

The Long-Term Impact of COVID-19 on Short-Term Rentals

June 5, 2020

By Robert Eisenberg

UPDATE: On June 5, 2020, the Ontario government lifted the restrictions on short-term rentals effective immediately

Following on from 2019, 2020 is off to a bad start for short-term rental operators, known in the industry as “hosts” (“**Hosts**”). In November 2019, the Ontario Land Planning Appeal Tribunal upheld the City of Toronto’s (the “**City**”) zoning bylaw amendments to regulate short-term rentals (the “**Regulations**”). The City intended to begin implementing the Regulations’ licensing and registering requirements for short-term rental platforms and Hosts this spring, and there have been no announcements that this timeline has changed as a result of the COVID-19 pandemic. For more information on the content of the Regulations, please consult [our previous reporting](#) or the [City’s website](#).

Now, however, the ongoing COVID-19 pandemic has emerged as a far greater threat to Hosts and to the short-term rental system in Toronto than the Regulations. As governments and public health officials around the world impose travel bans and encourage social distancing, demand for short-term rentals has plummeted. Hosts who continue to accept guests have been mandated to put in place much more stringent cleaning measures to disinfect rental units between uses to prevent the transmission of the virus.^[1] Hosts must also worry about a guest testing positive for COVID-19 and needing to self-isolate in their unit beyond their scheduled stay. For example, Airbnb’s current policy is to deactivate any listing where a guest may have had COVID-19 and to cancel all future reservations.^[2]

Hosts in several multi-tenant buildings in Toronto have faced intense pressure from other building residents to stop allowing guests to use the units. For example, “Fairbnb”, a coalition that includes support from the hotel industry and tenant advocacy groups, threatened to bring a legal action against one downtown Toronto condominium corporation because it had not taken any action to prevent Hosts from continuing to do business in the building. Fairbnb’s draft Statement of Claim contemplated a \$3 million class action lawsuit on the basis that permitting short-term rental guests in the building increased the chances of other residents being exposed to COVID-19. That condominium corporation, and many other Toronto condominium corporations, have since forbid all short-term rentals until the state of emergency has been lifted, and Fairbnb has accordingly halted its litigation.

The Ontario government has now banned all short-term rentals after April 4, 2020 unless the unit is being rented by someone in need of housing during the emergency (the “**Emergency Order**”). The Emergency Order was made under the *Emergency Management and Civil Protection Act* and there are stiff penalties for those found in violation; fines for violating the Emergency Order can be as high as \$100,000 for individuals and \$10,000,000 for corporations.

In response, Airbnb has taken steps to ease the financial burden of cancelled reservations on Hosts. Airbnb has committed USD\$250 million to help Hosts who have had guests cancel bookings made on or before March 14, 2020 for check-in between March 14, 2020 and May 31, 2020. The company has also written to Deputy Prime Minister Chrystia Freeland to request financial benefits and tax relief for Hosts. In a letter dated March 17, 2020, Airbnb proposes a number of measures to help Hosts, including an income tax rate

reduction for Hosts who fall below a certain income threshold, access to Employment Insurance or equivalent benefits for Hosts, and a deferral of federal taxes on short-term rental income. Airbnb has also been trying to build public goodwill through a program whereby Hosts can offer their units for free or at a discount to COVID-19 first responders who need to stay closer to work or who need to self-isolate away from their families. Airbnb has waived its fees for these reservations, but is not providing any subsidies or other benefits to Hosts who participate in the program.

It remains to be seen whether these efforts will be enough for Hosts, who have seen huge decreases in revenue and many of whom are already converting their units to long-term rental listings. By entering into long-term lease agreements, Hosts are opting to become “traditional” residential landlords subject to the *Residential Tenancies Act* (the “Act”). Tenants under such leases can only be evicted in limited circumstances under the Act, so when the economy begins to turn around and the travel industry picks up again, these units cannot be easily re-converted into short-term rentals. Given the impending enforcement of the Regulations, some former Hosts might also question the profitability of returning their units to the short-term rental market.

As the global response to COVID-19 continues to unfold there is a lot that remains uncertain. However, Airbnb and Hosts are much less likely to be offered targeted relief than other tourist operators. Toronto MP and Parliamentary Secretary for Housing Adam Vaughan ruled out the possibility of an Airbnb bailout. Meanwhile federal government initiatives are already underway to support businesses operating in national parks and at historic sites, as well as Indigenous tourism operators. If additional relief programs are introduced for the hotel industry they could improve its ability to attract guests at the expense of Hosts once tourism picks up again.

Ultimately, COVID-19 has exposed some unforeseen risks for property owners who opt for short-term rentals over long-term tenancies. Based on recent developments, Airbnb and other short-term rental platforms in Toronto may see a very slow recovery once the emergency measures are lifted.

[1] Airbnb, “Cleaning guidelines to help prevent the spread of COVID-19” (23 March 2020), online: <https://www.airbnb.ca/resources/hosting-homes/a/cleaning-guidelines-to-help-prevent-the-spread-of-covid-19-163>.

[2] Airbnb, “Your guest or host may have COVID-19. Now what?” (1 April 2020), online: <https://www.airbnb.ca/resources/hosting-homes/a/your-guest-or-host-may-have-covid-19-now-what-168>.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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