

City tries new softer approach to regulate short-term rental companies

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Portland poised to drop mandatory home inspections, allow companies to register own hosts, in exchange for divulging host names, whereabouts.

HOMEAWAY - HomeAway's web page for Portland advertises hundreds of short-term rentals, though most of the hosts have never received city permits or undergone home inspections. Under a new legal agreement with the city, those will become legalized, as the city allows the Austin-based company to register its own hosts. In exchange it will start charging city lodging tax for its hosts and guests, and divulge the host names, addresses and contact information.

Portland city officials are shifting to a lighter approach to regulating the notoriously slippery short-term rental industry, starting with a lawsuit settlement reached last week with Austin, Texas-based HomeAway.

The city essentially is conceding that its mandatory home inspection requirement isn't working, since at least 80 percent of Portland's 4,500 short-term rental hosts — and the companies that list their properties — have ignored city requirements for hosts to get permits before renting out spare rooms to travelers.

In the deal with HomeAway, the city agreed to let the company register its Portland hosts online, if the hosts agree they're meeting city safety requirements, such as smoke and carbon monoxide alarms in rooms and proper exit avenues in case of fire. In exchange, HomeAway agreed to divulge all the names, addresses and contact information of its local hosts. The city retains the right to inspect homes of those hosts in some fashion, but will no longer make that a requirement before allowing them to start renting out rooms via HomeAway.

HomeAway agreed to pay a modest \$275,000 to settle three lawsuits with the city, a far cry from the \$2.5 million the city initially sought. But HomeAway agreed to start collecting a 13.5 percent lodging tax from its local hosts or guests, which the city says is one of a handful of times the company has agreed to do so in the United States.

"When the city of Portland filed its lawsuit in 2015, it was seeking fair hotel tax collection and the locations of short-term rentals to ensure they are permitted and following the rules," Mayor Ted Wheeler said in a prepared statement. "This settlement delivers on both of those goals and opens the door to a partnership with HomeAway."

HomeAway, which also operates VRBO and VacationRentals.com, is the second-largest provider of short-term rentals in Portland, though it has a much smaller presence here than Airbnb.

Both companies have strongly resisted sharing data about their local hosts with city officials and have refused to heed the city ordinance that requires them to only advertise listings on their websites if the hosts get city permits following inspections.

Model for new approach

But city officials hope the HomeAway deal will be a template for how it regulates Airbnb and other short-term rental companies.

Thomas Lannom, director of the city Revenue Division, said he's engaging in "fruitful" talks now with Airbnb, trying to negotiate similar terms. "I'm optimistic that we're going to reach a deal with Airbnb, too," Lannom said.

Laura Rillos, Airbnb's press secretary for Portland, concurred.

"We are in active discussions with the city of Portland about setting up a registration system that would allow hosts to apply for a permit directly from the Airbnb platform and give the city the information it needs to enforce the law. We remain committed to working with the city on a comprehensive solution that increases permitting compliance and allows our hosts to continue sharing their homes to make ends meet," Rillos stated in an email.

"I think we've reached a new day with Airbnb and HomeAway," Lannom said, "where they understand that they have to comply with the law."

City Commissioner Nick Fish, who has been the biggest critic of short-term rental companies here, said he supports the city's new approach.

The city can do "periodic enforcement" to assure short-term rental spaces are being operated safely and according to the assurances hosts make online, he said.

"They have agreed that if someone doesn't seek a license, they will not have access to their platform," Fish said. "They've agreed to kick people off that don't play by the rules."

Different from Airbnb proposal

Fish had resisted Airbnb last year when it was lobbying city commissioners to largely deregulate the short-term rental industry by allowing the company to register its own hosts online, via what it calls a "pass-through registration system." That would have replaced the city's mandatory inspection and permit requirements, based on a deal Airbnb secured with the city of New Orleans.

That "feels like we're rewarding bad behavior," Fish said last August of Airbnb's proposal, adding that "their compliance rate is abysmal."

But Fish said HomeAway changed its tune in negotiations with the city after voters easily passed a City Charter amendment last May that strengthened Portland's legal right to regulate short-term rental companies much like it does hotels.

The new deal is substantially different from what Airbnb proposed back then, Lannom said.

Not deregulating

Rather than deregulating the industry, the city's getting some 80 percent of the hosts who failed to get inspections and permits into compliance with city rules, he said. It was difficult to regulate hosts when the city didn't know who they were or where they live.

Under the HomeAway agreement, Portland would become one of a handful of cities where short-term rental companies have agreed to divulge who their local hosts are.

"Right now, we literally have no idea where all of the short-term rentals are in the city," said Marshall Runkel, chief of staff to city Commissioner Chloe Eudaly. She oversees the Bureau of Development Services, which handles inspections and issues permits.

In San Francisco, where Airbnb is based, the city recently allowed Airbnb to register hosts online, but the company finally agreed to divulge data about hosts in that city. Hosts who refuse to meet the city's requirements are taken off the Airbnb platform.

Since then, Airbnb says it has taken 4,780 listings off its website for San Francisco, leaving some 6,300 active listings.

Lannom predicts a similar pattern if Airbnb agrees to the new system here. He reasons that hundreds of hosts here don't want to share their data with the city for various reasons, such as their failure to meet basic safety requirements, or a resistance to allow inspectors into their homes.

There are now 4,000 to 5,000 short-term rental listings in Portland, Lannom estimates. "Once this thing goes live, you might see that number drop down to 3,000 or maybe 2,500."

Not committed to mandatory inspections

Eudaly, who took office last year, isn't wedded to the mandatory inspections system.

"As a practical matter, that hasn't been working very well," said Runkel, her chief of staff.

Inspectors might go into a would-be host's spare bedroom in a basement and find the ceilings were two inches lower than required, for instance, Runkel said. It didn't seem fair to punish hosts who were willing to follow the city rules for such relatively minor issues, he said.

Under a new system, the bureau might want to handle enforcement as it does with other matters, responding to complaints filed by neighbors or others, Runkel said. Others have suggested the bureau use random enforcements to assure hosts are operating safely.

Eudaly would rather the Bureau of Development Services focus on what she sees as a bigger problem, Runkel said. That's hosts who don't live on-site as required and rent out all their rooms year-round, turning their property into a mini-hotel.

Those are the hosts who are reducing the supply of affordable housing in Portland and driving down the vacancy rate, Runkel said. "Someone renting out a room in their home or basement is doing less damage to the housing market than someone who owns a whole house or apartment and rents it out 100 percent of the time."

The city's new tack is a tacit acknowledgement that it's tougher regulatory stance wasn't working.

Though the numbers of hosts seeking permits continues to climb, the city has issued 1,618 permits for regular short-term rentals since 2014, said Dave Austin, Bureau of Development Services spokesman. Airbnb reports a high turnover in its host ranks each year, so some of those permittees may no longer be operating.

The city's get-tough policy for those who don't seek permits also hasn't worked as well as hoped.

The Bureau of Development Services has issued 135 citations since stiffening fines in December 2016, Austin said.

New approach coming to City Council

City officials expect to bring a new regulatory framework to the City Council for approval in March or April, Lannom said. At the same time, he expects to bring forward two new fees on short-term rentals that the City Council asked him to prepare last year.

One would treat larger operations like Airbnb the same as hotels with more than 50 units, making them subject to the citywide Tourism Improvement District, which levies an assessment of 2 percent of each lodging's revenues. That would net an additional \$900,000 to \$1.1 million a year for Travel Portland to promote tourism campaigns for Portland, Lannom said.

The other plan would add a \$2 nightly fee for every short-term rental. That is estimated to net \$800,000 to \$1 million a year, to go into the city's Housing Investment Fund and used to support affordable housing. Supporters argue this offsets some of the negative impacts of short-term rentals on the city's housing supply.

The Oregon Restaurant and Lodging Association has been pressing the city to adopt such measures, arguing that it's time the short-term rental industry plays on a more "level playing field" with hotels and motels, said Greg Astley, the group's government affairs director.

But he questioned why the city should loosen its safety standards by ending mandatory inspections. There's no reason why places that are operated like hotels don't have to meet the same fire and other safety requirements, he said.

Given that most short-term rental hosts have never sought city permits, "clearly the self-policing hasn't worked so far, for Airbnb or any of these other short-term rentals," Astley said.

"I'm not confident that it's going to work in the future."

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