$80,000 every night to house due to conditions at the District's main homeless shelter. By contrast, in 2015-2016 Airbnb listed 8,057 entire-home rentals available for short-term rent, including 2,252 that were rented by operators who ran multiple units.

Airbnb's commercial operators are not good for the travelers, not good for communities and not good for the working families of the District who are trying to make ends meet.

If the commercial operators who use Airbnb and other short-term online rental companies to run lodging businesses want to be declared legal players in the lodging industry, they should have to follow the same basic rules as the rest of the industry. These include fire and emergency safety protocols, non-discrimination policies, zoning regulations, alcohol and food service standards and more. It's only fair that if you run a lodging business you should have to comply with the same standards as every other lodging business.

We call on Airbnb and short-term rental companies to stop misrepresenting their platform as one that simply supports the middle class when it's clear the bulk of Airbnb's revenue is coming from commercial activity.

Airbnb has the power to report its data, remove commercial activity when appropriate, adhere to commonsense safety and security measure and pay its fair share of taxes. Yet it refuses to take even simple steps to do any of that. Transparency matters. We will continue to work with our coalition partners in DC and across the country to hold Airbnb accountable. And we ask that the Council does the same.

Thank you, again, for the opportunity to speak with you today, and I look forward to answering any questions you may have.

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<sup>1</sup> *Bowser Plans to Lease Apartment Buildings to House Homeless Families*. Washington Post April 21, 17. [https://www.washingtonpost.com/local/dc-politics/bowser-plans-to-lease-apartment-buildings-to-house-homeless-families/2017/04/21/f067ba06-2385-11e7-bb9d-8cd6118e1409\\_story.html?hpid=hp\\_local-news\\_dhomeless-950am%3Ahomepage%2Fstory&utm\\_term=.a986bdc3ff01](https://www.washingtonpost.com/local/dc-politics/bowser-plans-to-lease-apartment-buildings-to-house-homeless-families/2017/04/21/f067ba06-2385-11e7-bb9d-8cd6118e1409_story.html?hpid=hp_local-news_dhomeless-950am%3Ahomepage%2Fstory&utm_term=.a986bdc3ff01)

**The Short-term Rental Regulation and Affordable Housing Protection Act of  
2017**  
**Committee of the Whole**  
**April 26, 2017**

**Testimony of Elizabeth Heyman**  
*Community Organizer, Jews United for Justice*

Good morning Chairman Mendelson and councilmembers. Thank you for the opportunity to testify today. My name is Elizabeth Heyman and I am a community organizer at Jews United for Justice, a DC-based grassroots organization that organizes thousands of people in the local Jewish community and beyond to fight for social, racial, and economic justice.

I am here testifying on behalf of Jews United for Justice. Judaism teaches that everyone should have a safe and dignified home. While many in our community don't have to worry about the permanence or dignity of their housing, there are far too many people in our city who do.

Rising rents and limited affordable housing are pushing longtime DC residents out. And one factor accelerating that reality is investors buying up housing in our community and transforming it into short-term rentals. When investors can earn an average of more than double what they could earn renting to a DC family by taking advantage of a loophole in the system, we know that there is a problem that we need to fix for the working families in our city.

We are proud to be members of ShareBetter DC and stand up for our city's residents. This bill isn't a restriction on Airbnb; it's a restriction on the businesses that are trying to capitalize on a service initially created to help people go on vacation, not skirt regulations for taxable commercial property. By making short-term rentals so profitable, we are literally taking housing away from families who desperately want to stay in the District.

JUFJ has a number of members who rent their houses through Airbnb and who are strong supporters of this effort. This legislation helps make it easier for people who want to do things the right way to rent responsibly.

I know there will be people here today - some who have already testified - who are going to speak about how great Airbnb has been for them. While I know that we don't see eye to eye today, I do hope that those testifiers can understand how abuse of the system has major consequences for the city, and that we can find a way forward together.

Thank you again for hearing our testimonies today.





# TRAVELERS UNITED

Hearing on Bill 22-92

Testimony of Lauren Wolfe, Counsel, Travelers United

April 26, 2017

Good afternoon, Mr. Chairman and members of the Council. My name is Lauren Wolfe and I serve as Counsel for Travelers United. Travelers United is the only non-profit that represents all travelers. We advocate to make traveling safe, enjoyable and easy.

The bill we are discussing today will do the opposite of this. This bill would essentially eliminate all home sharing in the District. This bill would be one of the strictest anti-home sharing bills in the country. It would make large scale events like Inauguration accessible to only the super wealthy. Travelers United does not believe this bill should have any place in a city that wants to open its door to all travelers.

There absolutely should be a bill regulating home sharing in DC. It is in the District's best interest to provide travelers to the city with a safe, affordable place to stay. No one wants to see entire rent protected apartment building being turned into Airbnb hotels. This bill however does not address that. It would, though, fine a resident of DC \$7,000 if they charged \$10 to have someone sleep on their couch. Why?

It's because this bill enriches a special interest at the expense of the visitor to DC. The Chairman of the DC Hotel Lobby directly bragged to *The Washington Times* about writing this bill. *The Washington Post* said this bill was too strict. *The New York Times* reported just last week on how the hotel lobby was pouring money into fighting their home sharing competition across the country and they said Washington, DC was one of their top targets.

Do not buy it. One way that you can tell this bill is meant to just support a special interest, instead of actually protecting the safety of travelers, is that there are no common-sense safety regulations in this bill. As a group that advocates for the safety of travelers, we beg of you to

please consider items like flashlights and carbon monoxide detectors and limiting stays to no more than two people per room. These are common sense home sharing regulations.

We are also concerned about how this bill would affect the safety of travelers to the District. Since the goal here is to eliminate home sharing, it would drive couch surfing and homestays underground. On platforms like VRBO, HomeAway and Airbnb visitors can see reviews from previous guests and contact customer support. If these platforms are eliminated, budget travelers will turn to unverified sites like Craigslist to find a place to stay. They will have no ability to verify their hosts before arriving. The budget traveler will be put in extreme danger.

This bill also does not address a major reason people are turning to home shares – hidden fees at hotels. Today a new trend from hotels is to charge two room rates for one night – one is the advertised online rate the other is a hidden fee, often called a resort or facility fee, that the guest is forced to pay when they arrive at the hotel. In Washington, DC many hotels now charge a second room rate of 22.95 per day. There have been a 300% increase in resort and facility fees in the District hotels the last year. A bill that only addresses half of the current issues in overnight accommodation in the district – home sharing but not resort fees – is a bill that is a dream of the hotel industry and a sham for all tourists to the District. A real common sense bill would address both home sharing and resort fees.

This bill does not serve the interests of visitors to DC. This bill has no common-sense safety rules. This bill is a dream of the hotel industry. This bill would take millions away from the District in the taxes that home shares currently provide. This bill does not address scam resort and facility fees in hotels that have seen a wild rise in the District and directly relate to tourists turning to home shares. This bill will eliminate the ability for all travelers to see the District. This bill is a scam serving nothing but special interests.

Travelers United is working to make traveling safe and easy across the country and one part of that is allowing people to open their homes to tourists. I want to thank the Committee for its leadership in starting this conversation. The District should have a bill regulating home sharing so that tourists know the city supports safe, legal home sharing. This bill is unworkable and would be a disaster for travel and tourism to the District. I am happy to take any questions. Please feel free to contact me at [lauren.wolfe@travelersunited.org](mailto:lauren.wolfe@travelersunited.org) or 202-713-9596 for any additional information I can provide.

William Rinehart  
Director of Technology and Innovation Policy  
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My name is William Rinehart and I am the Director of Technology and Innovation Policy at the American Action Forum. In recent years at the Forum, we have produced a number of reports related to the topic discussed in DC-B92, tracking labor changes in the sharing economy, conducting some of the first econometric analyses of this data, and detailing policy changes to help consumers. Today, I would like to share some of the conclusions I have drawn from my work in this area.

First, on the issue of licensure, it is important to remember the dynamic effects of these requirements. If implemented, they would become a barrier to entry, increasing the cost of doing business. While the rules seem to target commercial operations with the aim of boosting affordable housing, households towards the bottom of DC's income brackets will be also be discouraged.

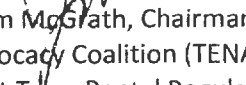
Second, studies centering around on-demand arrangements tend to show counterfactual dynamic effects. Work by Samuel Fraiberger and Arun Sundararajan, for example, find that peer-to-peer rental markets change the allocation of goods significantly, substituting rental for ownership while increasing consumer surplus. Moreover, their work suggests that "below-median income consumers will enjoy a disproportionate fraction of eventual welfare gains." The JPMorgan Chase Institute has confirmed this insight in their analysis of real consumer data. Those at the bottom gained the most.

Similarly, few reports have conducted a proper economic analysis, which would embed the presence of Airbnb and other short term rentals within the analysis as a variable. In other reports on this topic, the number of short term rentals and their time on the market is first determined. Then, the size of the rental market is estimated from Census data and this sum of the rentals is subtracted. Second, and separate from this original analysis, other studies that have quantified the relationship between rental supply and rental prices are consulted, which is combined to calculate the effect of the service. In the technical language, these studies commit serious errors of endogeneity, which economists, statisticians, data scientists, and social scientists all aim to reduce in their work.

Third, rental prices went down by over 3 percent last year due to new inventory. DC isn't alone. The expansion of housing options in Seattle, San Francisco and New York City have kept rents down. While there might be some small effect in rent prices due to this bill, most regional economists agree that housing expansion is the far easier way to accomplish the same goal of affordable housing.

If you have any further questions about this research, I am reachable via email or phone.

# TENAC

  
Testimony of Jim McGrath, Chairman  
D.C. Tenants' Advocacy Coalition (TENAC)  
Hearing, Bill-92, " Short Term Rental Regulation and  
Affordable Housing Protection Act of 2017  
Committee of the Whole  
Council of the District of Columbia  
April 26, 2017

Good morning members of the Council. I appreciate the opportunity to speak in favor of the "Short-term Rental Regulation and Affordable Housing Protection Act of 2017." It is good that "Affordable Housing Protection" is an integral part of this Bill's title and purpose, since no other cause is more dire. In fact, while I applaud this bill's purpose and content, I feel a certain sense of redundancy in it, since many, including me, feel there is no affordable housing left in this city. It reminds me of Biblical cries for "Peace" everywhere, but there is no peace; there are cries for "Affordable Housing" everywhere, but there is no affordable housing.

TENAC gratefully acknowledges the many voices out there working tirelessly to reverse the dismal housing trends in the District, rental and otherwise. We are pleased to be associated with those in OTA, The D.C. Attorney General's Office, DC Labor's Metropolitan Council, Labor Union Local 125, Empower DC, Washington Peace Center, Legal Counsel for the Elderly, National Low Income Housing Coalition, the West End Civic Association, Ed Lazere, long-time advocate for D.C. tax reform, among many others. TENAC salutes many other great tenant advocates – the late David Conn and Betty Sellers – and current rental housing heroes -- Jonathan Strong, Tom Gregory, Laetitia Combrinck, Denise Washington, Silvia Salazar, and others too numerous to mention.

The TENAC mission statement sets affordable housing right in the middle of its tri-partite goals: "Rent Control, Affordable Housing, and Tenants Rights." In that connection, moreover, we believe rent control and affordable housing are inextricably linked – you can't have one without the other. Why do we believe affordable housing is broken in this city? It is broken in this city because rent control is broken in this city, and TENAC is striving mightily to revive it. Advocate for "Short-term rentals," and their largest and fastest growing advocate – Airbnb – on the other hand, do nothing to revive or strengthen rent control and affordable housing, but only strive to dismantle it further.

The trend towards "short-term rentals" has unfortunately been around for some time, as has its negative impact on both rent control and affordable housing in the District. TENAC believes Airbnb and other "short-term rental" advocates represent a body blow against rent control and affordable housing. They are among the principal engines driving the acceleration of unaffordability and the ultra-commercialization of this city, causing the cost of living here to explode, making DC among the most expensive cities in the U.S. to live in. The upshot is that we have a welcome sign for the rich, and an exit sign for the poor. Some need to be reminded that we are not Boca Raton; we are the District of Columbia, and that affordable housing should be available to all. Airbnb is a fig-leaf for high-end hotel use. We don't need legions of would be "Conrad Hilton's," we need more Cesar Chavez's.

**D.C. TENANTS' ADVOCACY COALITION**  
**REPRESENTING ALL D.C. TENANTS**  
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# TENAC

There are many huge negatives associated with Airbnb and associates. The most glaring abuses include, but not limited to, the following:

Rent control is destabilized by taking thousands of units off market to use as expensive vacation rentals;

More than 37% of Airbnb listings are controlled by commercial interests and operators;

Two-thirds of Airbnb listings are for the entire home or apartment;

Rent-controlled buildings in Columbia Heights and Adams Morgan have been lost to working and needy families who need housing;

Commercial Airbnb listings grew by more than 34% last year;

Huge investor incentives – including profits of 100% or more – are gained by converting housing – rental and other to illegal hotel use; and

Studies show a history of past racial discrimination in the conversion of housing to hotel use.

TENAC believes Bill 22-92, is designed to restore rental housing and rent control in a critically important way, by curtailing the elimination of legitimate rental housing space and substituting illegal hotel space in its place. TENAC is pleased to join other key voices in support of this important legislation today. They include the Office of Tenant Advocate, under the excellent leadership of Chief Tenant Advocate, Johanna Shreve, the Washington Metropolitan Area Council AFL-CIO, represented by Carlos Jimenez, its outstanding Executive Director, the gifted leader of Union Local 125, Hotel & Restaurant Workers, Ian Elder, and Earl Williams, distinguished head of the DC Citizens Federation, among many others. We also salute Washington DC Working Families, and their excellent report: *Selling the District Short – Short-term rentals: a new challenge to housing affordability in the District of Columbia*, assessing Airbnb's impact in Washington, along with other excellent studies on this subject.

In closing, we highly commend the work of Councilmember Kenyon McDuffie, sponsor of Bill 22-92, and Councilmember Anita Bonds, Chair of the Committee on Housing for tireless advocacy of rental housing reform, and other supportive Councilmembers. We also commend DC Attorney General, Karl Racine, who has worked tirelessly on this legislation.

Thank you for the opportunity to be heard today.

**D.C. TENANTS' ADVOCACY COALITION**  
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**Written Testimony of Elizabeth Falcon  
Executive Director, DC Jobs With Justice  
Public Hearing**

**Bill 22-92, "Short Term Rental Regulation and Affordable Housing Protection Act of 2017"  
Committee of the Whole  
April 26, 2017**

Thank you for the opportunity to testify Chairman Mendelson. My name is Elizabeth Falcon, I am the Executive Director of DC Jobs With Justice and I am here in support of the *Short-term Rental Regulation and Affordable Housing Protection Act of 2017*.

Now is the time to pass sensible and responsible legislation that ensures that our units of housing remain homes for our residents and are not converted into hotel rooms within our neighborhoods and apartment buildings. I would like to strongly affirm that DC JWJ stands with the hotel workers, the importance of their collective bargaining, and that it is our mission to stand with workers and community members over corporate interests, such as the \$30 billion Airbnb corporation that is profiting off our communities.

Previous to my role as the Executive Director of DC JWJ, I worked for five years as an organizer and advocate for affordable housing programs in Washington, DC and my comments will focus on very real problem created by commercial operators who are listing nearly 2,000 full unit rentals on Airbnb. Commercial operators list more than one unit and therefore could not possibly be simply renting out their own home. (This does not even account for the units that are listed as full time vacation rentals but only have one property – which are also housing units being lost from our housing stock.) They also contribute to more than half of the revenue generated from DC to Airbnb, although they comprise a third of the sites listed. Airbnb is well aware that an unregulated market that allows our homes to turn into hotels – not just for a few nights but indefinitely - is good for their bottom line.

Airbnb is growing in Washington, DC and as it does, it is changing our neighborhoods and our housing ecosystem. As we all know, the cost of housing in DC is outpacing incomes for huge numbers of our neighbors. This impacts the availability and affordability of housing for residents at all income levels, with the most severe need at the lowest income levels.

Many forces lead to this housing situation, and many tools are needed to do our best to protect our housing stock for our resident. For over a decade it has been profitable for owners to replace low and moderate income renters with higher income residents, leading to the unfortunately commonplace tactics of pushing out longtime tenants to increase rents in rent-controlled units, exploiting rent control loopholes, innovation to distort the voluntary agreement process to benefit owners rather than tenants, allowing low-cost properties to fall into disrepair. These are all as ways to flip properties: bringing in higher paying tenants to replace lower-paying ones.

The DC government has taken action to prevent tenants from being exploited given the pressures they face: DC has important rent control protections, the Tenant Opportunity to Purchase Act, affordable housing preservation tools, and funding for programs to build, preserve, and rent housing for low and moderate income residents. Each of these programs is critical and the Council should continue to strengthen them because we have seen that the economic incentive to replace a low or moderate-income renter with a more profitable tenant is very strong. There is a lot of money to be made if you can get someone to pay more for your unit than the person you have living there now, and many owners are willing to do what it takes to make that happen.

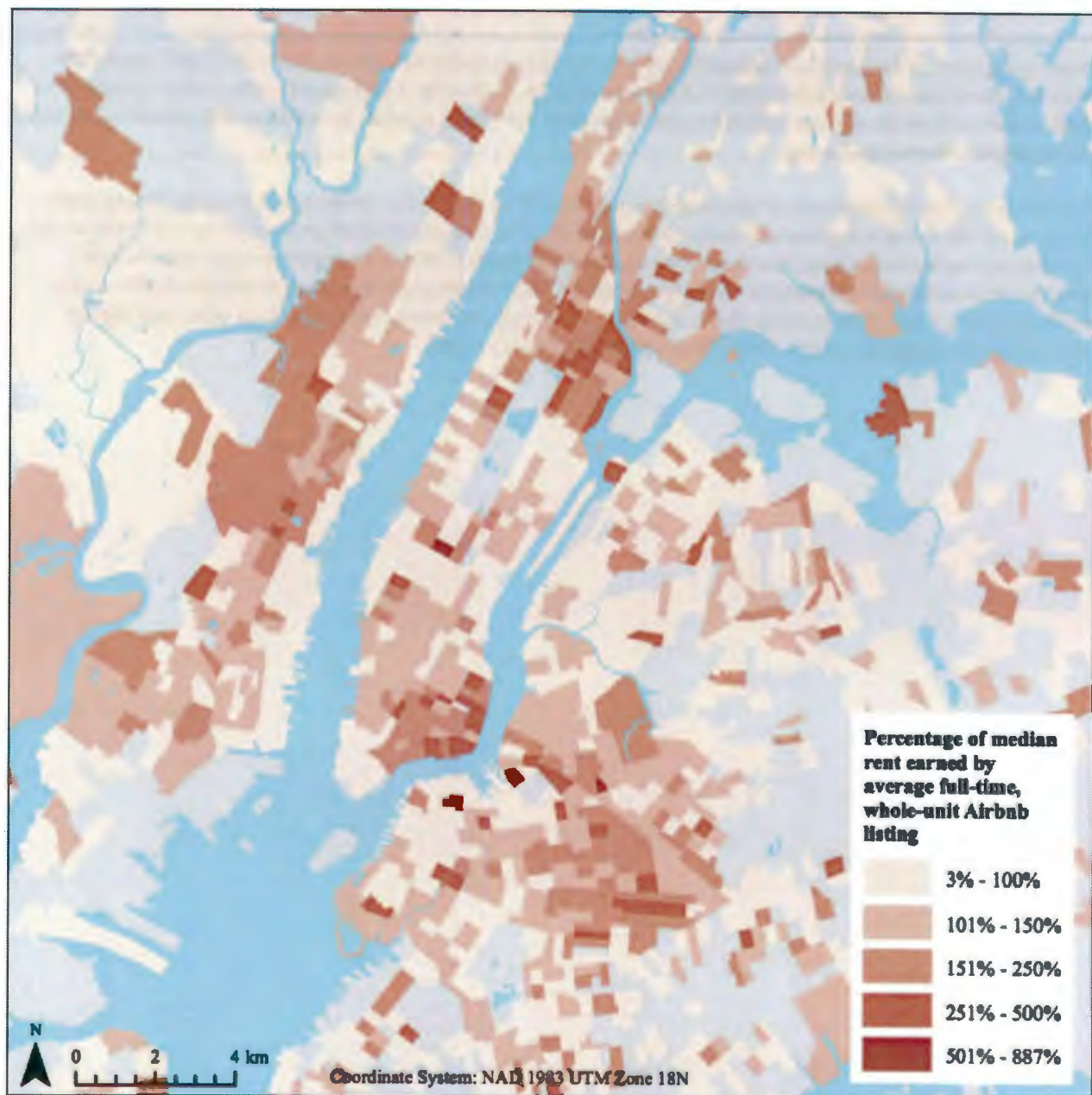
And a new economic force is now impacting the housing landscape in DC. Owners are realizing there is an even more profitable tenant – and it's not a tenant at all, it's a tourist.

David Wachsmuth, an Urban Planner at McGill University, is studying the impact of Airbnb in the New York area. He and many others have found that Airbnb is creating a new price point that owners can get for their unit. As you can see on the attached chart, in a large portion of the New York metro area, the value of making a unit into a hotel room rather than a home is vastly more profitable than the prevailing rents, in particular in areas which still have moderate income housing, like Harlem and Bed-Stuy<sup>1</sup>. *Put in other words, a \$30 billion Silicon Valley company has created a new economic incentive to turn moderately priced rental units into high-priced hotel rooms - turning our precious housing resources into gains for tech companies and venture capitalists.*

It is the DC Council's responsibility to the residents of District to protect our housing as housing. We already have regulations in place that cap the price for many of these units: rent control. And yet, we see in case after case that these units are being transformed from the stable and often moderately priced housing stock they are intended to be into apartments for visiting guests to party and leave. Regulation is needed to curb the market forces that make it so much more profitable to displace residents and operate housing as hotels. We should not allow our homes to be turned into hotel rooms for visitors. I urge the DC Council to pass Bill 22-92, "Short Term Rental Regulation and Affordable Housing Protection Act of 2017."

I believe that if a multinational corporation came to DC and said they wanted to bulldoze 2,000 units of housing to turn it into a hotel, the Council would stop them in their tracks. Even if it is a benefit to some residents, it is not a benefit to the city as a whole. And what if they said it was just the beginning? That there's no telling how many housing units they would eventually consume? That is the place we are in right now. It is up to the DC Council to regulate this system, to hold the tech companies accountable for their impact on our communities, and ensure they are not above the law.





“Where are individual landlords making the most money on Airbnb relative to what they could have been making with traditional rentals?....Harlem in North Manhattan, Bedford-Stuyvesant in Brooklyn, and Union City and its surrounding areas in New Jersey... are areas where there isn't yet a lot of Airbnb activity in absolute or even relative terms, but where the landlords who are using Airbnb are making a lot more money than they would have in the long-term rental market.” – David Wachsmuth

<sup>i</sup> Wachsmuth, David. “Airbnb and Gentrification in New York” <https://davidwachsmuth.com/2017/03/13/airbnb-and-gentrification-in-new-york/>

Further explanation of the data from an email from Dr. Wachsmuth:

Working off of the dataset I received from Airdna of 140,000 listings (the total amount that have existed in the New York region since the consulting firm started monitoring the website in September 2014), just under 16,000 of



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these listings are for full houses/apartments, were active at some point between October 2015 and September 2016 (my study period), and were rented a minimum 90 days of the year. I aggregated these listings by census tract, and then took the average estimated annual revenue per listing, in order to compare with median rents from the American Community Survey.

The estimate of annual revenue per property is made directly by Airdna, by checking each property listing every day to see if the listing is reserved, available or blocked off, as well as the listed price for that day. So there are no assumptions being made about how frequently a property is rented—this is data taken directly from Airbnb's website. The estimate is not going to be perfect, because some bookings get cancelled at the last minute and so aren't directly converted to revenue. But it should be a very close estimate, and particularly when aggregated across multiple properties as I've done, I believe the figures are reliable.

Written Testimony of Ari Schwartz  
Lead Organizer, DC Jobs With Justice

Public Hearing  
Bill 22-92, "Short Term Rental Regulation and Affordable Housing Protection Act of 2017"  
Committee of the Whole

April 26, 2017

Good morning Chairman Mendelson, Councilmember McDuffie, and members of the committee. My name is Ari Schwartz and I am the Lead Organizer at DC Jobs With Justice. Thank you for the opportunity to testify today on such a crucial topic. My colleague Elizabeth Falcon will testify today on the larger context of our affordable housing crisis and impact of short-term rental companies on the District's housing market. I will focus my testimony on the stories we have heard from tenants and residents about how commercial short-term rental operators have illegally commodified their buildings and neighborhoods. Many of these residents are unable to testify today or unwilling to speak out at the risk of retaliation from their landlords.

**The Case of Ginosi "Apartels"**

Yesterday, the Washington Post and other news outlets reported on the Attorney General's lawsuit regarding Ginosi Apartels, a company that offers illegal short-term rentals within large apartment buildings. As if to underscore their flouting of our laws, Ginosi has marketed their short-term rentals as "Apartels," a portmanteau of "apartment" and "hotel." Ginosi operates at least 70 hotel units in at least four different DC apartment buildings. Having targeted the explosive DC housing market all the way from its headquarters in Armenia, Ginosi is a prime example of the commercial operators that are able to flip housing into tourist rentals through platforms like Airbnb.

I spoke with residents who live in some of the buildings in which Ginosi has entrenched its hotel operations. In one of those buildings, the rent-controlled Heatherington Apartments on Massachusetts Avenue in Ward 2, Ginosi and the building owner Daro Realty have converted nearly a third of all apartments into illegal hotel units. On Airbnb and other websites, these hotel rooms are marketed as rentals within "Thomas Circle Apartel." Residents did not sign up to live in a hotel, but that is precisely what has happened. They told me how over the past couple years their neighbors' apartments have been converted into hotel rooms, how hotel rooms can now be distinguished by their keypad entry, and how the apartment concierge now functions as hotel manager to check in Ginosi guests. According to tenants, when apartments were vacated, building management would lease those units to Ginosi to renovate into hotel rooms.

The takeover of their building has resulted in a marked deterioration in the quality of life for Heatherington tenants. For months to no avail, one tenant asked management to move into any available one bedroom unit. This resident chose to move out when they learned that there were no available one bedroom units, as all had been converted into hotel rooms. Another tenant described unwanted advances made by Ginosi guests in the building's laundry room and incessant noise from Ginosi guests partying late into the night in the hotel suites. All the while, long-term tenants in the building have seen rent increases. It is worth highlighting that this is a rent-controlled building in which dozens of flipped units are now unavailable to DC residents looking for an affordable home.

## Full Rent-Controlled Buildings Are Flipped Into Illegal Hotels

As rent prices continue to skyrocket and luxury condos proliferate, rent-controlled housing remains one of DC's most precious assets. But thanks to short-term rental companies like Airbnb and the commercial operators they enable, many of those rent-controlled homes are unavailable as homes for residents. The reason? They have been converted into boutique illegal hotel rooms rented out on Airbnb.com, VRBO.com, and other websites.

Take 3504 13th St. NW in the heart of Columbia Heights, for instance. Columbia Heights, I should quickly note, has seen its median rent price jump 10% from 2011 to 2016.<sup>1</sup> In December of last year, 3504 13<sup>th</sup> St. NW, a rent-controlled building with 21 units, was exposed as entirely converted into a hotel. The building manager, Jarek Mika, had posted advertisements for the apartment units on Airbnb and VRBO's websites, where he also advertised short-term rentals in buildings in Petworth and Dupont Circle. Our colleague Valerie Ervin of Working Families Party decided to see for herself how this illegal hotel operated. She used a short-term rental website to book a three-night stay in the apartment building, paying a total of \$1,161 for \$270 per night plus cleaning fees and taxes. Noting the price, Ervin said, "I actually paid for the rental what most people pay in that neighborhood for an entire month."<sup>2</sup>

Just a couple months later, another apartment building made the news for being converted into an Airbnb hotel, this time in Adams Morgan. The Washington Post reported that "hundreds of tourists and vacationers have been booking one- and two-night stays in the building since late 2015 using short-term rental sites such as Airbnb."<sup>3</sup> This building, too, was rent-controlled, at least until it was purchased for \$2 million in 2015 and its new owner filed for a rent control exemption. In March of this year, at least 8 of the building's 12 units were listed on Airbnb, with nightly rates of \$65 to \$155. It is easy to see the incentive for commercial operators to turn long-term apartments into hotel rooms when one-bedroom apartments in this building were advertised on Airbnb for as much as \$4,657 per month. According to Zillow, the median rent price in Adams Morgan last month was \$2,790.

## This Bill Helps Residents While Holding Commercial Operators and Big Corporations Accountable

The three cases I have outlined in my testimony – Ginosi's "apartels," the Columbia Heights and Adams Morgan ex-rent-controlled buildings, now de facto hotels – are just the tip of the iceberg. A report by Working Families Party suggests that 37% of Airbnb rentals in DC are done so by commercial operators with multiple listings.<sup>4</sup> Current law prohibits this use of rental housing, but it is readily apparent we need a clear and strong law to hold these companies accountable. Airbnb, which lauds a valuation of \$30 billion dollars, should not profit off of our housing crisis. Residents across the city deserve better, and they deserve clear rules for home sharing that outlaw commercial operators and illegal hotels.

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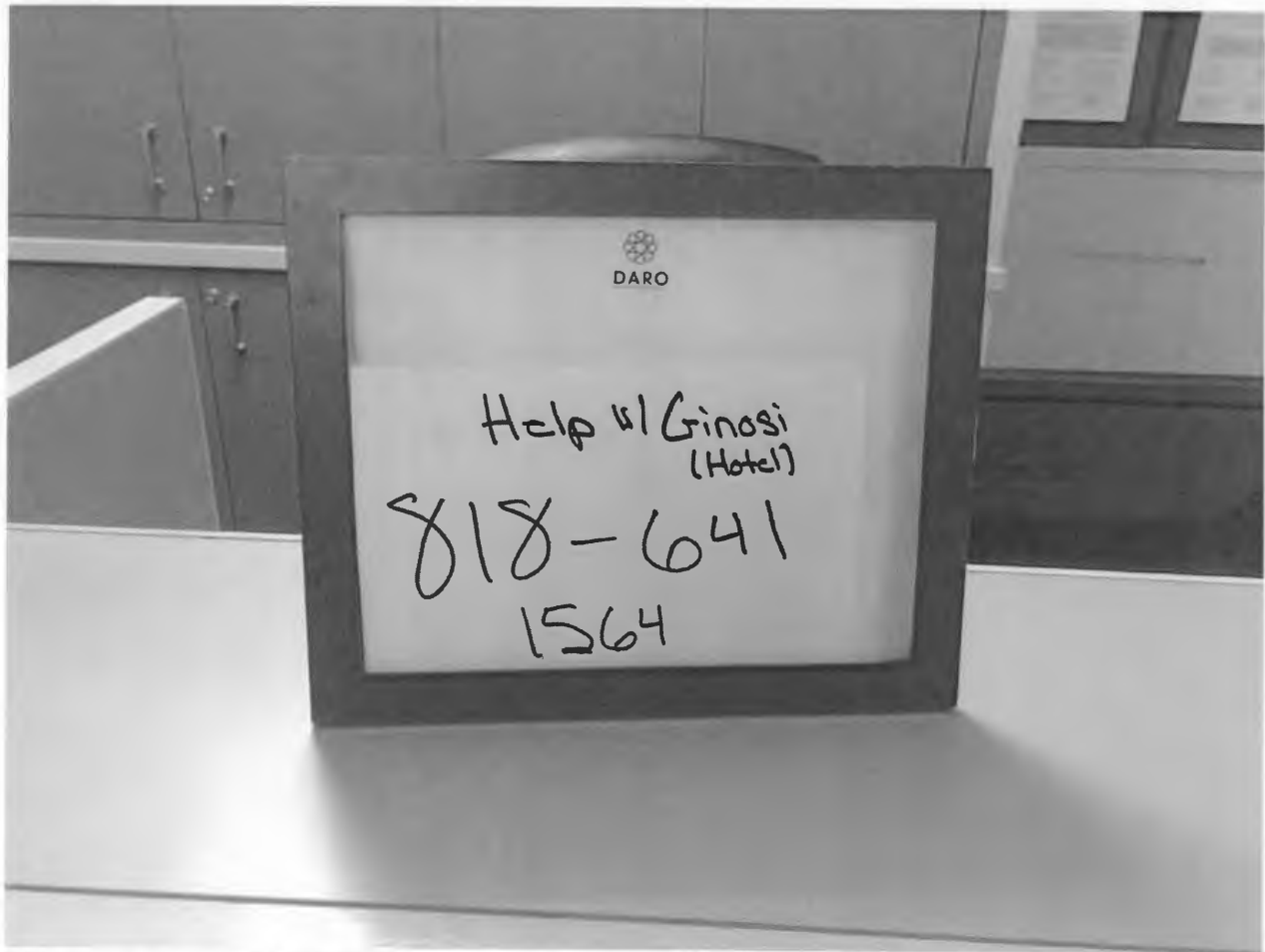
<sup>1</sup> D.C. Working Families Party. "Selling the District Short." March 2017, accessed April 20, 2017, [http://dcsharebetter.org/wp-content/uploads/2017/03/D.C.-Housing-Report\\_Web.pdf/](http://dcsharebetter.org/wp-content/uploads/2017/03/D.C.-Housing-Report_Web.pdf/).

<sup>2</sup> Giambrore, Andrew. "'Sting Operation' Reveals Questionable Airbnb Use at Building in Columbia Heights." *Washington City Paper*, 15 Dec 2016, accessed April 20, 2017, <http://www.washingtoncitypaper.com/news/housing-complex/blog/20846838/sting-operation-reveals-questionable-airbnb-use-at-building-in-columbia-heights/>.

<sup>3</sup> Bhattarai, Abha. "A rent-controlled D.C. building commanded big bucks on Airbnb." *The Washington Post*, 13 Mar 2017, accessed April 20, 2017, [http://www.washingtonpost.com/business/capitalbusiness/a-rent-controlled-dc-building-commanded-big-bucks-on-airbnb/2017/03/13/cb4f64d2-042a-11e7-b9fa-ed727b644a0b\\_story.html/](http://www.washingtonpost.com/business/capitalbusiness/a-rent-controlled-dc-building-commanded-big-bucks-on-airbnb/2017/03/13/cb4f64d2-042a-11e7-b9fa-ed727b644a0b_story.html/).

<sup>4</sup> D.C. Working Families Party. "Selling the District Short."

Appendix



*This sign is displayed in the lobby of the Heatherington Apartments at 1421 Massachusetts Avenue NW. Daro Realty manages the building and has partnered with Ginosi Apartels to turn much of the building into an illegal hotel.*



***D.C. Federation of Civic Associations, Inc.***

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**Testimony Talking Points**

Short-term rental legislation hearing

*The Short-term Rental Regulation and Affordable Housing Protection Act of 2017*

Committee of the Whole

April 26, 2017

On March 22, 2017 the DC Federation of Civic Associations passed a resolution to support the Short-term Rental Regulation and Affordable Housing Protection Act of 2017, by a vote of fifteen (15) for, zero (0) against, and one (1) abstaining.

We believe commercial short-term rentals take away housing from families who need it, it is a rapidly-growing problem, may exacerbate gentrification and inequality, and that the Short-term Rental Regulation and Affordable Housing Protection Act of 2017 is a reasonable approach to regulating short-term rentals.

Unless otherwise stated, the facts and figures given in this testimony are supported by the D.C. Working Families 2017 Report, by the Working Families Party, on the impact of short-term rentals on D.C. housing. And while Airbnb is often referred to in this testimony, it is just the largest example and there are other online short-term rental platforms, such as VRBO and HomeAway.

**1. Commercial short-term rentals take away housing from families who need it.**

- More than 37% of Airbnb listings are controlled by commercial operators.
- Two-thirds of Airbnb listings are for the entire home or apartment.

- We've already seen news reports of two entire rent-controlled buildings -- in Columbia Heights and Adams Morgan-- taken away from working families who need housing.

## **2. Commercial short-term rentals are a rapidly-growing problem.**

- Commercial Airbnb listings grew by more than 34% in the last year.
- This rapid growth will only continue until the problem is addressed. Why? Because investors have a massive incentive to convert housing to illegal hotel rooms. In the top Airbnb neighborhoods, investors can earn an average of more than double what they could renting to a D.C. family. In some neighborhoods it was more than triple.

## **3. Commercial short-term rentals may exacerbate gentrification.**

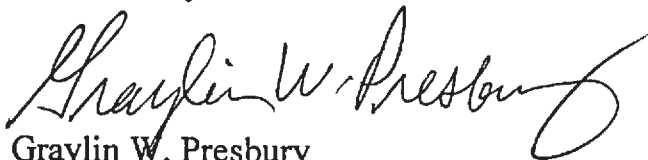
- The neighborhoods where Airbnb is most popular are where rents are rising the most quickly - taking away housing where it is needed the most.

## **4. This legislation is a reasonable approach to regulating short-term rentals.**

- The bill allows for unlimited legitimate home-sharing.
- The bill creates a new license category to streamline the approval process for D.C. residents to legally host visitors in a spare bedroom.
- The bill holds internet companies appropriately responsible for ensuring that they are operating in a responsible manner. This will enable the public to instantly know whether a listing is legal - by means of the business license number posted on the website.
- Fifteen nights is a fair limit to vacation rentals. Most working families get less vacation than that every year.

- When no one is there in the home, there is no way for the host to ensure that tourists are respecting the neighborhoods they are staying in.
- A less rigorous approach may fail miserably to rein in abuse by Airbnb and other short-term rental platforms because of the lack of adequate enforcement or tracking mechanisms.

Submitted by



Graylin W. Presbury  
President, DC Federation of Civic Associations  
[www.dcfca.org](http://www.dcfca.org)



***D.C. Federation of Civic Associations, Inc.***

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Resolution in support of the Short-term Rental Regulation and Affordable Housing Protection Act of 2017

WHEREAS, the D.C. Federation of Civic Associations is dedicated to informing, representing, and supporting the residents of the District of Columbia by bringing together leaders of its diverse neighborhoods in an action-oriented body;

WHEREAS, illegal commercial short-term rental operations pose a serious threat to the availability of affordable housing in the District of Columbia;

WHEREAS, there are more than 6,000 D.C. listings available on Airbnb alone and by Airbnb's own estimates over a quarter of these listings are controlled by commercial operators who own multiple listings in the District;

WHEREAS, illegal commercial short-term rentals are most prevalent in rapidly gentrifying neighborhoods, and provide a major avenue for investors to exploit and destabilize the District's residential neighborhoods;

WHEREAS, the "Short-term Rental Regulation and Affordable Housing Protection Act of 2017" would update the process for residents to get a license for short-term rental use in their home and create enforcement mechanisms to ensure that neighborhoods and housing are protected;

WHEREAS, the bill would effectively target commercial short-term rental operations which harm neighborhoods and deplete housing, while providing a pathway for legitimate home-sharing to flourish in the District of Columbia; now, therefore be it

RESOLVED, that the D.C. Federation of Civic Associations does hereby support the "Short-term Rental Regulation and Affordable Housing Protection Act of 2017."

Dated this 22nd day of March, 2017.

Graylin W. Presbury  
President  
DC Federation of Civic Associations



**Testimony of The Community Association Institute**  
**on**  
**Bill 22-0092**  
**the "Short-term Rental Regulation and Affordable Housing Protection Act of 2017"**  
**before**  
**Council of the District of Columbia Committee of the Whole**  
**Wednesday, April 26, 2017, 10:00 a.m.**  
**Room 500, John A. Wilson Building**  
**1350 Pennsylvania Ave., NW**  
**Washington, D.C. 20004**

Dear Chairman and Council-members:

My name is Todd Sinkins. I am speaking before you today in my capacity as a member of the Community Associations Institute's (CAI) Legislative Action Committee for the District of Columbia and member of CAI's Government and Public Affairs Committee. CAI is a national organization founded to advance the interests of condominiums, cooperatives, and homeowners associations throughout the United States. It has 60 chapters worldwide, with a chapter centered here in Washington, D.C.

I am testifying both in support of the "Short-term Rental Regulation and Affordable Housing Protection Act of 2017" (the "Act") and to advocate for additional provisions in the DC Code to support condominium or cooperative's authority to enforce any limitations or restrictions on short term rentals that may be set forth in their recorded instruments or rules and regulations. First, CAI supports short-term rental regulation that is consistent with an association's recorded instruments, federal, state and local law. CAI believes such an approach is consistent with its mandate to protect and preserve the ability of community associations and to manage their affairs. It is CAI's position that a board of directors, with input from its homeowners, is in the best position to decide whether short-term rentals are appropriate for their

community and is the appropriate governing body to craft suitable policies that are respected by local governments and businesses performing services within an association. Association boards must have this power as they are often placed in a position to respond to complaints of various residents of the condominium or cooperative that short-term rentals are disruptive to the other residents of the association.

Many, if not most, sets of recorded instruments and/or rules and regulations contain language prohibiting residential units to be used for transient or hotel purposes, or for rental periods that are for less than an extended period of time (typically one month, six months, or a year). Short term rentals are a clear violation of these restrictions. However, in the absence of statutory language that is supportive of such restrictions, homeowners associations, condominiums and cooperatives can face procedural impediments to controlling and eliminating such short-term rentals, even when the short-term rentals clearly violate the terms of recorded instruments and/or rules and regulations. Condominiums, homeowners associations and cooperatives need statutory assistance to make it easier and less costly for them to enforce their valid restrictions and curb these blatant violations of their recorded instruments and/or rules and regulations.

This issue is not being generated solely from within an association's board. Instead, boards are taking action to enforce leasing and transient use restrictions against residents engaged in the practice of short term rentals in response to complaints from residents. The common complaints received by association boards is that their neighbors are concerned that the prevalence of short term rentals within their association reduces the safety of the individuals residing within associations and causes an increased risk of damage and theft. In short, residents

of associations have a firm belief that an increase in short term rentals correspondence with a reduction in security.

Moreover, these short-term rentals can serve to render an association in violation of HUD's condominium certification regulations. These regulations require a minimum lease term of at least thirty (30) days. Unfortunately, in instances where a condominium's minimum lease term has been difficult or impossible to enforce due to rampant use of short-term rental platforms such as Airbnb, Homeaway, VRBO, ShortTermHousing.com, Hometogo, Tripping.com, Flipkey, sublet.com and other similar websites, such condominium's eligibility for its current and potential owner's to receive FHA backed financing is at risk.

Accordingly, CAI respectfully requests that the proposed Act be amended to include the following language:

No person shall receive a basic business license with a housing short-term endorsement unless the application contains a notarized letter from an authorized representative of any condominium or housing cooperative in which the applicant's residential unit is located that the application is not in conflict with the community's recorded instruments, rules and regulations or lease/sub-lease agreement. Any action to lease a unit for a lease term of less than 30 days shall constitute a violation of this Chapter and of Chapter 42 and shall allow any association operating a condominium or housing cooperative in which the applicant's residential unit is located to have a private cause of action against the applicant. In the event such association initiates a private cause of action, the prevailing party shall be entitled to award of its costs and reasonable attorney's fees."

Thank you for considering this request.

Respectfully submitted,

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Todd A. Sinkins

**TESTIMONY OF MELAKU KASSA  
MEMBER OF UNITE HERE LOCAL 25  
BEFORE THE COMMITTEE OF THE WHOLE  
ON**

***THE SHORT-TERM RENTAL REGULATION & AFFORDABLE HOUSING  
PROTECTION ACT OF 2017***

**APRIL 26, 2017**

**HONORABLE PHIL MENDELSON, CHAIR**

Thank you Chairman Mendelson, and members of the Council for holding this hearing and allowing me to testify. I am here to testify in support of Councilmember Kenyan McDuffie's bill, the **Short-term Rental Regulation & Affordable Housing Protection Act of 2017**.

My name is Melaku Kassa and I am a resident and homeowner in Marshall Heights in Ward 7, and I am also a member of the Unite Here Local 25. I have been working at the historic Mayflower hotel in Washington DC for the last 23 years. The Mayflower is an iconic hotel; having hosted Presidential Inaugurations since its opening in 1925, starting with Calvin Coolidge.

Normally, we have no problem booking the hotel when big events come to the District. But this year was different. Not only did we have an inauguration, we had the Women's March the next day. Every inauguration we are fully booked, and as a result, employees are told not to take vacation during that time. This year, however, the Mayflower hotel was not fully booked. There were layoffs of many long-term employees with over two decades of service. This has never happened in my 23 years working at the Mayflower.

It's not just the inauguration, either. Other events such as the annual IMF/World Bank meetings and other city wide conventions continue to bring massive amounts of people into the city. But our hotel is no longer booked like it used to be. So where are these visitors going you may ask? We believe many visitors are using short term rentals available on websites like Airbnb.

Sites such as Airbnb are directly affecting the hospitality industry. Right now, I have a good job which, thanks to our union, pays middle class wages and benefits my family needs, like health care. This job allows me to provide for my family. As long as I have this job, my family and I should be able to afford to continue living in the District, even while it gets ever more expensive to live here.

But I want you to know that I am not advocating for the end of websites like Airbnb. I just want there to be some form of regulation that stops the commercial operators that

offer almost 40% of listings on Airbnb in Washington D.C. (this is from the D.C. Working Families report). The best way to do that is to require that people only share their primary residences--not buy up homes to put on Airbnb full-time. Councilmember McDuffie's bill does exactly that.

This is a sensible piece of legislation that will protect the middle class jobs that allow long-term residents like myself and thousands of my union brothers and sisters to continue to live in the District.

Thank you for your time and I hope you will support this bill.

**TESTIMONY OF ANDREW CASSEDY  
MEMBER OF UNITE HERE LOCAL 25  
BEFORE THE COMMITTEE OF THE WHOLE  
ON**

***THE SHORT-TERM RENTAL REGULATION & AFFORDABLE HOUSING  
PROTECTION ACT OF 2017***

**APRIL 26, 2017**

**HONORABLE PHIL MENDELSON, CHAIR**

Thank you Chairman Mendelson and members of the Council for holding this hearing and allowing me to testify. I am here to testify in support of Councilmember Kenyan McDuffie's bill, the **Short-term Rental Regulation & Affordable Housing Protection Act of 2017**.

My name is Andrew Cassedy, I have been a District resident for 12 years and proudly reside in Ward 1. I have also been an employee of the St. Regis Hotel and a member for of Local 25 for 9 years.

Currently, Airbnb has over 6,000 listings in the District of Columbia. Just under 40% of those listings are commercial operators; that means that over 2,000 units are unavailable for DC residents to rent (from the D.C. Working Families report). While this may seem like a small number, we know that commercial operators have grown by over 30% since last year. If we don't get a handle on this problem now, imagine how the problem will grow over the next few years.

A close friend of mine is an Airbnb host. He rents his home when he is out of town on vacation, and he appreciates the extra revenue he is able to earn while he is on vacation. I have no problem with this type of home sharing as long it's limited to the couple weeks most of us get for vacation per year. However, my friend's neighbor runs a full-time Airbnb operation in the row house next to him on Vermont Ave. This unit is often rented as a party house, and, as a result, has been disruptive to the neighbors. The Airbnb renters are often noisy and loud at all hours into the morning. My friend has had to contact the police on multiple occasions.

I tell this story to differentiate the two types of short-term rentals that exist in the District. There are hosts who simply rent a room in their home; then there are the hosts who are actually commercial operators. My friend is the former. His neighbor is the latter, a commercial operator who, despite having had the police called on them multiple times, refuses to be held accountable by their community.

In addition to all of concerns I have as a resident of Ward 1, I am also concerned about the effect of Airbnb on one of the largest industries in the District of Columbia: the hotel

and hospitality industry. I am a proud employee of the St. Regis Hotel a few steps from the White House.

Even though our industry is severely affected by short-term rentals, I am not asking the Council to eliminate short term rentals in the District, just put in place common sense regulations that protect my community and my job. These middle-class jobs are the very jobs that allow working men and women like myself to continue to live in the District.

With all of these concerns in mind, I ask that you to please support Councilmember McDuffie's bill.

Thank you for your time.



**TESTIMONY OF REGINA WELCH  
MEMBER OF UNITE HERE LOCAL 25  
BEFORE THE COMMITTEE OF THE WHOLE  
ON  
THE SHORT-TERM RENTAL REGULATION & AFFORDABLE HOUSING  
PROTECTION ACT OF 2017  
APRIL 26, 2017  
HONORABLE PHIL MENDELSON, CHAIR**

Thank you Chairman Mendelson and members of the Council for holding this hearing. I am here to testify in support of Councilmember Kenyan McDuffie's bill, the **Short-term Rental Regulation & Affordable Housing Protection Act of 2017**.

My name is Regina Welch. I am a union leader and bartender at the Embassy Suites here in D.C. I am also a Ward 1 resident and very proud to call Adams Morgan my home. I've lived in Adams Morgan for well over 40 years. I'm raising my daughter here. So, as you can imagine, Adams Morgan holds a special place in my heart.

When I was growing up in Adams Morgan, our community felt like a Mecca of culture, diversity, and neighborhood families. Some of the most special people in my life lived just a few doors down the street from me. It was a beautiful community. It still is, of course.

So much has changed, though. I've watched many of my closest friends and family members move out of the neighborhood because of rising rents and fewer affordable places to live. I know gentrification has many causes, and it's been happening in D.C. for a long time now. Adams Morgan is a testament to that. What's worrisome now to me is, on top of all the old ways D.C. residents have been getting pushed out, we're starting to have to deal with entirely new ways.

2388 Champlain Street is a 12-unit building in my neighborhood in Adams Morgan. It was supposed to be rent-controlled housing. Instead, a developer bought this building and converted it into an Airbnb illegal hotel. It was available to tourists on a nightly basis, while many of the people I grew up with have been forced out of the community by how expensive it is to live here. I don't think that every form of homesharing is a problem, but you can't tell me that when entire buildings are bought and converted into full-time Airbnb buildings that this isn't a problem that needs addressing.

When you move into a building you expect a certain level of community. When our neighbors are replaced by strangers with no long term interest in our community, we lose more than just a unit of housing. We lose a friend, we lose a community member, we lose a small part of our community. Eventually, those small parts add up and you no longer have a place to call home.

I have no problem with someone wanting to rent out a room in the home where they live. That's homesharing in my mind. However, when someone is buying multiple homes or apartments to short-term rent, I don't see how our neighborhoods and communities can stand up to that. There is too much money to be made.

That's why Councilmember McDuffie's bill is so important. It allows hosts to rent their primary residence up to 365 nights a year while they are in the home. And up to 15 days when they are on vacation or out of the house. This is a reasonable measure to ensure that our communities are preserved while allowing residents to make a few extra bucks to help meet their needs.

As an employee in the hotel industry and a long-time District resident I ask you to protect our community and support this bill.

Thank you for your time.

**TESTIMONY OF MELISSA STARKE  
MEMBER OF UNITE HERE LOCAL 25  
BEFORE THE COMMITTEE OF THE WHOLE  
ON**

***THE SHORT-TERM RENTAL REGULATION & AFFORDABLE HOUSING  
PROTECTION ACT OF 2017***

**APRIL 26, 2017**

**HONORABLE PHIL MENDELSON, CHAIR**

Good morning Councilmembers, thank you for allowing me to speak today.

My name is Melissa Starke, I am a resident of Ward 5. I want to thank my Councilmember Kenyan McDuffie for introducing this important bill. I've been a D.C. resident all my life. I am also a Unite Here Local 25 union member. I currently work at the Capitol Hilton Hotel as a housekeeper. I am here today to share my personal experience with you about how short-term rentals, like AirBnB, are affecting my livelihood.

When large events come to D.C., our hotels are usually booked. When a hotel is booked, all hands are on deck. Which means that hotel workers like me are on duty. Although it's hard work, it's a good job with great benefits. It allows me to live in the District and pay my bills. As a working mom certain expenses such as daycare are a number one priority for me. Every week, \$175 dollars goes to daycare. If I don't get a check, my son's daycare is in jeopardy.

During this year's Inauguration and Women's March, I was laid off along with a lot of my colleagues. During that time unemployment gave me about \$229 dollars a week (before taxes). Of course my first priority was my son's daycare, and whatever was left over had to be spread out over my remaining bills. It was a hard week to say the least.

I want to be clear. I do not want to get rid of Airbnb or home sharing. I just want my elected officials to put in place a reasonable law that holds platforms like Airbnb accountable and protects our communities from commercial operators. I know home sharing is here to stay, but I hope it doesn't come at the expense of my job.

For 27 years I grew up in this wonderful city and would love to raise my son here. That will depend on whether this council decides to put in place laws, like the one put forth by Councilmember McDuffie, which protect hotel jobs, prevents commercial operators from taking District residents' housing, and allows true home sharing to exist.

Thank you for allowing me to speak before you today. I ask that you please support Councilmember McDuffie's bill.

Good morning. Thank- you for affording me this opportunity. My name is Rebecca (Becky) Ogle, and I come before you today as the Chair of Disability Power & Pride, a D.C., based disability right organization. Twenty-seven years ago I and thousands of others with disabilities gathered in the hot July sun watching President H.W. Bush sign into law the Americans with Disabilities Act, the most sweeping bi-partisan civil rights legislation ever to be signed into law. Before signing, President Bush said, Let the shameful wall of exclusion come tumbling down. It was a glorious day. We had high hopes for our inclusion to everything and everywhere within reason.

Never in our wildest imagination could we have forseen the advent of entities based on “platforms” not subject to federal, state or local laws and regulations. These platform businesses are changing the very fabric of our leisure and work worlds and they’re not accountable to anyone but their hedge fund backers. I am worried about the erosion these businesses are doing to our workforce and life.

I am proud to say that I was fortunate to have had the opportunity to work on the ADA’s passage and can recall as if it was yesterday the multiple arguments made for not passing it, but in the end, as I prior said, the ADA passed with overwhelming bi-partisan support with a mere six members declining to vote. Wonder what the members who voted on its passage would say about the platform businesses evading the laws

they wrote? I bet the founding guys behind Airbnb weren't even born when it passed and could care less about its' history.

As I said, I am here representing people with disabilities who are once again being left at the curb by the likes of Airbnb. Shame on you and your cronies for figuring out a legal, but despicable way to evade the rules and regulations that are enforced upon other lodging entities.

Personally I feel for the hotels and other lodgings such as national park cabins, etc., that go out of their way to ensure compliance while Airbnb thumbs their nose at the mere mention of such an idea.

Airbnb make think they're beyond the legal reaches of the ADA and other state and local regulations, but eventually the public will catch on and demand their elected representatives take action. Public opinion will erode and with it goes the support Airbnb believes it has. Airbnb if you're listening be forewarned I am going to be your worst nightmare.

Airbnb argues that the only thing they offer is their platform where people can conduct their business. However, one should look no further than the first page of their website that requires an agreement with their rules and regulations to continue to peruse their site. If you don't agree you are not allowed to go any further. This begs the question of relationship between Airbnb and the world. If you're just a platform why do you have so many rules, you're a platform: plain and simple.

Recently and what probably put me over the top with Airbnb is when friends were planning a trip to Florida so I went on Airbnb to peruse the site hoping that they had upgraded their system and acquired new listings. They have done neither. I continued to browse and found a home that looked interesting from the pictures. I could not tell from the descriptors regarding access so I wrote to the owner and inquired as to whether or not her home was compliant with the ADA. She wrote back that no it's not wheelchair accessible and furthermore she's not a hotel.

Well, it waddles like a duck, quacks like a duct, but you're telling me it's not a duck, so what is it?

As disappointing as that was more disgusting was the Airbnb site would not allow me to continue in my browsing. This was alarming as if Big Brother was watching my moves shutting me off before I asked more critical questions or found out what a sham they're running. I already knew the latter.

Airbnb's logo portends to be the universal world-wide symbol for sharing. How is this? They don't share with me or people like me. Did you know they are the world's fifth largest hotelier, but they're not a hotel. These are not my stats.

Probably the most disconcerting thing about Airbnb is their arrogance about non-compliance with the ADA and local zoning, taxes and other issues. I know people who live in neighborhoods which they called home.

These neighbors were close and held annual block parties where all the neighbors participated, but not anymore because some of their neighbors have turned their homes into full time rentals so the renters are not neighbors they're transient.

In closing I'd like you to investigate an interesting development that a friend of mine stumbled upon and asked me if I knew what was going on and I didn't. DuPont Place lists itself a B&B, a hotel and also lists itself on Airbnb? Is this legal? I thought the listings were single owners of private homes and rooms? Either they're a lodging association of a short term rental but can they be both and further where and who is going to enforce these issues?

What's good for the goose is good for the gander.

Thank-you for this opportunity and I am available if you have further questions.



Marc Gersen

marc22561@gmail.com

Wednesday, April 26, 2017

Testimony Opposing the Anti-Airbnb Bill, 22-92.

Chairman Mendelson and Councilmembers:

I live and vote in Ward 6 and I host on Airbnb. I urge you to vote “no” on this bill. First, I will explain how the 15-day limit harms ordinary D.C. residents like me. Second, I suggest a more targeted approach to regulating short-term rentals. Don’t regulate natural persons sharing their own home. Instead, focus on large apartment rental buildings, which advertise entire units online. These are the real de facto hotels.

**I. The 15-day limit**

*A. The overbroad reach of the 15-day limit*

I list my own bed on Airbnb whenever I travel. Under the bill, this would become unlawful because I travel more than 15 days per year.

I am a full-time student. Homesharing income helps me when I leave home for spring break for a week, winter break for two weeks, and even a weekend trip to escape the Inauguration madness.

The 15-day rule is unnecessary because the bill already contains another rule to limit homesharing to a dwelling’s permanent occupant. I’m a permanent occupant. Last November, I voted at the J.O. Wilson Elementary School across the street. I’m not an absentee, de facto hotel. I live here too. That should be enough.

This bill burdens a huge swath of D.C. residents. Frequent travel is common in Washington, D.C. Here, people travel a lot, and this bill burdens everyone who travels more than 15 days or who might ever think of listing their home on Airbnb. For example, federal workers get five weeks of paid vacation per year. One friend, an IT consultant, travels for work every Monday through Thursday. His only home is his Logan Circle condo, but he is away over 156 nights per year.

*B. The regulation's wasteful effect*

Forcing me to forgo Airbnb income and to keep my bed empty after the 15<sup>th</sup> day I am away is pure waste. I will lose, the would-be visitor will lose, and our city will lose when both the visitor and I have less with which to enjoy our city.

The 15-day limit will not protect the supply of housing to other D.C. residents. When I travel, my room is empty space a visitor can use, but it's not space available to be someone else's home. It's already my home. I'm coming back.

*C. The 15-day limit harms the least privileged Airbnb hosts*

On its face, the 15-day rule does not limit not de facto hotels, but rather, regulates ordinary people – permanent occupants of their own permanent residence. I have heard people argue that allowing unsupervised strangers into one's own home for more than 15 days is bizarre and the rule is needed to prevent likely schemes to evade the rules. How naïve and privileged!

In my home, I have few valuables and few breakables. Having people over when I am away causes me little worry. But the extra income does help.

Some people have, unashamedly, told me they have no sympathy for people using their home to make money. I am proud to be a D.C. resident. In the future, I

hope to be able to afford to dismiss homesharing as bizarre or more hassle than it's worth. For now, the extra income helps to prevent me from being displaced into Virginia.

The bill thus jeopardizes my ability to continue living in a neighborhood which is expensive and increasingly preferred by D.C.'s most privileged residents. This "Affordable Housing Protection Act" does the opposite. My neighborhood will not be any more affordable, but my home may be unaffordable to me.

The bill does not attempt to limit regulation to protecting affordable housing. It does not attempt to consider the many, varied circumstances throughout our city. The bill restricts what all D.C. residents can do in their permanent homes in all neighborhoods and at all price points. This is not a well-designed solution to a problem. It is like a regulatory shotgun blast.

*D. Implementing the 15-day limit will be overly complicated and problematic*

Suppose I've used up my 15 days, and I accept a guest reservation fully expecting to be home. But then a surprise occurs. Hopefully, it would be attending something like a wedding, not funeral. But either way, will I have to cancel on my guest? Would I have to self-report to an agency and seek approval? Will the rules distinguish between a funeral for close family, distant family, and friends? Will I need to hire a lawyer? What an embarrassment for our city!

**II. A more effective solution is to instead look at real estate management companies and large rental buildings**

This bill is problematic because it attempts too much, affects too many people, and applies a single rule to too many people's different circumstances. The

Council should put aside regulating Airbnb hosts who are natural persons and D.C. residents. Instead, look at large real estate management companies' practice of keeping entire units off the rental market.

Consider 425 Mass, a luxury Chinatown rental building, which also lists itself as a hotel on Booking.com.<sup>1</sup> I have attached the online hotel ads. The corporate owners of 425 Mass provide units to a professional hotel management company, yet prohibit the tenants who actually live there from homesharing.<sup>2</sup> This is not unusual.<sup>3</sup>

The Office of Tenant Advocate should look at whether this practice is fair to the other renters who live in the building. This seems unfair for tenants who moved in to a residential building, only to find that it later became a de facto hotel.

### **III. Conclusion**

My home is not a de facto hotel. It is far more personal. I enjoy sharing coffee with my guests and talking about our city. Times are changing, and more people prefer home sharing. Washington, D.C.'s reputation succeeds in attracting young people, entrepreneurs, and tech startups. Attacking D.C. residents like me who embrace homesharing as "illegal hotel operators" is unfair, does nothing to protect affordable housing, and will harm our city's reputation.

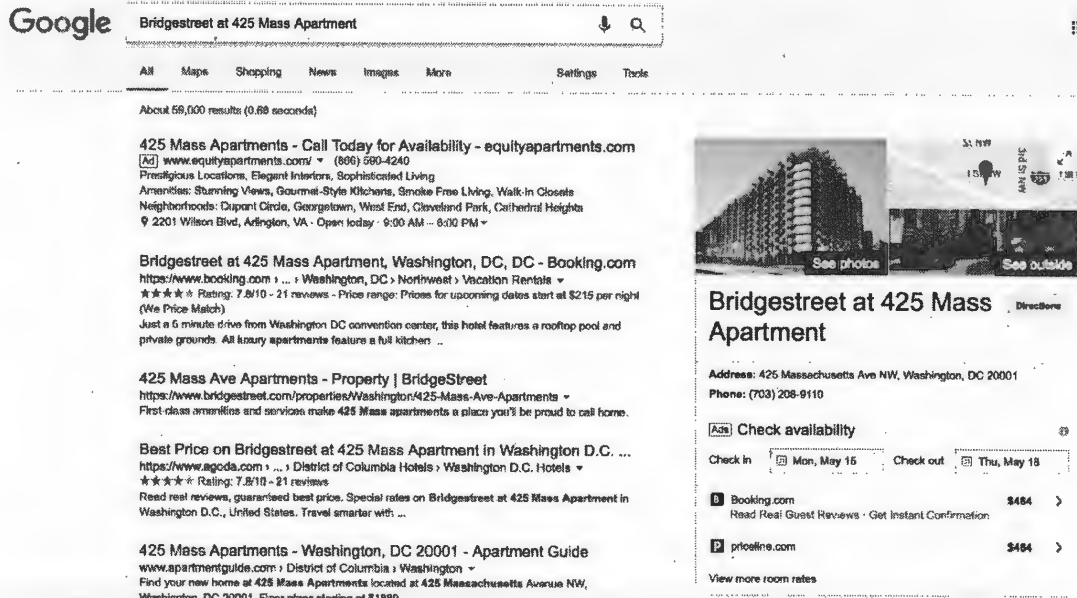
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<sup>1</sup> 425 Mass, located at 425 Massachusetts Ave. NW, is owned and managed by Equity Residential (NYSE: EQR). The booking.com listing is available at <https://www.booking.com/hotel/us/four-twenty-five-mass-apartment.html>

<sup>2</sup> I wrote Bridgestreet, the professional hotel operator at 425 Mass, and asked whether they could list my unit at 425 Mass as a short term rental this summer. They told me they only work with the building owner. Bridgestreet is listed at <https://www.bridgestreet.com/properties/Washington/425-Mass-Ave-Apartments>

<sup>3</sup> *E.g.*, Ginosi lists luxury apartments in buildings in Chinatown, SW Waterfront, Dupont, and Logan. Ginosi told me they only work with the building, and not tenants. See <https://www.ginosi.com/location/washington--district-of-columbia>

**Figure 1:** A hotel booking engine is built into a Google search for "Bridgestreet at 425 Mass Apartment." The nightly rate is \$464 for May 15-18.



**Figure 2:** Bridgestreet's webpage showing its hotel listing for 425 Mass.



# Dan Riffle

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806 Maryland Ave., NE, Apt. 11 • Washington, DC 20002 • (614) 805-2705 • riffle.dan@gmail.com

My name is Dan Riffle. I'm an Airbnb superhost and I live in Ward 6 at 8<sup>th</sup> and E. I'm here to testify in support of Mr. McDuffie's bill.

I moved from Ohio to DC in 2009. I immediately fell in love with Capitol Hill, and I've been there ever since. My wife and I currently share a rented one bedroom on the corner of 8<sup>th</sup> and E, Northeast. We are avid hikers so we spend a lot of weekends in Shenendoah or Monongahela forest, and we travel home to Ohio for the holidays. We sometimes rent out our apartment for the weekends when we're gone.

We have a pretty good record with Airbnb and, in fact, have become Airbnb superhosts. I've averaged 21 days/year over the last two years. I make about \$100/night, so a couple thousand a year. Not enough to change my ability to live in the city or not, but still a nice chunk to put toward my student loans.

I'm here to testify in support of the bill b/c I think the term "homesharing" is inapt when referring to Airbnb. The story of the founding of the company involved guys renting out space in their own apartment, that they lived in, for attendees to a conference in San Francisco. That's what my wife and I do—we rent out our own apartment, that we live in. When people sit on my couch they see pictures of my wife and I on the wall. They see my leftovers in the fridge, and my shampoo bottle in the shower.

I always assumed that's how most rentals through Airbnb worked. Then, last year, I was invited by Airbnb to a "meetup" with other area hosts. I arrived and started chatting with the other 30 or so attendees. Over the course of the evening I found one other person who sublets out his own apartment that he lives in. Of the more than two dozen other folks I talked to, I heard the same story from everyone: they own property in DC, and they used to rent it out to full time residents, but found they could make more money converting it to a vacation rental. As someone who rents, and already struggles to find an apartment my wife and I can afford, I was concerned about the effect this was having on available housing stock.

I support Councilman McDuffie's bill b/c I think it's a reasonable approach to combatting the very real problem of available housing in the city. As to the specific provisions that are being debated here, personally, I'd be fine cutting back from 21 to 15 days. I understand some folks travel more for work and have more

opportunities to rent out, so doubling it to 30 seems more than a fair compromise. Anything above that seems unnecessary.

I would also be fine with registering with the city, and with the city coming out to take a look at my place. It seems entirely fair to require people like me who utilize Airbnb to obtain a business license.

Finally, I want to raise one issue that hasn't yet been raised by any witness, and that isn't addressed in the bill. The goal here for everyone is housing affordability. Mr. McDuffie is trying to preserve that with his bill, and Airbnb says their service helps people afford their homes. What I can say, as someone who rents b/c I can't afford to buy in this city, is that virtually every lease agreement now prohibits short term rentals and subletting, which deprives low-income renters of the opportunity to take advantage of homesharing opportunities.

One of my favorite parts of renting in DC is we have a strong tenants bill of rights. Given the proliferation of homesharing, I think our bill of rights should be updated to include the ability to sublet your apartment for a minimum of 30 days a year, or more if lessor approves.

In addition to making housing more affordable, I think there are real benefits to the city of homesharing. People can get a better feel for the city and its neighborhoods staying in a homeshare than in a hotel. I know I prefer the more intimate experience of staying in an apartment in a residential neighborhood over staying in a generic feeling hotel in a commercial area when I travel.

So in closing, as an Airbnb superhost myself, I think:

- A 15 day limit is reasonable, maybe double it to 30.
- Registration with the city is fine.
- "Homesharing" means sharing your own home. Limit licenses to a person's permanent residence.
- If you're concerned about affordability, include a provision protecting lessee's ability to homeshare.

Thank you,



Dan Riffle

DC Resident testimony on Bill 22-92 hearing, DC Council Committee of the Whole  
April 26, 2017

Dan Levy, Ward 1 Resident  
Contact: Dan.D@drwanid.com

## **WRITTEN STATEMENT**

I welcome the opportunity to share my experience as a host who has shared my home with guests who contacted me via multiple advertising platforms including AirBnB. I implore the Council to tread lightly and create a regulatory scheme narrowly tailored to achieve policy goals without creating a system so onerous and complicated that it cannot be implemented, thus encouraging evasion by otherwise law-abiding citizens.

### **Proposed policy objectives:**

- 1) Allow people to use residential space consistent with EXISTING rules.
- 2) Prevent decreasing the availability of residential housing.
- 3) Prevent creation of “virtual hotels” using residential units.
- 4) Create a licensing and taxing structure which is reasonably efficient by using the least time and effort by residents and District employees.

### **Tools for achieving policy objectives:**

- Define “short-term rentals” as a commercial use category separate from “home sharing” by the occupant of a residential unit. Give DCRA authority and resources to investigate and prevent conversion of residential units to non-permitted commercial uses such as short term rentals. This includes people who buy, rent or hold apartments primarily for use by short term occupants.
- Existing rules for a Home Occupation Permit (HOP) already achieve MOST of the above goals:
  - The HOP use has to be “clearly secondary to use of the dwelling unit for residential purposes” and is
  - “granted only to ... persons who reside at a residential address.”
- Only minimal changes are need to define “home sharing”:



- Residents should be given wide discretion on who they permit to sleep in their home.
- The intrinsic Certificate of Occupancy for any residential unit already permits taking in up to two “boarders” as a matter of right.
- The current parking requirement for “bed and breakfasts” should not apply to “home sharing”.
- Unlike bed and breakfasts, “home sharing” can occur in small condominiums and other multiple dwellings—Condo associations and landlords can and do work out rules with unit owners/renters without the need for DCRA involvement.
- The already existing online, “Expedited Home Occupation Permit” program is an easy way to provide DCRA with a complete census of residents engaged in home sharing without inspections or other complicated or unenforceable rules:
- The occupant of a residential dwelling unit can be relied on to maintain a safe environment.
  - The primary resident has every incentive to maintain a safe environment. Its THEIR HOME after all.
  - Obviously inferior homes are identified by online reviews: nobody books into a home with terrible reviews.
  - Home sharing guests need no more protection than other matter of right occupants such as boarders, roommates or non-paying houseguests.
  - My townhouse was built in 1901 prior to modern building codes. No jurisdiction demands automatic retrofitting of older homes to constantly evolving building codes.
  - DCRA inspectors have an unfortunate reputation for arbitrary and capricious application of building codes to older buildings. My experience and experiences of my neighbors is that DCRA inspectors are extremely arbitrary when deciding which

“grandfathered” features to ignore and which to cite as code violations.

- I have been down to the DCRA offices multiple times to try to obtain a Master Business License and Home Occupation Permit. I got different answers very time I asked DCRA staff which applications to submit, what information will be needed or what inspectors will want to see during a building inspection. I have lived safely in my home since 1999. I do not need a DCRA inspection to certify the ongoing safety of my residence.
- A “Home-Sharing” platform which already channels the DC Hotel Tax to the Office of Tax and Revenue (OTR) can also issue a 1099 with the name of the dwelling occupant and the residential address.
  - A Master Business License with an associated HOP means one and only one “home-sharing” address per resident.
  - OTR can crosscheck the address on the 1099 with the address on the D40 income tax return. Mismatches will be obvious and can lead to investigation and code enforcement.
  - OTR can provide the list of Home Sharing social security numbers and addresses to DCRA for cross checking with HOPs. Mismatches will be obvious and can lead to investigation and code enforcement
  - A reasonable threshold can be set for 1099 issuance. A threshold of \$1000 per year will allow for very occasional use or for new users to “try” the system and then go through licensing requirements.
- Arbitrary limits on the number of nights a particular listing can be occupied will be impossible to enforce. I currently describe two bedrooms in a single listing but could easily have separate listings on any single advertising platform. I also advertise on multiple websites, two of which are currently regular sources of guests. Keeping track of which bed is occupied how many times would be difficult for me and impossible for any one web platform or DCRA to track. The idea of the government

tracking the precise number of people who sleep in which bed for how many nights IN MY HOME is repugnant.

The above scheme will ensure that home sharing will not change the character of existing residential uses. "Short term lodging" which is NOT home sharing will be confined to units with commercial zoning and have to comply with regulations appropriate for commercial use. People who buy or hold a residential unit primarily for occupancy by somebody else are not sharing their home and should not be treated the same way as a resident in his or her home. More stringent inspections of units NOT occupied by a self-interested resident is prudent for many reasons including the safety of the visitor.

Anecdote: In 1995, prior to the existence of "home-sharing", my husband and I completed training at NIH in Bethesda and were living near DuPont circle. I started working here in the District, he got a job at a laboratory in New York City. For four years we maintained residences in two of the most expensive housing markets in the US. On weekends I walked to the H street bus terminal to spend Friday and Saturday nights in New York, leaving my DuPont circle apartment empty. Renting it out on AirBnB for most weekends and while on vacations would have meant renting out an unoccupied apartment. While we in fact spent some weekends in DC, I could easily have spent most weekends and some vacations out of town adding up to over 100 nights per year. However, I slept in that apartment 5 nights a week and by any definition it was my primary residence and the primary use of the apartment was as MY residence. The ability to rent out that apartment on a platform like AirBnB would have been a huge boon to two young professionals earning entry-level salaries and would have done nothing to change the residential character of the dwelling unit, the building or the 17<sup>th</sup> street corridor. The guests would have spent money enjoying the restaurants and other tourist services in the neighborhood and we would have also had more disposable income at a time when we were truly counting pennies.

Reunited in 1999, we bought a townhouse in Columbia Heights and over the past two years have shared our home with over 150 individuals, couples and families from at least

10 states and 10 countries. Feedback to us from these guests demonstrates that the availability of our home enriched their tourist experiences and made the stay more attractive for many reasons beyond the lower expense, although the lower expense did matter and did allow for longer stays. Guests from China, France and Brazil have loved the opportunity to stay with a family and see US culture beyond the National Mall and Pentagon City. We also regularly host parents who, in the absence of nearby hotels, tell us they make more frequent trips to DC to visit adult children and grandchildren BECAUSE of the availability of home-sharing within the neighborhood. Their alternatives are expensive hotels in the business district, hotels far out in the suburbs near metro or sleeping on the couch in their kids' studios or 1 bedroom apartments. We have hosted guests who live in DC but wanted to "try out" neighborhoods before moving. We have even hosted a guest who had recently retired and wanted to check out DC as a new place to live.

Restricting our rentals or preventing them for residents who vacate homes on weekends would do nothing to change the supply of housing or the character of our house or neighborhood. We charge a fraction of the \$200-400 per night demanded by the members of the Hotel and Lodging Association who are behind the slick disinformation campaign supporting the proposed legislation. We provide an opportunity for visitors of modest means to enjoy visits to DC. While we value the money the social aspects of the activity and the ability to interact with guests from around the country and around the world are valued by us and our guests alike and cannot be replicated in a hotel. While we appreciate the income, it is not our primary motivation. We have lived in our townhouse for 15 years without taking in roommates or boarders and would not start doing so if AirBnB and platforms like it disappeared.

I am repulsed by the idea of having to discuss with DCRA or anyone else exactly who is sleeping in which bed for how many nights in my home and primary residence. I urge the Council to tread lightly and not to impose unneeded restrictions.

**TESTIMONY OF LENDA WASHINGTON, DC RESIDENT**

**RE: BILL 22-0092**

**WEDNESDAY, APRIL 26, 2017**

Good Morning, Chairman Mendelson and members of the Council of the District of Columbia Committee of the Whole, I am Lenda Washington, a longtime resident of the District of Columbia and for the past 12 years, a resident of the Logan Circle community in Northwest Washington. I am before you today to support adoption of Bill 22-0092, "Short-term Rental Regulation and Affordable Housing Protection Act of 2017" introduced by Councilmember McDuffie.

In 2005 when I moved to Vermont Avenue, I found a perfect home. I was excited about the Logan Circle neighborhood and specifically Vermont Avenue. Those of you, who know my neighborhood, know that though we are within walking distance of K St. and the now bustling 14<sup>th</sup> Street, we are indeed a community. Months prior to my being able to move in, Connie Maffin, whom many will remember and lived across the street, reached out to me and the other new homeowner, my next door neighbor, to invite us for wine and cheese expressly to introduce us to our neighbors on Vermont Avenue and the surrounding blocks.

My home, and that of my neighbor's, underwent extensive renovation to achieve habitability. The roughly 25 foot proximity of our kitchen windows offered a reassuring glimpse of active life into the neighboring home. The backyard of each house was protected from public access – there is no alley. Our adjacent backyards provided an opportunity for two people new to the Logan Circle downtown area, she from a small town in Louisiana and me formerly from the Crestwood neighborhood, to collaborate by joining the backyards to create a communal garden

oasis between the two properties. We were lucky! We had easy access to the other's back door and an emergency refuge should it ever, God forbid, be needed. Unfortunately, the most recent sale of the neighboring house in December destroyed this oasis, shattered my sense of security and compromised the peace, tranquility and spirit of neighborliness which I'd so enjoyed in my home. The new owners, a retired couple whose permanent residence is Palo Alto, California, use the property for their occasional visits to DC to see their daughter and grandchildren but at all other times offer it for rental on AirBnb.

Since late January on almost every weekend, and occasionally twice in a week, there is a new group of 'AirBnb guests' that take residence for a few days. Though the owners have house rules designed to address and avoid nuisances such as 'no parties', not crossing into my side of the yard, and proper trash disposal, the absence of a homeowner on the premises renders their rules useless. I am living next door to a hotel – a commercial establishment – that exists without benefit of any regulations relating to fire or health safety for the occupants or for the adjacent neighbors. Moreover, the security of my person is at issue: now, at all times of the day or night, 'strangers' have easy access to my backyard and backdoor. Ironically, an oasis created in part to provide peace and tranquility now provides easy, unseen access to me and my property – a security nightmare.

I understand that AirBnb offers an opportunity for visitors to our beautiful city to live in a close-in neighborhood and get a 'real Washington experience'. That's fine when the homeowner 'host' is also on the premises. Presumably, since the homeowner has an interest in safeguarding their person and property to safeguard their property and person, they will institute and oversee measures to ensure their continued safety, security and household tranquility is not

compromised. Unfortunately, this is not the case when the 'host' is off sight and running a de facto unregulated hotel.

My neighbors did not see and therefore could not control the recent group of 6 young men drinking beers in the front yard at 2 p.m. or 'howling at the moon' at 3 a.m. after a night of hosting themselves what appeared to be a college reunion. Nor can they as 'hosts' control curious wanderings into my back yard or overflowing, unsecured garbage that quickly attract the ubiquitous rats that are an all too frequent byproduct of the 14<sup>th</sup> Street restaurants. Of course, the temporary residents/visitors using the property for a long weekend visit do not share my concern for security or understand the threatening nature that they present as 'strangers', being one of a stream of many, encroaching on my private space.

I applaud Councilman McDuffie's proposed legislation to establish regulations regarding AirBnb and other platforms that offer homes for short term and vacation home rentals. Specifically allowing business licenses only to those persons who offer their permanent residences, provide proof of residency and limit to 15, the number of days offered annually for 'vacation rentals' will discourage absent property owners from converting residential homes and neighborhoods into nuisance, security lax transient hotels. In my opinion, this is the only way to safeguard and preserve the security, quality of life and sense of community that make District neighborhoods special places to live.

Thank you for your attention to this matter and the opportunity to appear before you today. I welcome any questions you may have.

Lenda Washington







**Furgurson\_Testimony**

Re: DC HomeSharing Bill

DC City Council

Wilson Building, Room 500

1350 Pennsylvania Ave NW

WDC 2000426 April 2017

Thank you Chairman Phil Mendelson and members of the DC City Council for the opportunity to provide testimony today.

My name is Elizabeth Furgurson and I am a DC resident in Ward 1 along the lower Georgia Avenue corridor.

For the past 2 years, I've had the opportunity home share to offset graduate school expenses as well as to assist with costly home repairs. Utilizing some of my home's extra space to help with these costs prevented excessive financial hardship for me.

Income aside, home sharing has offered me the chance to further support my community, particularly the small and family-owned businesses along Georgia Ave and surrounding streets. Many guests are interested in experiencing DC beyond the traditional tourist destinations and I take pride in encouraging them to visit our local coffee shops like Heat Da Spot and the Colony Club; restaurants & bars such as Small Fry and The Looking Glass; yoga studios and even independent book shops like Walls of Books; as well as many other local gems that my guests would have otherwise miss had it not been for Airbnb.

Many of my guests chose to stay with me while they are interviewing at local employers and universities like Children's Hospital and Howard University. It allows them to stay close to their locations but also a chance to explore a future home.

My guests are often friends and family members of neighbors who simply don't have the space to accommodate guests in their homes. Use of a home shared property like mine or others offers these visitors an affordable option to stay close by for grandchildren's first birthdays, weddings, and in one case, unfortunately to remain close to a loved one in a nearby hospital.

Please do not take away my right to share my home. I am hopeful that moving forward, the Council can propose sensible rules that make the process for home sharing work for everyone in the District.

I believe that basic regulations should be in place for the benefit of the entire DC community and our guests. I am in favor of a basic business license, restrictions on the number of listings by any District resident or entity, and penalties for those that fail to comply. I oppose excessive rules or registration programs that are any more onerous than current rules and regulations that are imposed on District landlords and tenants today.

Thank you again for the opportunity to share my thoughts and thank you in advance for your careful consideration of what's best for District residents and our guests with regard to home sharing.

April 25, 2017

Hello City Council Members and everyone,

My name is Shaun Johnson and I am a DC voter living in ward 7 for the last 13 years. When I moved into my lovely little house I was a licensed real estate agent, and things in my life were clipping along pretty well until the market tanked in 2007 and 2008. Those were the worst financial years of my life. I fell behind on all of my bills including my mortgage and thought I would lose my house. That combined with a death in my family made my life feel as though it was falling apart. Despite all of my efforts to stay in real estate things went from bad to worse. Finally, I got a job at Washington National Airport and started home sharing. Home sharing has allowed me to keep my house and spend more time with my elderly parents.

And for those of you who think home sharing people are in competition with hotels, I strongly disagree. With home sharing we are offering a very different experience. I feel like an ambassador for Washington DC, for ward 7, and for Black America. It is a real human cultural exchange, and they spend dollars in my community.

Something that I initially started just to keep a roof over my head, turned out to be something that I just love. I open up my home and my life to travelers. At first it seemed scary, but I have enjoyed meeting different people learning about where they are from and I am able to share with them my life, my culture, and my city.

I have had people from all over the country, and all over the world stay in my home, but the one thing they have in common with me is that they are all working class people. And we cannot afford your two and three hundred dollar room rates per night. If a hotel was the only option for many of my guests they would not be able to visit Washington, DC.

And all of this just leads me to what I most want to leave you with, and that is this, I ASK YOU TO PLEASE THINK LONG AND HARD ABOUT ANY LEGISLATION THAT YOU PASS THAT EFFECTS THE SHARING ECONOMY. With the stroke of a pen you can impact the livelihood of thousands of hardworking middle class residents who are using their homes, through Airbnb and other companies, their cars, through Uber and Lyft to earn some extra money, or to pay their rent, or to pay their mortgage. By fostering an environment where you allow the sharing economy to thrive you will help thousands of middle income residents remain in the city we all love.

Thank you for your time and consideration,

Shaun Johnson

**Testimony  
of  
Cathy Cook, Ward 2 resident  
on  
Bill 22-92  
"Short Term Rental Regulation And Affordable Housing Protection  
Act of 2017"**

Thank you Chairman Mendelson, Members of the Committee of the Whole and their staff for providing this opportunity to submit written testimony on Bill 22-92, the "Short Term Rental Regulation And Affordable Housing Protection Act of 2017.

I have been a proud DC resident for more than 14 years - most of that time in Ward 2 where I currently live.

This proposed legislation is alarming to me, as a resident and taxpayer of this city. Its proponents claim the bill will advance a legitimate interest – ensuring an adequate supply of affordable housing for DC residents. But its approach to regulating a legitimate use of people’s own property – home sharing – will radically curtail the freedom and opportunity that many DC residents enjoy from owning a home.

My own experience points to a better path. I own a unit in a small historic housing cooperative. I have shared my spare room with guests, finding them through the Airbnb website, periodically since 2012. I declare my income and pay federal and DC income tax on my earnings. Home sharing has allowed me – like many other DC residents – to earn back a fraction of the income I lost when I lost my job during the Great Recession. It has allowed me to participate in the growth of the tourism economy in DC, to show my love for my adopted city, and engage with visitors to Washington from all backgrounds. Home sharing for me adds diversity and vibrancy to life.

When I started home sharing, not all of my neighbors – co-owners of my cooperative - approved of my choice. They raised legitimate concerns about the impact of home sharing on my cooperative's insurance, on our homes' security, ... etc. Our approach to resolving these differences was to examine them openly among all co-owners and agree on a set of permissions and obligations for owners choosing to home share. We only allow owner-occupiers to home share (therefore eliminating any impact on the DC rental market) and the whole coop benefits through owners providing 15 per cent of their home sharing proceeds thereby mitigating the impact on individual owners of the 10 per cent annual increase in property taxes. We require owners to notify other residents when guests are staying to provide transparency and security.

Now, several owners in our cooperative home share, and the overwhelming majority of our owners approve of home sharing. Our cooperative's approach safeguards the property rights of residents who want to participate in home sharing while protecting the interests of those who do not.

I very much fear the bill before the Council would eliminate the freedom I now enjoy to share my home with guests visiting the city. It would cut me off from a valuable source of community and income. It would do nothing to improve affordable housing in Washington DC because my home and the homes of my neighbors are not going to form part of the broader rental market. The draconian proposal to limit home sharing to 15 nights per year would in effect put an arbitrary and punitive government restriction on the private use of my own home, without advancing any identifiable public interest.

There is no wisdom in such a proposal. It would strangle the ability of DC residents – many of whom are simply seeking to earn small fractions of extra income from using their biggest asset - to participate in the growth of the city's burgeoning tourism industry. It would be simply another barrier in front of the already challenging pathway for economically struggling DC residents to enter or maintain their status in the middle class.

The bill is crafted to rectify a problem which barely exists. Its image of the owner conducting short term rentals through Airbnb or other similar sites is of a wealthy absentee landlord gobbling up the housing supply. It would seek to punish that person by forcing their properties into the permanent rental market. I am here to tell you that image is distorted. It does not give you a complete picture. This bill would take away a substantial part of my livelihood and dictate what I can and cannot do in my own home. Those consequences are very different to the image the bill's proponents would want you to think.

My own cooperative's approach to resolving these differences points to a better way of addressing the issues surrounding short term rentals than a blanket, one-size-fits-all, and highly punitive city regulation. Give owners and residents the space to make their own decisions about how they use their homes. Address the modest spillover effects by respecting each other's rights and providing guidance about how to responsibly conduct home sharing. Banning the practice – the ultimate effect of the bill – extinguishes my rights while doing nothing for affordable housing.

## **Testimony on Bill 22-92**

### **Short Term Rental Regulation and Affordable Housing Protection Act of 2017**

Alec Smyth

April 26<sup>th</sup>, 2017

My wife and I have been investing in historic Capitol Hill properties and renting them to visiting families since 2008, which probably puts us among the most experienced hosts in the market. We have four houses, and since one of them is a two-unit house this makes five listings. It is a small family business we have been gradually building up for nearly a decade with a view to eventual retirement. It represents two lifetimes of savings.

We could have purchased condos for about half the investment, but we have specifically focused on single family homes in order to enjoy full property-owner rights, which include deciding how and who to rent to. We obtained a business license for each property before renting it the first time, and have never rented without collecting and paying all applicable taxes.

#### **If you want to reduce disturbances...**

We appreciate quiet too, and in nine years of renting have never once had the police called to any of our properties. We have accomplished this quite simply. All the advertising sites offer functionality to define a minimum length of stay. We have it set at two nights, which makes our rentals uneconomical for anyone who wants to rent for a few hours in order to host a party. The Council might want to consider making this best practice mandatory, as it is a simple way to align market forces with a desired objective.

#### **If you are worried about occupant safety...**

To get a business license, the District already enforces a physical inspection of the premises, and the check-list is identical to the one required for a certificate of occupancy. This is a good, well thought out list. In my experience the inspectors enforce it rigorously, as they should. We have rarely managed to pass inspection on the first attempt. I have no complaints about this, on the contrary it is a strong point of current regulations. My only suggestion for improvement is that one could require re-inspections periodically, such as every three to five years.

#### **If you are worried about the scarcity of affordable housing...**

All of our properties are approaching or have already surpassed \$1M valuations. We are not taking low-rent stock out of the market at all. In fact, we stopped purchasing properties three years ago because since then property values have risen too high to produce a suitable return on investment. In my opinion we may still see



existing owners join the market, but are unlikely to see significant new purchases for the express purpose of setting up a vacation home.

### **Entire apartment buildings are being turned into hotels...**

Our family stayed at just such a hotel on a recent visit to Montreal, and we loved it – it is the only sort of hotel we like to stay at. There is a trend in the hotel industry whereby rooms come with kitchens so that guests do not need to eat every meal at a restaurant. But yes, these large enterprises are indeed hotels. If someone wants to create such a hotel in the District, they should not be banned automatically from doing so. Instead, they should apply for a hotel business license which may or may not be approved depending on the individual merits of the case. The regulation of hotels is an entirely separate issue from the regulation of vacation rentals and we should not conflate the two.

### **But you are turning neighborhood houses into hotels...**

Our properties are NOT hotels. Hotel regulation needs to cover things like elevators, commercial kitchens, parking garages, and staff. Vacation rental guests simply eat and sleep, like any long term renter or indeed any homeowner in the neighborhood. There is no functional difference with other houses in the neighborhood, no extra noise, and no signage. The rent allows us to keep our houses in much better than average condition. For example, we paint every year, alternating between inside and outside. The District attracts guests who are typically multi-generational families who come here to visit the Smithsonian museums. They are the polar opposite of college kids renting a beach house in large groups for spring break mayhem. So much so that years ago we discontinued the use of security deposits, because we have virtually zero breakages. Our neighbors, the real people who live next door, support us and frequently rent our properties themselves when family visits or when they have work done on their own homes.

### **How banning vacation rentals would affect hospitality...**

It is a fact that there is strong market demand for vacation rentals. Our own family is part of that demographic and will not vacation any other way, so I believe I can speak for our guests' preferences. We like cooking, and feel if we eat every meal in a restaurant we will return from vacation wearing clothes a size larger than those we left in. We don't want the kids in a separate room somewhere down the hall or on a different floor. If a city bans vacation rentals, we will simply vacation elsewhere. But markets will meet demand one way or another, and if vacation rentals are banned some owners will move toward the more unregulated fringes of the economy, such as Craigslist or other sites we are not even aware of today. A situation would develop similar to what we see where ridesharing is banned. It still thrives underground, and the city finds itself in a constant cat-and-mouse game. If vacation rentals are effectively banned by regulation, the DC government will find itself expending resources on enforcement that leads only to fines and disappointed tourists. Illegal listings will pop up and disappear like an online Whack-A-Mole. A vacation rental business that operates in the shadows will contribute

no taxes and not comply with any safety standards. I would urge the Council instead to write a regulatory framework that harnesses the energy of market forces in a positive, forward-looking, responsible way and targets problem actors specifically rather than a business model in the aggregate.

### **What does DC stand for?**

Our city is a thriving, cosmopolitan, hip place. Unfortunately it has been referred to recently as a “swamp” and described as nothing but an oversized aggregation of bureaucrats. In reality this a city that has embraced all sorts of new-economy innovations. Please keep that trend going. If the Council killed vacation rentals, it would be taking a step against modernity. Do we want to be like New Jersey, where in 2017 one is not allowed to pump gas at a service station? Can you imagine DC without ride sharing?

In conclusion, the regulations as they stand would put us out of business because of the requirement that the rented property be our primary residence. Last year’s proposal allowing up to five listings per owner would have worked for us, although it might have needed an ADA exception for historic properties. The current proposal would drastically reduce this new economy business model that for us holds our life savings and our prospects for future retirement. It would reduce tax revenue. It would not increase the availability of affordable housing. It would unleash a cat-and-mouse game that would be hard to police.

My recommendation is that the Council:

- Establish a two or three night minimum stay in order to discourage rentals for parties.
- Continue with the business license physical inspection but require renewal every three to five years.
- Require platforms to obtain and display the owner’s business license number.
- Require platforms to collect tax (AirBnB has already done this, others not).
- Dedicate some of the tax revenue to enforcement. We have quite good regulations in place, we just lack enforcement. This would help those of us who comply with licenses, taxes, etc. and level the playing field.

Sincerely,

Gerald (Alec) Smyth

alecsmyth@gmail.com

Thank you, Chairman Mendelsohn and Council Members for listening to DC residents thoughts on this bill.

My name is Jane Brookstein and I live in Ward 3.

I love living in DC and I love being an Airbnb host. I consider myself to be a goodwill ambassador for Washington, DC. I host guests from all over the world and provide suggestions to them of places to visit, local restaurants at which to eat, and businesses at which they can shop—all bringing revenue to DC. Many of my guests are surprised at what a great city Washington is, and they wish they could stay longer. Many also say they will tell their family and friends to come visit. The personal care I provide to them in my home as an Airbnb host is what draws them to want to stay longer and encourage their friends and family to visit our wonderful city.

My guests include numerous parents and their high school children visiting area universities to check them out as possible schools to which they will apply. I always tell them that DC offers so much more beyond the great universities – a vibrant, multi-cultural experience with great people, restaurants, and activities.

I have families from all over the country stay with me so they can visit our nation's capital. Many tell me that Airbnb offers them an incredible and affordable vacation option. They are pleased to find affordable accommodations in DC, rather than farther out in the suburbs of Virginia and Maryland.

I have guests attending conferences and trainings who are on tight budgets who tell me they could not afford their trip to DC and wouldn't be able to come if it wasn't for the affordable accommodations that I offer through Airbnb. My neighbors and friends support my being a host for Airbnb and send their friends and family to stay with me—rather than them!

Hosting families in my home brings revenue to DC through the occupancy fees paid by Airbnb, the taxes I pay on the income I earn, and the dollars my guests spend in DC.

Not only do I love being an ambassador for DC by being an Airbnb host, I love that it allows me to earn income to stay in my home since my husband died 15 months ago. Restricting the number of nights that I could host people in my home would be devastating to my ability to stay in my own home. I rent out a spare bedroom and occasionally a sleep sofa to my Airbnb guests. I am not interested in having a full-time roommate in my home.

As a long-time resident of DC, I ask you to not take away my rights as a DC property owner to make income through Airbnb hosting which allows me to stay in my own home.

Thank you.

## Public Hearing on Bill 22-92: Short Term Rental Regulation and Affordable Housing Protection Act of 2017

### Testimony of Rev. Ruth Hamilton, Ward 6 Airbnb Host since 10/2014

My name is Ruth Hamilton. I am a 21 year resident of SW, now in Ward 6. My husband and I moved to DC to become co-pastors of Westminster Presbyterian, which you may know for its contributions to the jazz and blues scene in the city as well as being the founding church of Food & Friends.

My husband and I split one full-time salary. When we moved here in 1996 we were able to afford a rundown row-house in SW. Over the years we fixed it up and it is our wonderful home. When prices were still low we were able to purchase another row-house to fix up. The rental income was part of our plan to supplement our small salary and consequent small retirement fund. We rent one flat to a couple at below market rate. When we learned about Airbnb, we decided to give it a try for the other flat. The response has been so great that it remains full most of the year.

Our personal home is not a large place and having the Airbnb gives us the flexibility to set it aside for family and friends who come to visit. Most of the time, though, we are hosting Airbnb guests.

This extra income came just as our son, a Wilson graduate, was beginning college at University of Pittsburgh. Even with the DC Tag and what we had put into the DC College Savings Program, we could not have paid for his college expenses while keeping debt to a minimum without the income from the Airbnb. It has truly changed our lives and relieved us of many financial uncertainties.

We welcome guests from all over the world and large families from here in the states who want to visit DC but can't afford several hotel rooms. Because they know they will be reviewed by us, guests have consistently been kind, respectful, and good visitors in the community. We direct them to our favorite local restaurants and great city parks. We show them how to use the Metro, the buses, the Circulator and more. I am proud to be a Superhost because people love this experience of being part of a real DC neighborhood. When I travel I like to use Airbnb whenever possible.

The sharing economy is really a way for the average person to release his or her own economic potential in new ways. A local woman does our cleaning at \$15 an hour, supplementing her full-time job cleaning office buildings. Our guests pay the city occupancy tax and we pay tax on the rental income. If this creates competition for the hotel industry, I say there is nothing wrong with competition. Can we respond to issues with a little less regulating and a little more rejuvenating?

Airbnb is a way more moderate income families can actually gain enough income to stay in the city. Think of how we can be helping families maximize the income potential of their greatest assets rather than making it harder for them to use them. Think of how a policy could encourage pairing up seasoned Airbnb hosts with senior home owners who could then rent out a room and supplement a fixed income. You can ensure that young couples trying to handle super high mortgage payments get to use Airbnb to help them close the gaps. You can be creative not restrictive.

The church we have served for 21 years is now working on a plan to build 120 units of affordable housing at the 40-60% of AMI. We are fully aware of the needs of moderate income people. We also do not feel moderate income folks like ourselves should be punished for trying to improve our economic well-being by using assets for which we have worked long and hard. We need you to fight for us, not against us.

Testimony of Amy Rothberg

Public Hearing on Bill 22-92, "Short-term Rental Regulation and Affordable Housing Protection Act of 2017"

April 26, 2017

My name is Amy Rothberg and I am here to voice my opposition to the proposed "Short-term Rental Regulation and Affordable Housing Protection Act of 2017".

I own the house at 2700 O Street NW in Georgetown and have operated it as a vacation rental since 2014. Before that, it was my home and I lived there. Like many others across the country, I was hit hard by the 2008 financial crisis. My consulting practice came to a screeching halt and I watched my investments shrink.

In 2010 I made the difficult decision to sell my home. Then, as months passed without an offer, I decided to try to rent it. I found a tenant, got my Basic Business License and Certificate of Occupancy, and moved out of my home. The rent I collected just about covered my mortgage but it did not cover my property taxes, insurance or the cost of maintaining an old house. After 3 years, when my tenant moved out and hoping the market was better, I again decided to try to sell the house, but again had no success.

In desperation, I listed it on VRBO as a vacation home. This allowed me to continue to show it for sale but at the same time, generate some income. Almost immediately, the booking requests started to come in and I soon realized that this could be the answer to my financial problems so I decided to convert the house to a full-time vacation rental.

Since then, I've hosted 189 families at my house. Most are families who would otherwise not be able to afford staying in a DC hotel for their vacation or who would stay in the suburbs as a less expensive option. The needs of these families should not be ignored nor should the contribution they make to DC's economy. I've collected over \$35,000 in sales tax for the city and, as a DC resident, I pay property tax and income tax on money earned from rentals. I've paid over \$15,000 for house cleaning and \$6,000 for laundry service, both to DC based small businesses. Multiply this by the hundreds of other vacation homes that would also be put out of business by this

Testimony of Amy Rothberg

Public Hearing on Bill 22-92, "Short-term Rental Regulation and Affordable Housing Protection Act of 2017"

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proposal plus add in the ripple effect this would have on the local service companies we use and the neighborhood businesses our guests patronize.

I totally support the Council's efforts to protect the availability of affordable housing but my house does not fit that profile. It is not the cause of the problem nor does it even contribute to the problem. I should not be deprived of the income I earn from its use. I am a 66-year-old single woman and I get 60% of my annual income from renting this house. Passage of this bill would be financially devastating to me.

Thank you for taking the time to listen to me. I hope you will reconsider the proposed legislation and find some middle ground which also protects the rights of homeowners such as me.

**CONTACT INFORMATION:**

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Good [daily greeting] my name is Kadija Bangura and I am a Ward 8 resident. I also work for ARCH Development and we feel that Airbnb is an asset building entity for Ward 8, but today I am here to talk about my experience as an Airbnb host.

I became a host in 2013; it provides me with extra income for the upkeep of my home, funds for my small business and savings for my future. As a host in Historic Anacostia I have the opportunity to show tourist a side of DC that is rarely advertised people only ever hear about the negative side of Southeast; but I take my guests to the local business such as Citations Caribbean restaurant, Mama's Pizza and Turning Natural Juice Bar; they get to visit the boutiques in The Anacostia Arts Center and enjoy the cultural experiences of a city neighborhood.

I am the first in my family to own a home, it was a trying experience and taught me some tough life lessons. My home is my biggest and only asset and it is my desire for it to become an inheritance for my family.

The majority of my guests are from outside the US: Europe, Asia, Africa and Australia, they're young families traveling along the East coast on a budget, they can't afford to book multiple hotel rooms...the hotels are out of their price range. Without the low rates that I offer, they wouldn't be able to afford a trip to DC. I am aware of the affordable housing struggles of my neighbors in Barry Farms but even if I and Airbnb my neighbors took someone it wouldn't make a dent in the housing crisis faced by the residents East of the River.

My home is not a hotel and my neighbors welcome my guests, its someone new for them to gossip with and about. Anacostia benefits from hosts such as myself. The businesses are thankful for the patronage. Don't take away my right to do as I please with my home. As a resident I have a right to make extra cash and afford to live in DC.



*Testimony*

**On Bill 22-92, Short Term Rental Regulation and Affordable Housing Protection Act of 2017**

**Before the Committee of the Whole**

**By Leslie Blakey, Mt. Pleasant, D.C. property owner and resident**

**April 26, 2017**

Chairman Mendelson and Members of the Council— My name is Leslie Blakey and, with my husband Joe Wohlmuth, I've owned a large, historically significant home in Mount Pleasant NW since 2003. We are self-employed—Joe is an architect and I'm a policy consultant. We purchased our 100-year-old home with the intention of restoring it to a single-family residence of the type that arose in our neighborhood during the early 1900s.

Nowadays, many of these homes have been converted to condos with developers achieving sales values of three or four times the value of the property as a single residence. We believe there is architectural and community value in preserving at least some of these houses intact and hope to be able to achieve this for our home.

In 2009, when the recession hit DC full force and both our businesses went slack, we realized that we needed help. We had more than enough space to rent out a bedroom or two to help cover our mortgage, taxes, and maintenance. So, we turned to Airbnb for help to find appropriate short-term guests. Airbnb makes this efficiently possible by carefully screening all guest credentials, handling reservations, simplifying bookkeeping and providing us with a form 1099 each year to declare on our taxes.

I encourage you to oppose the very overbearing legislation now before the Council. I realize it claims to target large commercial property owners, but it would have a ruinous effect on our small home-share and we would be forced to sell our house, as we could not maintain it without our Airbnb income.

Unlike commercial apartment owners, we are the opposite of absentee landlords. We are very attentive to our guests and treat them much the same as friends or family. Our neighbors are appreciative of our presence, as the closest hotel is over two miles away.

While our four-bedroom Airbnb offering may sound like a full-fledged business, it is only a second job for us both and our net income from this is less than \$30,000 per year for our combined efforts. So, the added work of compliance with the requirements of the proposed legislation would simply make ours a no-win situation and not worthwhile to continue.

I understand the Council's responsibility to protect the safety of the public, but I would like to raise a question today: How many dangerous situations have actually been reported in connection with Airbnb rentals in DC? As one of the longest-serving DC hosts, I know Airbnb regulates both hosts and guests very strictly and expels those who violate either the legal terms or the spirit of the platform. I am not saying the city should exercise no oversight, but any regulatory action should be directed at and proportionate to the actual problems this activity is causing.

Similarly, the point of this legislation is to protect affordable housing in DC, yet subdividing historic homes for luxury condos has nothing to do with the availability of affordable housing in Mt. Pleasant. In our neighborhood, homes and condos sell for at least half a million dollars, so the possibility of these becoming low-cost rental properties is virtually nil.

And, what about affordable housing for travelers wanting to visit the nation's capital, or come here to look for a job, but cannot afford to pay rates of \$250 or more a night to stay at an in-town hotel. Home-stay platforms allow individuals and families of all income levels to visit our city. For example, there are more than 200 listings at \$25 or less on Airbnb.

Visitors have reasons, budgetary or otherwise, to prefer a stay in someone's home to a hotel. If it were not for Airbnb availability, many would not come at all or they would shorten their trips to keep costs in check. Currently, these guests contribute significantly to our neighborhood economy by shopping and dining on Mt. Pleasant Street. Without our modest accommodations, this revenue would be lost to our neighborhood businesses and to the D.C. economy.

Thank you for taking time to consider my views. I welcome any opportunity to answer questions.

Mr. Chairman, Council Members and Staff, good morning.

My name is Anneliese Bruner and I live in Ward 4. I've resided in the District of Columbia since 1984 and have raised two children here. I will continue to live here into the foreseeable future--if I and people like me get the support we need to make that possible.

I am here today to talk about home-sharing and how it impacts my ability to stay in my 100-year-old Victorian home as a divorced woman near the age of 60. The dramatic and rapid increase in home values in D.C. has been both a boon and burden: Along with the positive return on investment engendered by rising property values comes an increased tax burden that can outpace the ability of many long-term residents to keep up.

This is manifested in the predatory letters we receive in the mail, offers to buy our homes outright--no need to bother with those pesky real estate agents, home inspections, or financing contingencies. No need to wait, they say. The unspoken message? Sell your property (*which has become undervalued by costly deferred maintenance*) and we'll do what you cannot:

transform it into a showpiece (*that will be sold for a magnificent profit, by the way*). Hard to swallow, knowing that this city was long considered a “pariah,” and many who are now profiting wouldn’t have even considered investing here in years past.

A house is the single most significant investment many of us will make in our lifetime. And we should *all* have the right to capitalize on our investments. District residents who have been loyal to this city through the tumultuous years of the past deserve to be protected from the vagaries of developers’ whims and those who would shackle us to prevent *us* from capitalizing our spare space at home. That income helps us do upkeep on our properties and to pay ever-increasing property taxes and skyrocketing utilities. [N.B. *The WASA infrastructure project will further burnish DC as an attractive place to live, and that new infrastructure should also benefit those who are already here and wish to stay.*]

I’ve said a lot, but the real reason I am here today is to ask for your protection.

- We want to keep our properties from falling into disrepair and becoming undervalued, vulnerable to wealthy developers who can pry them away, using favorable financing terms available to them.
- We want to be able to pay our property taxes, not have our homes claimed right out from under us by those who can meet a tax bill that has become delinquent.
- We want our investment of time and money to benefit us rather than be given away to others for a song.

We realize that there is a dearth of affordable housing. In fact, we are taking advantage of home-sharing to keep our housing affordable for us. There are ways to address the longstanding problem of affordable housing without sacrificing local Airbnb hosts. This problem pre-dates Airbnb, and we hosts should not be scapegoated in resolving this issue. **It is disinformation to lasso the lack of affordable housing around Airbnb's neck, when it's a characteristic problem of *all* gentrifying cities.** We are trying to use Airbnb so that we don't become economic refugees, fleeing to PG County.

I implore you to look at some other players who could be doing more to solve the problem, thereby protecting *our* right to stay in and share our homes with travelers from across the country and the world. Airbnb helps us do this safely and conveniently, permitting *us* to participate in the tourism industry that feeds this city.

My name is Natasha Spivack and I live in Ward 4.

30 years ago I came to this country from the Soviet Union, where the life of the people was regulated in every way – where you go, what you do and especially what you can own and what you can NOT and what you can NOT DO with what you own. Of course, the punishment was severe for disobedience to the government regulation orders.

Mr. McDuffie's bill made me feel like I am Back in the USSR. Same type of government dictating, what I CAN NOT do with my own property, and same type of disproportionately severe punishment if I dare to disobey the government regulatory orders.

The problems with this bill start from the title. Short Term Renting and Affordable Housing, in my opinion, have little or nothing to do with each other. They are put together in one sentence as a disguise and misrepresentation for both. The name of the bill connects and memorializes these two separate issues and puts short term renting in opposition to affordable housing problem. In reality, not only it is wrong, but the opposite is correct.

For example, I use Aibnb to advertise my spare bedroom for a period of NO less than one month at a time. Currently I am hosting a DC resident, whose house caught fire and he needs a temporary and affordable place to live. Most if not all the requests for housing in the past and for the future come from the budget minded American or foreign students, interns or medical residents. On average they need affordable DC accommodations for 3 to 4 months. They use Airbnb platform because it is the only safe, affordable and scam free way to stay in DC for a relatively short period.

I believe that Airbnb concept of home sharing is the best that the 21st century came up with for the benefit of the middle class people. For many seniors, like myself it is the only way to Age in Place and keep up with the increasing cost of living and the need to upkeep the property. For me personally short term rental has been a blessing and the proposed restrictions will hurt me and possibly jeopardize my plans to age in place.

Of course, short term renting income is not a manna falling from the sky. It does come with a cost and a sacrifice. You lose your privacy. You encounter some people with hidden agenda to get a free ride. They use made-up complaints to receive their money back at the end of the stay. You deal with over demanding people, who conveniently "forget" that they did not book a hotel for a fraction of the hotel price. Clearly, short term renting is not for everyone. Definitely not for wealthier people with no need for extra income stream.

However, for the middle class and seniors on fixed income the benefits outweigh the inconveniences by far. Moreover, it makes us proud that we give back to the neighborhood and the city. We recommend the guests to go to the local corner groceries to stock their refrigerators, to wine and dine in the family owned little local eateries and buy souvenirs from the street vendors. I notice that some of these local businesses often change hands and close. Extra business from short term renters is a big help for them.

Sometimes I am asked why short term and not long term renting? I am a DC resident and I discovered from my own experience that under DC Landlord Tenant Law the long term tenants have the right to stay in your home for ever -- even when the lease is over, it goes to a lifelong month to month tenancy. And you won't be able to sell your home with the tenants not wanting to move out, because they have their TOPA (Tenants Opportunity to Purchase Act) right and they can sell this right to any investor at the open market.

Short term renting does not set this trap for the landlords, especially senior residents, who don't have the strength and the money to fight their long term tenants in the court if a tenant won't pay and won't leave. The legal fight can take years and the likelihood that a senior landlord will die before the tenant moves out is very high.

Like all the DC home sharing community I support DC government's efforts to recognize the fact that short term renting is for a long stay and it will not go away. We want legitimacy. None of us is against registration, licensing and taxes. However, the restrictions and the punishment that the bill created will have the opposite effect on both intended groups of the population. They will hurt me, a



resident, they will hurt my local business communities and they will hurt the city in exchange for nothing.

I strongly oppose this bill.

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**Honorable Council members:**

I am taking a witness stand to express my concerns about the "Affordable Housing Act" as a one-sided piece of legislation which is unlikely to achieve its stated goals. My position is dictated by my professional knowledge of the economics of housing rental markets, and the concerns I have as a DC small vacation rentals owner.

While I applaud the objective of the law to increase the supply of affordable housing, the law does not recognize the diversity and specificity of home sharing in the city. The means to this objective, as proposed by the current draft, suffer from numerous flaws, including property rights discrimination based on type of ownership and residency.

- 1. The law unjustifiably discriminates between different types of home sharing depending on the number of units owned and owner's residency by limiting the ability of owners to rent properties short-term to 15 days, unless they reside on premises.** DC is a row-house city, and often families live on premises while renting out one or several other units to long or short -term tenants. Owners of 4 or fewer units are currently not subject to rent control. There is no reason for owners of a single family house to receive a more favorable treatment in terms of property usage than for owners of say 4 units who are not subject to rent control. The current version the law unjustly expands the public policy objective of maintaining affordable housing to those units which are not rent controlled. If the objective of the law is to protect affordable housing from being used as short-term rentals, the envisaged property use restrictions should only apply to rent controlled units. In other words, the law should **make rent control exemption the main criteria for allowing units' listing on the AirB&B platform, while allowing up to 4 rent-control-exempt listings per owner**, thus protecting the diversity of homeownership and home sharing in DC.
- 2. The presence or absence of property owner in the dwelling should also not warrant a different regulation or be a distinguishing factor between "home sharing" and "vacation rental", resulting in a cap of 15 days maximum rental per year.** A young family that owns and rents out on short-term basis a townhouse to help pay a mortgage, while living in an

apartment next door simply because it cannot afford to live on main home premises, should have the same rental and property rights as a baby boomer, who lives in his single family home and offers it to airbnb guests as a short-term rental. Both owners are sharing their unique, one of a kind housing accommodations with DC guests. The homeowners' presence test will also expose DC homeowners to "residency" inspections, invasion of their privacy, and in general will violate their constitutional rights. As we already know from the experience of other cities, the enforcement of such draconian requirements will be legally difficult and costly.

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**3. The license requirements for short-term accommodations should be the same as for long-term housing license. Home owners already in possession of a regular rental license should not be required to undergo duplicate inspections or pay extra fees for a short-term endorsement.** The endorsement for such licensed businesses should be a matter of right. Fire safety requirements and unit maintenance and building code requirements for short term guests should be no different from those for long term guests. Since it is a form of non-commercial home sharing, a “hotel-type” requirements to maintain guests’ lists is excessive and not justified.

**4. The law should be clearer on accessory dwellings, clearly stating that the listing platform can accept such units, subject to the main dwelling unit having a short-term endorsement.**

**5. As urban economist by training, I also have overall concern about economic reasoning behind this initiative and would like to caution the authors of the law about the real possibility to achieve the opposite results – an increase of rents in the city in mid-term vs. rent reduction.** As mixed use (because of a ban on future conversions) will be no longer possible, due to the lower expected returns new investment in future residential construction will be considerably reduced. This will in turn drive the rents up, as the city would not be able to compensate for the loss of new construction by imposing housing use restrictions on the existing small stock of transient short term rental accommodations, which comprise only about 0.7% of total housing units!

**The current regulatory regime for housing construction and rentals has been highly effective in mitigating rent increases in DC. At 3.5%, D.C.’s rent growth year-over-year is much lower than the national average (5.6%).**

Throughout 2015-2016, DC experienced a construction boom, posting a record number of added rental units and the lowest rents growth in the country.

The proposed draft law also has a strong potential to cost the city taxpayers a pretty penny due to the proposed redundant enforcement mechanism as the enforcement will automatically be done by the listing platforms.

**Instead of passing the proposed law, a far better solution would be to issue an amendment to the current zoning regulations that would set out minimum licensing requirements and codify short-term home sharing and vacation rental accommodations as part of DC diverse housing accommodation options notwithstanding the type of ownership, residency and other potentially discriminatory characteristics of property owners.**

Bill 22-92 "Short Term Rental Regulation and Affordable Housing Protection Act of 2017"

Written Testimony, provided in advance of the hearing scheduled for Wednesday April 26, 2017

My name is Colleen Garibaldi. Thank you for this opportunity to testify. I'm a homeowner and long-time resident of the District, my city of choice since I graduated from college – oh so long ago! I am here today to tell you about my AirBnB hosting experience, my relevant experience with DCRA and why I oppose this proposed bill.

My home, a typical city rowhouse, has been slowly and lovingly transformed from the uninhabited and uninhabitable diamond-in-the-rough - leaking roof, no heat, inoperable bathroom, rotting front porch and so forth – that I bought in 2000. As my circumstances have allowed, I have renovated my home bit by bit. In 2014 I began hosting on AirBnB to augment my income. I am an independent working studio artist with a greatly fluctuating income and schedule. I chose this route because I wanted the ability to choose when and how often to host – its not always conducive to my work schedule to have someone at the house. My listing, which is my home where I live and work, has typically been for a solo visitor who stays in the master bedroom – it's the biggest and nicest and therefore, in my opinion, the most appropriate for visitors. Earlier this year I expanded my AirBnB horizons by carving out a space in my basement as a sleeping space for myself and began offering my home's main floor and second floor bedrooms and bathroom as the listing, thus being able to accommodate a group of up to 3 visitors and offering a greater degree of privacy.

My guests range in age and come from all over - a few blocks away, across the country and from all over the world including countries such as Brazil, Japan and Australia. Many visitors who stay with me come because of this AirBnB option, who prefer somewhere other than a hotel. I've had early morning coffee with an arts professional from Japan, talked about neuroscience and perception in art with a neuroscientist from Amsterdam. I've had mothers or fathers come stay with me so they can visit grown children, simply visiting or coming for special events like baby showers. One retired firefighter came from Oregon to witness his Marine Corps son being honored by President Obama before embarking on his next tour – moving from his White House detail to an embassy posting overseas. A neighbor's father stayed with me for his annual grandkid's visit because their recent move to a house on the next block didn't leave room for granddad. I have hosted a neighbor who needed a place to land for a few weeks in preparation for a large life event and will shortly host another neighbor and her family while their home is undergoing remedial construction which was necessitated by substandard construction during a renovation project.

Ironically it was my own construction project and the city's and DCRA's abysmal performance on licensing and handling violations that led me to being an AirBnB host. In 2012 I embarked on a project to renovate the second floor of my house, doing my due diligence, and hiring a licensed contractor. Unfortunately, DCRA granted a contractor's license to someone with a long record, including judgments and charges for bad checks, property theft, assault, to name a

few. Despite this contractor having completed similar projects in my neighborhood prior to starting my job, my project was not successfully completed; in fact, it wasn't completed at all.

After abandoning my project and clearly violating DC Code, and doing so to at least 2 other families in DC at the same time, DCRA's only action was to send a letter admonishing him and asking him for resolution. Here's a quote from DCRA's investigator: "During our initial attempts, we tried to contact the Respondent to attempt persuade them to voluntary mediation to resolve complaints. Our office cannot compel a merchant to settle a dispute.

We will attempt to contact the Respondent through the attorney listed in the District Court of Maryland Documents you provided and attempt to persuade Mr. McIntosh to mediate to resolve your complaint.

We will send a warning notice to the Respondent at the listed address warning of unlawful trade practice that has been identified." It should be noted that I was able to provide DCRA with new contact information for this contractor because I had been following his criminal cases in MD where he was being prosecuted, spending time in jail even, for doing the same thing there that he had done here; I was also in touch with Maryland's lead investigator who was very proactive in pursuing this contractor.

I then worked with MPD and the Office of the Attorney General, and, after reviewing my case, they elected not to pursue criminal charges, not because they felt that no crime had happened, but because they had limited funds for investigating and prosecuting cases and my case didn't warrant such an expenditure because they had "bigger fish to fry". On the civil side, the contractor now has a number of substantial judgments against him and apparently no successful collections for wronged clients – despite racking up additional expenses for attorneys, a route I could ill afford.

I suffered a huge financial loss because I hired a criminal and was pretty much wiped out financially. I depend on the income that I generate from being an AirBnB host and am grateful that I not only have this avenue but that I truly enjoy being a host. I am proud to say that I am a 5-star SuperHost, a distinction I have held for the last 2 years, ever since I became eligible. Here are some quotes from a few of my guests:

"It was a wonderful experience to stay with Colleen. She was an amazing host and really went above and beyond to welcome me in DC and her house. She was even so kind to pick me up and drop me off at the train station and made all efforts to give me advice on what to see and where to go and eat in DC. She really made me feel at home at her house, and she's a very interesting person to talk to...."

"The Pretzel Bakery, a neighborhood gem, is not to be missed!..... Whenever I crossed paths with Colleen, she was always open to a friendly chat or to provide additional insights into DC..... Colleen is an integral part of a community that makes Airbnb much more than just a service."

“Colleen was a wealth of information regarding activities in DC and I explored new territory in a city I know fairly well from previous visits.”

“I very much enjoyed my stay in the city. We were very close to the National Mall/Capital building. So much to see and do and mostly free! .....With roots in the area, in addition to travel experience, Colleen was a great source of information. My DC experience was enhanced by staying here.”

I love living in DC and enjoy sharing the city that I know with others. It's a hoot to be able to show people what everyday life is like here and that there are many aspects to this city that have nothing to do with politics. It is also frequently an eye-opener to visitors that artists live and work here – in a vibrant community! I consider myself an ambassador for DC and wish the legislation was geared toward supporting those of us who fill a niche and actively promote DC instead of trying to bury us in unnecessary paperwork and fees with onerous legislation and completely unreasonable restrictions. I also have no faith in DCRA being able to successfully protect the interests of us citizens of the District.

The thought of this proposed bill, to pay more in both money and time, on top of the income tax that I pay from income generated through my home's short term rentals and the 14.5% lodging tax that I pay, to in essence get cosy again with DCRA, simply turns my stomach.

However, I'd like to close on a high note and share an anecdote from my recent travels. During my fellowship/arts residency last month in rural Virginia, in an area that heavily supported Trump, when asked where I was from I took great delight in responding that I was from the swamp, also known as DC's Capitol Hill. Everyone I spoke to was delightful and kind and it was a wonderful opportunity to humanize our city.

Thank you for giving me this opportunity to speak out against this proposed bill. Please help me stay in my home by allowing me to continue hosting responsibly.

Sincerely,

Colleen Garibaldi  
1850 Potomac Avenue SE  
Washington DC 20003

Testimony of Meridith H. Moldenhauer

Good afternoon Chair Mendelson and Councilmembers, my name is Meridith Moldenhauer, and I am a partner at Griffin, Murphy, Moldenhauer and Wiggins, LLP. Our firm represents a variety of clients from individuals to developers to condominium associations, many of whom are interested in short term rentals through platforms such as Airbnb. This range of clients provides our firm unique insight into this bill and its potential unintended consequences that could negatively impact broad ranges of demographics in the District.

First, we are not opposed outright to DCRA instituting a process to permit and license short-term rentals. Too often we hear clients tell us that they tried to do the right thing by calling DCRA, and DCRA told them to obtain a “one-family rental” license. Those clients went ahead and did that, only to then become the subject of a DCRA investigation for obtaining the wrong license. We would request that those individuals or entities that obtained “one-family rental” licenses on advice of DCRA be exempt from the proposed legislation. That said, due to this confusion, we agree that the creation of a separate “short-term rental” license will be a welcome change that will help to make the process more consistent for an applicant as well as DCRA.

However, as with any legislation, there must be a balancing act. With that in mind, several of the proposed definitions are entirely too restrictive and may lead to unintended consequences that will harm District residents, many whom you have heard from today.

- “Permanent Occupant”: First, the proposed legislation defines “permanent occupant” as an individual who resides in the same dwelling for “90 consecutive days.” This would mean that in order for your home to qualify as a permissible, short-term rental, you must be present in the home for 90 consecutive days. This definition would bar

those who travel frequently for their career from renting their home. This definition would bar a member of the military who is regularly deployed from renting their home.

- “Resident”: Similarly, the proposed definition of “resident” is too restrictive and could create further unintended consequences. Under the legislation, a resident is someone who is domiciled in the District and maintains a “place of abode” in the District for 183 days or more during a year. As proposed, only residents can obtain the short-term rental endorsement to the basic business license. Such a definition would eliminate a “snow bird” retiree who maintains their principle residence in the District but lives in a warm locale for half of the year. As I noted before, a military member who is deployed for more than six months, someone who works from the home, or a foreign expat living in our nation’s capital would also fall outside of this definition. These segments of our population would be unable to put their properties to productive use while they are away, despite maintaining a District residence in the normal sense of the word.

- 15-Day Limitation: Additionally, the proposed limitation for short-term rentals of no more than 15 nights in a calendar year is simply too restrictive, and would severely limit those homeowners who wish to utilize short-term rentals as a way to supplement their income. There is seemingly no basis for this number. For many of the demographic groups I already mentioned, including military members and retirees, this restriction would mean that their property would sit unattended for months on end, and they would lose the ability to earn income. Moreover, 15 nights does not fit some of the most common short term rental demographics in the District, namely, interns and



short-term staffers, professors, and not to mention the large number of visiting students each year.

- June 1, 2017 Timeline for hotel/inn license: Finally, the law carves out an exception for residential buildings that hold a basic business license for transient accommodations on June 1, 2017. Given the timeline and pendency of this legislation, this date should be pushed back to align with any Council action to vote on this bill. Therefore, I would suggest an amended date of at least October 1, 2017 for this exception.

Next, I would like to offer to the Council what I believe to be common sense improvements to the proposed legislation that maintain the spirit and enforcement mechanisms of the law but loosen some of the overly restrictive aspects.

Inclusionary Zoning exempts an apartment building of 10 units or less from the requirements of that program. If the proposed legislation's concern is how short term rentals affect affordability, the IZ standard (10 units) would be an appropriate threshold and would not impact those here today who testified about their small number of units being rented short term. Accordingly, we would recommend that apartment buildings of nine or fewer units be exempted from the restrictions.

Alternatively, if the 10-unit standard is not implemented, I would suggest that an individual property owner be permitted to rent up to four units in a residential building on a short-term basis. This suggestion presents a reasonable alternative to the current proposal, which completely eliminates short-term rentals for non-owner occupied properties. In this regard, I think it is important that the Council consider the economic impacts that this legislation might have if it is passed in its present form. Importantly, this suggestion also adheres to the general goal of the proposed legislation by limiting the total amount of units that a property owner may rent through

Airbnb or similar services. I would also like to note that a four-unit limit would align with District landlord-tenant law, which requires rent control units only for those persons who own more than four rental units pursuant to D.C. Code § 42-3502.05(a)(3).

Additionally, the proposed law misses out on an opportunity to incentivize improvement to the District's vacant and blighted properties, similar to our D.C. Condominium Conversion Act which allows for exemptions to convert vacant buildings pursuant to D.C. Code § 42-3402.04. I would suggest that the legislation be amended to carve out an exception that allows those who develop previously vacant or blighted properties to obtain the short-term license endorsement to use the property as a short-term rental. Such an amendment would incentivize developers to purchase and improve vacant or blighted properties around the District, where these properties might otherwise not be developed. Vacant and blighted properties would not be detracting from any alleged claim of reducing affordable housing. There is simply no discernible benefit to vacant or blighted properties remaining vacant and idle in our city. For developers that might otherwise be uninterested in the financial investment of improving vacant or blighted properties, such a program would provide a powerful incentive to broaden development opportunities throughout all areas of the District.

Given the concerns raised in my testimony and that of others here today, I recommend a substantive review of this legislation and a stakeholder working group. These groups should analyze the myriad impacts of implementing the legislation to avoid overly restrictive or burdensome effects and to maximize ease of administration and enforceability of the law.

Again, thank you for the opportunity to present testimony to the Council on this proposed legislation.

Mine is not an unusual home sharing tale. It is one born of necessity - the need to make ends meet. It has done that and much more.

When I divorced last year, I desperately wanted to stay in the family home with my two children. It is a big place and my salary as a DC public school teacher just covers the mortgage. I needed to find a way to pay for the rest of life's expenses. Airbnb was the way.

Since I was working for my home, I figured my home could work for me. While I could have altered my basement apartment to accommodate a long-term renter, I calculated I could make more through Airbnb and still retain the authority to use my basement for the occasional poker game or to have my out of town friends and family as guests.

But sharing my home has proven to be much more than a financial decision. Through Airbnb's platform, I have been connected to people from all over the country and all across the world. I have had guests from China, India, Australia, Germany, Mexico, and Argentina, to name a few. They frequent shops and restaurants in Petworth and 16<sup>th</sup> Street Heights and so boost commerce in my neighborhood.

I love Washington, DC, and love connecting my guests with the best it has to offer. Most of all, the act of hosting, this personal and professional merging, has reaffirmed my faith in the goodness of people. Almost all of my guests have been exceedingly friendly, flexible, forthright, clean, and respectful. They are also putting themselves in the trust of a stranger. We are all working to be on our best behavior, for our own standing as well as the comfort of our home sharing counterparts.

Home sharing is a well-worn practice made newly accessible by the internet platforms of Airbnb and other similar services. I recognize that the rise in home sharing services may have a negative impact on DC hotels. This sort of thing can happen when a better service is offered for less money. I am honored to be here today to give voice to the growing number of DC citizens who open their doors to the guests of our city who yearn for a more personal and more authentic experience. And I like to think that this connection we make between hosts and guests is the best type of diplomacy our city can offer.

Stephen McCulloch  
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To the D.C. Council,

I have been a DC resident of Wards 5 and 2 for 20 years now, own a small DC-based home-improvement business and have definitely experienced the changes in DC that are happening on a constant basis. The changes have improved the public safety, the services available in neighborhoods but made surviving as a middle-class resident and running a micro-small-business incredibly difficult to endure. I have advocated against previous restrictive proposals in my neighborhood (from zoning, to parking, to a new homeless shelter), that, although they would make my life easier, I felt they would more negatively impact the surrounding residents, businesses, and neighborhood as a whole.

I appreciate all the attention to detail that Councilmember McDuffie has exercised to revive this bill, started by his predecessor, Vincent Orange, and the other hotel lobbying interests that have contributed to the specificity and strict enforcement of this new housing proposition, but, I believe it is far too cumbersome, restrictive, unreasonable and short-sided. Residents have been told that non-corporate, short-term housing by individuals in the District has created, or exacerbated the lack of affordable housing for some of the most vulnerable residents, without citing anything more than increasing rental prices and not a causal connection with home-sharing increases. I definitely agree that rental pricing is impacted by the heinous examples of apartment building owners, avoiding ALL housing regulations by offering their units on home-sharing sites and that a reasonable amount of clarity, and regulation should be enacted to prevent or punish that wanton disregard for one's community as a whole. However, this proposed regulation should be tempered to a more reasonable standard to allow a DC resident the ability to control the days that they share an extra couple of safe and habitable bedrooms in their home or a separate basement or carriage house without being subject to the same standards as a large business trying to rent an apartment building on a short-term basis.

If this bill is approved, residents, small neighborhoods, and businesses off of the National Mall and the hotel-dense Downtown area are going to see effects that will stifle their livability, far surpassing any dramatic increase in supply of housing or reduction in rents. I have worked, for extended time, in all Wards in the city and lived adjacent to home owners, rental units and, more recently, multiple AirBnB homes and the long-term rental units are ALWAYS more neglected by the renters and by landlords, than Airbnb homes that are cleaned regularly and maintained. Out of town guests are always spending money in DC, but with home-sharing, they are in local neighborhoods spending their out-of-town money with local hosts and local businesses spread throughout the different Wards versus with international hotels, like Hilton, Embassy Suites or the Trump Organization that immediately remove massive amounts of guests' spending out of DC.

I drive for car-sharing services in the evenings to help me afford to stay in the District and would love the option of legally renting 3 bedrooms in my home that I am not using, without an extensive and incredibly restrictive DC law that was crafted to appease the hotel unions and the Hotel Association of

Washington and not the city as a whole and definitely not the middle-class residents of the city as being sold. Middle-class DC residents may not know that we have no large organization or union lobbying philanthropically, purely for our livability and quality of life here, so we can just hope that the Council will impartially read, and visualize the benefits that realistic short-term housing regulations will have on individual communities outside of the influential, high-dollar downtown districts.

**Council of the District of Columbia  
Committee of the Whole**

**RE: Bill 22-92, "Short Term Rental Regulation and Affordable Housing Protection Act of 2017"**

**Wednesday April 26, 2017**

**10AM Room 500, John A. Wilson Building**

In two words this is a "BAD BILL" and in my opinion does not support the best interest of the District of Columbia nor the community of property owners that rent out a room or an apartment in buildings to the vacation travelers to DC. I was having a difficult time in trying to determine if it was drafted out of abject ignorance or malicious intent. Now let me explain:

Did you know that in Paris, a city that is widely compared to DC, has 68,000 commercial hotel units and 80,000 owner controlled short term vacation units advertised for rent? That city like DC has a relatively FIXED amount of hotel space, with little or limited option to increase their rental housing stock. So, the vacation rental industry has evolved to augment the stock of short term rental units to care for the travelers to that magnificent city. The commercial simply can't expand to care for the current demand for rooms, and they can't or won't build enough stock to handle the need during peak demand. Hotels have resorted to simply raising the room rate to gouge visitors who have limited options stay elsewhere.

Paris like DC owes much of its vitality and financial prosperity to the vacation travelers who arrive daily to enjoy the sights, sounds and foods of these respective cities. Both cities offer much for travelers to do and consume for their holiday enjoyment. DC would do well to celebrate its good fortune to be collocated with this country's Federal national icons of freedom and museums. Certainly, it makes no sense to stand on own your on "air hose". The constant flow of travelers to DC, 365 days/year that spend millions of dollars a week in local restaurants, and entertainment venues is a good thing for DC.

Did you know there are over 3 million unique listings in 191 Countries worldwide for short term vacation rentals on the web? This trend is increasing NOT decreasing. What does Paris and the rest of the world know that DC doesn't?

Did you know that the 2014 World Soccer Cup match in Brazil used Airbnb to augment the insufficient number of commercial rental units? Approximately 120,000 visitors stayed in people's homes. This meant that 1 out of every 5 visitors used vacation rentals portals to find a place to stay for this one-time venue. There was simply no way for the commercial hotel industry to produce enough hotels space to accommodate the influx of travelers during peak demand of the World Soccer Cup.

I'm guessing that there are convention events in the District of Columbia that routinely outstrip available hotel stocks on any given day throughout the year. In short, this flexible supply of housing for travelers is an asset for DC, NOT a liability. Limiting or eliminating this industry will be yet another example of standing on your own air hose.

The average HomeAway travers is a 50-year-old female traveling with a family of 4 and seeking a 2-bedroom unit at an affordable rate for a 5-night stay. The current hotel industry cannot accommodate the needs of demographic group. So, absent the vacation rental industry supply of this needed housing, this holiday traveler will look for another place to vacation and that will be DC's loss.

Two weeks ago, DC celebrated the Cherry Blossom Festival. 100% of the available hotel stock was booked, most at their maximum permissible nightly rate. Travelers to this event needed to book hotel space well in advance or in remote areas of MD and VA, as nothing else was available. Would this event be better served if the thousands of home owners using Airbnb and HomeAway to rent their available housing space, were forced out of business? Hotels in Baltimore, Fairfax and Arlington were booked. I'm guessing that folks that stayed in remote locations also took most of their meals close to where they were housed, that was DC's loss.

DC pressed a law to require the vacation rental housing industry to collect the 14.5% Occupancy tax that hotels pay. Owners also needed a DC Business License and apartment owners had to sign up for inspections. So, the push to pass New and different legislation to require a separate business license and additional inspections is redundant. Did it occur to the City Council that restricting the vacation rental industry from operating as it does now will facilitate "gouging" by the hotel industry? I want to challenge the council to take one step back and see who will benefit from the proposed legislation; the DC community, NOT; the DC Convention Center, NOT; DC's small individual property owners, NOT; the affordable housing stock; NOT; the hotel industry YES. Perhaps we could rename this Bill: **"The Act to permit even greater gouging of travelers who are unlucky to need housing in DC during peak demand"**.

Could I also offer that this country just went through a voter revolution in the last election? As it revealed; voters were fed up with more bureaucracy, more taxes and more regulations. Has the city actually spent the time to look deeply into the positive effects of the vacation rental industry?

The vacation rental property that I own and manage is on Capitol Hill, a community where there are almost no commercial hotels or rooms for rent. My guests always ask for recommendations of places to dine and I refer them to the local restaurants in this community. Have you determined if there will be any economic downside to the Bill that is being proposed? The vacation rentals are almost universally located in residential communities. Consequently, guests are able to experience DC as a locals, and do support the many small shops, restaurants and stores in the communities where they are house.

This Bill reminds me of a visit to North Carolina where I asked for a medium rare hamburger in a restaurant. I was informed that the local legislators had passed a bill prohibiting hamburgers from being served any way except "WELL DONE". I was flabbergasted and grateful that I was only visiting NC and not a permanent resident. Rather than deal with the absence of adequate cleanliness and health standards in the meat packing industry, they just passed another law mandating that everyone just cook the heck out of the meat.

May I simply say that DC need not tell grandma that she can't rent the spare bed room or the English basement out to tourist. It just might be her only means of supporting her lifestyle and for paying the ever-increasing property taxes that the city needs to operate. DC just might need this flexible housing stock to support travelers to this city that spend millions each week on their respective vacations.

Kenneth Kimbrough

Thank you for allowing me the time to speak today. AirBNB is a service that is near and dear to me, and I would like to explain why.

My fiancé and I have each lived in DC for approaching ten years. After we met and decided to move in together, we started our home search. We found a tiny house in Shaw (literally, it is only 11 feet wide!) that needed a TON of work. We loved the neighborhood, and decided to make an offer. We were successful and purchased our first home using a 203K loan.

The renovation took 9 months of blood sweat and tears, but the result was we divided our tiny house into two units (an 800sq foot 2/1.5 upstairs, and a small studio in the basement with a full kitchen) We were so excited to turn our beloved home from a neighborhood eyesore into two units. We elected to rent the basement on AirBNB after hearing plenty of horror stories about tenant issues in DC.

We have had an amazing time renting our home. We have hosted roughly 100 unique groups – and many of them would be groups that wouldn't traditionally choose a hotel in DC, instead . We have had small business owners presenting at the convention center that can't afford a more expensive downtown hotel, small middle-class families who have driven from the Midwest who can save money on food and lodging (due to our full kitchen!) that has made their visit to DC a possibility, multiple groups where one of our neighbors has recently had a baby, and the grandparents or relatives have flown in from out of town to help with the baby. In those cases, they want to be as close as possible to their family.

We have it cleaned by a wonderful woman named Gayle between each guest - we pay her \$50 for what takes her roughly 45 minutes to an hour. Gayle is an independent business woman who works with numerous clients, including several other AirBNB properties, and her business is growing. The average housekeeper in a DC hotel makes \$27,000 – Gayle has indicated to me that she made more than \$50,000 last year, and is preparing to grow her small business by hiring her first employee.

In addition, we have rented our upstairs when we were out of town. This was a total of 40 nights last year. That is one 12-day trip to Germany, holiday weekends, and a half dozen long weekends. Our house would have been empty, instead it was full of families pumping tourist dollars into Shaw. My fiancé and I don't need the money, we can afford our Mortgage, but it has certainly helped us afford things like sprucing up our front yard with hardscaping, and new front stairs (last spring) and replacing the roof (coming three weeks.)

In considering any short term rental bill, please consider the chilling effect these bills will do to DC's growing reputation as a strong, innovative city for entrepreneurs, technology companies, and tourism. In a time of growing uncertainty – the last thing our city should be doing is hurting ourselves with these growing industries. You have heard a lot today about the impact that AirBNB has had on affordable housing. These are lies, promoted by a lobbying group, funded solely by the hotel industry, who is trying to protect their monopoly on a massive market for business and tourism travel in Washington DC. I ask that you reject this ill-sighted rule. There are plenty of actual things the city can do to increase affordable housing. Things like inclusionary zoning, density bonuses, and building on city land near the metro. Short term rentals represent a minuscule fraction of the total rental units available in a city where construction of housing is more than keeping pace with population growth. I urge you to side with middle class families like mine, and not with the Big Hotel lobby, just so they can rent a few more rooms at \$399/night. Thank you.



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April 24, 2017

**Statement in OPPOSITION to proposed Bill 22-92, "Short Term Rental Regulation and Affordable Housing Protection Act of 2017"**

Dear Members of the Committee On the Whole,

As currently proposed Bill 22-92 is draconian and punitive towards DC residents and should not become law. Short Term Rentals ("STR") are a net positive for the city:

1. Income to the homeowners renting out their homes, basements or second homes.
2. Don't compete with DC hotels, rather attract cost conscious tourists to the city that would otherwise stay in VA/MD.
3. Generate significant economic activity to local establishments that otherwise be lost to VA/MD<sup>1</sup>.
4. Improve quality of life in the neighborhood
  - a. Less demand for parking in areas close to downtown from visitors as compared to longer term residents.
  - b. The reports that STR guests cause noise, trash issue do not reflect the vast majority of cases. There is no way to guarantee that longer term residents will be better.

**Proposed Licensing requirement must be decoupled from existing zoning rules OR Council action must be bundled with a Zoning Commission review of Zoning code to allow STR uses in residential zones.**

The way this Bill is presented to the public is misleading. While pointing to a few egregious examples of commercial operators - entire rent controlled building being converted to STR listings, which is already illegal under current laws - the Bill will effectively eliminate virtually all "whole house" rentals on STR sites, so long as the licensing requirement is tied to existing zoning rules. The result will be a huge loss to the city in terms of economic activity generated by STR visitors<sup>2</sup> for a negligible, if any, temporary dip in rental prices that still won't make housing affordable.

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<sup>1</sup> <https://washington-dc.airbnbcitizen.com/airbnb-dc-2016-year-review/>

<sup>2</sup> <https://washington-dc.airbnbcitizen.com/airbnb-dc-2016-year-review/>

I urge the council to adopt a sensible, study-based approach to STR regulation and work with the Zoning Commission to allow the following scenarios.

**The following uses should be permitted:**

- Renting out of either unit in a rowhouse, as long as the other unit is occupied by a primary resident.
- Renting out of second homes owned by DC residents - natural persons that claim a homestead deduction at a different DC address.
- **Consider Inclusionary Zoning like approaches to STR licensing.** In third or subsequent whole house rentals, the owner must provide the basement at a X% EMI.
  - Without specifically aiming to increase 80% EMI/50% EMI housing stock, this Bill will not create even one affordable unit. At best it may temporarily
  - rarely reduce the market rate of housing stock by a negligible amount.
- Allow addition STR uses to be granted with ANC permission

**DC Affordable Housing Program is:**

- 1) Mismanaged<sup>3</sup>
- 2) Inclusionary zoning lottery process is broken because it does not take into account **household's income earning potential.**
  - a) Based on my conversation with the office that administers the IZ lottery, the program treats the following two households the same and both are eligible to participate in lottery: a middle aged single mother vs a young couple who are both medical students. Looking at a snapshot of households income without considering income earning potential makes the lottery fatally flawed. The lottery pool should not be diluted by applicants whose income has a certainty/high probability of increasing in immediate future.

The concern is that the bill imposes several fines with intent to direct those to programs that are documented to have significant problems.

**Unnecessary DCRA Requirements to Create Legal Long-Term Rental Basement Units.**

If a homeowner wants to turn their basement into a licensed long term rental they are currently required to go through a very extensive renovation to separate all the system between units - electrical, mechanical/hvac, water heater. DCRA is following a true "two unit home" building

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<sup>3</sup> Washington Post, March 16 Local Section article by Paul Duggan, "'D.C.'s affordable housing program has been mismanaged, according to city auditors' report'"

[https://www.washingtonpost.com/local/dcs-affordable-housing-program-has-been-mismanaged-according-to-city-auditors-report/2017/03/16/42038e86-09b3-11e7-93dc-00f9bdd74ed1\\_story.html?utm\\_term=.82bec247539b](https://www.washingtonpost.com/local/dcs-affordable-housing-program-has-been-mismanaged-according-to-city-auditors-report/2017/03/16/42038e86-09b3-11e7-93dc-00f9bdd74ed1_story.html?utm_term=.82bec247539b)

code standard which is not necessary to provide a safe & clean rental unit. After all, does it really matter to a basement tenant if they can access their own water heater for example? Separating all systems is a significant expense which discourages many row house owners from providing their basement unit for rent because without a license they are put in a gray area as far as being insured under their Single Family Residence homeowners policy. Further, they may have a harder time bringing a case against a potentially tenant in court due to lack of a license.

**The council should consider a separate “basement rental” business license category that does not require meeting a true “two unit” building code requirement.**

In concluding, Bill 22-92 should be amended to allow a reasonable number of STR listings, more when tied to IZ level affordable housing offerings. As currently proposed the Bill does nothing to guarantee creation of affordable housing. At best it will provide marginal decreases in already high market rate prices.



# US Campaign for Palestinian Rights

A national coalition of hundreds of groups working  
together for freedom, justice, and equality.

## **Testimony for DC Council Public Hearing on Bill 22-92, "Short Term Rental Regulation and Affordable Housing Protection Act of 2017."**

**Ramah Kudaimi, Director of Grassroots Organizing, US Campaign for Palestinian Rights**

**April 26, 2017**

In January 2016, the US Campaign for Palestinian Rights, a national coalition of hundreds of groups working together for freedom, justice, and equality, launched the Stolen Homes Campaign with partners including Jewish Voice for Peace, CODEPINK: Women for Peace, SumOfUs, and the US Palestinian Community Network. The campaign urged Airbnb to stop listing properties in Israeli settlements built on land stolen from Palestinians in the West Bank and East Jerusalem, which have been under a brutal Israeli military occupation since June 1967.

This 50-year long occupation has included Israel killing, injuring, and imprisoning tens of thousands of Palestinians; severe restrictions on Palestinian movement through checkpoints and the building of a wall; the demolition of at least 28,000 Palestinian homes; and the confiscation of land to build Jewish-only settlements. These settlements are considered illegal under international law. Article 49 of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War states: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." For decades the United Nations Security Council, the International Court of Justice, the International Committee of the Red Cross, and human rights organizations such as Amnesty International and Human Rights Watch have upheld the illegality of settlements. In December 2016, the UN Security Council overwhelmingly approved a resolution strongly condemning Israel over the settlements.

By allowing users to list and rent properties in illegal settlements, Airbnb directly profits from Israel's continuing occupation and displacement of Palestinians. A report released by Human Rights Watch last year entitled "Occupation, Inc." outlines how businesses involved in the settlement economy contribute to and benefit from Israel's violations of Palestinians' rights and international humanitarian law. They write that businesses help make settlements sustainable by providing services and employment to settlers and paying taxes to settlement municipalities; depend on and contribute to the unlawful confiscation of Palestinian land and resources by financing, developing, and marketing settlement homes; and are inextricably linked to and benefit from Israel's discriminatory policies that encourage settlements and harshly restrict Palestinians, such as privileged access to Israeli-issued construction permits and licenses to extract natural resources that should be used only for the benefit of the Palestinian population of the Occupied Territories.

Since Airbnb is listing properties that are in explicitly Jewish-only settlements, there is an additional concern that not all of Airbnb's users would be welcome in these rentals. Last fall Airbnb released an anti-discrimination report and committed to fostering a more inclusive community following months of scrutiny and allegations of racism. It is heartening to see that this issue is being taken so seriously. "Bias and discrimination have no place on Airbnb, and we have zero tolerance for them," Brian Chesky wrote in a message to Airbnb users and hosts.

But the question remains if Airbnb's commitment to fighting against discrimination will extend to all locations it operates in. Settlements and related infrastructure, including Israeli-only roads and Israeli military bases, cover close to half of the occupied West Bank. Discrimination against Palestinians in the West Bank takes many forms: a wall, much like the one Donald Trump proposes for the Mexican border, that was purposely built to confiscate even more of their land; the demolition of Palestinian homes and villages while Jewish-only settlements flourish and grow; and unequal access to water -- the average West Bank Palestinian is only allocated one quarter of the water available to the average Israeli each day. Israel also has over 50 laws that give preferential treatment to Israeli Jews over Palestinians and others. Israel's treatment of Palestinians has been recognized as a form of apartheid by numerous experts including former US President Jimmy Carter and Archbishop Emeritus Desmond Tutu, one of the heroes of the struggle against apartheid in South Africa.

The Stolen Homes Campaign has been waiting for a response from Airbnb to our demands for over a year. In March 2016, dozens of protesters attempted to deliver more than 140,000 petition signatures to the company's corporate headquarters in San Francisco. The company responded by locking the doors and security only allowed one person inside to make the delivery. The petition was also presented to other Airbnb offices worldwide. Last June we delivered the same petition, but now with 150,000 signatures, to a dozen branches of Fidelity Investments nationwide, including right here in DC, asking them to use their influence as major investors in the company to push the company to end its occupation profiteering. We have confronted Airbnb founders, board members, and investors such as Ashton Kutcher at various public appearances calling on them to respond to our request. The company has yet to respond to us directly, though they told the San Francisco Chronicle following the initial petition delivery: "We care deeply about the feedback we receive from our community and we take these issues incredibly seriously. This particular issue is complex: people have been debating this matter for 5,000 years, so a hospitality company from San Francisco isn't going to have all the answers but at the end of the day, we want to help open the world, not close it off."

This response highlights Airbnb's pattern of refusing to take responsibility for how it enables and profits from displacement from Palestine to DC. What Airbnb is now doing in DC- both profiting from increasing rents as well as contributing to the affordable housing crisis because commercial operators are using Airbnb to convert much-needed housing into short-term tourist rentals- is part of its business pattern of making money off of gentrification, discrimination, and some of the most vulnerable members of society. Airbnb has also shown a disregard to both local laws in cities nationwide attempting to regulate them as well as to international law as it has yet to deal satisfactorily with the issue of rentals in illegal Israeli settlements.

DC Council passing the "Short Term Rental Regulation and Affordable Housing Protection Act of 2017" will regulate short-term rentals in a manner that will help alleviate the housing crisis as well as make clear that companies like Airbnb must act responsibly wherever they operate to ensure they are not profiting off of oppression.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
*Department of Consumer and Regulatory Affairs*



B22-92, the “Short-Term Rental Regulation and Affordable Housing Protection Act of 2017”

Testimony of  
Melinda Bolling  
Director

Before the

Committee of the Whole

Council of the District of Columbia

April 26, 2017  
Room 500  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

Good afternoon, Chairman Mendelson, members, and staff of the Committee of the Whole. I am Melinda Bolling, the Director of the Department of Consumer and Regulatory Affairs (DCRA). I'm here today to testify on B22-92, the "Short-term Rental Regulation and Affordable Housing Protection Act of 2017" (Short-Term Rental Act).

In my testimony today, I will provide a summary of the bill and explain the Executive's position on it.

## **I. Background**

B22-92, which was introduced by Councilmember McDuffie on January 31, 2017, would create a new license category for short-term rentals, requirements for persons and entities engaging in licensed short-term rentals or advertising them, and procedures to try to enforce the licensure requirements.

## **II. Summary**

### *Licensure Prerequisites*

The Short-Term Rental Act would require that any short-term rental host (person or entity offering—for compensation—a dwelling unit for rental for a period of 30 days or fewer) obtain a basic business license with a "housing: short-term rental endorsement". Similarly, the bill would require that a hosting platform (any person or entity advertising a dwelling unit for use as a short-term rental) obtain a basic business license with a "housing: short-term rental endorsement".

To obtain a business license with a housing: short-term rental endorsement, the bill stipulates that a short-term rental host or platform must demonstrate that:

- (1) The host or platform is domiciled in the District; and
- (2) The applicable unit being offered for rent is the applicant's permanent residence.



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*Licensure Conditions*

After short-term rental hosts or hosting platforms obtain licensure, the bill would establish several operational requirements on each.

Short-term rental hosts would be required to:

- Include their license number in all advertisements for short-term rentals;
- Retain records for at least two years; and
- Limit vacation rentals (nights where the unit is offered and the host is not present) to 15 nights per year.

Short-term rental hosting platforms would be required to:

- Verify that hosts using the platform to advertise a dwelling unit have a valid, active business license for short-term rentals and that the address on the license matches the address of the rental;
- Maintain records for three years, showing the name of the rental host, the address of the unit being offered, the basic business license number associated with the rental, the dates the unit was rented, whether the unit was rented as a vacation rental, and the rate charged for each night;
- Remove any non-compliant listings identified by DCRA;
- Prevent any hosts listing a unit as a vacation rental for more than 15 days in a calendar year; and
- Transmit an affidavit every month certifying that the platform is in compliance with District law.

*Enforcement*

The Short-Term Rental Act would task DCRA with:





- Inspecting short-term rental units;
- Monitoring the units for compliance with zoning regulations, building codes, health codes, housing codes, and any rules issued pursuant to the bill;
- Investigating complaints about short-term rentals;
- Issuing administrative penalties, orders, and subpoenas to penalize a person who violates a provision of the bill; and
- Referring to the Office of the Attorney General any persons or entities who violated the act for the purpose of OAG pursuing civil penalties of \$1,000-\$7,000 in Superior Court.

*Revenue*

Revenue generated from short-term licensure fees or fines would be deposited 50% into the General Fund and 50% into the Housing Production Trust Fund.

**III. Analysis/Position of the Executive**

The Executive strongly supports the protection of affordable housing in the District. Access to housing is one of the most important elements of extending inclusive prosperity to residents across the District and building pathways to the middle class.

Innovation can be a driver of inclusive prosperity. Housing may be more affordable if it's easier to occasionally use it to generate revenue. A mortgage payment becomes less difficult to make if it is offset by income from occasionally renting your home out to visitors.

At some point, though, an occasional rental becomes something else entirely. There is a significant difference between someone renting a room or even an entire house intermittently to generate extra income and a company buying an apartment building and renting every room to



visitors like it's a hotel. Short-term rentals should empower District residents through supplementary income, not displace them by using units exclusively as hotel rooms.

In considering this legislation, we must take care to ensure that the appropriate balance is struck. The District should continue to create a hospitable regulatory environment for innovation while ensuring that adequate protections are in place to protect and preserve affordable housing in the District.

**A. Definitional Issue**

The Short-Term Rental Act would allow DCRA to issue a short-term rental license only to residents. In this context, a resident would be defined as an individual who maintains a residence in the District for at least 183 days per year and is “domiciled” here. Domicile is a precise legal term and refers to the place that you consider to be your permanent home, even if you intend to be absent from that place for an extended period of time. Consequently, this limitation would prevent a large group of District residents from obtaining a license: students. The District is home to several world-class universities and graduate schools. Students who attend those schools often do so at great personal expense and may be absent from their dwelling units for weeks at a time during scheduled breaks. Short-term rentals offer students an opportunity to offset their living expenses, and the definition in this bill would prevent them from doing so.

The Executive recommends eliminating the domicile portion of the definition.

**B. Enforcement Challenges**

B22-92 presents a number of enforcement challenges.

*Data Access Issues*



The most significant challenge raised by B22-92 will be monitoring listings for compliance with this act and determining when a host or platform has run afoul of the licensure restrictions. For example, the Short-Term Rental Act limits each host to 15 vacation rental nights per year. DCRA will have no reasonable way to monitor whether a unit has exceeded that limit because the bill does not require either the host or the hosting platform to routinely provide that information.

Rather, the bill would require that DCRA seek an administrative subpoena whenever the agency suspects that a host or hosting platform has violated some provision of the act. But without access to the data requested in the subpoena, DCRA is unlikely to generate much evidence that a host has exceeded the 15-day threshold.

Moreover, the Short-Term Rental Act would provide an appeal right to the hosting platform to challenge whether the agency is entitled to the information demand contained in the subpoena. Given that the subpoenas would likely be necessary to determine whether there are, in fact, any violations, it could be exceedingly difficult to defend the basis for the subpoena.

In other places, the bill seems to suggest that the Mayor could specify in rules what records hosting platforms would be required to make available to DCRA. But it also directs the agency issue subpoenas to obtain the information required to be retained pursuant to the act.

The Executive recommends eliminating the administrative subpoena process. Rather, we believe that requiring transmission of selected data as a matter of course from hosting platforms would streamline enforcement efforts and avoid burdening DCRA or the Office of Administrative Hearings with avoidable litigation.

*Administrative Orders and Penalties*



The bill would require that the Department issue appropriate administrative orders and penalties when it determines that a host or platform has violated some provision of the Short-Term Rental Act. B22-92 does not, however, specify which administrative penalties should be imposed. DCRA would be directed to revoke the business license of anyone found to be in violation of the act in a civil case prosecuted by OAG, but the bill does not spell out what penalties should be assessed in advance of that.

DCRA could create a new set of fines that apply solely to this license type through rules, but we are not certain what the justification would be for imposing two sets of fines for identical offenses: fines established by DCRA through rules and the civil penalties pursued by OAG in Superior Court.

The Executive recommends clarifying the penalty structure, so that it is clear to hosts, hosting platforms, and DCRA what the potential penalty for non-compliance is, apart from civil penalties imposed through Superior Court.

*BBL Number in Advertisements*

B22-92 would prohibit hosts and hosting platforms from posting any advertisements of short-term rentals without clearly displaying the associated license number. We are concerned that DCRA and/or OAG could become embroiled in prolonged legal fights to determine which party is ultimately responsible for the failure to publish the correct associated license number. The Short-Term Rental Act does specify that the host shall not be held liable for the failure of a hosting platform to publish the license, but determining whether it was the host who provided a faulty number or the platform failing to post the correct one would force DCRA into a quasi-judicial role.



Moreover, if the cited party challenged whether they were actually responsible versus the other party, DCRA would be forced to defend the position it took in adjudicating a disagreement between private parties.

The Executive recommends putting the responsibility for verifying license numbers in ads on the hosting platform. That would simplify enforcement efforts at least with respect to this requirement and avoid bringing complaints against individual District residents.

*Removal of Non-Compliant Listings from Platforms*

B22-92 would direct hosting platforms to remove any listings that the District has concluded cannot be provided lawfully. The platform would be prohibited from listing the unit again until the District provides confirmation that the unit may be provided for short-term rental lawfully.

Although requiring that a hosting platform remove a listing that the District government has found to be operating illegally could be a useful enforcement tool, the lack of any specified appeals process for the host seems to create a due process problem.

For example, a host possessing a basic business license with a short-term rental endorsement would have a legal right to offer a short-term rental. If the District determined that the host had, for example, exceeded the 15-day limit for vacation rentals, it could direct hosting platforms to no longer list the unit. Thereafter, the platforms would be prohibited from the listing the unit until the District told the hosting platforms that they were once again authorized to list the unit.

The Short-Term Rental Act does not create any kind of appeal rights for licensee who would be—potentially indefinitely—deprived of their appeal rights. That would seem to deny the licensee his/her/its due process rights.



The Executive recommends establishing an appeals process for hosts, whose listings are removed from hosting platforms as the result of a directive from the District.

*Vacation Rentals*

B22-92 would establish a 15-day annual limit on vacation rentals, or those rentals that occur without the host being present. Fifteen days may be too restrictive.

If a resident were out of town one weekend per month and wanted to rent their unit for those two days, the resident would exceed the 15-day limit by mid-August. If a student wished to rent out their unit during scheduled breaks, the 15-day limit would cover a portion winter break and essentially no other days.

The 15-day limit is also more restrictive than the limits in place in many other jurisdictions that allow short-term rentals. For example, in San Francisco and New Orleans, a host may offer unhosted rentals 90 days per year with registration. Philadelphia permits 90 days without any registration and 180 days with registration.

The Executive recommends heavily weighing resident testimony and reviewing best practices nationally to determine whether 15 days is the appropriate limit for unhosted rentals. Based upon our analysis thus far, we believe 15 days is probably too low.

**C. Agency Resources**

B22-92 would create new enforcement responsibilities for DCRA. To carry out those responsibilities, the agency would require several new resources.

*Inspectors*

The bill directs DCRA to inspect all short-term rentals for compliance with “business licensing, zoning, housing, health, safety, and sanitation standards.” DCRA has seen estimates that 7,000-8,500 short-term rental units are currently operating in the District. If they were all to



become licensed, that would mean that the agency would need to perform an additional 7,000-8,500 housing inspections for those units.

As the agency has shared in recent hearings, our housing inspectors perform approximately 1,000 inspections per year. Consequently, to do the inspections required by this bill, the agency would need to hire approximately eight new housing inspectors.

Although housing code inspectors are well trained to identify housing code violations, they are not generally trained to identify licensing and zoning issues. The agency uses separate inspection staff to investigate licensing and zoning issues. Depending upon the volume of complaints, DCRA may also need at least two additional inspectors in its Regulatory Investigations Section, which investigates illegal business activity.

#### *Attorneys*

As written, the bill would mandate that DCRA obtain administrative subpoenas to gather the information necessary for enforcement. B22-92 would also provide appeal rights to platforms whose information is sought through a subpoena. For reasons discussed earlier in my testimony, we expect that those subpoenas could lead to legitimate challenges, which would create significant additional litigation.

We believe that the administrative subpoena process in the bill would create the need for at least one additional agency attorney—and possibly more depending upon the volume of subpoenas and challenges.

#### *Data Analysts*

B22-92 would require that the agency monitor unit listings to determine whether they are advertising a unit that has exceeded its vacation days for a given year and if they are otherwise compliant with District law. If DCRA is successful in obtaining the information, the agency will



need data analysts, who are capable of evaluating the data for instances of non-compliance. Given the number of estimated units being offered in the District, the agency may find tens of thousands of individual rentals each month. The Executive believes that at least two data analysts would be needed to continuously review that information.

*Portal Upgrades*

Housing rental licenses are available online through the DC Business Center Portal. In order to be consistent with other housing rental licenses, the agency would need to add an additional endorsement type to the Portal's functionality. That development will add additional cost.

*Fiscal Impact*

Given all the agency capacity implications of the bill, it is safe to assume that the bill would have a significant fiscal impact. We understand that a fiscal impact analysis is still pending for this legislation and it would be difficult to offer support without knowing exactly how much the bill would cost.

**D. Inconsistencies**

B22-92 also seems to contain some meaningful inconsistencies that would need to be revised in order to avoid major implementation barriers. I will briefly describe these now.

- The Short-Term Rental Act provides an appeal right to challenge an administrative subpoena to a hosting platform, but not to a short-term rental host. There does not appear to be a justifiable reason that platforms could appeal a subpoena but individual residents could not.
- The bill would require short-term rental hosting platforms to get a basic business license with a short-term rental endorsement, but it restricts that type of license to





individuals using their permanent residence as the license location. Given that hosting platforms often would not be domiciled in the District and probably could not claim a “place of abode,” the required license type would be functionally unavailable to hosting platforms.

#### **IV. Testimony Conclusion**

In short, the Executive believes that B22-92, as written, presents a number of barriers to implementation. The Administration and DCRA thank the Committee for calling this hearing and providing an opportunity to the public to weigh in on this legislative measure.

Chairman Mendelson, thank you for the opportunity to testify on Bill 22-92. I would be happy to answer any questions at this time.

