

HomeAway/City of Portland Settlement Agreement and Mutual Release

Host2Host Summary

July 28, 2018

Points of potential interest to Portland hosts. Info has been summarized by Host2Host; see full text for details: (<https://host2host.org/Advocacy-Documents> and scroll down to July, 2018)

- Dated February 15, 2018
- Settlement applies to HomeAway including VRBO and VacationRentals.com
- The parties have agreed to implement certain procedures relating to the collection and remittance of transient lodging taxes and the registration of short-term rental properties.
- HomeAway is to pay the City \$275,000 (“Settlement Amount”). The amount is in exchange for the City dropping all claims/demands/records etc on bookings taken prior to April 1, 2018.
- Beginning on April 1, 2018, HomeAway shall collect and remit transient lodging taxes to the City for bookings of less than 31 days taken on or after April 1, 2018.
- TLT is to be calculated on the rent plus the Traveler Service Fee and any other non-refundable fees. Note some complex language here regarding HomeAway not having to tax the Traveler Service Fee until Airbnb starts collecting tax on the “equivalent charges” it imposes. See Terms and Conditions, C.2 for details.
- In the same paragraph, the City agrees to not seek to collect TLT calculated as a percentage of any subscription fee paid to HomeAway by the owner.
- IMPORTANT: HomeAway shall not be responsible for taxes not booked AND PAID through the HomeAway Platform. Hosts who accept direct payments from guests such as check, credit card, or PayPal take note. Terms and Conditions, C.4.
- HomeAway shall apply the correct tax rate...which means beginning August 1, 2018, tax rates will be 15.3% plus \$4/night. If this is news to you, please see the Host2Host Newsletters for June and July, 2018.
- HomeAway and the City will cooperate to implement the “PTR” (Pass-Through Registration) as soon as Airbnb implements similar provisions. As of the end of July, 2018, the City’s target for “implementation date” is September 4, 2018.
- HomeAway will provide owners with links to Portland web pages about TLT and STR ordinances, and any overall summary that the City provides.
- HomeAway will develop an online registration system and send to the City twice a month for new listings: host name; property owner’s name if different from host; mailing address; phone and email; STR property address; number of rooms for rent in STR property; unique ID or listing number; and by host clicking, agrees to abide by the City’s requirements and for HomeAway to submit the registration info to the City.
- Existing listings: HomeAway has 60 days after the “implementation date” to send the City the same information as above, unless owner declines. Once an owner has given HomeAway the info described above, the permit number field will be set by HomeAway to “Permit Pending”. Bookings are ok during this period and can continue until the City sends HomeAway a permit granted or permit denied code. At the end of the 60 day period, any listing not showing a verified permit number or “Permit Pending” will be removed by HomeAway.
- IMPORTANT: If the owner already has a permit, that number can be provided to HomeAway when providing the other info above; HomeAway would send that number to the City, and the City would

validate it (or not), and send the validated permit number to HomeAway. Nothing more should be needed for existing, permitted owners.

- The City will then contact the existing or new host/owner directly for any further information needed to determine whether to issue an ASTR permit. If approved, the City will notify the owner and HomeAway, and the listing will be updated to show the permit number within 7 days.
- IMPORTANT FOR TYPE B OWNERS: This process covers both Type A (1-2 rooms) and Type B permits.
- If the permit is denied, the City will notify both the owner and HomeAway, through letters. HomeAway has 7 days to remove the listing unless appealed, and there is a long paragraph about appeals: D.1.h
- Hosts may renew their ASTR permits via the HomeAway website
- If an owner lists on HomeAway two or more times without ever receiving a permit, the City and HomeAway will confer prior to the City taking enforcement action.
- Long paragraphs E.1-3 about not treating HomeAway's competitors more favorably, providing HomeAway with any agreements between the City and HomeAway's competitors, and binding arbitration.
- Termination: includes language about being able to terminate if STR taxes or fees differ too far from Resolution 37288 (see Host2Host newsletters from June and July). Being as open-minded as possible, it might be the case that the City charged ahead with the dollars/night methodology instead of our recommended percentage process because of concerns over this paragraph. F.1